

MUNICIPAL CORPORATIONS

CHAPTER 168

(H. B. No. 99—Northridge.)

NUMBER OF ALDERMEN IN CITIES

An Act to amend and re-enact Section 3582 of the Compiled Laws of North Dakota for 1913, relating to the number of aldermen in cities.

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

§ 1. AMENDMENT.] That Section 3582 of the Compiled Laws of North Dakota for 1913 be amended and re-enacted as follows:

§ 3582. NUMBER OF ALDERMEN.] The number of aldermen shall be as follows: In cities of six hundred inhabitants or less, four aldermen who shall be elected at large; exceeding six hundred but not exceeding two thousand inhabitants, six aldermen; exceeding two thousand but not exceeding four thousand, eight aldermen; exceeding four thousand but not exceeding ten thousand, twelve aldermen; exceeding ten thousand but not exceeding fifteen thousand, fourteen aldermen; and two additional aldermen for each ten thousand inhabitants over fifteen thousand; provided, that in cities of over one hundred thousand inhabitants there shall be elected thirty-six aldermen and no more, the population to be determined by the last census; provided, however, if an official census has been taken by the federal government within one year it shall govern; provided, however, that whenever a census of the city shall show a population requiring more aldermen than are in the council at the time of taking such census, the city council shall not be required to make such change in the number of aldermen and the corresponding change in the number of wards of such city unless a majority of the legal voters thereof, to be determined by the number of names on the poll list of the last annual election, petition therefor.

§ 2. REPEAL.] All acts or parts of acts in conflict with this act are hereby repealed.

Approved March 7, 1929.

CHAPTER 169

(S. B. No. 82—Van Arnam.)

LIMITATION BOND ISSUES CITIES

An Act to amend and re-enact subdivision C of section 4, of paragraph 2, of chapter 196 of the Session Laws of North Dakota for the year 1927.

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

§ 1. AMENDMENT.] That subdivision C of Section 4 of Paragraph 2 of Chapter 196 of the Session Laws of North Dakota, for the year 1927 be amended and re-enacted to read as follows:

(c) For the construction and extension of water works plants or purchase of existing plants, construction and improvements of watermains, sewers and drains; to provide the erection, planning, construction and establishment of a sewage disposal plant or system; or for the erection and construction and enlargement of garbage disposal plants, and to purchase sites and grounds, either within or without the limits of the city for the disposal of sewage, garbage and other refuse; or for the leasing or purchase of lands, either within or without the limits of the city, for the purpose of providing airports or landing fields or for the construction of buildings thereon or the procuring of equipment therefor, and other like municipal purposes; provided, however, that any city may borrow money on the credit of the corporation for any corporate purpose, and issue bonds therefor to an amount including existing indebtedness, not exceeding 5% of the taxable property therein.

§ 2. REPEAL.] All acts or parts of acts in conflict with this act are hereby repealed.

§ 3. EMERGENCY.] This act is hereby declared an emergency measure, and shall be in full force and effect from its passage and approval.

Approved February 11, 1929.

CHAPTER 170

(S. B. No. 1—Bond.)

CITY BOND ISSUES SPECIAL IMPROVEMENT DEFICIENCY
SALE OF BONDS

An Act to amend and re-enact Paragraph (g) of Sub-section (2) of Section 4 and Sub-section (1) of Section 17 of Chapter 196, Session Laws of North Dakota for the year 1927.

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

§ 1. AMENDMENT.] That Paragraph (g) of sub-section (2) of Section 4, Chapter 196, Session Laws of North Dakota, 1927, be amended and re-enacted to read as follows:

(g) To provide money for the payment of any deficiency in the fund of any special improvement district whenever the special assessments or taxes heretofore or hereafter levied and collected for the specific improvement are then insufficient to pay the principal or interest of any special improvement warrants issued for such improvement and then due and unpaid, but only to the extent of such deficiency.

§ 2. AMENDMENT.] That sub-section (1) of Section 17 of Chapter 196, Session Laws of North Dakota, 1927, be amended and re-enacted to read as follows:

(1) No municipality shall sell or enter into a contract for the sale of any issue of its bonds authorized by this act, for whatever purpose issued, without first advertising for bids in the manner prescribed by this section, except that bonds issued under the authorization of paragraph (g) of sub-section (2) of section 4 of this act, including village bonds for such purposes, may, with the consent of the warrant holders, be exchanged for matured warrants or matured interest coupons of warrants of the special improvement fund having the deficiency on account of which such bonds are being issued, without such advertising; provided, however, that the par value and accrued interest of the bonds so delivered shall not exceed the par value and accrued interest of the warrants and interest coupons and accrued interest thereon, for which they are exchanged.

§ 3. EMERGENCY.] This act is hereby declared to be an emergency measure and shall take effect and be in force from and after its passage and approval.

Approved January 28, 1929.

CHAPTER 171

(H. B. No. 156—Lynch.)

PAYMENT DEFICIENCIES SPECIAL IMPROVEMENT
ASSESSMENTS

An Act to amend and re-enact Section 3716 of the Supplement to the
Compiled Laws of 1913.

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

§ 1. AMENDMENT.] That Section 3716 of the Supplement
to the Compiled Laws of 1913 be amended and re-enacted to read
as follows:

§ 3716. PAYMENT OF DEFICIENCIES.] Whenever all special
assessments collected for a specific improvement are insufficient to
pay the special improvement warrants issued against such improve-
ment with interest the city council or city commission, as the case
may be, shall upon the maturity of the last special improvement war-
rant levy a tax upon all of the taxable property in the city for the
payment of such deficiency; provided, that if at any time prior
to the maturity of the last special improvement warrant a deficiency
exists in such special improvement fund the city council, or city
commission, as the case may be, may in its discretion levy a general
tax upon all the taxable property in the city for the payment of such
deficiency; provided further, that in case of a balance remaining
unexpended in such special improvement fund it shall be paid over
or transferred to the general funds of the municipality.

§ 2. REPEAL.] All acts or parts of acts in conflict with this
act are hereby repealed.

Approved March 7, 1929.

CHAPTER 172

(H. B. No. 68—Dyer and Cox.)

ELECTRIC PLANTS MUNICIPAL CORPORATIONS

An Act to amend and re-enact Chapter 197 of the Session Laws of North Dakota for 1927 authorizing and empowering cities, towns or villages to purchase, erect, operate and maintain, enlarge, improve, and extend, or lease from any person, firm or corporation, or sell or lease to any person, firm or corporation, any electric light and power plant, site, buildings and equipment thereof, or any electric distribution system and equipment thereof, or any electric transmission line and equipment thereof, or any telephone plant, equipment and distribution system thereof, or all or any part or parts of any of such plants, systems and lines, and any interest in any such plant, system or line within and without the corporate limits of such city, town or village, and providing for the payment of the cost of any such purchase, erection, enlargement, improvement or extension out of the earnings of such plant, system or line, and for the issuance of bonds and the levying of special assessments and the creating of special assessment districts in connection with the exercise of any of the powers above granted, and providing for the legalization and validation of purchases and sales and the issuance of bonds and warrants heretofore made.

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

§ 1. AMENDMENT.] That Chapter 197 of the Session Laws of North Dakota for the year 1927 is hereby amended and re-enacted to read as follows:

§ 1. Any city, village or town is authorized and empowered to purchase, erect, operate and maintain, enlarge, improve and extend, or lease from any person, firm or corporation, or sell or lease to any person, firm or corporation, any electric light and power plant, site buildings and equipment thereof, or any electric distribution system and equipment thereof or any electric transmission line and equipment thereof, or any telephone plant, equipment and distribution system thereof, or all or any part of parts of any of such plants, systems and lines, and any interest in any such plant, systems or lines within and without the corporate limits of such city, village or town for the purpose of furnishing or procuring to be furnished electric energy for heat, light and power and communication purposes for such city, village or town and its inhabitants and industries in the manner herein provided.

