

"5545. Hares, rabbits, weasels, wild cat, lynx, wolves, foxes, gophers, *porcupines* and all other quadrupeds for which a closed season is not provided by law, may be taken either in the day time or at night and in any manner, except that poison may be used to aid in the taking thereof only by permission of the game and fish commissioner and in a manner prescribed by him. *No person shall place any poison in any place inhabited or frequented by wild animals otherwise than as so permitted.*"

Sec. 7. Snow shoe rabbits.—That General Statutes 1923, Section 5546, as amended by General Laws 1925, Chapter 380, be and the same hereby is amended so as to read as follows:

"5546. Varying hare or snow shoe rabbit and mink may be taken either in the day time or at night and in any manner except that poison may not be used *and as provided in sub-division 1 of Section 4 of this act.*"

Sec. 8. Law repealed.—That General Laws 1925, Chapter 129, is hereby repealed.

Approved April 27, 1929.

CHAPTER 419—H. F. No. 1296

An act to amend Section 2, Chapter 185, General Laws 1911, as amended by Section 1, Chapter 345, General Laws 1913, as amended by Section 1, Chapter 417, General Laws 1925; the same being Section 1553 Mason's Minnesota Statutes 1927, and to amend Section 5, Chapter 185, General Laws 1911, as amended by Section 4, Chapter 345, General Laws 1913, as amended by Section 3, Chapter 103, General Laws 1917, the same being Section 1557 Mason's Minnesota Statutes 1927, entitled "An act relating to the acquisition of lands or streets, parks and parkways in cities of the first class and the improvement and government thereof."

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Proceedings for acquisition of lands.—Section 2 of Chapter 185, General Laws 1911, as amended by Section 1 of Chapter 345, General Laws 1913, as amended by Section 1 of Chap-

ter 417, General Laws of 1925, the same being Section 1553 Mason's Minnesota Statutes 1927, be and the same is hereby amended so as to read as follows:

"Sec. 2. After the adoption of the resolution it shall be the duty of the city engineer to make and present to the council a plat and survey of such proposed improvement, showing the character, course and extent of the same and the property necessary to be taken or interfered with thereby, with the name of the owner of each parcel of such property so far as the engineer can readily ascertain the same, and such statement as may in the opinion of the engineer be proper to explain such plat and survey and the character and extent of the proposed improvement.

When such plat and survey shall be finally adopted by the city council, it shall be filed with the city clerk, and it shall be held to show correctly the character and extent of the improvement actually agreed upon and ordered by the city council.

Said plat shall also show the amount of land taken from each owner, so far as the owners may be known, and the lands contiguous to such improvements.

The city council shall then or afterwards appoint five freeholders of said city, no two of whom shall reside in the same ward, as commissioners, to view the premises and to ascertain and award the amount of damages and compensation to be paid to the owners of property which is to be taken or injured by such improvement, and to assess the amount of such damages and compensation and the expenses of the improvement upon the lands and property to be benefited by such improvement, and in proportion to the benefits to be received by each parcel and without regard to a cash valuation.

Three or more commissioners shall constitute a quorum and be competent to perform any duty required of such commissioners; and they shall be notified of their appointment, and vacancies in their number shall be filled by the city council, and they shall be sworn to the faithful discharge of their duties. They shall give notice by two publications in the official paper of said city that such survey and plat is on file in the office of the city clerk, for the examination of all persons interested, and that they will on a day designated in such notice, which shall be at least ten days after the first publication of such notice, meet at a place designated in said notice on or near the proposed improvement, and view the property proposed to be taken or interfered with for the purposes of such improvements, and ascertain and award therefor compensation and damages, and view the premises to be benefited by such improvement, and assess thereon in proportion to benefits, amount necessary to pay such compensation

