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CHAPTER 429

LOCAL IMPROVEMENTS, SPECIAL ASSESSMENTS

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429.01 [Repealed, 1953 c 398 s 13 sbd 1]

429.011 DEFINITIONS. Subdivision 1. For the purpose of this chapter the terms defined in this section shall have the meanings ascribed to them.

Subd. 2. "Municipality" means any city of the second, third, or fourth class however organized, or any village, borough or any town containing platted land situated wholly or partly within 25 miles of the city hall of a city of the first class having a population of more than 200,000 inhabitants.

Subd. 3. "Council" means the body of the municipality having general legislative powers.

Subd. 4. "Clerk" means the chief clerical officer of the municipality.

Subd. 5. "Improvement" means any type of improvement made under authority granted by section 429.021 of this chapter.

Subd. 6. "Newspaper" means the official newspaper of the municipality, or if there is no official newspaper, a legal newspaper of general circulation in the municipality.

Subd. 7. "Street" means any street, alley, or other public way, or any part thereof.

Subd. 8. "Utilities commission" means the municipal board or commission, other than the council, which exercises any authority or control over the operation of any municipally owned public utility.

[1953 c 398 s 1]

429.02 [Repealed, 1953 c 398 s 13 sbd 1]

429.021 LOCAL IMPROVEMENTS; COUNCIL POWERS. Subdivision 1. **Improvements authorized.** The council of a municipality shall have power to make the following improvements:

(1) To acquire, open, and widen any street, and to improve the same by constructing, reconstructing, and maintaining sidewalks, pavement, gutters, curbs, and vehicle parking strips of any material, or by grading, graveling, oiling, or otherwise improving the same, including the beautification thereof and including storm sewers or other street drainage and connections from sewer, water or similar mains to curb lines.

(2) To construct, reconstruct, extend and maintain storm and sanitary sewers and systems, including outlets, treatment plants, pumps, lift stations, service connections, and other appurtenances of a sewer system, within and without the corporate limits.

(3) To construct, reconstruct, extend and maintain steam heating mains.

(4) To install, replace, extend and maintain street lights and street lighting systems.

(5) To construct, reconstruct, extend and maintain water works systems, including mains, valves, hydrants, service connections, wells, pumps, reservoirs, tanks, treatment plants, and other appurtenances of a water works system, within and without the corporate limits.

(6) To acquire, improve and equip parks, playgrounds and recreational facilities within or without the corporate limits.

(7) To plant trees on streets and provide for their trimming, care and removal.

(8) To abate nuisances and to drain swamps, marshes and ponds on public or private property and to fill the same.

(9) To construct, reconstruct, extend, and maintain dikes and other flood control works.

(10) To construct, reconstruct, extend and maintain retaining walls and area walls.

Subd. 2. **Combining improvements.** An improvement on two or more streets or two or more types of improvement in or on the same street or streets may be included in one proceeding and conducted as one improvement.

Subd. 3. **Relation to charter and other laws.** When any portion of the cost of an improvement is defrayed by special assessments, the procedure prescribed in this chapter shall be followed unless the council determines to proceed under charter provisions; but this chapter does not prescribe the procedure to be followed by a municipality in making improvements financed without the use of special assessments.

[1953 c 398 s 2]

429.03 [Repealed, 1953 c 398 s 13 sbd 1]

429.031 PRELIMINARY PLANS; ESTIMATED COST; HEARINGS ON PROPOSED IMPROVEMENT. Subdivision 1. **Preparation of plans; notice, hearing.** Before a contract is let or work ordered by day labor for an improvement, the council shall hold a public hearing on the proposed improvement following two publications in the newspaper of a notice stating the time and place of the hearing, the general nature of the improvement, the estimated cost, the area proposed to be assessed, and that the council proposes to proceed under the authority granted by this chapter. The two publications shall be a week apart and at least three days shall elapse between the last publication and the hearing. At any time prior to the adoption of the resolution providing for the hearing, the council shall secure from the city or village engineer or some competent person of its selection a report advising it in a preliminary way as to whether the proposed improvement is feasible and as to whether it should best be made as proposed or in connection with some other improvement and the estimated cost of the improvement as recommended. The council may also take such other steps prior to the hearing, including, among other things, the preparation of plans and specifications and the advertisement for bids thereon, as will in its judgment provide helpful information in determining the desirability and feasibility of the improvement. The hearing may be adjourned from time to time and a resolution ordering the improvement may be adopted at any time within six months after the date of the hearing by vote of a majority of all members of the council when the improvement has been petitioned for by the owners of not less than 35 percent in frontage of the real property abutting on each street named in the petition as the location of the improvement. When there has been no such petition, the resolution may be adopted only by vote of four-fifths of all members of the council. The resolution ordering the improvement may reduce, but not increase, the extent of the improvement as stated in the notice of hearing.

