

**CHAPTER 40-31**  
**CONSTRUCTION AND REPAIR OF CURBING AND GUTTERS IN CITIES**

**40-31-01. Governing body to prescribe plans and specifications for curbing by ordinance or resolution.**

The governing body of a city, by resolution or ordinance may:

1. Prescribe the plans and specifications for the curbing to be used in the city;
2. Establish the widths between the same in different locations; and
3. Determine and prescribe the kind and quality of material of which and the manner in which the curbing shall be constructed, taking into consideration the business and the amount of travel in the vicinity of each curb.

The resolution or ordinance shall be specific, and all contracts for the construction of curbing shall be let with reference thereto.

**40-31-01.1. Ramped curbing for wheelchairs.**

Repealed by S.L. 1993, ch. 261, § 6.

**40-31-02. City to build curbing - Assessment of expense - Notice of assessment - Approval by governing body.**

The curbing in the city shall be built, repaired, or rebuilt in the manner and within the time prescribed by the governing body, which shall order the work to be done by such person as it may have contracted with therefor, under the direction of the city engineer, or street commissioner, if the city has no city engineer, at the expense of the lots or parcels of land benefiting from the curbing. Such expense, including the expense of all notices in connection with such work, the assessment therefor, and any other expense incurred for such work, shall be assessed by the city engineer, or by the street commissioner if the city has no city engineer, against the lot or parcel of land properly chargeable therewith. Such assessment shall be returned by the engineer or commissioner and filed in the office of the city auditor, and the city auditor shall cause the assessment, together with a notice of the time when and place where the governing body will meet to consider the approval of the same, to be published once in the official newspaper of the city at least ten days prior to the meeting of the governing body to consider the approval of the assessment.

**40-31-03. Requirements as to certified or cashier's check and bidder's bond accompanying bids.**

Repealed by S.L. 1995, ch. 443, § 29.

**40-31-04. Letting contracts for curbing.**

At least once every year that the city plans to construct or repair curbing or gutters, the city auditor shall solicit bids in accordance with chapter 48-01.2.

**40-31-05. Procedure for making limited repairs to curbing.**

Whenever in the judgment of the street commissioner the necessary repairs on curbing will not exceed in cost the sum of ten dollars for each twenty-five feet [7.62 meters] in front of land belonging to the same owner, the commissioner shall notify the city auditor thereof, and the city 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 curbing is ordered repaired, requiring such owners to repair such curbing 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 parcel of occupied land or by leaving a copy thereof at the dwelling house upon such lot or parcel 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 curbing is not repaired within the time fixed in the notice, the street commissioner, as soon as practicable, shall repair the

same and certify the cost thereof, with the street commissioner's return of service of the notice, to the city auditor, and the cost of such repairs shall be paid out of the curbing special fund.

**40-31-06. Assessment book for curbing repairs - Review of assessments - Extension - Collection.**

The city auditor shall keep in the city auditor's office a curbing repair assessment book and shall enter therein curbing costs certified by the street commissioner as an assessment against the lots or parcels of land fronting on or adjoining such curbing, and the name of the owner of such lots or parcels of land if known to the city auditor. At a regular meeting, the governing body shall review all assessments and hear all complaints against the same and approve the same as finally adjusted. 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 city auditor in the same manner as other taxes.

**40-31-07. Curbing not to be paid for by general taxation - Exception.**

Except as otherwise provided in this chapter, a city shall not be liable generally on any contract for the building or repairing of curbing and shall not be required to pay funds raised by general taxation upon any such contract.

**40-31-08. Curbing special fund - Warrants drawn upon - Levy.**

All moneys received by a city from assessments for building or repairing curbing shall be kept in a separate fund designated as the curbing special fund. Warrants shall be drawn upon such fund for the payment of the cost of building and repairing curbing in the municipality. Except as otherwise provided in section 40-26-08, a municipality is not liable generally on any contracts for the cost of building and repairing sidewalks and may not be required to pay funds raised by general taxation upon any such contract.

**40-31-09. Warrants - Payable - Interest coupons - Contents - Uses.**

All curbing 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. The warrants shall bear interest at a rate or rates and be sold at a price resulting in an average net interest cost of not more than twelve percent per annum on those issues sold at private sale. However, there is no interest rate ceiling on warrant issues sold at public sale or to the state of North Dakota or any of its agencies or instrumentalities. The warrants may have coupons attached representing each year's interest. The warrants shall state upon their face the purpose for which they were issued and the fund from which they are payable and shall be signed by the executive officer of the city and countersigned by the city auditor under the seal of the city. The warrants may be used in making payments on contracts for making the improvements or may be sold for cash at not less than ninety-eight percent of the par value thereof and the proceeds credited to the special fund and used to pay for such improvements.

**40-31-10. City auditor to pay warrants from special fund.**

The city auditor shall pay curbing assessment warrants and interest thereon at the time or times and in the manner designated by the governing body out of the curbing special fund.