

CHAPTER 431

SEWERS AND SEWAGE DISPOSAL

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431.01 CITIES AND VILLAGES MAY CONSTRUCT SEWAGE DISPOSAL PLANTS. In any city of the fourth class in this state and in all villages and boroughs of this state, whether organized under the general laws or a special law, and in all such cities organized under home rule charters which do not provide a method of constructing sewers and assessing the cost thereof to benefited property, the city, village, or borough council shall have power to maintain and extend any existing sewer system, to relay, alter, or extend any existing sewer system and to establish and maintain a general system of sewers, to create sewer districts, and change, diminish, or enlarge the boundaries thereof from time to time; to establish and maintain sewage treatment plants when deemed necessary.

[1903 c. 312; 1909 c. 385; 1915 c. 35 s. 2; 1921 c. 295 s. 2; 1931 c. 99] (1880)

431.02 CLASSIFICATION OF SEWER SYSTEMS. The city, village, or borough council may, at any time, establish a general sewer system, and may classify sewers as general, district, joint-district, and lateral. General sewers shall be the designation of such large sewers as shall be common to the entire city, village, or borough, or used as outlets for district or joint-district sewers, and shall not include those which may or shall be constructed for the immediate draining of any particular district. District sewers shall be the designation of all main sewers laid for the immediate draining of a particular sewer district. Joint-district sewers shall be the designation of such large sewers as may be laid through or be used jointly by two or more sewer districts between a district sewer and a general sewer or independently of general sewers, and for all purposes of construction, maintenance, repairing, and taxation or providing for the cost therefor, shall be treated as though in a single district. Lateral sewers shall be the designation of all sewers of whatever size, capacity, or length, which may be constructed to drain any portion of a sewer district directly into any district, joint-district, or general sewer. Sewer districts shall be wherever practicable laid out to include any particular portion of the city, village, or borough which may be drained entirely by itself, or which may be first drained by itself and then through connection with a general sewer.

[1903 c. 312; 1915 c. 35 s. 3] (1881)

431.03 LOCATION OF SEWERS. All general, district, and joint-district sewers shall be laid, when practicable, in public grounds, streets, or alleys. When it shall be necessary, in the judgment of the city, village, or borough council, to lay and maintain any general, district, joint-district, or lateral sewer in or through other than public lands, the city, village, or borough may acquire the right thereto by purchase or by condemnation under the right of eminent domain.

[1903 c. 312; 1915 c. 35 s. 4] (1882)

431.04 ORDINANCE FOR IMPROVEMENT. No action shall be taken for the extension of any existing sewer nor for the construction of an entire or partial

system, except upon the adoption of an ordinance or resolution by a majority vote of all the members of the city, village, or borough council. The creation of sewer districts and the alteration of the boundaries thereof shall be by ordinance and the council may, at all times, cause inspections, surveys, plans, and profiles to be made by the city, village, or borough engineer, or other competent engineer to be selected by the city, village, or borough council, and reported to the city, village, or borough council for its guidance in determining the form and extent of any sewer district to be created, enlarged, or diminished; and sewer districts shall be consecutively numbered.

[1903 c. 312; 1915 c. 35 s. 5] (1883)

431.05 COST OF SYSTEM. The cost of constructing a general sewer, plant or plants for treating the sewage therein or the securing an outlet therefor shall be paid out of the sewer fund, if any, or if there is no sufficient sewer fund, then out of the general revenue fund of the city, village, or borough.

[1903 c. 312; 1915 c. 35 s. 6] (1884)

431.06 SPREADING OF ASSESSMENTS. The cost of constructing any district sewer, plant or plants for treating the sewage therein, and the securing of an outlet for such district sewer or treatment plant into any county or judicial ditch, may be assessed against all the land in the sewer district subject to assessments for local improvements, according to special benefits to each lot, piece, or parcel of land in the district without regard to cash valuation.

[1903 c. 312; 1915 c. 35 s. 7; 1921 c. 295 s. 3] (1885)

431.07 ASSESSMENTS IN MORE THAN ONE DISTRICT. The cost of constructing every joint-district sewer, plant or plants for treating the sewage therein, and the securing of an outlet for such joint-district sewer or treatment plant, into any county or judicial ditch, may be assessed against all the land in the two or more sewer districts which it drains and, for that purpose, all of the districts so drained by any joint-district sewer shall be treated as one district, and the same plan, method and means employed as in assessing for the cost of a district sewer, treatment plant for same or outlet therefor.

