

CHAPTER 505

PLATS

505.01 PLATS AUTHORIZED; DONATIONS EFFECTIVE.

HISTORY. R.S. 1851 c. 31 ss. 1, 5; P.S. 1858 c. 26 ss. 1, 5; G.S. 1866 c. 29 ss. 1, 5; G.S. 1878 c. 29 ss. 1, 5; G.S. 1894 ss. 2303, 2308; R.L. 1905 s. 3365; G.S. 1913 s. 6855; G.S. 1923 s. 8236; M.S. 1927 s. 8236.

Right to have lands entered as a townsite under the act of congress may be lost by abandonment, and this is the case even where they made and recorded a town plat of the lands. *Weisberger v Tenny*, 8 M 456 (405).

Government surveys and plats are conclusive as to the location of rivers. *Schurmeier v Railway*, 10 M 52 (59).

A town plat is not entitled to record, and will not operate as a statutory dedication without being acknowledged. *Huff v Winona*, 11 M 119 (75).

It being claimed that a record of the plat is lost, the loss must be explained, and then the facts may be proved by the best parol evidence, such as entry in the reception book of the register of deeds, or by a curative act by the legislature. *Huff v Winona*, 11 M 119 (75).

The words "county block", so marked and noted on the plat, is not sufficient to evidence a donation or grant of said block to the county of Hennepin. *Hennepin County v Dayton*, 17 M 260 (237).

See also *Mankato v Meagher*, 17 M 265 (243).

Where several persons, owning different lands in severalty, join in making a town plat of them, no one of such owners acquires by the plat alone any easement or right of way distinct from that granted to the public, in that part of the public streets marked on the plat, over lands of the owners. *Patterson v Duluth*, 21 M 493.

To effect a statutory dedication of lands to public use, the requirements of the statute authorizing it must be substantially complied with. *Downer v Railway*, 22 M 251.

Where a tract of land is surveyed into blocks, lots, and streets, the effect of a conveyance to purchasers of separate lots and blocks according to such survey is to dedicate the streets therein to public use independently to any statutory dedication. *Borer v Lange*, 44 M 281, 46 NW 358.

Where the plat of a survey fails to comply with statutory directions so that it may be recorded, parol evidence is admissible, and the plat may be referred to for purposes of defining the location and the dedication rights of deeded property. *Borer v Lange*, 44 M 281, 46 NW 358.

A common-law dedication of lands cannot be made to a railway company. On the town plat of the town of Wells was left, undivided into lots, a strip of land on which were the words "Reserved for right of way, Line S. M. R. R." Held, this was not, under the statute, a donation of the land to the railroad company. *Watson v Railway*, 46 M 321, 48 NW 1129.

Insufficient dedication of lake shore. *Buffalo v Harling*, 50 M 551, 52 NW 931.

Action to recover possession of a tract of land which, as the defendant claimed, was a part of a public steamboat landing or levee in the city of Red Wing. Held, the plaintiff has title in fee to the land, subject to the public easement.

Legislative authority to a village council to abolish streets, alleys and similar does not empower the council to vacate a levy so as to extinguish the public easement in a levee. *Betcher v Railway Co.* 110 M 228, 124 NW 1096.

Land in controversy was originally part of a dedicated street laying between two corner lots. The street was vacated. Subsequently the owner sold and conveyed the two corner lots, and at a later date conveyed the land between the lots.

Held, as the street was vacated before the adjacent lots were conveyed, the corner lot owners obtained no property rights or easement on the parcel in question. *White v Jefferson*, 110 M 276, 124 NW 373.

Errors and ambiguities appearing in a recorded plat of lots and blocks, respecting the size of lots and width of streets thereby laid out, may be corrected by a reference to the monuments placed in the ground by the surveyor at the time of platting, as where the plat designated a street as 40 feet wide, while the monuments indicated a width of 50 feet. *Arnes v Owatonna*, 117 M 20, 134 NW 298.

The Minneapolis city council has no power to require, as a condition of its approval of a plat, that all streets and alleys indicated on the plat shall be graded, since this, in effect, imposes the burden of street grading in a manner contrary to the provisions of the charter. *Lewis v Minneapolis*, 140 M 435, 168 NW 189.