and damage and the cost of making the improvement, and that they will then and there hear such allegations and proofs as interested persons may offer. Any such commissioners shall meet and view the premises pursuant to such notice, and may adjourn from time to time, and, after having viewed the premises, may, for the hearing of evidence and preparation of their award and assessment, adjourn or go to any other convenient place in said city, and may have the aid and advice of the city engineer and of any other officer of the city, and adjourn from time to time. After viewing the premises and hearing the evidence offered, such commissioners shall prepare and make a true and impartial appraisal and award of the compensation and damages to be paid to each person whose property is to be taken or injured by the making of such improvement; but if the remainder of the same property, a part of which only is to be taken or damaged by such improvement, shall be benefited by such improvement, then the commissioners, in considering and awarding compensation and damages, shall also consider, estimate and offset the benefits which will accrue to the same owner, in respect to the remainder of the same property, and award him only the excess of the compensation or damages over and above such benefits.

The said commissioners shall then assess the amount of such compensation and damages so awarded upon the land and property benefited by such proposed improvements, together with the expense and cost of making the improvements as fixed by the city council, and in proportion to such benefits, but in no case shall the amount of such assessment exceed the actual benefit to the lot or parcel of land so assessed, deducting therefrom any damages or injuries to the same parcels which are less than such benefits, and assessing only the excess, and prepare and report to the city council their appraisal and award, and if in the judgment of said commissioners the whole amount of such compensation and damages, together with the cost of making such improvement, shall exceed the actual benefits to the specific property subject to assessment, they shall so indicate in their report and shall state the amount of such excess. Said commissioner shall also report to the city council an assessment list containing their assessment of such compensation, damages, and costs, or so much thereof as shall not exceed the actual benefits to the property so assessed, which list shall contain a brief description of each tract or parcel of property assessed, the name or names of the owners thereof, if known, and the amount assessed against each parcel of property and the amount of the excess of such compensation, damages and costs as aforesaid, which they shall return unassessed.

The commissioners may employ clerical assistance, and the cost thereof, as well as the commissioners' compensation, and the expenses of printing the notices required, including, among others, the notice

of consideration by the city council, hereinafter referred to, estimated at the same rate per line as the cost of printing the prior notices, shall be added to the other amounts to be assessed and shall be assessed therewith. The city attorney shall represent the city before the commissioners and produce such evidence as the case may require.

The city council, may, however, provide by the resolution appointing such commissioners that a certain specified percentage, not exceeding thirty-three and one-third (33 1/3%) per cent, of the total damages and cost of improvements, shall in any case be payable out of the city's general funds, and in that case the city's share shall be added to the amount of the certificates to be issued and sold under Section 10, and the city council shall from year to year levy a sufficient tax upon the taxable property of the city to pay the same, with interest. In such case the amount provided to be paid out of the general funds shall not be assessed.

Said commissioners shall, upon the completion of their said report, file the same with the city clerk and thereupon it shall be the duty of said city clerk to give notice to all interested parties by publishing, as soon as possible, in the official paper of said city a notice containing descriptions of the several lots and parcels of land taken for such proposed improvements, the amount awarded for the taking of each such lot or parcel, the names of the owner or owners of the same, descriptions of the several lots or parcels of land upon which benefits have been assessed, the amount assessed against each such lot or parcel and the names of the owner or owners of the same; the names of all owners referred to herein to be obtained from said commissioners, and, so far as may be necessary, from the records in the office of the county treasurer. Said published notice shall also designate and fix a place and time, not earlier than three weeks from date of publication of the same, at which a committee therein designated by the board of park commissioners or of said council will meet to hear and consider, from or on the part of the owner or owners of the several lots or parcels of land taken for such proposed improvement and of the several lots or parcels of land upon which benefits have been assessed, any and all objections to the making of such improvement, to the amount of damages awarded for the taking of or interference with the property involved, to the amount of the assessment for benefits to any property affected by such proceedings, and any and all claims of irregularities in the proceedings of the city council, board of park commissioners, or the commissioners so appointed by either thereof.

