
VILLAGES

CHAPTER 262.

[H. B. No. 12—Berndt Anderson]

VILLAGES MAY OPEN STREETS.

AN ACT Providing for the Opening, Grading, Improving and Vacating of Streets, Alleys, etc., in Incorporated Villages.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. SURVEYS.] Whenever the village board of trustees of any incorporated village shall deem it necessary to open, lay out, widen or enlarge any street or alley or public place within the village it shall cause an accurate survey and plat of the same to be made by the county surveyor or other competent civil engineer with an estimate of the probable cost of the improvement, and shall cause the same to be filed in the office of the village clerk and retain a copy in his office.

§ 2. TAKING PRIVATE PROPERTY.] Whenever it shall be necessary to take private property in order to open, lay out, widen or enlarge any street, alley or any public place in any incorporated village, the same shall be done by purchase, or under the provisions of the code of civil procedure providing for the exercise of the right of eminent domain; and whenever any judgment for damages to property so taken for any such improvement shall be entered, the village board of trustees shall cause special assessments to be levied upon the property benefitted thereby to pay such judgment; provided, that not more than one-fourth thereof may be paid by the levy of a general tax upon all taxable property in the village.

§ 3. FIXING GRADES.] The village board of trustees of an incorporated village may by ordinance establish the grade of all streets, alleys and sidewalks in the village as the convenience of the inhabitants may require, and a record of the same shall be kept together with a profile thereof in the office of the village clerk; provided, that after the grade of any street has been established as provided in this section, the village shall if it change the grade, be liable to the abutting property owners for any damages they may sustain by reason of any permanent improvements having been made by them to conform to the grade as first established.

§ 4. VACATION OF STREETS AND ALLEYS. PETITION. APPEAL.] No public grounds, streets or alleys, or parts thereof over or under

or through which shall have been constructed lengthwise sewers or watermains by the village, or watermains, gas, steam or other pipes, or telephone or telegraph lines by the village's grantees of the right-of-way therefor, shall be vacated and no other public grounds, streets or alleys, or parts thereof, within the village shall be vacated or discontinued by the village board of trustees except upon a petition of a majority of the owners of property on the line of such public grounds, streets or alleys resident within the village. Such petition shall set forth the facts and reasons for such vacation accompanied by a plat of such public grounds, streets or alleys proposed to be vacated, and shall be verified by the oath of at least two of the petitioners, and the consent in writing of all the owners of the property adjoining the plat to be so vacated. The village board of trustees shall thereupon, if they deem it expedient that the matter should be proceeded with, order the petition to be filed with the clerk of the village, who shall give notice of publication in a legal newspaper of the village or if no legal newspaper is published in the village, then in any legal newspaper in the county wherein said village is located, for four weeks, at least once each week, to the effect that such petition has been filed as aforesaid, and stating in brief its object and that said petition will be heard and considered by the village board of trustees or a committee thereof on a certain day therein specified, not less than thirty days after the first publication of such notice. The village board of trustees or such committee as may be appointed by it for the purpose, at the time and place appointed, shall investigate and consider the matter, and shall hear the testimony and evidence of persons interested. The village board of trustees, thereupon after hearing the same, or upon the report of such committee favoring the granting of such petition, may by resolution passed by a two-thirds vote of all the members-elect declare such public grounds, streets or alleys, or highways vacated, which resolution, before the same shall go into effect, shall be published as in the case of ordinances and thereupon a transcript of such resolution duly certified by the village clerk shall be filed for record and duly recorded in the office of the register of deeds of the county, and shall have the effect to convey to the abutting property owners all of the right and title of the village to the property so vacated. Any persons aggrieved thereby may within twenty days after publication of such resolution appeal to the district court of the county under the same regulations as in the case of opening streets and alleys, and the judgment of the court therein shall be final. All expenses incurred in vacating any such public grounds, streets or alleys, must be paid by the petitioners, who shall deposit with the village treasurer such sum as may be necessary therefor, before any such expense is incurred, and the amount so to be deposited shall be determined by the village board of trustees, and any part thereof not used for the expenses shall be returned.

§ 5. EMERGENCY.] Whereas, an emergency exists in this, that there is now no method of procedure provided by law for the opening, grading, improving or vacating streets or alleys, etc., in incorporated villages, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 12, 1907.

CHAPTER 263.

[S. B. No. 269—Steele]

EXTENSION OF VILLAGE LIMITS.