Until accepted by the public a common-law dedication may be revoked by the platter and may be abandoned by non-user or other indicative act. After revocation or abandonment a conveyance by the platter of blocks or lots abutting the street conveyed the land to the center thereof. *Doyle v Babcock*, 182 M 556, 235 NW 18.

Where the owner of land by suitable plat dedicates streets and similar to be devoted to public use, and where the boundary on one side be navigable water, there being no indication of a contrary intention, the conclusion follows that the dedication was intended to enable the public to have access to the water for all proper purposes. *Schaller v Frontenac*, 193 M 604, 259 NW 529.

Where land is platted with a river as one of the boundaries, and only a dedicated street on such plat intervenes between the platted lots fronting on said street and the river, the conveyance by the owner who platted the land of the lots so fronting on the street carries the fee title to the entire street in front of the lots, and the riparian rights attach to the lots, subject to the public easement in the street. *Lamprey v American Hoist*, 197 M 112, 266 NW 434.

Where the county auditor, for tax purposes, notifies the owner to plat irregular pieces of land, and the owner fails to do so, the auditor may have the land platted by the county surveyor but has no power to dedicate streets or execute a certificate of dedication. OAG Sept. 11, 1939 (373-B-15).

Subdividing trust fund lands into small parcels or lots; authority of the commissioner of conservation to dedicate streets and alleys to the public. 1942 OAG 15, July 25, 1941 (700-D-26).

Validity of reservation of public utility rights in dedication of land as public street. 25 MLR 240.

505.02 SURVEYS, MONUMENTS, AND NATURAL BOUNDARIES; LIMITATION.

HISTORY. R. S. 1851 c. 31 ss. 1 to 3; P.S. 1858 c. 26 ss. 1 to 3; G.S. 1866 c. 29 ss. 1 to 3; G.S. 1878 c. 29 ss. 1 to 3; G.S. 1894 ss. 2303 to 2305; R.L. 1905 s. 3366; 1907 c. 438 s. 1; 1911 c. 347 s. 1; G.S. 1913 s. 6856; G.S. 1923 s. 8237; M.S. 1927 s. 8327.

Owner platted a portion of his property with no dedicated streets and later platted an addition dedicating streets, including 25 feet of one lot in the first addition still owned by him. The depleted lot was sold, and in an action between the lot owner and the village it was held to be a legal dedication of the street. *Keyes v Excelsior*, 126 M 456, 148 NW 501.

The plat of a townsite which contains no designated monument from which future surveys can be made does not conform with the statute. *Doyle v Babcock*, 182 M 556, 235 NW 18.

Extrinsic aids may be used to prove a replacement monument is directly traceable to an original monument designated in the certificate of the plat; and, when so established, in the absence of an original monument, it becomes the best evidence in determining the starting point of a survey. *Dittrich v Ubl*, 216 M 396, 13 NW(2d) 384.

505.03 DEDICATION; CERTIFICATION; APPROVAL; VERIFICATION.

HISTORY. R.S. 1851 c. 31 s. 4; P.S. 1858 c. 26 s. 4; G.S. 1866 c. 29 s. 4; 1871 c. 39 s. 1; G.S. 1878 c. 29 s. 4; 1889 c. 56 s. 1; G.S. 1894 ss. 2306, 2307; 1899 c. 168; R.L. 1905 s. 3367; 1907 c. 438 s. 2; G.S. 1913 s. 6857; G.S. 1923 s. 8238; M.S. 1927 s. 8238.

Where party makes a statutory dedication, it can be revoked only by proceedings according to law, but where, as in this case, the filing of the plat failed of being a statutory dedication it becomes a dedication in pais. This becomes effective only if an acceptance by the public can be shown. *Baker v City of St. Paul*, 8 M 491 (436).

A town plat is not entitled to record, and will not operate as a statutory dedication, unless it is acknowledged. *Huff v Winona*, 11 M 119 (75).

When the record of a plat is lost, its contents may be proved by parol, but only by the best evidence. *Huff v Winona*, 11 M 119 (75).