§ 2. No such city, village or town officers shall purchase, erect or substantially enlarge, improve, extend or lease from others any such plant, system or line unless and until the proposition of doing so shall have been submitted under authority of a resolution of the governing body to the qualified voters of said city, village or

town at an annual or special election called, held and conducted upon the notice and in the manner specified by law for the election of the governing body of such city, village or town, and shall have been approved by a majority of such voters voting thereon; provided, however, that when the cost of any enlargement, improvement, or extension will be paid out of the earnings of the plant and the same does not exceed the sum of five thousand dollars, it shall be unnecessary to submit the proposition of so doing to the voters of said city, village, or town.

§ 3. No such city, village or town shall sell any such plant, system or line or lease the same or any substantial part thereof or interest therein to any person, firm or corporation unless and until such person, firm or corporation shall have filed in the office of the clerk or auditor of such municipality a complete offer or proposition therefor in writing and a majority of the qualified voters of said municipality at an election called, held and conducted as specified in Section 2 hereof shall have voted in favor of accepting the offer or proposition so filed, and a copy of said offer or proposition shall be published with the notice of such election. The proceeds of any sale or lease made as in this section provided shall be applied to the payment of existing indebtedness, if any, of such municipality incurred for the purpose of purchasing, erecting, operating and enlarging, improving or extending such plant, system or line. Provided, however, that the purchaser or lessee shall not be required to see to the application of the consideration of such purchase or lease, but shall be fully protected in making such payment or payments by the receipt of the treasurer of such municipality therefor.

§ 4. Any such city, village or town may pay the cost of purchasing, erecting, enlarging, improving, extending or leasing any such plant, system or line, or any part thereof, either out of the earnings of such plant, system or line, or by issuing special assessment warrants as hereinafter provided, or by issuing bonds of such municipality hereinafter provided, or partly by such special assessment warrants and partly by such bonds, or partly out of such earnings, provided, however, that when such cost or any part thereof is to be paid out of earnings, then such cost or the part thereof which is to be paid out of earnings shall not become a general obligation of the municipality payable out of money raised through taxation, but a special obligation payable solely and exclusively out of the earnings derived from the operation of such plant, system or line.

§ 5. In case the governing body of such municipality shall deem it advisable to pay the whole or any part of the cost mentioned in Section 4 hereof by special assessment warrants it shall first by ordinance create a special assessment district which shall include, as nearly as may be determined, all of the property in such municipi-

pality, that will be benefited by such improvement, whether the entire municipality or a portion thereof, and shall thereafter adopt a resolution of necessity and hold a hearing thereon and estimate the amount of the cost of said improvement and let a contract or contracts therefor and create a fund for said district and issue and sell the warrants of the municipality drawn on said fund and complete the work of said improvement and assess the property benefited thereby, all in the form and upon the notices and in the manner specified by Sections 3698, 3703, to 3716, both inclusive and 3724 and 3739, both inclusive, and 3743 of the Political Code of the State of North Dakota for the year 1913, all as amended, in so far as such sections are applicable to the improvement so being made hereunder, and the special assessments so levied shall be payable in equal annual installments extending over a period not exceeding 20 years and shall bear interest at a rate not to exceed 7% per annum on the total amount of such assessments remaining from time to time unpaid. Such municipality shall have power, within the debt limit provisions of the Constitution, to pay at the option of the governing body any portion of the cost of such improvement by general taxation upon all taxable property in the municipality, which tax shall be levied at the time of making such improvement, shall be spread over the years and in such amounts as will meet the municipality's share of the cost represented by the principal of warrants issued against said fund and interest thereon, and which tax when and as collected shall be paid into the fund of said district and used solely for the payment of the principal and interest of warrants issued against said district. The ordinance levying such tax shall be irrevocable so long as any warrants are outstanding against said fund.

§ 6. No such city, village or town shall issue its bonds as authorized by section 4 hereof unless and until the question of issuing such bonds shall have been approved by a majority of the voters of such municipality voting upon the question of their issuance at an election called, held and conducted as specified in section 2 hereof. The notice of such election shall specify the maximum amount, maximum interest rate, purpose and maturity of such bonds. Such bonds shall be sold in the manner provided by Chapter 327 of the Session Laws of North Dakota for the year 1923 as amended. At or before the issuance of such bonds, such municipality shall by ordinance levy a direct annual irrevocable tax upon all the taxable property in such municipality in the years and amounts sufficient to pay the principal and interest of such bonds when due.

§ 7. Any or all of the propositions and questions to be voted upon as specified in sections 2, 3 and 6 may be submitted at one and the same election, and upon one ballot, but the ballot shall state each of said propositions separately.

§ 8. Any proceedings heretofore instituted by any city, village or town under the provisions of Chapter 255 of the Session Laws of 1923, may be completed under and in accordance with said law as the same existed before this amendment thereof.

§ 9. Where the officers of any incorporated city, village or town of this state shall have heretofore purchased, erected, operated, maintained, enlarged, improved, extended or leased from any person, firm or corporation, or sold or leased to any person, firm or corporation, any such plant, system or line, or part thereof, such actions of such municipal officers are hereby legalized and validated provided, however, that nothing contained herein shall affect any act or proceeding now pending in any court in this state, affecting the same.

§ 10. Any and all bonds or warrants heretofore issued by any city, village or town for the purpose of purchasing, erecting, operating, maintaining, enlarging, improving or extending any such plant, system or line, or part thereof, which bonds or warrants were on date of their issuance within the constitutional debt limit are hereby declared to be legal and valid and an enforceable obligation of such city, village or town, provided, however, nothing contained herein shall affect any act or proceeding now pending in any court in this state, affecting the same.

§ 11. CONSTITUTIONALITY.] If any part or parts of this act shall be held unconstitutional, such constitutionality shall not affect the validity of the remaining parts of this act.

Approved March 16, 1929.

CHAPTER 173

(H. B. No. 82—Olson of Burleigh.)

LIGHT AND POWER PLANTS VILLAGES

An Act empowering the boards of trustees of villages to provide for the lighting of all streets, alleys, avenues, sidewalks, wharves, parks and public grounds, and for the furnishing and supplying of electric energy or gas to the village for lighting, power and other village purposes, and to the inhabitants thereof, and to enter into contracts for electric energy or gas, for village and private purposes, and specifying the manner of execution of such contracts.

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

§ 1. The board of trustees of any village shall have power and authority to provide for the lighting of all streets, alleys, avenues, sidewalks, wharves, parks and public grounds, and to pro-

vide by contract or agreement for the furnishing and supplying of electric energy or gas to the village for lighting, power and other village purposes, and to the inhabitants of said village.

§ 2. The board of trustees of any village shall have the power and authority to enter into a contract or agreement with any person, partnership, association or corporation to furnish electric energy or gas to the village, for all village purposes, and to the inhabitants of said village, and to enter into a contract or agreement with any person, partnership, association or corporation, for a term of not to exceed ten years, for the sale by any such person, partnership, association or corporation, and the purchase by the village, of electric energy or gas; providing that nothing herein contained shall be construed to deprive the board of railroad commissioners of any of its existing regulatory powers with reference to such contract rates.

