

# MUNICIPAL GOVERNMENT

## CHAPTER 323

S. B. No. 46  
(Hernett, Longmire)  
(From LRC Study)

### TRANSITION OF VILLAGES TO CITIES

#### AN ACT

To provide for the transition of villages to cities and to amend and reenact sections 1-08-04, 2-02-01, 2-02-02, 2-02-03, 2-02-04, 2-02-06, 2-02-08, subsection 4 of section 2-04-01, section 2-05-06.1, subsection 1 of section 2-06-01, sections 2-06-20, 5-01-13, 5-01-17, 5-02-07, 5-02-08, 5-03-03, 5-03-04, 5-03-20, 5-05-02, 5-05-03, 12-19-25, subsection 2 of section 12-21-15, subsection 5 of section 12-41-11, sections 15-27-01, 15-35-13, 16-09-02, 16-09-03, 18-01-06, 18-01-08, 18-04-01, 18-04-02, 18-04-03, 18-04-04, 18-04-05, 18-04-07, 19-01-05, subsection 1 of section 21-01-01, sections 21-01-06, 21-02-02, 21-02-06, subsections 1 and 2 of section 21-03-01, subsection 1 of section 21-03-02, subsection 2 of section 21-03-07, subsection 2 of section 21-03-10, sections 21-03-12, 21-03-17, 21-03-24, 21-03-25, 21-03-26, 21-03-27, 21-03-29, 21-03-31, 21-03-34, subsections 1, 2, and 3 of section 21-04-01, sections 21-04-06, 21-06-05, 21-06-06, 21-06-07, 21-06-09, subdivision b of subsection 1 and subdivision c of subsection 2 of section 23-02-13, subdivision b of subsection 1 and subdivision c of subsection 2 of section 23-02-30, subsections 2, 3, and 4 of section 23-03-07, sections 23-03-11, 23-05-01, 23-05-04, 23-05-05, subsection 1 of section 23-05-07, sections 23-05-08, 23-05-10, 23-07-04, 23-14-01, 23-14-07, 23-15-03, 23-24-02, 23-24-05, 23-24-06, subsection 26 of section 24-01-01.1, sections 24-01-14, 24-06-10, 24-07-04, 24-08-01, 26-23-05, 26-23-10, 26-23-22, subsection 3 of section 26-24-01, sections 26-24-06, 26-24-08, 27-09-06, 27-09-07, 27-09-08, 27-09-09, 27-09-10, 27-09-24, 29-02-23, 32-14-07, 32-28-01, 32-28-03, 38-09-02, 40-01-01, 40-01-02, 40-01-10, 40-01-11, 40-01-16, 40-01-18, 40-01-20, 40-02-01, subsection 4 of section 40-02-05, sections 40-02-09, 40-02-10, 40-02-11, 40-02-12, 40-04-01, 40-04-03, 40-04-04, 40-04-07, subsections 1 and 71 of section 40-05-01, sections 40-05-02.2, 40-05-05, 40-05-09.1, 40-11-01, 40-11-04, 40-11-08, 40-11-12, 40-13-02, 40-13-03, 40-18-01, 40-18-05, 40-18-07, 40-18-12, 40-18-15, 40-18-16, 40-18-17, 40-18-19, 40-19-01, 40-19-03, 40-21-06, 40-21-07, 40-21-08, 40-21-10, 40-21-12, 40-21-14, 40-22-14, 40-22-17, subsection 1 of section 40-22-19, sections 40-22-24, 40-22-25, 40-22-26, 40-22-30, subsection 1 of section 40-22-31, sections 40-22-35, 40-22-36, 40-22-40, 40-23-02, 40-23-05, 40-23-07, 40-23-12, 40-23-13, 40-23-14, 40-23-16, 40-24-09, 40-24-11, 40-24-12, 40-24-15, 40-24-16, 40-24-20, 40-27-05, 40-28-02, 40-28-03, 40-28-04, 40-28-05, 40-28-06, 40-28-07, 40-28-08, 40-28-09, 40-29-04, 40-29-05, 40-29-07, 40-29-09, 40-29-10, 40-29-12, 40-29-15, 40-29-17, 40-29-18, 40-29-19, 40-29-20, 40-33-03, 40-33-14, 40-33-16, subsection 5 of section 40-34-02, sections 40-38-03, 40-38-10, 40-39-01, 40-39-02, 40-39-03, 40-39-06, 40-39-08, 40-40-02, subdivision A of subsection 2 of section 40-40-05, sections 40-40-06, 40-40-10, 40-40-13, 40-40-14, 40-40-17, 40-41-02, 40-41-03, 40-41-07, 40-42-01, 40-42-02, 40-42-03, 40-43-03, 40-47-01, 40-48-28, 40-48-31, 40-48-35, 40-49-02, 40-49-04, 40-49-07, 40-49-08, sub-

section 1 of section 40-49-12, sections 40-49-13, 40-49-17, 40-50-16, 40-50-19, 40-50-22, 40-55-01, subsections 2, 3, and 4 of section 40-58-19, sections 40-59-02, 40-59-03, 47-19-14, 48-04-01, 48-04-02, 48-04-03, 50-16-01, 53-02-08, subsection 3 of section 53-03-01, sections 53-06-06, 57-12-01, 57-12-01.1, 57-12-02, subdivisions a and b of subsection 2 of section 57-12-06, subsections 1 and 3 of section 57-13-04, sections 57-15-01, 57-15-07, 57-15-10, 57-15-10.1, 57-15-27, 57-15-27.1, 57-15-30, 57-15-31, 57-15-32, 57-15-37, 57-15-38, 57-15-39, 57-15-40, 57-15-41, 57-15-42, 57-15-43, 58-02-10, 58-03-04, 58-04-01, subsections 4 and 18 of section 58-06-01, sections 58-10-04, 58-15-01, 58-15-02, 58-15-03, 58-15-04, 58-15-07, 58-16-01, 58-16-02, 61-01-18, 61-21-62, 62-01-06, 63-02-01, 63-02-03, 63-02-05, 63-02-06, 63-02-07, subsection 4 of section 63-02-08, subsection 3 of section 63-02-12, sections 63-02-14, 63-02-16, and 63-03-01 of the North Dakota Century Code, relating to forms of municipal government, eliminating villages as a form of municipal government, contracts by municipalities, municipal ordinances providing for the sale of property, and deleting provisions relating to villages and officers thereof, and to repeal section 16-10-05, subsection 3 of section 21-03-06, subsection 3 of section 21-03-21, chapter 40-03, sections 40-05-04, 40-05-07, chapter 40-07, sections 40-19-04, 40-21-04, 40-29-06, 40-49-06, 40-49-19, 40-51-13, 40-51-14, 40-51-15, 40-51-16, chapters 40-53, and 57-10, and section 57-15-09 of the North Dakota Century Code, relating to villages and their powers, duties, officers, and organization.

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

**§ 1. Amendment.)** Section 1-08-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**1-08-04. Authorizing Counties, Cities, and Other Municipalities to Accept Devises, Bequests, Legacies, and Gifts.)** Devises, legacies, bequests, and gifts may be lawfully made to the state or any county, township, city, school district, or park district of the state of North Dakota. The title to any property, real, personal, or mixed, which shall be devised, bequeathed, or given to the state, or to any such county, township, city, school district, or park district, for the use and benefit thereof, shall vest in the state or such county, township, city, school district, or park district, to be by it held in trust under the terms and conditions provided for in such devise, legacy, bequest, or gift. Unless otherwise authorized by the will or other instrument providing for such devise, legacy, bequest, or gift, no part of such property, nor of the income therefrom, shall be diverted or used for any other purpose. The officers charged with the management of the fiscal affairs of the state, or of any county, township, city, school district, or park district, to whom any such devise, legacy, bequest, or gift is made, shall be authorized to accept, receive, and administer the same for and on behalf of the state, or any such county, township, city, school district, or park district.

**§ 2. Amendment.)** Section 2-02-01 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**2-02-01. Authority to Acquire, Operate, and Regulate Airports.)** The North Dakota aeronautics commission and all counties, cities, park districts, and townships of this state, separately or jointly, may acquire, establish, construct, expand, own, lease, control, equip, improve, maintain, operate, regulate, and police airports and landing fields for the use of aircraft either within or without the geographic limits of such political subdivisions, and may use for such purpose or purposes any available property owned or controlled by the state aeronautics commission or such political subdivisions. Any property acquired, owned, leased, controlled, or occupied for the purpose or purposes enumerated herein hereby is declared to be acquired, owned, leased, controlled, or occupied for a public purpose and as a matter of public need, and there shall be no liability on the part of the state aeronautics commission or any county, city, park district, or township in connection therewith, or in the operation thereof, except to its own employees.

**§ 3. Amendment.)** Section 2-02-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**2-02-02. Property—How Acquired.)** Private property needed by a county, city, park district, or township for an airport or landing field, or for the expansion of an airport or landing field, may be acquired by grant, purchase, lease, or other means, if such political subdivision is able to agree with the owners of said property on the terms of such acquisition, and otherwise by right of eminent domain.

**§ 4. Amendment.)** Section 2-02-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**2-02-03. Purchase Price — How Paid — Bond Issue.)** The purchase price or award for real property acquired in accordance with the provisions of this chapter for an airport or landing field may be paid for by appropriation of moneys available therefor or wholly or partly from the proceeds of the sale of bonds of said counties, cities, park districts, and townships, as the proper officials of such political subdivisions shall determine, but any bonds for such purpose shall be authorized and issued under the provisions of chapter 21-03 of the title Governmental Finance.

**§ 5. Amendment.)** Section 2-02-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**2-02-04. Air Rights—How Acquired.)** Where necessary, in order to provide unobstructed air space for the landing and taking off of aircraft utilizing airports and landing fields acquired or maintained under the provisions of this chapter, the counties, cities, park districts, and townships may acquire such air rights over private property as are necessary to insure safe approaches to the landing areas of said airports and landing fields. Such air rights may be acquired by grant, purchase, lease, or by right of eminent domain in the same manner as is provided in section 2-02-02 for the acquisition of the airport or landing field itself or the expansion thereof.

**§ 6. Amendment.)** Section 2-02-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**2-02-06. Authority to Construct, Operate, Regulate, or Lease Airports.)** Counties, cities, park districts, and townships which have established airports or landing fields, or which acquire, lease, or set apart real property for such purpose or purposes, may:

1. Construct, equip, maintain, and operate the same, or vest authority for the construction, equipment, improvement, maintenance, and operation thereof, in an officer, board, or body of such political subdivision. The expenses of such construction, equipment, improvement, maintenance, and operation shall be a responsibility of said political subdivision;
2. Adopt regulations and establish charges, fees, and tolls for the use of such airports or landing fields and fix penalties for the violation of said regulations; and
3. Lease such airports or landing fields to private parties for operation, or lease or assign to private parties for operation, space, area, improvements, and equipment on such airports or landing fields, if in each case the public, in so doing, is not deprived of its rightful use thereof.

**§ 7. Amendment.)** Section 2-02-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**2-02-08. Police Power Outside Geographic Limits.)** Counties, cities, park districts, and townships acquiring, establishing, developing, operating, maintaining, or controlling airports or landing fields under the provisions of this chapter without the

geographic limits of such subdivisions shall have the same police powers over such airports or landing fields as they may exercise within the geographic limits of such subdivisions.

**§ 8. Amendment.)** Subsection 4 of section 2-04-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. "Political subdivision" means any county, city, park district, or township.

**§ 9. Amendment.)** Section 2-05-06.1 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**2-05-06.1. Authorization to Accept Federal or Other Moneys.)** The North Dakota aeronautics commission, or any county, city, park district, or township is authorized to accept, receive, and receipt for federal moneys, and other moneys, either public or private, for the acquisition, construction, enlargement, improvement, maintenance, equipment, or operation of airports and other air navigation facilities, and sites therefor, and to comply with the provisions of the laws of the United States and any rules and regulations made thereunder for the expenditure of federal moneys upon such airports and other air navigation facilities.

**§ 10. Amendment.)** Subsection 1 of section 2-06-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. "Municipality" shall mean any county, city, town, park district or public body of this state;

**§ 11. Amendment.)** Section 2-06-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**2-06-20. Out-of-State Airport Jurisdiction Authorized — Reciprocity with Adjoining States and Governmental Agencies.)** For the purpose of this section, "governmental agency" means any municipality, city, town, county, public corporation, or other public agency.

This state or any governmental agency of this state having any powers with respect to planning, establishing, acquiring, developing, constructing, enlarging, improving, maintaining, equipping, operating, regulating, or protecting airports or air navigation facilities within this state, may exercise those powers within any state or jurisdiction adjoining this state, subject to the laws of that state or jurisdiction.

Any state adjoining this state or any governmental agency thereof may plan, establish, acquire, develop, construct, enlarge, improve, maintain, equip, operate, regulate, and protect airports and air navigation facilities within this state, subject to the laws of this state applicable to airports and air navigation facilities. The adjoining state or governmental agency shall have the power of eminent domain in this state, which shall be exercised in the manner provided by the laws of this state governing condemnation proceedings, provided that the power of eminent domain shall not be exercised unless the adjoining state authorizes the exercise of that power therein by this state or any governmental agency thereof having any of the powers mentioned in this section.

The powers granted in this section may be exercised jointly by two or more states or governmental agencies, including this state and its governmental agencies, in such combination as may be agreed upon by them.

This section may be cited as the "Extraterritorial Airports Section".

**§ 12. Amendment.)** Section 5-01-13 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**\*5-01-13. Selling or Permitting the Consumption on Licensed Premises on Certain Days Prohibited.)** Every licensee who sells, gives away, or disposes of any alcoholic beverage, or permits the consumption of alcoholic beverages in or on the licensed premises on Memorial Day, Good Friday, Sunday, after six p.m. on Christmas Eve, on Christmas Day, or on the day of any general, primary, special, or local election, in the city or county where held while the polls are open or within one hour thereafter is guilty of a misdemeanor.

**\*Note:** Section 33 of chapter 80, 1967 S.L., repealed section 5-01-13.

**§ 13. Amendment.)** Section 5-01-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**\*5-01-17. County Justice May Conduct Investigation When State's Attorney Fails.)** If the state's attorney has been notified in writing under oath, giving the name of the person violating the law, the place where the unlawful business is carried on, and the names of the witness or witnesses by whom the affiant believes that the facts can be proven, and he fails, neglects, or refuses to make an investigation, the affiant may make affidavit before some county justice of the township,

**\*Note:** Section 33 of chapter 80, 1967 S.L., repealed section 5-01-17.

city, or county wherein the crime has been committed, giving the name of the violator of the law, the location of the place, and the names of the witnesses by whom he believes the offense can be proved, and such county justice shall issue his subpoena for the witnesses named or any other witnesses whose names shall be made known by the first witnesses subpoenaed. The subpoena shall be directed to any sheriff or constable of the county, or any marshal or policeman of any city in the county, for service and return according to law. The county justice may fine for contempt, compel the attendance of witnesses by attachment, and shall have all the powers for securing and taking the testimony of witnesses given to the state's attorney by section 5-01-16. When the evidence is taken by the county justice and reduced to writing, if it shall show that a crime has been committed, it shall be certified to the state's attorney by the county justice taking the same, and the state's attorney, on the receipt of such evidence, shall file his complaint forthwith.

**§ 14. Amendment.)** Section 5-02-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**\*5-02-07. Delegation of Power to Cities.)** The governing body of each incorporated city shall have the following powers:

1. To require licenses for retailers of beer or ale in such city;
2. To license and to deny and revoke licenses for cause;
3. To regulate the business of vendors at retail of beer or ale authorized to be sold by this chapter in their respective jurisdictions, subject to review by the courts;
4. To impose and collect license fees; and
5. To provide for the punishment of any violation of any such regulations.

Such regulations shall be uniform in their application to all persons within such city, and all applicants for license who are qualified under section 5-02-02, shall be granted licenses by any municipality.

**§ 15. Amendment.)** Section 5-02-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**\*Note:** Section 33 of chapter 80, 1967 S.L., repealed section 5-02-07.

**\*5-02-08. Delegation of Power to Counties.)** The board of county commissioners of each county shall have the same powers, relative to the retailing of beer or ale in the territory in each county outside of incorporated cities, as are granted to the governing boards of incorporated cities in section 5-02-07.

**\*Note:** Section 33 of chapter 80, 1967 S.L., repealed section 5-02-08.

**§ 16. Amendment.)** Section 5-03-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**\*5-03-03. License for Retail Sales—Fees.)** Any person engaging in the retail sale of liquor first must procure a license from the governing body of the city wherein the said business is to be conducted. The fee for such license shall not be less than two hundred dollars nor more than two thousand dollars to be determined by the governing body of such city. Any person desiring to engage in the retail sale of liquor at a place other than within the incorporated limits of a city first must procure a license from the board of county commissioners of the county in which such business is to be conducted. The fee for such license shall not be less than two hundred dollars nor more than one thousand dollars, to be determined by the said board of county commissioners. The license fees shall be the same to each individual within each of the said political subdivisions respectively, and a license shall not be transferable, except to the executors or administrators of a deceased license holder. Such retail license shall not permit the sale at any time to any person of an amount greater than five wine gallons.

**\*Note:** Section 33 of chapter 80, 1967 S.L., repealed section 5-03-03.

**§ 17. Amendment.)** Section 5-03-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**\*5-03-04. Wholesale License — Fee — “Wholesale Business” Defined — Licenses to Residents Only.)** Before any person shall engage in the sale at wholesale of liquor within this state he shall first procure from the city where said wholesale business is to be conducted, a license so to do, the fee for which shall be in the sum of not less than five hundred dollars or more than one thousand dollars, to be determined by the governing body of the city. The fee therefor shall be the same to all licensees within each city. The term “wholesale business” as used herein shall mean, for the purpose of determining where the license shall be issued, the place where the home office and principal warehouse are located. If warehouses or offices are maintained in more than one city, a separate license

**\*Note:** Section 33 of chapter 80, 1967 S.L., repealed section 5-03-04.

shall be had for each said warehouse or office. No wholesaler's license shall be granted to any person or partnership unless the person or each member of the partnership applying for such license shall have been a resident or residents of the state for a period of five years continuously immediately prior to such application for a license, and no license shall be granted to any corporation unless all of the officers and directors and stockholders who control, in the aggregate, more than seventy-five percent of the stock by par value, and seventy-five percent of the voting rights of the stock, of such corporation applying for a license shall have been residents of the state for a period of five years continuously immediately prior to such application. The provisions of this section, except as to payment of license fee, shall not apply to any person, partnership or corporation, or his or its successor in interest, who or which, on February 1, 1949 was the holder of a wholesale liquor license within the state of North Dakota.

**§ 18. Amendment.)** Section 5-03-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**\*5-03-20. Authority of Municipality to Regulate Sale—Revoke License.)** The governing body of any city or county may revoke licenses for cause and may regulate the retail sale of liquor within its jurisdiction, subject to review by the courts of the state.

\*Note: Section 33 of chapter 80, 1967 S.L., repealed section 5-03-20.

**§ 19. Amendment.)** Section 5-05-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**\*5-05-02. License Fee.)** License fees shall be charged on a calendar year basis. Licenses issued after March first in any year shall be prorated from the first of the month in which such licenses are issued. License fees shall be as follows:

Each place licensed for the exclusive off sale of alcohol and alcoholic beverages; or in rural districts, or in cities of less than five hundred population, fifty dollars; each place licensed for the on and off sale of alcoholic beverages; or in cities having more than five hundred population, one hundred dollars.

\*Note: Section 33 of chapter 80, 1967 S.L., repealed section 5-05-02.

**§ 20. Amendment.)** Section 5-05-03 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**\*5-05-03. Qualifications Required for License.**) In addition to qualifications now prescribed by law, no license authorizing the sale at retail of alcoholic beverages shall be issued to any person, partnership, association of individuals, or corporation by the attorney general unless such applicant shall file a sworn application therefor, accompanied by the required fee, and shall show in such application that he possesses the following qualifications:

1. Applicant other than corporate must be a citizen of the United States and of the state of North Dakota and have a legal and bona fide residence in the state of North Dakota, and be a person of good moral character.
2. Applicant shall not have been convicted of a felony, or of pandering or of keeping or maintaining a house of prostitution.
3. Applicant shall not have had revoked, within five years next preceding his application any license issued to him pursuant to the ordinances or resolutions of a city or board of county commissioners, to the laws of this state, or any state, to sell alcoholic beverages.
4. If applicant is a copartnership, all members of the copartnership must be personally qualified to obtain a license.
5. If the applicant is a private or municipal corporation, all officers and directors thereof, and any stockholder owning more than five percent of the stock of such corporation, and the person or persons who shall conduct and manage the licensed premises for the corporation shall possess all the qualifications required herein for an individual licensee; provided, however, that the requirements as to being a resident and citizen of the state shall not apply to nonresident officers, directors, and stockholders of such corporation, but such requirements shall apply to any officer, director, or stockholder who is also the manager of the licensed premises or who is engaged or employed at the licensed premises, in any capacity, in the conduct or operation of the licensed premises.

Any misstatement or concealment of fact in an application shall be ground for revocation of the license issued thereon.

The qualifications or other requirements, herein provided for shall not be deemed to restrict in any manner the qualifications or other requirements required by the governing body of any incorporated city or by the county commissioners of any

\*Note: Section 33 of chapter 80, 1967 S.L., repealed section 5-05-03.

county for the issuance of a license or the operation of such business.

**§ 21. Amendment.)** Section 12-19-25 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**12-19-25. Unlawful Occupation of Lots and Streets in Municipality—Misdemeanor.)** Every person who intrudes or squats upon any lot or piece of land within the bounds of any incorporated city without license or authority from the owner thereof, or who erects or occupies thereon any hut, hovel, shanty, or other structure, without such license or authority, and every person who places, erects, or occupies within the bounds of any street or avenue of any city, any hut, hovel, shanty, or other structure, is guilty of a misdemeanor.

**§ 22. Amendment.)** \*Subsection 2 of section 12-21-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Public sports, including shooting, sporting horse racing, or other public sports, circuses, and street carnivals. This section shall not apply to baseball when authorized by the governing body of any municipality to be played within the territorial limits of such municipality or by the board of county commissioners when played outside the limits of cities and when conducted in a quiet and orderly manner so as not to interfere with the peace, repose, and comfort of the community and when played after one o'clock p.m. on the Sabbath day more than five hundred feet away from any church edifice.

**§ 23. Amendment.)** Subsection 5 of section 12-41-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. Digging, taking, or carrying away from any land in any incorporated city of this state, laid out on the map or plat of said city as a street or avenue, or otherwise established or recognized as a street or avenue without the license of the governing body of such city, or owner of the fee thereof, any earth, soil, or stone, under such circumstances as would render the trespass a larceny if the thing so severed or carried away were personal property; or

**§ 24. Amendment.)** Section 15-27-01 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

\*Note: Section 9 of chapter 107, 1967 S.L., repealed section 12-21-15.

**15-27-01. Public School Districts—Areas Which Are or May Become.)** All school districts in the state of North Dakota, except the Fargo school district, are public school districts and shall be governed by the provisions of this chapter. Any area may be constituted a public school district in the manner prescribed in this chapter and chapter 15-53, and shall be governed thereafter by the provisions of this chapter. When any territory or area is added to a city, such addition, upon incorporation into the city, shall become a part of the school district comprising or embracing the city. The term "city" as used in this chapter shall include any community or communities established or which have come into existence as a result of federal projects carried on within this state and which are situated upon government owned property.

**§ 25. Amendment.)** Section 15-35-13 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**15-35-13. Superintendent of Public Instruction May Order Change in Sanitary or Ventilating Systems—Appeal—Penalty.)** If it shall appear to the superintendent of public instruction that the sanitary or ventilating system of any school building is defective or deficient and that such defect or deficiency can be remedied without unreasonable expense, he may issue a written order to the school board of the district in which the schoolhouse is situated directing that such defect or deficiency shall be remedied. The members of any board or any person having charge of any schoolhouse who shall neglect for four weeks after an order made by the superintendent under the provisions of this section is served upon such board or person to comply with such order shall be punished by a fine of not less than one hundred dollars nor more than one thousand dollars. Any person feeling aggrieved by any order made by the superintendent of public instruction under this section may apply in writing, within four weeks after the service of the order, to the city board of health, in the case of a school located within a city, or to the county board of health in all other cases, for a review of the order, and may request that such order be amended or set aside. The board of health to which the application is directed shall afford a hearing upon the order upon such reasonable notice as it shall specify and may alter, annul, or affirm such order.

**§ 26. Amendment.)** Section 16-09-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**\*16-09-02. Precinct Divided Into Two Precincts When More Than Five Hundred Votes Cast in Precinct.)** If more than five hundred votes are cast in any election in a precinct in which voting machines are not used, the inspector of such precinct shall report such fact to the board of county commissioners, or, if the precinct is in a city, to the governing board thereof, and such board at its next regular meeting shall divide such precinct into two precincts as nearly equal to each other in voting strength as may be possible.

**\*Note:** Section 40 of chapter 158, 1967 S.L., also amends section 16-09-02.

**§ 27. Amendment.)** Section 16-09-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**\*16-09-03. Municipality May Ask That Precinct Be Divided Into Two Precincts.)** If more than three hundred votes are cast in any precinct in any city in this state, the board of county commissioners, upon an official request of the governing body of such city, may divide such precinct into two precincts as nearly equal to each other in voting strength as may be possible.

**\*Note:** Section 41 of chapter 158, 1967 S.L., also amends section 16-09-03.

**§ 28. Amendment.)** Section 18-01-06 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**18-01-06. Fire Chiefs and Auditors or Secretaries of Cities and Rural Fire Protection Districts Must Report Fires.)** Within five days after the occurrence of any fire in which property in a city or rural fire protection district has been destroyed or damaged in an amount which exceeds twenty-five dollars, the fire chief of such city or rural fire protection district, if a fire department is maintained therein, or the auditor of the city or the secretary of the rural fire protection district, if a fire department is not maintained therein, shall report the cause, if known, and the origin and circumstances of the fire and the name of the owner and occupant of such property, to the state fire marshal. Such report shall show whether such fire was the result of carelessness, accident, or design. The provisions of this section shall be complied with, insofar as the same are applicable, if the fire is of unknown origin, regardless of the amount of damage caused thereby.

**§ 29. Amendment.)** Section 18-01-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**18-01-08. Compensation of Fire Chiefs and Executive Officers of Municipalities for Reporting to Fire Marshal.)** There shall be paid to the chief of the fire department and to the auditor of each city, who does not receive fifty dollars or more annually as compensation for his services as such and who is required by this chapter to report fires to the state fire marshal, a fee of one dollar and fifty cents for each fire reported to the satisfaction of the fire marshal. Such fees shall be paid at the close of each fiscal year out of funds appropriated for that purpose by the legislative assembly.

**§ 30. Amendment.)** Section 18-04-01 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**18-04-01. Eligibility for Participation in Fund Created from Premium Tax on Fire Insurance Companies.)** In order to become eligible for the benefits provided under this chapter, a city, or one or more townships, or fire districts, shall maintain therein for a period of at least eight months prior to the filing of the certificate required under section 18-04-02 an organized fire district or department which:

1. Has been in actual existence for the period herein specified;
2. Has had as a part of its equipment at least one steam, hand, or other fire engine, truck;
3. Has had a membership of at least fifteen persons. Such department or district also must be a member of the North Dakota firemen's association in good standing at the time the benefits are paid; and
4. Change in a fire department's name, or incorporation into a fire district, shall be deemed a waiver of the eight-month waiting period for filing a certificate of existence under section 18-04-02.

**§ 31. Amendment.)** Section 18-04-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**18-04-02. City Auditor or Secretary of Rural Fire Department to File Certificate with Department of Accounts and Purchases and Commissioner of Insurance.)** On or before the thirty-first day of October in each year, the auditor or secretary of any city or rural fire department which has an organized fire department shall make and file with the department of accounts and purchases and with the commissioner of insurance his certificate stating the existence of the fire department, the date of its organization, the number of steam,

hand, or other fire engines, hook and ladder trucks, and hose carts in actual use, the number of organized companies in the department, the number of members in each company, and the system of water supply in use by the department, together with such other facts as the department of accounts and purchases or commissioner may require.

**§ 32. Amendment.)** Section 18-04-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**18-04-03. Failure to File Certificate Deemed Waiver—Exception.)** If the certificate required by section 18-04-02 is not filed with the department of accounts and purchases and commissioner of insurance on or before the thirty-first day of October, the city or rural fire department failing to file the same shall be deemed to have waived and relinquished its rights for such year to the benefits of this chapter. If however, the city or rural fire department has filed its certificate for three successive years and has drawn money thereunder for such time, the certificate may be filed at any time up to and including March first of the succeeding year without waiving the right to the benefits provided in this chapter.

**§ 33. Amendment.)** Section 18-04-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**18-04-04. Insurance Companies to Report Fire Insurance Premium Collections—Form Furnished by Commissioner of Insurance.)** The commissioner of insurance, when he forwards to an insurance company which is writing fire insurance in this state the form to be used in submitting its annual statement, shall forward a form containing the names of all cities entitled to benefits under the provisions of this chapter. Every insurance company writing fire insurance within this state shall complete such form by showing thereon the amount of all premiums received by it upon policies issued on property within the corporate limits of each city shown on such form during the year ending on the preceding thirty-first day of December, and shall file the same as a part of its annual statement.

**§ 34. Amendment.)** Section 18-04-05 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**\*18-04-05. Amount Due Cities or Rural Fire Departments—Certificate of Commissioner of Insurance to Department of Accounts and Purchases.)** The amount due to a city not encompassed by a fire district under the provisions of this chapter

\*Note: Section 1 of chapter 163, 1967 S.L., also amends section 18-04-05.

shall be two and one-fourth percent of the premium received by insurance companies on fire and extended coverage insurance policies issued on property in such cities. The commissioner of insurance shall compute the amounts due to the several cities and shall certify such amounts to the department of accounts and purchases on or before June first in each year. The commissioner of insurance shall certify to the department of accounts and purchases on or before June first of each year an additional one hundred dollars to be paid to each city fire department performing service outside of its incorporated limits. For each rural fire department or district organized within the provisions of this chapter, the amount of two hundred dollars per year shall be certified to the department of accounts and purchases, plus two and one-fourth percent of fire and extended coverage insurance premiums paid in any city encompassed in a fire district. There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated as a standing and continuing appropriation, such sums as may be necessary to make payments as provided in this section.

**§ 35. Amendment.)** Section 18-04-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**18-04-07. Disbursement of Fund by City Treasurer.)** Moneys received by the city treasurer under the provisions of this chapter shall be disbursed as follows:

1. In a city having a paid fire department, such amount shall be placed in a fund to be disbursed by the governing body of the municipality in maintaining such fire department. If the municipality has a duly organized and incorporated firemen's relief association, the amount shall be disbursed in accordance with section 18-05-04;
2. In a city having no paid fire department, such amount shall be paid over to the treasurer of the fire department, or to the treasurer of each separately organized fire company which satisfies the requirements of section 18-04-01 in equal proportions when there are more than one in the municipality, upon the written order of such department or companies approved by the governing body of the municipality.

**§ 36. Amendment.)** Section 19-01-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**19-01-05. Sheriff as Local Inspector—Compensation, Duties.)** The director of the department shall appoint the sheriff of each county as the local inspector for his county. The sheriff, under

the direction and supervision of the department, shall perform such duties and make such inspections as shall be assigned to him by the department, and shall be responsible for the enforcement within his county of the directions given to him. He shall collect all fees and charges which may be collected under the provisions of this title or of any regulatory provision enforced by the department, and shall account to the department therefor on or before the first of each month and at such other times as may be required by the department. He may call upon the state's attorney of his county and upon any other law enforcement officer of his county or of any city within his county to assist him in the enforcement and administration of the directions of the department. The sheriff and those assisting him shall receive no additional compensation for work performed under the directions of the department but shall be allowed traveling expenses allowed in the performance of the other duties of their respective offices. Such traveling expenses shall be paid out of the appropriations made for the department by the legislative assembly.

**§ 37. Amendment.)** Subsection 1 of section 21-01-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**21-01-01. Definitions.)** 1. The term "taxing district" when used in this chapter, unless the context thereof clearly requires otherwise, shall mean any county, city, school district, township, park district, water conservation and flood control district, "Garrison diversion conservancy district", county park district, joint county park district, or irrigation district in the state.

**§ 38. Amendment.)** Section 21-01-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**21-01-06. Registration of Warrants—Rate of Interest.)** Whenever the law authorizes the officers of any taxing district to issue warrants in excess of the amount of cash available in any fund upon which warrants are drawn for payment, the treasurer of such taxing district, when any such warrant is presented to him for payment, if not paid for want of funds, shall endorse the same "Presented for payment this..... day of....., 19....., and not paid for want of funds", and thereupon shall enter such warrant in his warrant register in the order of presentation for registration. The governing body of any such taxing district authorizing the issuance of warrants in excess of cash on hand shall determine the rate of interest which such warrants shall bear, but in the case of counties and cities such rate shall not exceed five

percent per annum from the date of registration until the expiration of the time specified for presentment for payment.

