CHAPTER 21

Paving Districts in Counties With City of Over 70,000

**SECTION 57‑21‑10.** Paving districts may be established in certain counties.

In all counties in this State containing a city having a population of more than seventy thousand according to the most recent official United States census paving districts may be created and established in the manner, for the purposes and with the powers and duties provided in this chapter.

HISTORY: 1962 Code Section 33‑1351; 1952 Code Section 33‑1351; 1942 (42) 1693.

**SECTION 57‑21‑20.** Method of establishment; appointment of paving district commission.

Any area in any such county which contains unimproved roads and streets aggregating not less than one‑half mile and not more than ten miles may be constituted, created and established a paving district, in the following manner:

(1) A petition signed by a majority in number of the owners of record of the property lying within the area proposed to be included in the district shall be filed with the governing body of the county. The petition shall contain a brief statement requesting that the area be constituted a paving district and giving the boundaries of the same and the type of paving desired and requesting that a special election be held in such paving district to vote upon the question whether an ad valorem tax shall be levied upon the property in the proposed paving district to provide a special fund to repay the cost of improving and paving the streets and roadways in the proposed paving district.

(2) Upon the filing of such petition, the governing body of the county shall cause a survey and plat to be made of the proposed paving district and shall obtain estimates of the cost of improving and paving the streets and roadways which it is proposed to improve and pave in the district and, from such estimates, shall determine the approximate cost of such paving. The estimates and plat shall be filed with the governing body of the county.

(3) Within thirty days after the filing of the petition with the governing body of the county, the governing body shall hold a meeting to consider the petition, and if the governing body shall, in its judgment, determine that the public interest would be promoted by the paving of the streets and roadways in the proposed paving district, it shall adopt a resolution approving the petition; or if, in its judgment, it should determine that the public interest would not be promoted by paving such streets and roadways, it shall adopt a resolution disapproving the petition. If the governing body of the county shall disapprove of the petition, the proposed paving district shall not be created.

(4) Upon the adoption by the governing body of the county of a resolution approving the petition, the governing body shall forthwith transmit a certified copy of such resolution to the Governor of the State, who shall thereupon, upon the recommendation of a majority of the legislative delegation of such county, appoint three qualified electors or owners of record of property residing in the proposed paving district, who shall constitute the paving district commission of the district.

(5) Upon the appointment of the three commissioners by the Governor, he shall forthwith file a notice of such appointment with the Secretary of State, and from the time of the filing of such notice such paving district shall be created and shall constitute a body politic and corporate with perpetual succession and shall exercise and enjoy all the rights, privileges and immunities of such and be subject to the rules and regulations herein imposed.

HISTORY: 1962 Code Section 33‑1352; 1952 Code Section 33‑1352; 1942 (42) 1693.

**SECTION 57‑21‑30.** Terms of commissioners; officers; vacancies.

The terms of office of the commissioners so appointed shall be three years, two years and one year, respectively, from the date of their appointment and until their successors, who shall be appointed in like manner, shall have been appointed and qualified. They shall elect one of their number as chairman and one as secretary. In the event of a vacancy in the commission by reason of death, resignation or otherwise, such vacancy shall be filled for the unexpired term in the manner of the original appointment.

HISTORY: 1962 Code Section 33‑1353; 1952 Code Section 33‑1353; 1942 (42) 1693.

**SECTION 57‑21‑40.** Name of district and commission.

Each district shall be known as the “\_\_\_\_\_\_\_\_\_\_ Paving District of \_\_\_\_\_\_\_\_\_\_ County,” the words “Paving District of” to be preceded by a suitable proper name selected by the governing body of the county and to be followed by the name of the county in which the proposed paving district is located. And the commission shall likewise be designated by the same name with the word “Commission” inserted between the words “District” and “of.”

HISTORY: 1962 Code Section 33‑1354; 1952 Code Section 33‑1354; 1942 (42) 1693.