Subd. 2. **Approval by park board or utilities commission.** A resolution ordering a park improvement may be adopted only by a four-fifths vote of the council and shall also be approved by the park board, if there is one. A resolution ordering an improvement of the water, sewer, steam heating, street lighting or other facility over which a utilities commission has jurisdiction shall also be approved by the utilities commission.

[1953 c 398 s 3]

429.035 IMPROVEMENTS, PETITION. When any petition for the making of any improvement in any village, borough, or city of the second, third, or fourth class, however organized, for the cost of which special assessments may be, in whole or in part, levied therefor, is presented to the governing body of the municipality, this body shall, by resolution, determine whether or not the petition has been signed by the required percentage of owners of property affected thereby.

[1927 c 311 s 1; 1953 c 398 s 12] (1918-33)

429.036 APPEALS FROM DETERMINATION OF LEGALITY OF PETITION. Any person, being aggrieved by this determination, may appeal to the district court of the county in which the property is located by serving upon the clerk of the municipality, within 30 days after the adoption and publication of the resolution, a notice of appeal briefly stating the grounds of appeal and giving a bond in the penal sum of \$250, in which the municipality shall be named as obligee, to be approved by the clerk of the municipality, conditioned that the appellant will duly prosecute the appeal, pay all costs and disbursements which may be adjudged against him,

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and abide by the order of the court. The clerk shall furnish the appellant a certified copy of the petition, or any part thereof, on being paid by appellant of the proper charges therefor. The appeal shall be placed upon the calendar of the next general term commencing more than 30 days after the date of serving the notice and filing the bond and shall be tried as are other appeals in such cases. Unless reversed upon the appeal, the determination of the governing body as to the sufficiency of the petition shall be final and conclusive.

[1927 c 311 s 2] (1918-34)

429.04 [Repealed, 1953 c 398 s 13 sbd 1]

429.041 COUNCIL PROCEDURE. Subdivision 1. **Plans and specifications; advertisement for bids.** When the council determines to make any improvement, it shall cause plans and specifications of the improvement to be made, or if previously made, to be modified, if necessary, and to be approved and filed with the clerk, and if the estimated cost exceeds \$5,000, shall advertise for bids for the improvement in the newspaper and such other papers and for such length of time as it may deem advisable. If the estimated cost exceeds \$100,000, publication shall be made once in the newspaper and at least once in a newspaper or trade paper published in a city of the first class no less than three weeks before the last day for submission of bids. To be eligible as such a trade paper, a publication shall have all the qualifications of a legal newspaper except that instead of the requirement that it shall contain general and local news, such trade paper shall contain building and construction news of interest to contractors in this state, among whom it shall have a general circulation. The advertisement shall specify the work to be done, shall state the time when the bids will be opened and considered by the council, which shall be not less than ten days after the first publication of the advertisement when the estimated cost is less than \$100,000 and not less than three weeks after such publication in other cases, and shall state that no bids will be considered unless sealed and filed with the clerk and accompanied by a cash deposit, cashier's check, bid bond, or certified check payable to the clerk, for such percentage of the amount of the bid as the council may specify. Nothing herein shall prevent the council from advertising separately for various portions of the work involved in an improvement, or from itself supplying by such means as may be otherwise authorized by law, all or any part of the materials, supplies, or equipment to be used in the improvement or from combining two or more improvements in a single set of plans and specifications or a single contract.

Subd. 2. **Contracts; day labor.** In contracting for an improvement, the council shall require the execution of one or more written contracts and bonds, conditioned as required by law. The council shall award the contract to the lowest responsible bidder or it may reject all bids. If any bidder to whom a contract is awarded fails to enter promptly into a written contract and to furnish the required bond, the defaulting bidder shall forfeit to the municipality the amount of his cash deposit, cashier's check, bid bond, or certified check, and the council may thereupon award the contract to the next lowest responsible bidder. When it appears to the council that the cost of the entire work projected will be less than \$5,000, or whenever no bid is submitted after proper advertisement or the only bids submitted are higher than the engineer's estimate, the council may advertise for new bids or, without advertising for bids, directly purchase the materials for the work and do it by the employment of day labor or in any other manner the council considers proper. The council may have the work supervised by the city or village engineer or other qualified person but shall have the work supervised by a registered engineer if done by day labor and it appears to the council that the entire cost of all work and materials for the improvement will be more than \$2,000. In case of improper construction or unreasonable delay in the prosecution of the work by the contractor, the council may order and cause the suspension of the work at any time and relet the contract, or order a reconstruction of any portion of the work improperly done, and where the cost of completion or reconstruction necessary will be less than \$10,000, the council may do it by the employment of day labor.