**§ 39. Amendment.)** Section 21-02-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**21-02-02. Certificates of Indebtedness—By Whom Issued—Term—Interest—Tax When Deemed Levied.)** Counties, cities, townships, school districts, park districts, irrigation districts, water conservation and flood control districts, Garrison diversion conservancy district, county park districts, or joint park districts shall have power to borrow in anticipation of revenues to be derived from taxes already levied. The aggregate amount of such borrowings at any time shall not exceed the amount of uncollected taxes which have been levied during the year in which the borrowing is made, plus uncollected taxes remaining upon the tax lists of the four preceding years, exclusive of levies for the purpose of retiring bond issues and the interest thereon. For the purpose of borrowing, all such taxing districts may issue certificates of indebtedness. A certificate of indebtedness shall consist of an agreement on the part of the taxing district to pay a stated sum on a specified date, or on or before a specified date, not more than twenty-four months in the future, together with interest thereon at a specified rate not exceeding seven percent per annum, which may be made payable semi-annually. Such certificate shall be signed on behalf of the district by its president or chairman and also by its auditor or secretary, and shall be payable out of funds derived from uncollected taxes levied for the current tax year and four previous years which have not been set aside for the payment of other certificates of indebtedness pursuant to sections 21-02-07, 21-02-08, and 21-02-09. However, a certificate of indebtedness shall be the general obligation of the issuing taxing district.

**§ 40. Amendment.)** Section 21-02-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**21-02-06. Certifying Amount of Uncollected Taxes.)** The county auditor at any time, upon request of the officers of any taxing district, shall certify to them the amount of uncollected taxes remaining upon the tax lists to the credit of such district on the last day of the preceding month, and annually shall certify such information to the clerk of each township on February fifteenth, to the auditor of each city on September tenth, and the clerk of each school board on June tenth. The county auditor also shall certify to the clerk, auditor, or secretary of each such taxing district monthly, at the time of making

the monthly apportionment of funds, the amount of cash collections apportioned for that month to such taxing district and the amount derived from levies of each tax year.

**§ 41. Amendment.)** Subsections 1 and 2 of section 21-03-01 of the 1965 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. "Municipality" shall mean a county, city, township, public school district, or park district empowered to borrow money and issue written obligations to repay the same out of public funds or revenue;
2. "Governing body" shall mean a board of county commissioners, city council, board of city commissioners, school board of any school district, and the similarly constituted and acting board of any other municipality enumerated in subsection 1 of this section.

**§ 42. Amendment.)** Subsection 1 of section 21-03-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. To issue of bonds, warrants, or other forms of public securities issued on account of public improvements and for the payment of which special assessments are or shall be levied upon and against property benefited thereby which do not constitute, at the time of their issuance, a general obligation or fixed liability of the municipality issuing the same, nor the portion of any such issue payable by general taxation on account of assumption of a portion of the cost of such improvement under section 40-24-10 or any similar law. Nothing in this subsection shall be construed to prevent the issuance of bonds by any city for the purposes specified in section 21-03-06, subsection 2, subdivision g;

**§ 43. Amendment.)** Subsection 2 of section 21-03-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. The governing body may issue bonds of the municipality for the purpose and within the limitations specified by section 21-03-06, subsection 2, subdivision g, and section 21-03-06, subsection 7, without an election;

**§ 44. Amendment.)** Subsection 2 of section 21-03-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Proposed by filing a copy thereof in the office of the auditor or secretary of the municipality, together with a petition signed by legal voters of the municipality

aggregating in number one-fourth of the number of legal voters of the municipality, as shown by the poll book for the last preceding annual or general election held therein, or if such poll book was not kept, then as shown by a census of the voters of such municipality verified by the affidavit of one of such petitioners. Such petition shall ask that an election on the question of issuing such bonds be called. Upon the filing of such proposed initial resolution and petition, the governing body shall call such election in the manner specified by section 21-03-11.

**§ 45. Amendment.)** Section 21-03-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**21-03-12. Notice of Election To Be Given.)** The auditor, secretary, or similarly acting officer, by whatever name designated, of the municipality shall give notice of election by causing a notice thereof to be published once each week for at least two weeks prior to the date thereof in the official newspaper of such municipality, if any, or if it has none, in any newspaper published therein, or if no newspaper is published therein, then by posting copies of such notice in five public places in the municipality. The date of such posting or first publication shall be at least fifteen days before the date of such election, exclusive of the day of such posting or first publication. Such notice shall specify the date, polling hours, and polling places of such election and shall contain a complete copy of the initial resolution and a statement that the question to be submitted thereat shall be whether said initial resolution shall be approved. If said question is to be submitted at a municipal election, the notice herein prescribed may be separate from the notice of such municipal election and may refer to the notice of such municipal election for the designation of polling places.

**§ 46. Amendment.)** Section 21-03-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**21-03-17. Record of Proceedings.)** Every municipality shall provide and keep a record book in which its auditor or secretary shall record a full and correct statement of every step or proceeding had or taken in the course of authorizing and issuing municipal bonds, including a statement of the affirmative and negative votes cast by the electors.

**§ 47. Amendment.)** Section 21-03-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**21-03-24. Destruction of Bonds Not Sold Within Three Years.)** All bonds authorized pursuant to this chapter which are not delivered to the purchaser and paid for within three years of their date shall be canceled. The registering and certifying officer, in the presence of at least two electors of the municipality which authorized their issuance, shall destroy such bonds by the burning thereof, and with such witnesses shall make and file in the records of his office an affidavit as to the bonds so destroyed and the time and place of such destruction. He also shall make a record thereof in a proper book of record in his office. A copy of such affidavit shall be filed with the auditor or secretary of the municipality which authorized their issuance.

**§ 48. Amendment.)** Section 21-03-25 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**21-03-25. Bonds — Advertised for Bids — Exception.)** No municipality shall sell or enter into any contract for the sale of any issue of its bonds authorized by this chapter, for whatever purpose issued, without first advertising for bids in the manner prescribed by section 21-03-26, except that bonds issued under the authorization of section 21-03-06, subsection 2, subdivision g, with the consent of the warrant holders, may 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. 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.

**§ 49. Amendment.)** Section 21-03-26 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**21-03-26. Bonds—Call for Bids—How Advertised—Copy to Tax Commissioner.)** A notice calling for bids for each proposed issue of municipal bonds shall be published at least once in the official newspaper of the county in which the municipality is situated not less than fifteen days nor more than thirty days before the date specified therein for the receiving of such bids. Such notice may be in any form but shall specify the amount of bonds offered for sale and the date of the maturity thereof. A copy of such notice shall be mailed to the state tax commissioner at Bismarck not less than fifteen days before the date specified for the opening bids, and the tax commissioner shall keep such notice on file for public inspection. The county auditor, or the auditor or secretary of the

municipality advertising such sale, at the same time, shall file with the tax commissioner a statement giving the assessed valuation, the area, the population, and the indebtedness thereof. Failure to publish such notice or to send a copy thereof to the tax commissioner shall not impair the validity of such bonds but shall render unenforceable any executory contract entered into for the sale thereof. An auditor or secretary failing to publish or to send such notice shall be subject to a penalty of not more than five hundred dollars, at the discretion of the district court, to be recovered in an action brought by the state's attorney in the name of the state. The penalty, when collected, shall be paid into the general fund of the county. If such failure to publish or send such notice is willful, the auditor or secretary is guilty of a misdemeanor and shall be punished accordingly.

**§ 50. Amendment.)** Section 21-03-27 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**21-03-27. Bids — Where Received — Record.)** The notice shall specify the time and place at which bids will be received. In case of cities, school districts, or park districts of over four thousand population, the place where bids shall be received may be fixed by the governing board. In all other cases, the place shall be the county auditor's office. At the time and place specified, the governing board of the taxing district shall be represented by one of its officials, or by the county auditor or some other person acting at the request of the board, who shall receive competitive bids, whether submitted orally or in writing. When the bids are received at his office, the county auditor shall enter in a permanent record the amount and rate of interest of each bid and the name and address of the bidder. If the bids are not received at the office of the county auditor, the auditor or secretary of the municipality shall make a similar record.

**§ 51. Amendment.)** Section 21-03-29 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**21-03-29. Unlawful for Official to Accept Compensation from Bidder.)** No auditor, secretary, or other official of a municipality shall accept from a bidder or prospective bidder at a sale of bonds, a commission or any other compensation for his services rendered or to be rendered in connection with the issuance, sale, or delivery of such bonds.

**§ 52. Amendment.)** Section 21-03-31 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**21-03-31. Notice to State or State Departments.)** At least thirty days before any county, township, school district, city, park district, or other municipal corporation within the state of North Dakota, which may be authorized by law to issue and sell bonds for any purpose whatever shall sell and deliver such bonds, the governing board shall notify, by registered or certified mail, the board of university and school lands, the state fire and tornado fund, the workmen's compensation bureau, the state bonding department, the bank of North Dakota, and the industrial commission of this state, that such bonds will be offered at public vendue, giving in said notice complete and detailed information relating to said bond issue and the time and place at which such bonds will be offered for sale.

**§ 53. Amendment.)** Section 21-03-34 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**21-03-34. Registration of Ownership of Bonds—How Made.)** The holder of any bond payable to "bearer or registered owner", as authorized by section 21-03-18, issued by any municipality, may have the ownership thereof registered as to the principal thereof by the county auditor, or in the case of a municipality of over four thousand population, by the auditor or secretary of the municipality issuing the same, or such other officer as the governing body of the municipality may determine. Registration by such officers shall be made in the bond register and shall be noted on the bond.

**§ 54. Amendment.)** Subsections 1, 2, and 3 of section 21-04-01 of the 1965 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. "Public corporation" shall include a county, city, township, school district, and any body corporate except a private corporation;
2. "Board" shall mean the governing board of any public corporation, including the board of county commissioners, the city council, the board of city commissioners, the school board, the board of township supervisors, and the park board;
3. "Clerk" shall mean the person who performs for any public corporation the duties ordinarily performed by a clerk, including the county auditor, the city auditor, the township clerk, and the clerk of the school board;

**§ 55. Amendment.)** Section 21-04-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**21-04-06. Designating Public Depositories Where There Is Only One Bank or No Bank.)** In a county where only one bank is located or functioning, the board may designate such bank as a depository, or it may designate another state or national bank or banks within the state, or the bank of North Dakota, as depository in the manner and upon the conditions provided in this chapter. In a county where no bank is in existence or functioning, the board may designate the bank of North Dakota, or any state or national bank outside of such county and within the state, as depository in the manner and upon the conditions provided in this chapter for the selection of depositories of public funds. In case there is no bank within any city, township, or school district, the governing board thereof, if it deems it more advantageous and for the best public interest and convenience, may select as a depository a conveniently located bank in an adjoining county, which thereupon shall qualify as a depository by giving such bond as is required from a bank within said county. Said bond shall be approved by such governing board as to sufficiency and by the state's attorney of the county in which such city, township, or school district is located as to form, and shall be deposited in the office of the county auditor of such county.

**§ 56. Amendment.)** Section 21-06-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**21-06-05. Documents Which May Be Destroyed — When.)** All bonds, bond coupons for interest, warrants, special assessment warrants, and any and all other documents evidencing debt made or executed by any city or park district in the state may be destroyed when ten years have elapsed after their payment, and when the period within which an action might be commenced to determine the validity of such documents has expired.

**§ 57. Amendment.)** Section 21-06-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**21-06-06. Procedure for Destruction of Documents.)** The governing body of any city or park district desiring to destroy any documents described in section 21-06-05, at its first meeting in January of each year, shall procure from the auditor or clerk of such city or park district a list of such documents which have been paid more than ten years prior to such time and against which the period within which an action might be commenced to determine the validity of such documents has expired, which said list shall contain a full statement and description of the documents desired to be destroyed, and thereupon shall check

said documents with such lists. If found correct, the said governing body by resolution shall order said documents to be destroyed and in said resolution shall provide the manner of such destruction. The list provided for in this section shall be filed in the office of the city auditor or clerk of park district and retained as a permanent record.

**§ 58. Amendment.)** Section 21-06-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**\*21-06-07. Political Subdivisions May Invest Surpluses in Government Bonds.)** From and after the passage and approval of this section, it shall be lawful for counties, cities, school districts, park districts and townships in this state to invest surpluses in their general fund, or surpluses in any special or temporary fund, in government bonds of the United States, provided, however, that bonds so purchased shall be taken into consideration in making levies for the ensuing year, and when funds are needed for current expenses, the governing board and authorities of such municipalities shall be authorized to convert said bonds into cash.

**§ 59. Amendment.)** Section 21-06-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**21-06-09. Authorization to Make Loans or Accept Grants.)** The state, any of its departments, boards, bureaus or commissions, by and with the approval of the governor, may make loans, or accept advances from the federal government, any agency or instrumentality thereof, for the purpose of aiding in financing the cost of architectural, engineering, and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures, and other actions preliminary to the construction of public works and improvements, and may repay to the federal government, any of its agencies or instrumentalities thereof, such loans or advances at such times as the construction of said public works or improvements so planned are undertaken; and any county, city, park district, school district and township, may likewise, by action of the governing body of the same, also make such loans and accept such advances and repay the same in the same manner. Such loans made or grants accepted, may be made or accepted under such rules and regulations as the federal government, or any of its agencies or instrumentalities may prescribe. Provided, however, that neither the state, any of its boards, bureaus, departments or commissions, nor any of the political subdivisions enumerated herein shall incur any lia-

\*Note: Section 1 of chapter 194, 1967 S.L., also amends section 21-06-07.

bility for the payment of such loans or advances unless the actual construction of such public works and improvements is undertaken; and provided, further, that the provisions of this section shall not be construed to apply to loans, grants or advances to the state highway department made or to be made by the federal government, any agency or instrumentality thereof, or to such loans, grants or advances made to political subdivisions by the said state highway department.

**§ 60. Amendment.)** Subdivision b of subsection 1 and subdivision c of subsection 2 of section 23-02-13 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

- b. The name of the city, or if the birth occurs outside of the limits of any city, the name of the township; and
- c. The city of her residence, or if her residence is outside of the limits of any city, the name of the township in which she resides; and

**§ 61. Amendment.)** Subdivision b of subsection 1 and subdivision c of subsection 2 of section 23-02-30 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

- b. The name of the city, or if the death occurs outside of the limits of any city, the name of the township;
- c. The city of his residence, or if his residence is outside of the limits of any city, the name of the township in which he resided;

**§ 62. Amendment.)** Subsections 2, 3, and 4 of section 23-03-07 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

2. Supervise the township boards of health within his county;
3. Furnish, at the expense of the county board of health, to the clerk of each township and to each physician within his jurisdiction, proper blanks for reporting to him all contagious and infectious diseases, and he shall instruct such persons in the proper method of making the reports;
4. Execute by agents appointed by him the duties of any township board of health in his county which neglects or refuses to perform its duties or to execute the rules, orders, or regulations of the county board of health;

**§ 63. Amendment.)** Section 23-03-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**23-03-11. Township Boards of Health—Who Constitute.)** The supervisors of each civil township shall constitute the township board of health. Such boards of health shall be under the supervision of the county superintendent of public health and the state department of health.

**§ 64. Amendment.)** Section 23-05-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**23-05-01. Powers and Duties of Local Board of Health.)** The county, city, and township boards of health shall be known as local boards of health, and each board shall have the following powers and duties within its jurisdiction:

1. To employ such persons as may be necessary to carry into effect the regulations established by it and the provisions of this title;
2. To inquire into all nuisances, sources of filth, and causes of sickness, and make such regulations regarding the same as are necessary for the public health and safety, but the regulations of the township board of health shall be temporary, and such board, immediately upon taking such action, shall report the same to the county superintendent of public health, who shall give the board specific instructions or take such action as he deems necessary for the protection of public health;
3. To adopt such quarantine and sanitary measures as are necessary when an infectious or contagious disease exists in its jurisdiction;
4. To provide such necessities of life as in its judgment shall be needed for the maintenance, welfare, and comfort of persons afflicted with contagious and infectious diseases;
5. To enter into and examine at any time all buildings, lots, and places of any description within its jurisdiction for the purpose of ascertaining the conditions thereof insofar as public health may be affected; and
6. To make such rules and regulations as are necessary and proper for the preservation of public health and safety.

**§ 65. Amendment.)** Section 23-05-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**23-05-04. Abatement and Removal of Nuisance, Source of Filth, and Cause of Sickness—Costs Charged Against Property.)** When it is necessary for the protection of the public health to abate or remove any nuisance, source of filth, or cause

of sickness found on private property, the local board of health shall cause a notice to be served on the owner or occupant thereof requiring him to remove the same at his own expense within a reasonable time, not to exceed twenty-four hours. If the owner or occupant refuses or neglects to comply with such notice or if the nuisance, source of filth, or cause of sickness exists on the property of nonresident owners or upon property the owners of which cannot be found, the board of health shall cause the nuisance, source of filth, or cause of sickness to be removed or destroyed under its direction, at the expense of the county, city, or township, as the case may be, but such expense shall be charged against the lots, pieces, or parcels of land upon which the work was done.

**§ 66. Amendment.)** Section 23-05-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**23-05-05. Assessment of Costs for Removal of Nuisance Against Property—How Made.)** In a city the cost of the removal or destruction of a nuisance, source of filth, or cause of sickness by the local board of health shall be assessed against the property by the city engineer, or, in a city having no city engineer, by the street commissioner, who shall return the assessment and file it in the office of the city auditor. The city auditor shall cause the amount of the assessment, together with a notice of the time when and place where the governing body will meet to consider the approval thereof, to be published in one issue of the official newspaper of the city at least ten days prior to the meeting of the governing body at which the approval of the assessment will be considered. In a township, or county, the governing body shall levy and assess such costs against the land properly charged therewith. The city auditor or township clerk, as the case may be, shall deliver the assessment roll to the county auditor, who shall extend the assessment in the proper column against the property assessed. Each assessment shall be collected and paid as other taxes are collected and paid.

**§ 67. Amendment.)** Subsection 1 of section 23-05-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. In the case of a township board of health, such expenses shall be certified to the township clerk and by him paid out of the general fund of the township; and

**§ 68. Amendment.)** Section 23-05-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**23-05-08. Expenses of Local Boards of Health Chargeable Against Patient—Payment by County for Indigents.)** All expenses incurred by local boards of health for the care, medical attendance, or support of any person afflicted with a communicable disease shall be a charge upon such person and upon the person legally chargeable with his support, and may be collected by suit in the name of the township, city, or county which incurred such expense. If, after due investigation, the township, or city board of health is satisfied that such sick person, or the person legally chargeable with the support of such person, is too poor to pay the expenses incurred in his behalf, the local board of health shall make an endorsement to such effect on the bill of expenses incurred in the case, and the clerk of the township or the city auditor of the city, shall send a certified statement of the bill of expenses with the endorsement of the local board of health to the county auditor. The statement shall contain the date upon which the claim was allowed, to whom it was allowed, for what purpose it was allowed, and the amount allowed, and an itemized statement of the expenses incurred. Upon receipt of the statement, the county auditor shall refer the same to the county board of health, and if approved by the county board of health, the county auditor shall issue his warrant upon the county treasurer, payable out of the general fund of the county, for the amount allowed by such township or city. The warrant shall be made payable to the treasurer of the township or city, as the case may be.

**§ 69. Amendment.)** Section 23-05-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**23-05-10. Health Officer—Neglect of Duty—Penalty.)** Any state, county, township, or city health officer, or any member of any local board of health, who neglects or refuses to perform any of the duties of his office is guilty of a misdemeanor and shall be punished by a fine of not less than ten dollars nor more than fifty dollars, or by imprisonment in the county jail for not more than thirty days, or by both such fine and imprisonment.

**§ 70. Amendment.)** Section 23-07-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**23-07-04. Report of Reportable Disease by Township Board of Health.)** Each township board of health shall report to the county superintendent of public health all cases of reportable diseases occurring within its jurisdiction. Such reports shall be made on blanks furnished by the county superintendent of public health at the expense of the county board of health.

**§ 71. Amendment.)** Section 23-14-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**23-14-01. Formation of Health Districts.)** When in the opinion of the state health officer, on information obtained in cooperation with local officers and boards, the health needs of any given area may be better served by the formation of a health district, as hereinafter provided, the state health officer shall so notify the county auditor of each county involved and the city auditor of each city having a population in excess of fifteen thousand persons. Each county auditor and city auditor must place the matter before the governing board of the county or city at its next regular meeting, and the governing board by resolution either must adopt or reject the plan at the same or the first subsequent meeting. If resolutions are adopted by the governing boards of the cities and counties as hereinbefore provided, adopting the health district plan, all laws and parts of laws in conflict therewith automatically shall become inoperative throughout the territory embraced within the district, and particularly the laws relative to city, township, and county boards of health. If the board of county commissioners of any county or the city council or city commission of any city, rejects the plan, it may submit the question of adoption of the provisions of this chapter to the electors of the county or city at the next ensuing general or special election to be held in said county or city. In all elections held under the provisions of this chapter the vote cast in the cities having a population in excess of fifteen thousand inhabitants shall be considered separate and apart from the vote cast elsewhere in the county, and the participation in the health district by any city shall be governed by the votes cast in the city as distinguished from the vote cast elsewhere in the county. If a majority of the electors vote in favor of the adoption of the provisions of this chapter, the board of county commissioners, within ten days after the canvass of said election, shall adopt such resolution, and, upon the adoption of such resolution such county or counties, together with the cities voting in favor of the plan, shall be considered a district health unit or health district. On a petition filed with the county auditor containing names of electors of the county equal to ten percent of the votes cast for the office of governor at the last general election, an election on the question of forming a health district shall be held as heretofore provided. The health districts shall follow county lines, and in case the district as outlined by the state health officer includes more than one county, and the plan is adopted in any of said counties or cities, and rejected in any one or more of the other counties or cities, it shall become effective in the county or counties and city or cities adopting the plan, if in

the exercise of his discretion the state health officer deems the same operative.

**§ 72. Amendment.)** Section 23-14-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**23-14-07. Duties of Health Officer.)** The district health officer shall perform all the duties and shall be guided by the limitations prescribed by law relative to county, city, and township health officers, and he shall make such reports to the state department of health as may be required by it.

**§ 73. Amendment.)** Section 23-15-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**23-15-03. Public Display of Fireworks Permitted by Municipality or Fair Association Within Its Limits—Supervised Display Allowed—Permit Required—Duty of Fire Marshal to Establish Regulations.)** This chapter shall not prohibit supervised public displays of fireworks by cities, fair associations, amusement parks, and other organizations. Except when such display is given by a municipality or fair association within its own limits, no display shall be given unless a permit therefor has first been secured. Every application for such a permit shall be made in writing to the city auditor at least fifteen days in advance of the date of the display. The application promptly shall be referred to the governing body of the city which shall make an investigation to determine whether the operator of the display is competent and whether the display is of such character and is to be so located, discharged or fired that it will not be hazardous to property or endanger any person. Such governing body shall report the results of this investigation to the city auditor and if it reports that in its opinion the operator is competent and that the display as planned will conform to safety requirements, including the rules and regulations of the state fire marshal hereinafter provided for, such auditor shall issue a permit for the display when the applicant pays a permit fee of two dollars. When the supervised public display for which a permit is sought is to be held outside the limits of an incorporated municipality the application shall be made to the county auditor and the duties imposed by this chapter upon the city auditor shall be performed in such case by the county auditor. The duties imposed on the governing body of the city by this chapter shall be performed in such case by the board of county commissioners. After such permit shall have been granted, sales, possession, use and distribution of fireworks for such display shall be lawful for that purpose only. No permit granted hereunder shall be transferable. The state fire marshal

shall adopt reasonable rules and regulations not inconsistent with the provisions of this chapter to insure that fireworks displays are given safely.

**§ 74. Amendment.)** Section 23-24-02 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**23-24-02. Petition for Establishment of Vector Control Districts — Hearing Thereon and Investigation — District When Created.)** Whenever there is filed with the state health council a petition signed by the governing body of a county, city or township or by twenty percent or more of the freeholders within the limits of a proposed vector control district, the state health council shall fix a time and place for a public hearing on such petition. The place of hearing shall be convenient and accessible for a majority of the freeholders of the proposed district. Not less than ten days prior to the date of hearing, notice thereof shall be published in at least one newspaper of general circulation in the proposed district. Prior to such hearing the state health officer shall make or cause to be made an investigation of the need for the establishment of the proposed vector control district and shall submit his report to the council. If the state health council finds that it is not feasible, desirable or practical to establish the proposed district, it shall make an order denying the petition and state therein the reasons for its action. If, however, the council shall find the problems of vector control or other reasons make the establishment of the proposed district desirable, proper and necessary, it shall grant the petition and create such district and establish the boundaries thereof.

**§ 75. Amendment.)** Section 23-24-05 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**23-24-05. Board of Commissioners — Appointment and Number.)** When an order of the council creating a vector control district has been filed in the office of the county auditor of a county in which such district or a part of such district is situated a board of commissioners of such vector control district shall be appointed as provided herein, consisting of three members. Any resident freeholder in the district shall be eligible for appointment to the board of commissioners thereof. The term of commissioners first appointed shall be determined by lot. One commissioner shall hold office for a term of two years, one shall serve for a term of three years and one shall serve for a term of five years. The term of a commissioner shall commence on the date of his appointment. In case the office of a commissioner shall become vacant, the commissioner ap-

pointed to fill the vacancy shall serve the unexpired term of the member of the board of commissioners and shall receive the same per diem as members of the board. Members shall receive the same per diem as members of the board of county commissioners and shall be reimbursed for expenses incurred in the performance of their duties on a like basis. The term of office of a member shall be deemed to have commenced on the date of his appointment to the board. Appointments to the board of commissioners shall be made by the state health council with the approval of the board of county commissioners, the board of city commissioners or township supervisors of any county, city, or township whose territory is embraced or included within said district.

**§ 76. Amendment.)** Section 23-24-06 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**23-24-06. Oath of Office—Organization of Board of Commissioners—Appointment of Employees—Meetings.)** Upon receiving notice of his appointment as a member of the board of commissioners of a vector control district, such appointee shall take the oath of office prescribed for civil officers. Such oath shall be filed with the secretary of the board after organization thereof as herein provided. Notice of the appointment of a member or members of a board of commissioners shall be mailed to the governing body of the county, city, or township included within said district. Such notice shall state the name and post office address of each appointee and the date of his appointment and shall request approval of the same. The commissioners appointed after their approval shall meet to organize at a time and place designated by the state health council and shall organize by selecting a chairman of the board and naming a temporary secretary pending appointment of a permanent secretary. A majority of the commissioners shall constitute a quorum for the transaction of business as may come before the board but any number may adjourn a meeting for want of a quorum. The board shall appoint a secretary and treasurer and such other employees as may be deemed needed for efficient conduct of the district's business and shall fix their compensation. The office of secretary and treasurer may be held by the same person. Officers and employees shall hold office during the pleasure of the board. The board shall provide an office suitable for its use as a meeting place and for conducting the affairs of the district. It shall adopt such rules or regulations for transacting the business of the district as it may deem necessary, including the time and place of holding regular meetings of the board. Special meetings may be called by the secretary on order of the chairman of the board or on

written request of two members of the board. Notice of the special meeting shall be mailed to each member of the board at least five days before any such meeting, provided that a special meeting may be held whenever all members of the board are present or consent thereto in writing.

**§ 77. Amendment.)** Subsection 26 of section 24-01-01.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26. "Municipal corporation or municipality" shall mean all cities and towns organized under the laws of this state, but shall not include any other political subdivisions.

**§ 78. Amendment.)** Section 24-01-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**24-01-14. Determination of Speed.)** The commissioner, with respect to highways under his jurisdiction may conduct an investigation and determine safe speed limits on any state highway as provided under section 39-09-02 to include any street within the corporate limits of any town or city when such street has been designated as part of any state highway and on any bridge, causeway, or viaduct as provided for under section 39-09-04.

**§ 79. Amendment.)** Section 24-06-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**24-06-10. Roads Contiguous to Municipality—Grades—How Established.)** In all places where highways are improved and graded under the contract system in a township where land contiguous to, adjoining, and outside of the limits of any city has been surveyed into a block or blocks and divided into city lots, the person to whom such contract is awarded shall comply strictly with the ordinances of such city as to roads, streets, grades, space for sidewalks, berms, and gutters, where, in the opinion of the board of township supervisors having control of the same, the cost of such grading shall be one hundred dollars or upwards. An estimate, profile, and cross section of such desired improvement shall be made by the county surveyor of said county, and the contract for such improvement shall be let to the lowest responsible bidder not a member of the said board and the work done under such contract shall not be accepted or paid for until said surveyor has reported that the said contract has been complied with substantially. All roads and streets in city additions of outlots shall be graded according to the requirements of such city ordinance or custom as to space for sidewalks, berms, and gutters.

**§ 80. Amendment.)** Section 24-07-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**24-07-04. Jurisdiction of Proceedings to Open or Vacate Highway.)** Except as otherwise provided in this title, all proceedings for the opening, vacating, or changing of a highway outside of the limits of an incorporated city, including the acquisition of right-of-way when necessary, shall be under the charge and in the name of:

1. The board of county commissioners, if the road is in territory not organized into a civil township;
2. The board of township supervisors of an organized township;
3. The board of county commissioners of each county in case the road is between or in two or more counties;
4. The board of township supervisors of each organized civil township in which any part of the road is situated if the road is situated between two civil townships or in more than one civil township;
5. The board of township supervisors of each organized township and of the board of county commissioners in case the road is situated partly in an organized township and partly in an unorganized township; and
6. The board of county commissioners in any case arising under subsection 4 where the boards of township supervisors of the respective civil townships cannot agree or will not take action on petition so to do.

**§ 81. Amendment.)** Section 24-08-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**24-08-01. Construction of Bridges by Board of County Commissioners—Petition—Bids—Rejection.)** Whenever a majority of the freeholders of a civil township, or a majority of the freeholders living within a radius of three miles of the proposed location, shall petition the board of county commissioners for a bridge at a specified location within such township, or within any incorporated city, if the cost of such bridge shall exceed the sum of one hundred dollars, the board of county commissioners shall view and investigate the necessity of such proposed bridge. If the board approves the petition, it shall proceed to advertise in the official paper of the county, for a period of thirty days, the plans and specifications of the proposed bridge, asking for sealed bids for the building of such bridge, to be submitted to it at the next regular or special

meeting, at which the board shall proceed to examine all proposals or bids for the building of such bridge. If such board sees fit, it shall award the contract to the lowest responsible bidder, requiring such bidder to give a bond in a sum not less than the amount stipulated in the bid or contract, conditioned for the faithful compliance with the terms of such bid or contract, such bond to be approved by the board and filed in the office of the county auditor. The board shall have the authority to refuse all bids received, and to proceed to construct such bridge under its own supervision, and in the manner deemed by it most expedient, and to enter into contracts for the labor or material to be used in the construction of the same.

**§ 82. Amendment.)** Section 26-23-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**\*26-23-05. Report of Election or Appointment of Public Employee—Payment of Premiums.)** Before any public employee shall assume his duties, the state auditor, county auditor, city auditor, township clerk, or school district clerk, as the case may be, shall report to the commissioner in such manner and form as the commissioner shall prescribe, the election or appointment of such public employee and the amount of the bond required of him, and shall remit with such report by check, draft, or express or postal money order the premium required under the provisions of this chapter.

**§ 83. Amendment.)** Section 26-23-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**26-23-10. Default of Public Employees—Duty of Public Officer—Limitation on Filing of Claims Against Fund.)** Immediately upon, and in no event later than sixty days after, the discovery of any default or wrongful act on the part of any public employee for which the fund is or may become liable, the state auditor, county auditor, city auditor, township clerk, or school district clerk, or the treasurer of the state or subdivision thereof, if the defaulting officer is the auditor or clerk of the state or subdivision, and any other officer having supervision of a defaulting public employee, shall file a claim with the commissioner against the fund. Any person injured by such default or wrongful act, if he intends to hold the fund liable therefor, must present his claim to the commissioner within sixty days after the discovery of such default or wrongful act. If a claim is not filed within the time limited by this section, such claim is waived. A claim filed under the provisions of this section shall contain an abstract of the facts upon which it is

\*Note: Section 4 of chapter 233, 1967 S.L., also amends section 26-23-05.

based and shall be verified by the claimant or by someone in its or his behalf, and, together with all papers relating thereto, shall remain on file with the commissioner.

**§ 84. Amendment.)** Section 26-23-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**26-23-22. Public Employee May Furnish Private Bond — Premiums Payable from Public Moneys Only to Fund.)** Any person elected or appointed to office, in lieu of the bond provided for in this chapter, may furnish a bond issued by a duly authorized surety company, but no officer or board of the state or of any county, city, school district, or township shall pay for any such bond or bonds out of any public funds, except for such bonds as are procured to cover an excess over the amount carried in the fund.

**§ 85. Amendment.)** Subsection 3 of section 26-24-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Political subdivision, shall include a county, city, township, school district or park district of this state;

**§ 86. Amendment.)** Section 26-24-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**26-24-06. Townships and School Districts Have Option as to Insurance on Certain Property.)** The provisions of this chapter shall not apply to the property of any township or school district located outside of the incorporated limits of a city unless the clerk of the township or school district, at the direction of the board of township supervisors or the school board, as the case may be, shall file with the commissioner a written application for such insurance and a request that such township or school district come under the provisions of this chapter. To be effective, such applications must be approved in writing by the commissioner.

**§ 87. Amendment.)** Section 26-24-08 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**\*26-24-08. Public Buildings To Be Reported to Commissioner of Insurance.)** In each odd-numbered year, or upon application for insurance, the state board of higher education, and each officer, department, or agent of the state and of any industry thereof having in charge any public buildings of any kind

\*Note: Section 3 of chapter 234 and section 1 of chapter 235, 1967 S.L., also amend section 26-24-08.

whatsoever belonging to the state, and each county auditor, city auditor, township clerk, and school district clerk, as the case may be, shall report to the commissioner the sound depreciated value of each public building and of the fixtures and permanent contents therein belonging to the state or political subdivision, and shall supply such other information as may be required by the commissioner on forms provided by him.

