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SPRINKLING OF STREETS AND BOULEVARDS 433.01

CHAPTER 433

SPRINKLING OF STREETS AND BOULEVARDS

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433.01 DEFINITIONS. Subdivision 1. **Words, terms, and phrases.** Unless the language or context clearly indicates that a different meaning is intended, the words, terms, and phrases defined in subdivisions 2 to 6, for the purposes of this chapter, shall be given the meanings subjoined to them; and the word defined in subdivision 7, for the purposes of sections 433.54 to 433.58 shall be given the meaning subjoined to it.

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

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

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

Subd. 5. **Treasurer.** By the word "treasurer" is meant the officer of the village or the city who performs the functions of treasurer thereof by whatever title he may be denominated.

Subd. 6. **Sprinkling.** "Sprinkling" shall include sprinkling, flushing, saturating, or treating the surface of streets, alleys, highways, public ways, and public grounds

with water, oil, or any kind of fluid, mineral, or other substance for the purpose of preventing dust in the atmosphere or on the surface of these streets, alleys, highways, public ways, and public grounds.

Subd. 7. **Boulevard.** The word "boulevard" shall be construed to mean and refer to that portion of any street upon which shall have been constructed any grass plot between the sidewalk and roadway of that street.

[1907 c. 179 s. 2; 1917 c. 500 s. 2; 1921 c. 425 s. 1; 1923 c. 32 s. 2] (1546, 1650, 1664-2, 1918-1)

433.02 [Repealed, 1949 c 119 s 110]

433.03 STREET SPRINKLING IN CITIES OF FOURTH CLASS; PAYMENT.

In all cities of the fourth class the council may, in its discretion, pay one-half of the cost of sprinkling the streets with water, out of the general revenue fund of the city, and may assess one-half of the cost to the property abutting the streets sprinkled. In case any county has property abutting the street so sprinkled the county shall pay the cost of sprinkling the same on presentation to the county board thereof of a bill therefor properly verified.

[1919 c. 187 s. 1] (1828-1a)

433.04 AUTHORIZED TO SPRINKLE STREETS. All cities of the fourth class in this state are hereby authorized to and shall have the power to sprinkle the streets, lanes, alleys, avenues, and public grounds of the city, or any part thereof, and may make contracts therefor in accordance with the provisions of sections 433.04 to 433.15 on such terms and conditions as the council thereof may deem best, and shall have power to levy assessments for sprinkling their streets, lanes, alleys, avenues, and public grounds.

[1901 c. 175 s. 1]

433.05 EXPENSES ASSESSED UPON ABUTTING PROPERTY. The expense of the improvement shall be chargeable to and assessed upon the lots and parcels of land abutting upon the streets, lanes, alleys, avenues, and public grounds in which these improvements are done; the assessment to be apportioned among the several lots or parcels of land. The council may by resolution determine that a portion of the cost of the improvement shall be borne by the city, this portion to be designated in the resolution and in this case the portion so designated shall not be included in the assessment and shall be paid for out of the general fund of the city.

[1901 c. 175 s. 2]

433.06 ARRANGEMENTS BY COUNCIL. Before any proceedings are had the council shall each year, by ordinance or resolution, determine what territory in the city shall be sprinkled and the time and manner in which it shall be done. If the council shall deem it impracticable to designate the exact length of time during which sprinkling shall be done during the season, it may contract for the work without designating the beginning and the ending of the sprinkling season and in this case shall have power to order the beginning of the work on three days' notice, and shall likewise have power to order the work to cease for the season.

[1901 c. 175 s. 3]

433.07 LETTING OF CONTRACTS. Prior to the passage of any resolution for the letting of a contract for sprinkling, the expense of any part of which is to be assessed upon abutting lands, the council shall designate a time not less than 20 days distant and a place at which it will meet and take action in relation to the doing of the proposed work and direct that notice be given by the clerk, and the time and place thereof, and that in the meantime sealed proposals for the doing of this work will be received by the clerk. This notice shall state when the sprinkling is to be done and shall be given by publication thereof at least once in each week for two successive weeks prior to the time so designated by the council for the meeting, in the official newspaper of the city, at the time and place designated in the notice, and opportunity shall be given to interested parties to be heard for or against the proposed work, and the clerk shall, in the presence of the council, open and read all sealed proposals which may have been received for the doing of the proposed work, and the furnishing of all material therefor, and the council may then, by a majority vote of all its members, accept the most favorable proposal (this proposal to be that of the lowest responsible bidder), and by resolution authorize the doing of the proposed work, or any part thereof, by the person whose proposal shall have been accepted, and direct that a written contract be made with him therefor, or may reject any or all proposals offered and refuse to authorize the doing of the proposed work, or may, in its discretion, from lack of a quorum, or other reasons,

postpone the consideration and decision of the whole matter, or any branch thereof, to a future time, of which postponement all parties interested shall be required and deemed to take notice.

[1901 c. 175 s. 4]

433.08 DETERMINING PROPORTION OF COST. Upon the completion of a season's work, the council, or a committee appointed by it for that purpose, shall determine what part of the costs of the improvement shall be borne by each lot or parcel of land, and make an assessment thereof in writing giving a description of each lot or parcel so assessed, and the amount so assessed against each lot or tract, and shall present the same to the council at its next regular meeting.

[1901 c. 175 s. 5]

433.09 HEARING ON ASSESSMENTS. On receipt of this assessment the council shall direct that it be placed on file with the clerk for the inspection of all parties interested, and shall appoint a time, not less than ten days distant, and a place when and where it will meet to consider and act upon this assessment, and the clerk shall thereupon cause notice of that meeting and the time, place, and purpose thereof to be given by one publication of the notice in the official newspaper of the city at least five days prior to the time so appointed for the meeting; in this notice reference shall be made to the number of the sprinkling district in which the assessment is made, and shall state the amount assessed for each 100 square feet of territory adjacent to the property so assessed. At the time and place so appointed, the council shall proceed to consider the assessment and hear all objections which parties interested may desire to make thereto, and may adjourn if necessary from time to time and shall, after due consideration, make such corrections or changes in the assessment as it may deem necessary to perfect and equalize the same on the basis prescribed in sections 433.04 to 433.15, and shall confirm and establish the assessment so corrected and equalized; and the assessment, as so confirmed and established, shall be final, conclusive, and binding upon all parties interested and no appeal shall lie in any case from the confirmation; and the several amounts charged in the assessment, as so confirmed and established, against the several lots and parcels of land therein mentioned shall be collected as provided in sections 433.10 to 433.15.

[1901 c. 175 s. 6]

433.10 WARRANT FOR COLLECTION. When any assessment shall have been confirmed it shall be the duty of the clerk to issue a warrant for the collection thereof, which shall be under the seal of the city and signed by the mayor and the clerk and contain a printed or written copy of the assessment, as confirmed, or so much thereof as describes the real estate assessed and the amount of the assessment in each case; which warrant shall be delivered by the clerk to the treasurer for collection.

