

CHAPTER 75—H. F. No. 357

An act to authorize any city of the third class of the State of Minnesota to widen, build, maintain and repair any road, street, avenue, boulevard, parkway or other public highway, which lies within the corporate limits of any such city and adjacent to a corporate boundary line of such city and for such purpose to acquire property outside said corporate limits, by gift, devise, purchase or condemnation.

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

Section 1. Cities of third class may improve roads.—Any city of the third class of the State of Minnesota is hereby authorized to widen, maintain and repair any road, street, avenue, boulevard, parkway or other public highway, which lies within the corporate limits of any such city and adjacent to a corporate boundary line of such city which may be authorized by ordinance of any such city passed by a majority vote of all members of the city council, or other governing body of said city, even though such road, street, avenue, boulevard, parkway or other public highway, so widened, be partly within and partly without and beyond the corporate limits of said city.

Sec. 2. May acquire property.—Any city mentioned in Section 1 may acquire by gift, devise, purchase, condemnation or other means any property necessary or convenient or desirable for the purpose of widening, building, maintaining and repairing any road, street, avenue, boulevard, parkway or other public highway authorized to be widened in Section 1.

Sec. 3. May condemn property.—Whenever the common council or other governing body of any such city shall by ordinance as aforesaid, declare that it is necessary or convenient or desirable to acquire any real property for any such public use, it shall describe such property as nearly as may be convenient in such ordinance, and state the use to which it is proposed to devote such property, and direct the city attorney to take the appropriate proceedings in the proper course for the condemnation of the same, and direct the city engineer to make and present to the common council, or other governing body, such plat and survey of said real estate as will show the property to be taken, and the owner of each parcel thereof according to the records in the office of the register of deeds of such county, and to accompany such plat and survey with such report as will fully explain the situation of such property, and such report may contain any other pertinent statement which the engineer deems best.

The common council, or other governing body of such city may cause such plat and survey to be modified or amended as it may deem proper, and when satisfied with said plat and survey may adopt the same and direct a copy of such plat and such ordinance to be filed in the office of the register of deeds of the county in which such land is situate.

Such copy of the plat and ordinance when so filed shall operate as notice of the pendency of an action by said city against each piece or parcel of land therein described for the condemnation thereof.

The city attorney shall thereupon apply to the district court in and for such county for the appointment of three commissioners to appraise the property so to be taken and the damage for such taking.

He shall give a notice of such application in which shall specify the time and place of application, and in a general way describe the property proposed to be taken, and shall name the owners of such property so far as known to him, but failure to name all or any of the owners correctly shall in no wise affect the proceedings.

Such notice shall be served by one publication of the same in the official paper of the city at least 20 days before the date fixed for such application, and a copy of such notice shall be served upon any person or corporation in possession of any parcel therein described, and upon each person or corporation who appears by the records in the office of the register of deeds of the county in which such city is situated, to be interested in any of said parcels, and who can be found in such county, in the same manner as a summons is served in a civil action.

Sec. 4. Court to appoint commissioner.—At the time and place named in said notice, or at a duly adjourned time and place, upon proof of the publication of said notice as aforesaid, the court shall appoint three commissioners, all of whom shall be freeholders and electors of the county in which said city is situate, who shall have cognizance of all cases named in such application, and shall have power to appraise the value of all property therein described, and the damages for the taking of the same.

The city attorney shall forthwith by written notice, notify said commissioners personally of their appointment, and request them to attend at his office on or before a day fixed by him not less than two days after the service of such notice, to qualify and enter upon their duties, and if any commissioner

shall refuse or neglect to attend as aforesaid, the mayor of the city shall in writing appoint one or more commissioners in the stead of the said absentees, and shall file such appointment with the clerk of the court which appointed such original commissioners.

Said commissioners shall thereupon, and before entering upon the duties of their office, severally take and subscribe an oath to the effect that they are freeholders and electors of the county in question and in no wise interested in any property to be affected by said proceedings, and that they will faithfully perform their duty as such commissioners without partiality and to the best of their knowledge and ability, which oath shall be filed in the office of the clerk of said court.

The commissioners shall thereupon give at least 20 days' notice, by one publication in the official paper of the city, of the time and place where they will attend to make an assessment of damages in said proceedings.

Such meeting may be adjourned from time to time without further publication of notice.

It shall be the duty of the city attorney to serve a copy of such notice at least four days before the date named in such notice upon all persons or corporation over whom the court shall acquire jurisdiction, and who shall serve notice upon the city attorney of their appearance in such proceedings.

Such notice shall be served in the manner provided by statute for the service of notices and other papers in civil actions, and may be made upon the party or his attorney.

At the time and place named in said notice, or at an adjourned time and place, the said commissioners, or a majority of them, after viewing the property involved and hearing the evidence offered, shall make through an impartial appraisal and award of compensation and damage to be paid for each tract or parcel of land to be taken or damaged, but if the remainder of any parcel or piece of property of which a part only is to be taken or damaged shall be benefited by such proposed improvement, then the commissioner in considering and awarding such compensation and damages, shall consider, determine and offset the proportionate benefits which will accrue to the remainder of such parcel not so taken and belonging to the same owner as does the part taken, and shall award only the excess, if any, of the compensation or damages over or above the benefits.

