

MASON'S MINNESOTA STATUTES

1927

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EMBRACING THE ORGANIC LAWS, THE CONSTITUTION, AND THE STAT-
UTES CONTAINED IN THE GENERAL STATUTES OF 1923, EXCEPT
THOSE WHICH HAVE BEEN REPEALED OR SUPERSEDED
BY THE SUBSEQUENT LEGISLATION OF 1925
AND 1927

AND ALSO EMBRACING LAWS OMITTED FROM THE GENERAL STATUTES
1923, AND THE LAWS OF THE 1925 AND 1927 SESSIONS OF THE
LEGISLATURE UNDER APPROPRIATE CLASSIFICATION.

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CHAPTER 64

PLATS

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Sec. the survey, that all distances are correctly shown on the plat, that the monuments for guidance of future surveys have been correctly placed in the ground as shown, that the outside boundary lines are correctly designated on the plat, and that the topography of the land is correctly shown on the plat. If there are no wet lands or public highways to be designated in accordance with section 1 [8237] of this act, he shall so state. The certificate shall be sworn to before any officer authorized to administer an oath. The plat shall, except in cities whose charters provide for official supervision of plats by municipal officers or bodies, together with an abstract and certificate of title be presented for approval to the council of the city or village in which the land is located; and, if the land is located outside the limits of any city, incorporated village, then to the board of county commissioners of the county in which the land is located. If the council or board to whom the plat has been presented have any reason to doubt the accuracy of the same, they may, after having notified the proprietor to that effect, employ a competent surveyor to check and verify the surveys and plat, and the surveyor shall make a full report of his findings. If the survey or plat is found incorrect, the expense of verifying the same shall be paid by the proprietor, but if the survey and plat is found to be correct, then this expense shall be paid by the city, village or county to whose council or board the plat has been presented for approval. When the plat has been approved, it shall so be certified to by the city clerk, village recorder, or county auditor, as the case may be. (R. L. § 3367, amended '07 c. 438 § 2) [6857]

8236. Platting of land—Donations—Plats of land may be made in accordance with the provisions of this chapter, and, when so made and recorded, every donation to the public or any person or corporation noted thereon shall operate to convey the fee of all land so donated, for the uses and purposes named or intended, with the same effect, upon the donor and his heirs, and in favor of the donee, as though such land were conveyed by warranty deed. Land donated for any public use in any municipality shall be held in the corporate name in trust for the purposes set forth or intended. (3365) [6855]

8-456, 405; 10-82, 59; 11-119, 75; 12-546, 458; 17-260, 237; 17-265, 243; 21-493; 22-251; 44-281, 46+358; 46-321, 48+1129; 50-551, 52+931; 110-228, 124+1096; 110-276, 124+373, 125+262, 778; 117-20, 134+298; 140-435, 168+189.

8237. Survey and plat—Monument—Rivers, lakes, etc.—The land shall be surveyed and a plat made setting forth and naming all thoroughfares, showing all public grounds, and giving the dimensions of all lots, thoroughfares and public grounds. All in-lots shall be numbered progressively, by the block in which they are situated, all blocks shall be numbered progressively, and all out-lots shall be numbered progressively and shall not exceed ten acres in size. At least three iron or stone monuments shall be placed at some corners in the ground, in such way that the lines between said monuments form two or more base lines from which to make future surveys. The monuments and the angles between said base lines shall be shown on the plat, as well as the north and south line. All rivers, streams, creeks, lakes, ponds, swamps, and all public highways and thoroughfares laid out, opened or traveled—existing before the platting—shall be correctly located and plainly shown and designated on the plat. (R. L. § 3366, amended '07 c. 438 § 1; '11 c. 347 § 1) [6856]

22-251.
Plat effective as dedication of street (126-456, 148+501).

8238. Dedication — Certification—Approval—Verification—On the plat shall be written an instrument of dedication, which shall be signed and acknowledged by the owner of the land. Said instrument shall contain a full and accurate description of the land platted and shall set forth what part or parts of said land is dedicated, and also to whom, and for what purpose said part or parts are dedicated. The surveyor shall certify on the plat that the plat is a correct representation of

Laws 1925, c. 92, § 1, reads as follows: "Section 1. In all cases where plats of land outside of the limits of an incorporated municipality heretofore have been duly approved by the town board of the town in which such platted lands are situated and have been duly and regularly made and filed in all respects except that there has been no approval thereof by the county board as required by Section 6857, General Statutes 1913, such plats shall be valid and lawful, notwithstanding such omissions. The originals of such plats or duly certified copies thereof made by the proper county officers shall be prima facie evidence of the facts therein stated and received as such for that purpose in all courts."