**§ 88. Amendment.)** Section 27-09-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**27-09-06. County Lists of Persons Qualified as Jurors—Apportionment of Names on List Among County Subdivisions.)** In each county of this state in which terms of a district court are held, jurors shall be drawn from a list of the names of two hundred persons of such county qualified to act as jurors. If, in any county, there are not two hundred persons qualified to act as jurors, such list of names shall contain the highest number possible. In each county in which only a portion of the civil townships are organized, the county commissioners thereof shall apportion to each of the organized townships, to each incorporated city and to the unorganized portion of such county, as near as may be, its pro rata share of such names. In each county in which all the townships are organized into civil townships, the board of county commissioners thereof, as near as may be, shall apportion pro rata the number of names to be selected among the civil townships and among the incorporated cities in such county. The names on the assessors' lists of the several townships and cities for the preceding year shall be the basis for making such apportionment.

**§ 89. Amendment.)** Section 27-09-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**27-09-07. Selection of Names of Persons Qualified as Jurors Apportioned to Unorganized Part of County.)** The number of names of persons qualified to act as jurors which are to be selected from the portion of a county not organized into civil townships and not embraced within the limits of any incorporated city shall be selected by the board of county commissioners from the last annual tax list and shall be furnished to the clerk of the district court of such county.

**§ 90. Amendment.)** Section 27-09-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**27-09-08. Notice to Organized County Subdivisions of Apportionment—Notice of Meeting for Selection of Names Appor-tioned.)** Whenever the board of county commissioners of any county shall have made the apportionment in section 27-09-06, the county auditor shall certify such apportionment to the clerk of the district court. The clerk of the district court thereupon shall notify the clerk of each township and the auditor of each city of the number of names apportioned to his township or city, and such clerk or auditor immediately thereafter shall cause to be posted in three public places in his township or city a notice that the board of supervisors of the township or the city council or board of city commissioners of the city, as the case may be, will meet to draw the names of qualified jurors of the township or city to make up the list of jurors for the county. Such notice shall state the date and place of such meeting within the township or city and the day designated shall be not less than five days nor more than ten days from the day of the posting of such notice. At the time at which the clerk of the district court shall give notice of such apportionment he also shall furnish to each clerk or auditor the names of the jurors from the township or city remaining on the jury list. The clerk of the township or the auditor of the city, as the case may be, shall notify in writing the clerk of the district court of the names of any jurors remaining on the list who have become disqualified to serve as jurors, and such names shall be stricken from the jury list, and the governing body of the political division shall draw additional names in lieu thereof in the manner prescribed for the drawing of those required by the apportionment made by the board of county commissioners.

**§ 91. Amendment.)** Section 27-09-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**27-09-09. Governing Bodies of Organized County Subdivi-sions to Select Names Appor-tioned—Method of Selection.)** At the time and place designated in the notice provided for in section 27-09-08, the board of supervisors of the township, or the city council or board of city commissioners of the city, as the case may be, shall meet and select from the names of the resident taxpayers of such township or city three times as many names as are apportioned to the township or city by the county commissioners and the township or city clerk or auditor, at such meeting, shall write each name so selected on a separate ticket and shall record the list of the names so written and selected in a book to be kept for that purpose. Such board then shall compare the names on such tickets with such recorded list of names to satisfy itself that such tickets are correct. The tickets thereafter shall be folded, placed in a box

or some other receptacle, and shaken up, and one of the members of the board shall select by lot from the tickets in such box or receptacle the proper number of names apportioned to his township or city. The clerk or auditor then shall record in a book to be kept for that purpose such names in the order in which they were drawn. No governing body of any subdivision shall select therefrom any person to serve as a juror who has served on the regular panel as a juror from such political subdivision during the preceding five years.

**§ 92. Amendment.)** Section 27-09-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**27-09-10. Forwarding of Names and Addresses to Clerk of Court—Effect of Noncompliance—Clerk Keeps List.)** The clerk or auditor of a township or city, immediately after the names have been drawn in the manner provided in section 27-09-09, shall forward by mail to the clerk of the district court of the county a list of the names so drawn, together with the post office address of each person named in such list. The clerk of the district court shall make out a record in a book to be kept for that purpose a list of the names so forwarded to him together with such post office addresses. A failure of the officers of any township or city to comply with the provisions of this section and section 27-09-09 shall not invalidate such list.

**§ 93. Amendment.)** Section 27-09-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**27-09-24. Punishment of Governing Bodies of County Subdivisions for Failure to Furnish Names of Jurors.)** If the board of county commissioners, board of township supervisors, the city council or board of city commissioners of any city shall willfully neglect or fail to select and furnish to the clerk of court the names of persons qualified to act as jurors, as provided in this chapter, the person or persons so offending shall be guilty of contempt of court and may be fined by the court not less than five dollars nor more than fifty dollars.

**§ 94. Amendment.)** Section 29-02-23 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**29-02-23. Police to Attend Public Meetings — Direction.)** The mayor or other officer having the direction of the police in a city must order a force sufficient to preserve the peace to attend any public meeting when he is satisfied that a breach of the peace is reasonably apprehended.

**§ 95. Amendment.)** Section 32-14-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**32-14-07. Forfeitures — How Recovered by City or Corporation.)** All forfeitures imposed by any bylaw, ordinance, or regulation of any city or of any corporation organized under the laws of this state, when special provision is not otherwise made by law for their recovery nor punishment provided for the act or omission for which they are imposed, may be sued for and recovered pursuant to this chapter. It shall be sufficient to allege in the complaint that the defendant is indebted to the plaintiff in the amount of the forfeiture claimed, specifying the bylaw, ordinance, or regulation which imposes it. And when such bylaw, ordinance, or regulation imposes a penalty or forfeiture for several offenses or delinquencies, it shall specify the particular offense or delinquency for which the action brought, with a demand for a judgment for the amount of such forfeiture. All money collected on such judgment shall be paid to the treasurer of such city or corporation.

**§ 96. Amendment.)** Section 32-28-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**32-28-01. Court Authorized to Change Name of Persons and Cities.)** The district court shall have the authority to change the names of persons and cities within this state.

**§ 97. Amendment.)** Section 32-28-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**32-28-03. Change of Name of City—Petition.)** Whenever it may be desirable to change the name of any city in any county of the state, a petition for that purpose in like manner may be filed in the district court of the county in which such city is situated, setting forth the reason why such change of name is desirable and the name asked to be substituted. The court, on being satisfied by proof:

1. That the prayer of the petitioners is just, proper, and reasonable;
2. That notice as in case of the change of names of persons provided for in section 32-28-02 has been given;
3. That two-thirds of the legal voters of such city desire such change of name; and
4. That there is no other city in the state of the name asked for, may order such change of name and direct the clerk to enter such order upon the journal of the court.

**§ 98. Amendment.)** Section 38-09-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**38-09-02. Township, City, School District, or Park District May Lease Land for Oil and Gas Development.)** The governing body of any township, city, school district, or park district in this state may lease the grounds or lands of such political subdivision, or any part thereof, for oil and gas development for a primary term of not more than ten years, and may renew or extend any such lease from time to time for as long thereafter as oil or gas is or can be produced on the land described therein.

**§ 99. Amendment.)** Section 40-01-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-01-01. Definitions.)** In this title, unless the context or subject matter otherwise requires:

1. "Municipal corporation" or "municipality" shall include all cities and towns organized under the laws of this state, but shall not include any other political subdivision;
2. "Governing body" shall mean the city council or the board of city commissioners, as the case may be, of a municipality concerned or affected;
3. "Executive officer" shall mean the mayor in council cities or the president of the board of city commissioners in commission cities;
4. "City" shall include cities incorporated under the city council form and city commission system of government, unless the contrary shall appear;
5. "Warrant" shall mean an order drawn by the proper official of the city on its treasurer, the warrant or order to be so drawn that when signed by the treasurer in an appropriate place it becomes a check on the depository of such city, and no warrant upon the treasurer shall be delivered or mailed to the payee or his agent or representative until such warrant has been signed by the treasurer and entered on the treasurer's books as a check drawn on a bank depository.

**§ 100. Amendment.)** Section 40-01-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-01-02. Municipalities Are Bodies Corporate.)** Municipalities shall be bodies politic and corporate under the name and

style of "city of....." and under such name, may sue and be sued, contract and be contracted with, acquire and hold real and personal property for corporate purposes, and have a common seal which may be changed at pleasure.

**§ 101. Amendment.)** Section 40-01-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-01-10. Certificate of Publication Filed in Auditor's Office—Conclusive Evidence—When Bill for Publication Audited.)** After any ordinance, notice, resolution, or other proceeding has been published, a copy of the publication, together with the affidavit of publication stating the length of time it has been published, shall be filed with the city auditor. Such affidavit shall be conclusive evidence of the publication. The bill for the publication shall not be audited until such affidavit is filed.

**§ 102. Amendment.)** Section 40-01-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-01-11. Publication by a City or Park District in Which No Official Newspaper is Published.)** Whenever any ordinance, notice, or other instrument is required by the provisions of this code to be published in a city or park district in which no official newspaper is published, such publication may be made or such notice given by publication of such ordinance, notice, or other instrument in the official county newspaper. In a county in which no newspaper is published, any notice required by law to be published may be published in a newspaper printed in an adjoining county and having a general circulation in said county.

**§ 103. Amendment.)** Section 40-01-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-01-16. Duty of Auditor Relating to Assessments in Municipality Located in More Than One County.)** The auditor of a municipality embracing territory in more than one county shall transmit the appropriate assessment books, with a certified copy of the minutes showing the proceedings of the board of equalization, to the county auditor of each county in which the municipality is situated. The auditor shall apportion correctly the amount of any tax levy to be certified to each county in accordance with the valuations as determined finally by the equalization board.

**§ 104. Amendment.)** Section 40-01-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-01-18. Other Provisions Applicable to Municipalities Situated in More Than One County.)** The holding of elections, organization of the board of elections, the election and term of office of the original officers, and the powers and duties of officers of a city embracing territory in more than one county shall be governed by the provisions of this title relating to cities under the council form of government, or to cities under the commission system of government, as the case may be.

**§ 105. Amendment.)** Section 40-01-20 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-01-20. Daylight Saving Time Prohibited.)** No city or other political subdivision within the state shall adopt daylight saving time or any other seasonal standard of time which varies from the time in effect in such city or political subdivision during the greater portion of the year. All ordinances, resolutions, or other enactments, whether enacted prior to or subsequent to the effective date of this section, are hereby nullified.

**§ 106. Amendment.)** Section 40-02-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-02-01. Requisites of Incorporation as City.)** Any contiguous territory in this state, not exceeding four square miles in area, not already included within the corporate limits of any incorporated municipality, may become incorporated as a city whether such territory is located in one or more counties, under the following conditions:

1. If such territory shall have residing therein a population of not less than fifty nor more than five hundred inhabitants, it may become incorporated as a city under the council or modern council form of government;
2. If such territory shall have residing therein a population of not less than five hundred inhabitants, it may become incorporated as a city under the council or modern council form of government, or as a city under the commission system of government.

**§ 107. Amendment.)** Subsection 4 of section 40-02-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. A prayer that the question of incorporating the territory described in the petition as a city under the council form of government or a city under the commission system of government, as the case may be, be submitted to the qualified voters residing within such territory.

**§ 108. Amendment.)** Section 40-02-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-02-09. Form of Ballot.)** The ballots to be used at an election to pass upon the question of the organization of a municipality under the provisions of this chapter shall be in substantially the following form:

Shall a.....(city under the council form of government, or city under the commission system of government, as the case may be) be organized out of the following described territory.....  
(describe territory involved).

YES .....

NO .....

**§ 109. Amendment.)** Section 40-02-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-02-10. Election Returns — To Whom Made — Duty of Board of County Commissioners.)** The election officials acting in each place in which votes are cast in an election held under this chapter shall return to the board of county commissioners which ordered the election a verified statement of the results of the election showing the number of votes cast for and against incorporation to their voting place. Such returns shall be verified by the affidavit of the election officials. The returns shall be canvassed by the board of county commissioners, and the results of the canvass and of the election shall be entered upon the minutes of the proceedings of such board. If a majority of the votes cast at the election favored incorporation, the board shall make an order declaring that the territory described in the petition has been incorporated as a city under the council form of government or as a city under the commission system of government, as the case may be, by the name described in the petition, stating such name, and shall cause such order to be entered in the minutes of its proceedings. If the territory is located in more than one county, a certified copy of such order shall be submitted immediately to each of the other counties within which a portion of the territory described in the order is situated. The auditor of each county to which a certified copy of the order is sub-

mitted shall make a record thereof in the minutes of the board of county commissioners of such county.

**§ 110. Amendment.)** Section 40-02-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**\*40-02-11. Division Into Districts or Wards.)** After the return of the election provided for in this chapter, if a majority of the votes cast at such election favored incorporation as a municipality, the board of county commissioners which ordered the election shall proceed to divide the municipality into districts or wards as follows:

1. If the territory has been incorporated as a city under the council form of government, it shall not be divided into wards unless it has more than six hundred inhabitants, and if it has more than six hundred inhabitants, one ward shall be formed for each two aldermen to which the city is entitled. In cities of more than fifteen thousand inhabitants, however, the number of wards shall be limited to seven originally, and such number may be increased thereafter as provided in this title;
2. If the territory has been incorporated as a city under the commission system of government, it shall be divided into not less than three nor more than seven wards.

Each district or ward shall be formed from contiguous territory, and all districts or wards shall be numbered consecutively and shall have, as nearly as practicable, the same number of inhabitants.

**§ 111. Amendment.)** Section 40-02-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-02-12. Order of Incorporation—Recording—Filing—As Evidence.)** An order of incorporation of a city under the council form of government, under the provisions of this chapter, as made by the board of county commissioners to which the petition for incorporation is addressed, shall be conclusive evidence of the incorporation of the territory described in the order in all suits by or against the municipality described therein. The board shall cause a certified copy of such order to be filed for record in the office of the register of deeds of each county affected and a certified copy thereof to be filed in the office of the secretary of state.

**\*Note:** Section 92 of chapter 158, 1967 S.L., also amends section 40-02-11.

**§ 112. Amendment.)** Section 40-04-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-04-01. Incorporation as Commission City.)** Any city in this state having a population of not less than five hundred inhabitants may become incorporated as a city under the commission system of government in the following manner: whenever one-tenth of the electors of such municipality, based upon the votes cast for the office of governor at the last preceding general election, shall petition the governing body of such municipality to submit to a vote of the electors the question whether such city shall become incorporated as a city under the commission system of government, the governing body shall submit such question to the electors, appoint a time when and place or places where the election shall be held, and designate the judges and clerks at such election. Such question shall not be submitted more than once in every four years.

**§ 113. Amendment.)** Section 40-04-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-04-03. Form of Ballot.)** The ballots to be used at such election shall be in substantially the following form:

Shall the city of ..... (naming the city) become organized as a city under the commission system of government?

YES .....

NO .....

**§ 114. Amendment.)** Section 40-04-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-04-04. Returns and Canvass of Election—Certificate to Secretary of State—Officers to Continue Until Election.)** The officials of an election held under the provisions of this chapter shall make a return of such election to the governing body of the city and such governing body shall canvass such returns and cause the result of the canvass to be entered upon the records of the city. If a majority of the votes cast at such election shall be for city organization under the commission system, the auditor under the corporate seal of the city, shall certify the adoption of such form of government and a copy of the proceedings concerning the same to the secretary of state together with the result of any special census taken in such city. The city officers then in office shall exercise the powers conferred upon like officers of a city operating under the com-

mission system of government until their successors are elected and qualified.

**§ 115. Amendment.)** Section 40-04-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-04-07. Special Election Called to Elect City Commissioners.)** Within twenty days after the issuance of a patent incorporating any city under the provisions of this chapter, the executive officer of the city voting such incorporation shall call a special election for the purpose of electing the first board of city commissioners. The election shall be held as provided in section 40-21-02.

**§ 116. Amendment.)** Subsections 1 and 71 of section 40-05-01 of the 1965 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. **Ordinances.** To enact or adopt all such ordinances, resolutions and regulations, not repugnant to the Constitution and laws of this state, as may be proper and necessary to carry into effect the powers granted to such municipality or as the general welfare of the municipality may require, and to repeal, alter, or amend the same. The governing body of a municipality may adopt by ordinance the conditions, provisions, and terms of a building code, a fire prevention code, a plumbing code, an electrical code, a sanitary code, vehicle traffic code, or any other standard code which contains rules and regulations printed as a code in book or pamphlet form by reference to such code or portions thereof alone without setting forth in said ordinance the conditions, provisions, limitations, and terms of such code. When any such code or portion thereof shall have been incorporated by reference into any ordinance as aforesaid, it shall have the same force and effect as though it had been spread at large in such ordinance without further or additional posting or publication thereof. A copy of such standard code or portion thereof shall be filed for use and examination by the public in the office of the city auditor of such municipality prior to the adoption thereof. The adoption of any such standard code by reference shall be construed to incorporate such amendments thereto as may be made therein from time to time, and such copy of such standard code so filed shall at all times be kept current in the office of the city auditor of such municipality. The adoption of any such code or codes heretofore by any municipality is hereby validated. Fines, penalties, and forfeitures for the violation thereof

may be provided within the limits specified in this chapter notwithstanding that such offense may be punishable also as a public offense under the laws of this state;

71. **Noxious Weeds.** To determine what shall be noxious or unhealthy vegetation within the city; to provide the manner in which they shall be cut or destroyed and to require the owner or owners of any property within the city after a minimum of five days' written notice to cut or destroy noxious weeds from their premises and the one-half of any road, or street, lying next to the lands or boulevards abutting thereon, and to provide in the event the owner or owners of any of said premises neglect to destroy or remove noxious weeds therefrom for defraying the cost of destruction thereof by certifying the cost thereof to the county auditor who shall spread the same against the respective lots or parcels in the same manner as other special assessments are spread, and such assessment shall be collected at the same time and manner as special taxes are collected.

**§ 117. Amendment.)** Section 40-05-02.2 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-05-02.2. City May Levy Excise Tax on Nonprofit Liquor Dealers by Ordinance.)** 1. Any city, through the enactment of an ordinance to such effect, may levy a local excise tax, not in excess of fifty percent, upon the proceeds from gross sales of liquor, as defined by subsection 2 of section 5-01-01, by any nonprofit corporation licensed by the city to sell such liquor; provided, however, that no city shall levy the tax herein provided for unless such nonprofit corporation is the only person, firm, association, or corporation within the corporate limits of such city licensed to sell such liquor.

2. The city in levying the excise tax provided for in subsection 1 shall provide within the levying enactment a method of computation, collection, and disposition of such tax revenue, and a procedure whereby any person aggrieved by such procedure may appeal to the governing body of the city. The right of appeal from a decision of the governing body of such city to the district court of the district wherein such city is located shall not be restricted.

**§ 118.)** Section 40-05-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-05-05. Cities May Contract for Electrical Energy or Gas.)** The governing body of any city may enter into a contract with any person, partnership, association, corporation or the United States or any department or agency thereof to provide for:

1. The furnishing of electrical energy or gas to the inhabitants of the city and to the city for all purposes; or
2. The sale to and the purchase by the city for a term of not to exceed ten years, of electrical energy or gas required for city purposes.

The making and execution of any such contract must be authorized by a resolution of the governing body adopted by a majority of the members thereof at a regularly assembled meeting of such bdry. Nothing contained in this section shall deprive the public service commission of any of its regulatory powers with reference to contract rates.

**§ 119. Amendment.)** Section 40-05-09.1 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**\*40-05-09.1. Tax Levy for Fire Department Substations.)** Upon the approval of a majority of the electors voting thereon at any regular election or special election called for such purpose, the governing body of any city may levy taxes annually, not in excess of five mills on the net taxable assessed valuation, for the purpose of providing additional funds to meet the operational and maintenance costs of establishing a substation for fire protection services. Such levy shall be in addition to and not restricted by the levy limitations prescribed by law.

No levy shall be made under this section unless the national board of fire underwriters shall have surveyed the city and certified in writing to the governing body thereof as to the need and requirement of a substation to maintain adequate fire protection standards for protection of life and property in said city.

**§ 120. Amendment.)** Section 40-11-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-11-01. Enacting Clause for Ordinances.)** The enacting clause of every ordinance adopted by a municipal corporation shall be: "Be it ordained by the ..... (governing body) of the city of ..... ." Such caption, however, may be omitted when the ordinances are published in book form or are revised and digested.

**§ 121. Amendment.)** Section 40-11-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**\*Note:** Section 40-05-09.1 was also amended by section 1 of chapter 325, 1967 S.L.

**40-11-04. Ordinance Required for the Transfer of Property.)** Every municipality shall enact an ordinance providing a uniform method and procedure for the conveyance, sale, lease or disposal of personal and real property of the municipality.

**§ 122. Amendment.)** Section 40-11-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-11-08. Ordinance Book Required—Ordinance Book and Certified Copies of Ordinances as Evidence.)** Each municipality shall keep an ordinance book. The city auditor shall record in such book all ordinances finally passed and approved, and when any ordinance has been published, he shall record therein the affidavit of publication or of posting. The ordinance book, or copies of ordinances as recorded therein, certified by the city auditor, shall be received as evidence without further proof. If the ordinances of a municipality have been printed in book or pamphlet form by authority of the governing body of the municipality, such book or pamphlet shall be received as evidence of the existence of the ordinances therein contained.

**§ 123. Amendment.)** Section 40-11-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-11-12. Commitment of Guilty Person.)** Any person upon whom any fine or penalty shall be imposed for a violation of a municipal ordinance may be committed, upon the order of the court before whom the conviction is had, to the county jail, city prison, workhouse, house of correction, or other place provided by the municipality for the incarceration of offenders until the fine, penalty, and costs shall be fully paid in money or discharged by labor as is provided in section 40-18-12.

**§ 124. Amendment.)** Section 40-13-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-13-02. Bonds of Municipal Officials — Requirements — Approvals—Additional Bonds.)** The treasurer, auditor, municipal judge, county justice, and assessor of each municipality, the city manager of any city, and such other officers as the governing body may direct, before entering upon the discharge of the duties of their respective offices, shall execute and deliver to the municipality their separate bonds payable to the municipality, conditioned for the honest and faithful performance of their official duties. Such bond shall be in an amount fixed by the governing body of the municipality. The bond of the treasurer shall be set by resolution of the governing body of the municipality at a regular meeting in April of each year;

in an amount at least equal to twenty-five percent of the average amount of money that has been subject to the treasurer's control during the preceding fiscal year, as determined by the total of the daily balances of the treasurer for the calendar year divided by the figure three hundred or the sum of two hundred fifty thousand dollars whichever is least. All official bonds shall be approved by the executive officer of the municipality and filed in the office of the city auditor. Such bonds shall conform to the provisions of law applicable to the bonds of state officers and employees except that no personal surety shall be accepted on any bond. No municipality shall pay the premium on any bond except a bond written in the state bonding fund or a bond procured to replace a bond canceled by the state bonding fund. The governing body at any time may require new and additional bonds of any officer.

**§ 125. Amendment.)** Section 40-13-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-13-03. Oaths of Municipal Officers.)** Every person elected or appointed to any municipal office, before he enters upon the discharge of the duties thereof, shall take and subscribe the oath of office prescribed for civil officers, and, except in the case of the treasurer and auditor, shall file the same with the city auditor within ten days after notice of his election or appointment has been given. The oath of the municipal treasurer and of the auditor shall be filed in the office of the auditor of the county in which the municipality is located.

**§ 126. Amendment.)** Section 40-18-01 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-18-01. Jurisdiction of Municipal Judge.)** The municipal judge within a city having a population of three thousand or more shall be an attorney licensed to practice law in this state, unless no person so licensed is available in the city and shall have exclusive jurisdiction of, and shall hear, try and determine, all offenses against the ordinances of the city. The offices of county justice and municipal judge may not be held by the same person.

**§ 127. Amendment.)** Section 40-18-05 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-18-05. Municipal Judge is Conservator of the Peace—Powers on Sunday Restricted.)** The municipal judge within his city shall be a conservator of the peace, and he shall have power to bring persons before him forthwith for trial. His court

shall be open every day except Sunday to hear and determine cases cognizable before him. He shall perform no official act on Sunday except that he may receive complaints, issue process, take bail, and receive verdicts.

**§ 128. Amendment.)** Section 40-18-07 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-18-07. Warrants of Arrest Issued by Municipal Judge—Service of Warrant.)** Whenever any person competent to testify against the accused makes a complaint to a municipal judge upon oath or affirmation that an offense against a city ordinance or bylaw has been committed, the municipal judge shall issue a warrant for the arrest of the offender. The warrant shall be served by the chief of police, marshal, sheriff, any constable of the county, or by some person appointed specially by the municipal judge for that purpose.

**§ 129. Amendment.)** Section 40-18-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-18-12. Commitment for Violation of City Ordinance—Limitation—Labor in Lieu of Fine.)** If the defendant is found guilty of the violation of a municipal ordinance and is committed as is provided in section 40-11-12, the term of his imprisonment shall not exceed three months for any one offense. The governing body may provide by ordinance that each person so committed shall be required to work for the municipality at such labor as his strength will permit, not exceeding ten hours in each working day, and for such work the person so imprisoned shall be allowed for each day, exclusive of his board, one dollar and twenty-five cents on account of the fines and costs assessed against him.

**§ 130. Amendment.)** Section 40-18-15 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-18-15. Jury Trials in Cases Arising Under the Ordinances of a City.)** An action for the violation of a city ordinance shall be tried and determined by the municipal judge, without the intervention of a jury except as is provided in this section. If the defendant is charged with the violation of an ordinance of the city under the provisions of which imprisonment for more than ten days or a fine of more than twenty dollars is made a part of the penalty, such defendant, before the commencement of the trial, may demand a trial by jury.

**§ 131. Amendment.)** Section 40-18-16 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-18-16. Procedure When Jury Demanded in Court of Municipal Judge.)** When a jury has been demanded in accordance with the provisions of section 40-18-15, the municipal judge shall prepare a list of the names of eighteen residents of the city having the qualification of jurors in the district court. The defendant and the attorney for the city, or the chief of police, if the city is not represented by an attorney, shall strike names from such list alternately until each has stricken three names therefrom. If the defendant shall refuse to strike names from such list, the municipal judge shall strike three names therefrom. The municipal judge then shall issue his venire to the chief of police commanding him to summon the twelve persons whose names remain upon the list as jurors.

**§ 132. Amendment.)** Section 40-18-17 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-18-17. Challenges for Cause to Jurors in Court of Municipal Judge.)** In all trials by the jury in a municipal judge's court, challenges shall be allowed in the same manner and for the same causes as in the district court in cases of misdemeanor, but no peremptory challenges shall be permitted. If either party objects to the competency of a juror, the question on the challenge shall be tried in a summary manner by the municipal judge, who may examine the juror or other witnesses under oath. If the number of jurors is reduced below twelve by challenges for cause or because of the failure to appear of any juror named on the venire, the chief of police of the city shall summon a sufficient number of talesmen having the qualifications of jurors to complete the panel which, in all cases, shall consist of twelve jurors.

**§ 133. Amendment.)** Section 40-18-19 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-18-19. Appeals from Determinations of Municipal Judge.)** An appeal may be taken to the district court from any judgment in a municipal judge's court in the same form and manner as appeals are taken and perfected from a judgment of conviction of a defendant in justice court, and in accordance with sections 33-12-34, 33-12-35, and 33-12-39, and shall be tried in the district court in accordance with sections 33-12-40 and 33-12-41, and bail shall be taken in accordance with sections 33-12-36 and 33-12-37, and witnesses may be placed under bond as provided for in section 33-12-38. On all appeals from a deter-

mination in a municipal judge's court the district court shall take judicial notice of all of the ordinances of the city.

**§ 134. Amendment.)** Section 40-19-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-19-01. Duties of City Assessor.)** The city assessor within his city shall perform all the duties necessary in assessing the property within the city for the purpose of levying the municipal, county, school, and state taxes. Such assessors shall be governed by and shall make assessments and returns as is provided in title 57, Taxation, and in this chapter.

**§ 135. Amendment.)** Section 40-19-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-19-03. Return of Assessment Roll by City Assessor.)** When the assessment is completed, and on or before the first day of June in each year, the city assessor shall return the assessment roll to the city auditor. The assessment roll shall be open to the inspection of the public until the meeting of the board of equalization of the municipality. The city auditor shall deliver the assessment roll to the board of equalization of the municipality at its regular meeting.

**§ 136. Amendment.)** Section 40-21-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-21-06. Reference to Party Ballot or Affiliation in Petition of Candidate for Municipal Office Prohibited—Principles Stated.)** No reference shall be made to a party ballot nor to the party affiliation of a candidate in a petition to be filed by or in behalf of a candidate for nomination to a public office in any incorporated city in this state. Such candidate may state or have stated after his name in any such petition, in not more than twenty words, any particular principle or principles of local administrative policy or policies he stands for and seeks election to promote.

**§ 137. Amendment.)** Section 40-21-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**\*40-21-07. Petition for Nomination of Elective Official in Municipalities—Signature Required—Contents.)** A candidate for any public office in an incorporated city may be nominated by filing with the city auditor, at least twenty days prior to

**\*Note:** Section 99 of chapter 158, 1967 S.L., also amends section 40-21-07.

the holding of the election, a petition signed by not less than ten percent of the qualified electors residing within the ward or precinct in and for which such officer is to be elected, if the election is by wards, or a like percent of the voters of the city if the officer is elected at large, except that in cities operating under the commission system of government the required petition may be signed by the electors at large residing within such city. In no case shall more than three hundred signatures be required, and such signatures may be on separate sheets of paper. No elector shall sign more than one petition for the same office. Each signer of such petition shall add to his name his post office address, giving the street and number of his residence.

**§ 138. Amendment.)** Section 40-21-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-21-08. Ballots in Municipalities—Makeup.)** The auditor of the city shall place only the names of the persons nominated upon the ballot. Opposite or immediately below the name of each candidate on the ballot shall be placed the statement, in not more than twenty words, of the principle or principles which he seeks to promote. Such statement shall be set forth in the manner in which it appeared in the petition or petitions filed by or on behalf of such candidate, and in such manner as readily to inform the voter of the policy or policies upon which such candidate seeks election. The auditor shall arrange the offices upon the ballot in the order in which they are named in the statutes. The arrangement of the names of the candidates upon the ballot shall be determined by lot by such auditor in the presence of the candidates or their representatives at noon on the day following the last day for the filing of the nomination papers.

**§ 139. Amendment.)** Section 40-21-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-21-10. Registration of Voters.)** The governing body of any city may require the registration of voters in any election held or conducted within the municipality at such time and place or places as the governing body may designate.

**§ 140. Amendment.)** Section 40-21-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**\*40-21-12. Counting Ballots—Returns—Canvass of Returns by Governing Body of Municipality.)** The ballots cast in a municipal election shall be counted and the returns of the election prepared by the election board immediately after the closing of the polls. The ballots and the returns of the election shall be returned to the city auditor under seal within two days after the election. Thereafter, the governing body of the municipality shall canvass the returns and declare the result of the election and cause a statement thereof to be entered in its books of minutes.

**§ 141. Amendment.)** Section 40-21-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-21-14. City Auditor to Notify of Election or Appointments.)** The city auditor, within five days after the result of an election is declared or the appointment of an officer is made within the municipality, shall notify each person elected or appointed to municipal office of his election or appointment.

**§ 142. Amendment.)** Section 40-22-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-22-14. Plans, Specifications, and Estimates Filed in Office of City Auditor.)** The plans, specifications, and estimates shall be the property of the municipality and shall be filed in the office of the city auditor and shall remain on file in his office subject to inspection by anyone interested therein.

**§ 143. Amendment.)** Section 40-22-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-22-17. Protest Against Resolution of Necessity—Meeting to Hear Protest.)** If, within thirty days after the first publication of the resolution declaring the necessity of an improvement project of the type specified in any one of the subsections of section 40-22-01, the owners of any property within the improvement district file written protests with the city auditor protesting against the adoption of said resolution, the governing body of the municipality, at its next meeting after the expiration of the time for filing such protests, shall hear and determine the sufficiency thereof.

**§ 144. Amendment.)** Subsection 1 of section 40-22-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**\*Note:** Section 101 of chapter 158, 1967 S.L., also amends section 40-21-12.

1. Specify the work to be done according to the plans and specifications on file in the office of the city auditor;

**§ 145. Amendment.)** Section 40-22-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-22-24. Bids — Filing — Sealing — Endorsing — Opening — Considering.)** Bids for the work to be let under the provisions of this chapter shall be forwarded to the city auditor and shall be sealed securely to prevent the opening thereof without detection. There shall be endorsed upon the outside of the envelope containing the bid a statement of what work such proposal is for. The bids shall be opened by the governing body at the expiration of the time limited in the advertisement for receiving the same, which shall be not less than fifteen days after the first publication of the advertisement, or at such other time as the governing body may appoint. Only bids which are accompanied by the check and bond provided for in sections 40-22-20 and 40-22-21 shall be considered by the governing body.

