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CHAPTER 435

PUBLIC IMPROVEMENTS, OTHER PROCEEDINGS

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435.01 [Repealed, 1949 c 119 s 110]

435.02 [Repealed, 1953 c 398 s 13]

435.03 [Repealed, 1953 c 398 s 13]

435.04 [Renumbered 435.20]

ASSESSMENTS

435.05 RATE OF INTEREST ON ASSESSMENT CERTIFICATES. All certificates of sale issued by the proper authorities of any city of the first class in this state upon a sale of real property for any assessment for local improvement shall bear the same rate of interest as was provided by law in such case previous to the enactment of Laws 1905, Chapter 205.

[1907 c 132 s 2] (1578)

435.06 [Renumbered 435.21, subdivision 1]

435.07 [Renumbered 435.21, subd 2]

435.08 DIVISION OF ASSESSMENTS. In all cities of the third class in this state, whether operating under a home rule charter or under any general or special law of this state, wherein any assessment, or reassessment of real estate for local improvements has heretofore been made and confirmed, and which real estate, as thus originally assessed or reassessed in one body, was pursuant to law duly subdivided and platted into lots and blocks or tracts or parcels of a lesser area than that originally assessed, the council of the city is hereby specifically authorized and empowered to subdivide the assessment or assessments and apportion the same to each or any of the lots, blocks, or other smaller tracts and parcels of the assessed real estate. The power hereby delegated shall be in addition to the existing statutory or charter powers, or both, of the city and its council. The assessment, as thus subdivided and apportioned, may include the original assessment for the improvement or improvements, together with all subsequent additional or supplemental assessments of the real estate for the local improvement or improvements.

[1923 c 40 s 1] (1713-1)

435.09 PROCEDURE. Upon presentation and filing with the clerk of a petition, addressed to the council of the city, signed by the owners of the lot, or lots, block, or other smaller tracts or parcels of real estate included within the boundaries of any tract or governmental subdivision so originally assessed, or reassessed, asking for the subdivision and apportionment of the original assessment, or assessments, and the determination of the amount thereof chargeable against the lot, or lots, or other smaller tracts of land, the council of the city may subdivide and apportion the assessment, or assessments, to the tract, or tracts so owned by the petitioning owners, and on payment of the proportionate part of the assessment, as thus ascertained and determined, release the lots, or other smaller portions of the real estate from the lien of the original assessment, or assessments, or from any installment of the original assessment, if the property owner or his predecessor in interest has elected to avail himself of any charter privilege or law permitting the subdivi-

sion of the original assessment into annual or other instalments. The apportionment of the smaller tracts of real estate and the payment in settlement, in whole or in part, of the amount of the assessment, as thus subdivided and apportioned, shall be without prejudice to the lien of the city upon the balance of the tract or parcel of real estate as thus originally assessed. The city, by and through its council, shall have further power, upon like petition signed and presented by property owners owning at least one-half of the lots, blocks, or other parcels of land thus originally assessed, or reassessed, as one tract, to subdivide and apportion the original assessment, or assessments against the entire tract or governmental subdivision among each and all of the several lots or parcels of land into which the original tract was later subdivided and platted, and to determine the proportionate part of the original assessment, or assessments, applicable to and chargeable against each of the several lots or parcels of land, and upon payment thereof, to release, or cause to be released from the lien of the original assessment, or assessments, the tract, or tracts, upon and against which the assessment, as thus subdivided, is paid.