8-491, 436; 11-119, 75; 22-251; 56-259, 57+452; 62-388, 64+922; 94-25, 101+954.
Sufficiency of description of land platted (123-344, 144+150). Proof of acceptance unnecessary (126-456, 148+501). Fee in street reserved by platter (136-367, 162+454).

8239. Certain plats corrected and legalized—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, and plats of parcels of land situated outside of any incorporated city, town or village, 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 or more of the original proprietors may, within one (1) 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 situated, a certificate duly executed and acknowledged by him or them, as deeds are to be executed or 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 certificates, 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 lands covered by said plat. ('23 c. 178 § 1)

8239-1. Certain plats corrected and legalized—Whenever any land shall heretofore have been surveyed and platted in any incorporated city or village and the same has been duly surveyed on the ground and monuments placed as required by law, and said plat has been duly recorded in the office of the Register of Deeds in the County in which said lands are situated, and all the provisions of law for the platting of said land have been complied with, save and except only that in the description of said land on said plat, the Range is erroneously given, and where such plat has been so recorded for more than fifteen (15) years, and where sales and transfers of lots have been made during all said time by express reference in the instruments of such conveyance to said plat as so recorded, and the owner of said land who caused the same to be platted makes affidavit setting forth the correct Range in accordance with the actual survey of said premises and causes the said affidavit to be recorded in the office of the Register of Deeds for the County in which said plat is recorded, then and in such case the survey of said plat as made on the premises within said village or city shall be taken to be the premises so platted and stakes and monuments actually placed on the ground in said survey shall govern and control and be taken to be the actual boundaries and description of the land so platted, and such plat and all conveyances of lots made by reference to said plats are hereby legalized. ('25, c. 114)

8239-2. Same—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, and plats or parcels of land situated outside of any incorporated city, town or village, or copies thereof, fail to identify or 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 or more of the original proprietors within one year from the passage of this act may make and file in the office of the register of deeds of the county in which said lands are situated, a certificate duly executed and acknowledged by him or them, as deeds are to be executed or 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 certificates, so executed, acknowledged and verified, shall be recorded at length by said register of deeds in a book by him provided for the 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 certificates or the record thereof shall, together with such plat, be prima facie evidence, in all cases as to lands covered by said plat. ('27, c. 11)

8239-3. Record of certain plats without certificate of county auditor—Records legalized—That any plat of a village or addition thereto, or other plat of land that has for more than 15 years before the passage of this act, been executed and placed in the custody of the proper register of deeds, but the same has not been recorded, and has ever since being so placed in the custody of the proper register of deeds been in his office and official custody, and such plat was not properly executed so as to entitle it to record at the time it was so placed in the custody of the proper register of deeds, and conveyances of lots and parcels of land embraced in such plats have since the execution of such plats been made and recorded therein describing and conveying such lots and parcels of land as designated and described in such plat and the same expressly referred to in such conveyance, every such plat shall upon the request of any owner of land affected thereby or included in such plat, upon the payment of the proper fees therefor, be recorded by the register of deeds and to entitle such plat to record it shall not be necessary to have the same approved by the village council of the village affected thereby nor to have the certificate of the county auditor or county treasurer as to taxes or to have any other certificate upon such plat not on the same when so placed in the custody of such register of deeds; and such plat and the record thereof are hereby declared to be valid and of the same force and effect as if the same had been properly executed and approved and the proper certificates endorsed thereon when it was so placed in the custody of such register of deeds; provided however that the provisions of this act shall not apply to any pending litigation involving such plat or conveyances made by reference to the same. ('21, c. 211, § 1)

8240. Recording, etc.—Fees—Penalties—Every plat, when duly certified, signed, and acknowledged, as provided in the foregoing section, shall be recorded in the office of the register of deeds, and a duplicate thereof filed with the county auditor. The register shall transcribe such plat, or bind the original into the proper volume, and shall receive as his fee five cents for each lot designated in the plat in case of transcribing, and two cents for each lot when the original is bound. Any person who shall dispose of, lease, or offer to sell any land included in a plat before the same is recorded shall forfeit to the county \$25 for each lot or part of a lot so disposed of, leased or offered; and any official or person whose duty it is to comply with any of the provisions of this chapter shall forfeit not less than \$10 nor more than \$100 for each month during which compliance is delayed. All forfeitures under this chapter shall be recovered in an action brought in the name of

the county. (R. L. § 3368, amended '07 c. 438; '11 c. 347 § 2) [6858]

39-158, 39+98.
Conveyance according to plat, estoppel (103-479, 115+274).