**§ 146. Amendment.)** Section 40-22-25 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-22-25. Opening of Bids—Bids To Be Entered on Minutes —Final Action on Bids To Be Deferred.)** After the bids have been opened and made public, they shall be entered upon the minutes of the meeting of the governing body of the municipality at which they are considered, and they shall be preserved carefully by the city auditor. If the governing body has called for bids on more than one kind of pavement, action on the bids shall be deferred for a period of at least five days, and not less than five days after the opening of the bids, a meeting of the governing body shall be held for the purpose of considering and acting upon such bids. Notice of the time and place of such meeting shall be published by the city auditor in at least one issue of the official newspaper of the municipality not less than five days before the date fixed for such meeting.

**§ 147. Amendment.)** Section 40-22-26 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-22-26. Petition by Property Owners to Have Paving of Certain Material—Contents.)** If the governing body has called for bids on more than one kind of pavement, after the opening of the bids in connection with an improvement consisting of paving or repaving and before the meeting of the governing body to consider the same, the owners of a majority of the

property liable to be specially assessed for such paving or repaving may file a written petition with the city auditor indicating that the petitioners have a preference for a certain type of paving or paving material for which bids have been invited. Upon receiving such petition it shall be obligatory upon the governing body to cause the paving or repaving to be constructed of a kind of paving material indicated in the petition. The petition may consist of a single petition or several separate petitions signed by the owners of a majority of the property liable to be specially assessed for such improvement, or by their authorized agents.

**§ 148. Amendment.)** Section 40-22-30 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-22-30. Contractor's Bond — Execution — Affidavit Required.)** Within the time fixed by the governing body for executing the contract, the successful bidder shall file with the city auditor a contract bond in a sum equal to the full amount of the contract. Such bond shall be executed by the bidder or contractor as principal and by a surety company authorized to do business in this state, or by two or more freeholders who are residents of this state, as sureties. If the contract bond is executed by individuals as sureties, such sureties must attach to the bond an affidavit of justification showing that they are worth in the aggregate in property within this state a sum equal to twice the penalty of the bond over and above their exemptions.

**§ 149. Amendment.)** Subsection 1 of section 40-22-31 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. That he well and faithfully will perform the work bid for in accordance with the terms of and within the time provided for in the contract, and pursuant to the plans and specifications for such work on file in the office of the city auditor;

**§ 150. Amendment.)** Section 40-22-35 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-22-35. Execution and Filing of Contract.)** All contracts entered into for any work provided for in this chapter shall be entered into in the name of the municipality and shall be executed on the part of the municipality by the executive officer and countersigned by the auditor, who shall affix the corporate seal of the municipality. After the contract is signed by the contractor, it shall be filed in the office of the city auditor.

**§ 151. Amendment.)** Section 40-22-36 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-22-36. Contracts—Conditions and Terms.)** A contract let under the provisions of this chapter shall require the work to be done pursuant to the plans and specifications on file in the office of the city auditor, subject to the approval of the engineer acting for the municipality, and shall provide further:

1. That the governing body shall have the right to suspend the work at any time for improper construction and to relet the contract therefor or to order a reconstruction of the work as to any part thereof improperly done;
2. The time within which the work shall be completed;
3. The period of time for which the work shall be guaranteed as to workmanship and materials;
4. The fund from which the contract price is to be paid by the municipality;
5. That the consideration expressed in the contract is payable only in warrants drawn on the fund described in the contract;
6. That the municipality assumes and incurs no general liability under such contract; and
7. That failure of the engineer to reject work and materials which are not up to specifications and acceptance of the job by the engineer shall not release the contractor from liability for any failure on his part to perform work or furnish materials in accordance with the plans and specifications.

The engineer acting for the municipality shall supervise and inspect the work during its progress.

**§ 152. Amendment.)** Section 40-22-40 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-22-40. City Auditor to Keep Complete Record of Improvements—Record as Evidence.)** The city auditor shall keep in his office a complete record of all the proceedings taken in the matter of making any improvements under this chapter. Such record shall include all reports and the confirmations thereof, all petitions, orders, appointments of commissioners, notices and proofs of publications, and resolutions of the governing body. Such record, a certified transcript thereof, or the original papers, proofs of publications, orders, or resolutions on file in such office shall be admitted in evidence in any court or

place in this state without further proof as evidence of the facts therein contained.

**§ 153. Amendment.)** Section 40-23-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-23-02. Commissioners — Appointments Subject to Confirmation — Qualifications — Chairman — Compensation.)** All appointments made to the special assessment commission shall be subject to the confirmation of the governing body. Upon his appointment and confirmation, each commissioner shall file with the city auditor a written acceptance of the appointment and shall take and subscribe the oath required of other municipal officers, which shall be filed with the city auditor. The member of the commission having the shortest term to serve shall act as chairman. No member of the commission shall hold any other municipal office while serving as such member. Each member of the commission shall receive as compensation for his services while actually engaged in the duties of the commission the sum of five dollars a day.

**§ 154. Amendment.)** Section 40-23-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-23-05. Notice to Special Assessment Commission.)** At any time after the contract and bond for any work for which a special assessment is required have been executed and approved by the governing body of the municipality and the total cost of such work shall have been estimated as nearly as practicable, the governing body may direct assessments to be levied for the payment of all or any part of such cost, and the city auditor shall notify the chairman of the special assessment commission and shall certify to him the items of the total cost thereof so far as the same have been ascertained. The chairman immediately shall call a meeting of the commission, which shall proceed as expeditiously as possible to make and return the special assessment as provided in this chapter. The total cost of the improvement which may be certified to the assessment commission shall include the estimated construction cost under the terms of the contract, a reasonable allowance as determined by the governing body for cost of extra work which may be authorized under the plans and specifications, engineering, fiscal agents' and attorneys' fees for any services in connection with the authorization and financing of the improvement, cost of publication of required notices and printing of improvement warrants, and all expenses incurred in the making of the improvement and levy of assessments therefor. In the event that any error is made in estimating the

cost, the governing body may direct a supplemental assessment to be made as provided in section 40-26-02.

**§ 155. Amendment.)** Section 40-23-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**\*40-23-07. Regulations Governing Determination of Special Assessments by Commission—Political Subdivisions Not Exempt.)** Whenever the commission is required to make any special assessment under the provisions of this title, the members thereof personally shall inspect any and all lots and parcels of land which may be subject to such special assessment and shall determine from such inspection the particular lots and parcels of land which, in the opinion of the commission, will be especially benefited by the construction of the work for which the assessment is to be made. The commission shall determine the amount in which each of the lots and parcels of land will be especially benefited by the construction of the work for which such special assessment is to be made, and shall assess against each of such lots and parcels of land such sum, not exceeding the benefits, as shall be necessary to pay its just proportion of the total cost of such work, or of the part thereof which is to be paid by special assessment, including all expenses incurred in making such assessment and publishing necessary notices with reference thereto and the per diem of the commission. Benefited property belonging to counties, cities, school districts, park districts, and townships, shall not be exempt from such assessment, and such public corporations whose property is so assessed shall provide for the payment of such assessments, installments thereof and interest thereon, by the levy of taxes according to law. Nothing in this section shall be deemed to amend other provisions of law with reference to the levy of assessments on property sold for delinquent taxes.

**§ 156. Amendment.)** Section 40-23-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-23-12. Confirmation of Assessment List After Hearing—Filing List.)** The special assessment commission, after the hearing, shall confirm the list and attach thereto its further certificate certifying that the list is correct as confirmed by it. The commission thereafter shall file the assessment list in the office of the city auditor.

**§ 157. Amendment.)** Section 40-23-13 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**\*Note:** Section 2 of chapter 332, 1967 S.L., also amends section 40-23-07.

**40-23-13. Publication of Notice of Confirmation of Assessment List and Meeting for Action Upon Assessments.)** The city auditor shall publish at least once in the official newspaper of the municipality a notice stating that the assessment list has been confirmed by the special assessment commission and filed in his office and is open to public inspection. The notice also shall state the time when and the place where the governing body will act upon such assessment list. The assessment list shall be acted upon by the governing body at a regular or special meeting occurring more than fifteen days after the publication of such notice.

**§ 158. Amendment.)** Section 40-23-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-23-14. Aggrieved Person May File Notice of Appeal.)** Prior to the meeting at which the governing body will act upon the assessment, any aggrieved person may appeal from the action of the special assessment commission by filing with the city auditor a written notice of the appeal, stating therein the grounds upon which the appeal is based.

**§ 159. Amendment.)** Section 40-23-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-23-16. Confirmation of Assessment List by Governing Body — Certifying List — Filing.)** The governing body shall confirm the assessment list, and the city auditor shall attach to the list his certificate that the same is correct as confirmed by the governing body, and thereupon shall file the list in his office.

**§ 160. Amendment.)** Section 40-24-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-24-09. Payment in Full of Assessments — Payments to County or Municipal Treasurer—Receipts.)** The owner of any property against which an assessment shall have been made under this title for the cost of any improvement may pay in full or in part the amount remaining unpaid and the unpaid interest accumulated thereon. The payment in full shall discharge the lien of the assessment upon his property. The payment may be made to the county treasurer upon all installments of the assessments which have been certified to the county auditor, and may be made to the municipal treasurer upon all portions of the assessment which have not been certified. Any person desiring to pay any portion of the assessment to the municipal treasurer shall obtain from the

city auditor a certificate of the amount due upon the assessment which has not been certified to the county auditor and shall present such certificate to the municipal treasurer. The municipal treasurer shall receive and collect such amount and issue duplicate receipts, one to be delivered to the person paying the assessment and the other to be deposited with the city auditor, who shall note upon his records the payment of the assessment.

**§ 161. Amendment.)** Section 40-24-11 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**\*40-24-11. Certification of Assessments to County Auditor.)** Annually, at the time of certifying to the county auditor the amount of the municipal taxes to be levied for the current year, the city auditor shall certify to the county auditor all un-certified installments of assessments which are to be extended upon the tax lists of the municipality for the current year, in the manner provided in section 40-24-12.

**\*Note:** Section 40-24-11 was also amended by section 1 of chapter 334, 1967 S.L.

**§ 162. Amendment.)** Section 40-24-12 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**\*40-24-12. City Auditor to Insert Amount of Improvements in County Real Estate Assessment Book—Regulations Governing—Form.)** The city auditor shall notify the county auditor not later than July first in each year of any special assessments which were made in the municipality in addition to those reported in the previous year. The county auditor shall make and deliver to the city auditor, on or before August tenth each year, a copy of the real estate assessment book for the current year covering all additions in which any special assessments have existed and where any will appear for the current year as advised by the city auditor. The city auditor shall insert in the proper columns under the appropriate headings the amount of each of the installments of the assessments on the lots or subdivision of lots or tracts of land which are to be extended upon the tax lists of the municipality for the current year. In cases where a division of property has been made since the original assessment, the city auditor shall make or cause to be made, with the assistance and advice of the special assessment commission, the proper division of the special assessments on the lots or tracts of land as the same are divided and assessed for the general taxes as furnished by the county auditor. The

**\*Note:** Section 40-24-12 was also amended by section 2 of chapter 334, 1967 S.L.

form to be used by the city auditor shall be to add each column on each page and total it, and to cross add all items entered against each lot or tract of land and carry this total to a final column at the right-hand side of the page so that when the totals of each column are cross added, the total of the cross addition will equal the total of the final column, and to recapitulate the footings of the entire list, page by page, to show the total amount for each purpose, and a total of these added together shall equal the total amount of special assessments certified to the county auditor for the current year.

**§ 163. Amendment.)** Section 40-24-15 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-24-15. Special Assessment Record Book Kept by County Auditor—Assessments Certified for More Than One Year.)** The county auditor shall keep in his office a special assessment record. When any municipality causes the installments of special assessments for a period of more than one year to be certified, the county auditor shall cause the special assessments so certified to be recorded in such book for the respective years and in the amounts shown in the certificate of the city auditor. In such event the certificate of the city auditor shall include a list of all lots and tracts of land upon which such assessments are levied, designating the purpose of the assessment, the fund to which it belongs, and the installment of such assessment for each year against each lot or tract, including interest thereon.

**§ 164. Amendment.)** Section 40-24-16 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**\*40-24-16. County Treasurer to Certify and Receipt for Amount of Special Assessments Collected—Contents of Certificate—Procedure for Abatement.)** Special assessments of any kind certified to the county auditor by the city auditor shall be paid to the county treasurer and included in the receipt required by section 57-20-08. In the event that the county treasurer receives less than the full amount of taxes and special assessments due at any time on any lot or tract of real estate, he shall allocate the amount of such payment between taxes and special assessments in proportion to the respective amounts of taxes and special assessments which are then due. Special assessments shall not be subject to abatement or refund by proceedings under chapter 57-23, but shall be reviewed and corrected only in the manner and upon the conditions provided

\*Note: Section 40-24-16 was also amended by section 1 of chapter 335, 1967 S.L.

in chapter 40-26. The county treasurer, at the time set by law for the payment to the municipal treasurer of all the taxes and special assessments collected by him during the preceding month, shall certify in duplicate the amounts of special assessments collected. The certificate shall state specifically the lot or known subdivision thereof as it appears on the tax books of the county treasurer, and the block, addition, amount collected, and the amount credited to each lot or known subdivision thereof, and the year for which the sum was collected. One copy of such certificate shall be furnished to the municipal treasurer and one copy to the city auditor.

**§ 165. Amendment.)** Section 40-24-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-24-20. Contents of Warrants.)** Improvement warrants shall state upon their face for what purpose they were issued and the fund from which they are payable and shall be signed by the executive officer and countersigned by the city auditor under the seal of the municipality.

**§ 166. Amendment.)** Section 40-27-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-27-05. Special Fund for Payment of Bonds Issued for Purchase of Special Assessment Warrants—Tax Levy.)** The governing body of a municipality which issues bonds for the purchase of special assessment warrants shall create a special fund for the payment of the principal and interest of such bonds as they become due and shall credit to such fund all special assessments collected for the payment of the special assessment warrants purchased. The governing body shall make a general tax levy annually on all the property in the municipality which, together with the special assessments collected, shall be sufficient to pay the principal and interest of the bonds when they become due. The levy imposed shall not be subject to any of the tax levy limitations imposed by section 57-15-08 or acts amendatory thereof. If any money remains in the special fund after the payment of the principal of all the bonds and the interest thereon, such balance may be transferred to the general fund.

**§ 167. Amendment.)** Section 40-28-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-28-02. Notice to Owner or Occupant to Construct Service Connection Pipes or Wires.)** Upon the adoption of the resolution as provided in section 40-28-01, the city auditor shall

publish in the official municipal newspaper once each week for two successive weeks a notice to the owners or occupants of the property involved stating what work is to be done and the time within which it is to be completed. The notice may be general as to the owners but shall be specific as to the descriptions of the lots or parcels of land in front, along the side, or in the rear of which the improvement is to be made and which the improvement affects.

**§ 168. Amendment.)** Section 40-28-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-28-03. Municipality May Contract Work When Property Owner Fails to Make Service Connections as Required.)** If the connection with the sewer, main, wire, or conduit is not made by the owner of the property within the time specified in the notice given by the city auditor, the governing body shall order such work done by such person as it may contract with therefor at the expense of the lot or parcel of land adjoining each improvement or service connection. Such work shall be done under the supervision of the engineer acting for the municipality. The expense of making such connection, including the expense of giving all notices relating thereto, of making the assessments therefor, and of any other nature, shall be assessed by the engineer against the lot or parcel of land properly chargeable therewith, and the assessment list shall be filed in the office of the city auditor. The city auditor shall cause such list, together with a notice of the time when and place where the governing body will meet to consider the approval thereof, to be published in one issue of the official newspaper of the municipality at least ten days prior to the meeting of the governing body at which the approval of the assessment will be considered.

**§ 169. Amendment.)** Section 40-28-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-28-04. Assessments Extended Over Period of from One Year to Five Years—Certification of Assessments.)** Assessments for improvements made under the provisions of this chapter shall be paid in equal payments extending over a period of not less than one year nor more than five years, as the governing body of the municipality may determine. Such assessments as may be approved by the governing body shall be certified by the city auditor to the county treasurer for collection, and such assessments shall be collected in the same manner as special assessments are collected.

**§ 170. Amendment.)** Section 40-28-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-28-05. Sewer and Water Connections Assessment Fund—Warrants—Payment.)** All money collected from assessments for laying and constructing sewer, water, and other service connections provided for in this chapter shall be kept in a fund called "sewer and water connections assessment fund", and warrants shall be drawn on such fund for the payment of the cost of such connections. All sewer and water connections assessment warrants shall be payable as specified and in such amount as in the judgment of the governing body will be provided by the taxes and assessments. Such warrants shall bear interest at a rate of not more than seven percent per annum and interest shall be payable annually. They may have coupons attached representing each year's interest. The warrants shall state on their face the purpose for which they were issued and from what fund they are payable, and shall be signed by the executive officer, countersigned by the city auditor under the seal of the municipality, and shall be in denominations of not to exceed one thousand dollars each. The warrants may be used to make payment on contracts for making the connections or may be sold for cash at not less than the par value thereof and the proceeds credited to the special fund and used to pay for such connections. Except as otherwise provided in this section, a municipality shall not be liable generally on any contracts for the making of such connections and shall not be required to pay funds raised by general taxation upon any such contract. Whenever all taxes and assessments collected are insufficient to pay the warrants issued, with interest, the governing body, upon the maturity of the last warrant, shall levy a tax upon all of the taxable property in the municipality for the payment of such deficiency; provided, however, that if at any time prior to the maturity of the last warrant a deficiency is likely to occur within one year or exists in the fund for the payment of principal and interest due on such warrants, the governing body, in its discretion, may levy a general tax upon all the taxable property in the municipality for the payment of such deficiency. In case a balance remains unexpended in such fund after the payment of all warrants drawn thereon with interest, it shall be paid over or transferred to the general fund of the municipality.

**§ 171. Amendment.)** Section 40-28-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-28-06. Plans and Specifications Ordered for Service Connections.)** After the adoption of the resolution declaring the

necessity of making the service connections as provided in section 40-28-01, the governing body, by resolution, shall direct the engineer acting for the municipality to prepare plans and specifications for the work and file them with the city auditor.

**§ 172. Amendment.)** Section 40-28-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-28-07. Bids for Service Connections—Advertising—Accompanied by Check—Awarding—Returning Checks.)** The governing body shall direct the city auditor to advertise for bids for the laying and construction of service connections in accordance with the plans and specifications therefor. Each bid shall be accompanied by a certified check in the amount of five hundred dollars to guarantee the entering into the contract if the contract is awarded to him. Bids shall be received by the governing body. The governing body may reject any or all bids for work on service connections and may readvertise for other bids. If all the bids are not rejected, the contract shall be awarded to the responsible bidder whose bid is the lowest upon the basis of cash payment for the work if such bidder has complied with all the requirements of this chapter and furnished the required bond. Upon the awarding of the contract, the checks of all unsuccessful bidders shall be returned to them.

**§ 173. Amendment.)** Section 40-28-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-28-08. Bond Required of Successful Bidder for Making Service Connections — Amount — Conditions — Approval.)** A bond in the sum of one thousand dollars shall be executed by the successful bidder and a surety company authorized to do business in this state, or by two acceptable freeholders of the state. The aggregate of the justification shall equal the amount of the bond. The bond shall be conditioned that if the bid is accepted and the contract is awarded to the bidder:

1. He well and faithfully will perform the work bid for;
2. He will fulfill the guaranty in accordance with the terms of and within the time provided for in such contract and pursuant to the plans and specifications for such work on file in the office of the city auditor;
3. He will pay for all labor and material used in the work; and
4. If the bidder shall fail to perform the contract or to fulfill the guaranties as provided in the contract, the sum named in the bond shall be taken and held to be

fixed and liquidated damages in favor of the municipality and the full amount thereof recovered from the bidder and his sureties in an action by the municipality against them on the bond.

After the bond has been approved by the governing body and filed in the office of the city auditor, it shall be and remain in full force and effect. Upon the filing of his contract and an acceptable bond, the check of the successful bidder shall be returned to him.

**§ 174. Amendment.)** Section 40-28-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-28-09. Contracts for Making Service Connections—Execution—Contents.)** A contract let under the provisions of this chapter shall require the work to be done pursuant to the plans and specifications on file in the office of the city auditor, subject to the approval of the engineer acting for the municipality, and shall provide further:

1. That the governing body shall have the right to suspend the work at any time for improper construction and to relet the contract therefor or to order a reconstruction of the work as to any part thereof improperly done;
2. The time within which the work shall be completed;
3. The period of time for which the work shall be guaranteed as to workmanship and materials;
4. The fund from which the contract price is to be paid by the municipality;
5. That the consideration expressed in the contract is payable only in warrants drawn on the fund described in the contract;
6. That the municipality assumes and incurs no general liability under such contract; and
7. That failure of the engineer to reject work and materials which are not up to specifications and acceptance of the job by the engineer shall not release the contractor from liability for any failure on his part to perform work or furnish materials in accordance with the plans and specifications.

Such contract shall be entered into in the name of the municipality and executed on its behalf by its executive officer and countersigned by its auditor, and the seal of the municipality affixed thereto. When the contract has been signed by the contractor, it shall be filed in the office of the city auditor. The

engineer acting for the municipality shall supervise and inspect the work during its progress.

**§ 175. Amendment.)** Section 40-29-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-29-04. Power of Municipality Upon Failure of Property Owner to Comply with Notice.)** If the sidewalk is not constructed, repaired or rebuilt in the manner and within the time prescribed in the notice, the governing body shall order the work done by such person as it may have contracted with therefor, under the supervision of the city engineer or of the street commissioner in a city having no city engineer, at the expense of the lot or parcel of land adjoining such sidewalk. The expense of constructing, repairing, or rebuilding the sidewalk shall include the expense of giving all notices required by the provisions of this chapter, of making assessments, and of any other nature incurred in doing such work.

**§ 176. Amendment.)** Section 40-29-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-29-05. Assessment of Expense.)** The expense of constructing, repairing, or rebuilding sidewalks shall be assessed against the lots or parcels of land properly chargeable therewith, by the city engineer, or by the street commissioner in cities having no city engineer, who shall return the assessment and file it in the office of the city auditor. The city auditor shall cause such assessment, together with a notice of the time when and place where the governing body will meet to consider the approval thereof, to be published in one issue of the official newspaper of the city at least ten days prior to the meeting of the governing body at which the approval of the assessment will be considered.

**§ 177. Amendment.)** Section 40-29-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-29-07. Advertising for Bids for Sidewalks—Making of Bids.)** The city auditor shall advertise in the official municipal newspaper once each week for two consecutive weeks for bids for the construction of the various kinds of sidewalks in the municipality. The bids shall be made in accordance with the specifications of the ordinance required by section 40-29-01 and shall be accompanied by a certified check in the amount of fifty dollars in accordance with section 40-22-20, and by a bond in the amount of five hundred dollars conditioned as provided in section 40-22-23.

**§ 178. Amendment.)** Section 40-29-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-29-09. City to Deliver Assessment Rolls to County Auditor—Extension—Collection.)** The city auditor shall deliver to the county auditor a duplicate of all assessment rolls containing assessments made under the provisions of this chapter, and the county auditor shall extend the assessments in the proper column against the property assessed. Each assessment shall be collected and the payment thereof enforced as county and state taxes are collected and enforced. When collected, the assessment shall be paid over by the county treasurer to the municipal treasurer in the same manner as other taxes.

**§ 179. Amendment.)** Section 40-29-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-29-10. Review of Assessments—Assessment Book.)** The city auditor shall keep in his office a book called "sidewalk assessment book" and shall enter therein the cost certified by the street commissioner or the governing body as an assessment against the lots or parcels of land adjoining any sidewalk constructed, repaired, or rebuilt under the provisions of this chapter, and the name of the owners of such lots or parcels of land, if the same are known to him. The governing body shall review all assessments and hear all complaints against the same and approve the same as finally adjusted.

**§ 180. Amendment.)** Section 40-29-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-29-12. Procedure for Making Limited Repairs to Sidewalks.)** Whenever, in the judgment of the street commissioner, the necessary repair of sidewalks will not exceed in cost the sum of ten dollars for each twenty-five feet in front of land belonging to the same owner, the commissioner shall notify the city auditor thereof, and the auditor forthwith shall prepare a written notice, which may be general as to the owners of the lots or parcels of land but which shall describe specifically the lots or parcels of land adjacent to which the sidewalk is ordered repaired. Such notice shall require the owners of the lots or parcels of land described therein to repair the sidewalk to the satisfaction of the street commissioner, within a time to be fixed in such notice. The street commissioner shall serve such notice by delivering a copy thereof to the occupant or owner of each lot or parcel of occupied land described in the notice, or by leaving a copy thereof at the dwelling house upon such lot or parcel of land with some

person over the age of fourteen years residing therein. If any lot or parcel of land is not occupied, the commissioner shall serve the notice by posting a copy thereof in a conspicuous place thereon or immediately in front thereof. If such sidewalk is not repaired within the time fixed in such notice, the street commissioner, as soon as practicable, shall repair the same and certify the cost thereof, with his return of service of the notice, to the city auditor, and the cost of such repairs shall be paid out of the sidewalk special fund.

**§ 181. Amendment.)** Section 40-29-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-29-15. Warrants—Payable—Interest—Interest Coupons—Contents — Signed — Denominations — Uses.)** All sidewalk assessment warrants shall be payable as specified and in such amounts as in the judgment of the governing body will be provided by the taxes and assessments. Such warrants shall bear interest at a rate of not more than seven percent per annum and interest shall be payable annually. They may have coupons attached representing each year's interest. The warrants shall state on their face the purpose for which they were issued and from what fund they are payable, and shall be signed by the executive officer, countersigned by the city auditor under the seal of the municipality, and shall be in denominations of not to exceed one thousand dollars each. The warrants may be used in making payment on contracts for making the improvements or may be sold for cash at not less than the par value thereof and the proceeds credited to the special fund and used to pay for such improvements.

**§ 182. Amendment.)** Section 40-29-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-29-17. Property Owners Petition for Drainage and Construction or Repair of Streets and Sidewalks — Regulations Governing.)** If two-thirds of the resident owners in number or in value of the real estate bounding both sides of any street, not less than one block in area, shall petition the governing body of a municipality to have such street ditched for the purpose of draining the same or any property abutting thereon, or for the construction or repairing of a sidewalk thereon, or if two-thirds of the owners of real estate in number or in value on one side of such street shall desire a sidewalk on that side, the governing body shall levy and cause to be collected by tax upon the real estate on such street or part of street, such sum of money as is necessary for the improvement of the street or sidewalk or the building of the sidewalk in front of each of

the several lots or at the side of any corner lot or lots or real estate. No real estate shall be taxed as provided in this section for sidewalks built at a greater distance from the front of the real estate than one-half of the distance to the opposite side of the street.

**§ 183. Amendment.)** Section 40-29-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-29-18. Snow and Ice Removal from Sidewalks—Assessment—Street Commissioner to Make and File Assessment List.)** If snow and ice are not removed from sidewalks within the time and in the manner provided by the ordinances of the municipality, the snow and ice may be removed by or under the direction of the street commissioner and the necessary expense thereof shall be chargeable against the abutting property. Annually, on or before May first, the street commissioner shall make and file in the office of the city auditor a list showing separately the amount chargeable and assessed against each lot and tract and stating the name of the owner of each such lot or tract so far as known to him.

**§ 184. Amendment.)** Section 40-29-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-29-19. Notice of Meeting of Governing Body to Confirm Snow and Ice Removal Report and Assessment.)** The city auditor shall give notice of the hearing and confirmation of the report of snow and ice removal and of the assessment therefor at the regular June meeting of the governing body. Such notice shall notify all persons objecting to the report and assessment to appear and present their objections. The notice shall be published once each week for two consecutive weeks in the official municipal newspaper and the last publication shall not be less than eight days before the date set for the hearing.

**§ 185. Amendment.)** Section 40-29-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-29-20. Hearing on Snow and Ice Removal Assessment—Confirmation—Certificate Attached to Assessment List.)** At the meeting of the governing body in June or at such later meeting as the hearing and confirmation of such assessment may be adjourned to, the governing body shall consider and hear any objection to the snow and ice removal assessment, or to any part thereof, and after revising or correcting the assessment, if revision or correction is necessary, it shall approve

and confirm the same. The city auditor shall attach to the assessment list his certificate that the list is correct as confirmed by the governing body and shall file the same in his office, and shall certify the assessment in the manner provided in section 40-24-11.

**§ 186. Amendment.)** Section 40-33-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-33-03. Sale or Lease of Plant, System, or Line—Offer or Written Proposition—Election—Proceeds.)** No municipality shall sell any municipal plant, system, or line, nor lease the same, or any substantial part thereof, or interest therein, to any person, firm, or corporation unless the person, firm, or corporation shall have filed in the office of the auditor of the municipality a complete written offer or proposition, nor unless a majority of the qualified electors of the municipality shall have voted in favor of accepting the offer or proposition at an election called, held, and conducted as specified in section 40-33-02. A copy of the offer or proposition shall be published with the notice of the election. The proceeds of any sale or lease made according to this section shall be applied toward the payment of the existing indebtedness of the municipality incurred for the purpose of purchasing, erecting, operating, or enlarging, improving, or extending such plant, system, or line. The purchaser or lessee, however, shall not be required to see that the consideration of the purchase or lease is applied correctly as provided in this section, but he shall be protected fully in making the payment or payments by the receipt of the treasurer of the municipality. Nothing contained in this section shall prevent the governing body from selling or disposing of any machinery, material, or other property belonging to any such utility which may have been inadequate or insufficient for the purposes for which it was intended to be used.

**§ 187. Amendment.)** Section 40-33-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-33-14. Contract to Supply Surplus Water or Electricity Outside of Municipal Limits—Regulations Governing.)** If the governing body decides to furnish electricity or water outside the municipal limits, it shall be done by a contract authorized by the governing body and executed on its part by the executive officer and the city auditor and by the customer or customers to be supplied. No such contract shall be authorized or entered into at any rate or price for electricity or water which shall discriminate against the inhabitants of the municipality, or which shall impose any direct tax burden upon the

taxable property in the municipality, or in such amount as will interfere with the ability of the municipality to provide adequate electricity or water for its own use and the use of the inhabitants thereof.

**§ 188. Amendment.)** Section 40-33-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-33-16. Municipality May Purchase Water for Distribution.)** Any city owning a system for the distribution of water for fire protection and other public purposes and for selling water to its inhabitants and industries, but for which the water supply is unsuitable or inadequate, may contract to purchase water at wholesale for such purposes from any person, firm, or public or private corporation able and willing to furnish the same, upon such terms and during such period, not exceeding forty years, as the city governing body shall deem appropriate. Any such contract shall be authorized by an ordinance submitted to the voters for approval by a majority of those voting on the proposition before it takes effect. In and by such ordinance and contract, the city may bind itself:

1. To establish and maintain rates and charges for supplying water by it to its inhabitants and industries, either according to a prescribed schedule agreed upon or sufficient to produce net stated amounts for specified periods during the life of the contract, or both, and to appropriate and use the same for payments to become due under the contract, and, if the contract so provides, the city shall be obligated to pay for such water solely out of such net revenues;
2. To pay, at an agreed rate or rates, for all water taken by the city under such contract and not resold by it; and
3. To do and perform any other acts or things which, in the discretion of the governing body, are deemed reasonable and appropriate for the procurement of such water on the most efficient and economical basis.

If any payments under any contract are to be made solely out of net revenues, the contract may fix and prescribe the method or basis on which net revenues are to be computed.

**§ 189. Amendment.)** Subsection 5 of section 40-34-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. From moneys secured by the issuance and sale of first mortgage bonds secured by the assets and property of the improvement or system in like manner as provided

in subsection 4 of this section, except that such bonds may be issued for the total cost of the improvement upon compliance with this subsection. Bonds issued under this subsection shall be secured by a pledge of the net revenues of the improvement or system to be set apart as an interest and sinking fund to pay the principal and interest of such first mortgage bonds as they mature. If the method provided in this subsection is utilized by any municipality to defray the cost of a sewage disposal system, it, by a resolution of its governing body, shall create the district, provide for and approve the plans and specifications and estimates of the cost, and adopt and publish the resolution declaring the work necessary to be done in accordance with the requirements of chapter 40-22 as far as the same may be applicable. If the owners of property liable to be imposed with the sewage disposal service charges as provided in this subsection shall file with the city auditor, within thirty days after the first publication of the resolution, a written protest against the improvement, the governing body at its next meeting after the expiration of the time for filing protests against the improvement, shall hear and determine the sufficiency of the protests. After the hearing has been had, the governing body, if it finds the protests to contain the signatures of the owners of a majority of the property liable to be charged, shall not proceed further with the improvement. If the protests are found insufficient or invalid, the governing body of the municipality may cause the improvement to be made, contract therefor, and defray the cost thereof in the manner provided in this subsection.

**§ 190. Amendment.)** Section 40-38-03 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-38-03. Board of Directors—Appointment—Term of Office—No Compensation—Filling Vacancies—Organization.)** The school board of a city establishing a public library and reading room, or of the school district within which such city is included, or the board of county commissioners for a county library, shall appoint a board of five directors representing both sexes from the citizens of the county or city, as the case may be, to govern such library and reading room. One of the directors of a municipal library shall be a member of the school board, and one member of a county board of directors shall be a member of the board of county commissioners. The terms of office of the members of the first board of directors shall be as follows: one member shall hold office for one year; two members shall hold office for two years; and two members

shall hold office for three years. The members, at their first meeting, shall determine the length of their respective terms by lot. Thereafter, the number of directors required to fill expired terms shall be appointed each year, and each such director shall hold office for a term of three years from the first day of July in the year of his appointment and until his successor has been appointed. No member of such board shall serve for more than two consecutive terms, after which an interval of one year must elapse before the same member may be reappointed. All vacancies on the board of directors shall be reported by such board to the school board or board of county commissioners, as the case may be, and shall be filled thereby. Appointments made to fill unexpired terms shall be for the residue of the term only. No compensation shall be paid or allowed to a director. Immediately after the appointment of its members, the board of directors shall meet and organize by electing a president and a secretary from among its number.

