

CHAPTER 429

PUBLIC IMPROVEMENTS IN VILLAGES, BOROUGH, AND CITIES OF THE FOURTH CLASS

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429.01 DEFINITIONS. Subdivision 1. **Words, terms, and phrases.** Unless the language or context clearly indicates that a different meaning is intended, the following words, terms, and phrases, for the purposes of sections 429.01 to 429.18, shall be given the meanings subjoined to them.

Subdivision 2. **Municipality.** By the word "municipality" is meant a village, borough, or city of the fourth class, however organized.

Subdivision 3. **Council.** By the word "council" is meant a municipality's governing body.

Subdivision 4. **Mayor.** By the word "mayor" is meant the municipality's chief executive officer.

Subdivision 5. **Clerk.** By the word "clerk" is meant a municipality's officer charged with the duty of performing clerical functions, irrespective of his actual title.

Subdivision 6. **Street.** In the word "street" is included alleys, boulevards, parkways, and public roads of any sort within the limits of a municipality.

Subdivision 7. **Public improvement or improvement.** In the term "public improvement" or "improvement" is included

- (1) Street paving,
- (2) The construction or extension of sanitary or storm sewers,
- (3) The laying and re-laying of water mains and the extension of water mains,
- (4) The laying, re-laying, and extension of steam heating mains, and
- (5) The installation and extension of street lights.

Subdivision 8. **Street paving.** By the term "street paving" is meant the laying of a pavement in any municipality on any street or graveling any street, and in the word is included all work incidental to any such improvement, such as grading and the construction of proper gutters, curbs, catch basins, and storm sewers.

Subdivision 9. **Construction or extension of sanitary or storm sewers.** The words "construction or extension of sanitary or storm sewers" mean the construction of a sewer system of either class, including outlets, tanks, or disposal plants, and trunk district and lateral sewers of any of the foregoing.

Subdivision 10. **Extension of water mains.** By the words "extension of water mains," is meant the laying of water mains and appurtenances required in connection therewith, such as valves, hydrants, and service connections in municipalities already having a water system.

[1925 c. 382 s. 1] (1918-15)

429.02 MAKING OF IMPROVEMENTS AND ASSESSMENT OF COSTS. A municipality may make any of these improvements and assess the cost thereof on the property abutting thereon, or on the property benefited thereby to the extent

and in the manner provided in sections 429.03 to 429.18. Any two or more of these improvements may be made at the same time and as part of the same proceedings, and the assessment therefor likewise levied and collected.

[1925 c. 382 s. 2] (1918-16)

429.03 PETITION FOR IMPROVEMENT. Before the council shall take any proceedings in reference to the making of these improvements, a petition that an improvement be made shall be signed by the owners of at least 51 per cent in frontage of the real property abutting on the parts of the street or streets named in the petition as the location of an improvement petitioned for. The petition may be in informal language and may pray that one or more than one improvement be made. It shall be filed with the clerk and he shall compare the signatures thereon with the records in the office of the register of deeds, and shall present the petition to the council and report to it his findings as to the percentage of necessary owners who have signed the same. The owner of a life estate in any property shall be deemed an owner as the word is used in sections 429.01 to 429.18. The council shall thereupon determine, by resolution, whether or not the petition has been signed by the required percentage of owners, and its determination so made to the effect that the necessary percentage has signed the petition shall be final and conclusive, unless reversed on appeal as provided in sections 429.04 to 429.18.

[1925 c. 382 s. 3] (1918-17)

429.04 PROCEDURE BY COUNCIL ON PETITION; NOTICES. On the presentation of the petition the council, if it shall determine that the required percentage of property owners has signed the same, shall refer the petition to a competent engineer of its selection, who shall report thereon to the council with all convenient speed. The report shall advise the council in a preliminary way as to whether, in the opinion of the person selected, the proposed improvement should best be made as expressly petitioned for, or in connection with some other improvement not petitioned for, and as to the probable cost of the improvement or improvements, if made as petitioned for, or otherwise, and such other information as may be pertinent to the matter under consideration. On the filing of this report with the clerk the council shall by resolution fix a time, hour, and place when the petition will be considered, and action taken in reference to the matter, and direct the clerk to give notice thereof. The time of the hearing shall be not less than 15 days from the date of the first publication of the notice of hearing. The notice shall be published in a newspaper published in the municipality once in each week for at least two successive weeks, and the last publication shall be at least seven days prior to the date set for the hearing. The council may direct other and further notices to be given, but its failure so to do, or the failure to give any other and further notice which it may direct to be given, shall not affect the validity of the subsequent proceedings. The notice shall describe, in general language the improvement or improvements petitioned for and the estimated cost thereof, but it need not include a description of the properties liable to be assessed therefor or the names of their several owners.