AN ACT to Amend and Re-enact Section 2894 of the Revised Codes of North Dakota for 1905, Relating to Extension of Corporate Limits of Villages.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 2894 of the revised codes of North Dakota of 1905, be and the same is hereby amended and re-enacted to read as follows:

§ 2894. ANNEXING ADDITIONAL LOTS.] Whenever there shall be lots laid off and platted, adjoining such village and a record of the same is made in the register of deeds' office of the proper county, or whenever there shall be lots laid off and platted as above adjacent but separated from said village by an unplatted strip of territory lying between the original plat and such additional platted territory, if said unplatted strip does not exceed one-fourth of the present area of such village, the board of trustees may by resolution extend the boundary of such village so as to include such lots or such lots and such strips as the case may be, and the lots, or lots and strip thus annexed shall thereafter form a part of such village and be within the jurisdiction thereof. The trustees shall immediately thereafter file a copy of such resolution, together with a plat and map or survey defining the boundaries of such additionally included territory in the office of the register of deeds of the county.

§ 2. REPEAL.] All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 19, 1907.

CHAPTER 264.

[H. B. No. 93—Hemmingsen]

DIVISION OF VILLAGE AND TOWNSHIP FUNDS.

AN ACT to Provide for the Division of Funds and Property Owned Jointly by a Village and a Township, When They Become Separate and Independent Municipalities, by Said Village Becoming Organized Under Chapter 31, of the Political Code of North Dakota.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. DIVISION OF FUNDS AND PROPERTY.] Whenever any village organized under chapter 31 of the political code of North Dakota, shall have been a part of the township for township purposes, and such village shall have determined, under the provisions of said chapter 31, to become a separate and independent municipality, and such village and township have, prior to such separation, owned property jointly and together, such joint property and any joint funds or debts of said village and township shall be divided between said village and township in proportion to the equalized valuation of the property of said village and township, as fixed and determined by the board of county commissioners of the county in which they are situated, being the last equalization made by said county board previous to such separation, and in making such division, if the property held is real estate situated within either the village or township, then such real estate shall belong to the municipality [in which it is situated, and such municipality] shall pay to the other its proportion of the value thereof and debts; and in case the authorities of such village and township cannot agree upon the value of such real estate, or upon the value of any indivisible property, held jointly, or their just proportion of indebtedness owed, then the authorities of either such village or township may, upon five days' notice of the time and place, apply to the county judge of said county, whose duty it shall be to appoint three arbitrators who shall be freeholders of said county, and not residents or taxpayers of said village or township, who shall be duly sworn to perform the duties of the trust imposed upon them, and such arbitrators shall view the property and appraise and fix the value thereof, for the purpose of such division, and in case of personal property, if no satisfactory arrangement can be otherwise made the same shall be sold at auction to the highest bidder, the village or township having the right to bid at such sale. It is further provided that when any village has already become an independent municipality, under the provisions of said chapter 31, of the political code of North Dakota, and such village, before such separation, owned property or owed debts jointly with the township, and such

property rights have not been adjusted, then the same may be determined and settled in accordance with the provisions of this act.

§ 2. EMERGENCY.] Whereas, an emergency exists in that there is no provision of law for the division of funds and property between villages and townships, this act shall take effect and be in force from and after its passage and approval.

Approved March 14, 1907.

CHAPTER 265.

[H. B. No. 243—Adams]

VILLAGE INDEBTEDNESS.

AN ACT to Amend Section 2869 of the Revised Codes of 1905, Providing for the Contracting of Loans and for the Incurring of Indebtedness by Villages and Providing for the Creation of a Sinking Fund for the Liquidation of Such Loans and Indebtedness.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 2869 of the revised codes of the state of North Dakota, as revised and compiled in 1905, is hereby amended so as to read as follows:

§ 2869. CONTRACTING LOANS.] No village incorporated under [this] chapter shall have power to borrow money or incur any debt, liability or issue bonds to fund any existing indebtedness, unless the citizen-owners of five-eighths of the taxable property of such village, as evidenced by the assessment roll of the preceding year, petition the board of trustees to contract such debt, loan or bonds, and such petition shall have attached thereto an affidavit verifying the genuineness of the signatures to the same; and for any debt created thereby the trustees shall add to the tax duplicate of each year successively a levy sufficient to pay the annual interest on such debt or loan, with an addition of not less than five cents on the hundred dollars to create a sinking fund for the liquidation of the principal thereof.

Approved March 13, 1907.

CHAPTER 266.

[H. B. No. 274—Giedt]

ORGANIZATION OF VILLAGES.