[1923 c 40 s 2] (1713-2)

435.10 COUNTY AUDITOR MAY SUBDIVIDE ASSESSMENTS. In the event that an assessment, or assessments, or any unpaid instalments thereof, has heretofore been certified up to the auditor of each county within which the city is situated, and which assessment shall cover and include the original tract or governmental subdivision of lands as originally assessed, and which assessments are in process of collection and settlement, the auditor of the county within which the affected tracts are situate, upon the filing in his office of the certificate signed by the clerk of the city, setting forth the amount of the assessment or instalment apportioned and subdivided by the council to the smaller tract of real estate, is authorized to subdivide the assessment, or assessments as previously certified up. Thereupon the auditor shall file his certificate with the treasurer of the county within which the affected lands are situated, showing the amount of the subdivided assessment, or assessments, applicable to the lots or parcels of land so held and owned by the individual petitioning property owners to whom the relief has been afforded by the action of the council of the city. Upon the filing of the auditor's certificate with the treasurer of the county, the treasurer of the county is hereby specifically authorized and empowered to accept the amount of the subdivided and apportioned assessment, and issue his receipt covering the full payment and discharge of such assessment or instalment thereof against the lot, block, or other smaller tract of real estate, which receipt shall be in the form of the ordinary treasurer's tax receipt for the payment of general taxes and assessments against city real estate. There shall be included in the collection to be made by the county treasurer such lawful penalties as may have accrued, upon the basis of the assessment as thus subdivided and apportioned to the smaller tract or area of the real estate. The auditor of the county, in the event that judgment for delinquent real estate taxes, which include the assessments for local improvements, has been entered, may permit redemption of the smaller tracts or parcels of real estate from the tax judgment at any time prior to the sale of the premises at tax sale, upon payment of the amount as thus determined and certified up to him by the council of the city, together with penalties, interest, and other lawful costs and charges there against, required for the redemption thereof, and issue his redemption receipt therefor.

[1923 c 40 s 3] (1713-3)

435.11 [Renumbered 435.17, subdivision 1]

435.12 [Renumbered 435.17, subd 2, 3]

435.13 [Renumbered 435.17, subd 4]

435.14 [Renumbered 435.18]

435.15 [Renumbered 435.56]

435.16 [Repealed, 1949 c 119 s 110]

435.17 LOCAL. Subdivision 1. Payment in instalments. When any city of the first class in this state shall have completed, in accordance with the provisions of its charter, any assessment upon benefited real estate for paying the cost of the acquisition of any land, or interest in land, taken for a public use, or for paying the cost of any improvement which shall have been duly authorized, or both, the council of that city, by a majority vote, may by resolution provide that the assessment may be paid in any number of equal annual instalments, not exceeding 20. The council

shall not exercise this power after the proceeds of the assessment have been pledged by the issue of bonds or certificates of indebtedness to be paid from the proceeds or otherwise.

Subd. 2. Duties of clerk and auditor. The city clerk shall thereupon transmit a certified copy of the assessment roll to the auditor of the county in which the city is situated, each of which certified copies shall bear an appropriate name and be numbered consecutively from one upwards. In cases where the whole undertaking requires the condemnation of land and improvements the assessments for the condemnation of land and the assessments for improvements may be consolidated as to each parcel of land and certified to the county auditor as one assessment. Thereupon the county auditor shall include one of the equal annual payments of the principal amount of the assessment with and as a part of the taxes upon each parcel for each year until the whole assessment shall be thus included, together with annual interest at the rate prescribed by the council, not exceeding five percent per annum. With the first instalment the auditor shall include interest upon the entire assessment from the date of the assessment to the time when the tax books including the first instalment are delivered by the auditor to the county treasurer and thereafter the auditor shall include in the taxes of each year one of the instalments, together with one years interest upon that instalment and all subsequent instalments at the same rate, each of which, together with interest, shall be collected with the annual taxes upon the land, together with like penalties and interest in case of default, all of which shall be collected and enforced as the annual taxes are credited to the proper city fund.

Subd. 3. Discharge of. Any parcel assessed may be discharged from the assessment by presenting a local improvement bond sold against the assessment sufficient in amount to cover all instalments unpaid on that parcel and accrued interest, penalties, and costs, and surrendering the local improvement bond or bonds to the county treasurer for cancellation or having endorsed thereon the instalments, interest, penalties, and costs. When an assessment is so certified by the city clerk to the county auditor a duplicate thereof shall be sent to the city comptroller and the assessment shall be sufficiently identified by name and number. All instalments due and payable and all interest or penalties on the same having been paid, nothing herein shall prevent the transfer of the property, or any interest therein, on the books of the county wherein it is situated, or the recording of instruments or transfers subject to the lien of future instalments, interest, and penalties.