[1903 c. 312; 1915 c. 35 s. 8; 1921 c. 295 s. 4] (1886)

431.08 COST OF LATERAL SEWERS. The entire cost of constructing all lateral sewers may be assessed against every lot, piece, or parcel of land abutting thereon, subject to assessment for local improvement at an equal sum per front foot without regard to cash valuation.

[1903 c. 312; 1915 c. 35 s. 9] (1887)

431.09 COST OF SEWER SERVING AS LATERAL AND AS DISTRICT OR JOINT-DISTRICT SEWER. In case a sewer shall be so constructed that it serves both as a lateral and as a district or joint-district sewer, or as a relief for either, the council shall first determine what the cost of constructing this sewer would be, if used solely as a lateral, and that amount shall be assessed against the abutting property in the manner provided for assessing for lateral sewers; and, second, determine the amount over and above the cost of this lateral sewer which is caused by reason of constructing the sewer so as to be used as a district or joint-district sewer or relief for either, and this excess cost shall be paid in the same manner as provided for the payment of joint or joint-district sewers, as the case may be.

[1915 c. 35 s. 9a; 1925 c. 144 s. 1] (1887-1)

431.10 ESTIMATE OF COST. When the city, village, or borough council shall determine, by ordinance or resolution, to alter, repair, relay, or extend any existing sewer, or to construct any new sewer, the cost thereof shall be estimated by the city, village, or borough engineer or some other competent engineer to be selected by the city, village, or borough council, who shall draw plans and specifications and tabulate the results of his estimate of the cost, and report the same to the city, village, or borough council; and these plans and specifications shall be filed with the clerk or recorder of the city, village, or borough before any proposals for bids for work thereunder shall be advertised, and shall remain on file, open to the inspection of all persons until after the contract for such work shall be let, and copies of such plans and specifications shall be furnished by the engineer who shall prepare the originals, to any person applying therefor, at a cost of 75 cents per hour for the time necessarily employed in making such copies.

[1903 c. 312; 1915 c. 35 s. 10] (1888)

431.11 ADVERTISEMENTS FOR BIDS. The city, village, or borough council shall then cause proposals for bids for the work to be advertised in the official

newspaper of the city, village, or borough, and in a newspaper or trade paper published in a city of the first class in the state, at least once in each week for three successive weeks, which advertisements shall specify the work to be done and shall call for bids upon a basis of cash payment for the work, and shall state the time within which bids will be received and the exact time at which the same will be opened for consideration by the city, village, or borough council. For the purposes of sections 431.01 to 431.27, a trade paper, in order to be qualified as a medium of such proposals for bids, shall have all the qualifications prescribed for a legal newspaper, except that instead of the requirement that it shall contain general and local news such trade paper may and shall contain, in lieu thereof, building and construction news of interest to contractors in this state among whom it shall have a general circulation. No bid shall be considered unless the same shall be accompanied by a cash deposit or duly certified check payable to the order of the treasurer of the city, village, or borough or a bidder's bond executed by the bidder as principal, and such corporate surety or personal sureties as shall be approved by the council of such city, village, or borough, for at least 15 per cent of the amount bid, and be directed to the clerk or recorder of the city, village, or borough, securely sealed, so as to prevent its being opened without detection, and be endorsed upon the outside wrapper with a brief statement or summary as to the work for which the bid is made. In letting contracts for any such work it shall be the duty of the city, village, or borough council to require the execution of a written contract and a bond in such sum as the city, village, or borough council may require, conditioned for the faithful performance of the contract and for saving the city, village, or borough harmless from any and all liability in the prosecution and completing of the work. The city, village, or borough council, if a contract is awarded, shall award the same to the lowest responsible bidder. If any bidder to whom contract is awarded shall fail to enter promptly into a written contract and to furnish a bond, then the defaulting bidder shall forfeit to the city, village, or borough the amount of his cash deposit or certified check, and the city, village, or borough council may thereupon award the contract to the next lowest responsible bidder. The city, village, or borough council shall have the right to reject all bids. When the estimates made for the city, village, or borough council for the entire work projected shall be less than \$500.00, then the city, village, or borough council may directly purchase the materials therefor and cause the work to be done by day labor. Every contract awarded under sections 431.01 to 431.27 shall be made between the city, village, or borough as one party, in the name of the city, village, or borough, and the successful bidder as the other party, and the contract shall be executed on the part of the city, village, or borough by the mayor or executive officer thereof and countersigned by the clerk or recorder of the city, village, or borough, with the corporate seal of the city, village, or borough affixed, and an attested copy thereof shall be filed and remain in the office of the clerk or recorder of the city, village, or borough.

