

# ORDINANCE NUMBER 5

## CITY OF TOWER, MINNESOTA

An ordinance providing for the making of improvements in the City of Tower prescribing procedure in making such improvements and levying assessments therefore against benefited property.

The City of Tower ordains:

Section 1. As provided by Chapter V of the City Charter of the City of Tower, the City Council does hereby adopt procedure as hereinafter set forth for the making of local improvements and levying assessments on property benefited by such improvement. In proportion to benefit to abutting property without regard to cash valuation of abutting property, to be determined and levied in the manner hereinafter provided.

Section 2. The City Council is hereby authorized to light, grade, pave, re-pave, curb, gutter, wall, bridge, gravel, macadamize, sprinkle, plank, sweep, or maintain any street, avenue, alley, or highway; to construct and maintain trunk sanitary and storm sewers; to grade, improve, protect, and ornament any public park, square, or grounds, to plant and protect shade or ornamental trees along its streets and avenues; to construct, lay, relay, and repair sidewalks, retaining walls, gutters, sewers, drains, in over or under any street, alley or highway; to abate nuisances; to drain swamps, marshes, and low grounds within the City when they constitute a nuisance; and the whole or any part of the expense thereof shall be defrayed by an assessment upon real estate benefitted whereby.

Section 3. All applications or petitions for any improvements authorized by law and the City Charter shall be made to emanate from the City Council. If a majority of owners of property abutting on any proposed improvement shall petition therefore in writing. The City Council may cause plans and specifications for such improvement to be made filed in office of the City Clerk. The City Council shall then set a date for and order a hearing on the proposed improvement notice of which hearing shall be published in the official newspaper once ten days before the date of such hearing. Said notice shall contain a description of the proposed improvement and shall designate the tracts of land affected thereby. Provided that the City Council may by majority vote of all its members, without petition in cases where the City Council deems that a public necessity requires it, cause plans and specifications for any such improvement to be made and filed in the office of the City Clerk and a hearing on notice as above set forth be given on such proposition.

Section IV. If upon such hearing the City Council deems said Improvement necessary and proper the City Council shall order the improvement made and shall assess the cost thereof against the property benefitted thereby. An estimate of the cost of such improvements shall be

made. On the basis of such estimate, the City Council shall assess benefitted abutting property in proportion to the benefits resulting thereto. In making such assessment toll, the Council shall describe each parcel of land assessed, state the amount assessed against the same, and shall set forth the name of the owner thereof so far as known to the Council. If on completion of said improvement the amount so assessed is insufficient to pay the costs of such improvement, and the benefit to the abutting property being not less than the cost thereof. The Council shall make a final assessment to pay the additional cost of completing the improvement.

Section 5. Before proceeding to make an assessment for any improvement, the City Council shall give ten days notice by one publication in the official paper of the time and place when and where a meeting of the Council shall be held for the purpose of making such assessment, which notice shall specify the amount to be assessed, property to be assessed, the names of the owners of such property so far as are known to the Council, and the purpose for which such assessment is made. All persons interested in such assessment shall have the right to be present and be heard. All objections and evidence relative to such assessment shall be presented at the meeting. On the conclusion of said meeting for the hearing on assessments, any and all adjustments deemed proper having been made, and such assessments having been judged proper and equitable, the City Council shall thereafter as soon as may be, make a confirmation of such assessment which shall be conclusive upon all parties not appealing, wherefrom. Notice of confirmation of such assessments shall be published in the official newspaper once.

Section 6. The City Council shall keep a record of all assessments, and such assessment shall become a lien on assessed premises in the same manner as city, state, and county taxes. On confirmation of such assessment, the City Council shall order the collection of assessments. A notice of the amount assessed and due shall be sent to each property owner affected so far as their names are known, stating the date on which said assessment shall be due and payable. Should any such assessment be not paid on such date, the City Council shall cause a statement of the same to be certified by the City Clerk and transmitted with the city tax levy for that year to the County Auditor on or before the 10<sup>th</sup> day of October in such year. Payment of such assessment shall be enforced in the same manner as city, county, and state taxes.

Section 7. Such assessment on notice given by the property owner may be paid in 3 equal installments, each installment to bear interest at the rate of 1 percent per annum. The first installment shall become due on the date determined by the Council, notice of which shall have been given by the Council. Other installments shall be paid annually thereafter until paid in full. If any installment or assessment shall not be paid when due, a penalty of five percent shall be added to the total amount thus delinquent and such penalty shall be certified to the County Auditor. Improvements abutting city owned property shall be paid for by the City.

Section 8. The owner of any abutting property subject to assessment under provisions herein, may appeal to the District Court from such assessment within 30 days from the date of the confirmation of the assessment by the City Council.

Section 9. After assessment has been made the City Council shall proceed to make such improvement on contract or by day labor as it deems necessary and proper and in accordance with the statutes of the State of Minnesota relating to public contracts and the provisions of the City Charter.

Section 10. Nothing herein shall prevent or prohibit any person or persons from constructing a public sidewalk abutting on property of such person or persons, when such construction or repair of a public sidewalk is made in accordance with sidewalk grade established by the City and in accordance with plans and specifications on file in the office of the City Clerk. Sidewalks shall be uniform in size and construction with other walks connecting thereto and being on the same thoroughfare.

Section 11. No assessment shall be levied against any abutting property nor shall any improvement be ordered in such cases where the existing sidewalk is in good condition and conforming grade line and plans and specifications adopted by the City Council.

Section 12. The City Council may order the repair of defective sidewalk by abutting property owner when such repairs are deemed necessary. Nothing herein shall affect the right of the City Council to order repairs on defective sidewalks at the expense of the abutting property owner. The City Council is hereby authorized to order any such repairs and on failure to comply with such order to cause such repairs to be made at the expense of the abutting property owner. Should such expenses not be paid, collection thereof shall be had by assessment in the same manner as above set forth for new work.

Section 13. This ordinance shall be in affect from and after its passage, adoption, and publication. Introduced by Alderman C C Winchell April 13, 1940 and given its first reading.

Given second reading May 11, 1940.

Moved by Alderman Thomas and supported by Alderman Winchell that the ordinance be adopted.

Adopted May 11, 1940 by the following vote:

Ayes: Aldermen Thomas, Winchell, Bruno, and Johnson and Mayor Gundersen.

Nays: None

Published in the Tower Weekly News May 17, 1940.

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Martin Gundersen, Mayor

Attest:

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Rose Stefanich, City Clerk