

*agers to fill all expiring terms.* Vacancies shall be filled by the governing board. Any person appointed to fill a vacancy shall hold office until the next annual meeting of the society which shall elect a successor to serve out the unexpired term.

Sec. 2. This act shall take effect and be in force from and after its passage and approval.

Approved April 20, 1917.

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CHAPTER 509—H. F. No. 1009.

*An act to authorize certain cities in the state of Minnesota to sprinkle its streets, alleys, highways, public ways and public grounds, and to assess the cost thereof on property benefited thereby, and defining such sprinkling.*

Be it enacted by the Legislature of the State of Minnesota:

Section 1. **City of Winona authorized to sprinkle streets and make assessments for same.**—That the city council or other governing body of each city in the state of Minnesota which now has or hereafter may have 20,000, and not more than 50,000, inhabitants, is hereby authorized and empowered to sprinkle its streets, alleys, highways, public ways and public grounds, without letting the same by contract, and to levy assessments for all or any portion of the cost thereof upon property to be benefited thereby as such city council or other governing body may determine, in the manner and as hereinafter designated, notwithstanding any provisions in the charter of such city or the general laws of this state to the contrary.

For the purposes of this act the population of each city of this state shall be ascertained and determined according to the last census taken under and pursuant to the laws and authority of the state of Minnesota.

Sec. 2. **Definition of term sprinkling.**—Sprinkling as used or referred to in this act shall be deemed to include sprinkling, flushing, saturating or treating the surface of streets, alleys, highways, public ways and public grounds with water, oil or any kind of fluid, mineral or other substance, for the purpose of preventing dust in the atmosphere or on the surface of such streets, alleys, highways, public ways and public grounds.

Sec. 3. **City council to determine territory to be sprinkled.**—Such city council or other governing body may at any time determine by resolution what territory in such city shall be sprinkled during the sprinkling season of that year and may divide such territory into two or more sprinkling districts, describing the boundary lines of each such district. Each district so determined shall be designated by number, and thereafter all reference to such district by number in any notice required

by this act or in any other proceeding having reference thereto, shall be deemed a sufficient designation.

Such city council or other governing body may cause to be prepared plans and specifications therefor and may approve the same and upon such approval they shall be filed with the clerk or recorder of such city for the inspection of all parties interested.

Such resolution shall be published once in the official paper of such city.

**Sec. 4. Procedure of city council.**—After the adoption of such resolution and the approval and filing of such plans and specifications as aforesaid, such city council or other governing body shall designate a time, not less than ten days distant, and a place at which it will meet and act in relation to the doing of the proposed sprinkling, and direct that notice be given by the clerk or recorder of such meeting, and the time, place and purpose thereof. Such notice shall state that the plans and specifications therefor are on file with the clerk or recorder, and that all persons interested will be heard at the time and place of such meeting, and shall be published once in the official paper of such city at least five days before the time of such meeting. At such meeting an opportunity shall be given by such city council or other governing body to any and all interested parties to be heard for or against the proposed sprinkling, and such city council or other governing body may then, by an affirmative vote of a majority of all its members, by resolution in writing, determine what sprinkling shall be done during that year and the manner of doing the same, or may in its discretion, from lack of a quorum or for any other reason postpone the consideration and decision of the whole matter, or any part thereof to a future definite time, of which postponement all parties interested shall be required and deemed to take notice. Such resolution may designate what officer or officers of such city shall supervise such work.

Such city council or other governing body is hereby authorized and empowered to purchase all necessary horses, wagons, sprinklers, vehicles, equipment and outfit and all materials necessary or required for proper sprinkling in such city.

**Sec. 5. To be approved by mayor.**—After the adoption of the resolution last mentioned it shall be signed by the president of such city council or other governing body and attested by the clerk or recorder of such city, and on the next day after the adoption thereof the same shall be transmitted by such clerk or recorder to the mayor of such city for his approval. If the mayor approves the same, he shall append his signature with the date of his approval thereto and return the same to the clerk or recorder within five days, Sundays excepted, from the

date of its transmission to him. If he declines to approve the same, he shall, within said period of five days, Sundays excepted, return the same to the clerk or recorder with a statement of his objections thereto, to be presented to such council or other governing body at its next meeting thereafter.

Upon the return of said resolution to the city council or other governing body without the mayor's approval, the same shall again be put upon the passage of the same, notwithstanding the objections of the mayor, and if, upon such vote, which shall be taken by a call of the roll, two-thirds of all the members of such city council or other governing body shall vote in favor of the adoption of such resolution, the same shall be declared adopted and shall have the same force and effect as if approved by the mayor.