**§ 191. Amendment.)** Section 40-38-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-38-10. Contributions by Political Subdivision to Establishment of Library Without Election Authorized.)** To aid and facilitate the organization of library service, the governing body of any city where the population is less than twenty-five hundred may appropriate annually from its general fund a sum not to exceed one thousand dollars for the purchase of books and periodicals to remain the property of the city and to be lent to any local library for free public use. The governing body shall appoint a book committee of three who shall select the books and periodicals from standard and recommended lists furnished by the state library commission. The selections so made by such committee shall be submitted to the governing body for approval and purchase by such governing body, provided that the amount so expended for such books and periodicals shall be within the amount appropriated therefor. Books and periodicals purchased with this fund shall be properly stamped as belonging to the city. Such appropriation shall be made and books and periodicals purchased without submitting the same to vote as provided in section 40-38-02.

**§ 192. Amendment.)** Section 40-39-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-39-01. Survey, Plat, and Estimate Made by City Engineer.)** Whenever the governing body of a municipality shall deem it necessary to open, lay out, widen, or enlarge any street, alley, or public place within the municipality, it shall

cause an accurate survey and plat to be made by the city engineer, county surveyor, or other competent civil engineer, with an estimate of the probable cost of the improvement. Such engineer or surveyor shall file the survey, plat, and estimate in the office of the city auditor and shall retain a copy in his office.

**§ 193. Amendment.)** Section 40-39-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-39-02. Taking Private Property by Purchase or Eminent Domain—Special Assessments Levied—Limitation on General Tax.)** If it is necessary to take private property in order to open, lay out, widen, or enlarge any street or alley in any incorporated municipality, it shall be done by purchase or by the exercise of the right of eminent domain. When property is purchased or a judgment for damages is entered for property taken for any such improvement, the governing body shall certify the purchase or judgment to the special assessment commission, which shall levy special assessments upon the property benefited to pay such judgment or the purchase price. Not more than three-fourths of the purchase price or judgment may be paid by the levy of a general tax upon all the taxable property in a city.

**§ 194. Amendment.)** Section 40-39-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-39-03. Grades of Streets, Alleys, and Sidewalks—Established—Record—Changing—Liability.)** The governing body, by ordinance, may establish the grade of all streets, alleys, and sidewalks in the municipality as the convenience of its inhabitants may require. A record of the grades, together with a profile thereof, shall be kept in the office of the city engineer, or of the city auditor, if the city has no engineer. If the municipality changes the grade of any street after it has been established, it shall be liable to the abutting property owners for any damage they may sustain by reason of any permanent improvements made by them to conform to the grade as first established.

**§ 195. Amendment.)** Section 40-39-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-39-06. Petition Filed with City Auditor—Notice Published—Contents of Notice.)** If the governing body finds that the petition for vacation is in proper form and contains the requisite signatures, and if it deems it expedient to consider

such petition, it shall order the petition to be filed with the city auditor who shall give notice by publication in the official newspaper of the municipality at least once each week for four weeks. The notice shall state that a petition has been filed and the object thereof, and that it will be heard and considered by the governing body or a committee thereof on a certain specified day which shall be not less than thirty days after the first publication of the notice.

**§ 196. Amendment.)** Section 40-39-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-39-08. Resolution To Be Published, Filed, and Recorded—Effect.)** Before the resolution declaring the vacation of a public ground, street, or alley shall go into effect, it shall be published as in the case of ordinances. A transcript of the resolution, duly certified by the city auditor, shall be filed for record and duly recorded in the office of the register of deeds of the county in which the municipality is situated, and such resolution thereafter shall have the effect of conveying to the abutting property owners all of the right, title, and interest of the municipality to the property vacated.

**§ 197. Amendment.)** Section 40-40-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-40-02. Definitions.)** In this chapter, unless the context or subject matter otherwise requires:

1. The term "governing body" shall mean the city council, board of city commissioners, park commissioners, or city manager;
2. The term "municipality" shall mean any city or park district in this state.

**§ 198. Amendment.)** Subdivision A of subsection 2 of section 40-40-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- A. Group A shall cover all maintenance and operation expenses, including all wages, salaries, and other items which comprise the current expenses of the municipality. Although the whole amount paid for wages and salaries may be stated in one sum in the budget statement, there shall be on file with the governing body and open to public inspection a detailed statement showing the names of all persons receiving salaries or wages and the annual amount paid to each person. Municipalities may also include as items of expense the following, which shall be placed in separate funds:

- (1) Equipment replacement. Such amount shall not exceed the total of the anticipated reasonable costs of depreciation for the ensuing fiscal year, based on current costs, on all equipment owned by the city, and no expenditure shall be paid out of said equipment replacement fund except for the purchase of equipment to replace equipment which is worn out, damaged or obsolete. The term "equipment" shall not include structures or building fixtures.
- (2) Snow removal reserve. Such amount shall not exceed the total of the anticipated reasonable costs of snow removal for the ensuing fiscal year, based on current costs and previous experience, and no expenditure shall be paid out of removal reserve fund except for the removal of snow from public streets or ways.
- (3) Flood control reserve. Such amount shall not exceed the total of the anticipated reasonable costs of flood control for the ensuing fiscal year, based on current costs and previous experience, and no expenditure shall be paid out of said flood control reserve fund except for the actual costs of flood prevention and control to the municipality.

**§ 199. Amendment.)** Section 40-40-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-40-06. Notice of Preliminary Budget Statement—Contents—How Given.)** After the governing body has prepared the preliminary budget statement, the auditor of the municipality shall give notice that:

1. The preliminary budget is on file in the office of the auditor and that such budget may be examined by anyone requesting to do so;
2. The governing body will meet on the fourth Wednesday in July at a time and place specified in the notice for the purpose of adopting the final budget and making the annual tax levy; and
3. The governing body will hold a public session at such time and place at which any taxpayer may appear and discuss with such body any item of proposed expenditures or may object to any item thereof or to the amount of any such item.

The notice shall contain a statement of the total proposed expenditures under each group provided for in the preliminary budget and of the total proposed expenditures under all such

groups, but need not contain any detailed statement of the proposed expenditures. Such notice shall be published at least once, not less than six days prior to the budget hearing, in a newspaper published in the municipality, if there is one, and if no newspaper is published in the municipality, the notice shall be published not less than six days prior to such meeting in the official county newspaper.

**§ 200. Amendment.)** Section 40-40-10 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-40-10. Certified Copies of Levy and Final Budget Sent to County Auditor.)** Immediately after the completion of the final budget and the adoption of the annual tax levy by the governing body of a municipality in accordance with the provisions of this chapter, and in no case later than September fifteenth, the auditor of the municipality shall send to the county auditor two certified copies of the levy as adopted and two certified copies of the final budget.

**§ 201. Amendment.)** Section 40-40-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-40-13. County Treasurer to Collect Municipal Taxes.)** The county treasurer shall collect all municipal taxes, together with the interest and penalties thereon, if any, in the same manner as the general taxes are collected, and shall pay over to the treasurer of the municipality, on the first of each month on demand, all taxes so collected during the preceding month, with interest and penalties collected thereon, and forthwith shall notify the auditor of the municipality of the amount so paid over. The county treasurer shall take duplicate receipts for all amounts so paid to the treasurer of the municipality and shall send one of such receipts to the auditor of the municipality.

**§ 202. Amendment.)** Section 40-40-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-40-14. Municipal Taxes Collected To Be Credited to Appropriate Funds.)** The treasurer and auditor of the municipality each shall apportion the amounts received for taxes from the county treasurer and shall credit each fund with its proportion or share according to the levy made by the governing body of the municipality. The county treasurer, at the time of paying over such funds, shall furnish the treasurer or the auditor of the municipality with a statement of the amount collected for each year separately, and such amount shall be

credited to the proper funds for the year for which it was collected.

**§ 203. Amendment.)** Section 40-40-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-40-17. Transfer from Other Items of Appropriation When Appropriation Insufficient.)** If the appropriation for any particular purpose is found later to be insufficient to meet the necessary expenditures for that purpose, the auditor of the municipality, upon the order of the governing body, shall make a transfer of the required amount from any other item of appropriation. Except as otherwise provided in section 40-40-18, however, no transfers shall be made from a fund within group C to a fund or funds within groups A and B or from a fund or funds within groups A and B to a fund or to funds within group C.

**§ 204. Amendment.)** Section 40-41-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-41-02. Appointments to Board—Certification to City Auditor—Failure of Local Boards to Appoint Members.)** On or before the fifteenth day of July of each year, the governing body of each municipality, school board, and park board mentioned in section 40-41-01 shall appoint its representatives to serve on the board of budget review for the current year. The appointments shall be certified to the city auditor. The auditor shall notify each governing body failing to certify its appointments that the board of budget review will meet for the purpose of organization and the appointment of members at large, giving the time and place of such meeting, and that unless such governing body shall certify the appointment of its representatives on the board on or before the date of the organization meeting, it will be without representation on the board for the current year.

**§ 205. Amendment.)** Section 40-41-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-41-03. Organization Meeting—Clerk—Members at Large Appointed—Members Receive No Compensation—Oath of Office—Vacancies.)** The representatives of the local boards shall meet on the day appointed by the city auditor, which shall be not later than July twentieth, and shall organize by electing a chairman and vice chairman. The city auditor shall serve as clerk of the board of budget review. Such representatives shall appoint the members at large from the resident

freeholders of the municipality or school district. All members shall serve without compensation. Before entering upon the duties of his office, each member shall take, subscribe, and file with the city auditor the oath required of civil officers. Vacancies on the board shall be filled in the manner in which the original appointment was made.

**§ 206. Amendment.)** Section 40-41-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-41-07. Public Hearings on Preliminary Budgets and Proposed Bond Issues—Notice—Record of Proceedings of Board—Expenses of Board.)** The board of budget review shall allow a public hearing on each preliminary budget and on each proposed bond issue submitted to it for review. Public notice of the time and the place of any such hearing shall be given by the board. The board shall keep a record of all of its proceedings, and such record shall be preserved in the office of the city auditor and shall be open to the inspection of the taxpayers of the municipality. The expenses of such board shall be paid by the municipality.

**§ 207. Amendment.)** Section 40-42-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-42-01. Claim Against Municipality for Damages Arising from Defective Streets, Sidewalks, or Bridges Must Be Filed.)** Any claim against a municipality for damages or injuries alleged to have arisen from the defective, unsafe, dangerous, or obstructed condition of any street, crosswalk, sidewalk, culvert, or bridge of the municipality or from the negligence of the municipal authorities in respect to any such street, sidewalk, crosswalk, culvert, or bridge, shall be filed in the office of the city auditor within ninety days after the happening of such injury. Such claim shall be signed and verified by the claimant and shall describe the time, place, cause, and extent of the damage or injury, shall contain an abstract of the facts upon which the claim is based, and shall specify the amount of damages claimed therefor. If it shall appear by the affidavit of a reputable physician that the injured person was rendered, by the injury complained of, mentally incapable of making the claim within the time specified in this section, the claim may be filed, if the claimant survives, within ninety days after the claimant becomes competent to make the same. The affidavit of the physician shall be *prima facie* evidence of mental incapacity, and may be controverted on the trial of an action for such damages. If the injured person shall die within ninety days after the happening of the injury, or before he shall

become mentally competent to make the claim, the claim may be made within ninety days after the death of the injured person by any person having knowledge of the facts, and the person making such claim shall set forth therein specifically the facts relating to the injury of which he has personal knowledge and shall verify such facts positively. The facts of which the person making the claim has no personal knowledge shall be verified to the best of his knowledge, information, and belief.

**§ 208. Amendment.)** Section 40-42-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-42-02. Filing of Claim and Rejection Thereof Conditions Precedent to Bringing Action Against Municipality.)** No action shall be maintained against any municipality for damages or injuries to person or property alleged to have arisen from the defective, unsafe, dangerous, or obstructed condition of any street, crosswalk, sidewalk, culvert, or bridge of the municipality or from the negligence of the municipal authorities in respect to any such street, sidewalk, crosswalk, culvert, or bridge unless it shall appear that the claim upon which the action is brought was filed in the office of the city auditor as required by section 40-42-01, nor unless the governing body of the municipality did not audit and allow the same within sixty days thereafter. It shall be incumbent upon the plaintiff to plead and prove the filing of such claim.

**§ 209. Amendment.)** Section 40-42-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-42-03. Time Limitation on Bringing of Action.)** No action shall be maintained on any claim mentioned in section 40-02-01 unless it is brought within six months after the filing of the claim in the office of the city auditor.

**§ 210. Amendment.)** Section 40-43-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-43-03. Negotiable Bearer Bonds May Be Issued to Pay Compromised Amount — Regulations Governing.)** The compromised amount of a judgment agreed upon may be made payable in stated annual installments over a period not exceeding twenty-five years and at a rate of interest not exceeding five percent per annum. The governing body, by a resolution adopted by an affirmative vote of two-thirds of its members, may issue negotiable bearer bonds payable serially and maturing annually, as the parties may agree, and in the amounts of the annual installments and interest determined by the com-

promise, in satisfaction and discharge of the judgment. Bonds issued under this section shall be delivered to the judgment creditor upon the release of the judgment and in consideration of the full satisfaction thereof. Such bonds shall be executed in the name of the municipality by the executive officer and the auditor thereof. Except as otherwise provided in this chapter, the bonds shall be in the form prescribed for municipal bonds which are payable from the levy of a general tax. Prior to the delivery of the bonds to the judgment creditor, the bonds shall be registered by the officer, in the office, and in the manner provided by the laws of this state for the registration of general obligation bonds of municipalities.

**§ 211. Amendment.)** Section 40-47-01 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-47-01. Cities May Zone—Application of Regulations.)** For the purpose of promoting health, safety, morals, or the general welfare of the community, the governing body of any city may regulate and restrict the height, number of stories, and the size of buildings and other structures, the percentage of lot that may be 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, residence, or other purposes. Such regulations may provide that a board of adjustment may determine and vary the application of the regulations in harmony with their general purpose and intent and in accordance with general or specific rules therein contained.

**§ 212. Amendment.)** Section 40-48-28 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-48-28. Maps Showing Reservations and Future Acquisitions for Streets—Hearing—Notice—Approval by Governing Body—Modifications—Filing.)** After it has adopted any part of a master plan for any part of the territory within its planning jurisdiction, the planning commission may 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 may make a map of the land thus surveyed showing precisely the land which it recommends to be reserved for future acquisition for public streets. Before adopting any such map, the planning commission shall hold a public hearing thereon. A notice of the time and place of the hearing, 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 for the hearing by one publication in the official newspaper of

the municipality if the district or area affected is within the municipality, and in a newspaper of general circulation in the county if the district or area affected is outside of the municipality. After such hearing, the commission may transmit the map as originally made, or as modified by it, to the governing body together with the commission's estimate of the time or times within which the lands shown on the map as street locations should be acquired by the municipality. The governing body, by resolution, may approve and adopt or may reject such map, or it may modify the map with the approval of the planning commission, or in the event of the planning commission's disapproval, the governing body by a favorable vote of not less than two-thirds of its entire membership, may modify such map and adopt the modified map. In the resolution adopting the map, the governing 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 city auditor shall file for record an attested copy of the map with the register of deeds of each county in which the mapped land is located and shall retain one copy for examination by the public.

**§ 213. Amendment.)** Section 40-48-31 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-48-31. Modification of Street Lines — When Allowed — Agreement—Approval of New Map—Filing Map—Abandoning Reservation.)** At any time after the filing of a map of the kind described in section 40-48-28 for record with the 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 shall include a release by the owner of any claim for compensation or damages by reason of such modification. Thereupon, the commission may make a map corresponding to the modification and transmit the map to the governing body. If the modified map is approved by the governing body, the city auditor shall file for records an attested copy thereof with the register of deeds, and the modified map shall take the place of the original map. The governing body, by resolution, may abandon any reservation at any time. Any such abandonment shall be filed for record with the register of deeds.

**§ 214. Amendment.)** Section 40-48-35 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-48-35. Resolution and Map Recorded Upon Adoption.)** Whenever any resolution adopting a street map shall have become final, the city auditor shall record in the office of the register of deeds of the appropriate county a notice referring to the resolution by number and other appropriate description, including the date of its adoption, and setting forth a description of the property contained within the proposed opening and widening lines or between the future street lines and the nearest public highway, together with a copy of the map showing any such line or lines.

**§ 215. Amendment.)** Section 40-49-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-49-02. Municipalities May Take Advantage of Chapter—Vote Required—How Taken.)** Any incorporated city by a two-thirds vote of its governing body, at a regular meeting of such governing body, may take advantage of the provisions of this chapter. The vote of the governing body on such question shall be taken by yeas and nays.

**§ 216. Amendment.)** Section 40-49-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-49-04. Designation of Park District—General Powers—Definition.)** A park district shall be known as "park district of the city of .....". The park district shall have a seal and perpetual succession, and may:

1. Sue and be sued;
2. Contract and be contracted with;
3. Acquire by purchase, gift, devise, or otherwise, and hold, own, possess, and maintain real and personal property in trust for use as parks, boulevards, and ways; and
4. Exercise all the powers designated in this chapter.

"Park", as used in this chapter, and in other statutes relating to park districts, unless from the context a contrary intent plainly appears, shall include, but without limitation thereto, public grounds used or acquired for use as airfields, parade grounds, public recreation areas, playgrounds and athletic fields, memorial or cemetery grounds, and sites or areas devoted to use and accommodation of the public as distinguished from use for purposes of municipal administration.

**§ 217. Amendment.)** Section 40-49-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-49-07. Election and Qualification of Members of Board of Park Commissioners.)** The members of the board of park commissioners shall possess the qualifications of electors of the municipality and shall be elected by the qualified electors of the park district. The members of the first board may be elected at any regular municipal election or at a special election called for that purpose by the governing body of the municipality. Thereafter, members of the board shall be elected at the regular municipal elections. Such members shall qualify within ten days after their election by taking and filing with the city auditor the oath prescribed for civil officers.

**§ 218. Amendment.)** Section 40-49-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-49-08. Organization of Board of Park Commissioners—Municipal Treasurer to Act as Treasurer of Board.)** On the third Tuesday in April after their election, the members of the board of park commissioners shall organize the board by selecting a president and a vice president. The treasurer of the municipality shall be ex officio treasurer of the park district and shall take oath prescribed for civil officers and shall furnish such bond as may be required by the board.

**§ 219. Amendment.)** Subsection 1 of section 40-49-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Acquire by purchase, gift, devise, condemnation, or otherwise, land anywhere within this state for parks, boulevards, and ways. The board shall have the sole and exclusive authority to maintain, govern, and improve the land, and to provide for the erection of structures thereon. Such parks, boulevards, and ways shall be considered for purposes of taxation and for all other purposes as being within the territorial limits of the municipality. Where the board has acquired the legal title in fee to such lands, it may sell and convey the same. A conveyance shall be executed by the president and clerk of the board upon a resolution approved by not less than two-thirds of the members thereof;

**§ 220. Amendment.)** Section 40-49-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-49-13. Ordinances — Powers Exercised by — Readings — Adopting — Approving — Publication — Enacting Clause.)** The powers of the board of park commissioners shall be exercised by ordinance unless otherwise provided in this chapter. All

ordinances shall be read twice, and at least eight days shall intervene between the readings. Ordinances shall be adopted by a yea and nay vote, shall be approved by the president, shall be published once in the official newspaper of the municipality, and shall go into effect within three days after the publication thereof. The enacting clause of all ordinances shall be: "Be it enacted by the board of park commissioners of the park district of the city of ....."

**§ 221. Amendment.)** Section 40-49-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-49-17. Jurisdiction to Determine Actions Involving Violations of Ordinances of Board of Park Commissioners.)** Full and exclusive jurisdiction to try and determine all causes of action involving violations of rules or ordinances enacted by the board of park commissioners shall be vested in the municipal judge. The procedure, including the right of appeal, shall be the same as in actions involving offenses against city ordinances.

**§ 222. Amendment.)** Section 40-50-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-50-16. Completed Plat Filed with City Auditor—Notice of Completed Plat Published.)** The completed plat shall be filed with the city auditor who shall publish a notice of the filing thereof once each week for three consecutive weeks. Such notice shall stipulate that all interested parties may view the plat and shall set forth a date when the governing body of the municipality will meet to hear and consider objections to the survey as made.

**§ 223. Amendment.)** Section 40-50-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-50-19. Assessment of Costs of New Plat—Publication of Assessments—Approval of Assessments.)** The municipal or other competent engineer making the corrected plat shall assess all cost of making such plat against the property benefited proportionately to the benefits received. The assessments shall be published in full by the city auditor in the official newspaper of the municipality and shall be subject to the approval of the governing body of the municipality after due consideration and hearing of any and all objections at a meeting designated for that purpose in the notice and publication of the assessment. Such assessments, when approved by the governing body, shall be certified to the county auditor and shall be payable in one installment.

**§ 224. Amendment.)** Section 40-50-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-50-22. Application to Alter or Vacate a Townsite—Publication.)** Any proprietor of a townsite who is desirous of altering or vacating the same or any part thereof shall give notice of the intended application by publishing written notice thereof in the official county newspaper once in each week for at least forty days prior to the sitting of the court to which the proprietor intends to make the application.

**§ 225. Amendment.)** Section 40-55-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-55-01. Definitions.)** 1. The term "governing body" as herein used means city council, board of trustees or commissioners of any city, township, the trustees of any school district and the commissioners of any park district in North Dakota.

2. The term "municipality" as used in this chapter refers to and means any city or township in North Dakota.

**§ 226. Amendment.)** Subsections 2, 3, and 4 of section 40-58-19 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

2. "Municipality" shall mean any incorporated city in the state.
3. "Public body" shall mean the state or any municipality, township, board, commission, authority, district, or any other subdivision or public body of the state.
4. "Local governing body" shall mean the city council, the board of city commissioners, or the board of township supervisors, as the case may be.

**§ 227. Amendment.)** Section 40-59-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-59-02. Resolution and Notice of Election.)** The resolution and order of the governing body of the municipality calling an election pursuant to the provisions of this chapter shall contain a general description of the precise purpose for which a tax is to be levied and collected, the maximum mills per annum to be levied not to exceed two mills per annum, and the time when such election shall be held. Notice of the adoption of such resolution and of the election to be held in pursuance thereof shall be published by the auditor thirty days prior to the day of election.

**§ 228. Amendment.)** Section 40-59-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-59-03. Form of Ballot.)** The form of the ballot at an election authorized by this chapter shall be prepared by the auditor and shall be substantially as follows:

Shall a levy of not to exceed two mills be made for the purpose of ..... ?

YES .....

NO .....

There shall be inserted in the blank space in such question appropriate words describing the purpose and nature of the improvement to be undertaken.

**§ 229. Amendment.)** Section 47-19-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**47-19-14. Acknowledgment and Proof—Limited to District of Officer.)** The proof or acknowledgment of an instrument may be made in this state within the judicial district, county, subdivision, or city for which the officer was elected or appointed, before:

1. A judge or clerk of a court of record;
2. A mayor of a city;
3. A register of deeds;
4. A county justice;
5. A United States commissioner;
6. A county auditor; or
7. A township clerk or a city auditor.

**§ 230. Amendment.)** Section 48-04-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**48-04-01. Joint Ownership and Use of Public Buildings and Grounds—Townships—Cities—Special Elections.)** Any civil township and incorporated city located within the boundaries thereof, when authorized by three-fourths of the legal voters of each municipality present and voting at separate elections, may acquire and use jointly any public buildings and grounds within the corporate limits of either one. The question of such joint acquisition and use may be submitted at regular or legally called special elections of both municipalities held not more

than three months apart and when once submitted may not again be submitted within one year.

**§ 231. Amendment.)** Section 48-04-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**48-04-02. Joint Custody and Control of Public Buildings and Grounds.)** Such public buildings and grounds as are provided for in section 48-04-01, shall be in the joint custody and control of the governing boards of such city and township, which shall make and enforce lawful and reasonable regulations for the care, protection, and use thereof.

**§ 232. Amendment.)** Section 48-04-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**48-04-03. Incurring Indebtedness for Payment of Public Buildings and Grounds.)** Townships or cities may incur indebtedness, and may provide for the payment thereof severally, but not jointly, for the acquisition of any such public buildings and grounds in the manner provided by chapter 21-03 of the title Governmental Finance.

**§ 233. Amendment.)** Section 50-16-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**50-16-01. Community Youth Council Authorized.)** A community youth council may be established in any city or township in this state. Such a council may be initiated by:

1. The mayor of any city or by the president of the board of city commissioners;
2. The chairman of the board of supervisors of any township; or
3. The superintendent or principal of the schools of any municipality or community.

**§ 234. Amendment.)** Section 53-02-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**53-02-08. Officer of Law To Be in Attendance at Public Dance.)** It shall be the duty of the sheriff in any county in which any public dance is held outside of an incorporated city, and of the chief peace officer of the city where the dance is held within the limits of a city, to police such dance so that law and order are there maintained. The person conducting any such dance, before the dance shall be held, shall pay to such sheriff or peace officer the expense of any deputy sheriff

or special officer required for the proper policing of such dance, and no such dance shall be permitted to proceed unless such officer is present and his fees are paid. The holding of such dance without giving notice thereof to the sheriff of the county or the peace officer of the city, and without making provision for the policing thereof, is a misdemeanor. No person, directly or indirectly interested or concerned in the giving, holding, or conducting of such public dance, or connected with the person conducting the same, shall be eligible to appointment under this section as a special officer.

**§ 235. Amendment.)** Subsection 3 of section 53-03-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. "Governing body" shall mean a city council, or a board of city commissioners, as the case may be, or the agents of any such governing body duly authorized to make any contract or to issue any permit as provided in this chapter;

**§ 236. Amendment.)** Section 53-06-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**53-06-06. Refusal or Revocation of License—Procedure.)** The attorney general may refuse to issue a license to any person for any place where it appears:

1. That the applicant is an improper person to be licensed;
2. That the place is not provided properly with sanitary equipment;
3. That the building is not suitable for the protection of the life and limbs of the public who may frequent the same;
4. That there are not suitable appliances for the protection of the public in case of fire; or
5. That for any other reason it is an improper place to be licensed.

The attorney general, after a hearing before him upon any violation by a licensee of any statute of this state, is authorized to revoke any license granted pursuant to the provisions of this chapter. After the licensee has pleaded guilty to, or has been convicted of, a violation of any law or ordinance of any city regulating the business licensed a second time, his license shall be revoked and for one year neither he nor any place in which he may have any financial interest may be licensed again.

**§ 237. Amendment.)** Section 57-12-01 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-12-01. Membership of Board—Meeting—Required Attendance of Certain Officials.)** The board of county commissioners, at its regular meeting in July of each year, shall constitute a board of equalization of the assessments made within the county. The chairman of the board shall preside. The county board of equalization shall conduct a continuous day-to-day meeting, not to include Saturdays, Sundays, or legal holidays, until it has completed all duties prescribed by this chapter. The first order of business shall be the equalization of assessments of property assessed by city boards of equalization. The second order of business shall be the equalization of assessments of property assessed by township boards of equalization. The chairman of each city board of equalization, or his appointed representative, and each city assessor shall be present at such meeting during the first order of business. The chairman of each township board of equalization, or his appointed representative, and each township assessor shall be present at such meeting during the second order of business. Each person required by this section to attend the meeting of the county board of equalization shall be compensated at a rate not to exceed ten dollars per day for each day actually and necessarily spent in attendance at such meeting plus the same mileage and expenses as are authorized for subdivision employees and officials. Such per diem and expenses shall be paid by the city or township in the same manner as other city or township expenses are paid.

**§ 238. Amendment.)** Section 57-12-01.1 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-12-01.1. Spot Checks of Real and Personal Property.)** Prior to the annual meeting of the county board of equalization, the board of county commissioners of each county within this state shall provide for spot checks upon property within each county to properly verify the accuracy of the personal property listings and valuations and real property listings and valuations. In the case of personal property the spot checks shall not be less than one percent of the total separately owned personal property assessment listings. In the case of real property, spot checks shall be made only in the year of assessment on not less than one percent of the separately owned tracts or lots. Prior to the meeting at which the board of county commissioners reviews such spot checks and orders corrections in property assessment listings and valuations, notice shall be given to the boards of equalization of town-

ships and cities that their property assessments shall be reviewed. The board of county commissioners shall direct the boards of equalization of townships or cities to make any necessary corrections where omissions or errors in assessment have been found. The board of county commissioners may select such persons or agencies as may be necessary to carry out the provisions of this section and provide for their compensation.

**§ 239. Amendment.)** Section 57-12-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-12-02. Duties of Board as to Assessments in Unorganized Territory.)** The members of the board of county commissioners also shall meet as a board of equalization as respects all assessments made in assessment districts not embraced in a city or organized township, and shall perform the duties prescribed for a township board of equalization as respects unorganized territory, and such board shall be regarded as the local board of equalization for such territory.

**§ 240. Amendment.)** Subdivisions a and b of subsection 2 of section 57-12-06 of the 1965 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

- a. The county board of equalization after notice to the local board of equalization may reduce the assessment on any separate piece or parcel of real estate or on the assessment to any person of any particular item or classification of personal property even though such property was assessed in a city or township having a local board of equalization; provided that the county board of equalization shall not have authority to reduce any such assessment unless the owner of the property or the person to whom it was assessed shall first appeal to the county board of equalization, either by appearing personally or by a representative before the board or by mail or other communication to the board, in which his reasons for asking for the reduction are made known to the board; the proceedings of the board shall show the manner in which the appeal was made known to the board and the reasons for granting any reduction in any such assessment.
- b. The county board of equalization after notice to the local board of equalization may increase the assessment on any separate piece or parcel of real property or on the assessment to any person of any particular

item or classification of personal property even though such property was assessed in a city or township having a local board of equalization; provided that the county board of equalization shall not have authority to increase any such assessment unless it shall first give notice by mail to the owner of the property or the person in whose name it was assessed that such person may appear before the board on the date designated in the notice, which date shall be at least five days after the mailing of the notice; the county auditor as clerk of the board shall send such notice to the person or persons concerned.

**§ 241. Amendment.)** Subsections 1 and 3 of section 57-13-04 of the 1965 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. Equalize the assessment of land by adding to the aggregate value thereof in any assessment district in a county and in every county in the state in which the board may believe the valuation too low, such rate percent as will raise the same to its proper relative value, and by deducting from the aggregate assessed value thereof, in any assessment district in a county and in every county in the state in which the board may believe the value too high, such percent as will reduce the same to its proper relative value. City lots shall be equalized in the manner provided for equalizing other lands;
3. In making such equalization, add to or deduct from the aggregate assessed valuation of lands, city lots, or any class of personal property throughout the state, such percent as may be deemed by the board to be equitable and just, but in all cases of addition to or deduction from the assessed valuation of any class of property in the several assessment districts in each county and in the several counties of the state, or throughout the state, the rate percent of addition or deduction shall be even and not fractional; and

**§ 242. Amendment.)** Section 57-15-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-15-01. Levy in Specific Amounts—Exceptions.)** With the exception of special assessment taxes and such general taxes as may be definitely fixed by law, all state, county, city, township, school district, and park district taxes shall be levied or voted in specific amounts of money.

**§ 243. Amendment.)** Section 57-15-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-15-07. City Tax Levies.)** City taxes shall be levied by the governing body of the municipality at an annual meeting on the fourth Wednesday of July each year, or within ten days thereafter, and in any such levy the governing body shall be limited by the amount necessary to be raised to meet appropriations included in the annual budget of the current fiscal year and to provide a reserve fund as limited in this chapter, together with a tax sufficient in amount to pay the interest on the bonded debt of the municipality, and to provide a sinking fund to pay and discharge the principal thereof at maturity.

**§ 244. Amendment.)** Section 57-15-10 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-15-10. Exceptions to Tax Levy Limitations in Cities.)** The tax levy limitations specified in section 57-15-08 shall not apply to the following items:

1. Taxes levied pursuant to law for a proportion of the cost of a special improvement project by general taxation;
2. Taxes levied pursuant to law for the purpose of paying a deficiency in connection with a special improvement project;
3. Taxes levied to pay interest on a bonded debt, or the principal of such debt, at maturity;
4. Taxes levied for the purpose of paying any final judgment or judgments obtained against any city, if the aggregate amount levied for the purpose of paying any final judgment or judgments shall not exceed such amount as will be produced by a levy of five mills on the net taxable assessed valuation of the property in such city. This section shall not be deemed or construed to modify, qualify or limit the authority of any city to issue bonds pursuant to law in case the governing body of any such city shall not deem it advisable to pay such judgment or judgments out of current revenues;
5. Taxes levied for the purpose of establishing and maintaining a library fund for public library services; and
6. Taxes levied on property located within a municipality and otherwise exempt under the provisions of section 57-02-08 of the North Dakota Century Code, to pay such

property's proportionate share of the cost of fire protection services maintained by the municipal corporation.

**§ 245. Amendment.)** Section 57-15-10.1 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-15-10.1. Counties and Cities May Levy for Certain Advertising Purposes.)** The board of county commissioners of any county, or the governing body of any city may annually levy a tax for the purpose of advertising the resources and opportunities in the county or city as the case may be and promoting the industrial development thereof. Such tax shall not exceed the amount produced by the levy of one-half mill on a dollar of the net taxable valuation of the county or city as the case may be.