[1901 c. 175 s. 7]

433.11 LIEN ON REAL ESTATE. All assessments levied under the provisions of sections 433.04 to 433.15 shall be a specific lien on the real estate upon which the same are imposed from the date of the warrant issued for the collection thereof.

[1901 c. 175 s. 8]

433.12 NOTICE FOR PAYMENT OF ASSESSMENT. Upon receipt of this warrant the treasurer shall forthwith give notice by one publication in the official newspapers of the city that this warrant is in his hands for collection and requiring the respective owners of all lots and parcels of land mentioned in the assessment to pay the amount so assessed to the treasurer within 30 days from the date of the first publication of this notice.

[1901 c. 175 s. 9]

433.13 TAX LEVY IN EVENT OF NON-PAYMENT. At the expiration of the time limited in the notice required by section 433.12 the treasurer shall return to the clerk a list duly certified by him of the assessments remaining unpaid, giving in this list a description of the several lots or parcels on which the assessments have not been paid and the several amounts assessed thereto. The clerk shall thereupon transmit a certified list of these unpaid assessments, with a description of the several lots or parcels of land on which the same are made, and the names of the respective owners thereof, if known, to the auditor of the county in which the city is located, who shall enter the several amounts of these unpaid assessments

on the tax list for the next coming year, and levy the same upon the several lots or tracts of land upon which the same are chargeable, and the same shall thereupon be collected as other taxes are collected.

[1901 c. 175 s. 10]

433.14 CERTIFIED LIST OF UNPAID ASSESSMENTS PRIMA FACIE EVIDENCE. The certified list of unpaid assessments transmitted by the clerk to the county auditor is prima facie evidence that the proceedings up to date thereof were regular, valid, and legal. When any notice is required to be published under the provisions of sections 433.04 to 433.15 the publisher or printer of the newspaper in which the same was published, or the foreman of the publisher or printer, shall make affidavit thereof, annexed to a printed copy of the notice, specifying therein the time when and the newspaper in which the notice was published and file the same in the office of the clerk, which affidavit shall be evidence in all cases and in all courts of the facts contained therein.

[1901 c. 175 s. 11]

433.15 IRREGULARITIES. In all cases when the treasurer or the county auditor or the county treasurer shall be unable to enforce collection of any assessment by reason of any irregularity or omission in any of the proceedings had, or attempted to be taken, as provided in sections 433.04 to 433.15, or if, for any cause, the proceedings of the council, or of any officer, be found irregular or illegal, whether jurisdictional or otherwise, the council may order a new assessment from time to time and as often as may be until the full amount determined to be assessed against the real estate abutting on or benefited by the improvement has been collected, and when any new assessment is made the same proceedings shall be had in making it and enforcing collection thereof as provided for in sections 433.04 to 433.15.

[1901 c. 175 s. 12]

433.16 AUTHORIZED TO SPRINKLE WITH OIL. In any city of the fourth class in this state, the council shall have power and may cause any street or public highway therein, or any part thereof, to be improved or maintained by sprinkling, oiling, curbing, or building gutters upon a petition therefor signed by three-fourths of all owners of real estate bounding both sides of the street or highway and by the owners of at least one-half of the frontage of the street or highway, or part thereof, to be improved; or may order any curb or gutter to be built on one side of a street or highway, or part thereof, upon like petition, if signed by the owners of at least one-half the frontage on that side of the street, highway, or part thereof, to be so improved; and without any petition it may order any curb or gutter previously built to be put in repair when necessary; and it may, upon a like petition so providing, cause this sprinkling, or oiling, to be done annually at those times as shall be required by the petition, the cost of this improvement, sprinkling, or oiling, or any part thereof not less than one-half, may be assessed and levied by resolution of the council upon the lots or parcels of ground fronting on the street, public highway, or side thereof, so improved, sprinkled, or oiled, and most benefited thereby; and, if the petition provides for sprinkling or oiling annually, the council may make an assessment or levy for the amount required for the purpose during any year, until a petition for the discontinuance of the sprinkling or oiling, similarly executed, is presented to the council.

[1915 c. 285 s. 1]

433.17 ADDITIONAL TAX AUTHORIZED. If the tax so levied proves insufficient to pay the cost, or the proportion thereof assessed to the property, the council may levy an additional tax thereon to make good the deficiency.

[1915 c. 285 s. 2]

433.18 HOW ASSESSMENTS SHALL BE MADE. The assessments authorized in sections 433.16 and 433.17 shall be made by resolution of the council setting forth the purpose thereof, a description of each lot or parcel benefited, the name of its owner, if known, and the amount assessed thereon. Two weeks' published notice in a newspaper in the city shall be given of the contents of this resolution and of the time when the council will attend at its usual place of meeting to hear objections to the assessment, or any part thereof; at this time and place the council shall consider all objections made and for that purpose may adjourn from day to day, not exceeding three days, and by resolution may modify the assessment, or any part thereof. On October 10th next following, if any of the assessments be not previously paid to the treasurer, the clerk shall certify the same to the county auditor, who

shall extend all these unpaid amounts against the land assessed and the same shall be enforced, collected, and paid over to the treasurer as in the case of other city taxes.

[1915 c. 285 s. 3]

433.19 ORDERS AUTHORIZED. The council may authorize orders to be issued on the city treasury, bearing not to exceed six per cent interest, to defray the cost of any improvement set forth in section 433.16 until the time that the assessment shall be paid.

[1915 c. 285 s. 6]

433.20 APPLICATION; CONSTRUCTION. Sections 433.16 to 433.20 shall not in any manner apply to any city having a home rule charter adopted pursuant to the Constitution of the State of Minnesota, Article 4, Section 36, and it shall not be construed as in any manner superseding, repealing, amending, or qualifying the provisions of the home rule charter of any city.

Sections 433.16 to 433.20 shall not repeal, and shall not be construed as, repealing, amending, or modifying the power of any city to levy taxes, for any of the purposes provided in sections 433.16 to 433.20, in accordance with any charter, law, or ordinance, but these sections shall apply equally to all cities, as therein provided, in addition to any such power.

[1915 c. 285 ss. 4, 5]

433.21 STREET SPRINKLING; ASSESSMENT. The council of each city of the second class in the state is hereby authorized and empowered to sprinkle its streets, alleys, highways, public ways, and public grounds without letting the same by contract, and to levy assessments for all or any portion of the cost thereof upon property to be benefited thereby as the council may determine, in the manner and as designated in sections 433.22 to 433.47, notwithstanding any provisions in its charter or in the general laws of this state to the contrary.

For the purposes of sections 433.21 to 433.47 the population of each city of this state shall be ascertained and determined according to the last census taken under and pursuant to the laws and authority of the state.

