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CHAPTER 442

SEWAGE DISPOSAL; WATER AND SEWAGE

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442.01, 442.02 [Repealed, 1949 c 119 s 110]

442.03 WATER-WORKS, LIGHTING PLANTS AND SEWAGE PUMPING PLANTS; BOARD OF MUNICIPAL WORKS. In each city of the second class in the state there is created and established a board of municipal works, which shall have the control and management of all water-works systems, lighting plants, and sewage pumping plants of the city as may be owned and operated by the city, with the powers and duties designated; provided, that sections 442.03 to 442.25 shall not apply in so far only as the pumping and disposal of sewage is concerned to any city situated upon a navigable river which now has or may hereafter have a municipal sewage disposal plant for the treatment and disposal of sewage in such city.

[1903 c. 165 s. 1; 1911 c. 236 s. 1; 1935 c. 75 s. 1] (1664-45)

442.04 AUTHORITY OF BOARD. All authority under sections 442.03 to 442.25 in the city, shall be exercised by a board of six commissioners to be known and designated as the board of municipal works, who shall be appointed by the mayor of the city, and whose terms of office shall be as designated in section 442.05.

[1903 c. 105 s. 2] (1664-46)

442.05 BOARD OF MUNICIPAL WORKS. Subdivision 1. Appointment of members; tenure of office. It is hereby made the duty of the mayor in the city in which a water-works plant, a lighting plant and a sewerage pumping plant, or any one or more of them, is being owned and operated by the city on the last Monday in April, 1903, to appoint on the last Monday in April, 1903, six persons, residents of the city, commissioners, one of whom shall be appointed to serve for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, one for a term of five years, and one for a term of six years. These six persons shall constitute the first board of municipal works for the city in which so appointed. The terms of office shall commence on the first Monday in May, 1903, and these commissioners shall on that day enter upon the performance of their duties and assume the control and management of the water-works system, lighting plant and sewerage pumping plant of the city in which they have been so appointed, or such of these works as shall then be owned and operated by the city.

The mayor of the city shall annually thereafter, on the last Monday in April, appoint one person, resident of the city, as a member of the board and as the successor of the commissioner whose term of office expires in that year, to serve for a term of six years from the first Monday in May of the year in which appointed and until his successor is appointed and qualifies. All appointments made under the provisions of sections 442.03 to 442.25, including the filling of vacancies, shall be so made that no more than three persons of those comprising the board, shall at any time belong to the same political party; and, provided, that a change in the political belief of any of the members after appointment, shall not disqualify any member for membership or for reappointment.

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In each city of the second class in this state in which none of the municipal works designated shall be owned and operated by the city on the last Monday in April, 1903, but in which any one or more of the municipal works shall thereafter be installed and established by the city, to be operated and controlled by the city, and in each city of the second class in this state in which thereafter any one or more of the municipal works may be so installed and established by the city, and no such board having been heretofore appointed in or for any such city, it shall be the duty of the mayor of the city, not more than 30 days, and not less than ten days, prior to the time that it is contemplated by the city to commence the operation of any such works to appoint the board hereinbefore designated, whose terms of office shall commence immediately upon such appointment, one of whom shall be appointed to serve until the first Monday in May following, one until one year after the following first Monday in May, one until two years after the following first Monday in May, one until three years after the following first Monday in May, one until four years after the following first Monday in May, and one until five years after the following first Monday in May, and their successors shall thereafter be appointed at the times and in the manner hereinbefore designated for the appointment of successors.

When it shall hereafter be shown by any official state census that any city of the second class in this state and there shall, at that time, be owned and operated by the city one or more of such municipal works, it shall be the duty of the mayor of the city, on the last Monday in April following the official notice of such census, to appoint the board hereinbefore designated, whose term of office shall commence on the first Monday of May following, and who shall be appointed to serve for the lengths of time first specified in this section, and their successors shall thereafter be appointed at the times and in the manner hereinbefore designated for the appointment of successors.

Subd. 2. Control and Management. Each such board shall assume the control and management of such works immediately after the same shall be installed or established by the city and be ready for operation.

