

CHAPTER 128—S. F. No. 39.

An Act authorizing cities of the first class to designate and establish restricted residence districts and to prohibit the erection, alteration and repair of buildings thereon for certain prohibited purposes.

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

Section 1. City council may establish restricted residence districts in St. Paul.—Any city of the first class may, through its council, upon petition of fifty (50) per cent of the owners of the real estate in the district sought to be affected, designate and establish by proceedings hereunder restricted residence districts within its limits wherein no building or other structure shall thereafter be erected, altered or repaired for any of the following purposes, to-wit, hotels, restaurants, eating houses, mercantile business, stores, factories, warehouses, printing establishments, tailor shops, coal yards, ice houses, blacksmith shops, repair shops, paint shops, bakeries, dyeing, cleaning and laundering establishments, bill-boards and other advertising devices, public garages, public stables, apartment houses, tenement houses, flat buildings, any other building or structure for purposes similar to the foregoing. Public garages and public stables shall include those, and only those, operated for gain.

Nothing herein contained shall be construed to exclude double residences or duplex houses, so-called, schools, churches, or signs advertising for rent or sale the property only on which they are placed.

No building or structure erected after the creation of such district shall be used for any purpose for which its erection shall be prohibited hereunder.

The term "council" in this act shall mean the chief governing body of the city by whatever name called.

Sec. 2. Council given power of eminent domain.—The council shall first designate the restricted residence district, and shall have power to acquire by eminent domain the right to exercise the powers granted by this act by proceedings hereinafter defined, and when such proceedings shall have been completed the right to exercise such powers shall be vested in the city.

Sec. 3. Provisions for appointment of appraisers and duties of the latter.—The council shall appoint five appraisers who shall be disinterested qualified voters of the city, and none of whom shall be a resident of the ward or wards in which any part of the district so designated is situate, to view the premises and appraise the damages which may be occasioned by the establishment of such restricted residence district and by the exercise by the city of the powers herein granted.

Said appraisers shall be notified as soon as practicable by the city clerk, as the case may be, to attend at a time fixed by him, for the purpose of qualifying and entering upon their duties. Whenever a vacancy may occur among said appraisers by neglect or refusal of any of them to act or otherwise, such vacancy shall be filled by the council.

Second. The appraisers shall be sworn to discharge their duty as appraisers in the matter with impartiality and fidelity; and to make due return of their acts to the council.

Third. The appraisers shall give notice, by publication in the official newspaper of the city, once a week for two consecutive weeks, which last publication shall be at least ten days before the day of such meeting, which notice shall contain a general description of the lands designated by the council, and give notice that a plat of the same has been filed in the office of the city clerk, and that said appraisers will meet at a place and time designated in the notice, and thence proceed to view the premises and appraise the damages which may be occasioned by the establishment of such restricted residence district and by the exercise by the city of the powers herein granted, and to assess benefits in the manner hereinafter specified.

Fourth. The city clerk shall, after the first publication of such notice, and at least six days (Sundays excluded) prior to the meeting specified in said notice, serve upon each person in whose name each tract or parcel of said land is then assessed, a copy of said notice by depositing the same in the postoffice of said city, with postage prepaid, directed to such person at his place of residence, if known to the city clerk, but if not known, then to his place of residence as given in the last published city directory of said city, if his name appears therein.

After the first publication of said notice, and at least six days (Sundays excluded) prior to the meeting specified in said notice, a copy of the same shall also be served upon the person in possession of each of said tracts or parcels of land, or some part thereof, if the same be actually occupied, in the same manner as provided for the service of summons in a civil action in the district court. A copy of all subsequent notices relating to said proceedings which are required to be published, shall be mailed by said clerk in the manner above specified, immediately after the first publication thereof, to such persons as shall have appeared in said proceedings and requested in writing that such notice be mailed to them.

Fifth. At the time and place mentioned in the notice, the said appraisers shall meet and thence proceed to view the premises, and may hear the evidence or proof offered by the parties interested, and may adjourn from time to time for the purposes aforesaid. When their view and hearing shall be concluded they

shall determine the amount of damages, if any, suffered by each piece or parcel of land of which each piece or parcel of land in the district is a part. They shall also determine the amount of benefits, if any, to each such piece or parcel of land. If the damages exceed the benefits to any particular piece, the excess shall be awarded as damages. If the benefits exceed the damages to any particular piece, the difference shall be assessed as benefits, but the total assessment for benefits shall not be greater than the aggregate net award of damages; and in every case the benefits assessed upon the several parcels shall be in proportion to the actual benefits received, and no assessment upon any particular piece shall exceed the amount of actual benefits after deducting the damages, if any.