Subd. 3. **Day labor; detailed report.** When the council has performed construction work by day labor, it shall cause a detailed report to be filed with the clerk and certified by the registered engineer or other person in charge, if there is no registered engineer. The report shall show:

- (a) the complete cost of the construction;
- (b) final quantities of the various units of work done;

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- (c) materials furnished for the project and the cost of each item thereof;
- (d) cost of labor, cost of equipment hired, and supervisory costs.

The report shall have attached a certificate by the registered engineer or other person in charge that the work was done according to the plans and specifications, or, if there were any deviations from them, an itemized statement of those deviations.

Subd. 4. **Alternate procedure on street improvements.** As to any improvement or improvements consisting of grading, graveling, or bituminous surfacing of streets and alleys, the council may proceed in the manner provided in this chapter, except that it may

(1) order the work done by day labor, regardless of the estimated cost of such improvement or improvements, and

(2) hire equipment and purchase materials for all such improvements to be done by day labor in any 12-month period by advertising once therefor, such advertisement to call for bids for the furnishing of equipment and materials at unit prices based on the quantities which the council estimates will be required.

Subd. 5. **Cooperation with state or local government.** When an improvement is made under a cooperative agreement with the state or another political subdivision by the terms of which the state or other subdivision is to act as agent for the municipality, it shall not be necessary to comply with subdivisions 1 and 2 provided the procedure followed in letting the contract for, or itself performing the work complies with the law applicable to the state or other political subdivision with which the agreement has been made by the municipality.

Subd. 6. **Percentage payment on engineer's estimate.** In case the contractor properly performs the work, the council may, from month to month before completion of the work, pay him not to exceed 90 percent of the amount already earned under the contract, upon the estimate of the engineer or other competent person selected by the council, and the contract may so provide.

[1953 c 398 s 4]

429.05 [Repealed, 1953 c 398 s 13 sbd 1]

429.051 **APPORTIONMENT OF COSTS.** The cost of any improvement, or any part thereof, may be assessed upon property benefited by the improvement, whether the property abuts on the improvement or not, based upon the benefits received. The area assessed may be less than but may not exceed the area proposed to be assessed as stated in the notice of hearing on the improvement. The municipality may pay such proportion of the cost of the improvement as the council may determine from general ad valorem tax levies or from other revenues or funds of the municipality available for the purpose.

[1953 c 398 s 5]

429.06 [Repealed, 1953 c 398 s 13 sbd 1]

429.061 **ASSESSMENT PROCEDURE.** Subdivision 1. **Calculation of assessments.** At any time after a contract is let or the work ordered by day labor, the expense incurred or to be incurred in its making shall be calculated under the direction of the council. The council shall then determine by resolution the amount of the total expense the municipality will pay, other than the amount, if any, which it will pay as a property owner, and the amount to be assessed. Thereupon the clerk, with the assistance of the engineer or other qualified person selected by the council, shall calculate the proper amount to be specially assessed for the improvement against every assessable lot, piece or parcel of land, without regard to cash valuation, in accordance with the provisions of section 429.051. The proposed assessment roll shall be filed with the clerk and be open to public inspection. The clerk shall thereupon, under the council's direction, publish notice that the council will meet to consider the proposed assessment. Such notice shall be published in the newspaper at least once no less than two weeks prior to such meeting of the council and shall state the date, time, and place of such meeting and general nature of the improvement, the area proposed to be assessed and that written or oral objections will be considered.