8241. Certain village plats to be recorded—That any village plat which has been heretofore filed in the office of the register of deeds of the county in which said village is located, but not recorded, but has been and remain on file in the office of said register of deeds for more than fifteen (15) years prior to the passage of this act, shall, upon the request of any property owner whose property is affected by or included in said plat, and upon the payment of his legal fees therefor, be recorded by said register of deeds and to entitle any such plat to be so recorded, it shall not be necessary to have the same approved by the village council of such village, nor shall it be necessary to have the certificate of the recorder of such village or the county auditor of such county to or upon said plat or to have any certificate upon such plat, not on the same at the time such plat was so filed in the office of said register of deeds. ('13 c. 325 § 1) [6859]

8242. Certain village plats declared official—That in all cases in which such numerous plats have thus been made and recorded between the 15th day of September, A. D. 1887, and the 15th day of January, A. D. 1904, the last plat thus made and recorded and effecting a particular village is hereby declared to be, and is hereby made the official plat of the particular village to which it relates. ('13 c. 497 § 1) [6860]

The preamble is as follows:

"Whereas, several plats of the same village have occasionally been made and recorded in the office of the respective registers of deeds of the different counties of the state of Minnesota, and each succeeding plat of each of such villages has included all of the previously platted territory in the particular village and has added new territory thereto, and

"Whereas, confusion arises in the conveyance of property by reason of the existence of such numerous plats, now heretofore. Be it enacted by the legislature of the state of Minnesota."

8242-1. Villages may change names of plats—The village council of any village in this state, the name of which has been changed, is hereby given power and authority to change, in the manner hereinafter specified, the name of any and all plats of real estate located within the corporate limits of such village to conform to the corporate name of such village. ('27, c. 31, § 1)

8242-2. Same—Resolution for change—Filing—In case the village council determines to change the name of any such plat or plats, it shall adopt a resolution specifying the plat, the name of which is to be changed, and designating the name by which it shall thereafter be known, and a copy of said resolution, duly certified by the Clerk or Recorder of said village, shall thereupon be filed for record in the office of the Register of Deeds of the county or counties in which the real estate covered by said plat is located. ('27, c. 31, § 2)

8242-3. Same—Effect—After such a resolution has been adopted and a certified copy thereof recorded, the plat referred to therein shall thereafter be known and designated by the name specified in said resolution and all real estate embraced in said plat may thereafter be conveyed by reference to the name of the plat as changed or by reference to the name of the plat before its name was changed as the grantor may prefer. ('27, c. 31, § 3)

8243. Plats in counties having 300,000 inhabitants—That in counties which now have or which shall hereafter have a population of 300,000, or more, inhabitants, every plat when duly certified, signed and ac-

1905 [8238], shall be filed in the office of the register knowledgeable, as provided in section 3367, Revised Laws of deeds, together with a correct copy thereof, which plat and copy filed, shall be made on cloth mounted paper and shall be of two sizes, either (20x30) twenty by thirty or (30x40) thirty by forty inches in size, which plat shall be placed under the direct supervision of the register of deeds and shall be open to inspection only in the presence of the register of deeds or his representative.

And the copy thereof shall be compared and certified to by the register of deeds in the manner in which certified copies of records are issued in his office, and said copy thereof shall be bound in a proper volume for the use of the general public and anyone shall have access to and may inspect such certified copy at their pleasure. When said copy or any part thereof shall become unintelligible from use or wear or otherwise, at the request of the register of deeds it shall be the duty of the county surveyor to make a copy of the original plat under the direct supervision of the register of deeds, who shall compare the said copy, certify that it is a correct copy thereof, by proper certificate as above set forth, and it shall be bound in the volume, and under the page, and in the place of the discarded copy. The register of deeds shall receive as fee for filing said plats as aforesaid described, three cents (3c) per lot, but shall receive not less than one dollar (\$1.00) for any plat filed in his office. Any person who shall dispose of, lease, or offer to sell any land included in a plat before the same is recorded, shall forfeit to the county twenty-five dollars (\$25.00) for each lot or part of a lot so disposed of, leased or offered; and any official or person whose duty it is to comply with any of the provisions of this chapter, shall forfeit not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00) for each month during which compliance is delayed. All forfeitures under this chapter shall be recovered in an action brought in the name of the county. ('13 c. 101 § 1) [6861]

Explanatory note—Laws '13, c. 101, § 2 (G. S. '13, § 6862) provides that the provisions of R. L. '05, § 3368, as amended by '07 c. 438 and '11, c. 347, shall not be applicable to any such county. See § 8240, herein.

