



**Amherst County Board of Supervisors
County Ordinance No. 2019-0010**

AN ORDINANCE, NO. 2019-0010

Amending § 1202.04 of Appendix A - Zoning and Subdivision, Article XII – Subdivision Platting Requirements to the Code of the County of Amherst to add language pertaining to vacation of boundary lines.

Approved as to form and legality by the County Attorney

**PUBLIC HEARING: Planning Commission, July 18, 2019
FIRST READING: Board of Supervisors, August 6, 2019
PUBLIC HEARING: Board of Supervisors, August 20, 2019**

THE COUNTY OF AMHERST HEREBY ORDAINS:

§ 1. That Section 1202.04 of Appendix A - Zoning and Subdivision, Article XII – Subdivision Platting Requirements to the Code of the County of Amherst pertaining to vacation of boundary lines, be and hereby is amended as follows:

1202. - Vacation of plats.

1202.01. Vacation of plats with no lots sold. Where no lots have been sold, any plat, or part thereof, recorded under the provisions of this article may be vacated with the consent of the commission by the owners, proprietors, and trustees, if any, who signed the Certificate of Owner's Consent to Subdivision, as provided in Section 1203.03(7) declaring same to be vacated by a written instrument, duly executed, acknowledged, and recorded in the office of the clerk wherein the plat to be vacated is recorded. The execution and recording of such instrument shall operate to destroy the force and effect of the recording of the plat so vacated and to divest all public rights, and revert such owners, proprietors, and trustees, if any, with the title to the streets, alleys, easements for public passage, and other public areas described in such plat.

1202.02. Vacation of plats with lots sold. In cases where any lot has been sold, a plat or part thereof may be vacated according to either of the following methods:

1. By written instrument agreeing to said vacation signed by all owners of lots shown on said plat and by the zoning administrator on behalf of and with the approval of the board of supervisors. The word "owners" shall not include lien creditors except those whose

debts are secured by a recorded deed of trust or mortgage. The instrument of vacation shall be acknowledged in the manner of a deed and recorded in the office of the clerk wherein the plat to be vacated is recorded.

2. By ordinance of the board of supervisors on motion of one (1) of its members or an application of any interested person, after notice and public hearing in accordance with requirements of Section 15.2-2204 of the Code of Virginia, 1950, as amended. An appeal from the adoption of the ordinance may be filed within thirty (30) days with the circuit court of the county. Upon such appeal the court may nullify the ordinance if it finds that the owner of any lot shown on the plat will be irreparably damaged. If no appeal from the adoption of the ordinance is upheld on appeal, a certified copy of the ordinance of vacation shall be recorded in the office of the clerk wherein the plat to be vacated is recorded.

1202.03. Effects of vacation. The recordation of the instrument provided in Section 1202.01 or 1202.02(1), or of the ordinance as provided in Section 1202.02(2), 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 centerline 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 any 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 thereof shall vest 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 revested in the owners, proprietors and trustees, if any, who signed the Certificate of Owner's Consent to Subdivision, as provided in Section 1203.03(7) free and clear of any rights of public use in the same.

1202.04. Vacation of boundary lines. The boundary lines of any lot or parcel of land may be relocated or otherwise altered as a part of an otherwise valid and properly recorded plat of subdivision or resubdivision provided such action does not involve the relocation or alteration of streets, public easements or other public areas; and provided further, that no easement or utility rights-of-way shall be relocated or altered without the express consent of all persons holding any interest therein. Boundary and/or internal lot lines may be vacated with the recordation of a deed provided that no easements or utility rights-of-way located along any lot lines to be vacated shall be extinguished or altered without the express consent of all persons holding any interest therein. The deed shall be approved in writing, on its face, by the local governing body or its designee. The deed shall reference the recorded plat by which the lot line was originally created.

§ 2. That this ordinance shall be in force and effect upon adoption.

Adopted this 20th day of August, 2019.

L. J. Ayers III, Chairman
Amherst County Board of Supervisors

ATTEST:

Dean C. Rodgers, Clerk
Amherst County Board of Supervisors

Ayes _____

Nays _____

Abstentions _____

DRAFT