Subd. 2. **Adoption of assessment.** At such meeting or at any adjournment thereof the council shall hear and pass upon all objections to the proposed assessment, if any, and may amend the proposed assessment as to any parcel and by resolution adopt the same as the special assessment against the lands named in the assessment roll. Notice of any adjournment of the hearing shall be adequate if the minutes of the meeting so adjourned show the time and place when and where the hearing is to be continued, or if three days notice thereof be published in the news-

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paper. The assessment, with accruing interest, shall be lien upon the property included therein, concurrent with general taxes, and shall be payable in equal annual instalments extending over such period, not exceeding 20 years, as the council determines. The first instalment shall be payable on the first Monday in January next following the adoption of the assessment unless the assessment is adopted too late to permit its collection during the following year. All assessments shall bear interest at such rate as the council determines, not exceeding six percent per annum. To the first instalment shall be added interest on the entire assessment from the date of the resolution levying the assessment until December 31st of the year in which the first instalment is payable. To each subsequent instalment shall be added interest for one year on all unpaid instalments.

Subd. 3. Transmittal to county auditor; prepayment. After the adoption of the assessment, the clerk shall transmit a certified duplicate of the assessment roll with each instalment, including interest, set forth separately to the county auditor of the county to be extended on the proper tax lists of the county. Such assessments shall be collected and paid over in the same manner as other municipal taxes. The owner of any property so assessed may, at any time prior to certification of the assessment to the county auditor, pay the whole of the assessment against any parcel with interest accrued to the date of payment, to the municipal treasurer; and he may at any time thereafter pay to the county treasurer the entire amount remaining unpaid of the assessment against any parcel with interest accrued to December 31st of the year in which such payment is made.

Subd. 4. Collection; tax exempt property. On the confirmation of any assessment the clerk shall mail to the county auditor a notice specifying the amount payable by any county, to the clerk of any school district a notice specifying the amount payable by the school district, and to the owner of any right of way, at its principal office in the state, a notice specifying the amount payable on account of any right of way. The amount payable by any county, school district, or on account of any right of way shall be payable to the municipality's treasurer and shall be paid in like instalments and with like interest and penalties as provided for in reference to the instalments payable on account of assessable real property. The county board and the school board, respectively, shall provide for the payment of these amounts and shall take appropriate action to that end. The municipality may collect the amount due on account of the right of way of any railroad or privately owned public utility by distress and sale of personal property in the manner provided by law in case of taxes levied upon personal property or by suit brought to enforce the collection of this indebtedness unless a different method of collecting such amounts is provided for by any contract between the owner of any right of way and the municipality.

[1953 c 398 s 6]

429.07 [Repealed, 1953 c 398 s 13 sbd 1]

429.071 SUPPLEMENTAL ASSESSMENTS; RE-ASSESSMENT. Subdivision 1. **Supplemental assessments.** Upon notice and hearing as provided for the original assessment, the council may make supplemental assessments to correct omissions, errors, or mistakes in the assessment relating to the total cost of the improvement or any other particular.

Subd. 2. Re-assessment. When an assessment is, for any reason whatever, set aside by a court of competent jurisdiction as to any parcel or parcels of land, or in event the council finds that the assessment or any part thereof is excessive or determines on advice of the municipal attorney that it is or may be invalid for any reason, the council may, upon notice and hearing as provided for the original assessment, make a re-assessment or a new assessment as to such parcel or parcels.

[1953 c 398 s 7]

429.08 [Repealed, 1953 c 398 s 13 sbd 1]

429.081 APPEAL TO DISTRICT COURT. Within 20 days after the adoption of the assessment, any person aggrieved may appeal to the district court by serving a notice upon the mayor or clerk of the municipality. The notice shall be filed with the clerk of the district court within ten days after its service. The municipal clerk shall furnish appellant a certified copy of objections filed in the assessment proceedings, the assessment roll or part complained of, and all papers necessary to present the appeal. The appeal shall be placed upon the calendar of the next general term commencing more than five days after the date of serving the notice and shall be tried as other appeals in such cases. If appellant does not prevail upon the appeal,

the costs incurred shall be taxed by the court and judgment entered therefor. All objections to the assessment shall be deemed waived unless presented on such appeal.

[1953 c 398 s 8]

429.09 [Repealed, 1953 c 398 s 13 sbd 1]

429.091 FINANCING. Subdivision 1. Issuance of obligations for expense of improvement. At any time after a contract for an improvement has been entered into or the work has been ordered done without a contract as authorized in section 429.041, the council may issue obligations in such amount as it deems necessary to defray in whole or in part the expense incurred and estimated to be incurred in making an improvement, including every item of cost from inception to completion and all fees and expenses incurred in connection with the improvement or the financing thereof. More than one improvement may be financed by a single issue of obligations without other consolidation of the proceedings.

