

CHAPTER 462

PLANNING AND ZONING

462.01 MUNICIPALITIES MAY PASS ZONING ORDINANCE.

Zoning statutes and ordinances embrace a particular type of legislation having a technical meaning. No other type of statute or ordinance is of the same kind. The rule of ejusdem generis has no application where only one member of a class is enumerated which exhausts the class and is followed by general words which include others outside the class; and in the instant case the lessee's use of the leased premises was prevented, suspended, and limited by the federal statutes. *Orme v Atlas Gas Co.* 217 M 27, 13 NW(2d) 757.

The recital in the Minneapolis zoning ordinance that "such districts and their boundaries shall be as shown upon the maps attached hereto and made part of this ordinance" creates a presumption that the maps were attached to the ordinance when it was adopted, and this presumption in the instant case was not overcome. The ordinance as it affects the property in question is not arbitrary or unreasonable and if the reasonableness of an ordinance is debatable the courts will not interfere with the legislative discretion. *State v Modern Box Makers*, 217 M 41, 13 NW(2d) 731.

In an ordinance the restriction of customary uses incidental to residential establishments to a single lot according to a plat is unreasonable and arbitrary. *Village of St. Louis Park v Casey*, 218 M 394, 16 NW(2d) 459.

A company selling tires cannot as a matter of right construct a right of way or driveway over the sidewalk to give access to its service department but must obtain such privilege in the proper way and from the council which is the agency having the power of permission. A privilege granted by the city engineer is a nullity. *Alexander v City of Owatonna*, 222 M 312, 24 NW(2d) 244.

The question whether power exists to forbid the erection of a building of a particular kind or for a particular use is determined not by an abstract consideration of the building or the thing considered apart but in considering it in connection with the circumstances and the locality. A city zoning ordinance must find its justification in some aspect of the police power on the ground that it is for the public welfare; and if the validity of legislative classification for zoning purposes be fairly debatable the legislative judgment must be allowed to control. *American Wood Products v City of Mpls.* 21 F(2d) 441.

A zoning ordinance applying to property of plaintiffs fronting on a lake were subject to an ordinance denying the owner the right to operate a boat renting agency. The property was in a residential district and the ordinance was constitutional, reasonable, and in the public interest. *Dennis v Village of Tonka Bay*, 156 F(2d) 672.

In an action to enjoin a village from enforcing a zoning ordinance so far as it prevented the plaintiffs from using a strip of shore land for the business of renting boats, the evidence was insufficient to establish that the village council acted arbitrarily or unreasonably or interfered with the rights of the plaintiff without due process of law. The federal district court will not substitute its judgment for that of the village council in the exercise of its police power in regard to zoning legislation. *Dennis v Village of Tonka Bay*, 64 F. Supp. 215.

A village has authority to enact a general zoning ordinance regulating the erection, size and height and use of buildings, arrangement of buildings on lots, and the density of the population. OAG Aug. 14, 1945 (477-B).

A zoning ordinance is an exercise of the police power and where a city wishes to prevent a non-conforming use of property it should proceed regularly under the

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ordinance rather than shut off the citizen's use of the facility. OAG Oct. 4, 1946 (59-A-32).

While a village may require as condition for granting a building permit that the building be piped for running water and be connected with the sewage disposal system, a refusal because it did not contain a bathroom, or because the building might deteriorate the value of nearby property, would be unwarranted. OAG Jan. 31, 1946 (477-B-3).

An affirmative vote of four of five council members is required to amend a zoning ordinance in the city of Mankato. OAG Oct. 7, 1946 (59-a-32).

To amend a zoning ordinance requires a two-thirds vote of the village council, that is, four out of the five members. OAG Nov. 27, 1946 (477-B-34).

Change in the zoning ordinance of the village of Golden Valley requires a two-thirds vote of the entire council which means four favorable votes out of a council membership of five. A special meeting of the council may consider any subject if all members are present. OAG May 15, 1947 (59-A-32).