[1925 c. 382 s. 4] (1918-18)

429.05 HEARINGS. At the time fixed in the notice or at some subsequent time to which the hearing may be adjourned, the council shall hear such persons as care to be heard in reference thereto. In case the hearing is not had or completed at the time named in the notice, no notice of subsequent hearings need be given except by entry in the minutes of the council proceedings of the subsequent dates to which the hearing may be, from time to time, adjourned. At the conclusion of the hearing the council shall determine, by resolution, whether the improvement or improvements shall be made. Such resolution shall describe the improvement or improvements to be made and the limits thereof in general language.

[1925 c. 382 s. 5] (1918-19)

429.06 ORDERS AND CONTRACTS FOR IMPROVEMENTS. If after the hearing the council shall determine that any improvements shall be made, it shall cause plans and specifications therefor to be made by a competent person of its selection, and filed with the clerk, and may advertise for bids for these improvements in the official newspaper, and in such other newspaper and for such length of time as it may deem advisable. This advertisement shall specify the work to be done and shall call for bids on the basis of cash for the work, and state the time when the bids will be opened and considered by the council, and that no bids will be considered unless sealed, and filed with the clerk, and accompanied by a cash deposit or certi-

fied check payable to the clerk for such percentage of the amount of the bid as the council may specify; this deposit or check to be forfeited to the municipality in the event that the successful bidder shall fail to enter into a contract awarded to him in accordance with the terms of his bid. The council also may call for alternative bids on the basis of the use of different materials for any improvement. After the receipt of bids the council may reject all of them and call for new bids on like notice, or it may award the contract for one improvement, and reject all bids for another, or it may determine to proceed with one improvement and not with another, or not to proceed with any improvement.

In letting contracts for any work, it shall be the duty of the council to require the execution of a written contract and a bond in the sum it may require, conditioned for the faithful performance of the contract, as provided by law for public contractors' bonds, also for saving the municipality harmless from any and all liability in the prosecution and completing of the work and conditioned further for the payment of all materials used and labor performed thereon. The council, if a contract is awarded, may award the same to the lowest responsible bidder. If any bidder to whom the contract is awarded shall fail to enter promptly into the written contract and to furnish the bond, then the defaulting bidder shall forfeit to the municipality the amount of his cash deposit, or certified check, and the council may thereupon award the contract to the next lowest responsible bidder; provided, the council shall have the right to reject any or all bids. The council may have the work supervised by the municipality's engineer or other person, and in case of improper construction or unreasonable delay in the prosecution of the work by the contractor, it may order and cause the suspension of the work at any time and relet the contract therefor, or order a reconstruction of any portion of the work improperly done. Improvements on two or more streets, whether connecting or segregated, may be made in one proceeding but, if the streets are not connecting, the contracts shall specify separately the cost or the proportion of the cost applicable to the work to be done on each street, or, if a contract is let on a piece price basis, the estimates issued from time to time to the contractor shall be issued separately for work done on each street, and shall specify the amount applicable thereto.

[1925 c. 382 s. 6] (1918-20)

429.07 IMPROVEMENTS BY PROPERTY OWNERS. Before making any improvement the council may, by resolution, require the owners of the abutting property to lay branch sewers and water pipes from the mains to the curb or lot line of each lot, and in case any property owner neglects to lay branch sewers or water pipes, within 60 days after being served with a copy of the resolution, the council may cause the same to be put in and may assess the cost of the same against the property and collect the same as taxes are collected. All branch sewer or water pipe connections shall be of such material as the council may prescribe.