[1917 c. 509 s. 1] (1664-1)

433.22 SPRINKLING DISTRICTS. The council may at any time determine by resolution what territory in the city shall be sprinkled during the sprinkling season of that year and may divide this territory into two or more sprinkling districts, describing the boundary lines of each district. Each district so determined shall be designated by number and thereafter all reference to a district by number in any notice required by sections 433.21 to 433.47, or in any other proceeding having reference thereto, shall be deemed a sufficient designation.

The council may cause to be prepared plans and specifications therefor and may approve the same and upon such approval they shall be filed with the clerk for the inspection of all parties interested.

This resolution shall be published once in the official newspaper of the city.

[1917 c. 509 s. 3] (1664-3)

433.23 PROCEDURE BY COUNCIL. After the adoption of this resolution and the approval and filing of these plans and specifications, the council shall designate a time, not less than ten days distant, and a place at which it will meet and act in relation to the doing of the proposed sprinkling, and direct that notice be given by the clerk of such meeting, and the time, place, and purpose thereof. This notice shall state that the plans and specifications therefor are on file with the clerk, and that all persons interested will be heard at the time and place of the meeting, and shall be published once in the official newspaper of the city at least five days before the time of the meeting. At this meeting an opportunity shall be given by the council to any and all interested parties to be heard for or against the proposed sprinkling, and the council may then, by an affirmative vote of a majority of all its members, by resolution in writing, determine what sprinkling shall be done during that year and the manner of doing the same, or may, in its discretion, from lack of a quorum or for any other reason, postpone the consideration and decision of the whole matter, or any part thereof, to a future definite time, of which postponement all parties interested shall be required and deemed to take notice. This resolution may designate what officer of the city shall supervise the work.

The council is hereby authorized and empowered to purchase all necessary horses, wagons, sprinklers, vehicles, equipment and outfit, and all materials necessary or required for proper sprinkling in the city.

[1917 c. 509 s. 4] (1664-4)

433.24 APPROVAL BY MAYOR. After the adoption of the resolution last mentioned it shall be signed by the president of the council and attested by the clerk, and on the next day after the adoption thereof the same shall be transmitted by the clerk to the mayor for his approval. If the mayor approves the same, he shall append his signature with the date of his approval thereto and return the same to the clerk within five days, Sundays excepted, from the date of its transmission to him. If he declines to approve the same he shall within the period of five days, Sundays excepted, return the same to the clerk with a statement of his objections thereto, to be presented to the council at its next meeting thereafter.

Upon the return of the resolution to the council without the mayor's approval, the same shall again be put upon passage, notwithstanding the objections of the mayor, and if, upon such vote, which shall be taken by a call of the roll, two-thirds of all the members of the council vote in favor of the adoption of the resolution the resolution shall be declared adopted and have the same force and effect as if approved by the mayor.

If the resolution transmitted to the mayor shall not be returned by him to the clerk within such five days, Sunday excepted, after presentation thereof to him, the same shall be deemed to be approved by him, and he shall deliver the same to the clerk on demand. The resolution need not be published.

[1917 c. 509 s. 5] (1664-5)

433.25 CHANGE IN DISTRICTS. At any time after the adoption of the resolution last mentioned, the council may by resolution in writing approved by the mayor, or by a two-thirds vote over his objections, without notice or publication of the resolution, amend or modify the same by adding to the territory of any sprinkling district or omitting any portion thereof or by changing the method or manner of sprinkling therein for the remainder of that year; and the council may at any time discontinue sprinkling from time to time or altogether in any sprinkling district.

[1917 c. 509 s. 6] (1664-6)

433.26 EMPLOYEES. The council may from time to time appoint one or more persons to assist the officer designated to supervise the sprinkling and fix their compensation and terms of service or provide that they shall serve during its pleasure.

[1917 c. 509 s. 7] (1664-7)

433.27 COST KEPT BY SUPERVISOR. The supervisor of sprinkling shall keep an accurate account of the cost of sprinkling, including the compensation paid to any assistant, in each sprinkling district, and promptly, upon the completion of each season's sprinkling under the provisions of sections 433. 21 to 433.47 transmit to the council a detailed statement thereof.

[1917 c. 509 s. 8] (1664-8)

433.28 ASSESSMENTS; PROCEDURE. The council shall then proceed without unnecessary delay to apportion and assess the entire cost of sprinkling, including all expenses in connection therewith or that portion thereof as it may determine, upon the real estate by them deemed benefited, to the extent of the benefits received and in proportion, as near as may be, to the benefits resulting thereto from such sprinkling.

In all proceedings for the making and collection of any assessment under sections 433.21 to 433.47, letters, figures, and the usual and customary abbreviations may be used to designate lots, parts of lots, lands, blocks, additions, subdivisions, sections, townships, ranges and parts thereof, the year and the amounts. These assessments shall be in writing, in which shall be given a description of each lot or parcel so assessed, the name of the owner thereof, if known, and the exact amount assessed thereto.

[1917 c. 509 s. 9] (1664-9)

433.29 ASSESSMENTS; FILING AND PUBLICATION. Upon the completion of the assessment the council shall direct that the same be placed on file with the clerk and appoint a time, not less than ten days distant, and a place when and where it will meet to consider and act upon the assessment, and the clerk shall thereupon cause notice of the meeting, and the time, place, and purpose thereof, to be given by one publication of the notice in the official newspaper of the city at

least five days prior to the time appointed for the meeting. This notice shall state that the assessment has been made for sprinkling, referring to the number of each district sprinkled for which the assessment was made and that the assessment is on file with the clerk and open to the inspection of all parties interested, and that all objections to the same must be filed in writing with the clerk at least one day (Sunday and legal holidays excepted) prior to the meeting, and that unless sufficient cause is shown to the contrary, the same will be confirmed. A reference in the notice to the number of the sprinkling district for the sprinkling of which the assessment has been made shall be deemed a sufficient reference to the property embraced in the assessment.

[1917 c. 509 s. 10] (1664-10)

433.30 ASSESSMENTS; PROCEDURE BY COUNCIL. At the time and place so appointed, as provided in section 433.29, the council shall proceed to consider the assessment and hear all objections which parties interested may desire to make thereto, and may adjourn as often as deemed expedient to a future definite time and place, and if none of the members are present the clerk may adjourn to some other convenient time and place, of which postponement all parties interested shall be required and deemed to take notice. All objections to the assessment shall be in writing and filed with the clerk at least one day (Sunday and legal holidays excepted) prior to the meeting; provided that the council may in its discretion allow any party interested, who has omitted to file his objection, to do so at the time of the meeting. The council may at any time cause a new notice of the hearing to be given, if the previous notice is deemed by it to be imperfect, or for any other reason.

The council after consideration may make such correction or changes in the assessment and revise the same as it may deem necessary or proper, and confirm and establish the same.