Sixth. If the land and buildings belong to different persons, or if the land be subject to lease, mortgage or judgment, or if there be any estate less than an estate in fee, the injury or damage done to such persons or interests respectively may be awarded to them separately by the appraisers. Provided, that neither such award of the appraisers, nor the confirmation thereof by the council shall be deemed to require the payment of such damages to the person or persons named in such award in case it shall transpire that such person or persons are not entitled to receive the same.

Seventh. The said appraisers having ascertained and appraised the damages and benefits as aforesaid, shall make and file with the city clerk a written report of their action in the premises, embracing a schedule and appraisal of the damages awarded and benefits assessed, with descriptions of the lands, and the names of the owners, if known to them and also a statement of the costs of the proceedings.

Eighth. Upon such report being filed, the city clerk shall give notice that such appraisal has been returned, and that the same will be considered by the council at a meeting thereof to be named in the notice, which notice shall be published in the official newspaper of said city, once a week for two consecutive weeks, and the last publication shall be at least 10 days before such meeting. The council upon the day fixed for the consideration of such report, or at any subsequent meeting to which the same may stand over or be referred, shall have power in their discretion to confirm, revise or annul the appraisal and assessment, giving due consideration to any objections interposed by parties interested in the manner hereinafter specified, provided that said council shall not have the power to reduce the amount of any award, nor increase any assessment. In case the appraisal and assessment is annulled, the council may thereupon appoint new appraisers, who shall proceed, in like manner, as in case of the first appraisal, and upon the coming

in of their report, the council shall proceed in a like manner and with the same powers as in the case of the first appraisement.

Ninth. If not annulled or set aside, such awards shall be final, and shall be a charge upon the city, for the payment of which the credit of the city shall be pledged. Such assessments shall be and remain a lien and charge upon the respective lands until paid. The awards shall be paid to the persons entitled thereto, or shall be deposited and set apart in the treasury of the city for the use of the parties entitled thereto, within six months after the confirmation of the appraisement and award. But in case any appeal or appeals shall be taken from the order confirming said appraisement and assessment, as hereinafter provided, then the time for payment of said awards shall be extended until and including sixty days after the final determination of all appeals taken in the proceeding, and in case of any change in the awards or assessments upon appeal, the council may, by resolution duly adopted, at any time within sixty days after the determination of all appeals, set aside the entire proceeding. Any awards so set aside shall not be paid, and the proceedings as to the tracts for which the awards are so set aside shall be deemed abandoned. Any awards not so set aside shall be a charge upon the city, for the payment of which the credit of the city shall be pledged. All awards shall bear interest at the rate of six per cent per annum from the time of the filing of the original appraisers' report and all subsequent awards and awards upon appeal shall be made as of the day and date of filing of such original reports.

Tenth. Upon the conclusion of the proceedings and the payment of the awards, the several tracts of lands shall be deemed to be taken and appropriated for the purpose of this act, and the right above specified shall vest absolutely in the city in which the lands are situate. In case the council shall in any case be unable to determine to whom the damages should in any particular case be paid, or in case of adverse claim in relation thereto, or in case of the legal disability of any person interested, the council shall, and in any and every case, the council may in *its discretion deposit the amount of damages with the district court of the county in which such lands are situate, for the use of the parties entitled thereto, and the court shall, upon the application of any person interested and upon such notice as the court shall prescribe, determine who is entitled to the award, and shall order the same paid accordingly.* Any such deposit shall have the same effect as the payment to the proper persons.

Eleventh. Any owner of land within said district who deems that there is any irregularity in the proceedings of said council, or action of the appraisers, by reason of which the award of the appraisers ought not to be confirmed, or who is dissatisfied

with the amount of damages awarded, to him or the assessment thereon, may at any time before the time specified for the consideration of the award and assessment by the council, file with the city clerk, in writing, his objections to such confirmation, setting forth therein specifically the particular irregularities complained of, and the particular objection to the award or assessment, and containing a description of the property in which he is interested, affected by such proceedings and his interest therein, and if, notwithstanding such objections the said council shall confirm the award, or assessment, such person so objecting shall have the right to appeal from such order of confirmation of the council to the district court of the county where such land is situate, within twenty days after such order. Such appeals shall be made by serving a written notice of appeal upon the city clerk which shall specify the property of the appellant affected by such award and refer to the objection filed as aforesaid, thereupon said city clerk, at the expense of the appellant, shall make out and transmit to the clerk of the district court a copy of the record of the entire proceedings, and of the award of the appraisers as confirmed by the council and of the order of the council confirming the same, and of the objections filed by the appellant, as aforesaid, and of the notice of appeal, all certified by said city clerk to be true copies, within ten days after the taking of such appeal. But if more than one appeal be taken from any award, it shall not be necessary that the city clerk in appeals subsequent to the first, shall send up anything but a certified copy of the appellant's objections. There shall be no pleading on any appeal, but the court shall determine in the first instance whether there was in the proceedings any such irregularity or omission of duty prejudicial to the appellant and specified in his written objection that as to him the award or assessment of the appraisers ought not to stand, and whether said appraisers had jurisdiction to take action in the premises.