[1925 c. 382 s. 7] (1918-21)

429.08 PROPORTIONATE SHARE OF COSTS OF IMPROVEMENTS PAID BY MUNICIPALITIES. The municipality shall contribute to the cost of any improvement its proportionate share thereof on account of real property owned by it abutting on the improvement or benefited thereby in the same amount as would be the assessment against the property, if owned by an individual. A county or school district owning real property abutting on or found benefited by any improvement, shall contribute to the cost the amount which would be assessable against the property were it owned by an individual. A right of way of a railroad or of any other privately owned public utility abutting on or crossed by or found benefited by any improvement shall contribute to the cost the amount which would be assessable against it were it privately owned and privately used property.

[1925 c. 382 s. 8] (1918-22)

429.09 COST OF CERTAIN IMPROVEMENTS PAID BY MUNICIPALITIES. The municipality also may, if the council shall so determine, pay the cost of any such improvement applicable to intersecting streets and the cost of fire hydrants and their connections to the mains, and may also pay such portion of the cost of improvements between street intersections and between street and alley intersections as the council may determine. In case of street paving, it may, if the council shall so determine, pay the cost of curbs and gutters or any part of the cost. In the case of storm sewers, it may include the cost of the construction of the same or a part of the cost in the cost of the paving, to which the storm sewer is in any measure pertinent, or it may treat their construction as a separate improvement.

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The cost of outlets and disposal plants for a sewer and the excess cost of a storm sewer, over the part assessed against property assessed for paving under sections 429.01 to 429.18, may be paid by the municipality or may be assessed against other property found benefited thereby. In the case of a sanitary sewer, the assessment against abutting property shall not exceed in any case, the estimated cost of a sewer of an 18-inch diameter plus its proper proportion on the basis of benefits of the excess cost of trunk sewers over this sum and its proper proportion on such basis of the cost of outlets, tanks, and treatment of disposal plants.

The cost of outlets, tanks, and treatment of disposal plants and the excess cost of trunk sewers over the estimated cost of a sewer of an 18-inch diameter, or any part thereof, may be paid by the municipality or may be assessed against property found benefited thereby including the property abutting on that sewer.

[1925 c. 382 s. 9] (1918-23)

429.10 ASSESSMENTS. After a contract for an improvement shall have been entered into, the expense incurred or to be incurred in its making shall be calculated under the direction of the council. The word "expense" shall mean and include every item of the cost of the improvement from its inception to its completion, and all charges, fees, and outlays incurred, or to be incurred, in pursuance thereof. In the calculation of this expense there shall be taken into consideration the cost of the improvement, as fixed by any contract or contracts or determinable therefrom, all other items of cost then determinable, and the estimated amount of items of cost not then exactly determinable. From the aggregate of these items shall be deducted the part of the cost which the municipality itself will pay under the terms hereof, other than the amount, if any, which the municipality will pay as a property owner, and the council shall thereupon, by resolution, declare the sum so calculated as the assessable cost of the improvement. Thereupon the clerk, with the assistance of a competent person selected by the council to perform the duty, shall forthwith calculate the proper amount to be specially assessed for the improvement against every lot, piece, or parcel of land, without regard to cash valuation, and the amount which will be payable by the municipality on account of real property owned by it or by any county, school district or on account of any right of way. Such calculation is hereinafter called "proposed assessment." The proposed assessment so made shall be filed with the clerk and be open to public inspection. The clerk shall thereupon, under the council's direction, cause notice of the time and place when and where the council will meet to pass upon the proposed assessment, to be published in the official newspaper of the municipality at least one week prior to that meeting of the council. It shall not be necessary to include in the published notice the description of the properties assessable under proposed assessment, or the names of their several owners, or the amount of the proposed assessment against the several tracts or the amount to be paid by the several owners, but it will be sufficient if the published notice refers to the proposed assessments as being on file with the clerk, and open for public inspection. No error in the description of any tract in any proceeding shall invalidate the proceedings as to that tract, unless the court shall find that the objector has been misled or otherwise prejudiced by the error. At that meeting, or some adjournment thereof, the council shall hear and pass upon all objections, if any, and may, if it deems it just, amend such proposed assessment as to any property therein specified. Upon the confirmation of the assessment by the council, by resolution, at that meeting, or some adjournment thereof, the same shall constitute the special assessments on account of the improvement against the lands and properties named therein and the amounts to be paid on account of the improvement by the municipality, or by any county or school district as property owner, and on account of any right of way. The assessments so confirmed and the resolution confirming them are called the "assessment roll." The assessments shall be payable in annual instalments as near equal as conveniently may be over such period, not exceeding 20 years, as the council may, by resolution, determine, with interest as provided in section 429.11. Any instalment may be paid at any time with interest.