Subd. 2. Types of obligations permitted. The council may by resolution adopted prior to the sale of obligations pledge the full faith, credit, and taxing power of the municipality for the payment of the principal and interest. Such obligations shall be called improvement bonds and the council shall pay the principal and interest out of any fund of the municipality when the amount credited to the specified fund is insufficient for the purpose and shall each year levy a sufficient amount to take care of accumulated or anticipated deficiencies, which levy shall not be subject to any statutory or charter tax limitation. Obligations for the payment of which the full faith and credit of the municipality is not pledged shall be called improvement warrants and shall contain a promise to pay solely out of the proper special fund. It shall be the duty of the municipal treasurer to pay maturing principal and interest on warrants out of funds on hand in the proper special fund and not otherwise.

Subd. 3. Issuance, method. All obligations shall be issued in accordance with the provisions of Minnesota Statutes, Chapter 475, except that an election shall be required for bonds if less than 20 percent of the cost is to be assessed against benefited property. The maturities shall be such as in the opinion of the council are warranted by the anticipated collections of assessments and ad valorem levies for the municipality's share of the cost. All obligations shall state upon their face the purpose of the issue and the fund from which they are payable. The amount of any such obligations shall not be included in determining the net indebtedness of any municipality under the provisions of any applicable law.

Subd. 4. Funds. A separate fund shall be provided for each improvement. The proceeds from the sale of the obligations and from collections of special assessments and taxes levied for the improvement and any other moneys appropriated thereto by the municipality shall be paid to such fund, and it shall be used solely to defray expenses of the improvement and payment of principal and interest due upon the obligations. A separate debt redemption fund shall also be provided for the payment of the principal of and interest on each single issue of bonds or warrants issued to finance more than one improvement. There shall be transferred and paid to such debt redemption fund all moneys in the separate improvement funds of the improvements so financed and all moneys raised by general taxation or appropriated from other municipal funds for the purpose of paying principal of and interest on such issue of bonds or warrants.

[1953 c 398 s 9]

429.10 [Repealed, 1953 c 398 s 13 sbd 1]

429.101 COLLECTION OF SERVICE CHARGES AS SPECIAL ASSESSMENTS. Subdivision 1. Services for which authorized; ordinance. In addition to any other method authorized by law or charter, the council of any municipality may provide for the collection of unpaid special charges for all or any part of the cost of snow, ice, or rubbish removal from sidewalks, weed elimination from streets or private property, street sprinkling or other dust treatment of streets, or the repair of sidewalks as a special assessment against the property benefited. The council may by ordinance adopt regulations consistent with this section to make this authority effective, including, at the option of the council, provisions for placing primary responsibility upon the property owner or occupant to do the work himself (except in the case of street sprinkling or other dust treatment), for notice before the work is undertaken, and for collection from the property owner or other person served of the charges when due before unpaid charges are made a special assessment.

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Subd. 2. **Procedure for assessment.** Any special assessment levied under subdivision 1 shall be payable in a single instalment. With this exception, sections 429.061, 429.071, and 429.081 shall apply to assessments made under this section.

Subd. 3. **Issuance of obligations.** After a contract for any of the work enumerated in subdivision 1 has been let, or the work commenced, the council may issue obligations to defray the expense of any such work financed in whole or in part by special charges and assessments imposed upon benefited property under this section. Section 429.091 shall apply to such obligations with the following modifications:

(1) Such obligations shall be payable not more than two years from the date of issuance;

(2) The amount of such obligations issued at one time in a municipality shall not exceed the cost of such work during the ensuing six months as estimated by the council;

(3) A separate improvement fund shall be set up for each of the enumerated services referred to in subdivision 1 and financed under this section. Proceeds of special charges as well as special assessments and taxes shall be credited to such improvement fund.

[1953 c 398 s 10]

429.11 [Repealed, 1953 c 398 s 13 sbd 1]

429.111 CHARTER PROVISIONS NOT OUTLAWED. The provisions of this chapter are not exclusive for any municipality operating under a home rule charter but are supplementary to the home rule charter unless otherwise expressly provided by a home rule charter or amendment hereafter adopted. The provisions of this chapter are also not exclusive for any city of the second class operating under special legislative charter.

[1953 c 398 s 11]

429.12-429.18 [Repealed, 1953 c 398 s 13 sbd 1]

429.185 [Repealed, 1949 c 314 s 3]

429.19 [Renumbered 429.035]

429.20 [Renumbered 429.036]

429.21-429.29 [Repealed, 1953 c 398 s 13 sbd 1]

429.30 [Renumbered 435.36, sbd 1]

429.31 [Renumbered 435.36, sbd 2]