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CHAPTER 35

Water Front Improvements

**SECTION 5‑35‑10.** Cities of 10,000 or more empowered to condemn lands on water front.

When any city of this State having a population of ten thousand inhabitants or more and located upon a navigable stream, whether tidal or nontidal, desires to extend, improve, or protect its waterfront for public purposes, it may acquire by condemnation all private property, within or without the city or partly within and partly without the city, needed for the extension, improvement, or protection. The right conferred on the city includes the right to condemn the title or possession of any and all lands, water or riparian rights, wharves, docks, warehouses, buildings, rights‑of‑way, or any other property, including any property which may already have been condemned, when the property is taken for the purpose of establishing, improving, developing, maintaining, or operating the port and terminal utilities of the city for public purpose. Title acquired under this section shall vest absolutely in the city. No lands condemned under this section may be sold to private owners by the city.

HISTORY: 1962 Code Section 59‑561; 1952 Code Section 59‑561; 1942 Code Section 7554; 1932 Code Section 7569; Civ. C. ‘22 Section 4752; Civ. C. ‘12 Section 3094; 1909 (26) 170; 1920 (31) 904; 1953 (48) 272; 1987 Act No. 173, Section 12.

**SECTION 5‑35‑20.** Filling up lowlands owned by private persons.

Whenever such extension, improvement or protection shall make necessary the filling up of lowlands, owned by private persons, to a level established by the city and such filling up is proposed to be accomplished by excavation from the bed of a stream bordering the water front so to be extended, improved or protected under a general plan established by the city, such lowlands may be filled up by the city at the expense of such private owners and the costs thereof shall be a lien upon the lands so filled up. The cost to each private owner shall be determined by the proportion which the cubic contents of the filling in each lot or parcel of land, separately owned, shall bear to the cubic contents of the whole area filled. If the municipality and the owner cannot agree as to the cost of the filling aforesaid to be borne by such private owner, then it shall be determined by a proceeding in the nature of an action against such property, to be instituted by the municipality in the court of common pleas for the county in which such municipality is situated, to recover the amount claimed to be due and the reasonable costs to be paid by such lot owner shall be determined by the jury as in the case of similar actions.

HISTORY: 1962 Code Section 59‑562; 1952 Code Section 59‑562; 1942 Code Section 7555; 1932 Code Section 7570; Civ. C. ‘22 Section 4753; Civ. C. ‘12 Section 3095; 1909 (26) 170.

**SECTION 5‑35‑30.** Notification of proposed plan and fill levels.

The municipality shall first notify each private owner interested of the plan proposed and of the level up to which such lots are to be filled and of the general plan proposed and such private owners may, if they see fit, arrange to fill up their lands at their own expense, such filling up to be done either prior to or contemporaneously with the filling done by the city, and to be in accord with the general plan adopted. And the owner of any such land shall be entitled to use the mud or soil in the bed of the river in front of such land for the purpose of filling up his land, in preference to any other, to the extent necessary to fill such lands.

HISTORY: 1962 Code Section 59‑563; 1952 Code Section 59‑563; 1942 Code Section 7556; 1932 Code Section 7571; Civ. C. ‘22 Section 4754; Civ. C. ‘12 Section 3096; 1909 (26) 170.

**SECTION 5‑35‑40.** Condemnation by city in cases of disagreement as to filling up lowlands.

In the event that any lot owner objects to the cost of filling his lot, such owner may require the municipality to purchase such lot at a price agreed upon between the municipality and the owner, and, in case of failure to agree upon the price, the municipality shall proceed to condemn such lot. And upon paying to the owner the price that may be fixed therefor, as herein provided, the title thereof shall vest in the municipality, which shall proceed to fill such lot and may sell it to reimburse itself for all expenses and charges.

HISTORY: 1962 Code Section 59‑564; 1952 Code Section 59‑564; 1942 Code Section 7557; 1932 Code Section 7572; Civ. C. ‘22 Section 4755; Civ. C. ‘12 Section 3097; 1909 (26) 170.