When any county or city makes the levy provided for by this section, the expenditure of the fund shall be under the direction of the governing boards of such county or city. The levy of such one-half mill authorized by this section shall not be subject to other mill limitations prescribed by law.

**§ 246. Amendment.)** Section 57-15-27 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-15-27. Interim Fund.)** The governing body of any county, city, school district, park district, or other municipality authorized to levy taxes, may include in its budget an item to be known as the "interim fund" which shall be carried over to the next ensuing fiscal year to meet the cash requirements of all funds or purposes to which the credit of the municipality may be legally extended, for that portion of such fiscal year prior to the receipt of taxes therein. In no case shall such interim fund be in excess of the amount reasonably required to finance the municipality for the first nine months of the next ensuing fiscal year. Such interim fund shall not be in excess of three-fourths of the current annual appropriation for all purposes other than debt retirement purposes and appropriations financed from bond sources.

**§ 247. Amendment.)** Section 57-15-27.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-15-27.1. Cemetery Tax Levies.)** Organized townships and cities are hereby authorized to levy a tax, not exceeding two mills on the dollar of the net assessed taxable valuations of the organized townships or cities, in addition to all levies now authorized by law, for the purpose and to be used exclusively

for the care, maintenance, and improvement of established cemeteries, owned and maintained by such organized townships or cities.

**§ 248. Amendment.)** Section 57-15-30 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-15-30. When Tax in Townships and Cities To Be Levied by County Commissioners.)** Whenever any city or township having an existing liability or indebtedness is authorized to levy taxes for the payment of the same and fails or refuses to elect proper officers for the government of the municipality, the board of county commissioners of the county in which the municipality is located, upon a proper showing by any person having a legal or subsisting claim against the municipality that there are no legal officers in the municipality authorized to levy a tax for the payment of such indebtedness, shall levy a tax as the governing body would be authorized to levy the same for the payment of such indebtedness. Any person having a claim against such municipality shall have the same right to enforce the levy of such tax by the board of county commissioners that he would have had to compel such levy by the officers of the municipality had they been properly elected and qualified.

**§ 249. Amendment.)** Section 57-15-31 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-15-31. Determination of Levy.)** The amount to be levied by any county, city, township, school district, park district, or other municipality authorized to levy taxes shall be computed by deducting from the amount of estimated expenditures for the current fiscal year as finally determined, plus the required reserve fund determined upon by the governing board from the past experience of the taxing district, the total of the following items:

1. The available surplus consisting of the free and unencumbered cash balance;
2. Estimated revenues from the sources other than direct property taxes;
3. The total estimated collections from tax levies for previous years; and
4. Such expenditures as are to be made from bond sources.

Allowance may be made for a permanent delinquency or loss in tax collection not to exceed five percent of the amount of the levy.

**§ 250. Amendment.)** Section 57-15-32 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-15-32. Certification of Levy.)** The taxes levied or voted by any city, township, school district, park district, or other municipality authorized to levy taxes, shall be certified by the officer acting as clerk of the governing body of such municipality to the county auditor immediately following the action of the governing body, or within ten days thereafter.

**§ 251. Amendment.)** Section 57-15-37 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-15-37. Tax Levy for Airport Purposes in Park Districts.)** In park districts supporting airports, a levy in addition to all other levies permitted by law but not to exceed four mills on the net taxable assessed valuation of property in such park district may be made for such purpose; provided, however, that said levy may be made by not more than one of the said political subdivisions in any one taxing district.

**§ 252. Amendment.)** Section 57-15-38 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-15-38. Tax Levy for Construction Fund in Cities.)** The governing body of any city may levy taxes annually for a period not to exceed ten successive years for a construction fund, not in excess of five mills, which levy shall be in addition to and not restricted by the levy limitations prescribed by law, when authorized to do so by sixty percent of the electors voting upon the question at a regular or special election in any city which, at the time of making the annual levy, has no outstanding unpaid certificates of indebtedness, and in which the limitation of levy has not been increased from the basic mill rate. Such construction fund shall be used for paying all or part of the construction of waterworks systems, sewage systems, public buildings, or any other public improvements for which cities are authorized by law to pay for from general tax levies, and the governing body of any city, when submitting to the electors of the city, the question of authorizing the aforesaid tax levy, shall specify the purposes for which said construction fund is to be used. The governing body of such city may create such building fund by appropriating and setting up in its budget, for such an amount not in excess of twenty percent of the current annual appropriation for all other purposes combined, exclusive of the appropriations to pay interest and principal of the bonded debt, and not in excess of the limitations prescribed by law.

**§ 253. Amendment.)** Section 57-15-39 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-15-39. Disposition of Construction Fund Tax.)** Revenues raised for construction purposes shall be disposed of as follows:

1. All revenues accruing from appropriations or tax levies for a construction fund, together with such amounts as may be realized for construction purposes from all other sources, shall be placed in a separate fund known as a city construction fund, and shall be deposited and held as the sinking funds of such cities are held. Such fund shall be used solely and exclusively for the purpose of constructing waterworks systems, sewage systems, public buildings or such other public improvements as the electors may have authorized and shall be paid out by the custodian thereof, only upon order of the governing body of such city, signed by the mayor or president of the board of city commissioners and the city auditor of said city; such order must recite upon its face the purpose for which such payment is made;
2. Any moneys remaining in a construction fund after the completion of the payments for any city construction fund project which has cost seventy-five percent or more of the amount in such construction fund at the time of letting the contracts therefor, shall be returned to the general fund of the city upon the order of the governing body of such city;
3. Upon the first day of June of each year, the custodian of any city construction fund, shall pay into the general fund of such city, any moneys which have remained in such fund for a period of ten years or more, the custodian shall consider that all payments which have been paid from the city construction fund for building purposes have been paid from the fund first acquired.

**§ 254. Amendment.)** Section 57-15-40 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-15-40. Penalty for Unlawful Withdrawal of Construction Fund.)** Every officer participating in the unlawful withdrawal of any city construction fund, shall be guilty of a misdemeanor, and shall be liable for the loss to such construction fund on his official bond.

**§ 255. Amendment.)** Section 57-15-41 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-15-41. Political Subdivision Tax Levies for Payment of Special Assessments Exempt from Levy Limitations.)** No tax levy limitations provided by any statute of this state shall apply to tax levies heretofore or hereafter made by any county, city, school district, park district, or township for the purpose of paying any special assessments made in accordance with the provisions of title 40 of this Code, against property owned by such county, city, school district, park district, or township.

**§ 256. Amendment.)** Section 57-15-42 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-15-42. City Fire Department Reserve Fund Levy.)** The governing body of any city, when authorized to do so by sixty percent of the electors voting on the question in a regular or special election called by the governing body, may levy taxes annually, not in excess of two mills on the net taxable assessed valuation, for a fire department building or equipment reserve fund. Such levy shall be in addition to and not restricted by the levy limitations prescribed by law. The proceeds of such levy shall be placed in a separate fund known as the fire department reserve fund and shall be used solely and exclusively for the purchase of necessary fire fighting equipment or building therefor. No levy shall be made under this section during any period in which the moneys in the fund equal or exceed an amount equal to the sum that would be produced by a levy of ten mills upon the net taxable assessed valuation of the city making such levy.

**§ 257. Amendment.)** Section 57-15-43 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-15-43. Tax Levy for City Having an Organized Firemen's Relief Association—Limitations—Disbursement.)** In addition to any other levies authorized by law for general purposes, any city having an organized firemen's relief association as provided for under chapter 18-05, may levy an annual tax of not more than one-half of one mill upon its taxable valuation for the purpose of assisting such firemen's relief association in providing for the pension and relief provided for by such association.

On the last day of June and December of each year, the treasurer of any municipality covered by this section shall deliver and turn over to the treasurer of any such firemen's relief association, having qualified as provided for in chapter 18-05, all moneys collected under the provisions of this section.

**§ 258. Amendment.)** Section 58-02-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**58-02-10. Division of Township in Which There Are Two or More Municipalities.)** The board of county commissioners may divide a township in which there are two or more cities, each containing two hundred or more inhabitants, upon the petition of a majority of the legal voters to be affected. If the division is ordered, it shall be made in the manner best suited to the convenience of the territory concerned.

**§ 259. Amendment.)** Section 58-03-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**58-03-04. Townships Provide for Confinement of Prisoners.)** A township containing a platted townsite shall have the power, at the annual township meeting, to vote any appropriations necessary to provide a place for the confinement of prisoners, and may adopt such regulations as may be necessary in relation thereto.

**§ 260. Amendment.)** Section 58-04-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**58-04-01. Annual Township Meeting—When Held—Change in Meeting Place—Notice.)** The electors of each township annually shall assemble and hold a township meeting on the third Tuesday in March at such place in the township as the electors thereof at their annual township meetings from time to time shall designate. Notice of the time and place of holding the meeting shall be given by the township clerk by posting written or printed notices in the three most public places in the township at least ten days prior to the meeting. Before a change in the place of holding the annual township meeting is made notice of the contemplated change may be given by any member of the board of township supervisors to the township clerk, who shall incorporate in his regularly printed or written notices, the special notice of the contemplated change of the place of holding such meeting; provided, that where an incorporated city is wholly or partially within the boundaries of a township, all township meetings may be held in such place within such incorporated city, as the electors thereof may designate at an annual township meeting.

**§ 261. Amendment.)** Subsections 4 and 18 of section 58-06-01 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

4. When a city which is laid out into streets is included within the limits of the township, to cause improvements to be made in any street that may be needed as a highway if the city neglects to make the improvements.
18. To pay all, or a part of the cost of electricity used in electrically lighting the streets of cities located within the township.

**§ 262. Amendment.)** Section 58-10-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**58-10-04. Powers of Constables to Arrest for Disorderly Conduct in a City.)** A constable in an organized township containing a city shall have the power to arrest and detain any person for disorderly conduct within the city without process first issuing.

**§ 263. Amendment.)** Section 58-15-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**58-15-01. Petition for Policeman in Townsite—Contents of Petition.)** If sixty percent of the electors residing within the limits of any platted unincorporated townsite shall petition the board of supervisors of the township in which it, or the greater portion thereof, is situated, praying for the appointment of a policeman to serve as a night watchman in such townsite and for the levy of a tax on the property therein to pay such officer, and stating the period for which the appointment is to be made, and the name of the townsite for which such police officer is to be appointed, the board of township supervisors shall appoint such officer for the period designated in the petition and fix his compensation.

**§ 264. Amendment.)** Section 58-15-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**58-15-02. Tax Levy for Policeman—Certification—Extension.)** If a petition filed under the provisions of section 58-15-01 is found sufficient, the board of township supervisors, at the time the general township tax levy is made, shall levy upon all the property within the unincorporated townsite from which the petition is received, the specific amount fixed by the board as the compensation of the policeman. The amount so levied shall be certified to the county auditor when other township taxes are certified. The county auditor shall calculate the mill levy necessary to raise the sum and extend the same on the tax list of the township against the property

within the unincorporated townsite in a column entitled "police tax".

**§ 265. Amendment.)** Section 58-15-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**58-15-03. Bond of Policeman — Removal by Board.** The policeman appointed to act in an unincorporated townsite shall give a bond and qualify in the same manner as township constables. The bond shall be in the amount fixed by the board of township supervisors and shall be filed as other township officers' bonds are filed. The board of township supervisors may remove the police officer whenever it shall deem it expedient.

**§ 266. Amendment.)** Section 58-15-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**58-15-04. Powers, Duties, and Authority of Policeman.)** A policeman appointed under this chapter shall have the same powers, duties, and authority as the constable of the township. During the period for which he is appointed, the policeman shall patrol the unincorporated township each night, and shall guard against fire, theft, and burglary, preserve the peace, and execute the laws of this state.

**§ 267. Amendment.)** Section 58-15-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**58-15-07. Collection, Payment, and Account of Taxes.)** The tax levied to provide a police officer in an unincorporated townsite shall be collected and paid over as other township taxes are collected and paid, and the treasurer of the township shall keep a separate account thereof.

**§ 268. Amendment.)** Section 58-16-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**58-16-01. Petition for Construction of Sidewalks or Installation of Street Lights in Unincorporated Townsites—Contents—Ordering Construction or Installation.)** When a majority of the lot owners on any street in any block within the platted limits of an unincorporated townsite shall petition the board of supervisors of the township in which the unincorporated townsite, or the greater portion thereof, is situated, praying that a sidewalk be constructed or street lights be installed along the side of a street or thoroughfare within the platted limits described in the petition, the board, by resolution, shall

order the construction of the sidewalk or a portion thereof by the owner of the land along which the sidewalk is to be built, if it appears that the sidewalk described and prayed for in the petition is necessary to connect sidewalks already built or that public convenience and necessity require its construction, and shall order and make all necessary contracts and arrangements for the installation of street lights if the public convenience or necessity require the installation.

**§ 269. Amendment.)** Section 58-16-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**58-16-02. Notice to Owner to Construct Sidewalk—Failure to Construct.)** Two publications of the resolution provided in section 58-16-01 in a paper printed or published in the unincorporated townsite shall be sufficient notice to the owner of the land along which the sidewalk is to be built to construct the same. If no newspaper is published in the unincorporated townsite, the resolution shall be published in a newspaper in the municipality nearest to the unincorporated townsite. If the owner fails to construct a fully completed sidewalk within thirty days after the last publication of the resolution, the board of township supervisors shall cause such portion of the sidewalk as has not been built by the owners of the lands to be built at the expense of the owners upon contract or in such manner as the board may determine.

**§ 270. Amendment.)** Section 61-01-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**61-01-18. State or Municipalities May Join Water Users' Associations—Fee for Recording Articles by Register of Deeds.)** The state of North Dakota, through the board of university and school lands, and the counties, townships, and cities of the state, through their corporate authorities, may join water users' associations. The register of deeds shall accept from water users' associations organized in conformity with the requirements of the United States under the Reclamation Act, books containing printed copies of their articles of incorporation and forms of subscription to stock, and shall use such books for recording the stock subscriptions of such associations. The charges for the recording thereof shall be made on the basis of the number of words actually written therein.

**§ 271. Amendment.)** Section 61-21-62 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**61-21-62. Board of Drain Commissioners May Apportion Assessments for Benefits of an Established Drain Against a County or City or Any Tract of Land Benefited by an Established Drain.)** Whenever a board of drain commissioners discovers or ascertains that the county, a township, or city therein, or that any tract, parcel or piece of land is being benefited by an established drain and that the county or such township, municipality, tract, piece or parcel of land was not included in the drainage area assessed for the cost of construction and maintenance of the drain when established, the board shall commence proceedings for reassessment of lands originally assessed for the cost of establishing and constructing such drain and shall apportion and assess the part of the balance remaining unpaid, if any, of the cost of such drain, and the expense of maintenance thereof, which such county, township, or city and each tract of land found benefited thereby should bear.

Before making such reassessment or reapportionment of benefits, the board shall hold a hearing for the purpose of determining the benefits of the drain to the county, such township, or city and to each tract, piece or parcel of land being benefited. At least ten days' notice of such hearing shall be given by publication in a newspaper having general circulation in the county and by mailing notice thereof to each owner of land assessed for the cost of construction and maintenance when the drain was established, and by mailing such notice to the governing board of the county, township, municipality and to the owner of each tract, piece or parcel of land found to be benefited since the establishment of the drain, as determined by the records in the office of the register of deeds or county treasurer. The provisions of this chapter governing the original determination of benefits and assessment of costs shall apply to the reassessment and assessment of benefits carried out under the provisions of this section.

**§ 272. Amendment.)** Section 62-01-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**62-01-06. License to Carry Weapon—Who May Issue.)** A license to carry a pistol within this state may be issued upon application by any of the following persons:

1. A judge of a court of record of this state;
2. The chief of police of any city in this state;
3. The sheriff of any county in this state; and
4. Any person authorized to issue such licenses by any of the officers hereinbefore named.

**§ 273. Amendment.)** Section 63-02-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**63-02-01. Commissioners of Noxious Weeds—Appointment—Oath—Term of Office—Removal from Office.)** The board of county commissioners of any county whenever deemed advisable may, and if petitioned by at least ten percent of the freeholders of the county, shall appoint in and for each commissioner district therein a competent person commissioner of noxious weeds. Likewise the governing board of any city, township, or irrigation district in any county may, when considered advisable, and shall when petitioned by ten percent of the freeholders thereof, submit such questions to the electors of such municipality or subdivision at the next special or general election, and if approved by a majority vote such governing board shall appoint in and for the city, township, or irrigation district, as the case may be, a weed commissioner. A person appointed weed commissioner by a board of county commissioners or by the governing board of a city, township, or irrigation district therein shall qualify by taking the oath of office required of civil officers and shall hold office for the term of one year and until his successor is appointed and qualified. Any weed commissioner may be removed from office by the board which appointed him and his successor appointed to serve the balance of his term.

**§ 274. Amendment.)** Section 63-02-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**63-02-03. Deputy Commissioners of Noxious Weeds—Appointment—Term of Office—Compensation.)** Each commissioner of noxious weeds may, with the consent and approval of the board which appointed him, appoint one or more deputies. Each such deputy commissioner of noxious weeds shall serve during the pleasure of the commissioner of noxious weeds or of the board which appointed the commissioner of noxious weeds. A deputy weed commissioner shall receive such compensation for his services as shall be fixed by the board of county commissioners or the governing board of the city, township, or irrigation district in and for which he is appointed.

**§ 275. Amendment.)** Section 63-02-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**63-02-05. Reports of Commissioners of Noxious Weeds—When and Where Filed—Duty of County Agents and Director of Extension Service.)** 1. Every commissioner of noxious weeds appointed by a board of county commissioners or the

governing board of a city, township, or irrigation district shall report to the county extension agent of the county in which he serves as commissioner of noxious weeds, the existence in his district, city, or township, as the case may be, of such weeds, the varieties thereof, and his treatment of the premises infested thereby; and if a county agent is not employed in his county, he shall submit such report to the director of the extension service of the North Dakota agricultural college. It shall be the duty of each county extension agent to report to the director of the extension service the presence of noxious weeds in his county, and the varieties thereof, and what methods, if any, are employed to combat and eradicate such weeds. The director of extension shall assemble and compile the data and information contained in such reports and shall furnish such county agent or weed commissioner information, advice, and direction for the eradication of such weeds. And it shall be the duty of a county agent to advise, consult and cooperate with the commissioner of noxious weeds in his county in the work of eradicating such weeds.

2. Every commissioner of noxious weeds, on or before the first day of December in each year shall submit a written report to the governing board of the county, city, township, or irrigation district, which appointed him. Such report shall be filed with the county auditor, or auditor of the city or clerk of the township, or irrigation district, as the case may be. The report shall be publicly read at the regular meeting of such board following its filing and shall be subject to inspection thereafter by any person interested. Such report shall clearly state and show:

- a. Where noxious weeds are growing in his district;
- b. If any are growing, where and to what extent and when and how the same were introduced;
- c. A detailed statement of his treatment of each infected tract, with the cost and result thereof;
- d. His views on the further treatment of each infected tract and such suggestions and recommendations as he may deem proper and useful;
- e. Such other matters as may be required by the board of county commissioners or governing board of a city, township, or irrigation district.

**§ 276. Amendment.)** Section 63-02-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**63-02-06. Tax Levy to Cover Salary and Expenses of Weed Commissioners—Appropriation—Audit and Allowance.)** The board of county commissioners of any county and the governing board of a city, township, or irrigation district may, if found necessary, levy a tax on all taxable property therein to cover the salary and expenses of each commissioner and deputy commissioner of noxious weeds and the cost incurred in the eradication of such weeds. Such tax may be levied in excess of the mill levy limit prescribed by law for general purposes but any such excess levy must first be approved by the electors of such county, city, township, or irrigation district at any special or general election. Payment of salary and expenses of a commissioner of noxious weeds and of his deputy, if any, and other expenses, shall be made upon verified vouchers duly audited and approved in the manner provided for payment of ordinary expenses.

**§ 277. Amendment.)** Section 63-02-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**63-02-07. Notice to Destroy Noxious Weeds.)** If a commissioner of noxious weeds, or his deputy, finds noxious weeds on any land within his district, city, or township, including streets, highways, railroad rights-of-way and state school lands, he shall immediately notify in writing, the owner, lessee or occupant of such land, or the person, agent or official having the care thereof, to cause such weeds to be destroyed on or before a date stated in the notice. The date so fixed shall not be less than five days from the date of the serving or posting of such notice.

**§ 278. Amendment.)** Subsection 4 of section 63-02-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. If any such weeds are found growing upon land owned by a nonresident of the county, city, township or irrigation district in which the land is located and the owner has no agent known to the commissioner of noxious weeds residing in the county, city, township, or irrigation district, the notice shall be served by posting the same in a conspicuous place upon the land where it can be seen by the traveling public; and

**§ 279. Amendment.)** Subsection 3 of section 63-02-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. A notice requiring such person to pay the sum set forth in the statement to the treasurer of the county, city,

township, or irrigation district in which such real estate is located within twenty days after the date of the mailing of the statement; and

**§ 280. Amendment.)** Section 63-02-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**63-02-14. Expenses Not Collected from Private Persons Payable by County, City, District or Township.)** If any owner, lessee, occupant, agent, or person who is in charge, of any land fails to make the payment demanded in any verified statement mailed to him within the time stated therein, the county auditor shall present the statement to the governing board of the county, city, district, or township as the case may be, and the board shall allow the same and the sum so allowed shall be paid by the county, city, district, or township treasurer out of the proper fund.

**§ 281. Amendment.)** Section 63-02-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**63-02-16. When Authority of Overseers of Highways Over Destruction of Noxious Weeds Suspended.)** In any county, city, district, or township which adopts the provisions of this chapter, the authority granted to overseers of highways under the provisions of section 63-01-06 shall be suspended with reference to noxious weeds while the provisions of this chapter are in effect in such county, city, district, or township.

**§ 282. Amendment.)** Section 63-03-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**63-03-01. Weeds and Grasses on Highways, Streets, and Alleys—Who to Destroy—When To Be Destroyed—Compensation for Destroying.)** Except in the case of highways under the jurisdiction of the state highway department, the overseer of highways in each organized or unorganized township and the street commissioner in each city within this state, at least twice in each year, shall cut or destroy, or cause to be cut or destroyed, all weeds and grasses of every name, nature, and description growing along or upon the entire width of all graded public highways or streets and alleys in his road district or city, as the case may be. Such weeds and grasses shall be cut or destroyed once between July first and July fifteenth and once between September fifteenth and October first of each year. The work required to be done by the provisions of this section shall be paid for out of the road fund of the township or city.

**§ 283. Transition of Villages to Cities.)** Upon the effective date of this Act, the village officers then in office shall assume the duties of and exercise the powers conferred upon like officers of a city operating under the council system of municipal government, until their successors are elected and qualified pursuant to chapter 40-08, or appointed pursuant to section 40-14-04.

1. The president of the board of trustees shall become the mayor;
2. The village trustees shall become the aldermen;
3. The village clerk shall become the city auditor and the village assessor shall become the city assessor, unless and until the mayor, with the approval of the city council, appoints another;
4. The village attorney and engineer shall become the city attorney and engineer, unless and until the mayor, with the approval of the city council, appoints another; and
5. The municipal judge shall continue to act in that capacity.

**§ 284. Trustees to Become Aldermen—Number of Aldermen.)** In the event that the number of trustees in any village should exceed five, the provisions of section 40-08-03, limiting the number of aldermen in council cities, shall not apply to municipalities in the above-mentioned category, until the next regularly scheduled election for municipalities having a council form of government. At such time, municipalities having such excess aldermen shall conform to the provisions of section 40-08-03.

**§ 285. Repeal.)** Section 16-10-05, subsection 3 of section 21-03-06, subsection 3 of section 21-03-21, chapter 40-03, sections 40-05-04, 40-05-07, chapter 40-07, sections 40-19-04, 40-21-04, 40-29-06, 40-49-06, 40-49-19, 40-51-13, 40-51-14, 40-51-15, 40-51-16, chapters 40-53 and 57-10, and section 57-15-09 of the North Dakota Century Code, relating to villages and their powers, duties, officers, and organization, are hereby repealed.

Approved March 15, 1967.

## CHAPTER 324

H. B. No. 673  
(Kelsch, Bullis, Hensrud)

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### POWERS OF CITIES

#### AN ACT

To create and enact subsections 25, 26, and 27 of section 40-05-02 of the North Dakota Century Code, relating to the powers of cities.

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

§ 1.) Subsections 25, 26, and 27 of section 40-05-02 of the North Dakota Century Code are hereby created and enacted to read as follows:

25. **Assault and Battery.** To prohibit by ordinance and prescribe the punishment for the commission of assault and battery within the jurisdiction of the city.
26. **Petit Larceny.** To prohibit by ordinance and prescribe the punishment for the commission of petit larceny as defined by section 12-40-03 of the North Dakota Century Code within the jurisdiction of the city.
27. **Peace Bonds.** To provide by ordinance for the issuance of peace bonds by the police magistrate in accordance with the procedure in chapter 29-02 of the North Dakota Century Code.

Approved February 27, 1967.

**CHAPTER 325**

H. B. No. 560  
(Boustead, Lang)

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**TAX LEVY FOR FIRE DEPARTMENT STATIONS****AN ACT**

To amend and reenact section 40-05-09.1 of the 1965 Supplement to the North Dakota Century Code, relating to a tax levy for fire department stations.

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

**§ 1. Amendment.)** Section 40-05-09.1 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**\*40-05-09.1. Tax Levy for Fire Department Stations.)** Upon approval of a majority of the electors voting thereon at any regular election or special election called for such purpose, the governing body of any city may levy taxes annually, not in excess of five mills on the net taxable assessed valuation, for the purpose of providing additional funds to meet the operational and maintenance costs of establishing stations for fire protection services. Such levy shall be in addition to and not restricted by the levy limitations prescribed by law.

Approved March 4, 1967.

**\*Note:** Section 40-05-09.1 was also amended by section 119 of chapter 323, 1967 S.L.

## CHAPTER 326

S. B. No. 246  
(Litten, Goldberg)

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### SALARIES OF CITY COMMISSIONERS

#### AN ACT

To amend and reenact section 40-09-06 of the North Dakota Century Code, relating to the salaries of city commissioners.

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

**§ 1. Amendment.)** Section 40-09-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-09-06. Style of Board—Oath and Salary of Commissioners.)** The commissioners and president of the board collectively shall constitute and be known as the "board of city commissioners of the city of . . .", and shall take an oath faithfully to perform the duties of their respective offices. The salaries of the city commissioners shall be fixed by ordinance subject to the following limitations based upon the population of the city according to the latest state or federal census:

1. In cities not exceeding one thousand in population, each commissioner may receive a monthly salary of not to exceed fifteen dollars;
2. In cities over one thousand and not exceeding two thousand in population, each commissioner may receive a monthly salary of not to exceed twenty-five dollars;
3. In cities over two thousand and not exceeding four thousand in population, each commissioner may receive a monthly salary of not to exceed fifty dollars;
4. In cities over four thousand and not exceeding six thousand in population, each commissioner may receive a monthly salary of not to exceed seventy-five dollars;
5. In cities over six thousand and not exceeding eight thousand in population, each commissioner may receive a monthly salary of not to exceed one hundred dollars;
6. In cities over eight thousand and not exceeding twelve thousand in population, each commissioner may receive a monthly salary of not to exceed one hundred fifty dollars;

7. In cities over twelve thousand and not exceeding forty thousand, each commissioner may receive a monthly salary of not to exceed two hundred dollars;
8. In cities having a population of over forty thousand each commissioner may receive a monthly salary of not to exceed four hundred dollars.

Approved March 1, 1967.

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## CHAPTER 327

S. B. No. 47  
(Hernett, Longmire)  
(From LRC Study)

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### PROCEDURE IN MUNICIPAL COURT

#### AN ACT

To provide for an affidavit of prejudice and a change of venue in municipal courts and to amend and reenact section 40-18-03 of the 1965 Supplement to the North Dakota Century Code, relating to the vacancy in office and temporary absence of municipal judges, and to repeal section 40-18-10 of the 1965 Supplement to the North Dakota Century Code, relating to the procedure governing trials for misdemeanors before municipal judges.

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

**§ 1. Affidavit of Prejudice.)** When the defendant in an action in a municipal court, or his attorney, or the municipality by the municipality's attorney or any other attorney acting for the municipality, before the trial commences, files an affidavit in writing stating that he has reason to believe and does believe that a fair and impartial trial of the action cannot be had before the judge about to try the same by reason of the bias or prejudice of such judge, the judge shall be disqualified.

**§ 2. Change of Venue in Municipal Court.)** A municipal court, at any time before trial, on motion, may change the place of trial when there is reason to believe that an impartial trial cannot be had therein. When the court orders the place of trial to be changed, the action must be transferred for trial to a court the parties may agree upon, or if they do not so agree, then to the nearest county justice or county court of increased jurisdiction. However, the place of trial cannot be changed more than once by each party under the provisions of this section.

**§ 3. Amendment.)** Section 40-18-03 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-18-03. Vacancy in Office of Municipal Judge—Temporary Absence of Municipal Judge.)** If a vacancy exists in the office of municipal judge by death, resignation, or otherwise, it shall be filled by appointment by the executive officer, subject to confirmation by the governing body of the city or village. An appointee shall qualify, and he shall hold office until the next city or village election, and until his successor is elected and qualified. During the temporary absence, interest, disqualification, or disability of the municipal judge or temporary vacancy in the office of municipal judge, any county justice designated by the executive officer shall act as municipal judge until the municipal judge is available in the trial of causes triable before the municipal judge. In any city within a county having a court of increased jurisdiction, the governing body may appoint an alternate municipal judge to serve when the municipal judge is unable to serve due to temporary absence, interest, disqualification, or disability. Such alternate shall be compensated on a per diem basis at a rate set by the governing body, and shall possess, as nearly as is practicable, the qualifications of the regular municipal judge.

**§ 4. Repeal.)** Section 40-18-10 of the 1965 Supplement to the North Dakota Century Code is hereby repealed.

Approved March 14, 1967.

## CHAPTER 328

S. B. No. 335  
(Geving)

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### MUNICIPAL POLICEMEN'S UNIFORMS

#### AN ACT

To require municipalities to furnish uniforms to full-time policemen they employ.

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

**§ 1. Municipalities to Furnish Uniforms to Policemen.)**  
Any municipality of this state which employs full-time policemen shall furnish each such policeman with a summer-weight and a winter-weight uniform. The uniforms shall be blue in color.

Approved March 6, 1967.

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## CHAPTER 329

S. B. No. 166  
(Kelly(24), Lowe, Larson(32), Melland)

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### DECORATIVE STREET LIGHTING SPECIAL ASSESSMENTS

#### AN ACT

To amend and reenact subsection 2 of section 40-22-01 of the 1965 Supplement to the North Dakota Century Code, relating to permitting expense of decorative street lighting to be defrayed by special assessments.

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

**§ 1. Amendment.)** Subsection 2 of section 40-22-01 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. The improvement of the municipal street system and any part thereof, including any one or more of the processes of acquisition, opening, widening, grading, graveling, paving, repaving, surfacing with tar, asphalt, bituminous or other appropriate material, resurfacing, resealing, and repairing of any street, highway, avenue, alley, or public place within the municipality, and the construction and

reconstruction of storm sewers, curbs and gutters, sidewalks, and service connections for water and other utilities, and the installation, operation, and maintenance of street lights and all types of decorative street lighting, including but not restricted to Christmas street lighting decorations;

Approved February 27, 1967.

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## CHAPTER 330

S. B. No. 143  
(Butler, Goldberg)

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### MUNICIPAL AGREEMENTS WITH HIGHWAY DEPARTMENT

#### AN ACT

To amend and reenact section 40-22-06 of the 1965 Supplement to the North Dakota Century Code, relating to the certification of municipalities obtaining authority to enter into agreements with the state highway department.

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

**§ 1. Amendment.)** Section 40-22-06 of the 1965 Supplement to the North Dakota Code is hereby amended and reenacted to read as follows:

**40-22-06. Municipality May Enter Into Agreement with Highway Department or County for Certain Improvements.)** Any municipality in this state, through its governing body, may enter into an agreement with the highway department of the state of North Dakota, or with the board of county commissioners of the county in which such municipality is located, or both, for the improvement of streets, sewers, and water mains, or of any of such facilities, under the terms of which the contract for such work is to be let by the state highway department or by the board of county commissioners, or by both jointly, and for this purpose may create a special improvement district or districts. No such agreement shall be entered into until and unless the governing body certifies that they have obtained authority in accordance with this section to issue improvement warrants to finance the amount that the municipality will be obligated to pay thereunder, over and above the amount of any bonds which have been voted and any other funds which are on hand and properly available for such purpose. If any portion of the cost is to be paid by the levy of special assessments, the gov-

erning body shall by resolution declare the necessity of the improvement, setting forth its general nature, the approximate amount or fraction of the cost which the municipality will be obligated to pay under the agreement, and the fact that this amount, or such lesser amount as the governing body may specify, is proposed to be paid by the levy of special assessments upon property determined to be benefited by the improvement. Any portion of the cost for which the municipality is obligated and which is not assessed upon benefited property or paid from other funds may be agreed to be paid by general taxation of all the taxable property in the municipality, if approval for the incurring of such debt is obtained and provision for the payment thereof is made in accordance with section 40-24-10. The resolution of necessity shall be published once each week for two consecutive weeks in the official newspaper of the municipality and protests may be filed and their sufficiency to bar the improvement shall be determined in accordance with sections 40-22-16 to 40-22-18, inclusive; except that if under the terms of the resolution of necessity the portion of the cost of the project to be assessed upon benefited property does not exceed twenty-five percent of the total cost to be paid by the highway department or county and municipality, written protests by the owners of seventy-five percent of the property liable to be assessed for the improvement shall be required to bar further proceedings with reference thereto. In districts created under this section the governing body may dispense with all requirements, other than those herein stated, preliminary to the construction of an improvement by the special assessment method, including the preparation and approval of plans and specifications, advertisement for bids, and execution of contracts and bonds. At any time after the period for filing protests has expired and the protests filed, if any, have been heard and determined to be insufficient, the governing body may issue warrants on the fund of the improvement in the total amount for which the municipality is obligated under the agreement, and may cause to be certified to the special assessment commission that portion of the cost to be borne by the property owners within the district, and the assessment of such amount may be made and such warrants may be issued as in other cases provided for in chapters 40-23 and 40-24.