The assessment, when so confirmed and established, shall be final, conclusive, and binding upon all parties interested therein and the several amounts charged in the assessment, as so confirmed and established, against the several lots and parcels of land therein mentioned shall be enforced and established as provided in sections 433.31 to 433.47. If any assessment be annulled or set aside, the council may proceed de novo to make a new assessment in like manner, and like notice shall be given, as required in sections 433.21 to 433.47, in relation to the first and all parties interested shall have the like rights.

[1917 c. 509 s. 11] (1664-11)

433.31 LIEN OF ASSESSMENTS. All assessments levied under the provisions of sections 433.21 to 433.47 shall be a paramount lien on the real estate upon which the same may be imposed from the date of the confirmation of the assessments.

[1917 c. 509 s. 12] (1664-12)

433.32 RECORD OF ASSESSMENTS. The clerk shall keep in his office in books to be provided for that purpose a correct record of all assessments confirmed by the council and authorized by sections 433.21 to 433.47. These books shall be properly ruled and headed so as to show at all times a substantial description and history of each assessment on each lot or parcel of ground, whether paid to the treasurer or the county treasurer or remaining unpaid.

[1917 c. 509 s. 13] (1664-13)

433.33 COLLECTION OF ASSESSMENTS. When any assessment shall be confirmed and established the clerk shall issue a warrant for the collection thereof under the seal of the city and signed by the mayor and the clerk, containing a printed or written copy of the assessment roll as so confirmed, or so much thereof as describes the real estate and the amount of the assessment in each case, and deliver the same to the treasurer as soon as practicable thereafter.

The clerk shall in each instance take a receipt for the warrant and place the same on file.

[1917 c. 509 s. 14] (1664-14)

433.34 PUBLISHED NOTICE OF WARRANTS FOR ASSESSMENTS. Upon the receipt of this warrant the treasurer shall forthwith give notice by publication once in the official newspaper of the city that this warrant is in his hands for collection, briefly describing its nature and stating that the assessment is for sprinkling. A reference in this notice to the number of the sprinkling district for the sprinkling of which the assessment has been made shall be deemed a sufficient reference to the

property embraced in the assessment. This notice shall require all persons interested to make payments within 30 days from the date of the notice, at his office or at the option of the treasurer, at some bank in the city acting for him.

[1917 c. 509 s. 15] (1664-15)

433.35 COLLECTION OF DELINQUENT ASSESSMENTS. If the assessments charged in any assessment warrant shall not be paid within 30 days after the publication of the notice by the treasurer that he has received the warrant for collection, he shall return to the clerk a list, duly certified by him of the assessments so made which still remain unpaid, giving in the list the description of the several lots and parcels on which the assessments have not been paid, with the name of the respective owners thereof, if known, and the several amounts assessed thereto.

The clerk shall thereupon add to each delinquent and unpaid assessment a penalty of ten per cent thereof and transmit a duly certified list of these unpaid assessments with penalty added, with a description of the several lots and parcels of land on which the same are made, and the names of the respective owners thereof, if known, to the auditor of the county in which the city is located, who shall enter the several amounts of these unpaid assessments on the tax list for the city for the next ensuing year and levy the same upon the several lots and parcels of land to which the same are respectively chargeable, and the same shall thereupon be enforced and collected as other taxes on real estate are enforced and collected under the general laws of this state.

[1917 c. 509 s. 16] (1664-16)

433.36 SETTING ASIDE ASSESSMENTS. No assessment shall be set aside or held invalid by reason of any informality in the proceedings prior to the entry thereof on the tax list by the county auditor, unless it shall appear that by reason of the informality or irregularity substantial injury has been done to the party or parties claiming to be aggrieved.

[1917 c. 509 s. 17] (1664-17)

433.37 NEW ASSESSMENTS. If for any cause the proceedings of the council, or any officer of the city, may be found irregular or defective, whether jurisdictional or otherwise, or so deemed by the council, it may make a new assessment from time to time and as often as needs be upon all real estate benefited and on which no payment has been made for the sprinkling until the full amount of all benefits assessed has been realized from the real estate so benefited by the sprinkling.

[1917 c. 509 s. 18] (1664-18)

433.38 PAYMENT FOR SPRINKLING. The work of sprinkling authorized by sections 433.21 to 433.47 shall be paid for upon monthly or semimonthly estimates made by the person having supervision of the sprinkling and approved by the council, and that portion of the cost of sprinkling which is to be assessed against property benefited thereby shall be paid from the local improvement fund of the city; and all assessments paid for the sprinkling shall be credited to this fund.

[1917 c. 509 s. 19] (1664-19)

433.39 CERTIFICATES OF INDEBTEDNESS. If at any time it is found that the moneys in the fund will not be sufficient to pay the portion of the estimates which will be payable therefrom as the work progresses, the city is hereby authorized and empowered to issue from time to time its certificates of indebtedness in anticipation of the collection of these assessments in such amount as the council may deem necessary to pay for that portion of the estimates as the same become payable and to negotiate and sell these certificates upon the best terms for the city, subject to all the following conditions.

[1917 c. 509 s. 20] (1664-20)

433.40 CERTIFICATES OF INDEBTEDNESS, ISSUE AND SALE. The issue of these certificates shall first be authorized by a resolution in writing passed by an affirmative vote of a majority of all the members of the council and approved by the mayor.

If the mayor shall not approve the resolution within five days after its transmission to him, then the same may be passed by the council, notwithstanding his objections thereto, by a two-thirds vote of all its members and shall then have the same force and effect as if approved by the mayor.

The resolution shall designate the number of certificates so to be issued, the principal sum of each certificate, the time or times when payable and the purpose for which the money realized thereon is to be paid.

These certificates shall be numbered consecutively, without regard to the time of issue, and made payable to bearer or to the order of the person or corporation to whom the same may be delivered, as the council may designate, and draw interest at a rate not exceeding six per cent per annum and be payable at the city treasury not later than one year from the day of issue and be payable out of the local improvement fund, and no other, of the city. They shall be signed by the mayor and attested by the clerk and have imprinted thereon the corporate seal of the city.

No certificate shall be sold for less than par value and accrued interest.

[1917 c. 509 s. 21] (1664-21)

433.41 RECORD OF CERTIFICATES OF INDEBTEDNESS. The clerk and the treasurer shall each keep an accurate record of all certificates so issued in books to be kept for that purpose.

Any and all proceeds realized from the sale of these certificates shall be turned into the local improvement fund of the city and neither the certificates nor the proceeds from the sale thereof shall be used for or devoted to any purpose other than that designated in the resolution authorizing their issue.

[1917 c. 509 s. 22] (1664-22)

433.42 IRREGULARITIES. No irregularity or informality in any of the proceedings for sprinkling, or in the making or levying of any assessment in anticipation of the collection of which these certificates are issued, shall affect the liability of the city to redeem the same, but the faith and credit of the city issuing the same is hereby irrevocably pledged for the redemption of the certificates so issued.