§ 3. All contracts made by the board of trustees of any village, under and pursuant to the provisions of this act, shall be made and executed in the name of the village and signed on behalf of the village by the president of the board of trustees and countersigned by the village clerk, and the corporate seal of the village affixed thereto; provided, however, that the making and execution of such contract shall have been duly authorized by resolution adopted by a majority vote of the board of trustees at a duly assembled meeting thereof.

Approved March 6, 1929.

CHAPTER 174

(H. B. No. 226—Committee on Delayed Bills.)

MEMORIAL COMMUNITY BUILDING BY CITY AND COUNTY

An Act to authorize a city to join with a county in the establishment, erection, and maintenance of a community building as a memorial to those who rendered services or lost their lives in service of their country in the great world war, authorizing the levy of taxes and expenditures of public funds for such purposes; and authorizing the county commissioners to utilize, for the construction of such building, moneys received from taxes which have heretofore been levied or may hereafter be levied for the erection of a memorial under the provisions of Chapter 181, Laws of 1919, and the acts amendatory thereof.

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

§ 1. That the board of county commissioners of any county in which a memorial has not heretofore been constructed under the provisions of Chapter 181, Laws 1919 and the acts amendatory

thereof, be and they are hereby authorized to enter into an arrangement with the city in which the memorial is to be erected for the construction and maintenance of a community building. Such building may be constructed so as to contain an assembly hall, gymnasium, armory, library, memorial rooms, rest rooms; and in general such rooms and facilities as are required in a community house or recreation center; it may also include offices for any city, county or municipal purposes. The building so constructed shall be known and designated as a World War Memorial and shall be commemorative of the people of the county who rendered services or lost their lives in the service of their country in the Great World War. Such building may be erected as an appropriate annex to any other public building of the city or county; but whether erected singly or as an annex, the entire structure shall, thenceforth, become known and designated as a World War Memorial.

§ 2. Where an arrangement is made under the provisions of this act for the construction of a World War Memorial Community Building, the board of county commissioners and the city council or city commission shall have power and authority to select a site for such building, and acquire title thereto by gift or purchase or by exercise of the right of eminent domain. When such site is acquired by gift or purchase the title may be taken to the county and city jointly, or to either one of them, or to each in proportion to the amount of moneys contributed by each for the acquisition of the site and the construction of the building. But in whatever name title is taken the same shall be held in trust for the uses to which said building is to be devoted.

§ 3. Where such community building is erected the same shall be subject to the control and regulation as to charges and otherwise of the board of county commissioners and the city council or city commission. In order to facilitate the maintenance and operation of such building the board of county commissioners and city council or city commission shall each appoint one of their members and the two members so appointed shall constitute a board of managers who shall be charged with the duty of supervising the maintenance and operation of said building. Such board of managers shall serve without any compensation, except such as they receive as members of the board of county commissioners or city council or city commission, respectively; but they shall be entitled to be compensated for actual expense incurred in the performance of their duties, which expense shall be paid to each of such persons respectively out of the county and city treasuries.

§ 4. The board of managers shall have power to lease, temporarily, the assembly hall or other parts of the community building, when not in use for public purposes, for any reasonable and legiti-

mate private use on such terms as may be deemed reasonable and proper. Provided, however, that no part of the building shall be leased for private purposes when it is needed for any public use or purpose. All moneys received from rentals shall be turned over to the city treasurer who shall keep the same in a separate account and the same shall be available only for expenses incident to the operation and maintenance of the building.

§ 5. The board of managers shall, on or before the 10th day of July of each year, make a full and complete account to the board of county commissioners and the city council, or city commission, for the fiscal year ending June 30th last preceding. Such report shall contain a detailed statement of all income and expenditure during the fiscal year; and shall also contain an estimate of the expenses for the ensuing fiscal year.

§ 6. Where a building is constructed under the provisions of this act the officers of the city shall have the same power to incur indebtedness, levy taxes and issue bonds or other evidences of indebtedness for the moneys expended or to be expended in the construction and maintenance of such building as for any other public purpose authorized by law; and all provisions of law relating to debt limit, levy of taxes and issue of bonds or other evidences of indebtedness shall be and the same hereby are made applicable to liabilities incurred, moneys expended and taxes levied for the construction of such building.

§ 7. When a building has been constructed under this act the county commissioners and the city council, or city commission, shall thereafter annually levy a tax, not exceeding in any one year one mill on the dollar valuation, for the operation and maintenance of such building.

§ 8. Where an arrangement has been made between a county and a city for the erection of a community building under the provisions of this act the county commissioners are authorized to utilize, to defray the county's share of the cost of construction, any moneys in the county treasury which has been theretofore received or may be received thereafter from any tax levy theretofore or thereafter made for the purpose of erecting a Memorial under the provisions of Chapter 181, Laws 1919, and the re-enactments, or acts amendatory thereof.

§ 9. The object sought to be accomplished by this enactment is to provide for the construction, by the county and city, acting jointly, of a community building in the manner and for the purposes provided in this Act; and the provisions relating to the manner in which these objects are to be accomplished do not form an inducement for the enactment. And it is hereby declared that if any of the

provisions of the act in any manner contravene the provisions of the constitution, the remaining provisions would have been enacted by this legislative assembly even though such provisions had been eliminated from the act. Hence, if any of the provisions are found to be violative of the constitution the remaining provisions shall not be affected by such invalidity but shall remain in full force and effect.

Approved March 8, 1929.

CHAPTER 175

(H. B. No. 107—Henderson and Indergaard.)

AUTHORITY COUNTY COMMISSIONERS TO ERECT AND LEVY
FOR MEMORIALS

An Act amending and re-enacting Chapter 117, Session Laws of North Dakota for the year 1927.

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

§ 1. AMENDMENT.] Section 2071C1 of the Supplement to the 1913 Compiled Laws of North Dakota as amended and re-enacted by Chapter 117, Session Laws of North Dakota for 1927, is hereby amended and re-enacted to read as follows:

§ 2071C1. COUNTY COMMISSIONERS AUTHORIZED TO ERECT A MEMORIAL OR OTHER SUITABLE RECOGNITION: TO LEVY TAXES.] The board of county commissioners of any county in the State of North Dakota is hereby authorized to erect a memorial or other suitable recognition in commemoration of the people of the county who rendered services, or who lost their lives in the service of their country during the Great World War and may for such purpose use funds out of the general fund of the county if there is sufficient money in said fund, or use funds heretofore raised by tax levy for such memorial, and may after the taking effect of this act and prior to September 1, A. D. 1933, levy a tax not in excess of one mill on the dollar in any one year upon the assessed valuation of all the property in the county, or may use funds for that purpose donated to the county for that purpose, or may for such purpose use funds out of the general fund of such county if there is sufficient money in said fund in conjunction with the funds so donated or obtained by such levy and tax, and the proceeds of such levy, tax, and donations, together with the amount taken out of the general fund, shall be used solely for the purpose of erecting such memorial or other suitable recognition; provided, however, that in no case shall the board expend tax moneys in excess of the

maximum levy permitted under this act together with such amount as has been heretofore levied under the provisions of Chapter 181 of the Session Laws for the year 1919 and Chapter 117 of the Session Laws for the year 1927. The total levy authorized to be made under the provisions of this Act and under the provisions of Section 2071C1 of the Supplement to the Compiled Laws of 1913 and Chapter 117 of the Session Laws of North Dakota of the year 1927, shall in no event exceed four mills upon the taxable property of the county. Provided further that where a suitable memorial or other suitable recognition has been made, no further levy is authorized. Provided, however, that nothing herein contained shall be construed to prohibit said board from expending any additional moneys derived from sources other than taxation. Such memorial or other suitable recognition shall be erected within the county at a place determined upon by such board and such memorial or recognition, when erected, shall be properly and permanently maintained by such board by necessary expenditures from the general fund of the county or from funds donated to the county therefor or from either or both of such funds. Provided, further, that where funds have been heretofore raised by tax levy for such memorial, and the funds so raised are unexpended, the board of county commissioners may, at any time after September 1, 1933, by resolution transfer any such unexpended funds to the general fund of the county.

