

# GENERAL STATUTES

33

OF THE

STATE OF MINNESOTA,

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BY

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## CHAPTER 29.

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### PLATTING AND RECORDING.

**SEC. 2165. Survey and plat.**—When any person wishes to lay out a town or an addition or subdivision of out-lots, he shall cause the same to be surveyed, and a plat thereof made, which shall particularly describe and set forth all the streets, alleys, commons or public grounds, and all in and out-lots or fractional lots within, adjoining, or adjacent to said town, giving the names, width, courses, boundaries and extent of all such streets and alleys.

G. S. ch. 29, § 1. 39 N. W. 98.

**SEC. 2166. Same — Dimensions of lots.**—All the in-lots shall be numbered in progressive numbers, or by the squares in which they are situated, and their precise length and width stated on said plat; and out-lots shall not exceed ten acres in size, and shall in like manner be surveyed and numbered, and their precise length and width stated on the plat, together with any streets, alleys or roads which divide or border the same.

G. S. ch. 29, § 2.

**SEC. 2167. Same — Monuments for future surveys.**—The proprietor of the town, addition or subdivision of out-lots shall, at the time of surveying and laying [out] the same, plant and fix at a corner of the ground, or at the corner of a public lot, if there is any, and if none, then at the corner of some one of the in-lots in the town, and at the corner of each out-lot, a good and sufficient stone, of such size and dimensions, and in such manner as the surveyor directs, for a corner from which to make further surveys; and the point where the same may be found shall be designated on the plat.

G. S. ch. 29, § 3. 22 M. 251.

**SEC. 2168. Same — Acknowledgment — Record — Approval by council.**—The plat, after being completed, shall be certified by the surveyor; and the officers, and every person whose duty it is to comply with the foregoing requisitions, shall, at or before the time of offering such plat for record, acknowledge the same before some person authorized to take acknowledgment of deeds. A certificate of such acknowledgment shall, by the officer taking the same, be indorsed on the plat, which certificate of the survey and acknowledgment shall also be recorded and form a part of the record.

**Approval by council.**—*Provided*, that whenever any part of the lands embraced in such plat are within the limits of any incorporated city, the plat shall not be so recorded until the plat shall have been approved by the common council of such city, and a certificate of such approval put thereon by the clerk of such common council, which certificate shall also be recorded, and form a part of the record of such plat.

G. S. ch. 29, § 4, as amended 1871, ch. 39. Amendment added the proviso. 11 M. 119.

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SECS. 2169-2172.]

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**SEC. 2169. Certificate of county surveyor.**— Before any plat hereafter made of a town-site, division thereof or addition thereto can be recorded in the office of the register of deeds of any county in this state, it shall have attached thereto a certificate of county surveyor, certifying that the monuments for the guidance of future surveys, as shown on the plat, have been correctly placed; that the boundary lines of the land platted are correctly shown on the plat, and that the sizes of all fractional lots are as given on the plat.

**Exception.**— *Provided*, that this shall not apply to plats of property within the corporate limits of cities having a duly constituted officer or officers, with jurisdiction over said plats for the purposes above mentioned; nor to the recording of plats for the incorporation of cities or villages.

**County surveyor — Duty.**— It shall be the duty of the county surveyor, upon request of any person or persons desiring to record a plat, to make all surveys necessary to determine the accuracy of said plat with all possible dispatch, either personally or by his duly appointed deputy; and if the survey of the plat be found incorrect, he shall notify the persons requesting his certificate of such errors, and shall not attach his certificate to said plat until satisfied that all errors have been corrected.

**Fee.**— The county surveyor shall receive for his services, or those of his deputy, in such cases, the sum of four (4) dollars per day for each day occupied upon the work, including time spent in traveling to and from the work, with pay for necessary assistants, and all traveling expenses.

1889, ch. 56: "An act to insure the accuracy of town plats." Approved March 7, 1889.

**SEC. 2170. Dedication.**— When the plat is made out, certified, acknowledged and recorded as required by this chapter, every donation or grant to the public or any individual, religious society, or to any corporation or body politic, marked or noted as such on said plat, shall be deemed in law and equity a sufficient conveyance to vest the fee simple of all such parcels of land as are therein expressed, and shall be considered, to all intents and purposes, a general warranty against such donors, their heirs or representatives, to said donees or grantees, for their use, for the uses and purposes therein named, expressed and intended, and no other use or purpose whatever; and the land intended to be for the streets, alleys, ways, commons, or other public uses in any town or city, or addition thereto, shall be held in the corporate name thereof, in trust for the uses and purposes set forth and expressed or intended.