Subd. 4. Improvement bonds. The city council, for the purpose of realizing the funds for making the improvement and paying the damages, may issue and sell special local improvement bonds which shall entitle the holder thereof to all sums realized upon any such assessment, or if deemed advisable, a series of two or more of the local improvement bonds against any one assessment, the principal and interest being payable at fixed dates out of fund collected from the assessment including interest and penalties, and the whole of the fund is hereby pledged for the payment of the local improvement bonds and the interest thereon as they severally become due. These local improvement bonds shall be payable to bearer with interest coupons attached, and the council may, by a five-sixths vote, bind the city to make good deficiencies in the collection up to but not exceeding the principal and interest at the rate fixed by the council upon these local improvement bonds which shall not exceed five percent per annum. If the city, because of this guarantee, shall redeem any local improvement bonds, it shall thereupon be subrogated to the holder's rights. For the purpose of such guarantee, penalties collected shall be credited upon deficiencies of principal and interest before the city shall be liable. These local improvement bonds shall be sold at public sale at not less than par value.

[1913 c 295 s 1-3; 1951 c 58 s 1] (1581, 1582, 1583)

435.18 PROVISIONS SUPPLEMENTARY. The provisions of section 435.17 are not intended to and shall not be construed to repeal or abrogate any of the provisions of the charter of any city of the first class, but are intended to be supplementary thereto and as conferring additional power upon these cities which may be exercised at their option. The cities' liabilities upon this guarantee shall not be taken into account as part of their indebtedness until the amount of the deficiency or collection is determined and only for the amount of the deficiency.

[1913 c 295 s 4] (1584)

435.19 SPECIAL; GOVERNMENTAL UNITS. Any city, however organized, any village or borough, or any town having authority to levy special assessments

may levy special assessments against the property of a governmental unit benefited by an improvement to the same extent as if such property were privately owned. The term "governmental unit" includes a county, city, village, borough, town, public corporation, a school district and any other political subdivision, except a city of the first class operating under a home rule charter and the school district, park board or other board or department of such city operating under such charter. If the amount of any such assessment, except one against property of the state, is not paid when due, it may be recovered in a civil action brought by the city, village, borough or such town against the governmental unit owning the property so assessed. In the case of property owned by the state or any instrumentality thereof, the governing body of the city, village, borough or town may determine the amount that would have been assessed had the land been privately owned. Such determination shall be made only after the governing body has held a hearing on the proposed assessment after at least two weeks notice of the hearing has been given by registered or certified mail to the head of the instrumentality, department or agency having jurisdiction over the property. The amount thus determined may be paid by the instrumentality, department or agency from available funds. If no funds are available and such instrumentality, department or agency is supported in whole or in part by appropriations from the general revenue fund, then it shall include in its next budget request the amount thus determined. No instrumentality, department or agency shall be bound by the determination of the governing body and may pay from available funds or recommend payment in such lesser amount as it determines is the measure of the benefit received by the land from the improvement.

When any local improvement has been heretofore made and special assessments have been levied to finance all or part of the cost of such improvement under any law or charter not expressly authorizing assessments against public property, any governmental unit owning property benefited by such improvement may pay to the city, village, borough or town making the improvement the amount of any benefit received therefrom not in excess of the amount that would have been assessable against such property were it privately owned.

This section shall not modify any law or charter provision authorizing the imposition of special assessments against governmental units.

[1943 c 609 s 1; 1953 c 209 s 1; 1957 c 510 s 1]

NOTE: See also section 429.061.

435.20 [Repealed, 1955 c 841 s 4]

435.201 MUNICIPALITY DEFINED. For the purposes of sections 435.201 to 435.203 "municipality" means any city, whether operating under general or special law or home rule charter provisions, and any village, borough, or town.