To effect a statutory dedication of lands to public use, the requirements of the statute authorizing it must be substantially complied with. *Downer v Railway Co.* 22 M 251.

A special law for the city of Duluth, giving certain public officers jurisdiction over the filing and acceptance of plats, is effective over the general laws relating to the powers of the county surveyor. *Rice v Highland Improvement Co.* 56 M 259, 57 NW 442.

Where the county surveyor made a survey and plat for a townsite company and attached his certificate, and filed the plat, it is deemed official and the surveyor may be enjoined to turn all papers relating to this official to his successor in office. *State v Patton*, 62 M 388, 64 NW 922.

In the absence of statutory regulation, the effect of a conveyance of urban property in accordance with descriptions contained in an unrecorded plat is to dedicate to the public use the streets and alleys therein described. But see *Laws 1899, Chapter 168. Nagel v Dean*, 94 M 25, 101 NW 954.

Description of platted land sufficient. Effect of curative act. Ex. *Laws 1881, Chapter 57, Section 1. Curtiss & Yale Co. v Minneapolis*, 123 M 344, 144 NW 150.

The statutory dedication being regular, proof of acceptance is not necessary. *Keyes v Town of Excelsior*, 126 M 456, 148 NW 501.

In a village plat the dedication expressly gave the public an easement in the streets but expressly reserved the fee, and the fee reverts to the platter on abandonment of the street. The operation of a commercial railroad on such a street is an additional servitude which the village cannot authorize. *Drake v Railway*, 136 M 366, 162 NW 453.

Plat of a townsite without designating a base monument does not conform to the statute. Not conforming, it creates a common-law dedication which may be abandoned or revoked until acceptance; after acceptance the dedication becomes fixed. *Doyle v Babcock*, 182 M 556, 235 NW 18.

Reservation by the platter of control over the erection of poles and wires, or the laying of mains, is void. OAG Nov. 21, 1931.

505.04 RECORDING; FEES; PENALTIES.

HISTORY. R.S. 1851 c. 31 ss. 8 to 11; P.S. 1858 c. 26 ss. 8 to 11; G.S. 1866 c. 29 ss. 8 to 11; G.S. 1878 c. 29 ss. 8 to 11; G.S. 1894 ss. 2311 to 2314; R.L. 1905 s. 3368; 1907 c. 438; 1911 c. 347 s. 2; G.S. 1913 s. 6858; G.S. 1923 s. 8240; M.S. 1927 s. 8240.

Sale of lots before compliance with the statute, and where there is a penalty for the non-compliance, does not render sales or contracts void. *DeMers v Daniels*, 39 M 158, 39 NW 98.

Where the owner, after platting, sells lots with reference to the plat, he and his successors are estopped from denying the legal existence of public ways and grounds dedicated by the plat, and in this case the city's right to tract designated a "park" was not lost by non-user. *Poudler v Minneapolis*, 103 M 478, 115 NW 274.

Name of an existing plat may not be changed, but under certain circumstances a new plat with a new name may be resorted to. OAG March 8, 1939.

MINNESOTA STATUTES 1945 ANNOTATIONS

2779

PLATS 505.14

Plats of registered property must be filed with the registrar of titles. OAG Nov. 3, 1944 (373b-15).

505.05 CERTAIN VILLAGE PLATS DECLARED OFFICIAL.

HISTORY. 1913 c. 497 s. 1; G.S. 1913 s. 6860; G.S. 1923 s. 8242; M.S. 1927 s. 8242.

505.06 CERTAIN VILLAGE PLATS TO BE RECORDED.

HISTORY. 1913 c. 325 s. 1; G.S. 1913 s. 6859; G.S. 1923 s. 8241; M.S. 1927 s. 8241.

505.07 VILLAGES MAY CHANGE NAMES OF PLATS; RESOLUTION, FILING, EFFECT.

HISTORY. 1927 c. 31 ss. 1 to 3; M.S. 1927 ss. 8242-1 to 8242-3.

505.08 PLATS IN COUNTIES HAVING 300,000 INHABITANTS.

HISTORY. 1913 c. 101 s. 1; G.S. 1913 s. 6861; G.S. 1923 s. 8243; M.S. 1927 s. 8243.

