

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435.01 [Repealed, 1949 c 119 s 110]

435.02 [Repealed, 1953 c 398 s 13]

435.03 [Repealed, 1953 c 398 s 13]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]

435.05 [Repealed, 1976 c 44 s 70]

435.06 [Renumbered 435.21, subdivision 1]

435.07 [Renumbered 435.21, subd 2]

435.08 [Repealed, 1969 c 9 s 104]

435.09 [Repealed, 1969 c 9 s 104]

435.10 [Repealed, 1969 c 9 s 104]

435.11 [Renumbered 435.17, subdivision 1]

435.12 [Renumbered 435.17, subds 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435.16 [Repealed, 1949 c 119 s 110]

ASSESSMENTS

435.17 FIRST CLASS CITIES; ASSESSMENTS; IMPROVEMENT BONDS.

Subdivision 1. **Payment in installments.** 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 installments, 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 installment 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 installment are delivered by the auditor to the county treasurer and thereafter the auditor shall include in the taxes of each year one of the installments, together with one years interest upon that installment and all subsequent installments 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 installments 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 installments, 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 installments 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 installments, 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.

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

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.

History: (1584) 1913 c 295 s 4

435.19 ASSESSMENT ON PUBLIC PROPERTY; EXCEPTION; SUE TO BE PAID.

Subdivision 1. **By city or town.** Any city, however organized, 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, but no such assessments, except for storm sewers and drain systems, shall be levied against a governmental unit for properties used or to be used for highway rights-of-way. A "governmental unit" means a county, city, 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 or such town against the governmental unit owning the property so assessed.

Subd. 2. **State property.** In the case of property owned by the state or any instrumentality thereof, the governing body of the city 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 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.

Subd. 3. **First class city property.** In the case of property owned by a city of the first class or board or instrumentality thereof, the governing body of any city 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 certified mail to the city or its instrumentality operating the property. Such city of the first class or board or instrumentality thereof may pay the amount so determined or such lesser amount as it determines is the measure of the benefit received by the land from the improvement. In addition to any authority now possessed by the park board of any such city of the first class to levy taxes it may levy upon the taxable property of such city a tax sufficient to raise the amount so determined as the benefit to the property owned or operated by such park board.

Subd. 4. **Old improvements, payment permitted.** 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 or any city of the first class or board or instrumentality of a city of the first class owning property benefited by such improvement may pay to the city 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.

Subd. 5. **Supplements other legal authority.** This section shall not modify any law or charter provision authorizing the imposition of special assessments against governmental units.

History: 1943 c 609 s 1; 1953 c 209 s 1; 1957 c 510 s 1; 1967 c 144 s 1; 1967 c 596 s 1; 1969 c 399 s 49; 1973 c 123 art 5 s 7

435.191 TIME LIMIT ON IMPROVEMENTS.

When the governing body of a city determines to make any local improvement, it shall let the contract for all or part of the work, or order all or part of the work done by day labor or otherwise as may be authorized by law, no later than one year after the adoption of the resolution ordering such improvement, unless a different time limit is specifically stated in the resolution ordering the improvement.

History: 1978 c 518 s 3; 1980 c 509 s 165

435.193 HARDSHIP ASSESSMENT DEFERRAL FOR SENIORS, DISABLED, OR MILITARY PERSONS.

(a) Notwithstanding the provisions of any law to the contrary, any county, statutory or home rule charter city, or town, making a special assessment may, at its discretion, defer the payment of that assessment for any homestead property:

(1) owned by a person 65 years of age or older or retired by virtue of a permanent and total disability for whom it would be a hardship to make the payments; or

(2) owned by a person who is a member of the Minnesota National Guard or other military reserves who is ordered into active military service, as defined in section 190.05, subdivision 5b or 5c, as stated in the person's military orders, for whom it would be a hardship to make the payments.