[1917 c. 509 s. 23] (1664-23)

433.43 CANCELATION OF CERTIFICATES OF INDEBTEDNESS. The treasurer shall, immediately after any certificate shall have been redeemed by the city, cancel the same by a writing upon the face thereof showing date of redemption and the amount and to whom paid, and affix his signature thereto, and, within 24 hours thereafter, transmit the certificate so canceled to the clerk and take his receipt therefor, who shall immediately make an entry of the redemption and cancelation in his certificate register and enter the payment in the fund account.

[1917 c. 509 s. 24] (1664-24)

433.44 PAYMENT OF ASSESSMENTS. Any person owning or interested in any piece or parcel of land against which an assessment is levied, may pay the assessment, together with the penalty thereon, to the treasurer at any time before the first Monday in January next following the date on which the same has been certified to the clerk or to the county auditor, and the treasurer shall thereupon give his receipt in duplicate for the same, which shall be sufficient authority for the cancelation of the assessment by the county auditor or county treasurer on his books, or by the clerk, as the case may be. After the first Monday in January next following the date on which any delinquent assessment shall have been certified to the county auditor, the same must be paid to the county treasurer the same as state and county taxes.

Upon the presentation of one of the duplicate receipts by the owner or interested party to the county auditor or county treasurer, as the case may be, he shall cancel the assessment on his books, or if the same has not yet been transmitted to the county auditor, the clerk shall thereupon cancel the assessment on the delinquent list containing the same. The county auditor, if such receipt be filed with him, shall report the same in the next settlement thereafter with the treasurer for taxes collected and payable to the treasurer.

On the first Monday of each year the treasurer shall certify to the clerk all payments made to the treasurer, of assessments certified to the county auditor for collection, and the clerk shall enter all these payments in the proper records therefor.

[1917 c. 509 s. 25] (1664-25)

433.45 AFFIDAVITS OF PUBLICATIONS. When any notice is required to be published in any newspaper under the provisions of sections 433.21 to 433.47 an affidavit of the publisher or printer of the newspaper, or of the foreman or clerk of the publisher or printer, annexed to a printed copy of the notice taken from the paper in which it was published and specifying the time when, and the paper in which, the notice was published, shall be prima facie evidence in all cases and in all courts of this state of the facts contained in the affidavit.

[1917 c. 509 s. 26] (1664-26)

433.46 CERTIFICATES OF PAYMENT OF TAXES. The county auditor shall not issue his certificate that taxes are paid on any piece or parcel of land upon which any delinquent assessment authorized by sections 433.21 to 433.47 has been certified by him, until the assessment, with penalties and interest thereon, if any, has been fully paid.

[1917 c. 509 s. 27] (1664-27)

433.47 APPLICATION. Sections 433.21 to 433.47 shall not be deemed to repeal any provision of any special or home rule charter in force at the date of the passage thereof.

[1917 c. 509 s. 28] (1664-28)

433.48 SPRINKLING OF STREETS. The council of each city of the second class in the state is hereby authorized to sprinkle the streets, alleys, highways, public ways, and public grounds of the city, either by letting the same by contract or without letting the same by contract and to pay the cost of the same from the general fund of the city.

[1923 c. 32 s. 1] (1649)

433.49 PROCEDURE IF LET BY CONTRACT. Before letting such work by contract the city shall proceed in the same manner as when letting contracts for other non-assessable improvements.

[1923 c. 32 s. 3] (1651)

433.50 WHEN NOT LET BY CONTRACT. When such work is done by the city the council shall by resolution designate what officers shall supervise the work and it may from time to time appoint one or more persons to assist the supervisors and may fix their compensation and term of service or provide that they shall serve during its pleasure.

[1923 c. 32 s. 4] (1652)

433.51 SPRINKLING DISTRICTS. The council may by resolution district and redistrict the city for the purpose of sprinkling, whether the work is done by the city or by contract.

[1923 c. 32 s. 5] (1653)

433.52 RECORDS OF EXPENDITURES. The supervisors of sprinkling shall keep accurate accounts of the cost of sprinkling, including the compensation paid to any assistant supervisors, and promptly upon the completion of each season's sprinkling transmit a detailed statement of the same to the council.

[1923 c. 32 s. 6] (1654)

433.53 TAX LEVY. The council of the city, when directing tax levy for the general fund of the city, shall make due provision for the expenses of sprinkling for the next ensuing fiscal year. The cost of future sprinkling in the city shall not be assessed to property benefited but paid from the general fund of the city.

[1923 c. 32 s. 7] (1655)

433.54 CERTIFICATES OF INDEBTEDNESS FOR STREET SPRINKLING. In all cities of the first class where special assessments for sprinkling streets and other public places are collected through the county treasurer's office, the council may, as soon as these special assessments shall have been extended on the general tax lists by the county auditor, by ordinance adopted by a two-thirds vote of all the members of the council, cause to be issued and sold from time to time as money is actually needed for the payment of the expense of sprinkling the streets and other public places of these cities certificates of indebtedness in anticipation of the collection of these special assessments for sprinkling, but the total amount of the principal of all these certificates issued in any one year shall not exceed 80 per cent of the total of the sprinkling assessments levied and assessed for the next preceding year.

[1911 c. 152 s. 1] (1550-1)

433.55 MATURITY AND INTEREST OF CERTIFICATES OF INDEBTEDNESS. No certificates shall be made to mature at a date later than the fifteenth day of November of the year following that in which the same shall be issued and the rate of interest shall not exceed six per cent per year, payable semiannually. The certificates shall state upon the face thereof that the same are issued for the sprinkling fund and the principal sum of each certificate shall be in the amount the council may, in the ordinance directing the issue thereof, provide.

[1911 c. 152 s. 2] (1550-2)

433.56 PAYMENT OF CERTIFICATES OF INDEBTEDNESS. The interest and principal of the certificates of indebtedness shall be payable solely out of the special assessments on whose account the certificates were sold and the liability of the city on these certificates or the interest coupons issued therewith shall be limited to the faithful and ratable application to payment thereof of the amounts of the sprinkling assessments which shall be collected and paid into the city treasury and as the same are received by the treasury, but interest at the rate of six per cent per year shall run upon any unpaid principal thereof after maturity until the principal and the interest accruing thereon shall have been fully paid. The interest and principal of the certificates sold in any year on account of the sprinkling fund shall be a first charge upon the moneys received by the city treasury from the special assessments levied for any other purpose until the principal and interest of the certificates shall have been fully paid or the moneys for the payment thereof have been set apart in the city treasury.

[1911 c. 152 s. 3] (1550-3)

433.57 USE OF PROCEEDS LIMITED. No part of the moneys arising from the sale of any certificates shall be used for any other purpose than that of the sprinkling fund on account of which the certificates were sold.

