

CHAPTER 109

TOWN

109.01-109.37 Repealed, 1947 c 103 s 1.

NOTE: Laws 1945, Chapter 491, created a legislative interim commission to study, revise, and codify the laws relating to drainage and water resources. Based upon the report of the commission, Laws 1947, Chapters 103, 122, 123, 142, 143 and 571 were enacted. The commission found that little use was made of the town ditch law coded in chapter 109 and that no adequate reason existed why it should not be repealed and future public ditch proceedings brought under the county and judicial ditch law. The entire chapter 109 was repealed but a new law, containing a saving provision for the completion of proceedings already instituted and for the repair of town ditches, was enacted. This is Laws 1947, Chapter 103, Section 2.

109.38 REPAIR OF TOWN DITCHES

HISTORY. 1947 c 103 s 2.

CHAPTER 110

DAMS; LAKE WATER LEVELS

NOTE: Excepted from the Rules of Civil Procedure insofar as inconsistent or in conflict therewith.

NOTE: The original act relating to dams is Ex1857, Chapter 39. As amended and codified this act was codified as GS 1866, Chapter 31, relating to dams and mills, and GS 1866, Chapter 32, relating to dams and booms. The original act controlling lake water levels is Laws 1897, Chapter 88.

The commission created by Laws 1945, Chapter 491, determined that the laws relating to the improvement of bodies of water by counties and municipalities were ambiguous and conflicting. The legislature repealed sections 110.01 to 110.12, superseding them by Laws 1947, Chapter 123, coded as sections 110.121 to 110.126.

110.01-110.12 Repealed, 1947 c 123 s 7.

110.121 AUTHORITY OF COUNTY BOARD

HISTORY. 1947 c 123 s 1.

NOTE: Sections 110.121 through 110.13 surpseede sections 101.01 to 110.12, repealed by Laws 1947, Chapter 123, Section 7.

See sections 162.22, 378.07, 378.08, 465.26 and 465.49.

Liability of landowners on a non-navigable stream for a raising of the water level. 32 MLR 844.

Improvement of bodies of water by counties in municipalities. 33 MLR 34.

Where a body of water is situated in whole or in part in a county, the county board with permission of the commissioner of conservation, may appropriate money to improve navigation thereon, or to promote the public health, safety and welfare, and may improve the body of water and maintain improvements and operate control works. OAG Oct. 4, 1948 (273-A-23).

MINNESOTA STATUTES 1953 ANNOTATIONS

110.126 DAMS; LAKE WATER LEVELS

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110.126 AUTHORITY OF MUNICIPALITIES

HISTORY. 1947 c 123 s 6.

The city of North Mankato may operate control works to control the waters of the river within the city. The county board has like authority. OAG Nov. 5, 1951 (370-A-7).

110.127 HENNEPIN COUNTY; IMPROVEMENT OF PUBLIC WATER

HISTORY. 1949 c 328 s 1-9; 1951 c 654 s 1.

110.14 DAMS; PURPOSES; EMINENT DOMAIN

HISTORY. Ex1857 c 39 s 16, 18; 1871 c 43 s 1; 1876 c 129 s 1.

The right to maintain a pond or reservoir upon the land of another is an easement which can only be acquired by grant or prescription. A parol license to occupy or to do an act or series of acts upon the land of the licensor, being a mere power or authority founded in personal confidence, is not assignable; and, though a protection for acts done under it, is essentially revocable at the will of the licensor, unless coupled with a valid grant, or unless executed under such circumstances that a court of equity ought, in conformity with established principles, to interfere for the purposes of remedy. Where the licensor verbally promised and agreed with the licensees "that if they would erect a good custom mill at a certain point, he would give them the privilege of flowing his land so long as they would maintain such mill," and they, relying upon said promise and agreement, and in part induced thereby, erected a dam and made expenditures upon their own land adjoining, held that said agreement amounted to a license only and was revocable even after execution. It is not a case for the interposition of equity, because (1) the terms of the agreement are too indefinite and uncertain as to the extent and character of the privilege; (2) it is not made to appear that the improvements were wholly induced by and referable to said agreement; and (3) there remains to the licensees or their grantees the statute remedy to secure a definite and permanent right of flowage. *Johnson v Skillman*, 29 M 95, 12 NW 149.

WATER LEVELS, FLOWAGE EASEMENTS

110.31 WATER LEVELS, REGULATIONS

HISTORY. 1951 c 667 s 1.

110.32 DEDICATION OF PERPETUAL FLOWAGE EASEMENTS

HISTORY. 1951 c 667 s 2.

110.33 CONVEYANCE OF EASEMENT TO COMMISSIONER OF CONSERVATION

HISTORY. 1951 c 667 s 3.

110.34 DETERMINATION OF EASEMENT RIGHTS

HISTORY. 1951 c 667 s 4.

110.35 EASEMENTS, APPURTENANT TO DAM

HISTORY. 1951 c 667 s 5.

110.36 HIGH WATER LEVELS

HISTORY. 1951 c 667 s 6.

110.37 ABANDONMENT OF DAMS

HISTORY. 1951 c 667 s 7.

110.38 LIMITATIONS

HISTORY. 1951 c 667 s 8.

110.39 APPLICATION; SUPPLEMENTAL

HISTORY. 1951 c 667 s 9, 10.

CHAPTER 111

CONSERVANCY

NOTE: Excepted from Rules of Civil Procedure insofar as inconsistent or in conflict therewith.

111.04 PETITION FOR ORGANIZATION OF DISTRICTS

Under proper circumstances part of a drainage basin may be organized as a conservancy district without including the entire water shed. Wherein chapter 111 references are made for procedure to parts of chapter 106, now repealed, procedure in the law required is still a part of the law of chapter 111. The subject is one of draftsmanship and not a subject of substance. In organizing conservancy districts boundaries of political subdivisions are disregarded. OAG May 3, 1951 (983-D).

111.08 BOARD

HISTORY. Ex1919 c 13 s 7; 1945 c 81 s 3; 1951 c 395 s 1.

Rights incident to lands assessed in drainage proceedings for benefits can be taken away only by due process of law. OAG Feb. 21, 1952 (602-B).

111.09 ASSISTANTS, EMPLOYEES

HISTORY. Ex1919 c 13 s 8; 1951 c 395 s 2.

111.21 CONTRACTS

HISTORY. Ex1919 c 13 s 20; 1921 c 325 s 7; 1951 c 395 s 3.

111.36 NEGLECT OF AFFAIRS

Under proper circumstances part of a drainage basin may be organized as a conservancy district without including the entire water shed. Where in chapter 111 references are made for procedure to parts of chapter 106, now repealed, procedure in the law required is still a part of the law of chapter 111. The subject is one of draftsmanship and not a subject of substance. In organizing conservancy districts boundaries of political subdivisions are disregarded. OAG May 3, 1951 (983-D).

111.43-111.64 Repealed, 1947 c 142 s 20.

111.65 OWNERS MAY INITIATE PROCEEDINGS

The county board, with the consent of the commissioner of conservation, may apply for authority to drill wells for the purpose of maintaining levels on any public water. A majority of the owners of property abutting upon any body of