

MINNESOTA STATUTES 1953 ANNOTATIONS

462.771 PLANNING, ZONING

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462.771 RENTALS; TO WHOM; FALSE APPLICATION; PENALTY HISTORY. 1949 c 733 s 6.

462.781 VETERANS PREFERENCE HISTORY. 1949 c 733 s 7.

462.791 TERMINATION OF EMERGENCY HISTORY. 1949 c 733 s 8.

462.801 WAIVER OF BUILDING CODE HISTORY. 1949 c 733 s 9.

462.811 NOT APPLICABLE TO SECTIONS 462.415 TO 462.711 HISTORY. 1949 c 733 s 10.

462.82 REPORT TO LEGISLATURE HISTORY. 1949 c 733 s 11.

CHAPTER 463

OTHER REGULATIONS

463.01 BUILDING LINES, EASEMENTS; EXISTING STRUCTURES

1 Property owner or occupier's duty to warn firemen of hidden dangers. 35 MLR 512.

The fact that a city had never adopted a general zoning ordinance did not preclude it from adopting an ordinance establishing set-back lines. *McCavic v DeLuca*, 223 M 372, 46 NW(2d) 873.

Where adjoining landowners jointly lay out a way between their lands, each devoting a part of his land to that purpose, the use of the way by the respective parties, for the prescriptive period, raises a presumption of the granting of an easement on the theory that each party by his use thereof has continuously asserted an adverse right in a portion of the way lying on the other's land. The parol conveyance of an easement, whether it be pursuant to a fiction of a lost grant or pursuant to an actual parol agreement void under the statute of frauds, will, if followed by an adverse user for the prescriptive period, establish an easement by prescription. *Alstad v Boyer*, 228 M 307, 37 NW(2d) 372.

Owners of buildings abutting a public sidewalk are liable for injuries caused by negligence in maintaining in a dangerous and defective condition facilities erected in or on the sidewalk for the convenience of the building. The property owner's knowledge of a defective facility erected on a sidewalk for the convenience of the property may be shown by evidence that the owner created the defect, that the defect had been called to the owner's attention, or that from the length of time the defect had existed the owner's knowledge thereof could be presumed. In the instant case the evidence failed to support the jury's finding that the property owner had knowledge of the defect prior to the time of the accident. *Bergum v Palmborg*, M, 60 NW(2d) 71.

The planning commission of a city may not lay out alleys. This authority is vested in the council. The statute provides for establishing an easement or a set-

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RIGHTS, POWERS 465.01

back line on property, but compensation must be paid the landowner for any damage suffered. OAG Jan. 13, 1948 (59-A-9).

The city of Austin may not establish a building set-back line in the commercial district except by paying damages to realty owners. OAG April 29, 1948 (59-A-9).

463.02 GRANT, CONDEMNATION, OR DEDICATION

Reasonable set-back lines may be adopted as a part of zoning ordinances, or separately in the absence of a general zoning ordinance, and the violation of an ordinance by others than the defendant does not preclude its enforcement against the defendant. Where the defendant has knowingly and wilfully violated a city ordinance, plaintiffs will not be denied a mandatory injunction to compel the undoing of defendant's wrong merely because it will cause defendant hardship or expense. *McCavic v De Luca*, 233 M 372, 46 NW(2d) 873.

463.08 Repealed, 1949 c 119 s 110.

GENERAL PROVISIONS

CHAPTER 465

RIGHTS, POWERS

465.01 RIGHT OF EMINENT DOMAIN

HISTORY. 1883 c 73 s 23-28; 1885 c 145 s 23-28; GS 1878 Vol 2 (1888 Supp) c 10 s 226-231; 1889 c 123 s 1; 1889 c 65 s 1; 1891 c 146 sc 8 s 1; GS 1894 s 1240-1245, 1322; 1895 c 8 s 128, 214, 225; 1903 c 388; RL 1905 s 766; GS 1913 s 1784; 1917 c 424 s 1.

Right of a licensee under a city ordinance to challenge constitutionality of the ordinance. 35 MLR 664.

The right-of-way for a new road may be acquired by a village through purchase, gift, or condemnation. OAG Feb. 10, 1949 (377-D).

The city of Austin may acquire by condemnation a site outside its limits for a sewage disposal plant but if the site costs more than \$5,000, the city may not acquire it until authorized by a vote of the electorate. OAG March 29, 1949 (387-B-9).

The city of Owatonna may acquire property outside its limits for the purpose of constructing a drainage ditch disposing of canning waste. A vote of the people is not necessary where cost of the property to be acquired is not in excess of \$3,000. OAG June 6, 1949 (387-B-9).

Where a village has an easement only, the fee being in the abutting owners, if it wishes to vacate the alley and retain the land it must acquire title by purchase or condemnation. OAG Nov. 4, 1947 (396-G-1).

If a village desires to acquire a tract of land as an addition to a park, the council must first determine public need and necessity. Having done so it may acquire the land by condemnation. OAG April 2, 1947 (469-C-8).

In order to furnish heat to private owners a village operating through a water, light, power, and building commission, may condemn private property to run a heat line. OAG Sept. 5, 1947 (817-F).

A city in condemning land for park purposes may include a non-navigable body of water. OAG July 30, 1948 (817-F).