

SURVEYING, PLATTING, AND RECORDING.

CHAPTER 84.

AN ACT TO PROVIDE FOR SURVEYING, PLATTING, AND RECORDING TOWNS AND CITIES.

*Be it enacted by the Legislative Assembly of the Territory of
Dakota :*

Survey and
plat necessary.

SECTION 1. When any person wishes to lay out a town in this territory, or an addition or subdivision of out lots, such person 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 or adjoining to said town, giving the names, width, courses, boundaries, and extent of all such streets and alleys.

Lots and
squares num-
bered.

SECT. 2. All the in lots intended for sale shall be numbered in progressive numbers or by squares in which they are situated, and their precise length and width shall be stated on said map or 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 or map, together with any streets, alleys, or roads which shall divide or border the same.

Base line, how
formed.

SECT. 3. The proprietor or proprietors of the town, addition or subdivision of out lots, by themselves or agents, shall, at the time of surveying and laying the same, cause to be planted and firmly fixed in the ground on the line of the main streets of said town, two good and sufficient stones of such size and dimension as the surveyor shall direct. Said stones to be at least two hundred and fifty yards apart, and the lines thus formed shall be a base line from which to make future surveys; and the point or points where the same may be found, shall be distinguished on the plat or map.

SECT. 4. The plat or map, after having been completed,

shall be certified by the surveyor and the officers, and every person or persons whose duty it shall be to comply with the foregoing requisitions, shall, at or before the time of offering said plat or map for record, acknowledge the same before any person authorized to take the acknowledgment of deeds. A certificate of such acknowledgment shall, by the officer taking the same, be indorsed on the plat or map, which certificate of the survey and acknowledgment shall also be recorded and form a part of the record.

Plat or map certified and acknowledged.

SECT. 5. When the plat or map shall have been made out and certified, acknowledged and recorded, as required by this chapter, every donation or grant to the public, or any individual or individuals, religious society or societies, or to any corporation or body politic, marked or noted as such on said plat or map, shall be deemed, in law and equity, a sufficient conveyance to vest the fee-simple of all such parcel or parcels of land as are therein expressed, and shall be considered to all [intents] and purposes a general warranty against such donor or donors, their heirs or representatives to said donee or donees, grantee or grantees, for his, her, or their use, for the uses and purposes therein named, expressed and intended, and no other use and purpose whatever; and the land intended to be [used] 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 to and for the use and purposes set forth and expressed or intended.

Of lands donated or granted.

Land for streets, &c.

SECT. 6. If the county in which said town or addition is situated shall not be organized, then in that case the plat or map shall be recorded in the register's office of that county to which the county in which said town is situated shall at the time be attached for judicial purposes.

If county not organized, plat recorded, where.

SECT. 7. When any town, addition, or subdivision has been heretofore laid out and lots sold in this territory, by agents or proprietors, and a plat or map of the same has not been acknowledged and recorded in conformity with acts heretofore in force, it shall be the duty, and it is hereby required of the county commissioners, or a majority of them, in such county, or proprietor or proprietors, who have laid out the same, or his, her, or their legal representatives, to have the same fairly, fully, and clearly made out, acknowledged and recorded in the proper county, in the form and manner required by this

If towns, &c., have been laid out without complying with this act.

chapter; noticing and particularly [describing] the donation of lands or otherwise, to individual societies, bodies politic, or for common or public purposes: *Provided*, That if the lots shall have been differently numbered and sales made, and they cannot be well changed, they shall be returned as originally stated, but in all other respects the plat or map shall conform to the requisitions of this chapter.

Proviso.

Fees of surveyor and register.

SECT. 8. The surveyor who shall lay out, survey, and plat any town or addition, shall be entitled to receive twenty-five cents for each and every in and out lot the same may contain, unless otherwise agreed; and the register of deeds of the county recording the same, shall receive the sum of two cents for each and every lot as aforesaid, the said plat and survey to be by him transcribed or copied into a book to be provided for that purpose.

If sale or lease offered before this act is complied with. Penalty.

SECT. 9. If any person or persons shall dispose of, offer for sale, or lease for any time, any out or in lots in any town or city, or in any addition to any town or city, or any part thereof, which shall hereafter be laid out, until all the foregoing requisitions of this chapter shall have been complied with; every person so offending shall forfeit and pay the sum of ten dollars for each and every lot or part of a lot sold or disposed of, leased or offered for sale.

If officer or other person neglect to do duty. Penalty.

SECT. 10. If any county officer or other person or persons whose duty it is to comply with any of the requisitions of this chapter, shall neglect or refuse so to do, he or they shall forfeit and pay a sum of not less than ten nor more than one hundred dollars, for each and every month he or they shall delay a compliance.

Towns heretofore laid out must be recorded within three months.

SECT. 11. All towns heretofore laid out, shall be platted or mapped in accordance with the provisions of this act, and the plats or maps of the same shall be recorded within three months from the passage of this act, in the office of the register of deeds of the proper county.

Of forfeitures and liabilities.

SECT. 12. All forfeitures and liabilities which may be incurred or arise under this act, shall be prosecuted for and recovered in the name of the county treasurer; and any officer or officers paying over any money to the said treasurer, received under any of the provisions of this act, 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 against said treasurer on the books of the county commissioners.

SECT. 13. The district courts are hereby authorized and empowered, on application made by the proprietors of any town within their proper county, to alter or vacate the same or any part thereof.

District court may alter or vacate towns.

SECT. 13. If any proprietor or proprietors of a town shall be desirous of altering or vacating the same or any part thereof, such proprietor or proprietors shall give notice in writing of such intended application, in at least two of the most public places in the county wherein such town may be situated, and insert a copy thereof in a newspaper printed or in circulation in said county, if there be one, at least forty days prior to the sitting of the court to which he or they intend to make such application.

Notice of application for vacation, how given.

SECT. 15. If such applicant or applicants shall produce to said court satisfactory evidence that the notice required by the preceding section of this chapter has been given, the court shall proceed to hear and determine said petition, and may alter or vacate said town or any part thereof, and order their proceedings thereon to be recorded by the clerk, with the records of said court.

Proceedings before the court.

SECT. 16. The words chapter and act as used in the foregoing provisions, shall be construed to mean one and the same thing.

Words "chapter" and "act" mean same thing.

SECT. 17. This act shall take effect from and after its passage, and approval by the governor.

Take effect, when.

Approved April 24, 1862.

W. JAYNE, Governor.