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WATER-WORKS, WATER MAINS, AND APPURTENANCES 432.05

CHAPTER 432

WATER-WORKS, WATER MAINS, AND APPURTENANCES

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432.01 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 this chapter, shall be given the meanings subjoined to them.

Subdivision 2. **Council.** By the word "council" is meant the governing body of the municipality by whatever title it may be denominated.

Subdivision 3. **Mayor.** By the word "mayor" is meant the chief executive officer of the municipality by whatever title he may be denominated.

Subdivision 4. **Clerk.** By the word "clerk" is meant the officer of the municipality who performs the functions of clerk thereof by whatever title he may be denominated.

[1921 c. 425 s. 1] (1918-1)

432.02 WATER-WORKS; SPECIAL TAX FOR MAINS. The council of any village now or hereafter having a water-works system shall have power to levy a special tax upon all property especially benefited thereby, in front of which any water main shall be laid.

[1911 c. 346 s. 1] (1236)

432.03 PAYMENT OF INSTALMENTS. This special tax may be divided into five annual instalments and shall not exceed the sum of \$1.75 per lineal foot of pipe laid in front of each lot or parcel of land, against each tract of land, these instalments to bear interest at the rate of six per cent per annum from the date of confirmation of the assessment until paid, and the same shall be a lien upon the land from the time the tax is levied by the council as provided in sections 432.03 and 432.04. No lot or parcel of land shall be subject to such tax after five annual assessments have been levied, except as provided in section 432.07.

[1911 c. 346 s. 2; 1921 c. 72; 1923 c. 236] (1237)

432.04 PETITION; SERVICE-MAINS. The council shall proceed to act upon the petition of three or more owners of lots or of a majority of the frontage, where the same is unplatted, fronting on any street or block, where it is proposed to install such water mains. In case of a service-main to connect either with the water system of the village, or any adjoining municipality, the council may proceed upon its own motion.

[1911 c. 346 s. 3] (1238)

432.05 NOTICE; HEARING; ASSESSMENT AND LEVY. The council, in either case, shall fix a time and place for the hearing, and of the proposed tax levy of this water frontage tax for the hearing of all objections thereto, and give two weeks' published notice thereof in accordance with the prescribed method of publication of ordinances of the council.

At the time and place so fixed in the notice, the council shall meet and hear any objections thereto and determine whether the improvement is necessary or proper, and shall then make an assessment upon all property so fronting on the proposed water main subject to the levy, which assessment shall state the amount levied per front foot, the name of the owner or reputed owner, and the legal description by which the land is known.

The assessment and levy shall thereupon be filed with the clerk and a two weeks' published notice of the time and place shall be given in the same manner heretofore provided, when the council will meet, hear, and determine any objections to the levy. At the time and place so fixed, the council shall meet and hear all persons; and may adjourn from time to time, not exceeding three days, unless the hearing of the objections thereto shall not then be completed, in which case it shall continue in session daily until the hearing may be completed. On this hearing it may in any manner modify its levy as may appear proper.

[1911 c. 346 s. 4] (1239)

432.06 HOW EXTENDED AND COLLECTED. On or before the 10th day of October thereafter, the clerk shall make up and file a statement, duly certified to by him, showing the frontage tax assessment so levied against each piece or parcel of land, with the auditor of the county in which the village is situated, as special taxes to be by him extended and collected against this land, and thereupon the auditor shall extend the same on his tax rolls against the property, and shall collect, enforce, and pay over the same to the treasurer of the village in the same manner as all other village taxes.

[1911 c. 346 s. 5] (1240)

432.07 DISPOSAL OF MONEY. All moneys so collected on account of this frontage tax, shall be kept separate and distinct for the purpose of constructing and paying for any water mains, or any bonds that may have been issued for the purpose, in accordance with sections 432.02 to 432.10.