§ 2. The board of county commissioners in any county of this state in which a fund has been or may be created for the erection of a war memorial, may combine such war memorial fund with other funds of the county for the purpose of erecting a memorial court house.

§ 3. EMERGENCY.] This act is declared to be an emergency measure and shall take effect and be in force from and after its passage and approval.

Approved March 7, 1929.

CHAPTER 176

(H. B. No. 181—M. J. Olson, Jr.)

REPORTS CITY AND COUNTY HEALTH OFFICERS

An Act requiring all city and county health officers to make such reports as are required by law, and providing for the retention of such officers' salaries until such reports have been certified as approved by the state department of health.

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

§ 1. DUTIES OF COUNTY AND CITY HEALTH OFFICERS TO MAKE REPORTS.] All city and county health officers shall make

such reports to the state department of health as are required by law. No city or county health officer shall be paid the last month's salary in any year until the county auditor has received a certificate from the state department of health certifying that all required reports from such officer have been received and approved.

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

Approved March 7, 1929.

CHAPTER 177

(S. B. No. 74—Sathre.)

OFFICIAL MASTER PLANS VILLAGES OR CITIES

An Act to authorize villages or cities to establish official master plans and to adopt planning commissions; prescribing the powers and duties of said planning commissions, providing for the approval of plats, for penalties for non-conformance thereto, that building permits shall conform to official master plans; for establishing and enforcing future street lines.

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

§ 1. AUTHORITY TO ADOPT MASTER PLAN-RECORDING PLAN.] Any village or city, by ordinance of the legislative body which has the authority to lay out, adopt and establish streets, or play grounds, may as herein provided, establish an official master plan of such village or city, and such plan is to be deemed to be final and conclusive with respect to the location and width of streets, or ways, plazas and open spaces and public easements, and the location of parks, play grounds and public rights in lands shown thereon. Such official master plan is hereby declared to be established to conserve and promote the public health, safety and general welfare. Said ordinance shall make it the duty of some appropriate official or employee of said villages or cities, at once to file for record with the register of deeds of the county in which the area covered by said plan is situated a certificate showing that the village or city has established an official master plan.

§ 2. PERSONNEL OF PLANNING COMMISSION.] Such legislative body of each such village or city is hereby authorized and empowered to create by ordinance a planning commission, to consist of five members to be appointed by the chief executive officer of the village or city with the approval of the legislative body thereof, and ex-officio of the said chief executive officer, the chief engineer and the attorney of said legislative body, provided that in case there

be no chief engineer or attorney, said legislative body may appoint such. Of the members of the commission first appointed, one shall hold office for the term of one year, one for the term of two years, one for the term of three years, one for the term of four years, one for term of five years, from and after his appointment, and their successors shall be appointed for the term of five years from and after the expiration of the terms of their predecessors in office.

The terms of ex-officio members shall correspond to their respective official tenures. If a vacancy shall occur otherwise than by expiration of term it shall be filled by appointment for the unexpired portion of the term in the present instance.

All members of the commission shall serve as such without compensation and when duly authorized by the commission may attend planning conferences or meetings of planning institutes or hearings upon pending planning legislation and the commission may by resolution spread upon its minutes, pay the reasonable traveling expenses incident to such attendance.

§ 3. ORGANIZATION, RULES, STAFF AND FINANCES OF THE COMMISSIONS.] The commission shall elect its president from among the appointed members for a term of one year and, subject to other provisions of law, may create and fill such other offices as it may determine. The commission shall hold at least one regular meeting in each month. It shall adopt rules for transaction of business and shall keep a record of its resolutions, transactions, findings and determinations, which record shall be a public record. The commission may appoint such officers and employees as it may deem necessary for its work, whose appointment, promotion, demotion and removal shall be subject to the same provisions of law as govern other corresponding civil employees. The commission may also contract with architects, city planners, engineers, and other consultants for such services as it may require. The expenditures of the commission, exclusive of gifts shall be within the amounts appropriated for that purpose by the legislative body which shall provide the funds, equipment, and accommodations necessary for the commission's work. Each village or city which has established a planning commission, may, in making its annual tax levy and as a part thereof, levy and collect a tax, not to exceed in any fiscal year the sum of one mill on the dollar of assessed valuation for the purpose of defraying the lawful expenses incurred by the planning commission in carrying out the purposes of this act, and may make appropriations from other funds therefor.

§ 4. GENERAL POWERS AND DUTIES.] It shall be the function and duty of the planning commission to make and adopt a master plan for the physical development of the municipality, and

of any land outside its boundaries which, in the commission's judgment, bears relation to the planning thereof. Such plan, with the accompanying maps, plats, charts, and descriptive matter, shall show the commission's recommendations for the development of said territory, including among other things the general locations, character, and extent of streets, waterways, waterfronts, playgrounds, plazas, squares and open spaces, parks, aviation fields, and other public ways and grounds, the general location of public buildings and other public property; and the general location and extent of public utilities and terminals, whether publicly or privately owned, or operated; and the removal, relocation, widening, narrowing, vacating, abandonment, change of use, or extension of any of the foregoing ways, grounds, open spaces, buildings, property, terminals, or utilities; or other matters authorized by law. The commission may from time to time adopt and publish a part of the plan covering one or more major sections or divisions of the territory under its jurisdiction or one or more of the aforesaid or other subjects-matter. The commission may from time to time amend, extend or add to the master plan.

§ 5. PURPOSES IN VIEW.] In the preparation of such plan, the commission shall make careful and comprehensive surveys and studies of present conditions and future growth of the municipality, and with due regard to its relation to neighboring territory. The plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted, and harmonious development of the municipality and its environs, which will, in accordance with present future needs, best promote the amenities of life, health, safety, morals, order, convenience, prosperity and general welfare as well as efficiency and economy in the process of development; including, among other things, adequate provision for light and air, distribution of population, good civic design and arrangement, wise and efficient expenditure of public funds, and the adequate provision of public utilities and other public requirements, the improvement and control of architecture and general embellishment of the area under its jurisdiction.

§ 6. ADOPTION OF PLAN BY COMMISSION.] Before adopting the master plan or any part of it or any substantial amendment thereof, the commission shall hold at least one public hearing thereon, notice of the time of which shall be given by one publication in a newspaper of general circulation in the municipality or county. The adoption of the plan, or part or amendment thereof, shall be by resolution of the commission, carried by the affirmative votes of not less than four members of the commission. The resolution shall refer expressly to the maps and descriptive and other matter intended by the commission to form the whole or part of the plan or

amendment, and the action taken shall be recorded on the map and plan and descriptive matter by the identifying signature of the secretary of the commission. An attested copy of the master plan shall be certified to the legislative body.