Immediately after the publication of such notice and at least two weeks prior to the time designated for the meeting of the committee specifically designated in said notice, the city clerk shall serve upon each of the owners of the several lots or parcels of land taken for

such proposed improvement and of the several lots or parcels of land upon which benefits have been assessed, a copy of said published notice, by depositing the same in the postoffice of said city, postage prepaid in an envelope plainly bearing on its front in type no smaller than ten point the words "Notice of Tax Assessments for improvements affecting your property" directed to each of said persons at his last known place of residence, if known, to said city clerk, otherwise as obtained from the records in the office of the county treasurer; provided that the failure of any such owner or owners to receive such notice shall not in any wise operate to invalidate any of the proceedings covered by this act.

Any person whose property is proposed to be taken, interfered with, or assessed for benefits, under any of the provisions of this chapter, and who objects to the making of such improvement, or who deems that there is any irregularity in the proceedings of the city council, or on the part of the commissioners so appointed by it, by reason of which the award of said commissioners ought not to be confirmed, or who is dissatisfied with the amount of damages awarded to him for the taking of or interference with his property, or with the amount of the assessment for benefits to any property affected by such proceedings, shall *appear at the hearing or file with said city clerk, designated in such published notice, at any time before said hearing or before the report and recommendation of said committee is filed, as hereinbefore provided*, his written objection to the making of such improvement, or his objection to the damages awarded or benefits assessed, or his claim of said irregularities, specifically designating the same, and a description of the property affected by such proceedings.

At the time and place designated by such published notice for said hearing the city clerk shall present to said committee the report of the commissioner so appointed together with all written objections so filed with said city clerk and such committee shall then consider the same and hear said objectors, or their representatives, in person, and shall adjourn said hearing from time to time as may be necessary.

Within ten days from the conclusion of said hearing or hearings said committee shall file with said city clerk its report and recommendation on the matter so submitted, and upon such filing the city clerk shall give notice that such report and recommendation has been filed and that the same, together with said report of said commissioners, will be considered by said city council at a meeting thereof to be designated in said notice, which notice shall be published in the official newspapers of said city once a week for two consecutive weeks, the last publication thereof being at least two weeks before said meeting of said city council.

Said city council, upon the day fixed for the consideration of said reports and recommendation or at any subsequent meeting to which the same may stand over or be referred, may by resolution annul and abandon said proceedings, or may confirm such awards and assessments or any or either thereof, or annul the same, or send the same back to said commissioners for further consideration; and said commissioners may in such case again meet at a time and place to be designated in a notice which shall be published by said city clerk once in the official newspaper of said city and copies of which shall be similarly mailed by said city clerk to all interested persons, at least two weeks prior to said meeting, and hear any further evidence that may be adduced by interested persons, and may adjourn from time to time, and may correct any mistakes in such award and assessment and alter and revise the same as they may deem just, and again report the same to said city council, who may thereupon confirm or annul the same.

Whenever the city council shall confirm any such award and assessment such confirmation shall make such award and assessment final and conclusive upon all parties interested, except as hereinafter provided, and the city council shall proceed, at the same or at any subsequent meeting, to levy such assessment *or such fractional part thereof as the city council may deem necessary to pay the costs of the proceedings and making the improvements therein* upon the several parcels of land described in the assessment list reported by the commissioners, in accordance with the assessments so confirmed *or in proportion to such assessments as herein provided*. *The city council may in its discretion delay the levying of such assessments in any proceeding under this act until the completion or substantial completion of the improvements proposed to be made therein, and the actual costs of such improvements and proceeding have been determined, which cost may include interest at 5% per annum on moneys actually advanced by the city, and thereupon the city council shall proceed to levy assessments in such proceeding, aggregating the amount of such costs or such portion of such costs as the city council shall have determined in conformity with the provisions of this act, upon the several parcels of land described in the assessment list reported to the city council by the commissioners in such proceeding, and such assessments so levied shall be in amounts proportionate to and not greater than the several amounts theretofore confirmed upon such parcels of land respectively by the council or by the court upon appeal in such proceeding.* The city council shall cause to be made and shall adopt an assessment roll of such assessments, which may be substantially in the following form, or any other form the council may adopt:

