

MAINE STATE LEGISLATURE

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CHAPTER 237

SEWERS AND DRAINS

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SUBCHAPTER I

GENERAL PROVISIONS

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§ 4351. Preexisting drains

All drains heretofore made at the expense of a town shall be maintained, managed, controlled and entered the same as if made under this chapter and Title 23, section 3251, subject to the rights of private persons therein.

R.S.1954, c. 96, § 140.

§ 4352. Construction of drains; expense and control; notice; damages

The municipal officers of a town or a committee duly chosen by the town may, at the expense of the town, construct public drains or sewers along or across any public way therein and through any lands of persons or corporations when they deem it necessary for public convenience or health. Neither the mu-

municipal officers of the town nor such committee shall construct any public sewer therein until the same shall be authorized by vote of said town and an appropriation made for the purpose, and when constructed, such sewers shall be under the control of the municipal officers.

Before the land is so taken, notice shall be given and damages assessed and paid therefor as is provided for the location of town ways.

R.S.1954, c. 96, § 129.

§ 4353. Proper maintenance of drains required

After a public drain has been constructed and any person has paid for connecting with it, it shall be constantly maintained and kept in repair by the town so as to afford sufficient and suitable flow for all drainage entitled to pass through it; but its course may be altered or other sufficient and suitable drains may be substituted therefor. If such town does not so maintain and keep it in repair, any person entitled to drainage through it may have an action against the town for his damages thereby sustained.

R.S.1954, c. 96, § 143.

§ 4354. Record of proceedings; prosecutions

All proceedings of municipal officers under this chapter shall be at their legal meetings. A suitable record shall be made of all such permits, exhibiting the persons and lands to which they apply. Said officers have exclusive direction, on behalf of their town, of all prosecutions under this chapter.

R.S.1954, c. 96, § 144.

§ 4355. Service charges for sewage disposal

The municipal officers may establish a schedule of service charges from time to time upon improved real estate connected with a municipal sewer or disposal system for the use of the system. Such service charges shall include reserve fund contributions. The charges shall be collected according to section 4453.

1957, c. 279, § 1; c. 405, § 18; 1963, c. 227.

§ 4356. Injury to public drains

Whoever willfully or carelessly injures or obstructs such public drain or its outlet, or any street or highway culvert leading

into it, is liable to the town where it is located in a civil action for double the amount of injury and damages thereby caused, in addition to all other legal penalties therefor.

R.S.1954, c. 96, § 147; 1961, c. 317, § 277.

§ 4357. Crossing railroad right-of-way

Whenever a public drain or sewer is located and about to be constructed under the general provisions of law across the right-of-way of any railroad, unless the municipal officers or committee of the city or town which located the drain or sewer shall agree with the corporation operating such railroad as to the place, manner and conditions of the crossing, the Public Utilities Commission upon petition of either party, after notice and hearing, shall determine the place, manner and conditions of such crossing. All the work within the limits of such railroad location shall be done under the supervision of the officers of the corporation operating said railroad and to the satisfaction of the commission, and the expense thereof shall be borne by the city or town in which said drain or sewer is located. Any additional expense in the construction of that part of the sewer or drain within the limits of the right-of-way of said railroad occasioned by the determination of said commission shall be borne by said railroad company or by the city or town in which said drain or sewer is located, or shall be apportioned between such company and the city or town as may be determined by said commission. Said commission shall make report of their decision in the same manner as in the case of highways located across railroads and subject to the same right of appeal.

R.S.1954, c. 96, § 130.

§ 4358. Consent for highway opening

Whoever digs up the ground in a highway or street to lay or repair any drain or common sewer without the written consent of the municipal officers forfeits for each offense \$4 to the town.

R.S.1954, c. 96, § 128.

§ 4359. Malfunctioning domestic sewage disposal units; abatement of nuisance

Malfunctioning domestic sewage disposal units, including septic tanks, cesspools, cisterns, dry wells, drainage beds and the like, have become a menace to the health and general welfare of the citizens of this State, and are declared to be a nuisance.

1. Abatement procedure. The municipal officers upon complaint of any person or on their own information shall serve upon the owner or occupant of any premises within that municipality upon which there is a malfunctioning domestic sewage disposal unit, as described in this section, an order to remedy such condition within 10 days of service of the order.

2. Content of order and service. Such order shall be addressed to the owner of the premises, setting forth the date, the fact of the malfunctioning domestic sewage disposal unit and shall contain a notice to remedy the nuisance within 10 days. It shall be signed by the municipal officers and personal service shall be made by one of them or may be served in the same manner as a municipal court process. The municipal officer may likewise serve a tenant or occupant in possession.

3. Return of service. A return of service indicating the method used and the person served shall be made and filed. When service is to be made upon a tenant or occupant, the order shall name such person in addition to the name of the true owner.