[1925 c. 382 s. 10] (1918-24)

429.11 ASSESSMENTS; INSTALMENTS; COLLECTION. On the confirmation of an assessment the clerk shall deliver a certified copy of the assessment roll to the municipality's treasurer. The treasurer shall thereupon cause a brief notice to be published for two weeks in the municipality's official newspaper, to the effect that he has received as of a day named in the notice, a copy of the assessment roll.

for the improvement named. The whole, or any instalment, of the assessment may be paid to the municipality's treasurer, without interest, if paid within 30 days from a date named by him, which shall be the date of the first publication of the notice. This date is hereinafter called the "due date." The first instalment of any assessment shall be a lien concurrent with general taxes against the property upon which it is assessed from the due date and the lien of each subsequent instalment shall attach on the first Monday of January of the year for which such instalment is certified for collection to the auditor of the county in which the municipality is located. Each instalment of each assessment shall bear interest at the rate of six per cent per annum payable annually from the due date. Up to the first Monday of January in the year following the certification for collection to the county auditor, any instalment may be paid to the municipality's treasurer with interest from the due date until date of payment. When any instalment is paid to the municipality's treasurer he shall make duplicate receipts therefor, one of which shall be delivered to the clerk, who shall thereupon mark upon the assessment roll, opposite the appropriate parcel of land, word indicating the payment of the instalment and the date of the payment.

Not later than the 15th day of October following the due date of any assessment the clerk shall certify to the county auditor a list of each and every lot, part, or parcel of land against which there is a first instalment unpaid and also the amount of that instalment, together with interest thereon at the rate of six per cent per annum, computed from the due date to the first day of June following the delinquency.

It is hereby made the duty of the county auditor to spread and place on the tax lists of real property which are to be delivered to the county treasurer on the January following, the amount of the instalment and the interest so certified. If a payment is made to the municipality's treasurer after the delivery of such list to the county auditor the clerk, on receiving notice thereof from the municipality's treasurer, shall forthwith certify to the county auditor the fact of the payment and the county auditor shall forthwith strike the assessments and the interest against the lots, parts, or parcels of land from the tax list.

Not later than the 15th day of October in each and every subsequent year the clerk shall certify to the county auditor a list of each and every lot, part, or parcel of land against which there is assessed a second or subsequent instalment, as the case may be, which is unpaid, and which has not been theretofore certified to the county auditor, and the total amount of the instalment, being the original amount of the instalment, plus the interest thereon from the due date to the first day of June following and the interest on all other unpaid and uncertified instalments from the due date to the first day of June following. The county auditor shall place and spread these total amounts, as shown by the lists against each tract of land, respectively, on the tax lists which are to be delivered to the county treasurer for collection the following January. In the event that, after the delivery of this list and prior to the first Monday of January thereafter, payment of any instalment shall have been made to the municipality's treasurer, the auditor shall, on notice thereof, strike such assessment from the tax list as provided in reference to the first instalment. Any and all instalments so certified to the county auditor shall be collected by the county treasurer, in the same manner and as part of the collection of state and county taxes and any instalments on account of any assessments not paid or collected prior to June 1st shall be subject to like penalties, costs, and interest charges as are county or state taxes and shall, in all respects, be treated and enforced as if the same were county or state taxes. Any penalties, and interest which may be collected by the county treasurer upon any instalment shall belong to the municipality and be turned over by the county treasurer to the municipality's treasurer, along with the assessment.

It is hereby made the duty of the county auditor and the county treasurer to carry out the foregoing provisions.