[1911 c. 346 s. 6] (1241)

432.08 BONDS; DEFICIENCY TAX. If the council shall determine this frontage tax to be necessary it may, when lawfully authorized by the voters of the village, issue bonds for the aggregate of the instalments of frontage tax, drawing not to exceed five per cent interest per annum, and payable within 15 years from date of issue payable on or before the due date thereof out of the frontage tax or any other revenues derived from the water fund of the village, applicable thereto, the proceeds of the bonds to be used for the installation of such water mains.

Should the frontage tax levied at the outset prove insufficient to pay for the improvement, or the bonds issued in payment therefor, then a deficiency tax for the frontage may be levied, which, including the first tax levied, shall not exceed in the aggregate the full amount of 20 cents per running foot, for five years annually. These bonds, if issued, shall not be counted as a part of the bonded debt of the village, but the faith and credit of the village shall be pledged for the payment thereof.

Should the frontage tax levied at the outset prove insufficient to pay for the improvement, or the bonds issued in payment therefor, then a deficiency tax on the frontage may be levied, which, including the first tax levied, shall not exceed in the aggregate the full amount of ten cents per running foot, for ten years annually. These bonds, if issued, shall not be counted as a part of the bonded debt of the village, but the faith and credit of the village shall be pledged for the payment thereof.

[1911 c. 346 s. 7] (1242)

432.09 ESTIMATES; SUBMISSION TO VOTERS. Before the council shall have power to finally fix the assessment to be levied against the property abutting on water mains, as provided in section 432.05, and make contracts therefor, it shall obtain detailed estimates of the cost of installing the same and may, for that purpose, employ a competent engineer therefor, and make a careful estimate of the amount that will be realized from this frontage tax to be levied and, if it shall appear that the same will not be sufficient to pay the expense of the installation of the water mains and that for this purpose it will be necessary to issue the bonds of the village, then before the council shall proceed any further with the assessments or installation, it shall submit the question of issuing the bonds necessary to pay any deficiency, to the voters of the village in accordance with the provisions of section 457.01, fixing the amount of bonds to be voted for this purpose. These bonds

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shall be payable out of the general funds of the village, raised by taxation or other sources. If the bonds shall be voted by the village, the council shall then proceed further as heretofore provided.

[1911 c. 346 s. 8] (1243)

432.10 CONTRACT WITH ADJOINING MUNICIPALITY. The council may enter into contracts with any adjoining municipality for the furnishing by it of water to the citizens of the village, and the laying of water mains in the streets of the village. Thereupon the adjoining municipality shall have power to lay water mains under the direction of the council in the streets of the village and may furnish it and its citizens with water therefrom, and all of the provisions of sections 432.02 to 432.10 relative to petitions, frontage-tax notices, tax levy assessments, statements regarding the frontage tax, the collection thereof, the issuance of bonds and all other provisions of sections 432.02 to 432.10 for the purpose of paying for these water mains shall be followed, the same as if the water mains were laid and the water was furnished directly by the village from its own water-plant system.

[1911 c. 346 s. 9] (1244)

432.11 WATER MAINS AND APPURTENANCES IN CITIES OF FOURTH CLASS, VILLAGES, AND BOROUGHES. In any city of the fourth class, organized under the general laws or a special or home rule charter, or in any village or borough of this state, the council shall have power to lay water mains and appurtenances required in connection therewith, such as valves and hydrants and also service connections, along any street or public alley in the city, village, or borough for the purpose of supplying water to the inhabitants thereof.

[1921 c. 425 s. 1] (1918-1)

432.12 ASSESSMENT OF COST OF IMPROVEMENTS AGAINST ABUTTING OWNERS. The cost of any such improvement, including the cost of engineering, interest during construction, and necessary incidental expenses, may be assessed against property abutting upon the street or public alley in which these water mains, appurtenances, and service connections are laid, upon the basis of benefits to the property, but the council may pay the cost of laying these mains across street and alley intersections and one-half of the cost of laying mains in any street or public alley opposite any public park or municipal property and the cost of fire hydrants and their connections to the mains, and may also pay such portion of the cost of laying the mains between street intersections or between street and alley intersections, as the council may determine.