4. Abatement. In the event that the nuisance is not abated within the 10-day period, the municipal officers, or their agents, may enter the premises and cause the malfunction to be adequately remedied. Any actual and direct expenses incurred by a municipality in the abatement of such nuisances may be recovered from the owner by a civil complaint.

1961, c. 306.

§ 4360. Applicability of provisions

Sections 4401 and 4451 to 4455 shall not apply to any city or town until they shall have been accepted by the inhabitants of such town or the city government of such city at a meeting legally called therefor.

R.S.1954, c. 96, § 137.

§ 4361. Violation of permit; nuisances

If any person willfully or negligently violates any condition or regulation prescribed in his permit, said officers may forthwith disconnect his drain from the public drain and declare his permit forfeited. Such person, his heirs and assigns shall not be allowed to enter it again without a new permit. Whoever by the construction or use of a private drain commits a nuisance is liable therefor notwithstanding anything herein contained.

R.S.1954, c. 96, § 142.

SUBCHAPTER II

PRIVATE DRAINS

Sec.

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- 4407. —Time of payment.
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§ 4401. Private drains connected to public drains

Any person may enter his private drain into any public drain or common sewer while the same is under construction and before the same is completed and before the assessments are made, on obtaining a permit in writing from the municipal officers or the sewer board having the construction of the same in charge; but after the same is completed and the assessments made, no person shall enter his private drain into the same until he has paid his assessment and obtained a permit in writing from the town treasurer, by authority of the municipal officers. All permits given to enter any such drain or sewer shall be recorded by the clerk of said town before the same are issued.

R.S.1954, c. 96, § 133.

§ 4402. —Permission required

If any person connects a private drain with a public drain or enters it by a side drain without a permit, the municipal officers may forthwith destroy such connection. Such person forfeits to the town where the offense is committed not more than \$200, to be recovered by indictment or civil action.

R.S.1954, c. 96, § 141; 1961, c. 317, § 275.

§ 4403. Private drains; application for permits; regulations

Abutters upon the line of a public drain existing in any city or town which has not accepted sections 4360, 4401 and 4451 to

4455, and abutters upon the line of a public drain constructed prior to such acceptance, and the owner of contiguous private drains may enter and connect with such public drain on written application to the municipal officers distinctly describing the land to which it applies and paying therefor what they determine. They shall then give the applicants written permits so to enter, which shall be available to the owner of the land so described, his heirs and assigns, and shall run with the land without any other or subsequent charge or payment. Said officers shall establish such other regulations and conditions for entering public drains as they deem expedient.

R.S.1954, c. 96, § 138.

§ 4404. Adjustment of amounts paid for permits

If any person is dissatisfied with the sum which he is required to pay to enter a public drain, and within 10 days after notice thereof requests in writing to have it determined by arbitration, said municipal officers shall nominate 6 persons, any 2 of whom selected by the applicant with a 3rd person selected by himself may fix the sum to be paid; and by paying it and the fees of the arbitrators, the applicant shall be entitled to a permit.

R.S.1954, c. 96, § 139.

§ 4405. Repair of private drain on owner's neglect

If a private drain becomes so obstructed or out of repair as to injure any street or highway, and the persons using it, after notice by the road commissioner, unreasonably neglect to repair such injury, it shall be repaired by the town and the expense thereof may be recovered to the town in a civil action against any one or more of the persons using such drain.

R.S.1954, c. 96, § 146; 1961, c. 317, § 276.

§ 4406. Pro rata payments for use of private drain

When a person, at his own expense, lays a common drain or sewer, all who join or enter it shall pay him their proportion of such expense. The expense of opening and repairing shall be paid by all benefited, to be determined in each case by the municipal officers, subject to appeal to the county commissioners.

R.S.1954, c. 96, § 148.

§ 4407. —Time of payment

The municipal officers shall notify each person of the amount which he is to pay under section 4406, and to whom, and if not paid in 10 days, he shall pay double the amount with cost.

R.S.1954, c. 96, § 149.

§ 4408. Notice before opening for repairs

Before such drain is opened for repairs under section 4406, all persons interested shall have 7 days' notice thereof, given as the municipal officers direct. If anyone objects and said officers think his objection reasonable, he shall not be liable to any expense therefor; if not thought reasonable or if no objection is made within 3 days, they may give written permission to proceed.

R.S.1954, c. 96, § 150.

SUBCHAPTER III

ASSESSMENTS AND FEES

Sec.

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4452. Hearing; assessment; arbitration.

4453. Collection of assessments.

4454. —Action for.