In every contract executed under sections 431.01 to 431.27, whether or not so stated therein, there shall be reserved the right of the city, village, or borough council to have the work supervised by the city, village, or borough engineer or other person, and in case of improper construction or unreasonable delay in the prosecution of the work by the contractor, to order and cause suspension of the work at any time and to relet the contract therefor or to order a reconstruction of any portion of the work improperly done, or where the remaining work to be done or the work of reconstruction to be made shall call for an expenditure of less than \$500.00 to complete the work of reconstruction by the employment of day labor.

[1903 c. 312; 1915 c. 35 s. 11; 1921 c. 443 s. 1] (1889)

431.12 ALLOWANCE OF ESTIMATES. In case the contractor to whom a contract may be let shall properly perform the work therein designated, the city, village, or borough council may, from time to time, before the completion of the work, in its discretion, pay to the contractor 80 per cent of the amount already earned thereunder upon the estimate of the city, village, or borough engineer or other competent engineer selected by the city, village, or borough council.

[1903 c. 312; 1915 c. 35 s. 12] (1890)

431.13 AMOUNT OF SPECIAL ASSESSMENT. Subdivision 1. **Engineer to calculate amount of assessments.** When any work or improvement provided for by sections 431.01 to 431.27 shall have been determined upon and a contract

let therefor, or outlet secured, the city, village, or borough engineer, or other competent engineer selected by the city, village, or borough council, shall forthwith calculate the proper amount to be specially assessed for the district, joint-district and lateral sewers, treatment plants or outlet against every assessable lot, piece, or parcel of land within the sewer district affected, without regard to cash valuation, in accordance with the provisions of sections 431.06 to 431.08.

No property shall be especially assessed for the cost of a sewer in excess of the cost of a sewer 24 inches in diameter, and when any district, joint district, or lateral sewer of larger diameter than 24 inches shall be laid or relaid, the cost thereof, in excess of the estimated cost of a like sewer 24 inches in diameter shall be paid out of the sewer fund, if any, or in case there is no sufficient sewer fund, then out of the general revenue fund of the city, village, or borough.

In calculating the special assessment for any district sewer or joint-district sewer, the cost of laying or relaying the sewer in any public ground, street, or alley; and all catch basins, manholes, lamp holes and flushing valves and tanks and treatment plants shall be taken as a part of the district sewer or joint-district sewer and to be paid for by the special assessment.

Private owners may lay, relay, or extend any lateral sewer through any public ground, street, or alley and connect the same with any general, district, or joint-district sewer upon permission granted by a majority of the city, village, or borough council, and any private owner alone, or two or more owners jointly, may lay, relay, or extend lateral sewers through private ground pursuant to rights acquired therefor by agreement or purchase from any private owner. In the event that any private owner alone or jointly with others lay, relay, or extend any such lateral sewer through public ground, the city, village, or borough shall not be or become in any manner or in any respect liable for any act or negligence involved therein.

Subdivision 2. Filing engineer's tabulated statement of assessments. When such engineer shall have finished his calculation of the amount to be specially assessed against each lot, piece, or parcel of land in the sewer district affected, he shall at once prepare and file with the clerk or recorder of the city, village, or borough tabulated statements, in duplicate, showing the proper description of each and every lot, piece, or parcel of land to be specially assessed and the amount he has calculated against the same, and this statement shall be the basis of the assessment and be known as the proposed assessment to be made by the city, village, or borough council and shall be laid before the city, village, or borough council for its approval at its next regular meeting, to be held not less than ten days thereafter.

Subdivision 3. Notice of hearing published. The clerk or recorder of the city, village, or borough shall thereupon cause notice of the time and place when and where the city, village, or borough council will meet in regular session to pass upon the proposed amendment to be published in the official newspaper of the city, village, or borough at least ten days prior to such meeting of the city, village, or borough council.

Subdivision 4. Inspection of statement. During all the time between the filing of this proposed assessment with the clerk or recorder of the city, village, or borough and such meeting of the city, village, or borough council the proposed assessment shall be open to inspection and copying by all persons interested.