AN ACT for the Organization of Villages, Towns or Cities in Territory Embracing More than One County.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. WHEN ORGANIZED.] Whenever any area of contiguous territory in this state, not exceeding four square miles, shall have residing thereon a population of not less than one hundred inhabitants, which shall not already have been included within the corporate limits of any incorporated village, town or city, and which territory to be embraced in the limits of said village, town or city in more than one county, the same may become incorporated as a village, town or city in the manner provided in section 2635 of the revised codes of North Dakota.

§ 2. OTHER PROVISIONS APPLICABLE.] Chapter 30 of the political code of North Dakota is hereby made applicable to the organization, power and duties of such village, town or city and its officers, except as herein otherwise especially provided.

§ 3. ASSESSOR APPOINTED.] There shall be appointed by the trustees or mayor of all villages, towns or cities incorporated under the provisions of this act, an assessor for the territory embraced in each of the counties in which said village, town or city is located, and which said assessor shall have the same power, and perform the same duties as assessors in villages, towns or cities embraced within the limits of a single county, and shall return to the trustees of such village, town or city council the assessment of property embraced within the portion of the city for which they are appointed.

§ 4. PROCEEDINGS OF EQUALIZATION BOARD.] The village or town clerk or city auditor, after action by the village, town or city board of equalization, shall return a separate report to each of the county auditors of the counties in which any portion of said village, town or city is located, the equalization of the property contained in such county, and thereafter the board of county commissioners of each of the counties shall perform the same duties as to such assessment, levy and collection of taxes as if the whole village, town or city was embraced within the limits of said county.

§ 5. DUTY OF COUNTY TREASURER.] The county treasurer of each county shall perform the same duties in relation to all property returned as assessed by said village, town or city in the county of which said treasurer is an officer, in the same manner, and to the same extent as is now provided by law for the levy and collection of taxes.

§ 6. EMERGENCY.] Whereas, there is now no law adequate for the organization of villages, towns or cities containing less than five hundred inhabitants, which territory is embraced in more than one county, therefore an emergency is declared to exist and this act shall take effect and be in force from and after its passage and approval.

Approved March 12, 1907.

CHAPTER 267.

[H. B. No. 165—Garden]

COLLECTION OF ROAD TAXES IN VILLAGES.

AN ACT Providing for the Levy and Collection of Road Taxes in Incorporated Villages.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. BOARD OF TRUSTEES MAY LEVY ROAD TAXES.] The board of trustees of each incorporated village shall have power to levy and collect a tax for the grading, improvement and maintenance of the streets, alleys and highways and for the construction and repair of crossings, culverts, and bridges within the corporate limits of such villages. This tax shall be levied on or before the third Tuesday of May in each year. This tax shall be based upon and computed on the assessment of the village as returned by the state board of equalization for the preceding year. This tax shall be levied in a specific amount, and the rate thereof shall not exceed five mills on the dollar of the assessed valuation; but it shall not be considered as being any part of those village taxes, which by laws now in effect, are limited to ten mills on the dollar of the assessed valuation.

§ 2. TAX MAY BE PAID IN WORK OR CASH.] Any person against whom, or against whose property, such tax has been levied shall have the right to pay the same in work to be performed under the supervision and direction of the street commissioners at the rate of one dollar and fifty cents for eight hours of work of one man, or three dollars for eight hours work of one man with one two-horse team. All taxes not paid in work or cash to the street commissioners, shall be collected by the officer collecting the taxes for such village.

§ 3. VILLAGE CLERK TO PROVIDE ROAD TAX BOOKS.] It shall be the duty of the village clerk to provide each street commissioner with a suitable book containing the name of each person, firm, or corporation liable for road poll, personal property or real estate road taxes and the amount of such taxes and the description of the real property upon which the tax is levied.

§ 4. DUTIES OF STREET COMMISSIONERS.] Each street commissioner shall give at least twenty-four hours' notice to each person against whom, or against whose property, a road tax has been levied of the time and place where the work is to be performed. He shall write the word "paid" opposite each item of tax paid to him in work or in cash and return the road tax book to the village clerk on or before the fifteenth day of September with his affidavit attached stating that each item of tax opposite which the word "paid" is written has been paid in work or in cash, and that each item of tax opposite which the word "paid" is not written remains unpaid and delinquent.

§ 5. VILLAGE CLERK TO MAKE LIST OF DELINQUENT ROAD TAXES.] In all cases where the village taxes are computed by the county auditor, it shall be the duty of the village clerk on or before the first day of October of each year to make out and deliver to the county auditor a complete statement of all unpaid road taxes in his village as the same appear in the road tax book returned to him by the street commissioners, and it shall be the duty of such county auditor to make proper entries of such delinquent road taxes on the tax list for the current year. In case the village is preparing its own tax list, the village clerk shall cause such delinquent road tax to be properly entered on the village tax list.