[1925 c. 382 s. 11] (1918-25)

429.12 ASSESSMENTS; CONFIRMATION NOTICES; AMOUNTS PAYABLE BY COUNTY OR SCHOOL DISTRICT. On the confirmation of any assessment the clerk shall mail to the county auditor a notice specifying the amount payable by any county, to the clerk of any school district a notice specifying the amount payable by the school district, and to the owner of any right of way, at its principal office in the state, a notice specifying the amount payable on account of any right

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of way. The amounts payable by any county, school district, or on account of any right of way shall be payable to the municipality's treasurer and shall be paid in like instalments and with like interest and penalties as provided for in reference to the instalments payable on account of assessable real property.

It shall be the duty of the county board and the school board, respectively, to provide for the payment of these amounts and to take appropriate action to that end. The municipality may collect the amount due on account of the right of way of any railroad or privately owned public utility by distress and sale of personal property in the manner provided by law in case of taxes levied upon personal property or by suit brought to enforce the collection of this indebtedness. If a different method of collecting such amounts is provided for by any contract between the owner of any right of way and the municipality it shall obtain.

[1925 c. 382 s. 12] (1918-26)

429.13 ERRORS IN ASSESSMENTS. In the case of omission, errors, or mistakes in making such assessments in respect to the total cost of such improvement, or otherwise, it shall be competent for the council to provide for and make supplemental assessments to correct such omissions, errors, or mistakes. In all cases where any assessment, or any part thereof, assessed or fixed under any of the provisions of sections 429.01 to 429.18 for any reason is set aside, the council may cause a reassessment or a new assessment to be made as to any property assessed or charged under the provisions of sections 429.01 to 429.18 for the expenses of such improvement.

[1925 c. 382 s. 13] (1918-27)

429.14 PUBLICATIONS REQUIRED. Where provision is made in sections 429.01 to 429.18 for publication in a newspaper, if there is no newspaper published in the municipality, the notice may be given by posting the same in at least three public places in the municipality for at least the length of time provided for the publication thereof.

[1925 c. 382 s. 14] (1918-28)

429.15 DISPOSAL OF FUNDS. All moneys collected on any special assessments shall constitute a fund for the payment of the cost of the improvement for which the assessment was made and be credited to the proper improvement fund under the designation: "Fund of Improvement No." and in anticipation of the collection of these special assessments and the levy and collection of taxes to pay the portion of the expense and cost of the improvement payable by the municipality, the municipality may issue warrants on the fund, to be known as "Improvement Warrants," payable at such times and in such amounts as, in the judgment of the council, the collections of these special assessments and taxes will provide for, the earliest maturing warrants shall be payable not more than two years from their date and the latest maturing warrants not more than 20 years from their date. Each warrant shall, upon its face, state for what purpose it is issued and specify the particular fund against which it is drawn, and shall be signed by the mayor or executive officer and countersigned by the clerk or recorder of the municipality, shall bear interest at a rate not to exceed six per cent per annum, payable annually, which interest may be evidenced by appropriate interest coupons, and shall be in denominations of not less than \$50.00, nor more than \$1,000. These warrants may be used in making payments on contracts for the improvements or may be sold by the council for not less than the par value thereof together with the interest accrued thereon. The council of each municipality shall, at or before the time of the issuance of any warrants, levy a tax for the payment of that portion of the cost of the improvement chargeable to the municipality, which tax shall be spread in annual instalments in the same proportion as assessments are spread against privately owned property. This tax shall be a direct annual tax and, when collected, shall be credited to the proper improvement fund. It shall be the duty of the treasurer of the municipality on presentation to pay such warrants and interest coupons, as they mature, out of the proper improvement fund, and to cancel the same when paid. If any warrant, or interest thereon, shall become due and there are not funds to pay the same, the council of the municipality is hereby authorized to effect a temporary loan for the payment thereof.