Subdivision 5. Hearing; assessment; lien. At such meeting of the city, village, or borough council all persons aggrieved by the proposed assessment may appear before the city, village, or borough council and present their reasons why the proposed assessment, or any particular item thereof, should not be adopted and the city, village, or borough council shall hear and pass upon all objections thereto, if any, and may alter, or affirm and adopt such proposed assessment as may be just in the premises, and upon the adoption by resolution of the proposed assessment the same shall be certified by the clerk or recorder of the city, village, or borough and filed in his office and shall thereupon be and constitute the special assessment. The amount assessed against each lot, piece, or parcel of land by this special assessment shall bear interest from the date of its adoption until the same has been paid, the rate of interest to be designated by a resolution of the city, village, or borough council at the time of the adoption of the special assessment, but not to exceed six per cent per annum. This special assessment, with the accruing interest thereon, shall be a paramount lien upon the property included

therein from the time of its adoption by the city, village, or borough council and shall remain a lien until fully paid, and shall have precedence over all other liens, except general taxes, and as to such shall be concurrent, and shall not be divested or impaired by any judicial sale and no mistake in the description of the property or in the name of the owner shall invalidate the lien.

Subdivision 6. Collection of assessments. The city, village, or borough council may, at any time, by resolution, direct the clerk or recorder of the city, village, or borough to make up and file in the office of the county auditor a certified statement of the amount of all unpaid assessments and the amount of interest which will be due thereon on the first day of January of the following year, and the clerk or recorder of the city, village, or borough shall within 20 days thereafter make up and file this certified statement in the office of the auditor of the county, which statement shall also contain a description of the lands affected by the assessment. This resolution may also direct that this special assessment shall be payable in equal annual instalments, not exceeding ten, and payable on the first day of January of each year, each instalment to bear interest until fully paid, provided in case such assessments are made to cover the cost of securing an outlet for a district or joint-district sewer into a county or judicial ditch and in the order granting such outlet, the charge therefor is made payable in instalments, then the assessment levied to cover same may be made in like instalments payable at the same time and with interest at the same rate as may be necessary to meet such obligation, and the certified statement of the clerk or recorder shall, in this case, show the amount of each of such instalments, the date when each instalment becomes due and the amount of interest to be paid on each instalment in each year. After this statement is filed in the office of the county auditor it shall be the duty of the auditor to extend upon the tax roll of each year the amount of the assessment or instalment thereof, as the case may be, and the amount of interest which will become due on the first day of January of the following year, as shown by this certified statement, against the different lots or parcels of land therein described, and these amounts when so extended each year shall be carried into the tax becoming due or payable in January of the following year and enforced and collected in the manner provided for the enforcement and collection of state and county taxes and the assessments and interest paid to the county treasurer shall be paid over by him to the treasurer of the city, village, or borough upon the apportionment of general taxes, but in case these assessments, or instalments thereof, are to cover payments due for a district or joint-district sewer outlet then these payments shall be applied on same.

Subdivision 7. Payments, how and when made. Any person named, at any time before the transmission of the certified statement of the clerk or recorder of the city, village, or borough to the county auditor, may pay such special assessment as to any lot, piece, or parcel of land affected thereby, together with the interest accrued thereon at the date of the payment, to the city, village, or borough treasurer and receive the proper receipt therefor, and the clerk or recorder of the city, village, or borough shall, upon the presentation of this receipt from the city, village, or borough treasurer, cancel upon the special assessment roll the special assessments so paid.

Any person may pay any such assessment with accrued interest thereon after the same has been so certified to the county auditor, provided the tax roll containing the assessment has not in due course been delivered to the county treasurer for collection and the receipt of the city, village, or borough treasurer shall be sufficient authority upon presentation to the county auditor for him to mark such assessment "paid" upon his roll, but after the roll has been delivered to the county treasurer for collection, the assessment must be paid to him, with the penalties allowed by law.

The same penalties and interest shall attach and be collected by the county treasurer on assessment as upon general taxes, which penalties and interest shall belong to the city, village, or borough and to be turned over by the county treasurer to the city, village, or borough with the assessments.

[1903 c. 312; 1909 c. 364; 1913 c. 396; 1915 c. 35 s. 13; 1921 c. 295 s. 5; 1925 c. 145] (1891)

431.14 SUPPLEMENTAL ASSESSMENT. In case of omission, errors, or mistakes in making such assessments in respect of the total cost of an improvement or otherwise, it shall be competent for the city, village, or borough council to pro-

vide for and make supplemental assessments to correct the omission, errors, or mistakes; and these supplemental assessments shall be a lien, as in case of the original assessment, drawing interest at the same rate and be payable and enforceable in the same manner as is provided with respect to the original assessment.

