

HOUSE No. 2227

The Commonwealth of Massachusetts.

HOUSE OF REPRESENTATIVES, March 27, 1913.

The committee on Mercantile Affairs, to whom was referred the petition (accompanied by bill, House, No. 1883) of the mayor and city council of the city of North Adams for legislation to authorize said city to place underground certain electrical wires, cables, apparatus and appliances, report the accompanying bill.

For the committee,

OTIS W. BUTLER.

The Commonwealth of Massachusetts.

In the Year One Thousand Nine Hundred and Thirteen.

AN ACT

Relative to Wires and Electrical Appliances in the City of
North Adams.

*Be it enacted by the Senate and House of Representatives
in General Court assembled, and by the authority of the
same, as follows:*

1 SECTION 1. The mayor and city council of the city of
2 North Adams shall have exclusive authority to cause to be
3 removed from the streets of the city hereinafter designated
4 in section two, all telegraph, telephone, electric light,
5 electric motor and power, street railway power and feed,
6 and all other wires, cables or conductors, in or above said
7 streets, and all poles and structures in said streets used for
8 the support of the same, except such structures, poles,
9 wires, cables and conductors as are hereinafter excepted,
10 and to cause all such wires, cables and conductors to be
11 placed, maintained and operated in underground conduits.

1 SECTION 2. The provisions of this act shall apply to
2 the following streets and portions of streets, to wit: Eagle
3 street from Main street to Franklin street, Marshall street,
4 Houghton street from River street to Frederick street,
5 Union street from Eagle street to East Union street, Main

6 street from Pleasant street to Brown street, Centre street,
7 Holden street, Summer street, Ashland street from Main
8 street to Davenport street, Bracewell avenue, State street
9 from Main street to Hooker street. The city council may,
10 with the approval of the mayor, from time to time after
11 the passage of this act, prescribe by ordinance and give
12 public notice thereof in at least one daily newspaper pub-
13 lished in said city by advertisement therein twice a week
14 for two successive weeks the portion or portions of said
15 streets from which all wires, cables and conductors except
16 such as are hereinafter excepted shall be removed or placed
17 underground and shall in said ordinance prescribe a reason-
18 able length of time within which such removing and placing
19 underground shall be completed; but the total amount
20 or extent of streets so prescribed shall not in any calendar
21 year exceed one mile according to lineal surface measure-
22 ment and the owners of such wires, cables and conductors
23 shall not be required to commence the construction of the
24 underground conduits to which such wires, cables and
25 conductors are to be removed within sixty days after the
26 publication of the first notice; and the mayor and city
27 council shall cause the owners or users of said wires, cables
28 or conductors to remove or place them underground and
29 also to remove any poles and structures used to support such
30 wires, cables or conductors in the public ways and places, or
31 portions thereof in any such prescribed portion of such dis-
32 trict, except when in the judgment of the mayor and city
33 council it is impracticable or inexpedient to remove any such
34 wires, cables, conductors, poles or structures; it being, never-
35 theless, the purpose of this act to cause the removal from
36 the above named public ways and places of said city all such
37 wires, cables, conductors, and all poles or structures used
38 for the support of such wires, cables and conductors not
39 herein expressly excepted, so far as in the judgment of the

40 mayor and city council the same is practicable and expedi-
41 ent; and every owner and user of such wires, cables and
42 conductors, poles or structures shall in accordance with the
43 direction of the mayor and city council and within the
44 time prescribed in such order of removal remove or place
45 the same underground in accordance with the provisions
46 of this act; and it shall be the duty of the commissioner of
47 public works of said city of North Adams to enforce com-
48 pliance with the orders and directions of the mayor and
49 city council under this act. The North Adams Gas Light
50 Company shall have the right to issue additional capital
51 stock to an amount sufficient to cover the actual cost or
52 expense of doing the work ordered to be done by it under
53 the authority of this act, as said cost or expense may be
54 determined by the board of gas and electric light com-
55 missioners.

1 SECTION 3. After such portion of said public ways and
2 places shall have been prescribed as aforesaid, no person,
3 firm or corporation shall place any poles or other structures
4 for the support of wires, cables or conductors, except those
5 herein expressly excepted, in any way or place, or portion
6 thereof, thus prescribed, except temporarily, and with the
7 consent of the commissioner of public works; and if after
8 the expiration of the time specified in such order of removal
9 there shall remain in such ways or places, or portions thereof,
10 any poles or structures, wires, cables or conductors which
11 under the provisions of this act should have been removed
12 or placed underground, the said commissioner of public
13 works shall cause the same to be removed forthwith, and
14 the said city may collect the expenses of such removal from
15 the owners or users by an action at law, provided there
16 was no unreasonable delay in the issuance of the necessary
17 permits by the proper authorities.