[1911 c. 152 s. 4] (1550-4)

433.58 SALE AT PAR. No certificates shall be sold for less than par and accrued interest or issued after the close of the year in which the special assessments against which the same were issued are payable and no certificates shall be sold or issued more than four weeks in advance of the actual need of the proceeds for payment of orders drawn upon the sprinkling fund to which the proceeds belong.

[1911 c. 152 s. 5] (1550-5)

433.59 APPLICATION. Sections 433.54 to 433.58 shall be applicable to cities governed by a charter adopted pursuant to the Constitution of the State of Minnesota, Article 4, Section 36.

[1911 c. 152 s. 6] (1550-6)

433.60 SPRINKLING BOULEVARDS; JURISDICTION OF PARK BOARD. When in any city of the first class in this state a majority of the owners of property fronting upon any street, or any portion of any street not less than one block in length, wherein have been constructed or shall hereafter be constructed any grass plots between the sidewalks and roadways of these streets, shall file a petition with the council to place the grass plots in the street (or such portion of the street upon which the property owned by the petitioners shall front, aforesaid) under the care and management of the board of park commissioners of the city for the purpose of having the grass sprinkled during the season of the year when the streets adjacent thereto are sprinkled, the council may, upon the filing of the petition, pass a resolution placing the grass plots in the street or portion of street described in the petition, under the jurisdiction, care, and management of the board of park commissioners, for the purpose of having the grass thereon sprinkled between the sidewalk and roadway in any such street, and upon the passage of this resolution it shall be the duty of the clerk to forthwith forward to the board of park commissioners a certified copy of the resolution.

[1907 c. 179 s. 1] (1545)

433.61 DUTIES OF PARK BOARD. On receipt by the board of park commissioners of a certified copy of this resolution, the boulevard upon the street or portion of street described in the petition and resolution shall be under the jurisdiction, care, and management of the board of park commissioners for the purpose of sprinkling the boulevard when necessary, and thereupon the board of park commissioners may cause the boulevard to be sprinkled when necessary and the expense of this work shall in the first instance be payable out of a general fund of the city.

[1907 c. 179 s. 3] (1547)

433.62 TO KEEP ACCOUNT OF COST; ASSESSMENT. It shall be the duty of the board of park commissioners at all times to keep accurate account of the cost of sprinkling these boulevards, as authorized by sections 433.60 to 433.64, in front of the lot or parcel of land fronting on the boulevard, and on or before the first day of October of each year, the board shall assess the cost and expense of

this work done in front of each of the lots or parcels of land since the first day of October in the preceding year, including the proportionate cost of making the assessment, upon the lot or parcel of land.

[1907 c. 179 s. 4] (1548)

433.63 COUNTY AUDITOR TO COLLECT. On or before the first day of November of each year, the board of park commissioners shall transmit to the auditor of the county in which the city shall be located, a certified copy of the assessment roll and the auditor shall extend the assessments in the proper columns against the pieces or parcels of land assessed and this assessment shall be collected and the payment thereof enforced in like manner as state and county taxes are collected in the county and in the state, and the payment thereof enforced. When this assessment shall have been collected the amount thereof shall be paid by the county treasurer to the treasurer of the city and by him placed to the credit of the general fund of the city for the purpose of reimbursing the city for the cost of doing the work for which the assessment was made.

[1907 c. 179 s. 5] (1549)

433.64 REASSESSMENT. If any assessment shall be set aside as to any real estate for any cause by a decision of court or for any cause may be found irregular or defective, the board of park commissioners may make a reassessment as to this property from time to time and as often as need be, until each lot or parcel of real estate has paid the cost of sprinkling the boulevard in front thereof, together with its proportionate part of the cost of making the assessment.

[1907 c. 179 s. 6] (1550)

433.65 CITIES MAY SPRINKLE STREETS. All cities in the state are hereby authorized to and shall have power to sprinkle the streets, lanes, alleys, avenues, and public grounds of the city, or any part thereof, and may make contracts for so sprinkling the same in accordance with sections 433.65 to 433.89 on such terms as its council may deem best.

[1895 c. 233 s. 1]

433.66 ASSESS ABUTTING PROPERTY. All cities in the state are hereby authorized to levy assessments for sprinkling its streets, lanes, alleys, avenues, and public grounds upon the property fronting upon these improvements without regard to cash valuation.

[1895 c. 233 s. 2]

433.67 BASIS OF ASSESSMENT. The expense of any of these improvements shall be chargeable to and assessed upon the lots and parcels of land abutting upon the street, lane, alley, or public ground in which the improvement is contracted to be done upon the following basis.

The entire expense of the improvement in the district for each season shall be chargeable to and assessed upon the lots and parcels of land in the district abutting upon the streets, lanes, alleys, and public grounds, or parts thereof, in which the sprinkling is done, the assessment to be apportioned among the several lots and parcels of land according to the number of square feet of territory sprinkled abutting on the lot or parcel of land; but, in determining the apportionment, the territory abutting on a lot or parcel of land shall in no instance be estimated beyond the center of the street, nor shall any portion of any street intersection be estimated as a part of the territory abutting upon a corner lot.

All work authorized by sections 433.65 to 433.89 shall be paid for from the general fund of the city upon monthly estimates made by the persons designated by the council for that purpose.

If the council shall by resolution determine that the cost of a portion of the improvement shall be borne by the city, the portion to be designated in the resolution and not to exceed the street intersections, and all territory abutting upon public parks, squares, and grounds, and lots or parcels of ground owned by the city, the state, and the United States then and in that case the portion so designated shall not be included in the assessment.

[1895 c. 233 s. 3]

433.68 SPRINKLING TERRITORY; DISTRICTS. Before any proceedings are had by the council, it shall each year by ordinance determine what territory in the city shall be sprinkled and may divide this territory into one or more sprinkling districts, accurately describing the boundary lines of each district, each district so determined shall be designated by number and thereafter all reference to that

district by number shall be deemed a sufficient designation. The ordinance shall further provide for all supervision and inspection of the work and designate what officers of the city shall supervise and inspect the work in accordance with the plans and specifications therefor and accurately determine the powers and duties of these officers with reference to all sprinkling contracts awarded by the council.

[1895 c. 233 s. 4]

433.69 CONTRACT. The contract price to be paid by the city for the doing of the work shall be upon the basis of sprinkling 100 square feet per week, during the life of the contract; if, in the opinion of the council, it is deemed impractical, at the time of letting a contract, to designate the exact length of time during which sprinkling is necessary in the district designated, during any particular season, the council may let the contract without so designating the beginning and the ending of the sprinkling season; and, upon the city so letting the contract, the officer of the city designated as superintendent of the work, shall have power to order the beginning of the work upon three days' notice to the contractors therefor, and shall likewise have power to order the work to cease for the season, if in his opinion no necessity therefor exists, and such order and direction by the superintendent shall be final, conclusive, and binding upon all parties concerned.