[1925 c. 382 s. 15] (1918-29)

429.16 APPEALS; SALE OF CERTIFICATES. Within 30 days after the publication of the treasurer's notice, provided for in section 429.11, any person deeming himself aggrieved by an assessment may appeal to the district court of

the county in which is located the assessed property in which he is interested, by serving upon the clerk of the municipality a notice of appeal which shall briefly state the grounds upon which the appeal is taken, and a bond of \$250.00 in which the municipality shall be obligee, to be approved by the clerk, conditioned that the appellant will duly prosecute the appeal, pay all costs and disbursements which may be adjudged against him, and abide the order of the court. The clerk shall furnish the appellant with a certified copy of the assessment roll, or part complained of, and all papers necessary to present the appeal, on payment by the appellant of the clerk's proper charges therefor. The appeal shall be placed upon the calendar of the next general term commencing more than 30 days after the date of serving the notice and bond and shall be tried as are other appeals in such cases. The taking of an appeal shall not in any way hinder or delay any improvement and the council may, notwithstanding any appeal, proceed with the making of the improvement in the manner set forth in sections 429.01 to 429.18. All such certificates shall be sold and negotiated as provided in section 475.15, and not otherwise.

[1925 c. 382 s. 16] (1918-30)

429.17 POWERS GRANTED ARE SUPPLEMENTARY. The provisions of sections 429.01 to 429.18 shall be supplementary and additional to the powers in reference to the making of these improvements now conferred by law on these municipalities.

[1925 c. 382 s. 17] (1918-31)

429.18 OTHER POWERS NOT AFFECTED. Nothing contained in sections 429.01 to 429.18 shall operate to affect the rights of a municipality under the Constitution of the State of Minnesota, Article 4, Section 36, or any legislation in pursuance thereof.

[1925 c. 382 s. 18] (1918-32)

429.19 IMPROVEMENTS IN VILLAGES, BOROUGHES, OR CITIES OF FOURTH CLASS FOR COST OF WHICH SPECIAL ASSESSMENTS MAY BE LEVIED; PETITION. When any petition for the making of any improvement in any village, borough, or city of the fourth class, however organized, for the cost of which special assessments may be, in whole or in part, levied therefor, is presented to the governing body of the municipality, this body shall, by resolution, determine whether or not the petition has been signed by the required percentage of owners of property affected thereby.

[1927 c. 311 s. 1] (1918-33)

429.20 APPEALS TO DISTRICT COURT FROM DETERMINATION OF LEGALITY OF PETITION. Any person, being aggrieved by this determination, may appeal to the district court of the county in which the property is located by serving upon the clerk of the municipality, within 30 days after the adoption and publication of the resolution, a notice of appeal briefly stating the grounds of appeal and giving a bond in the penal sum of \$250.00, in which the municipality shall be named as obligee, to be approved by the clerk of the municipality, conditioned that the appellant will duly prosecute the appeal, pay all costs and disbursements which may be adjudged against him, and abide by the order of the court. The clerk shall furnish the appellant a certified copy of the petition, or any part thereof, on being paid by appellant of the proper charges therefor. The appeal shall be placed upon the calendar of the next general term commencing more than 30 days after the date of serving the notice and filing the bond and shall be tried as are other appeals in such cases. Unless reversed upon the appeal, the determination of the governing body as to the sufficiency of the petition shall be final and conclusive.

[1927 c. 311 s. 2] (1918-34)

429.21 SIDEWALKS AND SEWERS IN VILLAGES AND CITIES OF THE FOURTH CLASS; CONSTRUCTION OR REBUILDING; PETITION OF PROPERTY OWNERS; RESOLUTION. When the council of any village, incorporated under the general laws of this state, or the council of any city of the fourth class incorporated under the general laws of this state shall deem it necessary and expedient to construct, or rebuild, any sidewalk or sewer in the village or the city, it may, acting on its own motion, and, if a majority of the owners of the property fronting on the street or streets where it is proposed to construct, or rebuild, the walk or sewer shall petition the village council or the council of the city therefor, shall adopt a resolution to that effect, which resolution shall specify the place or places where such sidewalk or sewer shall be constructed or rebuilt, the kind and quality of materials to be used therein, the width, the size and manner of construction

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thereof, and the time within which the same shall be completed, which shall not be less than 40 days after the service of the resolution.

This resolution shall contain the name of the owner of each lot, part of lot, or parcel of ground fronting the street or streets where such walk or sewer is to be constructed or rebuilt.