505.09 COUNTY BOARD TO CONTROL PLATTING OF LAND.

HISTORY. 1929 c. 225 s. 1; M. Supp. s. 8243-1.

505.10 MAJOR STREET PLAN.

HISTORY. 1929 c. 225 s. 2; M. Supp. s. 8243-2.

505.11 BOARD TO MAKE REGULATIONS.

HISTORY. 1929 c. 225 s. 3; M. Supp. s. 8243-3.

505.12 POWERS ADDITIONAL.

HISTORY. 1929 c. 225 s. 4; M. Supp. s. 8243-4.

505.13 APPLICATION; LIMITATION.

HISTORY. 1929 c. 225 s. 5; M. Supp. s. 8243-5.

505.14 NOTICE BY PUBLICATION AND SERVICE UPON MAYOR, VILLAGE PRESIDENT, OR CHAIRMAN OF TOWN BOARD.

HISTORY. R.S. 1851 c. 31 ss. 12 to 14; P.S. 1858 c. 26 ss. 12 to 14; 1860 c. 68 ss. 1 to 2; 1862 c. 36 s. 1; 1863 c. 47 s. 1; G.S. 1866 c. 29 ss. 12 to 14; 1869 c. 31 s. 1; G.S. 1878 c. 29 ss. 12 to 14; G.S. 1894 ss. 2315 to 2317; 1903 c. 60 ss. 1, 2; R.L. 1905 s. 3369; 1909 c. 503 s. 1; G.S. 1913 s. 6863; 1917 c. 38 s. 1; G.S. 1923 s. 8244; M.S. 1927 s. 8244.

Construed under the congressional townsite act of 1844, as to effect of recording and later abandonment. *Weisberger v Tenny*, 8 M 456 (405).

In platting an addition duplicate copies were filed, one an original, the other as a certified copy. A part of the description in the duplicate original was wrongly numbered, while in the certified copy as filed the numbering was correct. Held, by service on all parties in interest, a conveyance might be corrected by court order. *Rice v Kelset*, 42 M 511, 44 NW 535.

Where the homestead situated in an incorporated city is used for agricultural purposes, and is surrounded in part by platted lands, rural in character, this does not affect its homestead character so long as it remains unplatted. *Kiewert v Anderson*, 65 M 491, 67 NW 1031.

MINNESOTA STATUTES 1945 ANNOTATIONS

505.14 PLATS

2780

Under the statute the expediency and propriety of vacating a village plat, in whole or in part, rests in the sound discretion of the district court, all parties in interest having been duly notified. *Fowler v Vandal*, 84 M 392, 87 NW 1021.

The district court has power under the statute to alter or vacate any part of a plat or a city, including streets or similar, and notwithstanding a provision in the charter of the city which gives sole and exclusive power to the city council. *Townsend v Underwood's*, 91 M 342, 97 NW 977.

A judgment vacating an urban plat in proceedings under the statute is applicable as a "final order affecting a substantial right" and must be taken within the time fixed for appeals from orders generally. *Koochiching County v Franson*, 91 M 404, 98 NW 98.

Two plats were on record, one the original in which the property in question was dedicated as a street, and the other a plat dividing the street into salable lots to which was attached a transcript of a resolution vacating the street. Held, to be constructive notice of the vacation to all persons. *White v Jefferson*, 110 M 276, 125 NW 262.

In an action under the statute a judgment was entered vacating a public street. The trial court, on application of the county, reopened the judgment and permitted the county to answer. Held, the county had a right to be heard, and the discretion of the court was correctly exercised. *Jameson v County of Ramsey*, 114 M 230, 130 NW 1000.

The original plat made no dedication for streets, but the addition laid out a street in the addition which extended through the original and cut 25 feet from one lot. Held, as no sales had been made, and the rights of third parties had not intervened, and the dedication was a good statutory dedication, no proof of acceptance was necessary and the plat of the addition was effective as a dedication to the public of the 25 feet. *Keyes v Excelsior*, 126 M 456, 148 NW 501.

Legislature has the power, as exercised by Laws 1909, Chapter 503, to give exclusive jurisdiction to the city councils of cities of the first class to vacate or alter public streets or alleys, and the district court has no jurisdiction. *Balch v St. Anthony Park*, 129 M 306, 152 NW 643.

