

## CHAPTER 413

## FORMATION; CHANGE IN TERRITORIAL LIMITS OR NAME

**413.01 RELINQUISHMENT OF CHARTER; PROCEDURE; REINCORPORATION.**

**HISTORY.** 1883 c. 73 s. 1; 1885 c. 145 ss. 1, 2; 1885 c. 236; G.S. 1878 Vol. 2 (1888 Supp.) c. 10 ss. 204, 205; 1893 c. 187 s. 1; G.S. 1894 ss. 1196, 1198, 1199; 1895 c. 8 ss. 21 to 23; R.L. 1905 s. 699; G.S. 1913 s. 1203; G.S. 1923 s. 1110; M.S. 1927 s. 1110; 1943 c. 117 s. 2.

The provisions of Laws 1885, Chapter 145, apply to villages mentioned in Laws 1885, Chapter 231, and supersede the provisions of General Statutes 1878, Chapter 10, relating to the incorporation, government, and status of villages. *State v Spaude*, 37 M 322, 34 NW 164.

As to a village reincorporated under Laws 1885, Chapter 145, which, as previously constituted, remained for certain purposes a part of the town in which it was situated, see *Bradish v Lucken*, 38 M 186, 36 NW 454.

Villages, under Laws 1885, Chapter 145, do not constitute election districts for state and county elections separate from the townships in which they are situated. *Stemper v Higgins*, 38 M 222, 37 NW 95.

Where village voted on question of reincorporating village under this section, and vote was in favor of reincorporation, but village council did not pass resolution declaring result, nor file certified copies with county auditor and secretary of state, a later council should call a new election rather than adopt the resolution and file copies. OAG July 10, 1935 (484e-5).

**413.02 CHANGE OF NAME.**

**HISTORY.** 1895 c. 8 s. 4; 1913 c. 431 ss. 1, 2; 1913 c. 493 ss. 1, 2; G.S. 1913 ss. 1273, 1274, 1805, 1806; G.S. 1923 ss. 1193, 1194, 1850, 1851; M.S. 1927 ss. 1193, 1194, 1850, 1851.

**413.03 INCORPORATION OF VILLAGES WITHIN VILLAGES.**

**HISTORY.** 1858 c. 10 ss. 3, 4; P.S. 1858 c. 57 ss. 36, 37; 1929 c. 184 ss. 1, 2, 2A to 2D, 3 to 5; M. Supp. ss. 1117-1 to 1117-9.

**413.04 VILLAGES IN MORE THAN ONE COUNTY; CERTIFICATE FOR AUDITOR.**

**HISTORY.** 1905 c. 95 s. 1; G.S. 1913 s. 1211; G.S. 1923 s. 1118; M.S. 1927 s. 1118.

**413.05 SEPARATE ELECTION AND ASSESSMENT DISTRICT.**

**HISTORY.** 1893 c. 199 ss. 1, 3; G.S. 1894 ss. 1209, 1211; 1895 c. 8 s. 28; 1897 c. 52; 1897 c. 124; R.L. 1905 s. 708; 1911 c. 154 s. 1; G.S. 1913 s. 1238; G.S. 1923 s. 1126; M.S. 1927 s. 1126.

Property within a village is not liable to be taxed for roads and bridges. *Bradish v Lucken*, 38 M 186, 36 NW 454; *State v Peltier*, 103 M 32, 114 NW 90; *Ingersoll v Town of Deer River*, 125 M 452, 147 NW 439.

If a village has not been separated from the town, then the valuation of all property in the town, including the property in the village, is to be taken into consideration for determining the taxable value of the property of the town. OAG March 10, 1931.

Unless the village has been separated from the town, a resident of the village is entitled to participate in the affairs of the town and to hold office. OAG March 27, 1931.

# MINNESOTA STATUTES 1945 ANNOTATIONS

2453

## FORMATION; CHANGE IN TERRITORIAL LIMITS, NAME 413.071

On separation of village from town, all village officers who do not reside in the village are disqualified and successors must be appointed by the village council. OAG Feb. 15, 1932.

The question of the separation of a village from a town is not determined at a town meeting by the electors of the town, but by the electors of the village at a special or regular village election. OAG Feb. 15, 1932.

When a town wishes to separate from village there must be a petition by voters living within or without the village and residents of both the town and village vote on the question, but if village wishes to separate from town residents of the village may vote on the question without notice to the town, and without vote of persons outside the village. OAG March 30, 1939 (440e).

A village may be organized under a home rule charter which provides that the village and the town from which it has been a part, shall remain single election and assessment districts. 1942 OAG 103, Aug. 14, 1941 (580).