[1903 c. 312; 1915 c. 35 s. 14] (1892)

431.15 FUND FOR EACH PROPOSED SEWER. All moneys collected on any such special assessments shall constitute a fund for the payment of the cost of improvement for the district for which such assessment was made, and the same shall be credited to the proper sewer district fund under the designation: "Fund of Sewer District No." and in anticipation of the collection of such special assessment the city, village or borough may issue warrants on such fund, to be known as "sewer warrants" payable at such times and in such amounts as, in the judgment of the city, village or borough council, the collections of such special assessments will provide for, which warrants shall bear interest at a rate not to exceed five per cent per annum, payable semiannually or annually, as the resolutions of the governing body may direct, and may have coupons attached representing each interest payment. Each warrant shall upon its face state for what purpose it is issued and specify the particular fund against which it is drawn, and shall be signed by the mayor or executive officer and countersigned by the clerk or recorder of the city, village or borough and be in denominations of not less than \$50.00 nor more than \$1,000. The council of any such city, village, or borough may by resolution adopted prior to the issuance of such warrants pledge the full faith and credit of the city, village, or borough for the payment of the principal or interest of such warrants when the moneys on hand in the appropriate sewer district fund are insufficient for such purpose and the council shall each year include in the tax levy a sufficient amount to take care of any accumulated or anticipated deficiency in the sewer fund on which warrants are so issued and the council shall pay the principal and interest of any such warrants out of the funds in the treasury when the moneys on hand in the appropriate sewer fund are insufficient to meet the payment of such principal and interest as the same matures. As to any such warrants for the payment of which the full faith and credit of the city, village, or borough is not pledged, such warrants shall be payable solely out of the proper sewer fund and it shall be the duty of any city, village, or borough treasurer on presentation to pay such warrants and interest coupons as they mature out of any funds on hand in the proper sewer fund and not otherwise. Such warrants may be used in making payments on contracts for the improvements or may be sold by the city, village, or borough for not less than par and the proceeds thereof used in paying for such improvement.

The council of any city, village, or borough which has heretofore issued any such sewer warrants shall have power by unanimous vote of the members of such council to levy a tax not exceeding two mills in any one year for the support of the fund of any sewer district or districts.

[1903 c. 312; 1915 c. 35 s. 15; 1921 c. 295 s. 6; 1935 c. 98; 1943 c. 159 s. 1] (1893)

431.16 PAYMENT OF WARRANT. Any matured sewer warrant or interest coupon may be used in payment of any special assessment on a particular property situate within the district for which the warrant or coupon shall have been issued; and the warrants and coupons so used shall be canceled and retired by the city, village, or borough treasurer.

[1903 c. 312; 1915 c. 35 s. 16] (1894)

431.17 CONVEYANCE NOT TO BE RECORDED UNTIL ASSESSMENTS ARE PAID. No conveyance of any land upon which any special assessment, or portion thereof, is due and unpaid shall be recorded until the delinquent assessment, or portion thereof, shall have been paid.

[1903 c. 312; 1915 c. 35 s. 17; 1919 c. 261 s. 1] (1895)

431.18 PROCEEDINGS FOR DENOTING LOTS AND PARCELS OF LAND. In all proceedings and records prepared or used in the making, levy, or collection of special assessments, letters, figures, and proper ditto marks may be used to denote lots, pieces, and parcels of land, and blocks, sections, townships, ranges, and parts thereof, and dates.

[1903 c. 312; 1915 c. 35 s. 18] (1896)

431.19 ASSESSMENT NOT INVALIDATED BY ERRORS OR OMISSIONS. No error or omission which may be made in any proceeding of the city, village, or borough council or any officer of the city, village, or borough, in refusing to,

reporting upon, ordering, or otherwise acting, concerning any local improvement provided for in sections 431.01 to 431.27, or in making any special assessment or in levying or collecting the same, shall invalidate the assessment unless it shall appear that by reason of such error or omission substantial injury has been done to the party claiming to be aggrieved.

