

CHAPTER 457

WATER AND LIGHT PLANTS

457.01 WATER AND LIGHT PLANTS IN VILLAGES.

HISTORY. 1893 c. 196 s. 1; G.S. 1894 s. 1225; 1903 c. 29; R.L. 1905 s. 744; 1913 c. 486 s. 1; G.S. 1913 s. 1306; G.S. 1923 s. 1229; M.S. 1927 s. 1229.

A municipal corporation maintaining an electric distributing plant owes to the public the duty of so inspecting and maintaining the same as to prevent change and deterioration from natural causes resulting in a dangerous condition. Where injury occurs because of a defect which could have been discovered by inspection and prevented, and there is a total failure to inspect for 17 months, the municipal corporation is negligent and liable accordingly. *Goar v Village of Stephen*, 157 M 228, 196 NW 171.

A village organized under Laws 1885, Chapter 145, has the power to procure an electric lighting and heating plant and for that purpose may issue bonds to pay for the power-house and the distributing system and enter into a valid conditional sales contract for the purchase of the generating equipment, a Diesel engine, and accessories, the purchase price of which is to be paid solely from what remains of the net profits from the operation of the plant after first paying the interest and instalments of the bonds mentioned. *Williams v Village of Kenyon*, 187 M 161, 244 NW 558.

A municipality does not incur a general obligation or debt by purchasing property, improving an owned property, contracting for hydrant rental, or for insurance when there is an agreement that all be paid out of income derived from the main property. *Struble v Nelson*, 217 M 610, 15 NW(2d) 101.

Approval by the voters is unnecessary for changes, alterations, or extensions where no bonds are required to issue. OAG Aug. 16, 1930.

Village is without power to operate water-works at a profit, its duty being to reduce rates if the existing rates are too high. OAG June 3, 1930.

Village does not have power to furnish water and light free to churches and parsonages. OAG Jan. 17, 1933.

A five-eighths vote is necessary to authorize village to erect and operate power plant, but only a majority vote is necessary to authorize the sale of bonds to the state for the erection of a power plant. OAG May 11, 1933.

A five-eighths vote is needed to erect a lighting and heating plant for the village of Mora, notwithstanding that the bonds are to be sold to the state. OAG May 24, 1933.

A sewer and water system could be voted upon as one question. OAG Nov. 27, 1933.

A village proceeding under this section for the construction of a well must obtain five-eighths vote of the electors, but after such authorization a majority vote is sufficient to authorize the issuance of bonds to the state. OAG Dec. 5, 1933.

Council cannot rescind the action of the electors authorizing the construction of a sewage and water system and the issuance of bonds to pay the cost of the same. OAG June 12, 1934 (476b-14).

Though in maintaining a water plant for use by the fire department in extinguishing fires a municipality is performing a public or governmental function and is not liable for the negligence of its officers and employees, such is not the case when a municipality undertakes to furnish water or light to individuals and makes a charge therefor. OAG March 1, 1938 (469a-8).

A petition of voters for a special election on the proposition of the construction of a municipal light plant requires the council to submit the proposition to the voters. OAG May 10, 1938 (476b-15).

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A blank ballot may be disregarded in computing the vote actually required to carry the proposition. OAG May 22, 1939 (44b-8).

Procedure for issuing bonds or warrants for water-works and sewer system payable from earnings or special assessments. OAG Sept. 21, 1938 (476b-15).

A village cannot become a member of a rural electrification cooperative. Where the charter of the cooperative may serve members only, they cannot serve the village. OAG Jan. 2, 1945 (624c-10).

457.02 WATER-WORKS AND LIGHT PLANTS.

HISTORY. 1909 c. 43 s. 1; G.S. 1913 s. 1762; 1917 c. 134 s. 1; G.S. 1923 s. 1754; M.S. 1927 s. 1754.

Whether a city election, authorizing the council to issue and sell bonds, was legally called, was an issue raised by the pleadings, which, in the opinion of the lower court, might well warrant a full trial.

Also, whether there had been such a delay in issuing the bonds that the authority granted by the election had expired, was a question of fact to determine upon a trial and not upon affidavits. *Neill v City of Red Wing*, 156 M 467, 195 NW 145.