[1955 c 841 s 1]

435.202 IMPROVEMENTS ABANDONED. Subdivision 1. **Cancellation of assessments.** When a local improvement proposed to be made by any municipality under any procedure is abandoned before it is completed to an extent sufficient to result in benefits equal to special assessments which have theretofore been levied for such improvement, the municipality shall notify the municipal treasurer or the county auditor, whichever is acting as collecting agent for such special assessments, of such fact. Upon such notification, all installments of such assessments and interest thereon which are not already collected or in the process of collection shall be cancelled by such officers. However, nothing herein shall prevent the municipality from making a reassessment of any amount not exceeding the special benefits which actually accrue from the improvement to part or all of the properties originally assessed, and nothing herein shall affect the obligations of the municipality to provide funds sufficient to pay any bonds issued to finance the improvement and the interest thereon.

Subd. 2. **Refund of assessments.** The governing body of the municipality shall also notify the municipal clerk or recorder of such fact, and he shall forthwith publish a notice in the official newspaper of the municipality describing the improvement and stating that it has been abandoned and that any person who paid any special assessments levied on account of such improvement may file a claim, within six months following the date of publication of the notice, for refund of such assessments paid by him, together with any interest he paid thereon. If the municipality has no official newspaper, such notice may be published in any newspaper published in the municipality or, if no newspaper is published in the municipality, it may be posted. The municipality is not required to, but may, pay such claims filed after the period allowed, and it may require any claimant to furnish

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satisfactory evidence that he paid the amounts claimed. Such claims may be paid out of moneys in the fund of the improvement which was abandoned, unless obligations have been issued payable therefrom, or they may be paid out of moneys in the general fund.

Subd. 3. **Transfer of assessments not canceled or refunded.** Any such assessments not canceled under subdivision 1, or not refunded under subdivision 2, shall be transferred to the general fund of the municipality, if not needed to pay costs of the improvement and if not held in a debt redemption fund.

[1955 c 841 s 2]

435.203 TRANSFER OF FUNDS AFTER IMPROVEMENTS COMPLETED; REFUNDS. Any moneys now or hereafter remaining in a fund heretofore or hereafter created by a municipality for making one or more local improvements, after such improvement or improvements have been completed and all claims against and obligations of said fund have been satisfied, shall be transferred to the general fund of the municipality; provided that the council may in its discretion authorize and direct the municipal treasurer to refund all or part of such moneys to the persons who paid the assessments for the improvement or improvements, following the procedure set forth in section 435.202, subdivision 2. The amount to be refunded in respect of the assessment against each property shall be proportionate to the original principal amount thereof, and shall be paid to the claimant or claimants who paid the last installment or installments of the assessment aggregating more than the amount to be refunded. No refund shall be made in respect to any assessment which is delinquent as to either principal or interest. Any installment of any assessment which is not collected or in the process of collection at the time when refunds may be made under this section shall be cancelled as provided in section 435.202, subdivision 1.

[1955 c 841 s 3]

435.21 [Repealed, 1959 c 251 s 1]

435.22 SPECIAL ASSESSMENT IMPROVEMENT BONDS, SALE BELOW PAR. Each city of the first class in this state, in addition to all other powers and authorities possessed by it, is hereby authorized and shall have power and authority, acting by and through its council, to sell to the highest responsible bidder therefor for cash, for the par value thereof or for less than the par value thereof, any special certificates of indebtedness or any special street or parkway improvement bonds which the city is or shall be authorized by its charter or by any law of this state to issue and sell for the purpose of realizing funds for the acquisition of lands for and improvement of public streets, parks, or parkways in the city or for the purpose of improving existing public streets, parks, or parkways in the city, notwithstanding any provision of its charter or any provision of any law of this state providing for the sale of any such certificates of indebtedness or special street or parkway bonds at not less than their par value. These special certificates of indebtedness and special bonds may be made to bear interest not to exceed five percent per annum, payable annually or semiannually, the rate of interest to be fixed and determined by the council of the city issuing the same, and these certificates of indebtedness and special bonds shall be sold only at public sale or by sealed proposals upon giving at least two weeks published notice of the sale.