**SECTION 57‑21‑50.** Order for election on tax levy to pay for paving.

Within ninety days after the creation of any such paving district the governing body of the county shall cause an election to be held in such district at which shall be submitted to the qualified electors in the district the question whether the county auditor shall levy and the county treasurer shall collect an annual levy of taxes within the district, the number of mills thereof to be determined by the county auditor and stated in the resolution of the governing body of the county ordering the election, to raise a special fund sufficient over a period of years, not in excess of twenty years, to repay the cost of paving the streets and roadways in the district, but not less than the amount required to pay the principal of, and interest on, any county bonds issued under the provisions of this chapter to finance such paving.

HISTORY: 1962 Code Section 33‑1355; 1952 Code Section 33‑1355; 1942 (42) 1693.

**SECTION 57‑21‑60.** Time and notice of election.

The election shall be held on such date within ninety days from the creation of the paving district and at such place or places within the district as may be designated by the governing body of the county, and notice of the election shall be given by posting notice thereof in three public places in the district at least ten days before the election and by publishing such notice one time at least ten days before the election in a newspaper published in the county in which the district is located. The notice shall state the time, place or places and purpose of the election and the amount of and purpose for which such annual levy of taxes is to be imposed upon the taxable property in the district.

HISTORY: 1962 Code Section 33‑1356; 1952 Section 33‑1356; 1942 (42) 1693.

**SECTION 57‑21‑70.** Managers of elections; formalities of voting.

The governing body of the county shall cause to be provided a box or boxes and appoint managers for such election, the polls to open at eight A. M. and close at six P. M. The form of the ballots shall have written or printed thereon the words “For Paving Levy—Against Paving Levy.” Those voting in favor of the annual levy of taxes shall scratch the words “Against Paving Levy,” and those voting against the annual levy of taxes shall scratch the words “For Paving Levy.”

HISTORY: 1962 Code Section 33‑1357; 1952 Code Section 33‑1357; 1942 (42) 1693.

**SECTION 57‑21‑80.** Declaration of result of election; contest.

On closing the polls the managers shall count the ballots and shall make returns of the results of the election with the original ballots cast and the tally sheets to the governing body of the county who shall declare the results of the election. The validity of the election and correctness of the determination of the results thereof by the governing body of the county shall not be open to question in any court except in a suit or proceeding commenced within thirty days after the date of the election.

HISTORY: 1962 Code Section 33‑1358; 1952 Code Section 33‑1358; 1942 (42) 1693.

**SECTION 57‑21‑90.** Effect of election.

If it shall be determined by the governing body of the county that a majority of the legal votes cast in the election have been cast in favor of such an annual levy of taxes, the governing body of the county may issue bonds to defray the cost of the paving in the district, as provided in Section 57‑21‑100 and may direct the imposition of such annual levy of taxes in the district as provided in Section 57‑21‑140. But if it be determined that a majority of the votes are opposed to such annual levy of taxes, no bonds may be issued under Section 57‑21‑100 and such annual levy of taxes shall not be imposed.

HISTORY: 1962 Code Section 33‑1359; 1952 Code Section 33‑1359; 1942 (42) 1693.

**SECTION 57‑21‑100.** Issuance of bonds.

Not less than thirty days after an election in which a majority of the legal votes cast shall be in favor of the proposed annual levy of taxes the governing body of the county may issue negotiable coupon bonds of the county in an amount not exceeding the approximate cost of the proposed paving as determined by the governing body of the county as hereinabove provided. Such bonds may be issued either as a single issue or from time to time in separate issues as the governing body of the county may determine to be advisable.

HISTORY: 1962 Code Section 33‑1360; 1952 Code Section 33‑1360; 1942 (42) 1693.

