

SECTION 7

VACATION OF PLAT AFTER SALE OF LOT

SECTION 7-1.

In cases where any lot has been sold, the plat or part thereof may be vacated according to either of the following methods:

- a. By instrument in writing agreeing to said vacation signed by all the owners of lots shown on said plat and also signed on behalf of the Council of the City, for the purpose of showing the approval of said vacation by the Council. The word "owners" shall not include lien creditors except those whose debts are secured by a recorded deed of trust or mortgage and shall not include any consort of an owner. The instrument of vacation shall be acknowledged in the manner of a deed and filed for recording in the Clerk's office of the Circuit Court for the City of Winchester, Virginia.
- b. By Ordinance of the Council of the City on motion of one of its members or upon application of any interested person. Such Ordinance shall not be adopted until after notice has been given as required by 15.1-431, Code of Virginia (1950) as amended. Said notice shall clearly describe the plat or portion thereof to be vacated and state the time and place of the plat or portion thereof to be vacated and state the time and place of the meeting of the City Council at which the adoption of the Ordinance will be voted upon. Any person may appear at said meeting for the purpose of objecting to the adoption of the Ordinance. An appeal from the adoption of this Ordinance may be filed within thirty (30) days in the Circuit Court for the City of Winchester, Virginia. Upon such appeal the Court may nullify the Ordinance if it finds that the owner of any lot shown on the plat will be irreparable damaged. If no appeal from the adoption of the Ordinance is filed within the time above provided or if the Ordinance is upheld on appeal, a certified copy of the Ordinance of vacation may be recorded in the Clerk's office of the Circuit Court of the City of Winchester.

The recordation of the instrument as provided under paragraph (a) or of the Ordinance as provided under paragraph (b) shall operate to destroy the force and effect of the recording of the plat or part thereof so vacated, and to vest fee simple title to the center line of any streets, alleys, or easements for public passage so vacated in the owners of abutting lots free and clear of any rights of the public or other owners of lots shown on the plat, but subject to the rights of the owners of any public utility installation which have been previously erected therein. If any such street, alley or easement for public passage is located on the periphery of the plat, such title for the entire width hereof shall best in such abutting lot owners. The fee simple title to any portion of the plat so vacated as was set apart for other public use shall be re-vested in the owners, proprietors and trustees, if any, who signed the statement as required by Section 4, paragraph 4-3 of this Ordinance free and clear of any rights of public use in the same.

LAND SUBDIVISION ORDINANCE

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