### 413.06 JOINT REAL ESTATE.

HISTORY. 1893 c. 199 s. 1; G.S. 1894 s. 1209; 1897 c. 124; R.L. 1905 s. 709; G.S. 1913 s. 1239; G.S. 1923 s. 1127; M.S. 1927 s. 1127.

When a village is organized personal property, such as fire and road equipment, remains the property of the town. OAG May 19, 1931.

### 413.07 APPORTIONMENT OF MONEY AND DEBT; TAXES.

HISTORY. 1893 c. 199 s. 2; G.S. 1894 s. 1210; 1897 c. 124; 1897 c. 135; R.L. 1905 s. 710; G.S. 1913 s. 1240; G.S. 1923 s. 1128; M.S. 1927 s. 1128.

A village organized pursuant to Laws 1885, Chapter 145, is not, either before or after its separation from the town, liable to be taxed for indebtedness incurred on account of town roads and bridges. *Bradish v Lucken*, 38 M 186, 36 NW 454; *State ex rel v Peltier*, 103 M 32, 114 NW 90; *Ingersoll v Town of Deer River*, 125 M 455, 147 NW 439.

Where village was originally carved out of town, and a bonded indebtedness of the town was apportioned, there could be no further apportionment of indebtedness where village subsequently annexed additional territory from the town. OAG April 17, 1934 (484e-1).

On separation village is not charged with any part of the floating indebtedness of town, but is chargeable with support of paupers and tubercular persons resident in village. OAG Nov. 23, 1929.

Separation of village from town as affecting liability for hospitalization of injured persons. OAG March 4, 1937 (3390-5).

Personal property taxes levied in 1930 and paid to a town in March, 1931, could not be recovered back by the village after the town voted to separate from the village at an election held in March, 1931. OAG May 20, 1931.

If the floating indebtedness of a town was not an obligation of the territory embraced within a village at the time of its incorporation, and separation as a taxing district, it is not liable therefor, but in other cases the village remains liable for its share of outstanding orders. OAG April 13, 1939 (440a).

A village incorporated but not yet having voted to become a separate election and assessment district is not entitled to any money collected for real estate taxes. "Collected" is used in broad sense of not yet distributed by county offices. There should be no division made of the personal property tax money. OAG June 22, 1936 (440h).

Where bonds for roads and bridges were issued by a town before the organization of a village, the bonds should be apportioned. OAG May 19, 1931.

### 413.071 JOINT PROPERTY OF TOWN AND VILLAGE AFTER SEPARATION.

HISTORY. 1899 c. 241 s. 1.

# MINNESOTA STATUTES 1945 ANNOTATIONS

**413.072 FORMATION; CHANGE IN TERRITORIAL LIMITS, NAME**

2454

## **413.072 PROPERTY MAY BE DIVIDED.**

HISTORY. 1899 c. 241 s. 2.

## **413.08 EXTENDING BOUNDARIES.**

HISTORY. 1895 c. 8 s. 5; 1899 c. 66; 1903 c. 99; R.L. 1905 s. 707; 1913 c. 119 s. 1; G.S. 1913 s. 1226; G.S. 1923 s. 1120; 1927 c. 150; M.S. 1297 s. 1120.

Upon annexation of territory from a town by a village, the apportionment of the indebtedness is wholly statutory, and the legislature may provide for a division, or it may provide for no division at all, and the remedy in any particular case is with the legislature. OAG March 25, 1937 (440a).

A village operating under Laws 1885, Chapter 145, may annex land pursuant to the procedure provided in this section. The provision that the ordinance be filed with the secretary of state is mandatory. OAG June 26, 1937 (484e-1).

## **413.09 CONSOLIDATION OF VILLAGES.**

HISTORY. 1891 c. 146 sc. 1 s. 3; G.S. 1894 s. 1278; 1913 c. 407 ss. 1 to 3; G.S. 1913 ss. 1235 to 1237; G.S. 1923 s. 1123 to 1125; M.S. 1927 s. 1123 to 1125.

## **413.10 ADJACENT VILLAGES CONSOLIDATED.**

HISTORY. 1921 c. 463 ss. 1 to 4; M.S. 1927 ss. 1125-1 to 1125-4.

## **413.11 ATTACHMENT OF LANDS DETACHED FROM CONTIGUOUS VILLAGE.**

HISTORY. 1925 c. 373 ss. 1 to 6; M.S. 1927 ss. 1122-1 to 1122-6.