**SECTION 57‑21‑110.** Terms of bonds.

Each issue of bonds herein authorized shall mature at such time or times as the governing body of the county may determine, but in any event not more than twenty years from the date of issuance, shall bear such date and rate or rates of interest, shall be in such denominations and shall be payable annually or semiannually, in such manner and at such place or places, as the governing body of the county may provide in the resolution or resolutions authorizing the issuance of the same.

HISTORY: 1962 Code Section 33‑1361; 1952 Code Section 33‑1361; 1942 (42) 1693.

**SECTION 57‑21‑120.** Execution of bonds; designation.

The bonds shall be executed in the name of the county in which the paving district is located by the chairman or the vice‑chairman of the governing body of the county and by the treasurer of the county, and the official seal of the county shall be fixed to and impressed upon each of the bonds. The coupons attached to the bonds need not be authenticated otherwise than by the facsimile signature of the county treasurer. The bonds shall be designated as county paving bonds.

HISTORY: 1962 Code Section 33‑1362; 1952 Code Section 33‑1362; 1942 (42) 1693.

**SECTION 57‑21‑130.** Sale of bonds.

The bonds shall be sold by the governing body of the county at not less than par and accrued interest on sealed proposals after a publication of notice of sale one or more times in a newspaper designated by the governing body. The governing body shall reserve the right to reject all bids. In the event that all bids be rejected, it shall have the right to sell the bonds at private sale if a price in excess of the highest bid received in pursuance of the call for bids is obtainable or, in its discretion, to readvertise for sealed bids.

HISTORY: 1962 Code Section 33‑1363; 1952 Code Section 33‑1363; 1942 (42) 1693.

**SECTION 57‑21‑140.** Levy of tax.

Upon the issuance by the governing body of the county of bonds under this chapter such governing body shall forthwith direct the county auditor in writing to impose annually thereafter in the district the number of mills of the annual levy of taxes voted on in the election held under Section 57‑21‑50, and the county auditor, pursuant to such written direction, shall annually thereafter levy such number of mills on the dollar on all taxable property in the district until such levy shall have produced an amount equal to the amount required to retire the interest and principal of the bonds, the proceeds of which levy shall be placed by the county treasurer, when collected, in a special fund and used as herein provided.

HISTORY: 1962 Code Section 33‑1364; 1952 Code Section 33‑1364; 1942 (42) 1693.

**SECTION 57‑21‑150.** Pledge of full faith, credit, and taxing power of county; increase in levy.

For the payment of the bonds, both principal and interest, as they may mature, there shall be pledged the full faith, credit and taxing power of the county issuing the same, and, until the principal and interest of any bonds issued under this chapter shall be fully paid, if the levy provided for by Section 57‑21‑140 shall be insufficient for the purpose, there shall be levied annually by the county auditor on all taxable property in the paving district and collected by the county treasurer thereof an additional sum sufficient to provide the amount necessary to pay such interest as it becomes due and to provide a sinking fund to pay such principal at the date or dates of maturity thereof, after the application to such purpose by the county treasurer of any moneys in said special fund. Such annual tax shall be levied and collected by the same officers and in the same manner as is now provided by law for the levy and collection of taxes for county purposes in the county. The money so collected shall be applied by and under the direction of the county treasurer to the payment of the principal and interest aforesaid, as they respectively become due, and pending such application such money shall be deposited or invested by or under the direction of the county treasurer.

HISTORY: 1962 Code Section 33‑1365; 1952 Code Section 33‑1365; 1942 (42) 1693.

**SECTION 57‑21‑160.** Payment of bonds.

The bonds issued hereunder to finance the paving in a paving district created pursuant to this chapter shall be paid by the county treasurer, both interest and principal, from the special fund made up of the proceeds of the annual levy of taxes in such district.

HISTORY: 1962 Code Section 33‑1366; 1952 Code Section 33‑1366; 1942 (42) 1693.

**SECTION 57‑21‑170.** Payment of proceeds of bond issue.

The proceeds of the sale of bonds as provided by this chapter shall be kept by the county treasurer as a separate fund and shall be paid out only under orders and warrants of the governing body of the county for the purposes specified in this chapter.