8244. Notice by publication and service upon mayor, village president, or chairman of town board—Upon the application of the owner or owners of land included in any plat, and upon proof that all taxes assessed against such land have been paid, and a notice hereinafter provided for given, the district court may vacate or alter all or any part of such plat, and adjudge the title to all streets, alleys and public grounds to be in the persons entitled thereto; but streets or alleys connecting separate plats or lying between blocks or lots, shall not be vacated between such lots, blocks or plats as are not also vacated, unless it appears that the street or alley or part thereof sought to be vacated is useless for the purpose for which it was laid out. The petitioner or petitioners shall cause two weeks' published and posted notice of such application to be given, the last publication to be at least ten days before the term at which it shall be heard; and said petitioner or petitioners shall also serve personally, or cause to be served personally, notice of such application, at least ten days before the term at which said application shall be heard, upon the mayor of the city, the president of the village, or the chairman of the town board of the town where such land is situated. The court shall hear all persons owning or occupying land that would be affected by the proposed vacation,

and if, in the judgment of the court, the same would be damaged, the court may determine the amount of such damage and direct its payment by the applicant before the vacation or alteration shall take effect. A certified copy of the order of the court shall be filed with the county auditor, and recorded by the register of deeds; provided, however, that the district court shall not vacate or alter any street, alley or public ground dedicated to the public use in or by any such plat in any city, town or village organized under a charter or special law which provides a method of procedure for the vacation of streets and public grounds by the municipal authorities of such city, town or village. (R. L. '05 § 3369, '09 c. 503 § 1; '17 c. 38 § 1) [6863]

8-456, 405; 42-511, 44+535; 65-491, 67+1031; 84-392, 87+1021; 91-242, 97+977; 91-404, 98+98.

Provision as to publication in amended section, how construed. Right of county to be heard (114-230, 130+1000).

Conveyance of lot abutting on vacated street, whether title to middle of street passes to grantee (110-276, 124+373, 125+262).

Public streets and grounds are within the control of the legislature and it may confer the power to alter or vacate the same (129-307, 152+643). Judgment vacating portion of plat wherein certain property thereby damaged was not included (135-175, 160+771).

Valid. 163-439, 204+534.

In order to sustain a judgment for the vacation of a part of a street, it was permissible for the district court to receive evidence extraneous to the record that notice of the application for the judgment had been given by posting; the judgment roll containing proof of notice by publication only. 163-206, 203+593.

The word "damaged," refers to damage which could have been recovered at common law, had the acts which caused the damage been done without constitutional or statutory authority. 163-439, 204+534.

The amendment of section 3369, Rev. Laws 1905, by chapter 503, Laws 1909, did not deprive the district court of jurisdiction to vacate streets in villages organized under chapter 145, Laws 1885. The word "charter" in the first proviso, does not refer to the entire body of existing laws which provide for the organization and government of cities or villages, but is used as a synonym for "home rule charter." 163-439, 204+534.

8245. Certain plats validated—That in all cases where the record owner of real estate in this state has heretofore conveyed the same or any part thereof, by express reference in the instrument of such convey-

ance to a plat of such real estate on file in the office of the register of deeds in the county in which such real estate is situated, and a plat so referred to in said conveyance is actually of record in such register's office at the time when such conveyance is made, such record owner and all persons claiming under such record owner, shall be forever estopped from questioning the validity of such plat, notwithstanding that at the time of the execution and record thereof, title to the premises covered thereby, appears of record to have been in the name of a person or persons other than the person who executed such plat as proprietor of the premises covered thereby, and notwithstanding any irregularity or informality in the execution, acceptance or record of such plat, and in all such cases such plat shall be deemed and taken to be valid, confirmed and legalized in all respects as if actually executed and recorded by the person or persons who appear of record to have been the owners of the premises covered thereby at the time of the execution and record thereof. ('05 c. 129 § 1) [6864]

8246. To what plats applicable—This act shall apply to all plats heretofore recorded of any townsite and to any addition to any townsite and to any addition to any town, village or city within the state. ('05 c. 129 § 2) [6865]

Explanatory note—Laws '05, c. 129, § 3 (G. S. '13, § 6866) provides that "nothing herein contained shall be construed to affect the subject matter of any action or proceeding now pending in any of the courts of this state."

8246-1. Certain plats and certificates prima facie evidence—That all certificates heretofore made and recorded under the provisions of chapter twenty-five General Laws of Minnesota for the year 1891, the same being "An act relative to plats of towns and cities in this state and of additions to, and subdivisions thereof and the correction and legalization of the same," or the record of such certificates, together with the plats to which they respectively refer, shall be prima facie evidence in all cases as to the lands covered by said plats. ('07, c. 53, § 1) [6867]

CHAPTER 65

REGISTRATION OF TITLE

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