(b) Any county, statutory or home rule charter city, or town electing to defer special assessments shall adopt an ordinance or resolution establishing standards and guidelines for determining the existence of a hardship and for determining the existence of a disability, but nothing herein shall be construed to prohibit the determination of hardship on the basis of exceptional and unusual circumstances not covered by the standards and guidelines where the determination is made in a nondiscriminatory manner and does not give the applicant an unreasonable preference or advantage over other applicants.

History: 1974 c 206 s 7; 1976 c 195 s 3; 1981 c 80 s 1; 2008 c 154 art 2 s 28

435.194 PROCEDURE TO OBTAIN DEFERRED ASSESSMENT.

The homeowner shall make application for deferred payment of special assessments on forms prescribed by the county auditor of the county in which the homestead is located. Where the deferred assessment is granted, the auditor shall record a notice thereof with the county recorder of said county which shall set forth the amount of the assessment. The taxing authority may determine by ordinance or resolution the

amount of interest, if any, on the deferred assessment and this rate shall be recorded by the auditor along with and in the same manner as the amount of the assessment.

History: 1974 c 206 s 8; 1976 c 181 s 2; 1976 c 195 s 4

435.195 TERMINATION OF RIGHT TO DEFERRED PAYMENT.

The option to defer the payment of special assessments shall terminate and all amounts accumulated plus applicable interest, shall become due upon the occurrence of any of the following events: (a) the death of the owner, provided that the spouse is otherwise not eligible for the benefits hereunder; (b) the sale, transfer or subdivision of the property or any part thereof; (c) if the property should for any reason lose its homestead status; or (d) if for any reason the taxing authority deferring the payments shall determine that there would be no hardship to require immediate or partial payment.

History: 1974 c 206 s 9

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 town.

History: 1955 c 841 s 1; 1973 c 123 art 5 s 7

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 canceled 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, who shall forthwith provide notice appropriate to inform interested persons 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 the notice, for refund of such assessments paid by the person, together with any interest paid thereon. The municipality is not required to, but may, pay such claims filed after the period allowed, and it may require any claimant to furnish satisfactory evidence that the claimant 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.

History: 1955 c 841 s 2; 1984 c 543 s 58; 1986 c 444

435.203 TRANSFER OF FUND WHEN IMPROVEMENT COMPLETE; REFUND.

Any money 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 canceled as provided in section 435.202, subdivision 1.

History: 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.

History: (1625) 1921 c 226 s 1

435.23 REASSESS TAX-FORFEITED LAND BACK IN PRIVATE OWNERSHIP.

Any municipality, political subdivision, or other public authority may make a reassessment or new assessment pursuant to section 429.071, subdivision 4, notwithstanding that the original assessment may have been made pursuant to other general law or a special law.

History: 1976 c 259 s 2

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.

History: (1550-1, 1550-2, 1550-3, 1550-4, 1550-5) 1911 c 152 s 1-5

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, article XI, section 4, or article XII, section 5.

History: (1550-6) 1911 c 152 s 6; 1997 c 7 art 4 s 3

435.31 [Repealed, 1969 c 9 s 105]

435.32 [Repealed, 1969 c 9 s 105]

435.33 [Repealed, 1969 c 9 s 105]

435.36 [Repealed, 1961 c 561 s 17]

CARTWAYS

435.37 EASEMENT FOR CARTWAY.

Subdivision 1. **Mandatory establishment; conditions.** (a) Upon petition presented to the city council by the owner of a tract of land containing at least five acres, who has no access thereto except over a navigable waterway or over the lands of others, or whose access thereto is less than two rods in width, the city council by resolution shall establish a cartway at least two rods wide connecting the petitioner's land with a public road.

(b) The city council may select an alternative route other than that petitioned for if the alternative is deemed by the city council to be less disruptive and damaging to the affected landowners and in the public's best interest.

(c) The amount of damages must be paid by the petitioner to the city before the cartway is opened. For the purposes of this subdivision, damages means the compensation, if any, awarded to the owner of the land upon which the cartway is established together with the cost of professional and other services, hearing costs, administrative costs, recording costs, and other costs and expenses that the city may incur in connection with the proceedings for the establishment of the cartway. The city council may by resolution require the petitioner to post a bond or other security acceptable to the city council for the total estimated damages before the city council takes action on the petition.