HISTORY: 1962 Code Section 33‑1367; 1952 Code Section 33‑1367; 1942 (42) 1693.

**SECTION 57‑21‑180.** Use of proceeds of bond issue.

The proceeds of the bonds shall be used by the governing body of the county, upon the request and recommendation of the paving district commission, for procuring, purchasing and leasing all necessary equipment, for purchasing any necessary materials or supplies, for grading, improving, draining, treating and paving unpaved roads and streets in the paving district and for any other expenses legitimately connected with organizing and operating the paving district.

HISTORY: 1962 Code Section 33‑1368; 1952 Code Section 33‑1368; 1942 (42) 1693.

**SECTION 57‑21‑190.** Powers of county governing body.

After the issuance of bonds to finance paving in any paving district created under this chapter and from the proceeds thereof, the governing body of the county, upon the request and recommendation of the paving district commission, may:

(1) Procure by purchase, lease, loan or otherwise any necessary equipment and acquire by purchase or otherwise any necessary materials and supplies to grade, improve, drain and pave, with such materials and in such manner as in its discretion is for the best interest of the district, having due regard to the use reasonably to be expected, any and all unpaved streets and roads in such district;

(2) Purchase, lease, hold and sell such real estate and easements as it may deem necessary;

(3) Accept gifts and grants and make such contracts in relation to the same as may be proper and necessary;

(4) Make any and all contracts that it may deem necessary to carry out the provisions of this chapter;

(5) Employ such engineering, office and clerical help and other employees as it may deem necessary and fix the compensation of such employees;

(6) Enter into contracts, arrangements or agreements with the sanitary and drainage commission of such county or such other public or quasi‑public bodies, authorities, commissions or officers, one, more or all, for the maintenance and upkeep of such streets and roads and for the carrying out of any of the purposes of this chapter or the performance of any of the matters and things herein authorized and give such sanitary and drainage commission of such county or such other public or quasi‑public bodies, authorities, commissions or officers, one, more or all, such authority in the paving district to work any of the streets in the same as may be necessary to enable such work to be done; and

(7) In general do all things necessary and proper for the purpose of providing for the paving, grading, improving or treatment of any or all of the streets and roads in the paving district as may in its judgment be to the best interest of the paving district.

HISTORY: 1962 Code Section 33‑1369; 1952 Code Section 33‑1369; 1942 (42) 1693.

**SECTION 57‑21‑200.** Eminent Domain.

The governing body of the county may, in order to carry out the purposes of this chapter, condemn land, rights‑of‑way, and easements, whether they are owned by private corporations or individuals.

HISTORY: 1962 Code Section 33‑1370; 1952 Code Section 33‑1370; 1942 (42) 1693; 1987 Act No. 173 Section 40.

**SECTION 57‑21‑210.** Advertisement and award of contracts.

The governing body of the county shall advertise for bids for at least thirty days in one or more newspapers published in the county in which the paving district is located for all work to be done and the material to be used in constructing, grading, treating and paving any streets or roadways in the paving district and for equipment to be used in connection therewith, with the right reserved to reject any and all bids, and shall enter into contracts with the lowest responsible bidder therefor and secure competent persons, if deemed advisable, to superintend the work and to counsel and advise in all matters relating thereto.

HISTORY: 1962 Code Section 33‑1371; 1952 Code Section 33‑1371; 1942 (42) 1693.

**SECTION 57‑21‑220.** Records of county governing body.

The governing body of the county shall keep a separate permanent record as to each such paving district of its proceedings, contracts and other matters done and performed by it, including an accurate plan of the work done and all moneys and funds received and disbursed by it. Each such separate permanent record shall be open at all times to the inspection of any resident or freeholder of the paving district.

HISTORY: 1962 Code Section 13‑1372; 1952 Code Section 33‑1372; 1942 (42) 1693.