The city council may find as a fact that a milk pasteurizing plant connected with a milk and ice cream bar is a conforming and permissible use under the zoning ordinance in the "commercial zone." OAG May 15, 1947 (59-A-32).

Police power over residential districts. 1 MLR 86.

Power of the state to restrict the use of real property. 1 MLR 135.

City planning and restrictions. 9 MLR 518, 593.

Constitutionality of zoning ordinances; police power. 9 MLR 676; 10 MLR 48, 62.

Zoning board of appeals. 10 MLR 277.

Validity of general zoning ordinances. 11 MLR 275.

Zoning ordinance permitting erection of business buildings in area where deeds to all lots restrict the use of property to residence purposes. 12 MLR 293.

Permission to build in restricted area dependent on consent of adjoining owner; denial of due process. 13 MLR 507.

Validity of zoning ordinance in closing out existing businesses. 14 MLR 86.

Aesthetics in zoning. 14 MLR 109.

Injunctions against funeral homes as nuisances. 18 MLR 482.

462.02 ENFORCEMENT.

See, *Village of St. Louis Park v Casey*, 218 M 394, 16 NW(2d) 459, and *Dennis v Village of Tonka Bay*, 64 F. Supp. 215, noted under section 462.01.

City council having performed its discretionary function without arbitrariness or caprice, mandamus would not lie where petitioner through application for a writ of certiorari within the statutory period had another proper, speedy, and adequate remedy available to secure a full review of the entire matter, inclusive of the possible violation of petitioner's legal rights at any state of the proceedings. *Zion Church v City of Detroit Lakes*, 221 M 55, 21 NW(2d) 205.

Injunction to restrain violation of municipal ordinance or statute. 9 MLR 284.

462.05 BUILDING AND ZONING REGULATIONS.

Where under a zoning ordinance the operation of a filling station is a non-conforming use, a person operating a filling station established prior to the passage of the zoning ordinance does not lose his rights by a modification or increase in his activities by servicing trucks therein. OAG July 11, 1947 (59-a-32).

462.08 RESIDENCE DISTRICTS DESIGNATED.

Undertaking establishments may properly be held a nuisance in districts of a city occupied exclusively for residences, and an ordinance prohibiting them within

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certain districts is valid provided the city has been granted the authority to restrict or prohibit nuisances. *City of St. Paul v Kessler*, 146 M 124, 178 NW 171; *Meagher v Kessler*, 147 M 182, 179 NW 732.

Where a certain addition to the city of Minneapolis incorporated into the instrument of conveyance of every lot in the addition the following restrictive covenant: "this conveyance is made upon the condition that when the premises herein contained are improved it shall be by the erection of one new residence building costing not less than \$4,000," the trial court properly enjoined the use for religious services by a religious organization of a residence building erected in conformity with such restriction in the deed and remodeled for religious use. *Strauss v Ginzberg*, 218 M 57, 15 NW(2d) 130.

Aesthetics in zoning. 14 MLR 109.

462.12 RESTRICTED RESIDENCE DISTRICTS.

See, *Strauss v Ginzberg*, 218 M 57, 15 NW(2d) 130, noted under section 462.08.

Minnesota residence district act, L. 1915, c. 128. 1 MLR 487; 4 MLR 50, 236.

Denial of right of abutting landowner to access to the street by driveway. 31 MLR 292.

462.13 COUNCIL GIVEN RIGHT OF EMINENT DOMAIN.

A vendee in possession under a contract for a deed cannot rescind and recover what he has paid thereon because of the existence of an easement which restricts the use of the property involved acquired by condemnation proceedings subsequent to the making of the contract. *Summers v Midland Co.* 167 M 453, 209 NW 223.

462.19 MAY PASS ORDINANCES FOR ENFORCEMENT.

In fixing the set-back or building lines regard may be had for the existing buildings on the street and the building lines fixed by the Minneapolis zoning ordinance as a proper exercise of the police power. *State ex rel v Houghton*, 171 M 231, 213 NW 907.