## **413.12 ANNEXATION OF TERRITORY.**

HISTORY. 1883 c. 73 s. 15; 1885 c. 145 ss. 12 to 15; G.S. 1878 Vol. 2 (1888 Supp.) c. 10 ss. 215 to 218; 1893 c. 184 s. 1; G.S. 1894 ss. 1212 to 1215; 1895 c. 8 ss. 18, 19; 1909 c. 113 ss. 1 to 4, 6; G.S. 1913 ss. 1800 to 1804; G.S. 1923 ss. 1845 to 1849; M.S. 1927 s. 1845 to 1849.

Properly construed, Laws 1909, Chapter 113, (413.12) providing for annexation of territory to villages and cities, applies both to existing and to future municipal corporations of that kind. The clear intent expressed in the first part of the first section to include future as well as existing villages, aided by the presumption that the legislature intended to pass a constitutional act, leads to the conclusion that the word "present" in the latter part of said section refers to the village limits as "present" or existing at the time of the institution of the annexation proceedings and not to the time of the passage of the statute. *State ex rel v Village of Gilbert*, 127 M 452, 149 NW 951.

Territory annexed to a village, like the territory originally incorporated, must be so conditioned as properly to be subjected to village government. It is no valid objection to village annexations that territory properly conditioned to be annexed was not included. *State ex rel v Village of Gilbert*, 127 M 452, 149 NW 951.

General Statutes 1913, Section 1801, provides that "five or more of the legal voters residing within such territory may petition to the governing body of such city or village to call an election for the determination of such proposed annexation." The words "legal voters residing within such territory" mean resident citizens who would have been entitled to vote in the territory proposed to be annexed on the date they signed the petition, and none others. The petition not having been signed by five legal voters residing in the territory to be annexed, it conferred no jurisdiction on the village council either to entertain the petition or to call an election and that all the proceedings are void. *State ex rel v Village of McKinley*, 132 M 48, 155 NW 1064.

Although territory has been annexed to an existing village in conformity to the statutory requirements, the courts are not precluded from determining whether such territory is so conditioned as to be capable of annexation. *State ex rel v Village of Kinney*, 146 M 311, 178 NW 815.

# MINNESOTA STATUTES 1945 ANNOTATIONS

2455

**FORMATION; CHANGE IN TERRITORIAL LIMITS, NAME 413.16**

In a proceeding under General Statutes 1913, Section 1800, et seq., to annex territory to a village, the property annexed must be so conditioned as properly to be subjected to village government. Whether it is so conditioned is primarily for the voters, but if their action is clearly arbitrary, for the purpose of increasing sources of revenue rather than of subjecting to the local village government property having a natural connection with it and people residing thereon having a community of interest, the courts will not sustain it. *State ex rel v Village of Buhl*, 150 M 203, 184 NW 850.

The adoption of a home rule charter does not preclude the court from determining whether the territory included in the city is lawfully included. *State v City of Chisholm*, 199 M 403, 273 NW 235.

A village annexing new territory was not entitled to any tax levied by the town board the preceding year. OAG Aug. 14, 1930.

There is no apportionment of the indebtedness of a town because part of it is annexed by a village. OAG Aug. 14, 1930.

Time and manner of contesting annexation of territory. OAG Aug. 14, 1930.

The signers of a petition for the annexation of territory to a village cannot withdraw their names after it has been accepted by the village council. OAG April 23, 1932.

Village council, after accepting a petition for the annexation of territory and setting election date, may not rescind its action accepting and approving the petition. OAG April 23, 1932.

In an election in connection with the annexation of territory to a village, substitutes may be elected by the electors on election day where the regularly appointed inspectors refuse to serve. OAG April 23, 1932.

The corrupt practices act does not apply to an election in connection with the annexation of territory to a village. OAG April 23, 1932.

## **413.13 TERRITORY ANNEXED TO VILLAGES, BOROUGHES, OR CITIES OF FOURTH CLASS; ORDINANCE FILED.**

HISTORY. 1915 c. 240 ss. 1, 2; M.S. 1927 ss. 1849-1, 1849-2.

## **413.14 TERRITORY ANNEXED TO VILLAGES AND CITIES OF 10,000 AND LESS.**

HISTORY. 1905 c. 220 ss. 1, 2; 1909 c. 383 ss. 1, 2; G.S. 1913 ss. 1798, 1799; G.S. 1923 ss. 1843, 1844; M.S. 1927 s. 1843, 1844.

Where territory wholly unsuitable for the purpose and therefore not within the statute on the subject was attempted to be annexed by a village, and the supposed annexation was immediately and successfully attacked by the state in quo warranto proceedings, the attempted annexation never acquired a de facto character so as to entitle the annexing village to retain any of the tax moneys derived from the territory attempted to be annexed. *Town of Balkan v Village of Buhl*, 158 M 271, 197 NW 266.