[1921 c. 425 s. 2] (1918-2)

432.13 RESOLUTION; PUBLICATION. No action shall be taken for the making of any such improvement, except upon the adoption of a resolution to that effect and determining the necessity of the work in question by a majority vote of the council after a meeting at which all property owners whose property may be assessed therefor have been notified to be present, by a notice of the meeting published for at least two weeks, in the official newspaper. The last of these publications shall be not less than three days before the meeting at which the resolution is adopted.

[1921 c. 425 s. 3] (1918-3)

432.14 PLANS AND SPECIFICATIONS; ADVERTISEMENT FOR BIDS. When the council shall determine to make any such improvements, it may cause plans and specifications thereof to be made and filed with the clerk and may advertise for bids for the construction of the improvement in the official newspaper and such other newspaper or newspapers and for such length of time as it may deem advisable. This advertisement shall specify the work to be done, shall call for bids on the basis of cash payment 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 certified check payable to the clerk, for such percentage of the amount of the bid as the council may specify.

[1921 c. 425 s. 4] (1918-4)

432.15 CONTRACTS; LETTING. In letting contracts for any such work, it shall be the duty of the council to require the execution of a written contract and a bond in such sum as it may require, conditioned for the faithful performance of the contract, and for saving the municipality harmless from any and all liability in the prosecution and completing of the work, and conditioned further for the payment for all material 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 a contract is awarded shall fail to enter promptly into the written contract and to furnish a 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. The council shall have the right to reject all bids. When it shall appear to the council that the cost of the entire work projected shall be less than \$500, then the council may directly purchase the materials therefor and cause the work to be done by day labor. 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 and where the work to be done shall call for an expenditure of less than \$500 to complete the work or the reconstruction necessary, the council may do it by the employment of day labor.

[1921 c. 425 s. 5] (1918-5)

432.16 PAYMENTS TO CONTRACTOR. In case the contractor shall properly perform his contract, the council may, from time to time, during the progress, and before the completion of the work, in its discretion, pay to the contractor 85 per cent of the amount earned thereunder, which shall be determined by the estimate of the engineer or other competent person selected by the council to supervise the work.

[1921 c. 425 s. 6] (1918-6)

432.17 ASSESSMENTS. After a contract is let or work ordered done by day labor, the clerk, with the assistance of the engineer or superintendent of the work, shall forthwith calculate the amount proper and necessary to be especially assessed for the improvement against every assessable lot, piece, or parcel of land within the district affected, without regard to cash valuation, in accordance with the provisions of section 432.12. The proposed assessment so made shall be filed with the clerk for public inspection. Thereupon the clerk, under the direction of the council, shall cause notice of the time and place when and where the council will pass upon this proposed assessment. This notice shall be published in the official newspaper at least one week prior to the hearing on the proposed assessment. The hearing may be had at a regular or special, or adjourned regular or special, meeting of the council. The council shall hear and pass upon all objections, if any, and may amend the proposed assessment as to any lot or lots; and, upon the adoption of such assessment by resolution of the council, the same shall become and constitute the special assessments against the lots, pieces, and parcels of land therein described. This assessment, together with the interest accruing on the total amount thereof, from the adoption of the same to the first day of June, following, at a rate of interest per annum, not exceeding six per cent, as the council may, by resolution, determine shall be a lien upon the property described therein, and all thereof, which lien shall be concurrent with that of the general taxes assessed against these properties. The amount of the assessment and accrued interest shall be payable in equal annual instalments, extending over a period, not exceeding 20 years, as the council may determine, by resolution. The first of these instalments shall be payable on or before the first day of June following the adoption of the assessment, and all deferred payments shall bear interest from the first day of June, following the adoption of the assessment, at a rate of interest per annum, not exceeding six per cent, as the council may determine, by resolution. It shall be the duty of the clerk, immediately after the adoption of the assessment by the council, to transmit a certified duplicate thereof to the county auditor, by whom the same shall be extended on the proper tax lists, and this assessment shall be collected, accounted for, and paid over in the same manner as other municipal taxes; provided, that the owner of any lot, piece, or parcel of land so assessed may, at any time, pay the whole of the assessment, or any instalment thereof, with accrued interest.