When there shall hereafter be constructed, purchased, or installed any one of the municipal works hereinbefore designated, by any such city in which such board of municipal works have been theretofore appointed and established, or extensions or additions made to any such works therein previously established, or machinery installed to be operated in conjunction therewith, such board shall thereupon assume the control, operation, and management of such works, extensions, or machinery, in addition to all works then under its control, immediately after the same shall be completed by such city and ready for operation.

Subd. 3. Vacancies. All vacancies by resignations or otherwise, shall be filled by the appointment of the mayor of the city with the approval of the majority of the city council of said city.

Subd. 4. Removal of commissioners. The mayor may remove any of the commissioners for misconduct, incompetency, or neglect of duty after opportunity shall be given him to be heard on written charges. Each member of the board shall, before entering upon the discharge of his official duties, take and subscribe the usual oath of office and deposit the same with the recorder of the city, together with a written acceptance of his appointment. All appointments herein provided for shall be made by the mayor in writing and filed by him with the recorder of the city; and when made by the board the secretary of the board shall certify the necessary facts to the recorder, showing the cause of the vacancy and how filled.

Subd. 5. Officers. The board shall elect annually one of its number to be president and one to be vice-president of the board, and may make by-laws and regulations for its government not inconsistent herewith. In the absence of the president from the city or when the president by reason of sickness or other cause is incapacitated from acting, the vice-president shall be the acting president of the board with all the powers and duties of the president. A majority of the board shall constitute a quorum, and all contracts and engagements, acts, and doings of the board, within the scope of its duty and authority shall be obligatory and binding upon the city.

Subd. 6. No compensation for commissioners; expenses. The members of the board shall receive no compensation for their services, but shall be allowed their

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reasonable official expenses, except that traveling expenses outside such city shall not be allowed any member unless authority to make the trip be previously granted by the board and approved in writing by the mayor of the city.

Subd. 7. Secretary. The board shall elect some suitable person as secretary, not a member of the board, who shall, as secretary, be the general superintendent of the several municipal works under its control in the city.

The board shall have power, by an affirmative vote of a majority of all its members, to remove him for cause, after opportunity shall be given him to be heard upon written charges.

Subd. 8. [Repealed, 1945 c 173 s 2]

Subd. 9. Employees. The board may appoint and employ all proper clerks, assistants, and employees necessary or convenient for the operation and management of the several municipal works or departments in the city, and for accomplishing the purposes contemplated by sections 442.03 to 442.25.

Subd. 10. Salaries. The salary and compensation of all persons appointed and employed by the board in any of the departments under its control shall be such as may be fixed by such board, by an affirmative vote of a majority of all its members.

Subd. 11. Rules for appointment, employment, and removal of employees of municipal works. It shall be the duty of each such board within six months after its appointment and organization to make and establish general rules providing for the manner and method of appointing, employing, and removing all persons in connection with the operation and management of the several municipal works under the care of the board and to define their duties and powers. These rules shall, when practicable, provide that all appointments and employments, other than ordinary labor and transient assistants and employments, shall be made in accordance with the civil service or merit system, and all such rules when so established shall be changed only by an affirmative vote of five-sixths of all the members of the board.

Subd. 12. Ex officio officials of board. The treasurer of the city is hereby declared to be ex officio treasurer of the board. The city engineer of the city, except when otherwise designated by the board for special purposes, shall be the engineer of the board.

The city attorney of the city, except when otherwise specially designated by the board, shall be the legal adviser of the board.

[1903 c 165 s 3; 1911 c 236 s 2, 3; 1951 c 417 s 1] (1664-47)

442.06 DUTIES OF SECRETARY AND TREASURER; BOOKS OPEN TO PUBLIC INSPECTION. It is made the duty of the secretary, under the direction of the board, to collect and receive and to pay into the city treasury all moneys due such board on account of the operation of these works, and to keep a set of books which shall at all times contain a full and complete statement of the condition and operation of each such municipal works or department and of all matters in connection therewith, and a detailed and exact account of all moneys received and paid out by order of the board, in each such department, and all debts due and owing the board for any cause whatever, together with an accurate account of all the expenses of and liabilities incurred by the board in each such department.

It is made the duty of the treasurer of the board to receive all moneys which may be paid into the city treasury on account of the board from any sources whatever, and place the same in a separate fund therefor to be designated "municipal works fund," which fund is hereby created for each city, and all moneys so received shall be retained by the treasurer and paid out only upon the order of the board, signed by the president and countersigned by the secretary thereof, and he shall keep a detailed and exact account thereof, in such manner as to show at all times the exact financial condition of the board.