The action of a city council in annexing territory to the municipality, being legislative and not judicial in character, cannot be reviewed by writ of certiorari. *State ex rel v City Council of Benson*, 167 M 307, 209 NW 3.

## **413.143 TERRITORY ANNEXED TO CITIES OF FOURTH CLASS.**

HISTORY. 1941 c. 265 ss. 1 to 3; 1943 c. 83 ss. 1 to 3.

## **413.15 LANDS IN ADJOINING COUNTIES ANNEXED TO CITIES OF FOURTH CLASS.**

HISTORY. 1905 c. 191 ss. 1 to 4; G.S. 1913 ss. 1728 to 1731; G.S. 1923 ss. 1717, 1717½, 1718, 1719; M.S. 1927 ss. 1717, 1717½, 1718, 1719.

## **413.16 INCORPORATION WITHIN CITY LIMITS OF LAND OF STATE INSTITUTIONS.**

HISTORY. 1905 c. 110 s. 1; G.S. 1913 s. 1397; G.S. 1923 s. 1333; M.S. 1927 s. 1333.

# MINNESOTA STATUTES 1945 ANNOTATIONS

## 413.17 FORMATION; CHANGE IN TERRITORIAL LIMITS, NAME

2456

### 413.17 ANNEXATION OF CITIES OF FOURTH CLASS TO CITIES OF THIRD CLASS.

HISTORY. 1895 c. 8 ss. 30, 31, 33, 36, 38; 1925 c. 279 ss. 1 to 11; M.S. 1927 ss. 1695-1 to 1695-11.

### 413.18 ANNEXATION OF TERRITORY TO CITY OF THIRD CLASS.

HISTORY. 1907 c. 168 ss. 1 to 12; 1909 c. 5 ss. 1, 2; 1909 c. 137 ss. 1 to 12; G.S. 1913 ss. 1651 to 1662; G.S. 1923 ss. 1678, 1681 to 1691; M.S. 1927 ss. 1678, 1681 to 1691.

### 413.19 ANNEXATION OF TERRITORY TO CITIES OF THIRD CLASS.

HISTORY. 1919 c. 159 ss. 1, 2; G.S. 1923 ss. 1679, 1680; M.S. 1927 ss. 1679, 1680.

### 413.20 VILLAGES ANNEXED TO CITIES OF THIRD CLASS.

HISTORY. 1915 c. 32 ss. 1 to 9, 11; G.S. 1923 ss. 1153 to 1162; M.S. 1927 ss. 1153 to 1162.

### 413.21 LANDS OF STATE INSTITUTIONS ANNEXED.

HISTORY. 1907 c. 349 ss. 1 to 3; G.S. 1913 ss. 1664 to 1666; G.S. 1923 ss. 1693 to 1695; M.S. 1927 s. 1693 to 1695.

### 413.211 ANNEXING STATE LANDS.

HISTORY. 1895 c. 247.

### 413.22 TERRITORY ANNEXED TO CITY OF SECOND CLASS.

HISTORY. Ex. 1937 c. 57 ss. 1, 2; M. Supp. ss. 1664-101, 1664-102.

### 413.23 NEW TERRITORY ATTACHED TO CITY OF FIRST CLASS.

HISTORY. 1905 c. 219 ss. 1 to 3; G.S. 1913 ss. 1433 to 1435; G.S. 1923 ss. 1410 to 1412; M.S. 1927 s. 1410 to 1412.

On annexation of city of Columbia Heights to Minneapolis, all of school district No. 65 lying within the corporate limits of Columbia Heights would be annexed to the school district which comprises the city of Minneapolis. OAG March 17, 1933.

### 413.24 ANNEXATION OF LANDS TO CITY OF FIRST CLASS.

HISTORY. 1929 c. 414 ss. 1 to 6; M. Supp. s. 1415-14 to 1415-19.

### 413.25 TERRITORY OF VILLAGE OF CITY OF FOURTH CLASS ANNEXED TO CITY OF FIRST CLASS.

HISTORY. 1923 c. 352 ss. 1 to 3, 3a to 3e; G.S. 1923 ss. 1413 to 1415; 1927 c. 73 ss. 1, 2; M.S. 1927 ss. 1413 to 1415, 1415-1 to 1415-5; 1929 c. 352 ss. 1, 2; 1931 c. 403 ss. 1, 2; M. Supp. ss. 1413, 1414.