If such resolution, transmitted to the mayor, shall not be returned by him to said clerk or recorder within said five days, Sundays excepted, after presentation thereof to him, the same shall be deemed to be approved by him, and he shall deliver the same to the clerk or recorder on demand. Such resolution need not be published.

**Sec. 6. Modification of sprinkling district.**—At any time after the adoption of the resolution last mentioned, such city council or other governing body may, by resolution in writing, approved by the mayor, or by a two-thirds vote over his objections, without notice or publication of such resolution, amend or modify the same by adding to the territory of any sprinkling district or omitting any portion thereof or by changing the method or manner of sprinkling therein for the remainder of that year; and such city council or other governing body may at any time discontinue sprinkling from time to time or altogether in any sprinkling district.

**Sec. 7. Employment of assistants.**—Such city council or other governing body may, from time to time, appoint one or more persons to assist the officer designated to supervise such sprinkling, and may fix their compensation and terms of service, or provide that they shall serve during its pleasure.

**Sec. 8. Sprinkling supervisor to keep cost of sprinkling.**—The supervisor of sprinkling shall keep an accurate account of the cost of such sprinkling, including the compensation paid to such assistant or assistants, in each of such sprinkling districts, and promptly upon the completion of each season's sprinkling under the provisions of this act, transmit to such city council or other governing body a detailed statement thereof.

**Sec. 9. Assessment by council.**—The city council or other governing body shall then proceed without unnecessary delay

to apportion and assess the entire cost of such sprinkling including all expenses in connection therewith or such portion thereof as it may determine, upon the real estate by them deemed benefited, to the extent of the benefits received, and in proportion, as near as may be, to the benefits resulting thereto from such sprinkling.

In all proceedings for the making and collection of any assessment under this act, letters, figures and the usual and customary abbreviations may be used to designate lots, parts of lots, lands, blocks, additions, subdivisions, sections, townships, ranges and parts thereof, the year and the amounts. Such assessments shall be in writing, in which shall be given a description of each lot or parcel so assessed, the name of the owner thereof, if known, and the exact amount assessed thereto.

**Sec. 10. Assessment record to be filed with clerk and published.**—Upon the completion of such assessment such city council or other governing body shall direct that the same be placed on file with the clerk or recorder, and shall appoint a time, not less than ten days distant, and a place when and where it will meet to consider and act upon such assessment, and such clerk or recorder shall thereupon cause notice of such meeting, and the time, place and purpose thereof, to be given by one publication of such notice in the official newspaper of such city, at least five days prior to the time appointed for such meeting. Such notice shall state that the assessment has been made for sprinkling, referring to the number of each district sprinkled for which the assessment was made and that the assessment is on file with the clerk or recorder and open to the inspection of all parties interested, and that all objections to the same must be filed in writing with the clerk or recorder of such city at least one day (Sunday and legal holidays excepted) prior to said meeting, and that unless sufficient cause is shown to the contrary, the same will be confirmed. A reference in such notice to the number of the sprinkling district for the sprinkling of which such assessment has been made, shall be deemed a sufficient reference to the property embraced in such assessment.

**Sec. 11. Council to consider assessment at public meeting.**—At the time and place so appointed, as provided in section 10 hereof, said city council or other governing body shall proceed to consider said assessment and hear all objections which parties interested may desire to make thereto, and may adjourn as often as deemed expedient to a future definite time and place, and if none of the members are present the clerk or recorder may adjourn to some other convenient time and place, of which postponement all parties interested shall be required and deemed to take notice. All objections to said assessment shall be in writing and filed with said clerk or recorder at least one day

(Sunday and legal holidays excepted) prior to the said meeting; provided however, that said city council or other governing body, may, in its discretion, allow any party interested, who has omitted to file his objection as aforesaid, to do so at the time of such meeting. Such city council or other governing body may, at any time cause a new notice of such hearing to be given, if the previous notice is deemed by it to be imperfect, or for any other reason.

Said city council or other governing body, after consideration may make such correction or changes in said assessment and may revise the same as it may deem necessary or proper, and confirm and establish the same.

The assessment, when so confirmed and established, shall be final, conclusive and binding upon all parties interested therein, and the several amounts charged in such assessment as so confirmed and established against the several lots and parcels of land therein mentioned shall be enforced and established as hereinafter provided: If any assessment be annulled or set aside, the said city council or other governing body may proceed de novo to make a new assessment in like manner, and like notice shall be given as herein required in relation to the first, and all parties interested shall have the like rights.