G. S. ch. 29, § 5. 8 M. 491; 10 M. 83; 11 M. 119; 17 M. 260; 21 M. 493; 22 M. 251.

**SEC. 2171. Record in unorganized counties.**— If the county in which said town or addition is situated is not organized, the plat shall be recorded in the register's office of that county to which the county in which said town is situated is attached for judicial purposes.

G. S. ch. 29, § 6.

**SEC. 2172. Former additions and subdivisions.**— When any town, addition, or subdivision of out-lots has been heretofore laid out, and lots sold, either by county agents, commissioners or other persons, and a plat of the same has not been acknowledged and recorded in conformity to the acts heretofore in force, the present county commissioners or a majority of them in such county, or other persons or proprietors who have laid out the same, or their legal representatives, shall have the same fairly, fully and clearly made out, certified and acknowledged, and recorded in the proper county, in the form and manner required by this chapter; noticing and particularly describing the donation of lands, or otherwise, to individuals, societies, bodies politic, or for common or public purposes: *provided*, that if the lots have been differently numbered and sales made, and they can not well be changed, they shall be returned as originally stated; but in all other respects the plat shall conform to the requisitions of this chapter.

G. S. ch. 29, § 7.

SEC. 2173. **Selling without plat forbidden.**— If any person disposes of, offers for sale, or leases for any time, any out or in-lot, in any town or addition to any town or city, or any part thereof, before all the foregoing requisitions of this chapter are complied with, every person so offending shall forfeit and pay the sum of twenty-five dollars for each and every lot or part of a lot sold or disposed of, leased or offered for sale.

G. S. ch. 29, § 9.

SEC. 2174. **Neglect of duty — Penalty.**— If any county officer or other person, whose duty it is to comply with any of the requisitions of this chapter, neglect or refuse so to do, they shall each forfeit and pay a sum of not less than ten, nor more than one hundred dollars, for each and every month they delay a compliance.

G. S. ch. 29, § 10.

SEC. 2175. **Prosecutions by county treasurer.**— All forfeitures and liabilities which are incurred or arise under this chapter shall be prosecuted and recovered in the name of the county treasurer; and any officer paying over any money to the said treasurer, received under any of the provisions of this chapter, shall take his receipt therefor, and forthwith file the said receipt with the clerk of the board of county commissioners, and the said clerk shall charge the amount of said receipt in account against said treasurer, on the books of the county commissioners.

G. S. ch. 29, § 11.

SEC. 2176. **Fees.**— The surveyors who lay out, survey and plat any town or addition thereto shall receive twenty-five cents for each and every in and out-lot the same may contain, unless otherwise agreed; and every register of deeds recording the same shall receive the sum of five cents for each and every lot as aforesaid; the plat and survey to be by him transcribed and copied into a book, or upon suitable paper, to be formed into an unbound volume with covers for careful preservation, to be provided by the county commissioners for that purpose: *provided*, that the original of said plat and survey may be incorporated in said volume, and shall in all respects form the true record of the same, in which case the register shall receive the sum of two cents for each and every lot as aforesaid.

G. S. ch. 29, § 8.

#### ALTERATION AND VACATION.

SEC. 2177. **District court to alter or vacate.**— The district courts are authorized and empowered, upon application made by one or more of the proprietors of any city or town, or of any addition to any city or town, or of any part of any city or town or addition thereto, within their district, to alter or vacate the same, or any part thereof,\* including streets and public squares, and to adjudge and declare the title to such streets, alleys and public squares in such persons as are entitled to the same.

G. S. ch. 29, § 12, as amended 1869, ch. 31. Amendment below \*. 8 M. 456.

SEC. 2178. **Same — Notice of application.**— If such proprietor is desirous of obtaining such vacation, he shall post notices in writing of such intended application, in at least two of the most public places in the county in which such city, or town, or addition is situated, and insert a copy thereof in a newspaper printed or in circulation in said county, at least thirty days prior to the sitting of the court to which he intends to make such application.

G. S. ch. 29, § 13.

SEC. 2179. **Same — Hearing — Judgment.**— If such proprietor produces to said court satisfactory evidence that the notice required by the preceding section has been given, the court shall proceed to hear and determine said petition, and may alter and vacate said city or town or additions, or any part

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SECS. 2180-2182.]