462.22 BOARD OF ADJUSTMENT.

Where under the building zone or zoning ordinance of St. Paul a block consists in part of "commercial" and residence "B" zones, the owner of a building situated in the commercial zone existing at the time the ordinance became effective is entitled to erect an addition to such building on the street wall line thereof. *Morse v Wind*, 211 M 356, 1 NW(2d) 369.

Sections 462.41 to 462.81-repealed by L. 1947 c. 487 s. 61.

462.411 CITATION.

HISTORY. 1947 c. 487 s. 1.

462.415 PURPOSE; PUBLIC INTEREST; DECLARATION OF POLICY.

HISTORY. 1947 c. 487 s. 2.

462.421 DEFINITIONS.

HISTORY. 1947 c. 487 s. 3.

462.425 MUNICIPAL HOUSING AND REDEVELOPMENT AUTHORITY.

HISTORY. 1947 c. 487 s. 4.

462.431 NO INTEREST IN PROJECT.

HISTORY. 1947 c. 487 s. 5.

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462.435 REMOVAL; HEARING; NOTICE.

HISTORY. 1947 c. 487 s. 6.

462.441 POWERS; QUORUM; OFFICERS; MEETINGS; EXPENSES.

HISTORY. 1947 c. 487 s. 7.

462.445 POWERS AND DUTIES OF "AUTHORITY."

HISTORY. 1947 c. 487 s. 8.

462.451 ACCOUNTING; RULES AND REGULATIONS.

HISTORY. 1947 c. 487 s. 9.

462.455 LIABLE IN CONTRACT OR TORT.

HISTORY. 1947 c. 487 s. 10.

462.461 LETTING OF CONTRACTS; BONDS.

HISTORY. 1947 c. 487 s. 11.

462.465 LOW RENT HOUSING.

HISTORY. 1947 c. 487 s. 12.

462.471 RENTALS.

HISTORY. 1947 c. 487 s. 13.

462.475 TENANT ADMISSIONS AND RENTALS.

HISTORY. 1947 c. 487 s. 14.

462.481 DISCRIMINATION PROHIBITED; DISPLACED FAMILIES.

HISTORY. 1947 c. 487 s. 15.

462.485 VETERANS PREFERENCE.

HISTORY. 1947 c. 487 s. 16.

462.491 AVAILABLE SOLELY FOR FAMILIES OF LOW INCOME.

HISTORY. 1947 c. 487 s. 17.

462.495 PERIODIC INVESTIGATION OF TENANT; VETERANS PREFERENCE.

HISTORY. 1947 c. 487 s. 18.

462.501 DURATION OF OCCUPANCY.

HISTORY. 1947 c. 487 s. 19.

462.505 DEMOLITION OF UNSAFE OR UNSANITARY BUILDINGS.

HISTORY. 1947 c. 487 s. 20.

462.511 ACQUISITION OF EXISTING BUILDINGS; REPAIRS.

HISTORY. 1947 c. 487 s. 21.

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462.515 REDEVELOPMENT PLAN.

HISTORY. 1947 c. 487 s. 22.

462.521 GOVERNING BODY OF MUNICIPALITY.

HISTORY. 1947 c. 487 s. 23.

462.525 DISPOSAL OF PROPERTY.

HISTORY. 1947 c. 487 s. 24.

462.531 TEMPORARY RELOCATION OF DISPLACED FAMILIES.

HISTORY. 1947 c. 487 s. 25.

462.535 PROVISIONAL ACCEPTANCE BY AUTHORITY OF FUND OR PROPERTY.

HISTORY. 1947 c. 487 s. 26.

462.541 USE VALUE.

HISTORY. 1947 c. 487 s. 27.

462.545 PUBLIC REDEVELOPMENT COST; PROCEEDS; FINANCING.

HISTORY. 1947 c. 487 s. 28.

462.551 BOND ISSUE FOR CORPORATE PURPOSES.

HISTORY. 1947 c. 487 s. 29.

462.555 MANNER OF BOND ISSUANCE; SALE.

HISTORY. 1947 c. 487 s. 30.