[1895 c. 233 s. 5]

433.70 PLANS AND SPECIFICATIONS; BIDS; NOTICE; PUBLICATION. Prior to the passage of any resolution for the letting of a contract for sprinkling, the expense of which is to be assessed upon abutting lots or parcels of land, as provided in sections 433.65 to 433.89, the council of the city shall cause plans and specifications for this sprinkling to be made and presented to the council for its approval, and the same shall immediately upon the approval thereof by the council, be filed with the clerk for the inspection of all parties interested.

The council shall then designate a time, not less than 20 days distant, and a place at which it will meet and act in relation to the doing of the proposed work and direct that notice be given by the clerk of this meeting and the time and place thereof, and that in the meantime sealed proposals for the doing of this work will be received by the clerk.

In this notice shall be named the district where the sprinkling is to be done and reference shall be made therein to the specifications so filed with the clerk, and the notice shall be given by publication thereof in the official newspaper of the city at least once in each week for two successive weeks prior to the time designated by the council.

At the time and place designated in this notice an opportunity shall be given to any and all interested parties to be heard for or against the proposed work and the clerk shall, in the presence of the council, open and read all sealed proposals which may have been received for the doing of this work and the furnishing of all materials therefor, and the council may then, by a majority vote of all its members, accept the most favorable proposal (this proposal to be that of the lowest responsible bidder) and by resolution authorize the doing of the proposed work, or any part thereof, by the person whose proposal shall have been accepted, and direct that written contract be made with him therefor or may reject any or all proposals offered, and refuse to authorize the doing of this work, or may, in its discretion, from lack of a quorum, or other reason, postpone the consideration and decision of the whole matter, or any branch thereof, to a future time, of which postponement all parties interested shall be required and deemed to take notice.

This resolution, after the same has been passed by the council, shall be signed by the president of the council, attested by the clerk, and on the next day after the passage thereof it shall be transmitted by the clerk to the mayor for his approval.

If the mayor approves the same, he shall append his signature with the date of his approval thereto and return the same to the clerk within five days, Sundays excepted, from the date of its transmission to him, and if he declines to approve the same he shall, within that period of five days, return the same to the clerk with a statement of his objections thereto, to be presented to the council at its next meeting thereafter.

Upon the return of the resolution to the council, without the mayor's approval, the question shall again be put upon its passage, notwithstanding the objections of the mayor and, if upon this vote, which shall be taken by a call of ayes and

noes, two-thirds of all the members of the council shall vote in favor of this resolution, the same shall be declared enacted and shall have the same force and effect as if approved by the mayor.

If the resolution so submitted to the mayor shall not be returned by him to the clerk within a period of five days, Sundays excepted, after presentation thereof to him, the same shall be deemed to be approved by him and he shall deliver the same to the clerk upon demand.

[1895 c. 233 s. 6]

433.71 CONTRACTS, HOW EXECUTED. All contracts authorized by sections 433.65 to 433.89 shall be executed on behalf of the city by the mayor and attested by the clerk.

[1895 c. 233 s. 7]

433.72 ASSESSMENT, WHEN MADE. Upon the completion of a season's work authorized by sections 433.65 to 433.89 in any sprinkling district the officer designated by the council to superintend the same shall immediately assess the cost of the work to the several lots and parcels of land in the district in the manner provided by sections 433.65 to 433.89 and determine what part of the cost shall be borne by each lot or parcel, and shall make an assessment thereof in writing in which shall be given a description of each lot or parcel so assessed and the exact amount assessed thereto, and shall, at the next regular meeting of the council after the completion of this assessment, submit the same to the council, with a certificate that the work has been completed.

[1895 c. 233 s. 8]

433.73 NOTICE OF ASSESSMENT. On the receipt of this assessment the council shall direct that the same be placed on file with the clerk for the inspection of all parties interested and shall appoint a time, not less than ten days distant, and a place when and where it will meet to consider and act upon the assessment and the clerk shall thereupon cause notice of this meeting and the time, place, and purpose thereof to be given by one publication of this notice in the official newspaper of the city at least five days prior to the time so appointed for the meeting; in this notice reference shall be made to the number of the sprinkling district in which the assessment is made, and shall state the amount assessed for each 100 square feet of territory sprinkled for the season.

[1895 c. 233 s. 9]

433.74 HEARING OBJECTIONS. At the time and place so appointed, as provided in section 433.73, the council shall proceed to consider the assessment and hear all objections which parties interested may desire to make thereto and may adjourn, if necessary, from time to time, and shall, after due consideration, make corrections or changes in the assessment, as it may deem necessary to perfect and equalize the same on the basis prescribed by sections 433.65 to 433.89, and shall confirm and establish the assessment as so corrected and equalized; and the assessment, as so confirmed and established, shall be final, conclusive, and binding upon all parties interested and no appeal shall lie in any case from such confirmation; and the several amounts charged in the assessment, as so confirmed and established, against the several lots and parcels of land therein mentioned shall be collected as provided in sections 433.75 to 433.89.

If any assessment be annulled or set aside, the officer designated to make the assessment shall proceed de novo to make another or new assessment in like manner, and the notice shall be given as required in section 433.70 in relation to the first.

[1895 c. 233 s. 10]

433.75 ASSESSING RAILROADS. When in any case any portion of the cost and expense of making any improvement mentioned in sections 433.65 to 433.89 shall, by virtue of any valid law or ordinance, or by virtue of any valid contract, be chargeable upon any railway company the amounts so chargeable may be assessed upon the railway company, and the balance only upon real estate chargeable, as provided by sections 433.65 to 433.89, and the city may collect the amount so assessed upon the railway company by distress and sale of personal property, in the manner provided for by the general laws of this state in the case

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of taxes levied upon personal property, or by suit brought for that purpose; provided, that any real estate belonging to the railway company shall be assessed as in other cases.

[1895 c. 233 s. 11]

433.76 CONFIRMATION. When any special assessment shall have been confirmed it shall be the duty of the clerk to issue a warrant for the collection thereof, which shall be under the seal of the city, and signed by the mayor and the clerk, and shall contain a printed or written copy of the assessment roll as confirmed, or so much thereof as describes the real estate and the amount of the assessment in each case.

[1895 c. 233 s. 12]

433.77 WARRANTS FOR COLLECTION. All warrants issued for the collection of special assessments shall be delivered by the clerk to the treasurer within five days thereafter, taking his receipt therefor.

[1895 c. 233 s. 13]

433.78 LIEN. All assessments levied under the provisions of sections 433.65 to 433.89 shall be a paramount lien on the real estate on which the same may be imposed from the date of the warrant issued for the collection thereof.