### 413.26 ANNEXATION OF CITY OF FOURTH CLASS TO CITY OF FIRST CLASS.

HISTORY. 1929 c. 343 ss. 1 to 8; M. Supp. ss. 1415-6 to 1415-13.

### 413.27 DETACHING UNPLATTED LANDS FROM VILLAGES.

HISTORY. 1911 c. 132 ss. 1, 2; G.S. 1913 ss. 1233, 1234; G.S. 1923 ss. 1121, 1122; M.S. 1927 ss. 1121, 1122.

# MINNESOTA STATUTES 1945 ANNOTATIONS

2457

**FORMATION; CHANGE IN TERRITORIAL LIMITS, NAME 413.34**

## **413.28 AGRICULTURAL LANDS SEPARATED FROM VILLAGES AND ANNEXED TO TOWNS.**

**HISTORY.** 1911 c. 31 ss. 1 to 5; G.S. 1913 ss. 1241 to 1245; G.S. 1923 ss. 1129 to 1133; M.S. 1927 ss. 1129 to 1133.

## **413.29 DETACHMENT OF TERRITORY FROM CERTAIN VILLAGES.**

**HISTORY.** 1909 c. 138 ss. 1 to 3; G.S. 1913 ss. 1231, 1232; 1917 c. 477; 1919 c. 421; 1921 c. 451; 1923 c. 177; G.S. 1923 s. 1120½; M.S. 1927 ss. 1120½, 1120½a, 1120½b; 1931 c. 95 ss. 1, 2; 1933 c. 433; 1935 c. 90; 1937 c. 195 s. 1; 1939 c. 250; M. Supp. ss. 1120½, 1120½a, 1120½b.

Agricultural land may be detached from a village either under the general law or under the special acts under which the village was organized. *New York Life Ins. Co. v Village of Mapleton*, 187 M 119, 244 NW 553.

This section is not repealed. The word "indebtedness" refers to outstanding orders as well as bonds, without distinction as to whether it is funded or floating. The apportionment is to be made by the county auditor. OAG March 20, 1930.

Validity of detachment of unplatted land from a village. Twenty rod requirement. 1942 OAG 255, Sept. 4, 1941 (484E-2).

## **413.293 DETACHING TERRITORY FROM CERTAIN VILLAGES.**

**HISTORY.** 1941 c. 271.

## **413.30 DETACHMENT OF LANDS FROM CITIES OF FOURTH CLASS.**

**HISTORY.** 1907 c. 221 ss. 1, 2; G.S. 1913 ss. 1732, 1733; G.S. 1923 ss. 1720, 1721; M.S. 1927 s. 1720, 1721.

Laws 1907, Chapter 221, providing for the separation of unplatted agricultural land from the corporate limits of cities of the fourth class, is constitutional. *Hunter v City of Tracy*, 104 M 378, 116 NW 922; *Brenke v Borough of Belle Plaine*, 105 M 84, 117 NW 157.

Laws 1907, Chapter 221, is not applicable to the borough of Belle Plaine. *Brenke v Borough of Belle Plaine*, 105 M 84, 117 NW 157.

Exclusively agricultural land subdivided into small acreages for rural purposes is "unplatted" land. *In re Petition of DeGriselles*, 185 M 495, 241 NW 590.

## **413.31 DETACHMENT OF AGRICULTURAL LANDS FROM CITIES.**

**HISTORY.** 1923 c. 417 ss. 1 to 4; G.S. 1923 ss. 1723 to 1726; M.S. 1927 ss. 1723 to 1726.

## **413.32 UNPLATTED AGRICULTURAL LANDS DETACHED FROM CITIES OF FOURTH CLASS AND THEIR SCHOOL DISTRICTS.**

**HISTORY.** 1927 c. 122 ss. 1 to 3, 3a, 5; M.S. 1927 ss. 1726-6 to 1726-9, 1726-11; 1931 c. 318 s. 1; M. Supp. s. 1726-9.

This act is not unconstitutional because it does not require notice to land owners not joining in the petition, or as class or special legislation. *In re Petition of Clinton Falls Nursery Co.* 183 M 164, 236 NW 195; *In re Detachment of Agricultural Lands from the City of Owatonna*, 188 M 237, 246 NW 905.

## **413.33 CERTAIN LANDS EXCLUDED FROM CITIES OF THIRD CLASS.**

**HISTORY.** 1927 c. 124 ss. 1, 2; M.S. 1927 ss. 1695-12, 1695-13.

## **413.34 UNPLATTED LAND DETACHED FROM CITIES OF SECOND CLASS.**

**HISTORY.** 1937 c. 199 ss. 1 to 3; M. Supp. ss. 1664-95 to 1664-97.