On the expiration of the franchise of a power company, the voters may vote upon alternative propositions; the granting of a new franchise; the acquiring of plants under a bond issue. OAG March 1, 1933.

Water and light department may purchase equipment and supplies and re-sell the same to consumers, but it cannot finance the cost of instalation of equipment by a dealer. OAG Aug. 31, 1934 (624c-5).

Sections 457.02 to 457.07 do not limit or modify the powers granted to the city of Stillwater in its city charter with reference to constructing an electric light or gas plant or with reference to issuing bonds to pay the cost of construction of such a plant. OAG Feb. 11, 1935 (624c-8).

A majority vote of the electors is sufficient to authorize the issuance of certificates of indebtedness under section 452.09. A city may proceed to construct a municipal light plant and issue its bonds therefor either under the procedure provided by the city charter or under sections 457.02 to 457.08. OAG May 4, 1938 (59b-7).

An outline of municipal bond procedure in Minnesota. 20 MLR 583.

457.03 POWERS OF COUNCIL; SUBMISSION TO VOTERS; NOTICE.

HISTORY. 1909 c. 43 s. 2; 1911 c. 289 s. 1; G.S. 1913 s. 1763; G.S. 1923 s. 1755; M.S. 1927 s. 1755.

Elections in the city of St. James are to be called and held under the procedure set out in the general statute. OAG June 24, 1933.

The amount of bonds which may be issued by the city of Madison for making improvements to its municipal utility plant is not confined to the limitations contained in this section. OAG Feb. 17, 1938 (624d-1).

457.04 ELECTION, HOW CONDUCTED.

HISTORY. 1909 c. 43 s. 3; G.S. 1913 s. 1764; G.S. 1923 s. 1756; M.S. 1927 s. 1756.

457.05 BONDS, WHEN ISSUED.

HISTORY. 1909 c. 43 s. 4; G.S. 1913 s. 1765; G.S. 1923 s. 1757; M.S. 1927 s. 1757.

457.06 BONDS, DENOMINATIONS.

HISTORY. 1909 c. 43 s. 5; G.S. 1913 s. 1766; 1917 c. 507 s. 1; G.S. 1923 s. 1758; M.S. 1927 s. 1758.

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457.07 BONDS, HOW DISPOSED OF.

HISTORY. 1909 c. 43 s. 6; G.S. 1913 s. 1767; G.S. 1923 s. 1759; M.S. 1927 s. 1759.

457.08 LIEN OF BONDS.

HISTORY. 1909 c. 43 s. 7; G.S. 1913 s. 1768; G.S. 1923 s. 1760; M.S. 1927 s. 1760.

457.085 WATER-WORKS AND LIGHT PLANTS IN CERTAIN CITIES.

HISTORY. 1905 c. 334 ss. 1 to 7; 1907 c. 178 s. 1; 1923 c. 181 ss. 1, 3; M.S. 1927 ss. 1753-1, 1753-2, 1753-3, 1753-4, 1753-5, 1753-6, 1753-7.

457.09 TAX LEVY FOR WATER AND LIGHT PLANTS.

HISTORY. 1913 c. 214 s. 1; G.S. 1913 s. 1322; G.S. 1923 s. 1245; M.S. 1927 s. 1245; 1933 c. 280 s. 1; M. Supp. s. 1245.

A village which has no water, light, and building commission may not levy a special tax for water and light purposes. OAG Jan. 5, 1935 (481b-7).

Where a tax has been levied for water and light purposes pursuant to this section, the water, light, power, and building commission may fix rates and collect for water furnished to residents of village under section 453.05, and may refuse to furnish water to persons owing delinquent accounts. OAG March 2, 1935 (469b-6).

It is not permissible to give water and light to a village free without the imposition of a tax levy. OAG Feb. 11, 1936 (476a-6).

Power and building commission may not furnish hydrant rental and light to village free of charge with the purpose of permitting the village to recoup its finances so that it may be able to purchase a fire truck, if the village does not levy a tax of five mills for such purpose. OAG April 27, 1931.

Village cannot pay for electricity used for lighting its streets and public buildings out of the water and light fund, it appearing that the village furnished only water to its inhabitants. OAG June 1, 1929.