Lot owner, not a party to an action resulting in the vacation of a street, has nevertheless a right to sue and recover damages. *Maletta v Oliver Co.* 135 M 175, 160 NW 771.

In order to sustain a judgment for the vacation of a street, it was permissible for the district court to receive evidence extraneous to the record that notice of the application had been given by posting, the judgment roll containing proof of notice by publication only. *Application of Peters, re Ramaley's Park*, 163 M 206, 203 NW 593.

Laws 1909, Chapter 503, applied only to home rule charter cities and not to villages organized under Laws 1885, Chapter 145, and the district court in this case has jurisdiction, and the power granted to the court is not a delegation of legislative power. *Application of Hull, re Village of Hibbing*, 163 M 439, 204 NW 534, 205 NW 613.

The determining test as to whether property dedicated to public use is to be vacated is whether the public interests will be best served thereby. Appellant taxation of costs against the respondent upheld. *In re Application of Schaller v Frontenac*, 193 M 604, 616, 259 NW 529, 826.

Where facts pleaded in the complaint show cause to be barred by statute of limitations, and no facts are shown to forestall its operation, a demurrer to complaint should be sustained. *Parsons v Town of New Canada*, 209 M 129, 295 NW 907.

Before a street can be vacated in a proceeding under section 505.14 it must appear that no public interest will be served by continuing the existence of the street and that the vacation thereof will be beneficial to the public interest. The evidence in the instant case does not sustain the finding that the street in question is useless for the purpose for which it was laid out. *Krebs v Town of Northern*, 213 M 344, 6 NW(2d) 803.

A street having been located on a plat on the shore of a lake, its dedication to the use of the public will be presumed to have been intended to enable the

MINNESOTA STATUTES 1945 ANNOTATIONS

2781

PLATS 505.26

public to have access to the water for all public purposes. The word "useless" should not be given a restricted meaning, but such meaning as commonly defined as being of no use, unserviceable, and answering no desired purpose. Application of Baldwin, 218 M 12, 15 NW(2d) 184.

The decision upon a petition for vacation of a street, whether by a court or by a municipal council, involves the exercise of discretion. 1942 OAG 184, April 7, 1942 (396-G-16).

Platting does not necessarily change status of land from section 273.13, class 3B, to section 273.13, class 3C. 1942 OAG 296, March 20, 1942 (18-D).

Legislation. 1 MLR 545.

505.15 CERTAIN PLATS VALIDATED.

HISTORY. 1905 c. 129 s. 1; G.S. 1913 s. 6864; G.S. 1923 s. 8245; M.S. 1927 s. 8245.

505.16 TO WHAT PLATS APPLICABLE.

HISTORY. 1905 c. 129 s. 2; G.S. 1913 s. 6865; G.S. 1923 s. 8246; M.S. 1927 s. 8246.

505.17 CERTAIN PLATS AND CERTIFICATES PRIMA FACIE EVIDENCE.

HISTORY. 1907 c. 53 s. 1; G.S. 1913 s. 6867; M.S. 1927 s. 8246-1.

505.18 MINNESOTA COORDINATE SYSTEM.

HISTORY. 1945 c. 165 s. 1.

505.19 NORTH ZONE.

HISTORY. 1945 c. 165 s. 2.

505.20 X—COORDINATES.

HISTORY. 1945 c. 165 s. 3.

505.21 REFERENCE TO ZONES.

HISTORY. 1945 c. 165 s. 4.

505.22 DEFINITION OF MINNESOTA COORDINATE SYSTEM.

HISTORY. 1945 c. 165 s. 5.

505.23 WHERE COORDINATES RECORDED.

HISTORY. 1945 c. 165 s. 6.

505.24 LIMITATION OF USE.

HISTORY. 1945 c. 165 s. 7.

505.25 WHEN USE OF COORDINATES SUPPLEMENTAL.

HISTORY. 1945 c. 165 s. 8.

505.26 DESCRIPTION NOT EXCLUSIVE.

HISTORY. 1945 c. 165 s. 9.