§ 6. CERTAIN TOWNSHIP LAWS APPLICABLE TO VILLAGES.] The same powers and duties in regard to the levy, collection, and expenditure of road taxes, which are now by law conferred and imposed upon township supervisors, township road overseers, justices and constables, are hereby conferred and imposed upon the corresponding village officers in so far as such powers and duties do not conflict with the provisions of this act. The village trustees shall also have power to expend any portion of the road taxes levied by and in such village in the improvement of public highways outside of the corporate limits of such village but leading thereto: provided, that the authorities having jurisdiction over such highways do not object.

Approved March 14, 1907.

CHAPTER 268.

[H. B. No. 14—Berndt Anderson]

POWERS OF VILLAGE TRUSTEES.

AN ACT to Amend Section 2864 of the Revised Codes of North Dakota for 1905, Relating to the General Powers of the Board of Trustees of Incorporated Villages.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 2864 of the revised codes of North Dakota for 1905 is amended and re-enacted so as to read as follows:

§ 2864. GENERAL POWERS.] The board of trustees shall have the following powers:

1. To have a common seal, and alter the same.
2. To purchase, hold or convey any estate, real or personal, for the use of the corporation so far as such purchase may be necessary to carry out the objects contemplated by this chapter, to provide for the erection and care of all public buildings necessary for the use of the village, and to control the finances and property of the corporation.
3. To organize fire companies, hook and ladder companies, to regulate their government and the times and manner of their exercise; to provide all necessary apparatus for the extinguishment of fires, to make owners of buildings provide ladders and fire-buckets, which are hereby declared to be appurtenances to the real estate and exempt from execution, seizure or sale; and if the owner shall refuse to procure suitable ladders or fire-buckets after reasonable notice, the trustees may procure and deliver the same to him; and in default of payment thereof may recover of said owner the value of said ladder and fire buckets, by suit before the justice of the peace of the village and the costs accruing thereby; to regulate the storage of gunpowder and other material; to direct the construction of a place for the safe deposit of ashes; and may under any order by it entered upon the proper book of the board, visit, or appoint one or more fire wardens to visit and examine at all reasonable hours dwelling houses, lots, yards, inclosures and buildings of every description, discover if any of them are in a dangerous condition and provide proper remedies for such dangers; to regulate the manner of putting up stoves and stovepipes; to prevent out-fires and the use of fireworks and the discharge of firearms within the limits of said corporation, or such parts thereof as it may think proper; to compel the inhabitants of such village to aid in extinguishment of fire and prevent its communication to other buildings, under such penalties as are in this chapter

provided; to construct and preserve reservoirs, wells, pumps and other waterworks, and to regulate the use thereof and generally to establish other measures of prudence for the prevention or extinguishment of fires as it shall deem proper.

4. To construct and keep in repair culverts, drains, sewers, catchbasins, manholes and cesspools, and to regulate the use thereof, and to regulate the construction and use of any culvert, drain, sewer, catchbasin, manhole or cesspool within the corporate limits and to declare what shall constitute a nuisance and to abate and remove the same, and impose fines upon persons who may create, continue or suffer nuisances to exist, and take such other measures for the preservation of the public health as it shall deem necessary: to license, tax, regulate, suppress and prohibit hawkers, peddlers, salesmen, pawnbrokers, keepers of ordinaries, theatricals, and other exhibitions, shows and amusements within the corporation.

5. To regulate, restrain and prohibit the running at large of horses, cattle, swine, sheep, goats, geese and dogs, and to impose a tax or license on dogs, not to exceed two dollars on each male dog, and three dollars on each female dog owned or kept within such village.

6. To license, regulate, tax or prohibit and suppress pool, billiards, bagatelle, pigeonhole or any other tables or implements kept or used for a similar purpose in any place of public resort, pin-alleys and ball-alleys; to restrain, suppress and prohibit gambling and gambling houses, and other disorderly conduct and places, lotteries and all fraudulent devices and practices for the purpose of gambling or obtaining money or property, and to prohibit the sale or exhibition of obscene or immoral publications, print, pictures or illustrations, and authorize the seizure and destruction of gambling apparatus; to suppress bawdy and disorderly houses, houses of ill fame or assignation within the limits of the village, and within one mile of the outer boundaries of the village.

7. To license, regulate or restrain auction establishments, traveling peddlers and public exhibitions within the corporation.