457.10 HOW COLLECTED.

HISTORY. 1913 c. 214 s. 2; G.S. 1913 s. 1323; G.S. 1923 s. 1246; M.S. 1927 s. 1246.

457.11 CLERK AND RECORDER TO MAKE AND FILE ESTIMATE.

HISTORY. 1913 c. 214 s. 3; G.S. 1913 s. 1324; G.S. 1923 s. 1247; M.S. 1927 s. 1247; 1933 c. 280 s. 2; M. Supp. s. 1247.

457.12 CONTRACTS FOR WATER AND LIGHT IN CITIES OF SECOND AND THIRD CLASS.

HISTORY. 1903 c. 185; R.L. 1905 s. 765; G.S. 1913 s. 1390; G.S. 1923 s. 1326; M.S. 1927 s. 1326.

457.13 LEASING, SELLING, OR ABANDONING OF WATER-WORKS OR LIGHTING PLANTS.

HISTORY. 1917 c. 172 ss. 1 to 3; G.S. 1923 ss. 1865 to 1867; M.S. 1927 ss. 1865 to 1867; 1931 c. 133; M. Supp. s. 1865.

A contract under which, by a two-thirds vote of its governing body, a city may contract for the purchase of electricity for the purpose of operating its own electric plant for a period of not to exceed 15 years, is within the authority of this section. Northern States Power Co. v City of Granite Falls, 186 M 209, 242 NW 714.

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The village council had the power to determine that the bidders should submit bids for the entire plant, generating equipment, and distributing system rather than for the separate units thereof and it could provide that payment for the entire undertaking was to be from net earnings only. *Davies v Village of Madelia*, 205 M 526, 287 NW 1.

There is no law permitting a city of the third class to sell its water and light plant, and the city of Austin cannot sell its plant without an amendment of its charter, or specific legislative authority. OAG Dec. 1, 1930.

A joint use contract between a city and a telephone company, contemplating the use by either of the poles of the other, with certain specified charges, constitutes a lease by the city of certain specified parts of its municipal lighting plant so as to require the authorization of its voters. OAG Sept. 19, 1935 (624c-16).

Where a village maintains street lighting equipment connected with a transformer of a power company over poles belonging to the power company and a telephone company, the village cannot abandon its street lighting equipment without a vote of the people of the village. OAG Jan. 22, 1930.

The operation of a village gas plant could not be discontinued without a vote of the electors and until such discontinuance the village could not enter into a contract for the purchase of natural gas. OAG Feb. 17, 1932.

Village has no authority to enter into an agreement for the purchase of natural gas to distribute to the people of the village through the village gas mains unless there has been an election favorable to the discontinuance of the operation of the village gas plant. OAG March 4, 1932.

Procedure and forms necessary for the sale of water and light plants. OAG May 3, 1930.

The utilities commission of Madelia may contract with an independent telephone company for joint use of telephone poles. 1942 OAG 250, Nov. 5, 1941 (624C-14).

457.14 WATER, LIGHT AND HEATING PLANTS; PURCHASE; BONDS; SUBMITTED TO VOTERS.

HISTORY. 1909 c. 15 ss. 1, 2; G.S. 1913 ss. 1307, 1308; G.S. 1923 ss. 1230, 1231; M.S. 1927 ss. 1230, 1231.

457.15 PRICE, HOW PAID.

HISTORY. 1909 c. 15 s. 3; G.S. 1913 s. 1309; G.S. 1923 s. 1232; M.S. 1927 s. 1232.

457.16 POWER TO EMPLOY ATTORNEY.

HISTORY. 1909 c. 15 s. 4; G.S. 1913 s. 1310; G.S. 1923 s. 1233; M.S. 1927 s. 1233.

457.17 BONDS OR LOAN FROM STATE.

HISTORY. 1909 c. 15 s. 5; G.S. 1913 s. 1311; G.S. 1923 s. 1234; M.S. 1927 s. 1234.

457.18 OPERATION OF PLANTS.

HISTORY. 1909 c. 15 s. 6; G.S. 1913 s. 1312; G.S. 1923 s. 1235; M.S. 1927 s. 1235.

Persons desiring to connect with a private main must obtain the permission of the owners, and a city or village is not liable for inadequate water supply for the fire department. OAG July 12, 1938 (624d-9).