

§ 136-96. Road or street not used within 15 years after dedication deemed abandoned; declaration of withdrawal recorded; joint tenants or tenants in common; defunct corporations.

(a) Every strip, piece, or parcel of land that has been at any time dedicated to public use as a road, highway, street, avenue, or for any other purpose whatsoever, by a deed, grant, map, plat, or other means, and that has not been actually opened and used by the public within 15 years after its dedication is conclusively presumed to have been abandoned by the public for the purposes for which it was dedicated; and no person shall have any right or cause of action thereafter to enforce any public or private easement in the land.

(b) Notwithstanding subsection (a) of this section, no abandonment of any public or private right or easement shall be presumed until the dedicator or a person claiming under the dedicator files or causes to be recorded in the register's office of the county where the land lies a declaration withdrawing the strip, piece, or parcel of land from the public or private use to which it was dedicated.

(c) When the fee simple title is vested in tenants in common or joint tenants of any land embraced within the boundaries of a road, highway, street, avenue, or other land dedicated for any public purpose whatsoever, as described in this section, any one or more of the cotenants, on the cotenant's behalf and on behalf of the other cotenants, may execute and cause to be registered in the office of the register of deeds of the county where the land is situated the declaration of withdrawal provided for in this section. Under Chapter 46A (Partition) of the General Statutes and Article 29A (Judicial Sales) of Chapter 1 of the General Statutes, and on petition of any one or more of the cotenants, the land thereafter may be partitioned by sale only as between or among the cotenants, irrespective of who may be in actual possession of the land. In the partition proceeding, any cotenant may object to the withdrawal certificate and the court shall thereupon order the certificate cancelled of record.

(d) When any corporation has dedicated any strip, piece, or parcel of land in the manner set out in this section, and the dedicating corporation is no longer in existence, the corporation is conclusively presumed to have no further right, title, or interest in the land, regardless of the provisions of conveyances from the corporation, or those holding under the corporation, retaining title and interest in the land. The right, title, and interest in the land is conclusively presumed to be vested in those persons owning lots or parcels of land adjacent to it, subject to the provisions of this section.

(e) This section does not apply in any of the following circumstances:

- (1) When the continued use of any strip of land dedicated for street or highway purposes is necessary to afford convenient ingress or egress to any lot or parcel of land sold and conveyed by the dedicator of the street or highway.
- (2) When the public dedication is part of a future street shown on the street plan adopted pursuant to G.S. 136-66.2. Upon request, a city shall adopt a resolution indicating that the dedication described in the proposed declaration of withdrawal is or is not part of the street plan adopted under G.S. 136-66.2. This resolution shall be attached to the declaration of withdrawal and shall be registered in the office of the register of deeds of the county where the land is situated. (1921, c. 174; C.S., ss. 3846(rr), 3846(ss), 3846(tt); 1939, c. 406; 1953, c. 1091; 1957, c. 517; 1987, c. 428, s. 1; 2020-23, s. 16.)