The city council doth hereby assess and levy upon and against the several lots and parcels of land below described the respective sums of money set against each lot or parcel. This assessment is made to defray the compensation and damages awarded for the taking of an injury to private property, and estimated cost of improvement, and in and about the..... as shown on the plat and survey of the same on file in the office of the city clerk of said city. This levy is made conformably to the report and assessment of commissioners duly appointed to make such assessment and in proportion to benefits from such improvements to accrue to the parcels and not exceeding the benefits to the parcels so assessed.

Name of Owner, if known	Description of land	Lot Block	Amount Dollars Cents
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“Done at a meeting of the council this.....day
of.....A.D. 19....

Attest.....

City Clerk
Pres't of the Council.”

Sec. 2. Spreading of assessment installments.—Section 5 of Chapter 185, General Laws of 1911, as amended by Section 4 of Chapter 345, General Laws 1913, as amended by Section 3 of Chapter 103, General Laws 1917, the same being Section 1557 Mason’s Minnesota Statutes 1927, is hereby amended so as to read as follows:

Sec. 5. The city clerk shall transmit a certified copy of such assessment roll to the county auditor of the county in which the land lies, and the county auditor shall include 5 per cent of the principal amount of such assessment with and as part of the taxes upon each parcel for each year for twenty years, together with annual interest at the rate ascertained, as hereinafter provided. The city council and board of park commissioners may, however, by such concurrent resolution, determine that the amount of such assessment shall be collected in five or ten equal annual installments instead of twenty, and in such case the county auditor shall include a corresponding per cent of the principal amount of such assessment with and as part of the taxes of each year, together with such annual interest until the whole is collected. *The county* auditor shall include in the taxes for each year one of such installments, together with one year’s interest

upon such installment and all subsequent installments at the same rate, each of which, together with such interest, shall be collected with the annual taxes upon such land, together with like penalties and interest in case of default, all of which shall be collected with and enforced as the annual taxes and credited to the proper city fund. Any parcel assessed may be discharged from the assessment at any time after the receipt of the assessment by the county auditor by paying all installments that have gone into the hands of the county treasurer as aforesaid, with accrued interest, penalties and costs, as above provided, and by paying all subsequent installments; or any parcel assessed may be discharged from the assessment by presenting certificates or bonds sold against such assessments a herein provided sufficient in amount to cover all installments due on such parcel and accrued interest, penalties and costs, and all installments yet to accrue, by surrendering such certificates or bonds to the county treasurer for cancellation or having endorsed thereon such installments, interest, penalties and costs. Said assessment shall be a lien on the land from the time of the making thereof as against the owner and every person in any way interested in the land. The owner of the land and any person interested therein may defend against such assessment at the time of application for judgment in the regular proceedings for the enforcement of delinquent taxes, but such assessment shall not be deemed invalid because of any irregularity, provided the notices have been published substantially as required, and no defense shall be allowed except upon the ground that the cost of the improvement is substantially less than the amount of the assessment, and then only to the extent of the difference between the assessment and the actual cost. Assessments made under this act shall be called special street and parkway assessments of the city of.....and numbered consecutively. Whenever an assessment is certified as aforesaid by the city clerk to the county auditor, a duplicate thereof shall be sent to the city comptroller, and all such assessments shall be sufficiently identified by the name and number as aforesaid."

Approved April 27, 1929.

CHAPTER 420—S. F. No. 452

An act to amend Sections 1, 2, 5 and 6 of Chapter 239, General Laws, 1925, entitled, "an act to amend Chapter 127, General Laws, 1915, and acts amendatory thereof, relating to the practice of optometry"; to provide for the enforcement thereof; and to regulate the fitting, sale or disposition or the taking, receiving or soliciting