

MINNESOTA STATUTES 1953 ANNOTATIONS

412.871 VILLAGES

1108

A statute relating to punishment for a violation of an ordinance is not changed by the new village code. OAG Nov. 17, 1949 (477-A).

412.871 FINES AND PENALTIES

HISTORY. 1949 c 119 s 104.

412.881 PRESIDENT AND RECORDER DEFINED

HISTORY. 1949 c 119 s 105.

412.891 INCONSISTENCY WITH CASH BASIS LAW

HISTORY. 1949 c 119 s 106.

412.901 APPLICATION

HISTORY. 1949 c 119 s 109.

A re-enactment of Minnesota Statutes 1941, Section 459.06 by Laws 1945, Chapter 347, did not authorize the village of Buhl to levy a tax for a municipal forest in excess of the per capita tax limitation, 275.11 et seq, but the per capita tax limitation controls the same as it did prior to the re-enactment of section 459.06. State ex rel v Borgen, 231 M 317, 43 NW(2d) 95.

A village may continue its present form of government subject to the provisions of section 412.901. OAG Aug. 15, 1949 (688-M).

412.911 REPEALS

HISTORY. 1949 c 119 s 110.

412.921 CERTAIN STATUTES NOT TO APPLY TO VILLAGES

HISTORY. 1949 c 119 s 111.

A village council may not levy special assessments against abutting property owners to meet payments under a rental contract with a public utility corporation for furnishing street lighting. OAG March 1, 1951 (624-C-3).

CHAPTER 413

CHANGE IN LIMITS OR NAME

413.01 Repealed, 1949 c 119 s 110.

NAMES

413.02 CHANGE OF NAME

HISTORY. 1913 c 431 s 1, 2; 1913 c 493 s 1, 2; MS 1927 s 1193, 1194, 1850, 1851; 1949 c 119 s 111.

413.03 VILLAGES WITHIN VILLAGES

HISTORY. 1858 c 10 s 3, 4; PS 1858 c 57 s 36, 37; 1929 c 184 s 1-5.

Where a village is incorporated within a town of which it formerly was a part and there was no separation for assessment and election purposes no division of

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CHANGE IN LIMITS OR NAME 413.14

ownership of the town hall resulted. In order to effect such a separation proceedings must be taken under section 413.03 or section 365.44. OAG Sept. 2, 1947 (440-B).

413.04-413.11 Repealed, 1949 c 119 s 110.

ANNEXATION

413.12 PROCEDURE

HISTORY. 1883 c 73 s 15; 1885 c 145 s 12-15; GS 1888 (Supp) c 10 s 215-218; 1893 c 84 s 1; GS 1894 s 1212-1215; 1895 c 8 s 18, 19; 1909 c 113 s 1-4, 6; MS 1927 s 1845, 1849; 1949 c 119 s 111; 1951 c 376 s 1.

Are suburbs necessary? 35 MLR 341.

When a petition for annexation of territory is made pursuant to section 413.12 the annexation may not be had under section 413.22. OAG Feb. 6, 1953 (59-A-1).

Territory annexed to a village becomes liable for its proportionate share of the preexisting indebtedness of the village; and where the newly annexed territory lies wholly or partly in another county than that in which the original village is located, taxes to pay preexisting bonds of the village should be certified to the other county in which the bonded territory lies. OAG Feb. 24, 1948 (484-E-1).

413.13 BOROUGH, CITIES FOURTH CLASS

HISTORY. 1915 c 240 s 1, 2; MS 1927 s 1849-1, 1849-2; 1949 c 119 s 111.

Where a village lies entirely on one side of the right-of-way of railroad it may not annex realty on the other side of the right-of-way. OAG July 8, 1949 (484-E-1).

413.135 VILLAGES, CITIES SECOND, THIRD, OR FOURTH CLASS; MUNICIPAL AIRPORTS

HISTORY. 1949 c 237 s 1.

413.14 CITIES FOURTH CLASS

HISTORY. 1905 c 220 s 1, 2; 1909 c 383 s 1, 2; MS 1927 s 1843, 1844; 1949 c 119 s 111.

The legislature may by express statute confer upon a municipality the power to annex all or part of another municipality adjacent to it, but such power is not to be implied from the power conferred upon a municipality to annex adjacent or contiguous platted territory. Where a legislative enactment does not in direct terms authorize annexation of adjacent municipal territory, the municipality does not possess the authority to extend its limits into organized areas. *State ex rel v City of Columbia Heights*, 237 M 124, 53 NW(2d) 831.

Respondent's contention that section 413.14 empowers the city of Columbia Heights to annex several unplatted tracts belonging to different owners within the village of Fridley, only two of which abut upon Columbia Heights, which would leave in the village a number of "islands" separated from each other by portions of Columbia Heights and Minneapolis and disconnected from the public institutions of the village, and would require a construction of section 413.14 leading to unjust and unreasonable results not intended by the legislature. The instant annexation proceedings are invalid and without force or effect and the city of Columbia Heights and its officials are ousted from exercising jurisdiction over any tracts, pieces, or parcels of land wholly or partly within the corporate limits of the village of Fridley. *State v City of Columbia Heights*, 237 M 124, 53 NW(2d) 831.

The sole owner of two separate tracts, each contiguous to a city, may include both tracts in a single petition for annexation. *State ex rel v city of Anoka*, M 61 NW(2d) 237.