Such report shall be in writing, signed by the commissioners, or a majority of them, and filed with the clerk of the court as soon as completed.

Upon the filing of such report, the commissioners shall give notice thereof by one publication in the official paper of the city.

Such published report shall contain a description of the several parcels of land taken or damaged for such public use and the respective awards therefor.

Sec. 5. Service of notices.—A copy of such notice shall within ten days thereafter be served upon the city attorney and upon all parties who have appeared in said proceedings, and such notice shall be served in the manner provided by statute for the service of notices and other papers in civil actions, and may be made upon the party or his attorney.

Any person or corporation interested in any property described in said report or the city in question may appeal from any award therein at any time within 30 days after the publication of said notice by filing with the clerk of the district court, which appointed said commissioners, notice of appeal signed by the party or his attorney taking the same, and describing the party, the property in which he is interested, and the award to which he objects.

An appeal made from any award shall in no wise effect an award not appealed from.

The clerk shall enter the appeal as an action in said court; there shall be no pleadings therein and such appeal shall be tried as other causes originally commenced in said court are tried and judgment rendered therein.

From such determination an appeal may be taken to the supreme court of the state.

Sec. 6. Compensation for commissioners.—After said commissioners shall file said report and publish said notice thereof as aforesaid the court shall allow the commissioners such reasonable compensation for their services as it shall deem best, which shall be paid by the city seeking to condemn said property as aforesaid.

Sec. 7. Award to be final — When. — Whenever an award of damages shall be made and filed as aforesaid, and not appealed from, in any proceedings for the taking of property, under this act, or whenever the court shall render final judg-

ment in any appeal from any such award, the rights of all parties shall be finally fixed and determined thereby and the same shall constitute a lawful and sufficient condemnation and appropriation to the public use of the land for which damages are so awarded and every right, title and interest therein and thereto, and every other lien thereon shall be thereby directed and such city shall become vested with the title to, and become the owner of, the property taken or condemned absolutely for all the purposes for which said city may ever use the same; and such city shall be bound to, and shall within one year of the time of such final determination pay the amount of such award with interest thereon at the rate of five per cent per annum from the date of the final award or judgment of the court, as the case may be, and if not so paid judgment therefor may be had against the city.

In case there shall be any doubt as to who is entitled to such compensation or damages, or any part thereof as may be awarded, the amount so awarded, and in doubt or dispute shall be by the common council or other governing body of such city appropriated and set apart in the city treasury for whoever shall establish his right thereto by some judicial proceedings.

Before payment of any such award the owner of such property, or the claimant of the award, shall furnish satisfactory evidence of his right of such award.

Sec. 8. City may abandon proceedings. — Any such city may by ordinance passed by a three-fourths vote of all the members of its common council or other governing body, at any time within 20 days after any commissioners appointed by the court hereunder shall file their report with the clerk of said court, or in case of an appeal within 20 days after final determination thereof, abandon such proceedings and shall thereupon pay the costs thereof.

Sec. 9. To prepare statement of damages.—Upon the completion of any proceedings under this act for the acquisition of any property by any such city, the mayor or other executive head of such city shall cause an accurate description of the property so taken to be prepared, together with a statement of the amount of damages, if any, awarded or paid, or to be paid to each owner thereof and shall sign and acknowledge the same as such mayor or executive head, and cause the same to be recorded in the office of the register of deeds of the county in which such property is situated, and it is hereby

made the duty of such register of deeds, upon being paid his statutory fees, to record such statement in some appropriate book in his office.

Such record or duly certified copy thereof shall be prima facie evidence that the city in question is the owner of the property described therein by good and perfect title.

Sec. 10. Application of act.—This act shall be applicable to any city of the third class existing under a charter framed under and pursuant to the Constitution of the state of Minnesota, Article 4, Section 36.

Any city acquiring any property under this act is empowered to afford police protection to any and every such property.

Approved March 24, 1939.

CHAPTER 76—S. F. No. 1

An act relating to wild animals, the issuance of licenses, fees therefor, and privileges thereunder, and amending the 1938 Supplement to Mason's Minnesota Statutes of 1927, Sections 5536-2 and 5505, Subdivision 7.

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

Section 1. Fees for game and fish licenses.—The 1938 Supplement to Mason's Minnesota Statutes of 1927, Section 5536-2, is hereby amended so as to read as follows:

“5536-2 (A) The kinds of licenses, the fees to be paid therefor, and the kinds of animals which may be taken thereunder, respectively, subject to all other provisions of law relating to the taking of wild animals, as stated in Section 5536-1, shall be as follows:

(1) Resident small game hunting license, \$1.00, to take all small game;

(2) Non-resident small game hunting license, \$25.00, to take all small game;

(3) Resident big game hunting license, \$2.00, to take all big game.

(4) Non-resident big game hunting license, \$50.00 to take all big game;