[1901 c. 167 s. 1] (1918-35)

429.22 SERVICE OF RESOLUTION. This resolution shall be served upon the persons named in the resolution at least 40 days prior to the time therein named for the completion of the walk or sewer in the following manner:

(1) By causing a copy thereof to be handed to, and left with, each person therein named who is a resident of and within the village or city, and actually therein.

(2) If any person so named in the resolution is not a resident of the village or city, or cannot be found therein, then the resolution shall be published in one issue of a newspaper regularly published in the village or city, in the English language, and having a general circulation therein, or in the designated official newspaper of the village or city.

(3) If there be no official newspaper published in the village or city, then such service and publication may be made by posting a copy of the resolution in at least three public places in the village or city, at least 40 days prior to the time named therein for the completion of the walk or sewer.

Affidavits shall be made by the person serving or posting the resolution of the manner, time, and place of serving or posting the same, and by the foreman, editor, or publisher of the newspaper of the time and manner of publishing the same, and these affidavits shall be attached to the resolution and, with it, filed with the village or city recorder. Any and all these services, when made in accordance with the provisions of sections 429.21 to 429.26, shall, for the purposes thereof, be deemed personal services of the resolution upon the persons named therein.

[1901 c. 167 s. 2] (1918-36)

429.23 WORK, HOW DONE; ASSESSMENT OF BENEFITS. If this work shall not be fully done, and the sidewalk or sewer shall not be fully constructed or rebuilt in the manner and within the time prescribed in the resolution, then the village council or council of the city may order the same to be done by the street commissioner, or commissioner of public works, or cause the same to be done by contract let to the lowest responsible bidder, the entire expense thereof to be paid out of the general revenue fund of the village or city.

At any time within 30 days after the village or city shall have completed the construction of the walk or sewer, as aforesaid, the village council or council of the city shall adopt a resolution fixing a time and place when and where it will hear testimony of all persons interested or affected, and ascertain the amount of benefits to property fronting the sidewalk or sewer, by reason of the construction thereof, and this resolution shall be served on all the persons named in the resolution adopted under section 429.21 and in the manner therein provided.

At the time and place named in the resolution the village council, or council of the city, shall hear any and all testimony offered by or on behalf of all parties interested or affected by the construction of the walk or sewer, and for the purpose the president of the council or other presiding officer is hereby authorized to administer oaths to witnesses. Thereupon, by resolution, the village council, or council of the city shall determine the amount of benefits caused by the construction, to each lot, part of lot, or parcel of ground fronting the street or streets where such walk or sewer shall have been constructed or rebuilt, and a full and complete record thereof shall be made and kept by the village or city recorder in a separate book kept for that purpose, which record shall contain a description of the property benefited and charged with the construction of the walk or sewer, the amount of benefit determined in each case, and when so determined the amount of each annual instalment thereof; when transmitted to the auditor of the county for assessment; the amount paid thereon and when paid. Such record to be used in making each annual levy and assessment, as provided in sections 429.21 to 429.26.

The amount of the benefits to each lot, part of lot, or parcel of ground so determined shall be and become a charge against the same and shall be assessed thereon, as in the case of county, city, or state taxes in three annual instalments.

[1901 c. 167 s. 3] (1918-37)

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429.24 ORDERS FOR UNPAID ASSESSMENTS. If the assessment for either or any of these purposes be not fully paid to the street commissioner, village or city treasurer, or other officer authorized by law to collect the same, within 20 days after the walk or sewer has been fully constructed or rebuilt, the village council, or council of the city, may issue, or cause to be issued, the orders of the village or city, on the treasurer thereof for the aggregate amount of the unpaid balance of each of the assessments, payable in three annual instalments, each of which instalments shall be represented by a separate order, bearing interest at a rate to be determined by the village or city council not exceeding six per cent per annum from their date until maturity, and payable as follows:

One payable on or before the first day of June, of the year next following the issuing thereof; one payable on the first day of June of the second year next following; and one payable on the first day of June of the third year next following.

These orders shall be made payable to bearer, and the same may be issued, negotiated, and sold by the village or city for not less than their par or face value.