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thereof, and order its proceedings to be recorded by the clerk in the records of said court, and in the office of the register of deeds of the county in which said city, town or addition is situated. But no street or alley, or any part thereof, shall be vacated between blocks or lots, or which connect two parts of the city, town or addition, except such blocks or lots, or one part of the city, town or addition so connected, is also vacated, unless, however, it appears to the satisfaction of the court that such street or alley, or part thereof sought to be vacated is useless for the purpose for which the same was laid out or dedicated: *provided*, that if, upon the hearing of said application, any objection is made by any person owning or occupying contiguous land, and whose interest will be injuriously affected by such proposed vacation, the court shall hear him and give judgment as seems right and proper: *provided further*, that whenever, in the judgment of the court, the parties resisting such vacation or alteration will sustain, by the same, damages greater than the benefits resulting therefrom, the court is empowered to assess the said damages, or cause the same to be assessed, and require the payment of the same by the parties making such application, before the said vacation or alteration shall take effect.

G. S. ch. 29, § 14.

## DEFECTIVE AND IMPERFECT PLATS.

SEC. 2180. **Heretofore filed, legalized.**— That all and any plats of any kind or nature of lands subdivided and filed for record with the several registers of deeds for the counties in this state in which their offices are located, are hereby declared to be legal and valid and shall be sufficient to plat, subdivide and locate the ground appearing thereon or described in the statements or endorsements thereon, notwithstanding the requirements of the law now in force affecting the platting of lands in this state have not been fully complied with.

**Exception.**— Nothing herein contained shall be construed to apply to or affect any action or proceeding now pending in any of the courts of this state.

1889, ch. 55: "An act to confirm and validate plats heretofore filed for record." Approved April 24, 1889.

SEC. 2181. **Imperfect execution legalized.**— All plats, or purporting to be, of additions or subdivisions thereof, to any town or city in this state, or copies thereof, now on file in any register of deeds' office in this state, which fail in any respect to comply with the law in force at the time of their making, execution, certification, or recording, with regard to either the making, execution, certification or recording thereof, or any or all of said matters, are hereby legalized and confirmed, to the same extent and with the same effect, as if the same had been in all respects properly made, executed, certified, and filed.

1881, Ex. S. ch. 57: "An act in relation to plats of additions or subdivisions thereof to any town or city now on file in any register of deeds' office in this state or copies thereof so on file; to legalize the same as if properly made, executed, certified to and recorded; to provide for the identification of the real estate covered thereby and to give effect to the same, together with such identification of the real estate covered thereby as evidence." Approved November 18, 1881.

SEC. 2182. **Same — Identification by surveyor.**— In all cases where said plats or copies, or any of them, fail to identify or show upon their face the tract of land covered or intended to be covered thereby, the surveyors, or one of them, who laid out or surveyed the same, may, within one year from the passage of this act, make and file in the register's office of the proper county, a certificate duly executed and acknowledged by him, as deeds are to be executed and acknowledged, wherein he shall set forth at length a full description of the real estate covered by the plat so made by him.

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[SECS. 2183, 2184.]

**Record of.**— Which certificate, so executed, shall be filed, and thereafter remain on file in said register's office, and shall by said register be recorded at length in a book to be by him provided for that purpose, entitled, "Book of Plat Certificates."

**Note on plat.**— And said register shall thereupon note upon the plat and copy thereof so filed in his office, and referred to in such certificate, the fact of filing such certificate, and the book and page where the same is recorded.

**Evidence.**— And said certificate, or the record thereof, shall together with such plat be prima facie evidence in all cases of the real estate covered by said plat, to the same extent as if originally endorsed thereon.

**Fees.**— And said register shall receive the same fees as now by law provided, for filing and recording such certificate, to be paid by the person offering the same for record.

1881, ch. 57, § 2. Acts 1885, ch. 264, and acts 1887, ch. 167, provide for substantially the same identification *within one year* from passage of those laws.

**SEC. 2183. Same — By proprietor.**— In all cases where the surveyor, above referred to, shall have died, or his place of abode be unknown, or be unable for any reason, or refuse to make and execute said certificate, the same may be so made by any one or more of the proprietors who has signed any such plat; which certificate, so made by such proprietor, shall be sworn to by him as correct in all respects, and shall thereupon, together with such affidavit made thereon, be filed and recorded, as above provided, with like effect in all respects.

1881, ch. 57, § 3.