The books of the board shall at all times be open to the examination of any taxpayer of such city, or to any member or committee of the city council; the board shall, on the first Monday in April in each year, make a full report in detail to the city council of the condition and operation of the works under its charge, and of each department, and of all receipts and expenditures for the year then ending on account of the same; and shall, when desired by the council, transmit to the council a concise statement of the financial condition of any such department.

[1903 c. 165 s. 5] (1664-48)

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442.07 ACTIONS BY OR AGAINST BOARD. The board of municipal works may sue and be sued, plead and be impleaded, answer and be answered unto, appear and prosecute unto final judgment in any court or elsewhere in the name of the board, have a common seal and alter the same at pleasure. It may prosecute any action in the name of the board against any person or persons for money due for the use of water or from any other cause; for the breach of any contract, express or implied, touching the execution or management of any of the works or departments, or of any promise or contract made to or for them; and also for the injury or trespass or nuisance done or caused or procured to be done to the watercourses, pipes, machinery, or any other apparatus belonging to or connected with any part of any of the works, or for any improper use or waste of the water.

[1903 c. 165 s. 6] (1664-49)

442.08 USE OF RAILROAD RIGHT OF WAY OR HIGHWAYS. The board of municipal works, in behalf of the city, and all persons acting under its authority, shall have the right to use the grounds or soil under any road, railroad, highway, street, lane, alley, or public ground for the purpose of constructing, extending, enlarging, improving, or repairing the works contemplated by this chapter, on condition that it shall, when not otherwise provided by any ordinance of the city, and when not the duty of some private person, company, or corporation, cause the surface of such road, railroad, highway, street, lane, alley, or public ground to be restored to its original state, and all damages done thereto to be repaired.

[1903 c. 165 s. 7] (1664-50)

442.09 RECORDS. Subdivision 1. **Annual accounts.** Each such board shall keep and maintain an accurate and detailed record of the following annual accounts:

- (1) The current expense of operating and maintaining each of the water-works, lighting and sewerage departments, or such of them as may be under their control;
- (2) Interest on all outstanding water and light bonds;
- (3) Extensions and improvements; and
- (4) Such other accounts, and such subdivisions of the foregoing named accounts as may be deemed desirable for the purpose of accurately showing the true financial conditions of each of the departments and all property belonging to the same.

Subd. 2. **Estimates presented to board.** On or before the second Monday in August of each year the secretary of the board shall present to the board of municipal works of the city, in writing, an estimate of the probable receipts during the next ensuing fiscal year for each such department, from each and all sources other than municipal, such fiscal year to commence on the first day of April; together with an estimate of the several amounts required during the next ensuing fiscal year for the operation and proper maintenance of each department under its control, and shall also make a special estimate of amounts required for the water-works department of the city during the next ensuing fiscal year for each of the following purposes:

- (1) For the current expenses of operating and maintaining the water-works department;
- (2) For interest on all outstanding water-works bonds;
- (3) For water-works extensions and improvements; and
- (4) For the payment of outstanding water-works bonds maturing during the next ensuing fiscal year, in the aggregate amount of not exceeding \$15,000.

Subd. 3. **Limitation on estimate for extensions and improvements.** The estimate for extensions and improvements in such water works department shall not exceed ten per cent of the estimated probable receipts from all sources other than municipal, unless approved by an affirmative vote of a majority of all the members of the council.

Subd. 4. **Estimate of use of water.** If the estimate of the probable receipts shall be less than the total of the amounts required for all of the purposes designated, the secretary shall thereupon prepare a detailed statement of all water which will probably be used and consumed for municipal purposes during the next ensuing fiscal year, excepting therefrom only public fountains, public drinking places and public watering troughs, and shall equitably apportion the amount so required in addition to the estimated amount of receipts from other sources, to the several municipal purposes for which the water is to be used, on the basis of the water rates prescribed and established by the board for like purposes, but shall

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not exceed such rates, and shall make an assessment of the several amounts so appropriated on the general fund of the city and on the funds of the several municipal departments so using the water.

