

**OPINION
51-20**

January 20, 1951 (OPINION)

CITIES

RE: Street Lighting

Your letter of January 16, 1951, concerning special assessment warrants for a special street lighting system in the city of New England, has been received by this office.

The city of New England has declared a special street lighting system necessary and has had the plans and specifications filed and advertised in accordance with the statutory requirements. The city has rejected all bids and has caused the work to be done directly as allowed by section 40-2227 of the North Dakota Revised Code of 1943.

You would like to know if the city of New England may now proceed to specially assess the benefits and to make payment by special assessment warrants.

Section 40-3002 of the North Dakota Revised Code of 1943, after providing for the procedural requisites, provides:

* * * and the city may proceed to provide for the construction of the improvement and to assess the cost thereof, or such part thereof as the governing body shall deem proper, against the abutting property in the manner and with the notice and according to the forms and procedure provided in this title for the construction and assessment of street paving."

The "special street lighting in cities" chapter of the code has provided, by reference, that the statutory method of payment for special street lighting is by special assessments under the provisions of chapter 40-22 of the North Dakota Revised Code of 1943.

We agree with the opinion expressed by you and Mr. Crane, your state's attorney.

Assuming that all legal steps have been taken as required by chapter 40-30 of the 1943 Revised code, and references therein, the payment for such special street lighting may be provided for by the city issuing special assessment warrants, the same as in the case of other special assessments allowed by statute.

ELMO T. CHRISTIANSON

Attorney General