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413.143 CHANGE IN LIMITS OR NAME

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Land may be detached from a town and annexed to a city of fourth class without a notice being served on the town and without a hearing by the people in the town. The proceedings are initiated on a petition of a majority of all the owners of property affected. The petition is directed to the city council which may by ordinance declare the property to be an addition to the city. The proceedings are set forth in sections 413.12 to 413.14. OAG Nov. 3, 1947 (59-A-1).

In the annexation of territory to a city of fourth class a majority of the owners of platted property must sign the petition. Where a tract, piece, or parcel of land abutting upon the city is included in a petition for annexation all owners thereof must sign the petition. OAG July 24, 1951 (59-A-1).

Where the outer edge of an area proposed to be annexed to a city is at its closest point 50 feet distant from the closest boundary of the annexing city, the territory is not annexable under section 413.14 because it does not "abut" upon the city. OAG May 21, 1953 (59-A-1).

The majority of the owners of platted land abutting upon a village or a city of fourth class may petition the council of the village or the city to have the land annexed to the village or the city. "The majority of owners" means the majority of individuals owning land. OAG Oct. 14, 1947 (484-E-1).

Where the line of a railroad company's right-of-way constitutes the east boundary line of a village the land embraced within the right-of-way intervenes between the village and the land on the east side of the right-of-way and such land does not abut upon the village and may not be annexed to the village. OAG July 8, 1949 (484-E-1).

A city or village may not annex abutting territory which lies within another city or village. OAG Nov. 28, 1950 (484-E-1).

413.143 CITIES FOURTH CLASS

HISTORY. 1941 c 265 s 1-3; 1943 c 83 s 1-3; 1949 c 119 s 111; 1951 c 376 s 2.

413.15 CITIES FOURTH CLASS, LANDS IN ADJOINING COUNTIES

HISTORY. 1905 c 191 s 1-4; MS 1927 s 1717-1717½, 1718, 1719.

413.16 CITIES, LAND OF STATE INSTITUTIONS

HISTORY. 1905 c 110 s 1; MS 1927 s 1333.

413.17 CITIES FOURTH CLASS TO CITIES THIRD CLASS

HISTORY. 1895 c 8 s 30, 31, 33, 36, 38; 1925 c 279 s 1-11; MS 1927 s 1695-1, 1695-11.

Where the territorial limits of the special school district of South St. Paul are coextensive with the limits of the city the board of education may not pass on the question of annexation of territory to the city. That power is entirely in the city council. OAG Oct. 3, 1949 (166-D-1-D).

413.18 CITY THIRD CLASS

HISTORY. 1907 c 168 s 1-12; 1909 c 5 s 1, 2; 1909 c 137 s 1-12; MS 1927 s 1678, 1681-1691.

413.19 CITIES THIRD CLASS

HISTORY. 1919 c 159 s 1, 2; MS 1927 s 1679, 1680.

The city of Albert Lea may not annex land which does not abut upon the city limits. OAG Jan. 4, 1949 (59-A-1).

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GOVERNING BODIES 415.02

Where a petition for annexation of land to a city of third class involves platted land the law requires that a majority of the owners of all the land embraced within the official and legal plat join in the petition. OAG July 10, 1951 (59-A-1).

A tract of land surrounded by a city of third class does not automatically become a part of the city. OAG Aug. 19, 1952 (59-A-1).

Where an act does not declare that the boundaries of a city and the school district are coterminus, the fact that the city is contained within the district is not important. The city council has no more power to govern the school district than the school board has to govern the city. The boundaries of a school district may be changed only by the action of the county board. OAG Oct. 15, 1948 (166-D-1).

Where the territorial limits of the special school district of South St. Paul are coextensive with the limits of the city, the board of education may not pass on the question of annexation of territory to the city. That power is entirely in the city council. OAG Oct. 3, 1949 (166-D-1-D).

413.20 VILLAGES TO CITIES THIRD CLASS

HISTORY. 1915 c 32 s 1-11; MS 1927 s 1153-1162.

413.21 LANDS OF STATE INSTITUTIONS

HISTORY. 1907 c 349 s 1-3; MS 1927 s 1693-1695.

413.211 STATE LANDS

HISTORY. 1895 c 247 s 1.

413.22 CITY SECOND CLASS

HISTORY. Ex1937 c 57 s 1, 2.

Land lying in a village adjacent to a city of second class may not be annexed to the city under section 413.22. OAG Aug. 5, 1948 (59-A-1).

When a petition for annexation is made pursuant to section 413.22 the annexation may not be had under section 413.22. OAG Feb. 6, 1953 (59-A-1).

A petition for annexation to a village under section 413.22, subdivision 1, need not include all the land in the plat but may be for any land situated therein provided that the land included in the petition abuts the city. OAG Oct. 16, 1953 (59-A-1).

413.27-413.293 Repealed, 1949 c 119 s 110.

GENERAL GOVERNMENT

CHAPTER 415

GOVERNING BODIES

415.01 TOWN LAWS, APPLICATION

HISTORY. 1860 c 14 art 14 s 12; GS 1866 c 10 s 108; GS 1878 c 10 s 112; GS 1894 s 1029; RL 1905 s 692; MS 1927 s 1103.

415.02 CHARTER, ORDINANCES; CODIFICATION; EVIDENCE

HISTORY. 1901 c 296; RL 1905 s 771; MS 1927 s 1837.