

MINNESOTA STATUTES 1953 ANNOTATIONS

435.46 PUBLIC IMPROVEMENTS, OTHER PROCEEDINGS

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WATER SYSTEMS

435.46 FURNISHING WATER, CONTRACTS

When a municipality engages in the manufacture, sale, and distribution of electrical energy it acts in a proprietary capacity and has generally the same powers as a natural person. Contracts made by a municipality for the sale and distribution of electrical energy may be amended, modified, or abrogated by mutual consent. OAG March 25, 1948 (624-C-2).

PUBLIC SAFETY

CHAPTER 436

LAW ENFORCEMENT

436.01 Repealed, 1949 c 119 s 110.

436.03 Repealed, 1949 c 331 s 1.

CHAPTER 437

POLICE REGULATIONS

437.07 ITINERANT PLACES OF AMUSEMENT

A village adjoining a city of fourth class may not issue a license to a carnival without the consent of the city of fourth class which it adjoins. OAG Aug. 22, 1949 (290-B).

437.12 ELEVATOR OPERATORS; LICENSE, PENALTY

HISTORY. Amended, 1951 c 137 s 1.

CHAPTER 438

FIRE PREVENTION

438.01 Repealed, 1949 c 119 s 110.

438.02 FIRE LIMITS IN BOROUGHS

HISTORY. Amended, 1949 c 119 s 111.

438.08 MUNICIPALITIES TO FIGHT FIRES OUTSIDE OF LIMITS

Broad authority is permitted a city of fourth class to use its fire extinguishing equipment in extinguishing fires in nearby cities, villages, or towns with which the city may or may not have a contract. OAG Jan. 14, 1948 (688-A).

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FIRE PREVENTION 438.09

A municipality may contract for fire fighting services with other municipalities or bodies having control of a municipal fire department. A municipality may contract with a private group for compensation for services rendered in fighting fires. A village may not enter into an agreement in behalf of certain individuals for such fire fighting services. OAG April 5, 1948 (699-A).

A municipality may contract with a group of individuals for fire protection services in consideration of the group placing its fire truck in the possession of the village to be used by the village when needed within or without the village. OAG April 29, 1948 (688-A).

A town may use money apportioned to it from the liquor tax to aid in fire protection. See Laws 1949, Chapter 204. OAG April 20, 1949 (688-A).

A city may contract with a private corporation to furnish fire protection to the corporation property outside the city limits. OAG Aug. 11, 1950 (688-A).

The city of Wabasha may furnish fire protection outside city limits either with or without a contract when authorized by a resolution adopted by a five-sevenths vote of the governing body. OAG May 18, 1951 (688-A).

A contract under which a certain town was to lease fire equipment to another town but which did not require the first town to furnish fire fighting personnel, was not a fire service contract within the provisions of sections 69.01, 69.02. OAG Nov. 13, 1951 (688-A).

A city may contract with a private corporation to furnish fire protection to property of the corporation outside city limits. OAG Aug. 11, 1950 (688-A).

Villages may furnish fire protection beyond their corporate limits. Contracts therefor must be in writing. Income derived therefrom should be paid to the village and not to the volunteer fire department. OAG Dec. 15, 1953 (688-A).

Where a contract has been entered into by a city to furnish fire protection, the city furnishing such protection is acting in its governmental capacity as fully as though it were furnishing fire protection within its own boundaries, and is not liable for injury caused to persons or property while furnishing such service. The municipality receiving such fire protection is likewise acting in its governmental capacity. OAG April 4, 1950 (688-H).

A mutual contract is proposed between one fourth class city, two villages, and three towns for mutual assistance in fighting fires. Such contract is authorized by section 438.08, which provides that to become a party to such contract the municipality must have control of its own fire department. The towns of New Canada and Mounds View having no fire department cannot be parties to the proposed contract. OAG Feb. 18, 1948 (688-K).

In furnishing fire protection the city cannot discriminate against an owner of property upon the ground that he does not pay taxes. The city must protect rural property as well as other. The council may in its discretion protect property outside the city limits. OAG March 12, 1951 (688-K).

A city may furnish fire protection to another municipality only when compensated. OAG May 2, 1952 (688-K).

A village was not liable for a fire loss sustained as a result of the village's refusal to attempt to extinguish a fire, the firemen erroneously believing that the building was located outside the village limits. OAG July 29, 1948 (688-14).

438.09 MUNICIPALITIES TO ARRANGE FOR COMPENSATION AT OUTSIDE FIRES

A municipality may contract with a group of individuals for fire protection services in consideration of such group placing its fire truck in the possession of the village to be used by the village when needed within or without the village. OAG April 29, 1948 (688-A).

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438.10 FIRE PREVENTION

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438.10 FIREMEN SERVING ON OUTSIDE FIRES IN LINE OF REGULAR DUTY

If a fireman responding to a call of duty enters on the land of another, the occupant of the land has a duty to warn him of hidden dangers. 35 MLR 512.

438.11 CITIES, VILLAGES; EXPENSES TO CONVENTIONS, PAYMENT HISTORY. 1931 c 150 s 1; 1953 c 429 s 1.

CHAPTER 439

BOARD OF FIRE AND POLICE COMMISSIONERS

439.01 BOARD CREATED

A city of the second class acting by and through its board of fire and police commissioners, and the county in which the city is located, may by exercise of power common to both, establish, equip, and maintain a joint radio broadcasting station for police purposes. OAG Feb. 17, 1950 (785).

PUBLIC WORKS

CHAPTER 440

WORK OR WORKS ON OR IN STREETS

440.01-440.07 Repealed, 1949 c 119 s 110.

440.10 Repealed, 1949 c 119 s 110.

440.13 COUNCIL MAY VACATE STREETS IN CITIES OF THE FOURTH CLASS

The phrase "the majority of owners of the property on the line of such streets," as used in section 129 of the St. Paul city charter, refers to a majority of individual owners and not to majority of estates or tracts, or to a major part of the property fronting on the line of the street. *Beck v Council of the City of St. Paul*, 235 M 56, 50 NW(2d) 81.

A city has no power to partially vacate a street for certain purposes, reserving an easement for other purposes. A city may acquire an easement over private property by adverse possession. OAG April 25, 1949 (396-C-18).

440.135 VACATING STREETS, CITIES THIRD CLASS

The legislature has clearly distinguished between streets and alleys. Under the provisions of section 440.135, the city council of the city of Owatonna may not vacate an alley. The alley involved may be vacated upon compliance with the provisions of the city charter, chapter IV, sections 1 and 10. OAG Nov. 23, 1953 (396-C-1).

A city may not partially vacate a street for certain purposes, reserving an easement for other purposes. A city may acquire an easement over private property by adverse possession. OAG April 25, 1949 (396-C-18).