(d) The city may not expend street or bridge funds on the cartway unless the city council, by resolution, determines that an expenditure is in the public interest. If no resolution is adopted to that effect, the grading or other construction work and the maintenance of the cartway is the responsibility of the petitioner.

(e) After the cartway has been constructed, the city council may by resolution designate the cartway as a private driveway with the written consent of the affected landowner, in which case from the effective date of the resolution no town road and bridge funds may be expended for maintenance of the driveway.

Subd. 2. **Maintenance costs.** When a cartway is not maintained by the city, one or more of the private property owners who own land adjacent to a cartway, or one or more of the private property owners who has no access to the owner's land except by way of the cartway, may maintain the cartway. The cost of maintenance must be equitably divided among all of the private property owners who own land adjacent to the cartway and all of the private property owners who have no access to their land except by way of the cartway. The following factors may be taken into consideration when determining an equitable share of maintenance expenses: the frequency of use, the type and weight of the vehicles or equipment, and the distance traveled on the cartway to the individual's property. The city council may determine the maintenance costs to be apportioned to each private property owner if the private property owners cannot agree on the division of the costs. The city council's decision may be appealed within 30 days to the district court of the county in which the cartway is located. Private property owners who pay the cost of maintenance have a civil cause of action against any of the private property owners who refuse to pay their share of the maintenance cost.

Subd. 3. **City defined.** For purposes of this section, "city" includes statutory and home rule charter cities.

Subd. 4. **Procedure.** For the purposes of this section, the proceedings of the city council shall be in accordance with the procedures set forth in section 164.07, except that references in section 164.07 to "town,"

"town clerk," "town board," or "town costs" shall be construed to mean references to "city," "city clerk," "city council," or "city costs," respectively, or equivalent terms, as required by the context.

History: 2006 c 236 art 1 s 3; 2009 c 30 art 3 s 3

SIDEWALKS

435.41 [Repealed, 1976 c 44 s 70]

435.44 SIDEWALK IMPROVEMENT DISTRICTS; COSTS SPLIT BY BENEFIT.

Subdivision 1. **Authorized.** Any municipality may, by ordinance, establish sidewalk improvement districts within a municipality, and have authority to defray all or part of the total costs of sidewalk construction and repair by district benefits and apportioning the district's cost to all of the parcels located in the district on a direct or indirect benefit basis.

Subd. 2. **For safety.** The governing body of any municipality may establish sidewalk districts on the basis that all areas within each district have safe pedestrian walkways to and from schools and school bus stops, public transportation facilities, and other services to the neighborhood and community.

Subd. 3. **Uniformity; wide sidewalks; indirect benefit.** The total costs of sidewalk district improvements may be apportioned and assessed to all parcels or tracts of land located in the established assessment district on a uniform basis as to each classification of real estate. Where sidewalk widths are wider than the standard width of the district, the additional costs may be assessed as a direct benefit to the abutting property. An indirect district benefit assessment may involve all parcels or tracts of land located in the assessment district without regard to location of sidewalks, as it is deemed that all parcels or tracts of land within the assessment district benefit equally.

Subd. 4. **Up to five years.** The governing body may assess the costs on all district sidewalk improvements up to a maximum of five years on equal annual installments, plus interest on the unpaid balance.

History: 1974 c 59 s 1

WATER SYSTEMS

435.46 [Repealed, 1976 c 44 s 70]

435.47 PURCHASING WATER.

The council of any statutory city 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 statutory city. The council of any such statutory city 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 statutory city in anticipation of the collection of said assessments in accordance with the provisions of section 429.091.

History: 1947 c 460 s 1; 1973 c 123 art 5 s 7

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.

History: *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.

History: *(1918-14 1/2c) 1939 c 156 s 1*