8. To establish and regulate markets and build market houses.

9. To lay out, open, grade and otherwise improve the streets, alleys, sewers, sidewalks and crossings, and to keep them in repair and to vacate the same.

10. To appoint street commissioners and also fire wardens, not exceeding three.

11. To regulate the building and use of sidewalks and all structures thereunder; to require the owner or occupant of any premises to keep sidewalks in front of or along the same free from snow and other obstructions, and to prohibit the riding or driving thereon except to cross the same; to provide for the building, use and regulation of crosswalks, curbs and gutters; to regulate and prevent the use of streets, alleys, sidewalks and public

grounds, for signs, signposts, awnings, telegraph and telephone poles, horse troughs, scales, racks, posting handbills and advertisements; to regulate and prevent the throwing or depositing of ashes, offal, manure, dirt, garbage or anything offensive in, and to prevent injury to any street, avenue, alley or public ground; to regulate and prohibit the exhibition or carrying of banners, placards, advertisements or handbills in the streets or public grounds or upon the sidewalk; to regulate and prevent the flying of flags, banners or signs across the street or from houses; to regulate traffic and sales upon the streets, sidewalks and public places; to regulate the speed of horses and other animals, vehicles, bicycles, cars, locomotives and traction engines within the limits of the corporation.

12. To establish and erect a jail for the confinement of disorderly persons, vagrants, tramps and idle persons, and persons convicted of violating any village ordinance, and make rules and regulations for the government of the same, and appoint necessary jailors and keepers; to prevent and suppress riots, routs, affrays, noises, disturbances and disorderly assemblies in any public or private place.

13. To insure the public property of such village.

14. To establish and regulate cemeteries within, or within one mile of the corporation and acquire lands therefor by purchase or otherwise, and cause cemeteries to be removed and prohibit their establishment within one mile of the corporation.

15. To plant trees upon public grounds and along the streets of such village and to provide for their culture and preservation, and to enclose any public square or other public grounds within said corporation.

16. To levy and collect annual taxes, not exceeding ten mills on the dollar, assessed valuation.

17. To direct the location and regulate the management and construction of packing houses, smoke houses, renderies and slaughter houses; and prohibit any offensive or unwholesome business or establishment within, or within one mile of the limits of the corporation; to compel the owner of any grocery, cellar, stable, pigsty, privy, sewer or other unwholesome or nauseous house or place, to cleanse, abate, or remove the same, and regulate the location thereof.

18. To make and establish by-laws, ordinances and regulations not repugnant to the laws of this state as may be necessary to carry into effect the provisions of this chapter, and to repeal, alter or amend the same as shall seem to the board of trustees of such village to require; but every by-law, ordinance or regulation, unless in case of emergency, shall be published in a newspaper in such village, if one is printed therein, or posted in five public places at least ten days before the same shall take effect.

19. To prescribe fines, penalties and forfeitures for violations of this chapter, or of any by-laws or ordinances by it established, not exceeding ten dollars and the costs of prosecution for any one offense, which may be recovered by action in the name of the corporation, but such board may remit the whole or any part of the fine, costs, penalty or forfeiture; provided, that the fine assessed for the violation of any ordinance requiring a license shall not be less than the amount required to be paid for such license although it may exceed the sum of ten dollars.

20. To authorize the construction and maintenance of street railways, water mains and water pipes, and gas mains and gas pipes, along or through the streets and alleys within the corporate limits, and to grant franchises and rights to persons, associations or corporations for such purposes, and to regulate the same.

§ 2. REPEAL.] All acts or parts of acts in conflict herewith are hereby repealed.

§ 3. EMERGENCY.] Whereas, an emergency exists, this act shall take effect and be in force from and after its passage and approval.

Approved March 13, 1907.

CHAPTER 269.

[H. B. No. 150—Miller]

ACTS OF VILLAGE MARSHALS LEGALIZED.

AN ACT Amending Section 2887, of the Revised Codes of 1905, Relating to the Powers of Village Marshals and to Legalize Past Acts of Village Marshals.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 2887 of the revised codes of 1905 is amended to read as follows:

§ 2887. ACTS LEGALIZED.] Whereas, village marshals throughout the state have acted as constables by reason of a misapprehension as to the law, it is hereby provided that all past acts of said marshals, wherein they assumed to act as constables, is hereby legalized and made of the same effect and validity as if said marshals had been constables and that said marshals shall not be liable either civilly or criminally for so acting.

§ 2. EMERGENCY.] An emergency exists in this, that there is no legislation authorizing village marshals to serve civil process, this act shall take effect and be in force from and after its passage.

Approved March 19, 1907.