Subd. 5. Approval of estimates. Upon the completion of this estimate for all departments under the control of the board, the secretary shall present the same to the board, for its consideration and approval.

The board shall, upon receipt thereof, proceed to consider the same and shall make such corrections or changes as may be deemed necessary to perfect and equalize the same, and shall approve and establish the same on or before the last Monday in August following.

Upon the approval and establishment of the said estimates by the board, the same shall be submitted to the city council of the city, which shall make such corrections or changes as may be deemed necessary to perfect and equalize the same by a majority vote of all of the members of said city council on or before the first regular meeting of said city council in September following.

Subd. 6. Filing. After these several estimates and the assessments for water-works purposes upon the several municipal departments have been fully approved and established by the city council, a duplicate of the same, duly certified to by the president of the city council and the city recorder, shall be filed with the recorder of the city on or before the second Monday in September, and at the same time a like copy shall be transmitted to and filed with each municipal department or board of the city against which an assessment for the use of water has been so made.

Subd. 7. Inclusion in estimates to council; assessment, levy. The city recorder shall thereupon include the amounts so established by the city council and the amounts so assessed against the general fund of the city, in his estimate to the council of the several sums which will be required to meet the expenses of the city during the next ensuing fiscal year; and the council shall establish the same in its tax levy for such year; and each board or governing body of the municipal department so assessed shall likewise include the amount so assessed against it in its estimate of the several sums required during the next ensuing fiscal year, and such amounts shall, in each instance, be included in the respective tax levies for such year.

All amounts so assessed by the city council and so included in the tax levies, shall be paid to the treasurer of the board by each municipal department in two equal instalments, on the first day of July and on the first day of December of the year in which the taxes are collected.

If the estimate of the probable receipts shall be equal to or shall exceed the total of the amounts required for the next ensuing fiscal year, then no assessment shall be made for the use of water upon the several municipal departments, and any and all surplus in the treasury of the department at the end of any fiscal year, and which the city council shall by resolution determine not to be required for the next ensuing fiscal year, shall by the city council be ordered paid into the general fund of the city by the board.

[1903 c 165 s 8; 1951 c 417 s 2] (1664-5)

442.10 SINKING FUND. Subdivision 1. **Created.** The board may at any time create and establish a sinking fund for the accumulation of a fund to be used for the redemption of outstanding water-works bonds at their maturity. The sinking fund shall be created by ordinance passed by an affirmative vote of two-thirds of all the members of the board. Moneys shall be paid into the sinking fund during such years only in which no water-works bonds mature in an amount exceeding \$5,000. The moneys to be paid into the fund shall be obtained from the following sources: (1) Such amount as may be designated each year by the board by resolution, shall be annually included by the secretary of the board in his estimate of the several amounts required during the next ensuing fiscal year, and shall be listed by him in his special estimate for the water-works department as for bonds sinking fund under the purpose designated and provided for in section 442.09, subdivision 2, clause (4), and shall be included in the amounts apportioned by the board to the several municipal purposes and included in assessment on the several municipal departments, if any be made, as provided for in section 442.09, subdivision 2, clause (4); provided, that the amount included in such assessment and intended for such fund shall not in any one year exceed the sum of \$5,000; (2) The board may annually transfer, by resolution in writing, to the sinking fund such portion of the

surplus fund in the treasury of the water department at the end of any fiscal year, as the board may deem advisable, and as the ordinance may permit; provided, that such transfer of surplus shall not in any one year exceed the amount of \$10,000, nor shall the total of all moneys paid into said fund in any one year exceed \$10,000.

Subd. 2. **Duties of city treasurer.** The city treasurer shall keep the fund separate and distinct from other funds, and shall keep, preserve, and invest the same and pay orders drawn upon the same in the manner and as may be designated by the ordinance creating the same. The board may at any time direct the city treasurer to invest a specified portion of the fund, or the whole thereof, in bonds of the city or in certificates of indebtedness issued by the city, or in bonds or certificates of the state of Minnesota, or in certificates of deposit accompanied by bonds of indemnity of one or more banks located in the city, if in the opinion of the board the same can be done advantageously.

Subd. 3. **Payment of bonds.** The fund shall be used exclusively for the payment of maturing water-works bonds, and only such amount shall be paid therefrom annually, for the redemption of such bonds, as the board may annually, by resolution, authorize and designate.