[1895 c. 233 s. 14]

433.79 NOTICE OF WARRANTS. Upon the receipt of any warrant for the collection of any special assessment authorized by sections 433.65 to 433.89, the treasurer shall forthwith give notice by one publication in the official newspaper of the city that the warrant is in his hands for collection, briefly describing its nature, and requiring the respective owners of the several lots and parcels of land mentioned in the assessment to pay the amount therein assessed against these lots and parcels, respectively, to him within 30 days from the date of the first publication of the notice.

[1895 c. 233 s. 15]

433.80 PENALTY. At the expiration of the time limited in the notice required by section 433.79, the treasurer shall return to the clerk a list duly certified by him of the assessments so made which still remain unpaid, giving in this list the description of the several lots or parcels on which the assessments have not been paid, and the several amounts assessed thereto.

The clerk shall thereupon add to each delinquent and unpaid assessment a penalty of ten per cent and forthwith transmit a duly certified list of these unpaid assessments, with a description of the several lots and parcels of land on which the same are made, and the names of the respective owners thereof, if known, to the county auditor, who shall enter the several amounts of these unpaid assessments on the tax list for the city for the next ensuing year, and levy the same upon the several lots or parcels of land to which the same are respectively chargeable, and the same shall thereupon be collected as other taxes on real estate are collected.

[1895 c. 233 s. 16]

433.81 INFORMALITIES; ERRORS. No assessment provided for in sections 433.65 to 433.89 shall be set aside or held invalid by reason of any error, omission, informality, or irregularity in the proceedings prior to the entry thereof on the tax list by the auditor of the county, as required in section 433.80, unless it shall appear that by reason of the error, omission, informality, or irregularity substantial injury has been done to the parties claiming to be aggrieved.

The certified list of all unpaid assessments transmitted by the clerk to the county auditor, referred to in sections 433.65 to 433.89, shall be prima facie evidence that the proceedings up to the date of the certified list were valid and regular.

[1895 c. 233 s. 17]

433.82 REASSESSMENT. In all cases where any court shall, for any cause whatever, set aside or declare void any assessment made under any of the provisions of sections 433.65 to 433.89 the council shall, without unnecessary delay, instruct its officers to make a reassessment, or new assessment, to defray the expense of the improvement and this reassessment, or new assessment, shall be made in accordance with the provisions of sections 433.65 to 433.89 and when the same shall have been made and confirmed by the council it shall be enforced and collected in the same manner that other assessments are enforced and collected under sections 433.65 to 433.89.

In case where any court shall set aside or declare void any assessment upon any lot or parcel of land for any cause, these lots or parcels of land may be reassessed, or newly assessed, from time to time, until each separate lot, piece, or parcel of land has paid its proportionate part of the costs and the expenses of the improvement as near as may be.

[1895 c. 233 s. 18]

433.83 NEW WARRANTS, WHEN. In all cases where the treasurer, county auditor, or county treasurer shall be unable to enforce the collection of any special assessment authorized by sections 433.65 to 433.89 by reason of irregularity or omission of any proceedings subsequent to the confirmation of the assessment, the clerk and mayor of the city are hereby authorized and empowered to issue a new warrant to the treasurer for the collection of any assessment which, by reason of this irregularity or omission, remains unpaid or not collected.

Thereafter all proceedings shall be had under these new warrants to enforce the assessments therein specified in the same manner, as near as may be, as is prescribed by the provisions of sections 433.65 to 433.89 for the enforcement and collection of special assessments after the same shall have been confirmed, as provided in sections 433.65 to 433.89, and as often as any failure shall occur by reason of these irregularities or omissions a new warrant may issue and new proceedings be had in like manner until such special assessment shall be fully collected as to each and every tract and parcel of land charged therewith.

[1895 c. 233 s. 19]

433.84 RELETTING CONTRACTS. In all cases where work contemplated by the provisions of sections 433.65 to 433.89 shall be suspended before final completion by failure of the contractor to perform the same or, for any other cause, the council may relet the unfinished portion of the work in the same manner, as near as may be, as provided in sections 433.65 to 433.89 for the letting of contracts, and in every case of a new contract the work shall be paid for in the same manner as contracts for other like improvements.

[1895 c. 233 s. 20]

433.85 PUBLICATION OF NOTICES. When any notice is required to be published in any newspaper under sections 433.65 to 433.89, an affidavit of the publisher or printer of the newspaper, or of the foreman or clerk of the publisher or printer, annexed to a printed copy of the notice taken from the paper in which it was published, and specifying the time when and the paper in which the notice was published, shall be evidence in all cases and in every court of the facts contained in the affidavit.

[1895 c. 233 s. 21]

433.86 MAY REASSESS FOR DEFICIENCY. If, for any cause, the proceedings of the council, or any officer, may be found irregular or defective, whether jurisdictional or otherwise, the council may order a new assessment, from time to time, and as often as need be, until a sufficient sum is realized from the real estate abutting on the street in which the improvement has been made to pay the costs, damages, and expenses incurred thereby, it being the true intent and meaning of sections 433.65 to 433.89 to make the cost and expenses of all public improvements provided for therein local to the city and payable by the abutting real estate.

[1895 c. 233 s. 22]

433.87 ADOPTION. Any city in the state heretofore or hereafter incorporated may become subject to the provisions of sections 433.65 to 433.89, and the council may effect the same by an ordinance thereof, duly passed by a two-thirds majority of all the members of the council voting in favor of the same and approved as provided by the charter of the city; and a certified copy of the ordinance so approved and duly certified, accompanied by a statement of the vote thereon, with the names of the members voting for and against the ordinance, shall be forwarded to and filed in the office of the secretary of state, and the city shall thenceforth be deemed to be subject to the provisions of sections 433.65 to 433.89 and shall be governed, controlled, and regulated by and under the provisions thereof, and the officers of the city shall thereupon exercise the powers conferred therein, and all courts in this state shall take judicial notice of the fact of that city becoming subject to the provisions thereof.

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None of the provisions of those sections shall have any force or effect in any city of this state unless accepted as in this section provided.

[1895 c. 233 s. 23]

433.88 CONFLICTING LAWS. After the passage and adoption of the ordinance mentioned in section 433.87 and the filing of the same with the secretary of state, all laws of that city in conflict with sections 433.65 to 433.89 shall no longer be applicable, and shall be repealed from and after that date, but all laws, or parts of laws, not inconsistent with the provisions of those sections shall continue in force and be applicable to that city the same as if it had not become subject to the provisions of those sections.

[1895 c. 233 s. 24]

433.89 EXISTING SUITS AND CLAIMS. All suits, debts, taxes, and claims whatever belonging to that city shall be and remain in full force, and shall be sued for, recovered, or collected under the provisions of law governing the city prior to the acceptance of sections 433.65 to 433.89, and all proceedings for the collection of any special assessment for local improvements authorized by those sections, contracted for before the city became subject to the provisions of those sections, shall be proceeded in as though no change had been made in the laws regulating and governing the city.

[1895 c. 233 s. 25]