§ 7. ADOPTION OF THE PLAN BY LEGISLATIVE BODY.] Upon receipt of an attested copy of the master plan, or of any part thereof, as adopted by the planning commission, a public hearing thereon shall be held by the legislative body. At least ten days notice of such public hearing shall be published in an official publication of said village or city, or in a newspaper of general circulation therein. No change or addition to said master plan, or any part of it as adopted by the planning commission, shall be made by the legislative body until the said proposed change or addition shall have been referred to the planning commission for report thereon and an attested copy of said report thereon filed with the legislative body by the planning commission; but the failure of the commission to so report within thirty days from and after the date of the request for said report by the legislative body shall be deemed to be approval of said additions or changes by the commission; provided, that if said additions or changes be disapproved by the commission a two-thirds vote of the entire membership of the legislative body shall be necessary to pass any ordinance overruling such disapproval by the commission.

§ 8. LEGAL STATUS OF OFFICIAL PLAN.] Whenever the legislative body shall have adopted the master plan of the village or city, of any major section or district thereof, no street, square, park or other public way, ground, or open space, or public building or structure shall be constructed or authorized in the area shown on said master plan until the location, character, and extent thereof shall have been submitted to and approved by the planning commission. In case of disapproval thereof the commission shall communicate its reasons to the legislative body, which shall have the power to overrule such disapproval by a recorded vote of not less than two-thirds of its entire membership, provided, however, that if the authorization or financing of the public way, ground, space, building, or structure be one whose construction, financing or authorization does not, under the law or charter provisions governing same, fall within the province of the legislative body then the submission to the planning commission shall be by the board, commission or body having such jurisdiction and the planning commission's disapproval may be overruled by said board, commission or body by a vote of not less than two-thirds of its membership. The failure of the commission to act upon such submission within sixty days from and after the date of official submission to the commission shall be deemed approval.

§ 9. MISCELLANEOUS POWERS AND DUTIES OF THE PLANNING COMMISSION.] The commission shall have power to promote public interest in and understanding of the master plan, and to that end may publish and distribute copies of the plan, or of any part thereof, or of any report and may employ such other means of publicity and education as it may determine. The commission shall from time to time, recommend to the appropriate public officials programs for specific improvements and for the financing thereof. It shall be part of its duties to consult and advise with public officials and agencies, public utility companies, civic, educational, professional and other organizations, and with citizens with relation to the carrying out of the plan. The commission shall have the right to accept and use gifts for the exercise of its functions. All public officials shall upon request furnish to the commission, within a reasonable time, such information as it may require for its work. The commission, its members, officers, and employees, in the performance of their functions, may enter upon any land and make examinations and surveys and place and maintain necessary monuments and marks thereon. In general, the commission shall have such powers as may be necessary to enable it to fulfill its functions and carry out the purposes of this act.

§ 10. AMENDMENT OF PLAN BY LEGISLATIVE BODY.] Such legislative body is authorized and empowered, whenever and as often as it may deem it to be for the public interest, to change or add to the official master plan so as to lay out new streets, improvements or conveniences mentioned in this act, or to widen, enlarge, close or abandon such existing streets, improvements or conveniences. At least ten days notice of a public hearing on any proposed action with reference to such change in the official master plan shall be published in an official publication of said village or city, or in a newspaper of general circulation therein. Before making such addition or change, the matter shall be referred to the planning commission for report thereon, as provided in section 7 hereof. Such additions and changes when adopted by ordinance of the legislative body shall become a part of the official master plan of the village or city, and shall be deemed to be final and conclusive with respect to all matters shown thereon. The layout, widening, enlarging, closing or abandoning of streets, plazas and open spaces parks or playgrounds by the village or city, under provisions of law other than those contained in this act shall be deemed to be a change or addition to the official master plan and shall be subject to all the provisions of this act.

§ 11. OTHER MATTERS REFERRED TO PLANNING COMMISSION.] The body creating such planning commission may, by general or special rule, provide for the reference of any other matter or class

of matters to the planning commission before final action thereon by the public body or officer of said village or city having final authority thereon, with the provision that final action thereon shall not be taken until said planning commission has submitted its report thereon or has had reasonable time, to be fixed in said rule, to submit the report. The planning commission shall have full power and authority to make such investigations, maps and reports, and recommendations in connection therewith relating to the planning and development of the village or city, as to it seems desirable, providing the total expenditures of said board shall not exceed the funds available therefor.

§ 12. CONTROL OF SUBDIVISIONS. DEFINITIONS.] This act shall be known as "The Planning Act". For the purpose of this act certain terms are defined as provided in this section. Wherever appropriate the singular includes the plural and the plural includes the singular. The term "street" includes streets, highways, avenues, boulevards, parkways, roads, lanes, walks, alleys, viaducts, subways, tunnels, bridges, public easements and rights of way, and other ways. The term "subdivision" means the division of a tract or parcel of land into lots for the purpose, whether immediate or future, of sale or of building development, including any plat or plan which includes the creation of any part of one or more streets, public easements, or other rights of way, whether public or private, for access to or from such lots, and or including the creation of new or enlarged parks, playgrounds, plazas or open spaces.

§ 13. SUBDIVISION JURISDICTION.] The territorial jurisdiction of any municipal planning commission over the subdivision or platting of land shall include all land located in the municipality and all land lying within six miles of the corporate limits of the municipality and not located in any other municipality, except that in the case of any such non-municipal land lying within six miles or more than one municipality having a planning commission, the jurisdiction of each such municipality shall terminate at a boundary line equidistant from the respective corporate limits of such municipalities; and provided, further, that the approval of the county planning commission, if there be one, shall also be necessary, on all plats in areas outside the corporate limits of any municipality, except that where said county planning commission fails to agree with a city planning commission having jurisdiction over any plat, the legislative body of the county, by a two-thirds vote of its entire membership may overrule the findings of either commission and approve said plat as recommended by the other commission.

§ 14. SCOPE OF CONTROL OF SUBDIVISIONS.] Whenever a planning commission shall have adopted a major street plan of the territory within its subdivision jurisdiction or part thereof, and

shall have filed a certified copy of such plan in the office of the register of deeds of the county in which such territory or part is located, then no plat of a subdivision of land within such territory or part shall be filed or recorded until it shall have been approved by such planning commission and such approval entered in writing on the plat by the chairman or secretary of the commission.

§ 15. MAP FILING. RULES AND PLATTING REGULATIONS.] Before exercising the powers referred to herein the planning commission shall adopt general regulations governing the subdivision of land within its jurisdiction, to provide for the proper arrangement of streets in relation to other existing and planned streets and to the master plan, to provide for adequate and convenient open spaces, for traffic, utilities, access of firefighting apparatus, recreation, light and air, for the avoidance of congestion of population, and easements for building setback lines, or for public utility lines. Such regulations may include requirements as to the minimum width and area of building lots, and as to the extent to which streets and other public ways shall be graded and improved and to which water and sewer and other utility mains, or other facilities shall be installed as a condition precedent to the approval of the plat. All such regulations shall be published as provided by law, and before adoption, a public hearing shall be held thereon. A copy thereof shall be filed for record by the commission with the register of deeds of the counties in which the commission and territory are located, and certified by the legislative body.

§ 16. APPROVAL OF PLATS BY PLANNING COMMISSION.] The planning commission shall approve or disapprove a plat within thirty days after the submission thereof to it; otherwise such plat shall be deemed to have been approved, and a certificate to that effect shall be issued by the commission on demand; provided, however, that the applicant for the commission's approval may waive this requirement and consent to an extension of such period. The ground of disapproval of any plat shall be stated upon the records of the commission. Any plat submitted to the commission shall contain the name and address of a person to whom notice of a hearing shall be sent; and no plat shall be acted on by the commission without affording a hearing thereon. Notice shall be sent to the said address by registered mail of the time and place of such hearing not less than five days before the date fixed therefor. Public notice of all such hearings shall also be given. Every plat approved by the commission may, without further hearing, be adopted by the commission as an amendment of, or addition to the master plan.