All these orders shall be in substantially the following form: "\$.....
Dated at Minnesota,, 19.....

The treasurer of the (village or city) of will pay to the bearer hereof the sum of dollars and cents on or before the 1st day of June, A. D. 19..... with interest thereon at the rate of per cent per annum from date hereof until maturity. This order represents one-third of the amount expended in the construction of a (sidewalk or sewer) in the (village or city) in the year 19....."

A record of all the orders shall be made and kept by the village or city recorder, which record shall show the date same was issued, amount of order, date when due, to whom sold, amount sold for, and for what purpose the same was issued, when the same was paid, and the amount paid as shown by the treasurer's books.

Books shall be provided for these purposes.

[1901 c. 167 s. 4] (1918-38)

429.25 TAX LEVY; PAYMENTS BY PROPERTY OWNER. After the completion of the walks or sewers by the village council or council of the city, the village council, or council of the city, shall annually, on or before the first day of October, until the whole of the assessments have been levied, cause a statement of the amount of one of the three annual instalments, with six per cent annual interest thereon computed from the time of completion of the work to the first day of June following the making of the levy added thereto, to be transmitted, with the village or city taxes for that year, to the auditor of the county, and the auditor shall insert the same with the other taxes in the duplicate statement of taxes annually transmitted by him to the county treasurer for collection and payment thereof, and the same shall be enforced with, and in like manner as, city, county, and state taxes are collected and payment thereof enforced.

After the completion of the walk or sewer, the owner of the land adjoining the same, or interested therein, shall have the privilege of paying all or any portion of the cost of construction thereof to the village or city at any time within 20 days thereafter, and before the levy has been made, and the amount so paid shall be deducted from the amount of the assessment.

[1901 c. 167 s. 5] (1918-39)

429.26 APPLICATION. Sections 429.21 to 429.25 shall not apply to any village of this state or any city of the fourth class operating under a special law or special charter.

[1901 c. 167 s. 6] (1918-40)

429.27 SECTIONS 429.21 TO 429.26 SUPPLEMENTED, EXTENDED, AND AMENDED. Sections 429.21 to 429.26 are hereby supplemented, extended, and amended so as to authorize the use of their provisions in the cases and in the manner provided in sections 429.28 and 429.29.

[1925 c. 383 s. 1] (1918-41)

429.28 ASSESSMENT OF BENEFITS ON PROPERTY BENEFITED BUT NOT FRONTING ON IMPROVEMENTS. When the council of any village or city affected by and acting under sections 429.21 to 429.26 shall have determined, or the petition in section 429.21 provided for shall set forth, that the proposed improvement would benefit other property in addition to that fronting on the street or streets where it is proposed to construct or rebuild a walk or sewer, and the petition is signed also by a majority of the owners of this other property, the resolution of

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the council therein provided for shall contain the names of the owners of all lots, parts of lots, and parcels of ground which it is so determined or alleged would be so benefited, and may, in addition to, or in lieu of, fixing a time when such improvement shall be completed, fix a time and place, not less than 20 days after the service of the resolution, for a hearing on the question whether the improvement shall be ordered and completed, as provided in section 429.23, and the benefits and cost thereof assessed on and charged against all of the property benefited thereby; and after this hearing, the council, if it deem expedient, may proceed to so order and complete the improvement. In this case this resolution and that provided for in section 429.23, shall be served, in the manner as therein provided, upon all the owners of property so alleged or determined to be affected; and the benefits and cost determined, after the completion of the improvement, shall be assessed and charged against all the property benefited thereby; provided, an equitable adjustment shall be made of the benefits and cost, if any, assessed against property whose owner has already made or contributed to the cost of a like improvement beneficial to the same area, or any part thereof.

[1925 c. 383 s. 2] (1918-42)

429.29 CONSTRUCTION OF SUPPLEMENTAL LAW. Sections 429.27 to 429.29 shall be construed as adding to the existing provisions of sections 429.21 to 429.26 and not as repealing any part thereof; and in all cases hereby authorized the procedure of sections 429.21 to 429.26 shall be followed so far as capable of being applied.

[1925 c. 383 s. 3] (1918-43)