462.561 ENFORCEMENT BY OBLIGEE OF PROVISIONS AND COVENANTS IN CONTRACTS.

HISTORY. 1947 c. 487 s. 31.

462.565 BONDS, A LEGAL INVESTMENT.

HISTORY. 1947 c. 487 s. 32.

462.571 EXEMPTION FROM PROCESS.

HISTORY. 1947 c. 487 s. 33.

462.575 TAX STATUS.

HISTORY. 1947 c. 487 s. 34.

462.581 POWERS OF MUNICIPALITY RELATING TO PROJECTS.

HISTORY. 1947 c. 487 s. 35.

462.585 PAYMENTS IN LIEU OF TAXES; AGREEMENT.

HISTORY. 1947 c. 487 s. 36.

462.591 REDEVELOPMENT COMPANY.

HISTORY. 1947 c. 487 s. 37.

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462.595 CERTIFICATE OF CONSENT FILED WITH INCORPORATION PAPERS.

HISTORY. 1947 c. 487 s. 38.

462.601 MINNESOTA BUSINESS CORPORATION ACT APPLIES IN PART.

HISTORY. 1947 c. 487 s. 39.

462.605 POWERS OF REDEVELOPMENT COMPANY.

HISTORY. 1947 c. 487 s. 40.

462.611 INTEREST; AMORTIZATION; LIMITED DIVIDENDS.

HISTORY. 1947 c. 487 s. 41.

462.615 STOCK, BONDS, OR INCOME DEBENTURE CERTIFICATES ISSUED FOR FULL VALUE.

HISTORY. 1947 c. 487 s. 42.

462.621 ISSUANCE OF STOCK OR DEBENTURE CERTIFICATES.

HISTORY. 1947 c. 487 s. 43.

462.625 INCOME DEBENTURE CERTIFICATES.

HISTORY. 1947 c. 487 s. 44.

462.631 ACQUISITION OF FUNDS BY APPROVED MORTGAGE OR BOND ISSUE; LIMITATIONS AND PROVISIONS.

HISTORY. 1947 c. 487 s. 45.

462.635 LIMITATION ON POWERS OF REDEVELOPMENT COMPANY.

HISTORY. 1947 c. 487 s. 46.

462.641 USE OF REDEVELOPMENT PROJECTS.

HISTORY. 1947 c. 487 s. 47.

462.645 PROJECT PLANS.

HISTORY. 1947 c. 487 s. 48.

462.651 PARTIAL TAX EXEMPTION.

HISTORY. 1947 c. 487 s. 49.

462.655 CHANGE IN FEATURE OF PROJECT PROHIBITED.

HISTORY. 1947 c. 487 s. 50.

462.661 SPECIAL AUTHORITY GRANTED TO CERTAIN PERSONS TO TRANSFER REAL PROPERTY TO REDEVELOPMENT COMPANY.

HISTORY. 1947 c. 487 s. 51.

462.665 RULES AND REGULATIONS.

HISTORY. 1947 c. 497 s. 52.

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462.671 SCHEDULE OF FEES.

HISTORY. 1947 c. 487 s. 53.

462.675 CONDEMNATION FOR REDEVELOPMENT COMPANY.

HISTORY. 1947 c. 487 s. 54.

462.681 DUTIES OF STATE HOUSING COMMISSION.

HISTORY. 1947 c. 487 s. 55.

462.685 SINKING FUND.

HISTORY. 1947 c. 487 s. 56.

462.691 CONSENT OF LOCAL GOVERNING BODY TO DISPOSAL OF PROPERTY.

HISTORY. 1947 c. 487 s. 57.

462.695 DISSOLUTION.

HISTORY. 1947 c. 487 s. 58.

462.701 INSURANCE COMPANIES.

HISTORY. 1947 c. 487 s. 59.

462.705 "INSURANCE COMPANY" DEFINED.

HISTORY. 1947 c. 487 s. 60.

462.711 SUPERVISORY AGENCY.

HISTORY. 1947 c. 487 s. 62.