**SEC. 2184. Same — By district court.**— In case the surveyor or proprietor, above referred to, for any reason fails or neglects to certify to such plat, as above provided, or such certificate be not recorded and filed within three months after the passage of this act, it shall thereupon be lawful for any person being the owner of or claiming any interest in any lot or tract of land included in, described or intended to be described in or covered by any such plat, to apply to the district court of any county wherein said plat is filed, at any general or special term thereof, by petition in writing duly verified as a complaint in a civil action, to have established by the judgment of said court, the real estate covered or intended to be covered by said plat. Such petition shall set forth the lot or tract claimed by such petitioner, the name of the plat to be corrected or affected, and a full description of the real estate claimed to be covered or to have been intended to be covered by such plat.

**Notice by publication.**— Said court shall thereupon have jurisdiction of such proceeding and shall thereupon make and enter an order therein, directing notice of the pendency thereof to be given to all persons having or claiming any estate, interest or lien in or to the land mentioned in such petition, or covered or intended to be covered by the plat therein named, by publication of a certified copy of such order in a newspaper printed and published in said city, and named therein, for not less than six successive weeks, at least once in each week. Such order and notice shall set forth the filing of such petition, the name of the applicant, a description of the real estate by him claimed to be covered by such plat, the name of such plat, and the time and place of hearing of such petition, which shall not be less than twenty days after the last day of publication of such notice, and shall be at a general or special term of such court.

**Proof of the publication of such order and notice shall be made by the printer or publisher of such newspaper, as in cases of foreclosure of mortgages by advertisement, and filed in said court.**

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SECS. 2185, 2186.]

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**Effect of.**— And said publication shall be deemed and taken to be a personal service upon all persons having or claiming any right, title, estate, interest or lien in or to the said real estate or any part thereof.

**Objections.**— Any person having or claiming an interest in any lot or tract within the real estate so described, or in said real estate, or in the real estate covered by said plat, as claimed by him, may at any time before the hearing appear in said court, in person or by attorney, and file therein, in writing, objections to the granting of such petition, in whole or in part, and may further, affirmatively, set up a full description of the real estate claimed by said objector to be covered by said plat.

**Hearing— Judgment.**— And said court shall thereupon proceed to hear and determine the matter in the same manner, as nearly as may be, as in suits in equity in said court, and give judgment as the facts may appear. A certified copy of such judgment shall thereupon be filed and recorded in said register's office, as above provided for said certificate, with like force and effect in all respects.

**Exclusive control.**— The said court shall have full power and control over such proceeding, and shall direct the course of practice therein, and may in its discretion award and apportion costs and disbursements therein as it shall see fit.

1881, Ex. S. ch. 57, § 4.

**SEC. 2185. Same — Evidence.**— Such plat or plats and copies thereof, together with such certificate, affidavit or judgment pertaining thereto, or record thereof, or certified copies thereof, shall thereupon be received in evidence in all cases, with the same force and effect in all respects as if the same had particularly described thereon the real estate covered thereby, and complied in each particular with the law in force at the time of the making and filing thereof.

1881, Ex. S. ch. 57, § 5.

**SEC. 2186. Same — Time for identification extended.**— That in all cases where the plats, or what purport to be plats of any towns or cities in this state, or of additions to or subdivisions thereof, or copies thereof, fail to identify and show correctly, upon their face, the tract of land covered or intended to be covered thereby, the surveyors, or one of them, who laid out or surveyed the same, and, in case said surveyor or surveyors shall have died, or his or their place of abode be unknown, or he or they be unable or refuse to make or execute such certificate, one of the original proprietors, may within one year from the passage of this act, make and file in the office of the register of deeds of the county in which said lands are situate, a certificate duly executed and acknowledged by him or them, as deeds are to be executed and acknowledged, wherein shall be set forth a full description of the lands actually covered and intended to be covered by said plat.

If such certificate be made by a proprietor or proprietors of such town, city, addition or subdivision, the same shall also be sworn to by him or them as being correct in all respects.

And such certificate so executed, acknowledged and verified, shall be recorded at length by said register of deeds in a book by him provided for that purpose, entitled, "Book of Plat Certificates," and said register of deeds shall thereupon note upon such plat and the copy thereof filed in his office as aforesaid and referred to in such certificate and affidavit, the fact of filing such certificate and the book and page where recorded; and he shall receive from the person offering said certificate for record, the fees provided by law for similar services. And such certificate or the record thereof, shall, together with such plat, be *prima facie* evidence, in all cases, as to the lands covered by said plat.

1887, ch. 167: "An act relative to plats of towns and cities in this state, and of additions to and subdivisions thereof, and the corrections and legalizations of the same." Approved March 7, 1887. This act is same as acts 1885, ch. 264, approved February 27, 1885.