Approved February 24, 1967.

**CHAPTER 331****H. B. No. 938**(Committee on Delayed Bills)

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**TERMINATION OF MUNICIPAL PARKING LOTS****AN ACT**

To allow municipalities to discontinue municipal parking lots when a higher and better use for the property exists.

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

**§ 1. Discontinuance of Municipal Parking Lots.)** The governing body of a municipality may, if it deems it in the best interests of the municipality, discontinue the operation of a municipal parking lot when there exists a higher and better use for the property. If any portion of the cost of such parking lot has been paid for by special assessment, the governing body shall, prior to making any determination to discontinue, hold a public hearing concerning the continuance or discontinuance of such parking lot. The governing body shall cause to be published once each week for two consecutive weeks in the official newspaper of the municipality a notice of the time when and the place where the governing body will meet to conduct the hearing required by this section. If the governing body, after public hearing, determines that the parking lot may be put to a higher and better use, the governing body is hereby authorized to take the necessary steps to effectuate that use. For this purpose the governing body is authorized to, but not limited to, enter into and complete negotiations for the sale of the parking lot in question.

**§ 2. Equalization of Original Assessment.)** Whenever any portion of the cost of a parking lot which is to be discontinued has been paid for by special assessment, the useful life of the parking lot shall be determined by the governing body. If the period of time determined to be the useful life of the parking lot has not completely elapsed, the governing body of the municipality shall direct the cancellation of uncollected installments of special assessments previously levied for the same improvement, and the refund of installments paid, plus interest calculated at four and one-half percent per annum on the refunded prepaid installments, from the general fund of the municipality to the extent determined by it to be necessary to make the original assessments and the subsequent assessments bear as nearly as possible the same relation to the total benefits derived from the improvement by the respective properties assessed.

**§ 3. Payment of Outstanding Warrants—Deposit of Surplus in General Fund—General Fund Liable for Any Outstanding Warrants.**) Upon the discontinuance of any municipal parking lot under the authority of this Act, the governing body shall apply the proceeds from the sale of such property, if such property is sold, to the special assessment fund created to bear the cost of creating the parking lot. If there is any surplus after all of the outstanding special assessment warrants or bonds are redeemed, the surplus shall be transferred to the general fund of the municipality. If the proceeds from the sale of such property, if such property is sold, are insufficient to cover the cost of redeeming the outstanding special assessment warrants or bonds, the governing body shall provide for the payment of said warrants or bonds out of the general fund of the municipality.

Approved March 15, 1967.

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## CHAPTER 332

S. B. No. 49  
(Hernett, Longmire)  
(From LRC Study)

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### ALTERNATIVE METHOD OF DETERMINING SPECIAL ASSESSMENTS

#### AN ACT

To create and enact chapter 40-23.1 of the North Dakota Century Code, creating an alternative method of determining and allocating the costs of special assessments and to amend and reenact section 40-23-07 of the North Dakota Century Code, relating to the special assessment commission.

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

**§ 1.) Chapter 40-23.1 of the North Dakota Century Code is hereby created and enacted to read as follows:**

## CHAPTER 40-23.1

### An Alternative Method of Determining and Allocating Special Assessments

**40-23.1-01. Improvement District—All Property To Be Assessed—Basis.)** All property included within the limits of a local improvement district shall be considered to be the property specially benefited by the local improvement and shall be the property to be assessed to pay the cost and expense

thereof or such part thereof as may be chargeable against the property specially benefited. The cost and expense shall be assessed upon all the property in accordance with the special benefits conferred thereon in proportion to area and distance back from the marginal line of the public way or area improved.

**40-23.1-02. Improvement District—Zones.)** For the purpose of ascertaining the amount to be assessed against each separate lot, tract, parcel of land or other property therein, the local improvement district shall be divided into subdivisions or zones paralleling the margin of the street, avenue, lane, alley, boulevard, park drive, parkway, public place, or public square to be improved, numbered respectively first, second, third, fourth, and fifth.

The first subdivision shall include all lands within the district lying between the street margins and lines drawn parallel therewith and thirty feet therefrom.

The second subdivision shall include all lands within the district lying between lines drawn parallel with and thirty and sixty feet respectively from the street margins.

The third subdivision shall include all lands within the district lying between lines drawn parallel with and sixty and ninety feet respectively from the street margins.

The fourth subdivision shall include all lands, if any, within the district lying between lines drawn parallel with and ninety and one hundred twenty feet respectively from the street margins.

The fifth subdivision shall include all lands, if any, within the district lying between a line drawn parallel with and one hundred twenty feet from the street margin and the outer limit of the improvement district.

**40-23.1-03. Assessment Rate Per Square Foot.)** The rate of assessment per square foot in each subdivision of an improvement district shall be fixed on the basis that the special benefits conferred on a square foot of land in subdivisions first, second, third, fourth, and fifth, respectively, are related to each other as are the numbers forty-five, twenty-five, twenty, ten, and five, respectively, and shall be ascertained in the following manner:

1. The products of the number of square feet in subdivisions first, second, third, fourth, and fifth, respectively, and the numbers forty-five, twenty-five, twenty, ten, and five, respectively, shall be ascertained;

2. The aggregate sum thereof shall be divided into the total cost and expense of the improvement;

3. The resultant quotient multiplied by forty-five, twenty-five, twenty, ten, and five, respectively, shall be the respective rate of assessment per square foot for subdivisions first, second, third, fourth, and fifth; provided, that in lieu of the above formula the rate of assessment per square foot in each subdivision of an improvement district may be fixed on the basis that the special benefits conferred on a square foot of land in subdivisions first, second, third, fourth, and fifth, respectively, are related to each other as the numbers 0.015000, 0.008333, 0.006666, 0.003333, and 0.001666, respectively; and the method of determining the assessment on each lot, tract, or parcel of land in the improvement district may be ascertained in the following manner:

a. The products of the number of square feet in subdivisions first, second, third, fourth, and fifth, respectively, for each lot, tract, or parcel of land in the improvement district and the numbers 0.015000, 0.008333, 0.006666, 0.003333, and 0.001666, respectively, shall be ascertained. The sum of all such products for each such lot, tract, or parcel of land shall be the number of "assessable units of frontage" therein;

b. The rate for each assessable unit of frontage shall be determined by dividing that portion of the total cost of the improvement representing special benefits by the aggregate sum of all assessable units of frontage;

c. The assessment for each lot, tract, or parcel of land in the improvement district shall be the product of the assessable units of frontage therefor, multiplied by the rate per assessable unit of frontage.

**40-23.1-04. Levy of Assessments—Items Included in Cost of Improvement.)** At any time after the contract and bond for any work for which a special assessment is required have been executed and approved by the governing body of the municipality and the total cost of such work shall have been estimated as nearly as practicable, the governing body may direct assessments to be levied for the payment of all or any part of such cost, and the city auditor shall ascertain and return, as provided in this chapter, the total assessment against each separate lot, tract, or parcel of land in the improvement district. The total cost of the improvement shall include the estimated construction cost under the terms of the contract, a reasonable allowance as determined by the governing body for cost of extra work which may be authorized under the plans and specifications, engineering, fiscal agents', and attorneys' fees for any services in connection with the authorization and

financing of the improvement, cost of publication of required notices and printing of improvement warrants, and all expenses incurred in the making of the improvement and levy of assessment therefor. In the event that any error is made in estimating the cost, the governing body may direct a supplemental assessment to be made as provided in section 40-26-02.

**40-23.1-05. Parking Lots—Ascertaining Assessments.)** Notwithstanding any section of chapter 40-23, the city auditor shall determine, on the basis that the special benefit conferred upon a lot, tract, or parcel of land in the improvement district, by the establishment of a parking lot, is proportionate to the need that the business conducted thereon has for a parking lot, the amount which each lot, tract, or parcel of land will be especially benefited by the construction of the work for which such special assessment is to be made, and shall assess against each lot, tract, or parcel of land such sum, not exceeding the benefits, as shall be necessary to pay its just proportion of the total cost of such work, or of the part thereof which is to be paid by special assessment, including all expenses incurred in making such assessment and publishing necessary notices with reference thereto. Such action shall be subject to the final approval of the governing body which may increase or diminish any of such assessments as it may deem just.

**40-23.1-06. Political Subdivisions Not Exempt from Special Assessments.)** Benefited property belonging to counties, cities, school districts, park districts, and townships, shall not be exempt from assessment, and such public corporations whose property is assessed shall provide for the payment of such assessments, installments thereof and interest thereon, by the levy of taxes according to law. Nothing in this section shall be deemed to amend other provisions of law with reference to the levy of assessments on property sold for delinquent taxes.

**40-23.1-07. Assessment List To Be Prepared—Contents—Certificate Attached To Assessment List.)** The city auditor shall make or cause to be made a complete list of the benefits and assessments setting forth each lot, tract, or parcel benefited by the improvement, and the amount assessed against each. There shall be attached to the list of assessments a certificate signed by the city auditor certifying that the same is a true and correct assessment of the property therein described to the best of just judgment, and stating the several items of expense included in the assessment.

**40-23.1-08. Publication of Assessment List and Notice of Hearing of Objections To List.)** The city auditor shall cause the assessment list, which list shall not include the amount each lot, tract, or parcel is benefited by the improvement, to be

published once each week for two consecutive weeks in the official newspaper of the municipality, together with a notice of the time when and the place where the city auditor will meet to hear objections made to any assessment by any interested party, his agent, or attorney; provided that in lieu of publication of an assessment list, if it includes more than five thousand lots, tracts, or parcels, the city auditor may cause it to be filed and made available for public inspection at all times after the first publication of the notice, during reasonable business hours, at such place as shall be designated in the published notice. The date set for such hearing shall be not less than fifteen days after the first publication of the notice.

**40-23.1-09. Alteration of Assessments at Hearing—Limitations.)** At the hearing, the city auditor may make such alterations in the assessments as in his opinion may be just or necessary to correct any error in the assessment list. The city auditor may increase or diminish any assessment as may be just and necessary to make the aggregate of all assessments equal to the total amount required to pay the entire cost of the work for which such assessments are made, or the part of such cost to be paid by special assessment. No assessment shall exceed the benefits to the parcel of land assessed.

**40-23.1-10. Confirmation of Assessment List After Hearing—Filing List.)** The city auditor, after the hearing, shall confirm the list and attach thereto its further certificate certifying that the list is correct as confirmed. The city auditor thereafter shall file the assessment list in his office.

**40-23.1-11. Publication of Notice of Confirmation of Assessment List and Meeting for Action Upon Assessments.)** The city auditor shall publish at least once in the official newspaper of the municipality a notice stating that the assessment list has been confirmed by him and filed in his office and is open to public inspection. The notice also shall state the time when and the place where the governing body will act upon such assessment list. The assessment list shall be acted upon by the governing body at a regular or special meeting occurring more than fifteen days after the publication of such notice.

**40-23.1-12. Aggrieved Person May File Notice of Appeal.)** Prior to the meeting at which the governing body will act upon the assessment, any aggrieved person may appeal from the action of the city auditor by filing with the city auditor a written notice of the appeal, stating therein the grounds upon which the appeal is based.

**40-23.1-13. Governing Body to Hear and Determine Appeals and Objections to Assessments—Altering Assessments—Limitations.)** At the regular meeting of the governing body at which the assessment list is to be acted upon, any person

aggrieved by the determination of the city auditor, in regard to any assessment who was appealed therefrom as provided in section 40-23-14 may appear before the governing body and present his reasons why the action of the city auditor should not be confirmed. The governing body shall hear and determine the appeals and objections and may increase or diminish any of such assessments as it may deem just, in the event that the formula provided for in sections 40-23.1-02 and 40-23.1-03 proves to be inapplicable. The governing body may increase or diminish any assessment as may be just and necessary to make the aggregate of all assessments equal to the total amount required to pay the entire cost of the work for which such assessments are made, or the part of such cost to be paid by special assessment. No assessment shall exceed the benefits as determined, in accordance with this chapter by the city auditor, to the parcel of land assessed.

**§ 2. Amendment.)** Section 40-23-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**\*40-23-07. Regulations Governing Determination of Special Assessments by Commission—Political Subdivisions Not Exempt.)** Whenever the commission is required to make any special assessment under the provisions of this title, the members thereof personally shall inspect any and all lots and parcels of land which may be subject to such special assessment and shall determine from such inspection the particular lots and parcels of land which, in the opinion of the commission, will be especially benefited by the construction of the work for which the assessment is to be made. The commission shall determine the amount in which each of the lots and parcels of land will be especially benefited by the construction of the work for which such special assessment is to be made, and shall assess against each of such lots and parcels of land such sum, not exceeding the benefits, as shall be necessary to pay its just proportion of the total cost of such work, or of the part thereof which is to be paid by special assessment, including all expenses incurred in making such assessment and publishing necessary notices with reference thereto and the per diem of the commission. However, as an alternative to the procedure heretofore provided in this section, the special assessment commission may, in its discretion, determine and allocate the cost of special assessments in accordance with the method provided for in chapter 40-23.1. Benefited property belonging to counties, cities, villages, school districts, park districts, and townships, shall not be exempt from such assessment, and such public

**\*Note:** Section 155 of chapter 323, 1967 S.L., also amends section 40-23-07.

corporations whose property is so assessed shall provide for the payment of such assessments, installments thereof and interest thereon, by the levy of taxes according to law. Nothing in this section shall be deemed to amend other provisions of law with reference to the levy of assessments on property sold for delinquent taxes.

Approved February 22, 1967.

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## CHAPTER 333

S. B. No. 341  
(Forkner, Nething)

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### TIME LIMITATIONS FOR SEWER AND WATER SPECIAL ASSESSMENTS

#### AN ACT

To amend and reenact section 40-24-04 and 40-24-05 of the North Dakota Century Code, relating to the length of time for which special assessment warrants for sewer and water may extend.

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

**§ 1. Amendment.)** Section 40-24-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-24-04. Sewer Special Assessments Extended Over a Period of Not More Than Thirty Years.)** Special assessments for the payment of the cost of constructing any sewer shall be payable in equal annual amounts extending over a period of not exceeding thirty years as the governing body may fix by ordinance or resolution.

**§ 2. Amendment.)** Section 40-24-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-24-05. Water Main and Waterworks Special Assessments Extended Over a Period of Not More Than Thirty Years.)** Special assessments for the payment of the cost of constructing or laying any water mains or constructing any waterworks shall be payable in equal annual amounts extending over a period of not more than thirty years as the governing body may fix by ordinance or resolution.

Approved March 1, 1967.

**CHAPTER 334**

H. B. No. 911  
(Leibhan, Strinden)

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**CERTIFICATION OF SPECIAL ASSESSMENTS****AN ACT**

To amend and reenact sections 40-24-11 and 40-24-12 of the 1965 Supplement to the North Dakota Century Code, relating to the regulations in certifying special assessments and furnishing statements thereof.

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

**§ 1. Amendment.)** Section 40-24-11 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**\*40-24-11. Certification of Assessments to County Auditor.)** Annually, the city auditor shall certify to the county auditor all uncertified installments of assessments which are to be extended upon the tax lists of the municipality for the current year, in the manner provided in section 40-24-12.

**\*Note:** Section 40-24-11 was also amended by section 161 of chapter 323, 1967 S.L.

**§ 2. Amendment.)** Section 40-24-12 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**\*40-24-12. City Auditor to Insert Amount of Improvements in County Real Estate Book or Other Forms—Regulations Governing.)** The city auditor shall notify the county auditor not later than August twentieth in each year of any special assessments which were made in the municipality in addition to those reported in the previous year. The county auditor shall make and deliver to the city auditor on or before September twentieth each year, a copy of the real estate assessment book or other forms for the current year covering all additions in which any special assessments have existed and where any will appear for the current year as advised by the city auditor. The city auditor shall insert in the proper columns under the appropriate headings the amount of each of the installments of the assessments on the lots or subdivisions of lots or tracts of land which are to be extended upon the tax lists of the municipality for the current year. The city auditor shall show

**\*Note:** Section 40-24-12 was also amended by section 162 of chapter 323, 1967 S.L.

the total amount of special assessments certified to the county auditor for the current year. In cases where a division of property has been made since the original assessment, the city auditor shall make or cause to be made, with the assistance and advice of the special assessment commission, the proper division of the special assessments on the lots or tracts of land as the same are divided and assessed for the general taxes as furnished by the county auditor. The city auditor shall certify the special assessments to the county auditor by November first of each year.

Approved March 10, 1967.

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## CHAPTER 335

H. B. No. 840  
(Aamoth, Unruh)

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### COUNTY TREASURER CERTIFICATION OF TAXES

#### AN ACT

To amend and reenact section 40-24-16 of the 1965 Supplement to the North Dakota Century Code, relating to the certification and payment of taxes collected by the county treasurer.

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

**§ 1. Amendment.)** Section 40-24-16 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**\*40-24-16. County Treasurer to Certify and Receipt for Amount of Special Assessments Collected—Contents of Certificate—Procedure for Abatement.)** Special assessments of any kind certified to the county auditor by the city auditor shall be paid to the county treasurer and included in the receipt required by section 57-20-08. In the event that the county treasurer receives less than the full amount of taxes and special assessments due at any time on any lot or tract of real estate, he shall allocate the amount of such payment between taxes and special assessments in proportion to the respective amounts of taxes and special assessments which are then due. When prorating any tax payment received prior to October 15, the term "due", as it pertains to real estate taxes, shall include only the first installment of real estate taxes. Special assessments shall not be subject to abatement

**\*Note:** Section 40-24-16 was also amended by section 164 of chapter 323, 1967 S.L.

or refund by proceedings under chapter 57-23, but shall be reviewed and corrected only in the manner and upon the conditions provided in chapter 40-26. The county treasurer, at the time set by law for the payment to the municipal treasurer of all the taxes and special assessments collected by him during the preceding month, shall certify in duplicate the amounts of special assessments collected. The certificate shall state specifically the lot or known subdivision thereof as it appears on the tax books of the county treasurer, and the block, addition, amount collected, and the amount credited to each lot or known subdivision thereof, and the year for which the sum was collected. One copy of such certificate shall be furnished to the municipal treasurer and one copy to the city auditor.

Approved March 3, 1967.

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## CHAPTER 336

H. B. No. 694  
(Bunker, Eagles)

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### MEMBERSHIP FEES FOR MUNICIPAL POLICE PENSION FUNDS

#### AN ACT

To amend and reenact section 40-45-08 of the North Dakota Century Code, relating to membership fees and assessments in police pension funds in cities.

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

**§ 1. Amendment.)** Section 40-45-08 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-45-08. Membership Fees and Assessments.)** Every member of the police department shall pay to the treasurer of the pension fund a membership fee to be fixed by the board of trustees in an amount not exceeding twenty-five dollars. Each member shall be assessed and required to pay annually an amount not less than three percent or more than five percent per annum as determined by the governing body of the municipality upon the amount of the annual salary paid to him. Such assessment shall be deducted and retained in equal monthly installments out of such salary. Assessments shall be made of all members for a minimum period of twenty-two years and for such additional years as may be determined by the governing body.

Approved February 28, 1967.

## CHAPTER 337

S. B. No. 150  
(Meschke, Lips)

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### CITY EMPLOYEES' PENSION FUND REFUND

#### AN ACT

To amend and reenact section 40-46-20 of the 1965 Supplement to the North Dakota Century Code, relating to refund or partial retirement upon termination of employment with city.

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

**§ 1. Amendment.)** Section 40-46-20 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-46-20. Employee Entitled to Refund from Fund or Partial Retirement Upon Termination of Employment with City.)** Any employee who shall have been in the service of the city for a period of two years and shall have contributed to the city employees' pension fund, and who voluntarily and while in good standing as an employee of said city shall have left the employment of such city, shall be entitled, upon application at the time of such retirement to a refund of all contributions made by him without interest and exclusive of the membership fee, payable in a lump sum. If a participant dies and no dependent benefits are payable, his named beneficiary or estate shall receive his contributions without interest, less any benefit payments theretofore received. Any employee who shall have served one hundred eighty months or more, but less than two hundred forty months, and who shall have contributed to the city employees' pension fund, and who voluntarily and while in good standing as an employee of said city shall have left the employment of such city, shall be entitled to elect retirement instead of refund, but at a pension equal to the proportion of a full pension as herein provided which the total number of months employed by the city bears to two hundred forty months, but no pension shall be paid while he lives until he reaches the age of sixty years.

Approved February 24, 1967.

## CHAPTER 338

H. B. No. 722

(Hoghaug, Bernabucci, Strinden)

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### ANNEXATION AND EXCLUSION OF TERRITORY

#### AN ACT

Providing for the annexation and exclusion of unincorporated areas by municipal corporations, and repealing chapter 40-51 of the North Dakota Century Code.

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

**§ 1. Authority to Annex.)** Any portion of a county not incorporated as a part of a municipal corporation but lying contiguous thereto may become a part thereof by annexation as herein provided. Any part of the area of a municipal corporation may be excluded as provided herein.

**§ 2. Annexation by Petition of Owners and Electors.)** Upon a written petition signed by not less than three-fourths of the qualified electors and by the owners of not less than three-fourths in assessed value of the property in any territory contiguous to any incorporated municipality and not embraced within the limits thereof, the governing body of the municipality, by ordinance, may annex such territory to the municipality.

**§ 3. Exclusion by Petition of Owners and Electors.)** Upon a petition signed by not less than three-fourths of the qualified electors and by the owners of not less than three-fourths in assessed value of the property in any territory within the limits of an incorporated municipality and bordering upon such limits, the governing body of the municipality, by ordinance, may disconnect and exclude such territory from the municipality. The provisions of this section, however, shall apply only to lands which have not been platted under the provisions of either section 40-50 or section 57-02-39.

**§ 4. Notice—Petition of Owners and Electors.)** The governing body shall not take final action on a petition presented by owners and electors until the petitioners have given notice of presentation of their petition by one publication in the official newspaper of the municipality, and if none, in the official newspaper of the county.

**§ 5. Petition of Owners and Electors—Annexation or Exclusion.)** If the governing body determines to annex said area it shall do so by ordinance, a copy of which with an accurate

map of the annexed area, certified by the executive officer of the municipality, shall be filed and recorded with the county register of deeds.

If the governing body determines to exclude the area petitioned for, it may do so by ordinance adopted and recorded as in case of annexation. If the governing body finds the area sought to be excluded is within the corporate limits of the municipality and borders thereon, and that it is unplatte<sup>d</sup>, under the provisions of either section 40-50 or section 57-02-39, and that no municipal improvements have been made or constructed therein or adjacent thereto, it shall be the duty of the governing body of the municipality to disconnect and exclude such territory from the municipality.

After the hearing on a petition to disconnect and exclude territory from a municipality, the governing body shall make findings of fact upon which its decision is made. If the territory described in the petition is disconnected or excluded from the municipality, a copy of the ordinance providing therefor shall be filed and recorded in the office of the register of deeds at the expense of the petitioners.

**§ 6. Annexation by Resolution of Municipal Corporation.)**  
The governing body of any municipality may adopt a resolution to annex adjacent territory as follows:

1. The city governing board shall adopt a resolution describing the property adjacent to the city to be annexed; and
2. Shall publish said resolution once a week for two successive weeks in the official newspaper of the city; and
3. In the absence of protests filed by more than one-fourth of the property owners as of the date of the adoption of the resolution by number within the area proposed to be annexed, the territory described in the resolution shall be included within and shall become a part of the city, and a copy of the resolution with an accurate map of the annexed area, certified by the executive officer of the municipality, shall be filed and recorded with the county register of deeds.

If one-fourth or more property owners protest, the city may seek annexation by petition to the district court as hereinafter provided.

**§ 7. Annexation by Petition of Municipal Corporation.)**  
The governing body of any municipal corporation may petition the district court of the county in which any territory adjacent to it lies for its annexation. The petition shall set forth an

accurate map of the area sought to be annexed, its description, and the reasons for its annexation.

**§ 8. Notice—Petition of Municipal Corporation.)** In any annexation proceedings instituted by its petition in court the municipal corporation shall give notice to the chairman of the governing body of the county and township if organized wherein such territory lies, that it will on a given day not less than thirty days thereafter, move the district court of the county wherein such territory lies or the judges designated to hear the case, to grant the annexation requested in its petition, with which notice shall be served a copy of its petition. A copy of the notice shall be published at least once a week for two successive weeks in the official newspaper published in such municipal corporation and when there is no newspaper published therein, then in the official newspaper of the county. The notice shall be returned after service to the clerk of the district court and when the publication is complete, with proof of publication, the case shall be docketed for hearing.

**§ 9. Additional Parties—Petition of Municipal Corporation.)** In any proceedings hereunder, any qualified voter or freeholder in the territory proposed to be annexed or any adjoining municipal corporation may at his written election become a party to such proceedings. Any county whose territory is affected by the proceedings or any organized township may appear and shall be made parties defendant to the case and may be represented by counsel.

**§ 10. Constitution of Court—Petition of Municipal Corporations.)** The court without a jury shall be held by three judges as follows:

1. The judge of the district court of the county in which the territory sought to be annexed lies or any judge designated as provided by law to sit in his stead who is hereafter designated as the "local judge" and two judges of the district court from other districts to be designated by the chief justice of the supreme court for such purpose; provided, however, that if the local judge disqualifies himself, three judges of the district court from other districts of such territory shall be designated to hold such court; provided that when the governing body of the municipal corporation and the county or the organized township, by ordinance or resolution declares that the necessity for and expedience of the annexation of the territory exists and that such annexation should be decreed and with the consent of all interveners in such proceedings, such court may be composed of the local judge only.

**§ 11. Hearing and Decision—Petition by Municipal Corporation.)** 1. The court shall hear the case upon the evidence introduced. The court may admit and consider all studies, surveys, maps, and data that is material to the area prepared or obtained by any official state or local subdivision planning or zoning commissions in the performance of their functions.

2. The court shall determine if the annexation should be granted considering the present and future uses and development of the area sought to be annexed and its relationship to the municipal corporation seeking annexation, the governmental services available and needed and the ability to furnish them, and the relationship of the area sought to be annexed economically, physically and socially with the purpose of promoting the health, safety, and general welfare of the inhabitants of the area, the municipal corporation and other school districts and political subdivisions affected thereby. If a majority of the court is satisfied that the annexation should be granted, it shall determine the terms and conditions upon which annexation is to be had and shall enter an order granting the petition. In all contested cases, the court shall write a written opinion.

3. The order granting the petition shall set forth in detail all such terms and conditions upon which the petition is granted and the effective date thereof. Such order with an accurate map of the annexed area, certified by the executive officer of the municipality, shall be filed and recorded with the county register of deeds.

**§ 12. Powers of Court — Decision — Terms — Petition by Municipal Corporation.)** The court in making its decision, shall balance the equities in the case and shall enter an order setting forth what it deems fair and reasonable terms and conditions and shall direct the annexation in conformity therewith. It shall have power:

1. To determine the metes and bounds of the territory to be annexed and may include the same area or a smaller area than that described in the petition. The court shall so draw the lines of annexation as to have a reasonably compact body of land and so that no land shall be taken into the city which is not adapted to improvements or which the city will not need in the reasonably near future for development unless necessarily embraced in such compact body of land;
2. To require payment by the city of a sum to be determined by the court payable when the court so provides, to compensate for the value of public improvements acquired by the annexation proceedings and assumption

of the pro rata share of any existing bonded indebtedness existing within the past five years of any township or county from which territory is annexed.

**§ 13. Costs of Annexation—Petition by Municipal Corporation.)** The costs of annexation proceedings shall be paid by the municipal corporation instituting the proceedings and shall be the same as in other civil cases.

**§ 14. Appeal.)** An appeal may be taken to the supreme court as in other matters tried to the court and without a jury.

**§ 15. Exclusion—By Municipal Ordinance.)** Whenever it is deemed desirable to reduce the corporate limits of any municipal corporation, the governing body thereof may enact an ordinance defining accurately the boundary of the territory proposed to be stricken off. Such ordinance shall thereupon be published in at least two successive issues of the official paper published in the county. A copy of such ordinance shall be served by such municipal corporation upon the chairman of the board of supervisors of the organized township and chairman of the county commissioners of the contiguous township or county of which said territory may become a part.

**§ 16. Exclusion—Court Order Necessary to Approve Municipal Ordinance.)** Thirty days after the enactment of an ordinance proposing to reduce the corporate limits of a municipal corporation, the municipal corporation shall apply to the district court for an order approving the ordinance. One or more residents or freeholders of the territory proposed to be stricken off or in the county or officers of an organized township contiguous thereto, may appear and by petition set forth the reasons why the corporate limits should not be reduced.

**§ 17. Exclusion—Power of Court.)** If the court or judge shall be satisfied that less than a majority of the freeholders of that territory to be stricken off oppose the contraction proposed and that no substantial injury to persons owning real estate in the territory proposed to be stricken off or to the county or organized township of which it will become a part, will be caused thereby, but that the striking off of such territory will be for the interest of the municipal corporation, the court or judge as the case may be shall render an order approving and confirming the ordinance contracting the limits of the municipal corporation and declaring a territory so stricken off to be a part of some contiguous organized township or county designated in the order. Such contraction shall thereupon become final and be taken cognizance of by all public officers and the territory so stricken off shall become a part

of the county so designated or organized township as the case may be. Such order and ordinance shall be recorded with the register of deeds of the county in which such area is located.

**§ 18. Repeal.)** Chapter 40-51 of the North Dakota Century Code is hereby repealed.

Approved March 15, 1967.

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## CHAPTER 339

H. B. No. 723

(Aafedt, Wagner, Strinden, Peterson(5), Williamson)

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### PUBLIC RECREATION TAX LEVY

#### AN ACT

To amend and reenact section 40-55-09 of the North Dakota Century Code, relating to the tax levy limitation for a public recreation system.

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

**§ 1. Amendment.)** Section 40-55-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-55-09. Favorable Vote at Election — Procedure.)** Upon the adoption of such a proposition at an election by a majority of the votes cast upon such proposition, the governing body of such municipality, school district, or park district, by resolution or ordinance, shall provide for the establishment, maintenance, conduct of a public recreation system, and thereafter levy and collect annually a tax of not more than two and five-tenths mills, or not more than three and five-tenths mills if the same is authorized as herein provided, on each dollar of all taxable property within the corporate limits or boundaries of such municipality, school district, or park district, such tax to be in addition to the maximum of taxes permitted to be levied in such municipality, school district, or park district. The mill levy herein authorized may be raised to not more than three and five-tenths mills when such increase is approved by the citizens of the municipality, school district, or park district after the submission of such question in the same manner as provided in section 40-55-08 for the establishment of the public recreation system. The governing body of such municipality, school district, or park district, shall continue to levy such tax annually for public recreation purposes until such time as the

qualified voters, at a regular or special election, by a majority vote on the proposition, decide to discontinue the levy. The governing body of such municipality, school district, or park district, in its discretion, may appropriate additional funds for the operation of the public recreation system if in the opinion of the governing body additional funds are needed for the efficient operation thereof. Nothing in this section of this chapter shall be construed to limit the power of any municipality, school district, or park district to appropriate on its own initiative general municipal, school district, or park district tax funds for the operation of a public recreation system, a community center or character building facility.

Approved March 14, 1967.

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## CHAPTER 340

H. B. No. 562  
(Dornacker, Jenkins)

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### SALE OF MUNICIPAL REVENUE BONDS

#### AN ACT

To amend and reenact section 40-57-09 of the North Dakota Century Code, and section 40-57-10 of the 1965 Supplement to the North Dakota Century Code, relating to the sale of revenue bonds, and declaring an emergency.

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

**§ 1. Amendment.)** Subsection 1 of section 40-57-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The maximum rate or rates of interest which such bonds shall bear;

**§ 2. Amendment.)** Section 40-57-10 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-57-10. Sale of Revenue Bonds.)** Revenue bonds shall be sold at not less than ninety-five percent of par plus any accrued interest. Such bonds may be sold at private sale, or such bonds may be sold at public sale after notice of such sale has been published once at least five days prior to such sale in a newspaper circulating in the municipality, and in at least two financial newspapers published in Chicago, Illinois, in New York, New York, in Minneapolis, Minnesota, or in San Fran-

cisco, California. Banks chartered in this state may purchase the revenue bonds issued under the provisions of this chapter in an amount not to exceed five percent of their capital.

**§ 3. Emergency.)** This Act is hereby declared to be an emergency and shall be in full force and effect from and after its passage.

Approved March 3, 1967.