[1903 c. 165 s. 8a; 1911 c. 236 s. 4] (1664-52)

442.11 TRANSFER OF MONEY TO MUNICIPAL WORKS FUND. It shall be the duty of the council of the city, immediately after the organization of the board, to direct the city treasurer to transfer from the general fund to the municipal works fund, to be thereafter maintained by him and controlled by the board, all moneys theretofore levied for the departments under the control of the board, as the same may be received by the treasurer from the auditor of the county, and all moneys in the treasury of the city applicable to the needs of the departments, prior to the time that the first of the tax levies, hereinbefore designated to be made by and for the board, shall be collected, received, and applied by the treasurer for the board; and the council of the city shall also, when not provided for in the board's estimate, cause to be transferred to the municipal works fund from the proper fund of the city the necessary means for maintaining and operating such works, or additions and extensions thereto, as may have been installed by the city and over which such board has assumed control, until the beginning of the fiscal year following the first tax levy which includes the board's estimate for the same.

[1903 c. 165 s. 9] (1664-53)

442.12 PAYMENTS FROM FUND; ORDERS. No moneys shall be paid out of the funds in the city treasury belonging to the board, except for principal or interest of water and light bonds, or either, unless such payment shall be specially authorized by an affirmative vote of a majority of all the members of the board, taken by a call of the ayes and noes, and then only upon order drawn by the secretary of the board, signed by the president and countersigned by the secretary, specifying the purpose and department for which, and the account upon which it is drawn, and made payable to the order of the person, firm, or corporation in whose favor it is issued; provided, that orders in the form above prescribed may be issued at the proper time, without specific action by the board in each instance, for the payment of salaries or wages previously fixed and determined by the board, and made payable at certain definite times and in certain definite instalments.

[1903 c. 165 s. 10] (1664-54)

442.13 EXPENDITURES TO CONFORM TO ESTIMATE; BORROWING POWER. In all appropriations, and in all purchases made or liabilities incurred, the board shall not exceed, in any fiscal year, the amount of the estimate made therefor, as hereinbefore provided; and, except when otherwise authorized by law, no loans shall be made by the board at any time for any purpose, except when extraordinary expenditure shall be rendered unavoidable by fire or other unforeseen calamity, and such expenditure be approved by a majority vote of the council of the city.

[1903 c. 165 s. 11] (1664-55)

442.14 REDEMPTION OF BONDS. When the city treasurer shall pay any principal or interest on any water or light bond he shall immediately transmit to the secretary of the board a statement of the payment, together with the bond or coupon so redeemed, and proper entry thereof shall be made by the secretary in the books kept for that purpose.

[1903 c. 165 s. 12] (1664-56)

442.15 REGULATING DISTRIBUTION OF WATER; RATES, LIEN; HYDRANTS; PREVENTING WASTE OF WATER. Each such board shall, if a water-works system be under its control, regulate the distribution and use of the water in all places and for all purposes where the same may be required for either public or private use, and fix the price and rates therefor; and, from time to time, cause to be assessed the water rate to be paid by the owner or occupant of each house or other building having or using water, upon such basis as it shall deem equitable, and such water rate shall become a continuing paramount lien, until paid, upon each house or other building, and upon the lot or lots upon which such house or other building is situate, and it shall erect such new number of public hydrants and in such places as shall be ordered, from time to time, by the council of the city. The board is hereby authorized and required to restrain and prevent any and all wastage of water, whether occurring under private or public use, and to that end may, when in its judgment necessary, turn off the water or take such other action as in its judgment may be proper.

[1903 c. 165 s. 13] (1664-57)

442.16 ENFORCING PAYMENT OF WATER RATES. Each such board shall have the power and authority to require payment in advance for the use of water furnished by it in or upon any building, place, or premises, and in case prompt payment for the same shall not be made, it may shut off the water from such building, place, or premises, and shall not be compelled again to supply the building, place, or premises with water until the arrears, with interest thereon, together with the cost and expense of turning the water off and on, as fixed by ordinance, shall be fully paid.