[1921 c 226 s 1] (1625)

SPRINKLING STREETS AND BOULEVARDS

435.26 CERTIFICATES OF INDEBTEDNESS. Subdivision 1. **Issuance.** 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 percent of the total of the sprinkling assessments levied and assessed for the next preceding year.

Subd. 2. **Maturity, interest.** 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 percent 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.

Subd. 3. Payment. 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 percent 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.

Subd. 4. Use of proceeds. 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.

Subd. 5. Sale. 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 certificate 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 1-5] (1550-1, 1550-2, 1550-3, 1550-4, 1550-5)

435.27 APPLICATION. Section 435.26 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)

435.31 PARK BOARD. Subdivision 1. **Jurisdiction.** 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.

Subd. 2. Duties. 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.

Subd. 3. Cost; accurate account, 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 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 1, 3, 4] (1545, 1547, 1548)

435.32 COLLECTION. 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)

435.33 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)

435.36 M.S. 1957 [Repealed, 1961 c 561 s 17]

SIDEWALKS

435.41 REPLACEMENT. When a sidewalk in any city of the first class decays or becomes otherwise unsafe, the council thereof, by a four-fifths vote of its members and without any petition from property owners therefor, may cause the same to be removed, and replaced by a new walk of the same or different material, and assess the cost thereof upon abutting property as in the case of a walk first laid.

[R L s 759] (1532)

WATER SYSTEMS

435.46 FURNISHING WATER, CONTRACTS. The council of any city of the fourth class may enter into contracts and agreements with any adjoining municipality, which has water system, water commission, or water board for the furnishing of water to its citizens for the laying of water mains in its streets by the adjoining municipality, the water commission, or water board thereof. Upon the making of this agreement or contract or upon permission to that effect being given by the council, the adjoining municipality, or its water board or commission, may lay the water mains under the direction of the council and furnish water to these citizens. All the provisions of sections 429.011 to 429.111 relative to frontage tax, petitions, notice, tax levy, assessment, statements relative to delinquent frontage taxes, the collection thereof, and the other provisions thereof shall be followed in these cases the same as if the water was furnished directly by the city from a water plant owned and controlled by it.

[1909 c 174 s 7] (1753)

435.47 PURCHASING WATER. The council of any village lying adjacent to a city of the first class which has not theretofore operated a municipal water system but which has installed water and sewer mains to serve the inhabitants thereof, which sewer and water mains connect with said mains installed by the city, is hereby authorized to furnish water and sewer services by purchasing water from the water department of said city and reselling the same to the inhabitants of the village. The council of any such village may by resolution duly adopted determine to install necessary improvements, additions, and extensions to the existing sewer and water mains for such purposes and may assess the cost of such improvements, additions, and extensions upon property benefited thereby in accordance with the procedure of section 429.061, and may thereafter issue certificates of indebtedness of the village in anticipation of the collection of said assessments in accordance with the provisions of section 429.091.

[1947 c 460 s 1]

SERVICE FACILITIES

435.51 EXTENSION TO PUBLIC INSTITUTIONS. A city which is contiguous to any tract of land upon which is situated a public institution of the state is authorized:

(1) to extend the service facilities of any public utility or sewage system thereof beyond the corporate limits of the city to provide service for the public institution, provided the cost of construction of the extension is paid by the state if the state does not itself construct the extension;

(2) to operate and maintain such extension and provide the public utility and sewage services upon payment of compensation therefor by the state in such amount as may be agreed upon by the city and the state.

[1953 c 505 s 1]

CONSOLIDATION

435.56 PROCEEDINGS. When proceedings for any public improvement are instituted under any law authorizing the same, and all thereof are instituted to the governing body of the municipality at substantially the same dates and the governing body may by resolution determine that these various improvements, although separately instituted, can be more economically completed if consolidated and joined as one project, the governing body shall have the power by resolution to consolidate these various proceedings for these separate improvements, and after the consolidation all subsequent proceedings shall be conducted in all respects as if the various separate proceedings had originally been instituted as one proceeding.

[1939 c 156 s 1] (1918-14½c)