**Sec. 12. Assessment to be lien on real estate.**—All assessments levied under the provisions of this act shall be a paramount lien on the real estate upon which the same may be imposed, from the date of the confirmation of such assessments.

**Sec. 13. Clerk to keep record of all assessments.**—The clerk or recorder of each such city shall keep in his office, in books to be provided for that purpose, a correct record of all assessments confirmed by the city council or other governing body and authorized by this act. Said books shall be properly ruled and headed so as to show at all times a substantial description and history of each assessment on each lot or parcel of ground, whether paid to the city treasurer or the county treasurer or remaining unpaid.

**Sec. 14. Warrant to be issued for collection of assessment.**—When any such assessment shall be confirmed and established as aforesaid, the clerk or recorder of such city shall issue a warrant for the collection thereof under the seal of such city and signed by the mayor and the clerk or recorder thereof, containing a printed or written copy of the assessment roll as so confirmed, or so much thereof as describes the real estate and the amount of the assessment in each case, and deliver the same to the city treasurer of such city as soon as practicable thereafter.

The clerk or recorder shall in each instance take a receipt for such warrant and place the same on file.

**Sec. 15. City officials to give notice by publication.**—Upon the receipt of such warrant the city treasurer shall forthwith give notice by publication once in the official newspaper of such city, that such warrant is in his hands for collection, briefly describing its nature and stating that such assessment is for sprinkling. A reference in such notice to the number of the sprinkling district for the sprinkling of which such assessment has been made, shall be deemed a sufficient reference to the property embraced in such assessment. Such notice shall require all persons interested to make payments within thirty days from the date of such notice, at his office or at the option of said treasurer, at some bank in said city acting for him.

**Sec. 16. Treasurer to notify clerk of assessments remaining unpaid, and duties of clerk.**—If the assessments charged in any such assessment warrant shall not be paid within thirty days after the publication of the notice by the city treasurer that he has received such warrant for collection, he shall return to the clerk or recorder of such city a list, duly certified by said treasurer of the assessments so made which still remain unpaid, giving in such list the description of the several lots and parcels on which the assessments have not been paid, with the name of the respective owners thereof, if known, and the several amounts assessed thereto.

Such clerk or recorder shall thereupon add to each delinquent and unpaid assessment a penalty of ten per cent thereof and transmit a duly certified list of such unpaid assessments with such penalty added, with a description of the several lots and parcels of land on which the same are made, and the names of the respective owners thereof, if known, to the auditor of the county in which such city is located, who shall enter the several amounts of said unpaid assessments on the tax list for such city for the next ensuing year, and levy the same upon the several lots and parcels of land to which the same are respectively chargeable, and the same shall thereupon be enforced and collected as other taxes on real estate are enforced and collected under the general laws of this state.

**Sec. 17. When assessment shall not be set aside.**—No such assessment shall be set aside or held invalid by reason of any informality in the proceedings prior to the entry thereof on the tax list by the county auditor, as hereinbefore required, unless it shall appear that by reason of such informality or irregularity substantial injury has been done to the party or parties claiming to be aggrieved.

**Sec. 18. New assessment to be made in case of irregular proceedings.**—If for any cause the proceedings of the city council or other governing body of any such city, or any of its officers,

may be found irregular or defective, whether jurisdictional or otherwise, or so deemed by the city council or other governing body, it may make a new assessment from time to time, and as often as needs be, upon all real estate benefited and on which no payment has been made for said sprinkling, until the full amount of all benefits assessed have been realized from the real estate so benefited by such sprinkling.

**Sec. 19. Sprinkling to be paid for on monthly or semi-monthly estimates.**—The work of sprinkling authorized by this act shall be paid for upon monthly or semi-monthly estimates made by the person having supervision of such sprinkling and approved by the city council or other governing body, and that portion of the cost of sprinkling which is to be assessed against property benefited thereby shall be paid from the local improvement fund of such city; and all assessments paid for such sprinkling shall be credited to such fund.

**Sec. 20. Certificates of indebtedness authorized.**—If, at any time, it is found that the moneys in said fund will not be sufficient to pay the portion of said estimates which will be payable therefrom as the work progresses, such city is hereby authorized and empowered to issue from time to time its certificates of indebtedness, in anticipation of the collection of such assessments, in such amount or amounts as the city council or other governing body may deem necessary to pay for such portion of the estimates as the same become payable, and to negotiate and sell such certificates upon the best terms for said city, subject, however, to all the following conditions.