§ 17. CONSIDERATIONS FOR APPROVAL OF PLATS.] Before the approval of a plat, the planning commission and legislative body shall take into consideration the prospective character of develop-

ment of the area included in the plat and of the surrounding territory. The owner of the land or his agent who files the plat may add, as a part of the plat, a notation, if he so desires, to the effect that no offer or dedication of such street, parks or playgrounds or any of them, is made to the public; and may show by dotted line on said plat dedication of easements for building setback lines or for use of public utility lines. The planning commission, or legislative body, may require that a deed to the fee for streets or other areas offered for dedication to the public on said plat, be delivered to the city or county as the case may be, where the same are located, at the time of filing of said plat.

§ 18. PENALTIES FOR TRANSFERRING LOTS IN UNAPPROVED SUBDIVISIONS.] Whoever, being the owner or agent of the owner of any land located within the territory of a subdivision subject to the approval of a planning commission, or legislative body, transfers or sells, or agrees to sell, or negotiates to sell, any land by reference to or exhibition of or by other use of a plat of a subdivision, before such plat has been approved by said planning commission and legislative body and recorded or filed for record as so approved in the office of the appropriate county register of deeds, shall forfeit and pay a penalty of one hundred dollars for each lot or parcel so transferred or sold, or agreed or negotiated to be sold, and the description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or from the remedies herein provided. The village or city may enjoin such transfer or sale or agreement by action for injunction brought in any court of equity jurisdiction, or may recover the said penalty by a civil action in any court of competent jurisdiction.

§ 19. REGISTER OF DEEDS DUTIES.] A register of deeds who receives for filing or records a plat of a subdivision without the approval of the planning commission as required by law, shall be deemed guilty of a misdemeanor and shall be fined not less than one hundred dollars nor more than five hundred dollars.

§ 20. IMPROVEMENTS IN UNAPPROVED STREETS.] The village or city shall not accept, lay out, open, improve, grade, pave, or curb any street, or lay or authorize, sewers or connections to be laid in any street or right of way, within any portion of territory for which the planning commission shall have adopted a major traffic street plan unless such street (a) shall have been accepted or opened as or shall otherwise have received the legal status of a public street prior to the adoption of such plan; or unless such street (b) corresponds with a street shown on the official master plan or with a street on a subdivision plat approved by the planning commission, or with a street on a street map made by and officially adopted by

the commission. The legislative body may, however, accept any street not shown or not corresponding with a street on the official master plan or on an approved subdivision plat or an approved street map; provided the ordinance or other measure accepting such street be first submitted to the planning commission for its approval and, if approved by this commission, be enacted or passed by not less than a majority of the entire membership of the legislative body, or, if disapproved by the commission be enacted or passed by not less than two-thirds of the entire membership of the legislative body. A street approved by the planning commission upon submission by legislative body, or a street accepted by a two-thirds vote after disapproved by the planning commission, shall thereupon have the status of an approved street as fully as though it had been originally shown on the official master plan or on a subdivision plat approved by the commission or had been originally mapped by the commission.

§ 21. ERECTION OF BUILDINGS PROHIBITED ON UNACCEPTED STREETS.] From and after the time when a planning commission shall have adopted a major street plan of the territory within its subdivision jurisdiction or part thereof, then no building shall be erected on any lot within such territory or part, nor shall a building permit be issued therefor unless the street giving access to the lot upon which such building is proposed to be placed (a) shall have been accepted or opened as or shall otherwise have received the legal status of a public street prior to that time, or unless such street (b) corresponds with a street shown on the official master plan or with a street on a subdivision plat approved by the planning commission or with a street on a street map by and adopted by the commission or with a street accepted by the legislative body, after submission to the planning commission, by the favorable vote required in section 19 of this act. Any building erected in violation of this section shall be deemed an unlawful structure and the building inspector or other appropriate official may cause it to be vacated and have it removed.

§ 22. STATUS OF EXISTING STATUTES COVERING PLATS.] From and after the adoption of a major traffic street plan by any planning commission, the jurisdiction of the planning commission over plats shall be exclusive within the territory under its jurisdiction, except as provided in section 13 hereof, and all statutory control over plats or subdivisions of land granted by other statutes shall in so far as in harmony with provisions of this act be deemed transferred to such planning commission, and in so far as inconsistent with the provisions of this act are hereby repealed.

§ 23. CONTROL OF BUILDINGS IN MAPPED STREETS. RESERVATION OF MAPPED STREETS FOR FUTURE ACQUISITION AND ADOPTION OF PRECISED MAPS.] The planning commission is empowered

after it has adopted any part of a master plan for any part of the territory within its platting jurisdiction to make, or cause to be made, from time to time, surveys for the exact location of the lines of a street or streets shown in any portion of such master plan and make a map of the land thus surveyed, more precisely showing the land which it recommends be reserved for future acquisition for public streets. The planning commission, before adopting any such map, shall hold a public hearing thereon, notice of the time and place of which, with a general description of the district or area covered by the map, shall be given not less than ten days previous to the time fixed therefor by one publication in a newspaper of general circulation in the municipality, if the district or area be within the municipality, or of general circulation in the county, if the district or area be outside of the municipality. After such hearing the commission may transmit the map, as originally made or modified as may be determined by the commission, to the legislative body, together with the commission's estimate of the time or times within which the lands, shown on the map as street location, should be acquired by the municipality. Thereupon, by resolution, the legislative body may approve and adopt or may reject such map, or may modify it with the approval of the planning commission or in the event of the planning commission's disapproval, the legislative body may by a favorable vote of not less than two-thirds of its entire membership modify such map and adopt the modified map. In the resolution of adoption of a map, the legislative body shall fix the period of time for which the street locations shown upon the map shall be deemed reserved for future taking or acquisition. The clerk of the legislative body shall file for record an attested copy of the map with the county register of deeds of each county in which the mapped land is located and retain one copy for the purpose of public examination. Such approval and adoption of map shall not, however, be deemed the opening or establishment of any street nor the taking of any land for street purposes nor for public use, nor as a public improvement, but solely as a reservation of the street locations shown thereon, for the period specified in the legislative body's resolutions, for future taking or acquisition for public use. The commission may, at any time, negotiate for or secure from the owner or owners of any such lands, releases of claims for damages or compensation for such reservations or agreements indemnifying the municipality or county from such claims by others which releases or agreements shall be binding upon the owner or owners executing the same and their successors in title. Provided such commission shall have no authority to make awards or fix compensation. At any time after the filing of a map for record with the county register of deeds and during the period specified for the reservation, the planning commission and the owner of any land containing a reserved street location, may agree upon a modification

of the location of the lines of the proposed street, such agreement to include a release by said owner of any claim for compensation or damages by reason of such modification; and thereupon the commission may make a map corresponding to the said modification and transmit same to the legislative body; and if such modified map be approved by the legislative body the clerk of the legislative body shall file for record an attested copy thereof with the said county register of deeds and said modified map shall take the place of the original map. At any time the legislative body may, by resolution, abandon any reservation and shall file for record any such abandonment with the said register of deeds.

§ 24. ADOPTION OF FUTURE STREET LINE RESOLUTION. HEARING AND OVERRULING OF PROTESTS.] The resolution of the legislative body adopting any street map provided in section 22, shall provide that it shall not become effective for forty days, and shall further provide that it shall not become effective until subsequent to the publication once a week for four successive weeks in a newspaper of general circulation published in said village or city, and in case there is no such newspaper in the jurisdiction of said commission then in the next nearest newspaper in the county, of a notice of the adoption of said resolution. Said resolution and said notice shall also state a time within which the owners of property lying within or immediately adjoining the lines of the proposed future street opening or widening, or between any future street line, and the street nearest public highway, may protest in writing against the adoption of said future street lines.