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## CHAPTER 341

S. B. No. 173  
(Lips, Longmire, Litten)

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### PROMOTION AND ACQUISITION OF MUNICIPAL PARKING FACILITIES

#### AN ACT

Relating to the provision of off-street parking facilities by municipal action and by cooperation with public and private persons, firms and corporations; authorizing municipal and cooperative acquisition, construction, improvement, development, extension, financing, operation, maintenance and leasing of such facilities, and of usable commercial space above and below the same and adjacent thereto, and declaring an emergency.

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

**§ 1.)** To alleviate traffic congestion in municipalities, prevent the development of blight, and implement orderly plans for urban development and urban renewal, it is necessary that adequate and suitable space be reserved, particularly in central business areas, for parking facilities; which phrase is defined to include, but without limitation, all off-street lots, sites, parking meters and other control devices, garages, ramps and other structures and accessories, both above and below ground, which are used or useful for the parking, delivery, fueling and servicing of automobiles and other motor vehicles, the collection of charges therefor, and the convenience of the patrons of the facilities. The withdrawal of a disproportionate amount of land for this purpose from use for commercial development and from the tax base of municipalities is undesirable and can be avoided, when the growth of business areas makes it economically feasible, by the construction of multi-level parking ramps and garages, and by making the space above, below or adjacent thereto available for commercial development and use. It is the policy and purpose of the state to authorize and encourage municipal action, and cooperation of municipalities with public

and private persons, firms and corporations, in the acquisition, construction, improvement, development, extension, financing, operation, maintenance and leasing of parking facilities, and of commercially usable space therein and adjacent thereto for the purposes and by the methods described in section 2.

§ 2.) Any municipality is authorized:

1. To acquire, construct, improve, develop and extend parking facilities;
2. To provide funds for this purpose by the budgeting of current funds, the levy of taxes or special assessments, or the issuance of bonds or other obligations, or by any combination of these means, pursuant to and in accordance with the provisions of North Dakota Century Code, chapters 21-03, 40-22 to 40-27, 40-35, 40-40, 40-41 and 40-57, and of all other applicable laws now in force or hereafter enacted;
3. To devote to this purpose any land, buildings, structures or equipment which may be owned by the municipality, and are determined by its governing body to be useful therefor and not required for another municipal purpose, and whose use for this purpose is not restricted by the terms of any conveyance or judgment by which such properties were acquired;
4. To operate and maintain parking facilities and establish and collect rates, charges and rentals for the use thereof by all public and private persons, firms and corporations;
5. To lease parking facilities, and any part thereof, to any public or private person, firm or corporation, upon such terms as the governing body may determine; provided that:
  - a. No lease may be executed for a longer term, or shall be subject to extension at the option of the lessee for an additional term or terms, exceeding the maximum period prescribed by North Dakota Century Code, section 47-16-02;
  - b. Every lease shall provide that title to all real property, buildings, and improvements on real property or in buildings subject to the lease, whether or not previously owned or acquired, constructed or financed by the municipality, and title to all other real and personal property subject to the lease which was previously owned or is acquired, constructed or financed by the municipality, shall be and remain in the municipality;

- c. If the entire site of any parking facilities and all improvements constructed thereon are leased, the lease shall specify the amount of space to be operated and maintained exclusively for public parking of motor vehicles, and the area of such space shall be not less than two times the area of the space, if any, to be made available within the facilities for commercial use;
- d. Any lease may permit the sublease of part or all of the facilities, but the minimum parking space specified in accordance with subsection c shall be used or subleased solely for public parking, and all other space in the facilities shall be used or subleased solely for commercial or industrial use furthering the policies and purposes declared in North Dakota Century Code, chapter 40-57, and may be so used notwithstanding any provisions of that chapter precluding the use of previously owned municipal property or of municipally operated property for the projects therein authorized;
- e. If under the terms of the lease the lessee is to construct and finance part or all of the parking facilities to be provided at the leased site, the lease may permit the lessee's interest therein to be mortgaged to secure the repayment of money borrowed by the lessee for this purpose, upon reasonable terms approved by the governing body of the lessor, and may allow the mortgagee a reasonable time to cure any default in the payment of rentals and the performance of covenants under the lease, prior to the termination thereof by the lessor;
- f. Every lease or part or all of the facilities at a particular site shall provide for the payment by the lessee of all costs of the operation and maintenance of the leased property including, but without limitation, all taxes and special assessments validly levied on the premises or leasehold, adequate insurance against loss of or damage to the leased property and loss or damage to other persons or property from any and all operations conducted thereon, and for payment by the lessee of net annual rentals at least sufficient to pay all principal and interest becoming due during the lease term on any amount of bonds issued by the municipality to pay capital costs of the leased property, and at least sufficient to reimburse the municipality for any other expenditure made by it to pay such capital costs, in annual amounts such that, if con-

tinued uniformly over the useful life of the facilities, the total amount of such investment would be repaid in full with interest at five percent per annum on the balance thereof from time to time remaining unpaid; and

- g. The leasehold created by any such lease is classified as personal property, and any such portion of such premises not used solely for public parking of motor vehicles shall be subject to taxation.

§ 3.) This Act is hereby declared to be an emergency and shall be in full force and effect from and after its passage and approval.

Approved March 6, 1967.

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## CHAPTER 342

H. B. No. 752  
(Aamoth)

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### MUNICIPAL PARKING AUTHORITY ACT

#### AN ACT

To provide for municipal parking authorities.

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

**§ 1. Title.)** This Act shall be known as the "Municipal Parking Authority Act".

**§ 2. Definitions.)** In this chapter, unless the context or subject matter otherwise requires:

1. "Authority" shall mean any corporation created under the authority of this Act;
2. "City" shall mean any city over forty thousand population according to the latest population census with a municipal parking authority;
3. "Bonds" shall mean the bonds authorized in this chapter;
4. "Board" shall mean the members of the authority;
5. "Real property" shall mean lands, structures, franchises, and interest in lands, and any and all things usually included within the said term, and includes not only fees simple absolute but also any and all lesser interests, such

as easements, rights-of-way, uses, leases, licenses, and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms of years;

6. "Project" shall mean any area or place operated or to be operated by an authority for the parking or storing of motor and other vehicles and shall, without limiting the foregoing, include all real and personal property, driveways, roads, approaches, structures, terminals of all kinds, garages, meters, mechanical equipment, and all appurtenances and facilities either on, above, or under the ground which are used and usable in connection with such parking or storing of such vehicles in the area of the city;
7. "Projects" shall mean more than one project.

**§ 3. Municipal Parking Authorities.)** Any city may create a board to be known as a "municipal parking authority". Such board shall be a body corporate, constituting a public benefit corporation, and its existence shall commence upon the appointment of the members as herein provided. It shall consist of a chairman and four other members, who shall be appointed by the governing body of the city. Three members of the board shall be property owners within the benefited areas and two members of the board shall be contributors to the debt guarantee fund hereinafter provided for. For the purpose of this section, a property owner shall be either a real estate owner, the beneficial owner of a leasehold on a building constructed on railroad property, or the owner of a retail or wholesale personal property inventory subject to an annual tax in excess of one thousand dollars. Of the members first appointed, one shall be appointed for a period of one year, one for a period of two years, one for a period of three years, one for a period of four years, and one for a period of five years. At the expiration of such terms, the terms of office of their successors shall be five years. Each member shall continue to serve until the appointment and qualification of his successor. Vacancies in such board occurring otherwise than by the expiration of term shall be filled for the unexpired term. The members of the board shall choose from their number a vice chairman. The governing body of the city may remove any member of the board for inefficiency, neglect of duty, or misconduct in office, giving him a copy of the charges against him and an opportunity of being heard in person, or by counsel, in his defense upon not less than ten days' notice. The members of the board shall be entitled to no compensation for their services but shall be entitled to reimbursement for their actual and necessary expenses incurred in the performance of their official duties.

The powers of the authority shall be vested in and exercised by a majority of the members of the board then in office. Such board may delegate to one or more of its members or to its officers, agents, and employees such powers and duties as it may deem proper. Such board and the corporate existence of the authority shall continue until all its liabilities have been met and its bonds have been paid in full or such liabilities or bonds have otherwise been discharged. Upon its ceasing to exist, all its rights and properties shall pass to the city.

**§ 4. Purpose and Powers of an Authority.)** The purpose of an authority shall be to construct, operate, and maintain one or more projects in the city. To carry out said purpose, an authority shall have power:

1. To sue and be sued;
2. To have a seal and alter the same at pleasure;
3. To acquire, hold, and dispose of personal property for its corporate purposes, including the power to purchase prospective or tentative awards in connection with the condemnation of real property;
4. To acquire in the name of the city by purchase or condemnation, and use necessary real property. All real property acquired by the authority by condemnation shall be acquired in the manner provided in the condemnation law or in the manner provided by law for the condemnation of land by a city;
5. To make bylaws for the management and regulation of its affairs, and, subject to agreements with bondholders, for the regulation of the project;
6. To appoint officers, agents, and employees, to prescribe their qualifications, and to fix their compensation; provided, however, the officers, agents and employees shall not be subject to the civil service law;
7. To appoint an attorney, who may be the city attorney, and to fix his compensation;
8. To make contracts and leases, and to execute all instruments necessary or convenient;
9. To construct such buildings, structures, and facilities as may be necessary;
10. To reconstruct, improve, maintain, and operate the projects;
11. To accept grants, loans, or contributions from the United States, the state of North Dakota, or any agency or instrument-

ality of either of them, or the city, or an individual, by bequest or otherwise, and to expend the proceeds for any purposes of the authority;

12. To fix and collect rentals, fees, and other charges for the use of the projects or any of them, subject to and in accordance with such agreements with bondholders as may be made as hereinafter provided;

13. To construct, operate, or maintain in the projects all facilities necessary or convenient in connection therewith; and to contract for the construction, operation, or maintenance of any parts thereof or for services to be performed; to rent parts thereof, and grant concessions, all on such terms and conditions as it may determine; provided, however, that neither the authority, the city, or any agency of an authority or city, or any other person, firm, or corporation shall, within or on any property comprising a part of any project authorized by this chapter, sell, dispense, or otherwise handle any product used in or for the servicing of any motor vehicle using any project or facility authorized by this chapter; provided further, that the location of sites of the projects shall be subject to the prior approval of the governing body of the city.

**§ 5. Officers and Employees.)** Municipal parking authorities shall not be subject to civil service or merit system laws, veterans preference laws, or other laws, ordinances, and regulations pertaining to the status of municipal employees. Employees of a municipal parking authority shall have the same position as employees of a private corporation and the board of directors of a municipal parking authority shall manage their employee relationships in the same manner as private corporations.

**§ 6. Conveyance of Property by a City to an Authority—Acquisition of Property by a City or by an Authority.)** 1. A city may, by resolution or resolutions of the governing body or by instruments authorized by such resolutions convey, with or without consideration, to an authority real and personal property owned by the city for use by an authority as a project or projects or a part thereof. In case of real property so conveyed, the title thereto shall remain in the city but the authority shall have the use and occupancy thereof for so long as its corporate existence shall continue. In the case of personal property so conveyed, the title shall pass to the authority.

2. A city may acquire in the name of the city by purchase or condemnation real property in the city for any of the projects.

3. Contracts may be entered into between a city and an authority providing for the property to be conveyed by a city

to an authority, the additional property to be acquired by a city and so conveyed, and the amounts, terms and conditions of payment to be made by an authority. Any such contracts between a city and an authority may be pledged by the authority to secure its bonds and may not be modified thereafter except as provided by the terms of the pledge. The governing body of a city may authorize such contracts between a city and an authority and no other authorization on the part of a city for such contracts shall be necessary.

4. An authority may itself acquire real property for a project in the name of the city at the cost and expense of the authority by purchase or condemnation pursuant to the condemnation law or pursuant to the laws relating to the condemnation of land by cities. An authority shall have the use and occupancy of such real property so long as its corporate existence shall continue.

5. In case an authority shall have the use and occupancy of any real property which it shall determine is no longer required for a project, then, if such real property was acquired at the cost and expense of the city, the authority shall have power to surrender its use and occupancy thereof to the city, or, if such real property was acquired at the cost and expense of an authority, then the authority shall have power to sell, lease, or otherwise dispose of said real property at public or private sale, and shall retain and have the power to use the proceeds of sales, rentals, or other moneys derived from the disposition thereof for its purposes.

**§ 7. Construction Contracts.)** An authority shall let contracts for construction in the same manner, so far as practicable, as is provided by law for contracts of cities except that where the estimated expense of a contract does not exceed five hundred dollars, such contract may be entered into without public letting. Nothing in this section shall be construed to limit the power of an authority to do any construction directly by the officers, agents, and employees of the authority.

**§ 8. Moneys of the Authority.)** All moneys of an authority shall be paid to the city treasurer as agent of the authority, who shall not commingle such moneys with any other moneys. Such moneys shall be deposited in a separate bank account or accounts. The moneys in such accounts shall be paid out by the treasurer on requisition of the chairman of the authority or of such other person or persons as the authority may authorize to make such requisitions after audit by the treasurer. All deposits of such moneys shall, if required by the treasurer or the authority, be secured by obligations of the United States or of the state of North Dakota of a market value equal at all

times to the amount of the deposit, and all banks and trust companies are authorized to give such security for such deposits. The treasurer and his legally authorized representatives are authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments, and any other records and papers relating to its financial standing. An authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any of its bonds as to the custody, collection, securing, investment, and payment of any moneys of the authority, or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds, and to carry out any such contract notwithstanding that such contract may be inconsistent with the previous provisions of this section. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be acquired in the same manner as moneys of the authority, and all banks and trust companies are authorized to give such security for such deposits.

The accounts of an authority shall be subject to the supervision of the state auditor.

**§ 9. Bonds of an Authority.)** 1. An authority shall have the power and is hereby authorized from time to time to issue its negotiable bonds for any purpose mentioned in section four of this Act, including the acquisition, construction, reconstruction, and repair of personal and real property of all kinds deemed by the board to be necessary or desirable to carry out such purpose, as well as to pay such expenses as may be deemed by the board necessary or desirable to the financing thereof and placing the project or projects in operation. An authority shall have power from time to time and whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other purpose hereinabove described. The refunding bonds may be exchanged for the bonds to be refunded, with such cash adjustments as may be agreed, or may be sold and the proceeds applied to the purchase or payment of the bonds to be refunded. In computing the total amount of bonds of an authority which may at any time be outstanding the amount of the outstanding bonds to be refunded from the proceeds of the sale of new bonds or by exchange for new bonds shall be excluded. Except as may otherwise be expressly provided by an authority, the bonds of every issue shall be payable out of any moneys or revenues of an authority, subject only to any agreements with

the holders of particular bonds pledging any particular moneys or revenues. Notwithstanding the fact that the bonds may be payable from a special fund, if they are otherwise of such form and character as to be negotiable instruments under article eight of the Uniform Commercial Code, the bonds shall be and are hereby made negotiable instruments within the meaning of and for all the purposes of article eight of the Uniform Commercial Code, subject only to the provisions of the bonds for registration.

2. The bonds shall be authorized by resolution of the board and shall bear such date or dates, mature at such time or times, not exceeding thirty years from their respective dates, bear interest at such rate or rates, not exceeding six percent per annum payable annually or semiannually, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places, and be subject to such terms of redemption, as such resolution or resolutions may provide. The bonds may be sold at public or private sale for such price or prices as the authority shall determine, but which shall not at the time of sale yield more than six percent per annum.

3. Any resolution or resolutions authorizing any bonds or any issue of bonds may contain provisions, which shall be part of the contract with the holders of the bonds thereby authorized, as to

(a) pledging all or any part of the revenues of a project or projects to secure the payment of the bonds, subject to such agreements with bondholders as may then exist;

(b) the rentals, fees and other charges to be charged, and the amounts to be raised in each year thereby, and the use and disposition of the revenues;

(c) the setting aside of reserves or sinking funds, and the regulation and disposition thereof;

(d) limitations on the right of an authority to restrict and regulate the use of a project;

(e) limitations on the purpose to which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied and pledging such proceeds to secure the payment of the bonds or of any issue of the bonds;

(f) limitations on the issuance of additional bonds; the terms upon which additional bonds may be issued and secured; the refunding of outstanding or other bonds;

(g) the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(h) limitations on the amount of moneys derived from a project to be expended for operation, administration, or other expenses of an authority;

(i) vesting in a trustee or trustees of such property, rights, powers, and duties in trust as an authority may determine which may include any or all of the rights, powers, and duties of the trustee appointed by the bondholders pursuant to section sixteen of this Act, and limiting or abrogating the right of the bondholders to appoint a trustee under said section or limiting the rights, duties, and powers of such trustee;

(j) any other matters, of like or different character, which in any way affect the security or protection of the bonds.

4. It is the intention hereof that any pledge of revenues or other moneys made by an authority shall be valid and binding from the time when the pledge is made; that the revenues or other moneys so pledged and thereafter received by an authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act; and that the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against an authority irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

5. Neither the members of an authority nor any person executing the bonds shall be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

6. An authority shall have power out of any funds available therefor to purchase bonds. An authority may hold, cancel, or resell such bonds, subject to and in accordance with agreements with bondholders.

7. In the discretion of an authority, the bonds may be secured by a trust indenture by and between an authority and a corporate trustee, which may be any trust company or bank within or without the state of North Dakota. Such trust indenture may contain such provisions for protecting, and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of an authority in relation to the construction, maintenance, operation, repair, and insur-

ance of the project or projects and the custody, safeguarding, and application of all moneys, and may provide that the project or projects shall be constructed and paid for under the supervision and approval of consulting engineers. Notwithstanding the provisions of section eight of this Act, an authority may provide by such trust indenture for the payment of the proceeds of the bonds and the revenues of the project or projects to the trustee under such trust indenture or other depository, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out such trust indenture may be treated as a part of the cost of maintenance, operation, and repairs of the project or projects. If the bonds shall be secured by a trust indenture, the bondholders shall have no authority to appoint a separate trustee to represent them, and the trustee under such trust indenture shall have and possess all of the powers which are conferred by section sixteen of this Act upon a trustee appointed by bondholders.

**§ 10. Notes of an Authority.)** An authority shall have power from time to time to issue notes and from time to time to issue renewal notes, herein referred to as notes, maturing not later than five years from their respective original dates in an amount not exceeding ten percent over and above the amount of bonds authorized by subsection one of section nine of this Act and outstanding, for any purpose or purposes for which bonds may be issued, whenever an authority shall determine the payment thereof can be made in full from any moneys or revenues which an authority expects to receive from any source. Such notes may, among other things, be issued to provide funds to pay preliminary costs of surveys, plans, or other matters relating to any proposed project. An authority may pledge such moneys or revenues, subject to any other pledge thereof, for the payment of the notes and may in addition secure the notes in the same manner and with the same effect as herein provided for bonds. The notes shall be issued in the same manner as bonds. An authority shall have power to make contracts for the future sale from time to time of the notes, by which the purchasers shall be committed to purchase the notes from time to time on terms and conditions stated in such contracts, and an authority shall have power to pay such consideration as it shall deem proper for such commitments. In case of default on its notes, or violation of any of the obligations of an authority to the noteholders, the noteholders shall have all the remedies provided herein for bondholders.

**§ 11. Debt Guarantee Fund.)** Prior to the issuance of any bonds authorized by this Act the authority shall require that a debt guarantee fund be established sufficient in amount to guarantee the payment of the principal and interest of the

bonds issued for any project for a period of not less than three years. Such fund when so provided shall be held in escrow by a bank or trust company of the city to be selected by the authority, which fund shall be invested in such manner as the authority shall direct. In the event the revenues of the project or from other sources are insufficient at any time to service any issue of bonds as the same become due the authority shall from time to time withdraw from the fund any amounts necessary or required to pay and discharge such maturing obligations of the bond issue. Upon full payment of the bond issue for any project any balance remaining in said fund including accrued interest thereon shall be paid over by the escrow agent pro rata to the persons contributing to such fund. Should any deficiency remain in the debt guarantee fund after retirement of the bond issue by reason of withdrawals by the authority therefrom the authority or the city upon termination of the authority is authorized to pay the same from revenues thereafter accruing to the project.

**§ 12. Agreement of a City.)** 1. Cities may pledge to and agree with the holders of the bonds that the city will not limit or alter the rights hereby vested in the authority to acquire, construct, maintain, reconstruct, and operate the project or projects, to establish and collect rentals, fees, and other charges and to fulfill the terms of any agreements made with the holders of the bonds, or in any way impair the rights and remedies of the bondholders, until the bonds, together with interest thereon, with interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders, are fully met and discharged.

2. Authorities are hereby authorized, in their discretion, for and on behalf of themselves and the city which authorized them, to covenant and agree with the holders of the bonds, with such exceptions and limitations as it may deem in the public interest, that no public parking areas except those acquired and operated by the authority will be constructed or operated in the city by the city, or by any public benefit or other corporation the members or some of which are elected or are appointed by city officials, until either the bonds, together with interest thereon, interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders are fully met and discharged, or principal or interest of any of the bonds shall be overdue and unpaid for a period of three years or more.

**§ 13. State and City Not Liable on Bonds.)** The bonds and other obligations of an authority shall not be a debt of the

state of North Dakota or of a city, and neither the state nor the city shall be liable thereon, nor shall they be payable out of any funds other than those of an authority.

**§ 14. Bonds Legal Investments for Public Officers.)** Except as otherwise provided in the Constitution of this state, the bonds are hereby made securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks, savings associations, including savings and loan associations, building and loan associations, investment companies, and other persons carrying on a banking business, and all other persons whatsoever except as hereinafter provided, who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them; provided that, notwithstanding the provisions of any other general or special law to the contrary, such bonds shall not be eligible for the investment of funds, including capital, of trusts, estates, or guardianships under the control of individual administrators, guardians, executors, trustees, and other individual fiduciaries. The bonds are also hereby made securities which may be deposited with and shall be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of this state is now or may hereafter be authorized.

**§ 15. Tax Exemptions.)** 1. It is hereby determined that the creation of an authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the city which has authorized it and its environs, and is a public purpose, and an authority shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this chapter and shall be required to pay no taxes or assessments upon any of the property acquired by it or under its jurisdiction or control or supervision or upon its activities.

2. Any bonds or notes issued pursuant to this chapter, together with the income therefrom, as well as the property of an authority, shall be exempt from taxation, except for transfer and estate taxes.

**§ 16. Tax Contract by the State.)** The state of North Dakota covenants with the purchasers and with all subsequent holders and transferees of bonds or notes issued by an authority pursuant to this chapter, in consideration of the acceptance of and payment for the bonds or notes, that the bonds and notes

of an authority issued pursuant to this chapter and the income therefrom, and all moneys, funds and revenues pledged to pay or secure the payment of such bonds or notes shall at all times be free from taxation except for estate taxes and taxes on transfers by or in contemplation of death.

**§ 17. Remedies of Bondholders.)** 1. In the event that an authority shall default in the payment of principal of or interest on any issue of the bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that an authority shall fail or refuse to comply with the provisions of this chapter, or shall default in any agreement made with the holders of any issue of the bonds, the holders of twenty-five percent in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the district court of the county in which the authority is located and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purposes herein provided.

2. Such trustee may, and upon written request of the holders of twenty-five percent in principal amount of such bonds then outstanding shall, in his or its own name

(a) by action or special proceeding enforce all rights of the bondholders, including the right to require an authority to collect revenues adequate to carry out by any agreement as to, or pledge of, such revenues, and to require an authority to carry out any other agreements with the holders of such bonds and to perform its duties under this chapter;

(b) bring suit upon such bonds;

(c) by action or suit in equity, require an authority to account as if it were the trustee of an express trust for the holders of such bonds;

(d) by action or suit in equity, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such bonds;

(e) declare all such bonds due and payable, and if all defaults shall be made good then with the consent of the holders of twenty-five percent of the principal amount of such bonds then outstanding, to annul such declaration and its consequences.

3. The district court shall have jurisdiction of any suit, action, or proceeding by the trustee on behalf of bondholders.

The venue of any such suit, action or proceeding shall be laid in the county in which the authority is located.

4. Before declaring the principal of all such bonds due and payable, a trustee shall first give thirty days' notice in writing to an authority.

5. Any such trustee, whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the project the revenues of which are pledged for the security of the bonds of such issue, and such receiver may enter and take possession of such part or parts of the project and, subject to any pledge or agreement with bondholders, shall take possession of all moneys and other property derived from or applicable to the acquisition, construction, operation, maintenance, and reconstruction of such part or parts of the project and proceed with the acquisition of any necessary real property in connection with the project that an authority has covenanted to construct and with any construction which an authority is under obligation to do and to operate, maintain, and reconstruct such part or parts of the project and collect and receive all revenues thereafter arising therefrom subject to any pledge thereof or agreement with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of an authority under the direction of the court. In any suit, action, or proceeding by the trustee, the fee, counsel fees, and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from such project.

6. Such trustee shall, in addition to the foregoing, have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders on the enforcement and protection of their rights.

**§ 18. Actions Against an Authority.)** 1. In every action against an authority for damages, for injuries to real or personal property, or for the destruction thereof, or for personal injuries or death, the complaint shall contain an allegation that at least thirty days have elapsed since the demand, claim, or claims upon which such action is founded were presented to a member of the authority, or to its secretary, or to its chief executive officer and that the authority has neglected or refused to make an adjustment or payment thereof for thirty days after such presentment.

**§ 19. Termination of an Authority.)** Whenever all of the bonds issued by an authority shall have been redeemed or cancelled, the authority shall cease to exist and all rights, titles, and interest and all obligations and liabilities thereof deemed vested in or possessed by the city which created the authority.

**§ 20. Inconsistent Provisions in Other Acts Superseded.)** Insofar as the provisions of this chapter are inconsistent with the provisions of any other Act, general or special, or of any local law of a city, the provisions of this title shall be controlling.

Approved March 15, 1967.

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## CHAPTER 343

S. B. No. 370  
(Lips, Lowe, Redlin, Decker)

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### PEDESTRIAN MALL IMPROVEMENTS

#### AN ACT

Authorizing cities to designate, regulate, maintain and improve streets in the central business district as a mall for primarily pedestrian use, to levy special assessments for the construction and maintenance of such improvements, and to issue special improvement warrants or bonds for said improvements.

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

**§ 1. Authority for Pedestrian Mall Improvements.)** The governing body of any city may by resolutions create a special improvement district, order and approve plans and specifications, determine the necessity, advertise and enter into contracts, issue special improvement warrants and bonds, and levy special assessments for the improvement of one or more streets within its central business district to be regulated and maintained as a mall for primarily pedestrian use, in the manner and upon the terms and conditions set forth in chapters 40-22 to 40-27 of the North Dakota Century Code, except as otherwise provided in this chapter.

**§ 2. Determination of Necessity.)** The resolution determining the necessity of the improvement shall designate the portions of streets to be included within the mall and shall state the reason or reasons why such designation is deemed necessary. It is recognized by state policy that such necessity may exist in a city of substantial size for one or more of the following reasons:

1. Increases in population and in automobile usage and parking may create conditions of traffic congestion in the central business district during part or all of normal business hours;
2. Continued unlimited use of the designated street or streets may constitute a hazard to the safety of pedestrians and may impede necessary movement of police and fire equipment, ambulances, and other emergency vehicles;
3. Certain streets may be improved to their maximum width for sidewalk and roadway purposes, and may be incapable of further widening without taking buildings and improvements or substantially impeding the movements of pedestrians using the facilities of the central business district;
4. Orderly plans for urban renewal, rehabilitation and redevelopment may require or may be facilitated by such an improvement; and
5. Pedestrian use may be the highest and best use of such streets, and the limitation of the use thereof by vehicles may be in the best interest of the city and of the optimum benefit to the properties in the improvement district, if:
  - a. Reasonably convenient alternate routes exist for vehicles going through the central business district to other parts of the city and the state; and
  - b. The designated streets are not federal, state or county highways, or, if they are, the making of the improvement is conditioned upon the relocation of such highways in the manner provided by law; and
  - c. Properties abutting on the designated streets can reasonably and adequately receive and deliver merchandise and materials either from other streets or alleys, or by providing for limited use of the designated streets for this purpose.

**§ 3. Plans and Specifications.)** The plans and specifications shall provide for improvement of the designated streets in a manner designed for use primarily for the free movement, safety, convenience, and enjoyment of pedestrians, whether or not part of the mall is made available for emergency or other permitted vehicles. A mall improvement may provide for and include space for seating, cafe tables, shelters, trees, flower plantings, sculptures, newsstands, telephone booths, traffic signs, kiosks, fire hydrants, street lighting, ornamental lights, trash receptacles, display cases, marquees, awnings,

canopies, overhead and underground radiant heating devices, walls, barriers, and all such other fixtures, equipment, facilities, and appurtenances as will in the governing body's judgment enhance the free movement, safety, convenience, and enjoyment of pedestrians and benefit the adjoining properties and the central business district and the city. Sidewalks may be constructed of concrete, bricks, asphalt tiles, blocks, granite sets, or such other materials or combinations of materials as the governing body may approve. The governing body may in its discretion narrow any roadway to be kept and maintained in the mall, may cause any street vaults to be reconstructed or removed, may construct crosswalks at any point within or at the ends of blocks, and may cause any roadway to curve and meander within the limits of the street, if deemed desirable to enhance the usefulness or appearance of the mall, regardless of any non-uniformity of street width or any curve or absence of curve in the center line of the street.

**§ 4. Jurisdiction to Improve and Regulate.)** Upon hearing of any protests made by the owners of property within the improvement district in the time and in the manner provided by law, if the governing body shall determine the protests to be insufficient, it may proceed with the improvement as in the case of other special improvements, provided that before so proceeding a certified transcript of the resolution of necessity shall be recorded in the office of the register of deeds, and any person aggrieved thereby may appeal therefrom to the district court of the county within twenty days after such recording, but only on the ground that the establishment of the mall in accordance with the resolution will unreasonably and arbitrarily obstruct the public use of and interest in the designated street or streets, or that such resolution has been adopted in a manner contrary to law. Notwithstanding the establishment of a mall or the improvement of any street or any portion thereof as a part of such mall, or any limitation of the use thereof by vehicles, the city and the governing body shall retain at all times their police powers and other powers and rights pertaining thereto, and no such action shall constitute a vacation, in whole or in part, of any portion of a city street.

**§ 5. Regulations.)** The jurisdiction of the city to make a pedestrian mall improvement, when established in the manner provided by law, shall include jurisdiction to establish by ordinance and from time to time amend reasonable regulations for the use of the mall, conforming to the following provisions:

1. Vehicles shall be permitted to cross the mall at all street intersections except those of two streets each forming part of the mall;

2. The owners and occupants of all properties abutting upon the mall which have access to no other street or alley for delivery or receipt of merchandise and materials shall be permitted to use the mall during such days and hours, which need not be ordinary business days or hours, and in such manner and over such distance, as the governing body shall find to be reasonably adequate for this purpose and to be possible without interfering with use by pedestrians and by emergency and other vehicles for which use is permitted;
3. The regulations may permit use for any purpose or activity which will enhance the freedom of movement, safety, convenience or enjoyment of pedestrians, including but not limited to, seating, sidewalk cafes, displays of merchandise, exhibits, advertising, telephones, transit, transit stops and shelters, newsstands, plantings, ornaments, protection from the elements, emergency vehicles, and police and fire equipment;
4. The governing body may adopt a use plan prepared by city officers or consultants, providing for the location and distribution within the mall of furniture, sculpture, pedestrian traffic control devices, trees, flowers, lighting or heating facilities, and any other equipment or properties placed or installed in the mall, whether owned by the city or others, and may license and regulate the operation and maintenance thereof; and
5. Any furniture, structure, facility, or use located or permitted pursuant to such a plan shall not, by reason of such location or use, be deemed a nuisance or unlawful obstruction or condition, and neither the city nor any user acting under permit shall be liable for any injury to person or property therefor unless directly caused by its own negligence or that of its employees in the construction, maintenance, or operation of such furniture, structure, facility, or use.

**§ 6. Maintenance and Improvement.)** A pedestrian mall established pursuant to this chapter may be maintained and the cost of such maintenance may be paid by all means permitted by law for other streets. The governing body may also annually cause an estimate to be made of the probable cost of such maintenance during the current fiscal year, in excess of the cost of maintenance of streets of similar length, width, and location not used as a mall, and may assess such excess cost of maintenance on properties within the improvement district, provided that such assessments shall not exceed the special benefits determined to be received by said properties

from such maintenance. The assessment list approved by the governing body shall be filed in the office of the city auditor, who shall mail to the street address of each lot and parcel proposed to be assessed, and to such other address as may be requested in writing by the owner or occupant of any such lot or parcel, a notice stating the amount proposed to be assessed upon such lot or parcel, and that any objection thereto may be made in writing filed with the city auditor on or before a specified date, not less than twenty days after such mailing, on which date, at a time and place specified in the notice, the governing body will consider all objections. At this meeting, or any adjournment thereof, the governing body shall review all assessments and hear all persons desiring to be heard, and may amend the assessments in such manner as it shall determine to be just and reasonable, and may confirm the same and direct the assessment list to be filed with the county auditor, and the assessments made therein to be extended upon the tax lists of the city for the current year and collected with interest and penalties as general taxes are collected and paid over to the city treasurer and placed by him in a special fund to be used only for the purpose of current, reasonable and necessary expenses of the operation and maintenance of the mall.

**§ 7. Additional Improvements and Extensions.)** An established pedestrian mall may be subsequently improved or extended by proceedings taken in the same manner as for its establishment, and such improvements or extensions may thereafter be regulated and maintained as provided above.

Approved March 1, 1967.