[1903 c. 312; 1915 c. 35 s. 19] (1897)

431.20 REASSESSMENT IN CASE PROCEEDINGS ARE SET ASIDE. In all cases where any assessment, or any part thereof, as to any lot, lots, or parcels of land assessed under any of the provisions of sections 431.01 to 431.27, or of any law of any city, village, or borough prior to sections 431.01 to 431.27, for any cause, whether jurisdictional or otherwise, shall be set aside, or declared void by any court, the city, village, or borough council shall, without unnecessary delay, cause a reassessment or new assessment to defray the expenses of the improvement to be made, whether the improvement was made under sections 431.01 to 431.27 or any laws of any city, village, or borough prior to sections 431.01 to 431.27, and such reassessment or new assessment shall be made as nearly as may be as provided in sections 431.01 to 431.27, for making the assessment therefor in the first instance; and when the same shall have been made and confirmed by the city, village, or borough council, it shall be enforced and collected in the same manner that other assessments are enforced and collected under sections 431.01 to 431.27 and in all cases where judgments shall hereafter be refused or denied by any court for the collection and enforcement of any special assessment, or where any court shall hereafter set aside or declare void any assessment upon any lot or parcel of land for any cause, that lot or parcel may be reassessed or newly assessed, from time to time, until each separate piece or parcel of land has paid its proportionate part of the costs and expenses of the improvement as near as may be.

[1903 c. 312; 1915 c. 35 s. 20] (1898)

431.21 PRIOR ASSESSMENTS. Nothing in sections 431.01 to 431.27 shall effect any valid assessment made by any city, village, or borough prior to the passage of sections 431.01 to 431.27, but all such prior assessments shall be collected in accordance with the provisions of law in respect of the same in force prior to the passage of sections 431.01 to 431.27; provided that the provisions thereof applying to the levying of assessments and collection thereof for sewer or sewage treatment plant outlets into county or judicial ditch, shall apply to such outlet heretofore obtained as well as those hereafter if the charges therefore were made due and payable at future day or dates and have not yet been paid, or provision made for the payment thereof.

[1903 c. 312; 1915 c. 35 s. 21; 1921 c. 295 s. 7] (1899)

431.22 HEARINGS ON PROPOSED ASSESSMENTS. The notice of the time and place when and where the city, village, or borough council will meet in regular session to adopt any proposed assessment under section 431.13, to be prepared by the clerk or recorder of such city, village, or borough and published, shall specify the particular sewer district or districts in which the improvement is to be made and shall describe, with all reasonable certainty, the location, extent, and termini of the sewer or sewers to be laid, relaid, or extended; provided, that no omission or inaccuracy in such notice shall invalidate the notice or the assessment, unless substantial injury shall be shown by the person claiming to be aggrieved thereby.

When the city, village, or borough council shall meet for the purpose of adopting any proposed assessment under the provisions of section 431.13, no grievance or objection thereto, or to any item therein shall be heard by the city, village, or borough council, unless the party objecting, or his duly authorized agent or attorney, shall, on or before the date of such session of the city, village, or borough council, file with the clerk or recorder of such city, village, or borough for presentation to the city, village, or borough council, a complete written statement of the objection with specific reference to the matter or items called in question and to which objection is made.

[1903 c. 312; 1915 c. 35 s. 22] (1900)

431.23 APPEALS FROM SPECIAL ASSESSMENT. Any person feeling himself aggrieved by a special assessment may, by notice in writing served upon the mayor or executive officer and upon the clerk or recorder of the city, village, or borough, a copy whereof, with proof of service shall be filed in the office of the clerk of the district court of the proper county, within 20 days after the adoption of the special assessment, appeal from the special assessment to the district court

and the appeal shall be disposed of in a summary manner by the court. At the trial of the appeal no pleadings shall be required, but the party appealing shall, in his notice of appeal, specify and enumerate the particular grounds of his objection to the special assessment and shall not be entitled to have considered on the appeal any grounds of objections or items other than those specified in the notice, and no question shall be tried on the appeal as to any fact which may have arisen or existed prior to the letting of the contract or contracts for the improvement; and a copy of the assessment roll in question and of the resolution of the city, village, or borough council confirming or adopting the same, certified by the clerk or recorder of the city, village, or borough, or the originals thereof, shall be prima facie evidence of the facts therein stated or denoted, and that the assessment was regular, just, and made in conformity to law, and the judgment of the court on the determination of the appeal shall be final. An appeal shall be entered and brought on for hearing and be governed by the same rules, as far as applicable, as in appeals from justices of the peace in civil actions, and like bonds shall be given to the city, village, or borough by the person appealing as are required in the appeals from justices of the peace in civil actions, but the bond shall, to render the appeal effective, be approved by the judge of the district court. No appeal to the district court shall be made, heard, or determined as to the special assessment, or any item therein, unless the objection shall have been, previously presented to and passed upon by the city, village, or borough council.

