

**OPINION**  
**73-46**

December 18, 1973 (OPINION)

Mr. Lester J. Trnka  
Attorney at Law  
Box 88  
Oakes, ND 58474

Dear Mr. Trnka:

This is in reply to your letter of December 6, 1973, with regard to the office of city treasurer.

You state that you note that under Section 40-14-01 of the North Dakota Century Code, as amended by the 1973 Legislature, that municipalities no longer elect a treasurer.

You state further that you are writing to us on behalf of the City Council of a named city, to raise the question as to whether or not they can have a treasurer if they so desire. You state they would also like to raise the question as to how many signatures they need on the checks that are issued by the city, and that in the past the Mayor, Auditor and Treasurer signed them.

The 1973 amendment to Section 40-14-01 of the North Dakota Century Code is a part of Chapter 320 of the 1973 Session Laws, which is entitled "Abolition of Office of City Treasurer". The office of "City Treasurer" was formerly provided for, and the duties and responsibilities of that office were formerly prescribed by Chapter 40-17 of the North Dakota Century Code. Said Chapter 320 of the 1973 Session Laws repeals that entire chapter. On such basis, and in consideration of the other provisions of said chapter of the 1973 Session Laws, it is our opinion that there no longer is such an office as "city treasurer" in this state. You will note that Section 40-16-15 of the 1973 Supplement to the North Dakota Century Code now provides:

"40-16-15. ASSUME THE DUTIES OF THE CITY TREASURER. The City auditor shall assume all functions and duties of the city treasurer where indicated in other chapters of the code."

Section 40-17-05 of the North Dakota Century Code formerly provided in effect, that upon the "warrant" of the executive officer (the mayor in the case of council cities) countersigned by the city auditor, such warrant to be so drawn as to become a "check" on the city depository when signed by the treasurer, moneys could be paid out or disbursed. We would thus agree in substance with your statement to the effect that they formerly needed the signatures of the Mayor, Auditor and Treasurer on the checks.

Chapter 320 of the 1973 Session Laws, provides in subsection 15 of Section 40-16-03 and Section 40-16-11 as shown in the 1973 Supplement to the North Dakota Century Code, in effect that the "warrant" or "order" shall be by the "executive officer" (in the case of your council city, the "mayor") we assume evidenced by his signature

thereto and "countersigned" by the auditor. In practical effect, there should be no difference between the "warrant" or "order" for the payment of money under the new law, and the "warrant" that becomes a "check" under the old statute as to the disbursement of moneys. Under the new statute, of course, the order for the payment of moneys in your city would just require the signature of the mayor and countersignature of the auditor, whereas under the old law, all three signatures were required.

We hope the within and foregoing will be sufficient for your purposes.

Sincerely yours,

ALLEN I. OLSON

Attorney General