Upon the receipt of any protests with the time fixed in said resolution and said notice the said legislative body may cause the same to be examined by its engineer or engineers and by its attorney or attorneys and shall set a time for the hearing of the same, notice of which hearing shall be given to such protestant at his address which shall be stated in the protest.

Upon the hearing of any protest the said legislative body may grant or deny the same except that the said legislative body shall not deny the written protests of the owners of a majority of the area of property lying within any proposed street to be opened, or a majority of the frontage of a street to be widened upon which a future street line is established, except by a four-fifths vote of such legislative body.

In granting or sustaining any protests the legislative body may grant or sustain the same as to the entire future street line or lines proposed or only as to a portion thereof. As to any portion of such proposed future street line or lines concerning which a protest is not granted or sustained said legislative body may deny said protest

or protests. Upon the denial of any such protests the said resolution shall immediately become finally effective. If no protests are filed as herein provided for, such resolution shall take final effect at midnight of the last day for filing such protest.

Whenever any resolution as herein provided shall have become final, it shall be the duty of the clerk of the legislative body to cause to be recorded in the office of the county register of deeds of the appropriate county, a notice referring to the said resolution by number and other appropriate description including the date of its adoption and setting forth a description of the property contained within the said proposed opening and widening or opening and widening lines or between said future street lines and the nearest public highway, together with a copy of the map showing any such line or lines.

If any owner of property lying within any lines for the proposed opening and widening, or opening or widening of any street, or between any such future street line and the nearest public highway, shall claim that the adoption of any such resolution or ordinance, or the refusal to issue to him a building permit or prohibition of building or construction by him, shall constitute a taking of his property by the said village or city, said owner shall have the right within three months after the recording in the office of the appropriate county register of deeds of the notice hereinabove provided for, to file in the office of said legislative body a protest against the alleged taking of his property and demand that the village or city, adopting such resolution either vacate the same as to the property of such owner or compensate him therefor, or commence the condemnation thereof, within three months from the time of the filing of his written protest and claim. In the event that the said village or city shall fail, within three months after the receipt of any such written protest and demand, to either vacate such resolution as to the property of said protesting owner or compensate him for the right to construct any building, fence or other structure or commence proceedings for the condemnation thereof, then such resolution shall automatically be vacated and annulled as to the property of such protesting owner.

In the event that any owner of property lying within any of the lines set forth or described as future street lines in any resolution as herein provided for shall fail within the time herein specified to file a claim in the manner herein provided, such owner shall be conclusively deemed to have waived any such claim but he shall not be deemed to have waived any title to the property within any such future street line or lines or any interest therein other than the right to erect or construct thereon any building, fence or other structure.

§ 25. REPEAL OF ACTS IN CONFLICT.] All other acts, or parts of acts in conflict herewith are hereby repealed.

§ 26. SAVING CLAUSE IF ANY PART INVALID.] If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this act. The legislature hereby declares that it would have passed each provision of this act irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases, or provisions be declared unconstitutional.

§ 27. VIOLATION A MISDEMEANOR.] Violation of any of the provisions of this act shall upon conviction be punishable as a misdemeanor.

Approved March 9, 1929.

CHAPTER 178

(H. B. No. 102—Lynch.)

REFUND AND PAYMENT SPECIAL IMPROVEMENT WARRANTS CITIES AND VILLAGES

An Act to amend and re-enact Section 1 of Chapter 195, of the Session Laws of North Dakota for the year 1927, relating to the authorization of cities and villages to issue refunding special improvement warrants, and providing means for payment thereof.

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

§ 1. AMENDMENT.] That Section 1 of Chapter 195 of the Session Laws of North Dakota for 1927 be amended and re-enacted to read as follows:

§ 1. All cities and villages are hereby empowered and authorized upon the surrender by the holders thereof of any outstanding special improvements warrants upon which the city or village has, or may, become liable, to refund and reissue the same under such terms and conditions as the governing body of the city or village may by resolution provide; provided, however, that the rate of interest shall not be in excess of the rate on the refunded warrants; and provided, further that such new warrants shall be payable out of the special assessment fund against which the refunded warrants were issued, which fund shall be replenished by delinquent assessments, as they are paid in, or by reassessment for deficiencies to be made and collected in the manner specified by Sections 3712 to 3739, both inclusive, Compiled Laws of 1913 and acts amendatory thereof and supplemental thereto; or by the temporary use of funds

produced by tax levies provided for in Section 3716 of the Supplement to the Compiled Laws of 1913 as amended, such funds to be repaid by delinquent assessments as they are collected, provided, that whenever the governing body of any city or village shall determine to make such re-assessment the city auditor shall notify the chairman of the special assessment commission of the Act of the governing body and shall certify to him the total amount necessary to be raised by such re-assessments, and the chairman of such commission shall thereupon proceed in the same manner as in the original assessment; provided further, that no lots or parcels of land shall be assessed for more than the benefits received from such improvements, and provided, further, that such warrants shall mature at such times and in such amounts as in the judgment of the governing body, the assessments or reassessments will provide for.

§ 2. REPEAL.] All acts or parts of acts in conflict with this act are hereby repealed.

§ 3. EMERGENCY.] This act is hereby declared an emergency measure, and shall be in full force and effect from its passage and approval.

Approved March 7, 1929.

CHAPTER 179

(H. B. No. 56—Pfenning.)

EXTENSION SEWER ASSESSMENTS CITIES

An Act to amend and re-enact Section 3717 of the Compiled Laws of North Dakota for the year 1913, relating to the extension of sewer assessments.

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

§ 1. AMENDMENT.] That Section 3717 of the Compiled Laws of the State of North Dakota for the year 1913, be amended and re-enacted to read as follows:

§ 3717. SEWER ASSESSMENTS EXTENDED NOT EXCEEDING TWENTY (20) YEARS.] The special assessments herein provided for payment of the cost of constructing any sewer shall be payable in equal annual amounts extending over a period not exceeding twenty (20) years, and shall bear interest at a rate not to exceed seven per cent (7%) per annum on the total amount of such assessments remaining from time to time unpaid; provided, however, that the city council or city commission may by ordinance or resolution provide that any such special assessment, which has heretofore or may here-

after be levied, shall be extended over a period of less than twenty (20) years; and the city council or city commission is authorized by ordinance or resolution to fix the period over which such assessments shall be extended, not exceeding, however, in all twenty (20) years.

§ 2. REPEAL.] All acts or parts of acts in conflict with this act are hereby repealed.

§ 3. EMERGENCY.] This act is hereby declared an emergency measure, and shall be in full force and effect from its passage and approval.

Approved February 13th, 1929.

CHAPTER 180

(S. B. No. 149—Hyland.)

ELECTION, ETC., PARK COMMISSIONERS

An Act to amend and re-enact Section 4058 of the Compiled Laws of North Dakota 1913, and Section 4059 of the Supplement to the Compiled Laws of 1913 as amended by Chapter 194 of the Session Laws of the State of North Dakota for 1927 relating to the organization of a board of park commissioners, defining the qualifications, mode of election and term of office of such commissioners and prescribing the manner of filling vacancies of said board; and to the powers of the park commission and matters of taxation incidental thereto.

