

# MINNESOTA STATUTES 1953 ANNOTATIONS

## 449.09 ENTERTAINMENT

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The provisions of section 449.08 should not be confused with the provisions of sections 449.09 to 449.14. Section 449.08 authorizes the council of any city of third class to levy a tax of not exceeding one mill for the purpose of providing free musical entertainment for the general public. Section 449.09, et seq., authorizes villages, boroughs, towns, and all cities except those of first class to levy each year a tax not to exceed two mills "for the purpose of providing a fund for the maintenance or employment of a band for municipal purposes." No election is required as a prerequisite to the exercise of the authority conferred by section 449.08; whereas the authority conferred by section 449.09 may be exercised only upon a favorable vote of the electors on compliance with the provisions of sections 449.10 to 449.12. OAG Oct. 7, 1953 (519-H).

### 449.09 BANDS IN TOWNS, VILLAGES AND CERTAIN CITIES; TAX LEVY

**HISTORY.** 1927 c 77 s 1; 1931 c 171 s 1; 1937 c 82 s 1; 1949 c 563 s 1.

A village may employ a high school band as its village band and pay it as compensation the proceeds of a 2-mill tax levy under section 449.09. Such money may be used by it for purchasing uniforms. The contract may be renewed from year to year by resolution of the council and acceptance by the band. OAG Dec. 19, 1949 (59-B-3).

A band fund levy made under section 449.09, et seq., may not be diverted to library purposes. Under section 134.07 a village may levy not to exceed five mills for library purposes. OAG Nov. 13, 1950 (285-A).

If the statute is carefully followed the construction of a band shell is authorized, provided the provisions of sections 449.09 to 449.14 are followed. OAG Sept. 12, 1951 (519-C).

A town may levy and collect taxes for the support of its town band, but the fund may not be used for the transportation of members of a band maintained in another municipality. OAG Dec. 30, 1952 (519-H).

The provisions of section 449.08 should not be confused with the provisions of sections 449.09 to 449.14. Section 449.08 authorizes the council of any city of the third class to levy a tax of not exceeding one mill for the purpose of providing free musical entertainment for the general public. Section 449.09, et seq., authorizes villages, boroughs, towns, and all cities except those of the first class, to levy each year a tax not to exceed two mills "for the purpose of providing a fund for the maintenance or employment of a band for municipal purposes." No election is required as a prerequisite to the exercise of the authority conferred by section 449.08; whereas the authority conferred by section 449.09 may be exercised only upon a favorable vote of the electors on compliance with the provisions of sections 449.10 to 449.12. OAG Oct. 7, 1953 (519-H).

### 449.11 ELECTION

Where two separate villages wish to establish and operate a joint municipal band the question must be voted on separately in each village. OAG Sept. 27, 1949 (518-H).

## CHAPTER 450

### RECREATIONAL FACILITIES

#### 450.01 RECREATIONAL DEPARTMENT

Where a city and school board jointly operate a swimming pool and no charge is made for the privilege of using the same, the municipal corporation or the school board is not liable for the negligent acts of its officers or agents in maintaining same. If a charge were made, liability would exist. OAG Aug. 9, 1951 (844-F-3).

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FRANCHISES, PERMITS 451.08

**450.09-450.18** Local, city of Winona.

## **450.23 GIFTS OR DEVISES; ACCEPTANCE**

HISTORY. 1911 c 95 s 1; 1949 c 246 s 1.

A city owning land for park purposes may not grant an easement to a third party along, upon, or over such land. OAG Dec. 16, 1947 (59-A-40).

## **450.25 TAX LEVY**

HISTORY. 1911 c 95 s 3; 1949 c 562 s 1.

## **UTILITIES, ENTERPRISES**

### **CHAPTER 451**

#### **FRANCHISES, PERMITS**

**451.01** Repealed, 1949 c 300 s 1.

**451.02** Unnecessary.

**451.03** Repealed, 1949 c 119 s 110.

#### **451.04 HEATING PLANTS**

HISTORY. 1917 c 122 s 1; Ex1919 c 25 s 1; 1921 c 108 s 1; 1949 c 119 s 111.

#### **451.05 OBLIGATIONS NOT PART OF INDEBTEDNESS**

HISTORY. Amended, 1949 c 119 s 111.

#### **451.06 APPLICATION**

HISTORY. Amended, 1949 c 119 s 111.

#### **451.07 CITIES MAY GRANT PERMITS**

Constitutional right of a public utility to judicially enforce "reasonable return" upon the "fair value" of its operating property. 37 MLR 159.

#### **451.08 LIMITATION**

Reasonable return upon fair value of operating property. 37 MLR 159.