[1903 c. 165 s. 14] (1664-58)

442.17 SYSTEM EXTENDED, RATES. Each such board may from time to time, for the purpose of furnishing a full supply of water to the inhabitants of such city for any and all purposes, extend the water-works system under its control in such manner as it may deem best subject to all conditions contained in sections 442.03 to 442.25, provided, however, that said board shall make such extensions in the said water-works system as are directed by resolution duly passed by a majority vote of the city council of the city.

The board of municipal works of the city shall establish such reasonable water rates as will, at all times, insure to the city at least a sufficient income to pay all the expenses and costs of operation, maintenance, and repair of the system and works, and the interest on outstanding bonds, provided, however, that the determination of such said water rates shall be subject to the approval of the city council of Winona; and provided that the said city council of the city shall have the power to set said water rates by resolution passed by a majority vote thereof.

[1903 c. 165 s. 15; 1951 c. 417 s. 3] (1664-59)

442.18 OFFENSES BY BOARD OR OFFICERS. It is hereby declared to be a gross misdemeanor, punishable by a fine not exceeding \$500, or by imprisonment in the county jail not exceeding one year, or both, at the discretion of the court, for the board, or any of its officers, to knowingly omit the property of any person from assessment for water rates, or neglect or refuse to collect the same, or to give any person other or different credit for the use of water than that given the whole public, or those belonging to the same class.

[1903 c. 165 s. 16] (1664-60)

442.19 REGULATION OF LIGHTING PLANTS; EXTENSION. Each such board shall, if a municipal lighting plant be in operation in the city, regulate the distribution of lamps on the streets and public grounds of the city in such manner as to properly light the streets and public grounds and shall determine the number and location of these lamps and provide for the proper operation, care, and maintenance of the same, and of all poles, wires, fixtures, and appliances pertaining to the same, and shall have the full control and management of such lighting plant; but no extensions for street lighting shall be made to the same nor additional lamps placed except upon an affirmative vote of a majority of all the members of the board.

[1903 c. 165 s. 17] (1664-61)

442.20 BY-LAWS, REGULATIONS, AND ORDINANCES; PENALTY FOR VIOLATION; PUBLICATION. Each such board is hereby invested with full power to make and enforce such by-laws, regulations, and ordinances applicable to any or all of the works under its control as may be deemed necessary to carry into effect

the objects and intent of this chapter, and not inconsistent herewith, and to supply and define any power or mode not already specially designated herein, but contemplated by this chapter; the board may prescribe, as penalty for the violation of any ordinance or part thereof, the imposition upon the offender of a fine not exceeding \$100 or imprisonment for a term not exceeding 90 days; the board shall cause all such by-laws, regulations, and ordinances to be entered in a book to be kept for that purpose, and signed by the president and secretary, which, when so entered and signed, shall be evidence in any court of this state. All such regulations and ordinances shall be published at least once in the official newspaper of the city.

[1903 c. 165 s. 18] (1664-62)

442.21 CONTRACTS; LOWEST BIDDER; ADVERTISEMENT. Every contract for material or for the construction of any part of any of the works under the control of the board, which shall involve the expenditure of a sum of \$200, or more, shall be in writing and shall remain on file with the secretary of the board. All work shall be let to the lowest responsible bidder therefor, except incidental repairs or minor improvements, after notice soliciting proposals for the doing of such work shall have been published, in the official newspaper of the city, in at least two separate issues of the same; provided, the board shall have the right to reject any and all bids, and such rights shall be reserved in each advertisement soliciting bids; and, provided, further, that in the event of any extraordinary or sudden injury to any of the works, or any part of such system, whereby damage or loss might ensue by reason of any delay, or in the event of the lowest bid submitted being no less than ten per cent greater than the engineer's estimate therefor, the board may cause the damage to be repaired or the proposed improvement to be made without contract and in such manner as the board may deem for the best interest of the city; and, provided, further, that in all work of laying water pipe the board may require all joints to be made by persons in the employ of the board.

[1903 c. 165 s. 19] (1664-63)

442.22 PURITY OF WATER; FILTERS; INCREASING SUPPLY. Each such board shall have the power and authority to adopt any and all means, and to do any and all things by it deemed necessary to be done, to protect or to enhance the purity of the water supply of any such city and to supply the citizens of such with a pure and wholesome water for all purposes. The board shall have the power and authority to decide upon, adopt, construct, and install a system of filters or such other appliances, system, or methods as it may determine for the purpose of filtering or purifying the water to be furnished by any such city to its citizens; or, if determined by it to be advisable, may provide or secure a new and additional supply of water from other sources than theretofore used; and may, from time to time, as deemed necessary, increase the supply from the source theretofore employed.