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

§ 1. AMENDMENT.] That Section 4058 of the Compiled Laws of North Dakota 1913, is hereby amended and re-enacted to read as follows:

§ 4058. ELECTION OF COMMISSIONERS. FILLING VACANCIES.] The powers of each park district shall be exercised by a board of park commissioners consisting of five members who shall hold office for the period of six years from and after the date of their election and qualification and until their successors are duly elected and qualified, provided that in cities under the city council form of government the term of office shall be for five years, except the members of the first board who shall hold office as follows: One member until the third Tuesday in April of the year following their election, one member until one year from the last mentioned date, one member until two years from the last mentioned date, one member until three years from the last mentioned date and one member until four years from such last mentioned date, and in cities having

the commission form of government such members of the first board shall hold office as follows: One member until the third Tuesday in April in the year in which the next regular biennial city election is held, two members until two years following such last mentioned date, and two members until four years following such last mentioned date. The members of the park commission shall qualify by taking and filing with the city auditor of the city the oath prescribed by section 211 of the constitution. The city treasurer shall be ex-officio treasurer of the park district. He shall take the oath prescribed by section 211 of the constitution and shall furnish such bond as may be required by the commission. The members of the commission shall be elected by the qualified electors of the park district at the regular elections of the city, and shall qualify within ten days after their election, and on the third Tuesday of April after the election shall organize by the selection of a president and vice-president. The first board may be elected at any regular city election, or at a special election for that purpose called by the city council or the city commission. The members of the board shall receive no compensation for their services as such, and shall have the qualifications of electors of such district. They shall not be interested in any contract entered into by said commission. Vacancies on such board shall be filled by the board until the next regular election of members of the board, when such vacancies shall be filled by election. Removal of residence from the park district by any member of the commission shall create a vacancy. Members of such boards elected prior to the taking effect of this act shall continue to serve in their respective official capacities until their successors have been elected at regular city elections in accordance with the provisions hereof and until they have qualified for such offices.

§ 2. AMENDMENT.] That Section 4059 of the Supplement to the Compiled Laws of 1913 as amended by Chapter 194 of the Session Laws of North Dakota for 1927 is hereby amended and re-enacted to read as follows:

§ 4059. POWERS OF PARK COMMISSION: LIMITED LEVY: BONDS: TAXATION.] The park commission shall have power:

(1) To acquire by purchase, gift, devise, condemnation or otherwise, land within or without its territorial limits, and within the State for parks, boulevards and ways, and shall have sole and exclusive authority to maintain, govern, erect and improve the same, and such parks, boulevards and ways shall be considered for purposes of taxation and for all other purposes as within the territorial limits of the city, and in all cases where such commission has acquired the legal title in fee to such lands, power to sell and convey the same; such conveyance to be executed by the president and clerk

of such commission, upon a resolution approved by not less than two-thirds (2-3) of the members of such park commission.

(2) To lay out, open, grade, curb, pave and otherwise improve any path, way or street, in, through or around said parks and to construct, erect, build, maintain, manage, govern, and erect any and all buildings, pavilions, play and pleasure grounds or fields and such other improvements of a like character as may be deemed necessary.

(3) To pass all ordinances necessary, requisite, and needful for regulation and government thereof, and to make, change and enforce any ordinance with reference thereto.

(4) To levy special assessments on all property especially benefited by the purchase, opening establishment and improvements of such parks, boulevards and ways or streets or ways about the same.

(5) To require the services of the city engineer of the city included in such park district, who shall be ex-officio engineer, and surveyor for such park commission and to procure the services of a clerk for such commission and such clerk shall be paid by such commission for his services as clerk, a salary not to exceed fifty dollars (\$50.00) per month, to appoint other employees including such police force as may be deemed necessary.

(6) To issue negotiable bonds of such park district in an amount not to exceed one per cent (1%) of the assessed value of the taxable property within such park district for the preceding year; provided, further, that no bonds shall be issued as herebefore provided, unless at a general or special election after twenty days notice in a newspaper published in the city, stating the purpose for which such bonds are to be issued and the amount thereof, the legal voters of such park district shall by a sixty per cent (60%) vote, determine in favor of issuing such bonds; provided, further, that at or before the time of issuing such bonds or incurring the indebtedness for which the same are to be issued provision shall be made for the collection of a direct annual tax sufficient to pay the interest upon said debt or such bonds when the same fall due and to pay and discharge the principal thereof when the same becomes due, and such provisions for the collection of such annual tax shall be irrevocable until such debt is paid; provided, further, that the bonds issued under the provisions of this chapter shall not be issued for a longer period than twenty years and that such bonds shall bear interest at a rate not to exceed six per cent (6%) and shall be sold for not less than their par value. Bonds as hereinbefore provided to be issued, shall be so issued and used exclusively for the purchasing and acquiring of land, boulevards and ways for such parks or park

systems or for the permanent improvement thereof including the erection of buildings, pools, ponds and the erection of dams in water adjacent thereto. The board of park commissioners are hereby empowered and authorized to issue bonds in place of or to supply means to meet maturing bonds or for the consolidation or funding of the same.

(7) To levy taxes upon all property within said district for the purpose of maintaining and improving said parks, boulevards and ways, and to defray the expenses of such district, the proceeds of which said taxes shall also be available for use in payment for any land in such year or theretofore purchased or for improvements theretofore made for park purposes, provided; that such tax so levied shall in no year exceed the sum of two mills on each dollar of taxable property within said district over and above the amount necessary to pay interest and sinking fund on bonds; and special assessments lawfully levied against park district property by other departments of government.

(8) To establish building lines for all property fronting on any park, boulevard or way under the direction and control of such commission and to control the subdivision and platting of property within four hundred feet thereof.

(9) To borrow money in anticipation of taxes already levied to defray the expenses of the year and to issue therefor the notes or obligations of the district.

(10) To connect any park or parks owned or controlled by it with any other park or parks, and for that purpose to select and take charge of any connecting street or streets or parts thereof and the said park commission shall have sole and exclusive charge and control of such street or streets so taken for such purpose.

(11) To plant, set out, maintain, protect and care for shade trees in any of the public streets or highways of their respective districts, and to specify and regulate the kinds of trees that shall be planted or set out in such streets or highways, the size and location of such trees and the methods to be used in the planting and cultivation thereof, and to pass such ordinances as may be requisite, necessary or needful for the protection and control of such trees.

(12) To plat and lay out such portions of park property as is not needed for the accommodation of the general public and to lease, let and demise such lots or portions as are now or may hereafter be laid out for residential or concession purposes, and to provide by ordinances the use that shall be made of said leaseholds, the

character of structures that may be reared or placed thereon and to generally regulate the use and enjoyment thereof by the lessees or their successors.

§ 3. EMERGENCY.] This act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 7, 1929.

CHAPTER 181

(H. B. No. 55—Pfenning.)

CITY ZONING

An Act to amend and re-enact Section 3756a-1 of the 1925 Supplement to the Compiled Laws of North Dakota.

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

§ 1. AMENDMENT.] Section 3756a-1 of the 1925 Supplement to the Compiled Laws of North Dakota is hereby amended and re-enacted to read as follows:

§ 3756a-1, GRANT OF POWER.] For the purpose of promoting health, safety, morals, or the general welfare of the community, the city council or city commission of any city in this state is hereby empowered to regulate and restrict the height, number of stories, and size of buildings and other structures, the percentage of lot that may be so occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, resident or other purposes. Such regulations may provide that a board of adjustment may determine and vary their application in harmony with their general purpose and intent, and in accordance with general or specific rules therein contained.

§ 2. REPEAL.] All acts or parts of acts in conflict with this act are hereby repealed.

Approved February 13, 1929.