1 SECTION 4. Upon application of any person, firm or
2 corporation duly authorized by law to lay, erect, or main-
3 tain, and maintaining wires in the ways of said city, the
4 mayor and city council may grant permission, after due
5 notice and hearing, for the removal of any such wires,
6 cables, conductors, poles or structures within any of the
7 ways or places named in section two and not prescribed in
8 any year, or within ways or places of said city outside those
9 specified in section two, and for the placing of the same and
10 any other necessary wires, cables and conductors, and any
11 extensions thereof underground as herein provided; and
12 it shall be the duty of the commissioner of public works of
13 said city, after the granting of said permission, to issue all
14 permits for opening and occupying the ways of said city
15 which may be necessary to carry out the intent of the fore-
16 going provision, upon the application of the mayor and city
17 council or of any person or corporation interested. The
18 mayor and city council may also, after public notice and
19 hearing as required by law, grant locations for such additional
20 poles and wires for local distribution from underground
21 wires, cables or conductors as may become reasonably
22 necessary by reason of work done under the provisions of
23 this act, specifying where such poles may be located and
24 the kind of poles to be used.

1 SECTION 5. When any person, firm or corporation
2 operating or intending to operate wires, cables or conductors
3 in said district of said city shall desire, or be required, to
4 place the same underground in any of the streets, avenues
5 or highways of said district, and for that purpose to remove
6 the same from above the surface thereof, and shall have
7 been duly authorized so to do, it shall be obligatory upon
8 such person, firm or corporation to file with the city clerk
9 of said city a map or maps made to such scale and of such

10 size and character as shall be approved by the city engineer,
11 showing the streets, avenues or other highways which are
12 desired or required to be used for such purpose, and giving
13 the location, dimensions and courses of the underground
14 conduits or conductor which is to be constructed, the
15 location of the manholes, electrical structures or appliances
16 showing the usage to which the respective ducts in said
17 conduits are put with specifications of the average volts
18 charged and current used, the tested strength, the kind and
19 number of lamps or motors connected with any electrical
20 circuit and the other electrical appliances and in general
21 the method of installation, operation, maintenance and
22 repair; and said map or maps so filed shall be approved in
23 writing by the city engineer, before a permit shall be issued
24 by the proper authorities to open such streets, avenues or
25 highways for the purposes of this section.

1 SECTION 6. The commissioner of public works of said
2 city, in case of the neglect or refusal of any person, firm or
3 corporation to comply with any requirements made by the
4 mayor and city council under authority of this act, may
5 proceed in a summary manner to abate or remove any
6 danger which he deems likely to result from the failure to
7 comply with said requirements. The mayor and city council
8 shall also have power in their discretion, either generally or
9 in particular cases, to extend the time prescribed for carry-
10 ing out any of the work prescribed by this act.

1 SECTION 7. All persons, firms or corporations owning or
2 operating electrical wires, cables or conductors in said city
3 shall on or before September first in the year nineteen hun-
4 dred and thirteen, file with the city clerk a statement to-
5 gether with plans of such scale, size and character as shall be
6 satisfactory to the city engineer, showing the number and

7 location of all their electrical conduits, wires, cables and
8 conductors, poles and structures within the streets, ways
9 and public places named in section two of this act.

1 SECTION 8. This act shall not apply to railway trolley
2 guard or span wire, or poles or structures used exclusively
3 for the support thereof, or to posts for the support of lamps
4 exclusively, or to poles used exclusively for local distribu-
5 tion from underground wires, cables or conductors or to
6 long distance telephone wires; nor shall it revoke any
7 rights already granted to any person, firm or corporation
8 to place or maintain any conduits, pipes, wires or cables
9 or conductors underground, but all such conduits, pipes,
10 wires, cables or conductors laid hereafter in pursuance
11 of any such grant shall be laid subject to the provisions
12 of this act not inconsistent with the terms of said grant.
13 For the purposes of this act, no wire shall be deemed a long
14 distance wire which does not extend at least twenty-five
15 miles in a direct line from such central telephone office.

1 SECTION 9. The city council of said city may make such
2 ordinances not inconsistent with the provisions of this act
3 as may be necessary or expedient to carry into effect the
4 purposes of this act. No existing ordinances of the city
5 of North Adams inconsistent with the provisions of this
6 act shall apply to the grants or permits to be made or to
7 the work to be done or to the conduits, manholes, cables
8 or conductors to be laid or constructed pursuant to the
9 provisions of this act.

1 SECTION 10. The mayor and city council having first
2 given the person or corporation to whom such permit is
3 granted opportunity to be heard may order that the location
4 of any conduit, manhole, fixture, wire or distributing pole
5 shall be changed whenever it may deem such change neces-

6 sary and shall grant a substitute location therefor. When-
7 ever the position of any conduit, manhole, fixture, wire or
8 distributing pole is so ordered to be changed, such change
9 shall be made by and at the expense of the owner, in con-
10 formity with the order, within such time as may be pre-
11 scribed in the order of removal, and if not so changed, the
12 commissioner of public works may cause such change to
13 be made and the expense thereof may be recovered of the
14 owners or users by an action at law in behalf of the city.

1 SECTION 11. The supreme judicial court, or any justice
2 thereof, and the superior court or any justice thereof shall
3 on petition of the mayor or commissioner of public works
4 of said city have jurisdiction in equity to enforce the pro-
5 visions of this act or any order of the mayor and city council
6 issued under the authority hereof, and to compel com-
7 pliance therewith.

1 SECTION 12. This act shall take effect upon its passage.