[1903 c. 165 s. 19a; 1909 c. 121 s. 1; 1911 c. 236 s. 5] (1664-64)

442.23 INTERFERENCE WITH WORKS, PENALTIES. Any person who shall, without authority from the board, lay any main or service pipe or take water therefrom, or open or shut any service cock or fire hydrant, or remove or unscrew, wholly or partially, the cap from such fire hydrant, or enter or form any connection with or turn water into any tunnel excavated or used by the board for the purpose of laying its pipe, or who, being authorized by the board to take water from any main or service pipe into any specified building or upon any specified premises, or to be used for any specified purposes, shall, without authority from the board, use such water for any other than specified purpose or permit any other person to use the same for any other such specified purpose, or to take the same out of such building; and also such other person so using or taking such water, or who, without lawful authority, shall dig or excavate within six feet of any main, pipe, gate, hydrant, or blow-off of the works, shall be deemed guilty of a gross misdemeanor, and shall, upon conviction thereof, be punished by a fine of not more than \$100, and not less than \$25, or by imprisonment in the county jail for a term of not more than three months, nor less than 20 days, or both such fine and imprisonment.

[1903 c. 165 s. 20] (1664-65)

442.24 DIVERSION OR CORRUPTION OF WATER; INJURY TO WORKS, CIVIL LIABILITY. If any person shall maliciously or wilfully divert the water, or any portion thereof, from any such water-works, or shall corrupt or render the same impure, or shall destroy or injure any canal, aqueduct, pipe, conduit, machinery, or other property used or required for procuring or distributing such water in any such city, or shall destroy or injure any of the machinery, fixtures, or

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appliances used or required for operating the lighting plant or the sewerage pumping plant in such city, or do any act which shall cripple the operation of any such plant, or reduce its efficiency, such person, and his aiders and abettors, shall forfeit to the board of the city, to be recovered in a civil action, treble the amount of damages (besides cost of suit), which shall appear on the trial therefor to have been sustained; and all such acts are hereby declared to be gross misdemeanors, and the parties found guilty thereof may be further punished by a fine not exceeding \$1,000 or by imprisonment not exceeding one year, or both, at the discretion of the court.

[1903 c. 165 s. 21] (1664-66)

442.25 COMMENCEMENT AND SCOPE OF POWERS OF BOARD. The board of municipal works provided for in sections 442.03 to 442.24 shall have no powers over, or duties of any kind in connection with, any of the municipal works therein designated until the same shall have been fully completed and installed and shall be in use and operation or ready to be put into use and operation, but the board shall be vested with and shall have the full power and authority after any such works shall have been constructed, installed, and come under the control of the board to determine upon, make, construct, and install any and all extensions thereto, except as in those sections otherwise expressly provided. In case of lighting plants those sections shall not repeal, amend, or modify Laws 1901, Chapter 199, except in so far as those sections vest such board with power and authority to control, operate, and manage such plants after the same shall have been constructed, erected or purchased by the city, as provided in those sections, and to make additions and extensions thereto for the uses and purposes for which such plants shall have been so installed by the city, and for which such plants are intended and directed by the council of the city to be used, but the power and authority to determine upon and make, construct, and install additions and extensions to any such lighting plant for new and additional uses, not theretofore directed, shall be and remain as provided in those sections, but when such additions and extensions for such new and additional uses shall have been determined upon, constructed, and installed ready for use and operation, the control, operation, and management thereof shall be immediately assumed by such board.

Those sections shall not vest the board with any power or control over the sewer pipes of the city, nor abridge in any manner the powers of the council of the city with reference to the laying or extensions of sewer pipes or constructing a sewer system, or part of same, in the city, or to deprive the council of the supervision or control of such sewer pipes after construction, but the board shall have the full control and management of the pumping plant only of such system or systems of sewerage and of all machinery, appliances, and flush tanks employed in the operation of such system or systems after the same have been erected, constructed, and installed by the city.

[1903 c. 165 s. 22] (1664-67)