[1921 c. 425 s. 7; 1939 c. 135 s. 2] (1918-7)

432.18 COUNTIES AND SCHOOL DISTRICTS LIABLE FOR ASSESSMENTS. It shall be the duty of county boards and the proper school district officials to pay any assessments levied hereunder against property owned by the counties or school districts. In default of this payment, the amount of the unpaid assessments may

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be recovered in a civil action, brought by the city, village, or borough against the county or school district owning the property so assessed.

[1921 c. 425 s. 8] (1918-8)

432.19 CORRECTION OF ERRORS IN ASSESSMENTS. In case of errors or omissions in an assessment with respect to total cost of improvement, or otherwise, the council shall have power to, and shall, make supplemental assessments to provide for and correct these errors or omissions.

[1921 c. 425 s.-9] (1918-9)

432.20 CERTIFICATES OF INDEBTEDNESS. After a contract for the making of any such improvement shall have been entered into by any city of the fourth class, or any village or borough, it may, acting through its council, issue its certificates of indebtedness in such amount as may be necessary to defray, in whole or in part, the expense incurred or to be incurred in making the improvement. The word "expense" shall be construed to mean and cover every item of cost of the improvement from its inception to its completion, and all fees and expenses incurred or to be incurred in pursuance thereof. These certificates shall be payable in annual instalments, as near equal in amount as conveniently may be, over a period not exceeding 20 years from their date, shall bear interest at a rate not to exceed six per cent payable annually, or semiannually, which interest may be evidenced by appropriate coupons and shall be in such form and denominations, all as the council shall, by resolution, determine, and shall be signed by the mayor and countersigned by the clerk. A separate special assessment fund shall be provided for each improvement and the proceeds from the sale of any certificate issued on its account shall be placed in such fund. The council shall provide moneys for the payment of the principal and interest of these certificates, as they severally mature, which moneys shall be placed in such fund and into such fund shall also be paid all moneys received from the payment of any liens created under the provisions of sections 432.11 to 432.24. The council shall pay the principal and interest of these certificates out of any funds in the treasury when the moneys on hand in the appropriate special assessment fund are insufficient to meet the payment of the principal or interest when the same matures, but the fund from which these moneys have been taken or used for the payment of this principal or interest shall be replenished with interest at the rate of six per cent per annum from the collection of unpaid assessments on account of these improvements.

The amount of any certificates at any time outstanding shall not be included in determining the municipality's net indebtedness under the provisions of any applicable law.

[1921 c. 425 s. 10] (1918-10)

432.21 REASSESSMENTS. In all cases where any assessment, or any part thereof, as to any lot, lots, or parcels of land assessed under any of the provisions of sections 432.11 to 432.24, for any reason whatever, is set aside, the council may cause a reassessment or a new assessment to defray the expenses of the improvement to be made.

[1921 c. 425 s. 11] (1918-11)

432.22 ASSESSMENTS FOR WATER MAINS. When a city, village, or borough shall have caused water mains to be laid under a general bond issue and not by special assessment, to equalize the frontage assessments, the council may cause the existing mains, if they are of cast iron, to be examined by a competent engineer and if same are of suitable size and condition for continued use, the existing mains may be assessed against the property abutting thereon at an average cost of not to exceed 80 per cent of the cost of new mains of similar quality and construction, and this assessment of not exceeding 80 per cent shall be calculated by the engineers or other competent persons, and the assessment shall be prepared and provision made for its collection as in the case of new mains.

A hearing shall be held on old main assessments and may be at the same time as a hearing of the assessment of new mains, if new mains are at that time being laid, and in all respects the action shall be the same as prescribed for new mains.

[1921 c. 425 s. 11½; 1923 c. 380 s. 1; 1931 c. 345] (1918-12)

432.23 OBJECTIONS TO ASSESSMENTS. The party desiring to object to the assessment, or his duly authorized agent or attorney, shall, on or before the date

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of hearing upon the assessment, file with the clerk a written statement of the objections and all objections not specified therein shall be deemed waived.