[1903 c. 312; 1915 c. 35 s. 23] (1901)

431.24 SEWER KEPT IN REPAIR. When any sewer shall be laid, relaid, or extended, it shall be the duty of the city, village, or borough council to maintain and keep the same in repair at the expense of the city, village, or borough.

[1903 c. 312; 1915 c. 35 s. 24] (1902)

431.25 CONNECTIONS TO BE MADE ONLY ON PERMISSION. All private connections shall be made with lateral sewers, unless some insurmountable obstacle of a practical or scientific nature shall prevent, and no private connection with any sewer whatever shall in any event be made without formal permission therefor granted by the city, village, or borough council, and the making of all private connections with any sewer shall be subject to supervision and control by the city, village, or borough council; provided, that this supervision and control may be delegated by the city, village, or borough council to the city, village, or borough engineer or other person to be selected by the city, village, or borough council at its discretion.

[1903 c. 312; 1915 c. 35 s. 25] (1903)

431.26 RIGHT OF EMINENT DOMAIN. When it shall become necessary for the city, village, or borough to exercise the right of eminent domain for the purposes included within sections 431.01 to 431.27 all proceedings therein shall conform as near as may be to the provisions of chapter 117.

[1903 c. 312; 1915 c. 35 s. 26] (1904)

431.27 HOME RULE CHARTER CITIES OR VILLAGES NOT AFFECTED. Sections 431.01 to 431.27 shall not be construed as in any manner superseding, repealing, amending, or qualifying the provisions of any home rule charter heretofore or hereafter adopted by any city or village under existing laws; under which charter provisions a sewer system has been heretofore established; provided, that any proceedings taken or commenced by any city or village under the provisions of sections 431.01 to 431.27 before the time when such home rule charter shall take effect may be carried out and completed according to the terms and provisions thereof.

[1903 c. 312; 1907 c. 141; 1915 c. 35 s. 27; 1925 c. 144 s. 2] (1905)

431.28 CERTAIN ASSESSMENTS TO BE PAID IN 20 INSTALLMENTS. Where any city of the fourth class in this state or any village or borough of this state, whether organized under a general law or a special law, shall heretofore have extended any existing sewer system or relaid, altered, or extended any existing sewer system or established a general system of sewers or created sewer districts, or changed, diminished, or enlarged the boundaries of these sewer districts, or established sewer treatment plants, under and pursuant to the provisions of sections 431.01 to 431.27, and acts supplemental thereto, and shall have heretofore issued warrants under and pursuant to these sections, as supplemented, which warrants were used in making payments on contracts for any of these improvements or were sold by the city, village, or borough and the proceeds thereof used in paying

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for any of these improvements, and the council of the city, village, or borough shall have heretofore under and pursuant to these sections, as supplemented, adopted a resolution assessing each lot, piece, or parcel of land benefited by any such improvement, which resolution provides among other things that the special assessment shall be payable in ten annual instalments, and which resolution shall have heretofore been certified by the clerk or recorder of the city, village, or borough and filed in his office, and either the whole or a part of these assessments and interest thereon have not been extended upon the tax roll and have not been carried into the tax against the property benefited by the improvement by the auditor of the county wherein the improvement is located, the council of the city, village, or borough may, by resolution, provide that the time of payment of not less than 75 per cent of the unextended portion of these assessments against the real estate benefited by the improvement, shall be postponed, and the unextended portion of these assessments covered by this resolution shall become payable in 20 annual instalments; and that the first of these instalments shall include any delinquent unextended interest. Before any such resolution extending the time of payment of the unextended portion of these assessments shall have any force and effect, the owners of at least 75 per cent of the outstanding warrants issued by the city, village, or borough to pay the cost of the improvement, shall consent in writing to this extension and manner of payment, as set forth in this resolution, which written consent shall be filed with the clerk of the city, village, or borough.

Within 20 days after the filing of the written consent of 75 per cent or more, of the owners of unpaid warrants to the extensions of time of payment of the unextended portion of these assessments, the council of the city, village, or borough shall, by resolution, direct the clerk or recorder of the village, city, or borough, to make up and file in the office of the county auditor, a certified statement covering unpaid portions of these assessments and interest which have not yet been extended by the auditor and included in the tax roll of any year, and the amount of interest thereon which shall become due on the first day of January of the following year, in the amount which bears the same ratio to the total amount of unpaid and unextended assessments as the total amount of warrants owned by the persons consenting to the extension bears to the total amount of unpaid warrants; and the clerk or recorder of the village, city, or borough shall, within 20 days thereafter, make up and file this certified statement in the office of the county auditor, which statement shall also contain a description of the real estate affected by the assessment.