**Sec. 21. Certificates to be authorized by council and form of same.**—The issue of such certificates shall first be authorized by a resolution in writing passed by an affirmative vote of a majority of all the members of the city council or other governing body and approved by the mayor of such city.

If the mayor shall not approve such resolution within five days after its transmission to him, then the same may be passed by said city council or other governing body, notwithstanding his objections thereto, by a two-thirds vote of all its members, and shall then have the same force and effect as if approved by the mayor.

Such resolution shall designate the number of such certificates so to be issued, the principal sum of each certificate, the time or times when payable and the purpose for which the money realized thereon is to be paid.

Such certificates shall be numbered consecutively, without regard to the time of issue, and shall be made payable to bearer or to the order of the person or corporation to whom the same may be delivered, as the city council or other governing body

may designate, and shall draw interest at a rate not exceeding six per cent per annum and be payable at the city treasury of such city not later than one year from the day of issue and be payable out of the local improvement fund and no other of such city. They shall be signed by the mayor and attested by the clerk or recorder of such city and shall have imprinted thereon the corporate seal of such city.

No certificate shall be sold for less than par value and accrued interest.

**Sec. 22. Clerk and city treasurer to keep record of certificates.**—The clerk or recorder and the city treasurer shall each keep an accurate record of all certificates so issued, in books to be kept for that purpose.

Any and all proceeds realized from the sale of such certificates shall be turned into the local improvement fund of such city and neither the said certificates nor the proceeds from the sale thereof, shall be used for or devoted to any purpose other than that designated in the resolution authorizing their issue.

**Sec. 23. Irregularities not to effect liability of city.**—No irregularity or informality in any of the proceedings for sprinkling, or in the making or levying of any assessment in anticipation of the collection of which such certificates are issued, shall affect the liability of such city to redeem the same, but the faith and credit of such city issuing the same is hereby irrevocably pledged for the redemption of the certificates so issued.

**Sec. 24. Cancellation of certificates.**—The city treasurer shall immediately after any such certificate shall have been redeemed by such city, cancel the same by a writing upon the face thereof showing date of redemption and the amount and to whom paid, and shall affix his signature thereto, and within twenty-four hours thereafter transmit such certificate so cancelled to the clerk or recorder and take his receipt therefor, who shall immediately make an entry of such redemption and cancellation in his certificate register and enter such payment in the said fund account.

**Sec. 25. When payments of assessment may be made, and cancellation on assessment books.**—Any person owning or interested in any piece or parcel of land against which an assessment is levied, as herein provided, may pay such assessment, together with the penalty thereon, to the treasurer of such city at any time before the first Monday in January next following the date on which the same has been certified to the clerk or recorder or to the county auditor, as hereinbefore provided, and said treasurer shall thereupon give his receipt in duplicate for the same, which shall be sufficient authority for the cancellation of such assessment by the county auditor or county treasurer on

his books, or by such clerk or recorder, as the case may be. After the first Monday in January next following the date on which any delinquent assessment shall have been certified to the county auditor, the same must be paid to the county treasurer the same as state and county taxes.

Upon the presentation of one of said duplicate receipts by such owner or interested party to the county auditor or county treasurer, as the case may be, he shall cancel such assessment on his books, or if the same has not yet been transmitted to the county auditor, said clerk or recorder shall thereupon cancel such assessment on the delinquent list containing the same. The county auditor, if such receipt be filed with him, shall report the same in the next settlement thereafter with said city treasurer, for taxes collected and payable to such city treasurer.

On the first Monday of each year the city treasurer shall certify to the clerk or recorder of such city all payments made to such treasurer, of assessments certified to the county auditor for collection, and such clerk or recorder shall enter all such payments in the proper records therefor.

**Sec. 26. Affidavit of publication required.**—When any notice is required to be published in any newspaper, under the provisions of this act, an affidavit of the publisher or printer of such newspaper, or of the foreman or clerk of such publisher or printer, annexed to a printed copy of such notice taken from the paper in which it was published and specifying the time when, and the paper in which such notice was published, shall be prima facie evidence in all cases and in all courts of this state of the facts contained in such affidavit.

**Sec. 27. Auditor not to issue certificates of taxes paid until all assessments are paid.**—The county auditor shall not issue his certificate that taxes are paid on any piece or parcel of land upon which any delinquent assessment authorized by this act has been certified to him, until such assessment with penalties and interest thereon, if any, has been fully paid.

**Sec. 28. Application.**—This act shall not be deemed to repeal any provision of any special or home rule charter in force at the date of the passage hereof.

**Sec. 29.** This act shall take effect and be in force from and after its passage.

Approved April 20, 1917.