[1921 c. 425 s. 12] (1918-19)

432.24 APPEALS FROM ASSESSMENTS. Within ten days after the adoption of the assessment, any person aggrieved who appeared and filed objections thereto, may appeal to the district court by serving a notice upon the mayor, which notice shall be filed with the clerk of the district court, within ten days after service thereof. The clerk shall furnish appellant a certified copy of his objections filed therein, and the assessment roll or part complained of, and all papers necessary to present the appeal. The appeal shall be placed upon the calendar of the next general term commencing more than five days after the date of serving the notice, and shall be tried as other appeals in such cases. If appellant does not prevail upon the appeal, the costs incurred, if not paid, shall be included in the special assessment.

[1921 c. 425 s. 13] (1918-14)

432.25 WATER FRONTAGE TAX. The council of any city of the fourth class shall have power to levy a water frontage tax upon every lot, piece, or parcel of land in front of which water pipes are or thereafter shall be laid.

[1909 c. 174 s. 1] (1747)

432.26 AMOUNT OF TAX; LIEN. The annual tax or assessment shall not exceed ten cents per lineal foot of the frontage of the lot, piece, or parcel of land and shall be a lien upon the lot, piece, or parcel of land and shall be collected as provided in sections 432.27 to 432.31. No property shall be subject to this tax or assessment after ten annual tax or assessments have been levied against it.

[1909 c. 174 s. 2] (1748)

432.27 PETITION OF PROPERTY OWNERS. The council shall proceed upon the petition of the property owners of the property fronting on the street of the proposed main, but the consent and signature of three owners of any platted block shall be sufficient.

[1909 c. 174 s. 3] (1749)

432.28 NOTICE; POWER OF COUNCIL; ASSESSMENT. The council shall thereupon give ten days' notice by publication of the proposed tax levy of the proposed water frontage tax and, if a majority of the council are of the opinion that the improvement is necessary and proper, the council shall make an assessment upon the property which fronts upon the proposed water main; the assessment shall state the amount per foot levied, the name of the owners or reputed owners, and the lot and block number.

[1909 c. 174 s. 4] (1750)

432.29 DELINQUENT TAXES; ANNUAL STATEMENT; EXTENSION OF TAX. The council shall make up, on or before the first day of October, in each year, a detailed statement, duly certified to by the mayor and clerk, under the seal of the city, showing the delinquent frontage taxes for the year preceding and ending on the first day of January following, which statement shall be transmitted by the clerk to the auditor of the county as delinquent taxes for collection. Thereupon it shall be the duty of the auditor to extend the same on his rolls against the property in the statement for collection and, if not paid within the time prescribed by law, then the same shall become a lien upon the real estate, and the real estate shall be subject to all the penalties and charges as property delinquent for taxes.

[1909 c. 174 s. 5] (1751)

432.30 MONEYS COLLECTED; WATER FUND. All moneys collected or paid into the treasury of the county on account of these assessments or taxes shall be paid over, from time to time, to the city wherein the frontage tax is levied for the use of the water fund and all moneys that are collected shall be kept separate and distinct and be put into the water fund to be kept by the city separate and distinct in maintaining, constructing, repairing, or leasing water systems within its corporate limits.

[1909 c. 174 s. 6] (1752)

432.31 CONTRACTS FOR WATER FROM OTHER CITIES; MAINS; APPLICATION. The council of any city of the fourth class may enter into contracts and agreements with any adjoining municipality, which has water system, water

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commission, or water board for the furnishing of water to its citizens for the laying of water mains in its streets by the adjoining municipality, the water commission, or water board thereof. Upon the making of this agreement or contract, or upon permission to that effect being given by the council the adjoining municipality, or its water board or commission may lay the water mains, under the direction of the council, and furnish water to these citizens. All the provisions of sections 435.25 to 435.31 relative to frontage tax, petitions, notice, tax levy, assessment, statements relative to delinquent frontage taxes, the collection thereof, and the other provisions thereof shall be followed in these cases the same as if the water was furnished directly by the city from a water plant owned and controlled by it.

[1909 c. 174 s. 7] (1753)