A certified copy of this resolution shall accompany the statement and, upon filing the statement and a copy of the resolution with the county auditor, it shall be the duty of the auditor, in accordance with the statement and resolution, to extend upon the tax roll each year, the amount of the assessment or instalment thereof, as the case may be, and the amount of interest which shall become due on the first day of January of the following year, and the first instalment so extended shall include any unextended delinquent interest, as shown by the certified statement, against the lots and parcels of land therein described, and these amounts, when so extended each year, shall be carried into the tax becoming due and payable in January of the following year and enforced and collected in the manner provided for the enforcement and collection of state and county taxes. The instalments of assessments and interest shall be paid over by the county treasurer to the treasurer of the city, village, or borough in the manner provided by law for the collection and payment of the assessments as originally authorized.

Any amount of the unpaid and unextended assessments not included in the statement filed by the clerk of the city, village, or borough with the county auditor and not included in the extension agreement with the holders of outstanding warrants shall be certified by the city, village, or borough to the county auditor and extended by him upon the tax roll in the manner originally provided for the collection of these assessments.

The passage of such a resolution by the city, village, or borough extending the time of payment of these warrants and the consent to this extension of time of payment by the owners of the warrants shall take the place of and have the effect of invalidating any resolutions theretofore passed for the collection of any unpaid instalments of these assessments not yet extended and placed upon the tax roll against the property affected by the improvement, and shall also cure any irregularities in the proceedings of the council of the city, village, or borough, or in the

official acts of the council, or of the county auditor, affecting the collection of the unextended portions of the assessments.

In the event the owners of 75 per cent or more, of outstanding warrants shall file their consent to the postponement of the payment of these assessments, as provided in the resolution, the council of the city, village, or borough may, by resolution, authorize the issuance of new warrants to these owners, payable out of the sewer fund, to conform to the terms of the resolution, which new warrants may be exchanged for existing warrants held by warrantholders; but these new warrants shall not place any greater obligation upon, or liability against, the city, village, or borough than existed under the original warrants; and there shall be printed or stamped upon the face of the new warrants the following language: "This warrant is issued in lieu of an original warrant of the same number, series, and amount, and in no way increases, enlarges, or extends the obligation of the municipality."

[1933 c. 138] (1933-66)

431.29 GOVERNING BODY MAY CONSTRUCT AND RECONSTRUCT SEWERS. When the governing body of any village or city of the fourth class, whether operating under home rule charter or not, having power to maintain sewer and water systems within its limits, shall deem it necessary and shall so determine, by resolution, it may construct, reconstruct, or repair any service connection or connections between its water or sewer mains or pipes, in a street or other public ground, and the abutting property served by its main, or mains.

[1929 c. 157 s. 1] (1918-14½)

431.30 MAY ASSESS BENEFITS. Within 60 days after such municipality shall have completed this work and improvement, its governing body shall adopt a resolution fixing the time and place for the hearing of all persons interested in the construction or reconstruction or repair and the cost thereof and for ascertaining and determining the amount of benefit to the property for which the connection or connections are constructed, reconstructed, or repaired, and this resolution shall be published once in a legal newspaper in the municipality or posted in three of the most public places therein. At the time and place named in the resolution, the governing body shall hear all persons interested in the work and improvement and the cost thereof. Thereupon, by resolution, the governing body shall determine and fix the amount of the benefits caused by the work and improvements to each lot or parcel of ground for which the connection or connections are constructed, reconstructed, or repaired and assess the amount of these costs, including the expense of giving the notice, against the lots or parcels of land so benefited in proportion to the benefit to the abutting property. A complete record thereof shall be kept by the clerk of the municipality in a separate book, which record shall contain a description of the property so benefited and charged with all the costs of the work and improvement, including the cost of giving the notice.

[1929 c. 157 s. 2] (1918-14½a)

431.31 ASSESSMENTS MAY BE COLLECTED WITH TAX. The amount of the benefit to each lot or parcel of ground so determined, shall, together with part of all of the expense of giving the notice as the governing body may determine, be a charge against the same and a lien thereon, and if the charge is not paid within 30 days, after this determination, the same shall continue to be a lien on the property so charged and bear interest at the rate of six per cent per annum, which charge shall be certified to the county auditor and extended upon the tax roll and levied against the property and collected as in case of county and state taxes.

[1929 c. 157 s. 3] (1918-14½b)