4455. Lien for payment on lot and building; enforcement.

4456. Failure to pay for permit; fees of arbitration.

§ 4451. Expense of construction

When any town has constructed and completed a public drain or common sewer, the municipal officers shall determine what lots or parcels of land are benefited by such drain or sewer, and shall estimate and assess upon such lots and parcels of land and against the owner thereof or person in possession, or against whom the taxes thereon shall be assessed, whether said person to whom the assessment is so made shall be the owner, tenant, lessee or agent and whether the same is occupied or not, such sum not exceeding such benefit as they may deem just and equitable towards defraying the expenses of constructing and completing such drain or sewer, together with such sewage disposal units and appurtenances as may be necessary, and constructed after August 13, 1947, the whole of such assessments not to exceed $\frac{1}{2}$ the cost of such drain or sewer and sewage disposal units, and such drain or sewer

shall forever thereafter be maintained and kept in repair by such town. The municipal officers shall file with the clerk of the town the location of such drain or sewer and sewage disposal unit, with a profile description of the same, and a statement of the amount assessed upon each lot or parcel of land so assessed, and the name of the owner of such lots or parcels of land or person against whom said assessment shall be made, and the clerk of such town shall record the same in a book kept for that purpose, and within 10 days after filing such notice, each person so assessed shall be notified of such assessment by having an authentic copy of said assessment, with an order of notice signed by the clerk of said town, stating the time and place for a hearing upon the subject matter of said assessments, given to each person so assessed or left at his usual place of abode in said town. If he has no place of abode in said town, then such notice shall be given or left at the abode of his tenant or lessee, if he has one in said town; if he has no such tenant or lessee in said town, then by posting the same notice in some conspicuous place in the vicinity of the lot or parcel of land so assessed, at least 30 days before said hearing, or such notice may be given by publishing the same 3 weeks successively in any newspaper published in said town, the first publication to be at least 30 days before said hearing. A return made upon a copy of such notice by any constable in said town or the production of the paper containing such notice shall be conclusive evidence that said notice has been given, and upon such hearing the municipal officers shall have power to revise, increase or diminish any of such assessments, and all such revisions, increase or diminution shall be in writing and recorded by such clerk.

R.S.1954, c. 96, § 131.

§ 4452. Hearing; assessment; arbitration

Any person not satisfied with the amount for which he is assessed under section 4451 may, within 10 days after such hearing, by request in writing given to such clerk, have the assessment upon his lot or parcel of land determined by arbitration. The municipal officers shall nominate 6 persons who are residents of said town, 2 of whom selected by the applicant with a 3rd resident person selected by said 2 persons shall fix the sum to be paid by him, and the report of such referees made to the clerk of said town and recorded by him shall be final and binding upon all parties. Said reference shall be had and their report made to said clerk within 30 days from the time of hearing before the municipal officers as provided in section 4451.

R.S.1954, c. 96, § 132.

§ 4453. Collection of assessments

All assessments and charges made under this chapter shall be certified by the municipal officers and filed with the tax collector for collection. If the person assessed, within 30 days after written notice of the amount of such assessments and charges, fails, neglects or refuses to pay said municipality the expense thereby incurred, a special tax in the amount of such assessment and charges may be assessed by the municipal assessors upon each and every lot or parcel of land so assessed and buildings upon the same, and such assessment shall be included in the next annual warrant to the tax collector for collection, and shall be collected in the same manner as state, county and municipal taxes are collected.

R.S.1954, c. 96, § 134; 1957, c. 279, § 2.

§ 4454. —Action for

If assessments under section 4451 are not paid, and said town does not proceed to collect said assessments by a sale of the lots or parcels of land upon which such assessments are made, or does not collect or is in any manner delayed or defeated in collecting such assessments by a sale of the real estate so assessed, then the said town, in the name of said town, may maintain a civil action against the party so assessed for the amount of said assessment, in any court competent to try the same, and in such action may recover the amount of such assessment with 12% interest on the same from the date of said assessments and costs.

R.S.1954, c. 96, § 135; 1961, c. 317, § 273.

§ 4455. Lien for payment on lot and building; enforcement

When any such assessment under section 4451 shall be paid by any person against whom such assessment has been made, who is not the owner of such lot or parcel of land, then the person so paying the same shall have a lien upon such lot or parcel of land with the buildings thereon for the amount of said assessment so paid by said person, and incidental charges, which lien may be enforced in a civil action, and by attachment in the way and manner provided for the enforcement of liens upon buildings and lots under Title 10, which lien shall continue one year after said assessment is paid.

R.S.1954, c. 96, § 136; 1961, c. 317, § 274.

§ 4456. Failure to pay for permit; fees of arbitration

If any person, after the sum to be paid by him for a permit under this chapter has been determined by arbitration, neglects to pay it within 60 days after notice thereof with the fees of the arbitrators, he shall have no benefit of such determination or of his permit. The municipal officers may determine the fees of the arbitrators, which shall be paid in advance, if required, and their award shall be returned by them to the town clerk and recorded with the proceedings of said officers in establishing such drains.

R.S.1954, c. 96, § 145.