Twelfth. The case may be brought on for hearing on eight days' notice, at any general or special term of the court, and the judgment of the court shall be to confirm or annul the proceedings, only so far as the said proceedings affect the property of the appellant proposed to be included in said district or damaged or assessed, and described in said written objection. In case the amount of damages or benefits assessed is complained of by such appellant, the court shall, if the proceedings be confirmed in other respects, appoint three disinterested qualified voters, appraisers to reappraise said damages, and reassess benefits as to the property of appellant. The parties to such appeal shall be heard by said court upon the appointment of such appraisers, and the court shall fix the time and place of meeting of such appraisers, they shall be sworn to the faithful discharge of their

duties as such appraisers, and shall proceed to view the premises and to hear the parties interested, with their allegations and proofs pertinent to the question of the amount of damages or benefits; such appraisers shall be governed by the same provisions in respect to the method of arriving at the amount of damages or benefits and in all other material respects as are in this chapter made for the government of appraisers appointed by said council. They shall, after the hearing and view of the premises, make a report to said court of their award of damages and assessment of benefits in respect to the property of such appellant. The award shall be final unless set aside by the court. The motion to set aside shall be made within fifteen days. In case such report is set aside, the court may, in its discretion, recommit the same to the same appraisers, or appoint new appraisers as it shall deem best; said court shall allow to said appraisers a reasonable compensation for their services, and make such award of costs on such appeal, including the compensation of such appraisers as it shall deem just in the premises, and enforce the same by execution. In case the court shall be of the opinion that such appeal was frivolous or vexatious, it may adjudge double costs against such appellant. An appeal may be taken to the supreme court of the state from any final decision of the district court in said proceedings.

Sec. 4. Maps and plats of restricted districts to be made.—As soon as such condemnation proceedings have been completed, it shall be the duty of such council to cause maps or plats of such restricted residence district to be made, with a list of the parcels of land within such district, and to file one of such maps and list duly certified by the president of the council and the city clerk, in each of the following offices, to-wit, the office of the city engineer, the office of the register of deeds of the county and the office of the city clerk, and the same shall be prima facie evidence of the full and complete condemnation and establishment of said restricted residence district. As soon as the assessments are confirmed, the city clerk, or the clerk of the district court, as the case may be, shall transmit a copy thereof duly certified, to the county auditor of the county in which the lands lie. The county auditor shall include the same in the next general tax list for the collection of state, county and city taxes, against the several tracts or parcels of land, and said assessments shall be collected with and as a part of, and shall be subject to the same penalties, costs and interest, as the general taxes. Such assessments shall be set down in the tax books in an appropriate column to be headed "Restricted Residence District Assessments," and when collected a separate account thereof shall be kept by the county auditor, and the same shall be transmitted to the treasurer of the city, and placed to the credit of the proper fund.

Sec. 5. Power to enact ordinances for enforcement of rights given to council.—The council shall have the power to enact ordinances for the enforcement of the rights which shall be acquired under this act, and to fix penalties for their violation, including a fine not exceeding one hundred dollars (\$100) or confinement in the city workhouse not exceeding ninety (90) days. Violations of the ordinances may be prosecuted in the municipal court of the city.

Sec. 6. Buildings declared a nuisance.—Any building or structure erected, altered, repaired or used in violation of this act or any ordinance passed under it, shall be deemed a nuisance and may be abated at the suit of the city in a civil action. The city may maintain actions for injunction to prevent violation of the act and of the ordinances passed in pursuance hereof. Owners of land and others interested in land within the district may also maintain similar actions of abatement and for injunction.

Sec. 7. Application.—This act shall also apply to cities existing under a charter framed pursuant to Section 36, Article IV of the Constitution of the State of Minnesota.

Approved April 16, 1915.

CHAPTER 129—S. F. No. 64.

An Act to amend Section 2, Chapter 88, of the General Laws of Minnesota for the year 1911, entitled: "An Act fixing and regulating the salaries, compensation, duties and help of county attorneys, in counties having, or which may hereafter have, a population of not less than 200,000, and less than 275,000."

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

Section 1. Assistant county attorney for Ramsey county commissioners and stenographer for assistant attorney.—Section 2 of Chapter 88 of the General Laws of Minnesota for the year 1911 is hereby amended so as to read as follows:

"**Sec. 2.** Such county attorney shall appoint and employ one assistant known as first assistant county attorney who shall be paid a salary of three thousand dollars per annum. *One assistant known as attorney for county commissioners who shall be paid a salary of two thousand dollars per annum*, one assistant known as second assistant county attorney who shall be paid a salary of twenty-two hundred dollars per annum, one assistant known as third assistant county attorney who shall be paid a salary of eighteen hundred dollars per annum, and one stenographer who shall be paid a salary of *nine hundred dollars per annum*.