



COUNTY OF ALLEGHANY, VIRGINIA

Planning and Zoning Department

Application for Vacation of Plat

Name of Applicant/Developer: _____
Mailing Address: _____

Home Phone#: _____ Work Phone #: _____

**Name of Property Owner (If different from above): _____
Mailing Address: _____

Home Phone#: _____ Work Phone #: _____

**If owner is different from applicant/developer, written consent from the owner or a copy of a legal contract between the developer and the owner shall accompany this application.

Type of Proposed Vacation (check one): ☐ Subdivision ☐ Large Lot Division ☐ Other

Tax Map ID# (s) _____ Zone Classification _____

Name of Division being vacated (if applicable) _____

Location, directions or address of property to be vacated: _____

Date this property was purchased: _____

Number and size of lots to be vacated: _____

Present use of the property to be vacated: _____

Proposed use of the property to be vacated: _____

Describe your intent regarding any existing structures or utilities (water, septic, sewer) on the parcel(s) being vacated: _____

Describe the proposed or existing ingress and egress to the property being created from the vacation. (ie. From an existing public road or if a road, street or right-of-way is to be vacated or created.) _____

Is the property or any portion of the property located in a flood hazard area? ☐ No ☐ Yes. If yes, please attached flood information with the application. Location of flood hazard areas shall be shown on the plat of the vacation.

Are there covenants, restrictions or a deed of dedication for the parcel(s) being vacated? ☐ No ☐ Yes. If yes, submit a copy with the application.

A copy of a certified survey shall be submitted with the application that shows adjacent streets, ingress and egress, lot locations and dimensions, and the proposed uses(s) and existing use of the lots being vacated. Where applicable, flood information should be provided on the survey. A space on the survey shall be provided for the signature of the Subdivision Agent.

A list of the property owners and their addresses for each parcel that is being vacated shall be submitted with this application. Also a list of adjoining property owners and addresses shall be submitted. Adjoining properties include properties located across any street, road, right-of-way, river, stream, or railroad. Names of the current owners of adjoining properties can be obtained from the Commissioner of the Revenue's Office or the Public Works Office.

Signatures of all owners of lots shown on the plat shall be submitted indicating their agreement to the vacation.

Applicants should refer to Code of Virginia §15.2.2271 and §15.2.2272 for further information regarding the vacation of plats. A copy of the code sections are attached to this application for reference.

If the vacation is approved, the applicant will be responsible for the recordation of the vacated plat in the Circuit Court Clerk's Office.

Evidence must be presented to show that any delinquent real estate taxes owed to the locality, which have been properly assessed against the subject property, have been paid. A copy of the paid real estate tax ticket(s) or a statement from the Treasurer's Office noting taxes have been paid must be attached to the application.

This application form must be filled out completely with full answers to every applicable statement and question. The applicant, the landowner, or their agent, in the space provided, shall sign the application.

An application fee shall be paid at the time this request is filed. The fee is based on the fee schedule adopted by the Board of Supervisors. Checks are to be made payable to "Alleghany County Treasurer."

The completed application with attachments and the fee are to be returned to the County Planner in the Planning and Zoning Department of the Public Works Office.

The landowner/developer will be responsible for compliance with all other applicable ordinances and regulations, including the zoning ordinance and the erosion and sedimentation ordinance.

SIGNATURE

By signing below, I depose and say that I am the Leasee/Developer/Owner of the property involved in the application. If I am not the owner, I will produce a copy of a contract to purchase the property or I will present certification from the owner granting me the right to submit this application. I further declare that I have familiarized myself with the rules and regulations pertaining to filing this application and that the foregoing statements and answers provided herein are in all respects true and correct to my knowledge and belief.

Signature of Applicant:

Date _____

CHECKLIST:

- | | |
|--|--|
| <input type="checkbox"/> Application | <input type="checkbox"/> Fee |
| <input type="checkbox"/> Plat/Survey (1 copy) | <input type="checkbox"/> List of Property Owners |
| <input type="checkbox"/> Flood Information | <input type="checkbox"/> List of Adjoining Property Owners |
| <input type="checkbox"/> Covenants/Deed Restrictions | <input type="checkbox"/> Signatures of Lot Owners of Lots Shown on the Plat Agreeing |
| <input type="checkbox"/> Evidence Taxes Paid | <input type="checkbox"/> to the Vacation |

OFFICE USE ONLY

Date Received: _____ Fee Paid: _____ Received By: _____

Reviewed By: _____ Forwarded To: _____ Date: _____

Vacation is: ☐ Approved ☐ Denied Comments: _____

Signature of Subdivision Agent: _____ Date: _____

Other Comments/Notes: _____

PROPERTY OWNER AGREEMENT TO VACATION

We, the property owners of land located on the plat of the _____
division agree with the proposed vacation of lot lines of property owned and being vacated by _____
_____. We agree to the proposed vacation by signing below:

[illegible]

The Code of Virginia

Title 15.2 - COUNTIES, CITIES AND TOWNS.

Chapter 22 - Planning, Subdivision of Land and Zoning

§ 15.2-2271. Vacation of plat before sale of lot therein; ordinance of vacation.

Where no lot has been sold, the recorded plat, or part thereof, may be vacated according to either of the following methods:

1. With the consent of the governing body, or its authorized agent, of the locality where the land lies, by the owners, proprietors and trustees, if any, who signed the statement required by § 15.2-2264 at any time before the sale of any lot therein, by a written instrument, declaring the plat to be vacated, duly executed, acknowledged or proved and recorded in the same clerk's office wherein the plat to be vacated is recorded and the execution and recordation of such writing shall operate to destroy the force and effect of the recording of the plat so vacated and to divest all public rights in, and to reinvest the owners, proprietors and trustees, if any, with the title to the streets, alleys, easements for public passage and other public areas laid out or described in the plat; or

2. By ordinance of the governing body of the locality in which the property shown on the plat or part thereof to be vacated lies, provided that no facilities for which bonding is required pursuant to §§ 15.2-2241 through 15.2-2245 have been constructed on the property and no facilities have been constructed on any related section of the property located in the subdivision within five years of the date on which the plat was first recorded.

The ordinance shall not be adopted until after notice has been given as required by § 15.2-2204. The notice shall clearly describe the plat or portion thereof to be vacated and state the time and place of the meeting of the governing body at which the adoption of the ordinance will be voted upon. Any person may appear at the meeting for the purpose of objecting to the adoption of the ordinance. An appeal from the adoption of the ordinance may be filed within thirty days of the adoption of the ordinance with the circuit court having jurisdiction of the land shown on the plat or part thereof to be vacated. Upon appeal the court may nullify the ordinance if it finds that the owner of the property shown on the plat will be irreparably 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 any court in which the plat is recorded.

The execution and recordation of the ordinance of vacation shall operate to destroy the force and effect of the recording of the plat, or any portion thereof, so vacated, and to divest all public rights in and to the property and reinvest the owners, proprietors and trustees, if any, with the title to the streets, alleys, and easements for public passage and other public areas laid out or described in the plat.

(Code 1950, § 15-793; Code 1950, § 15-967.16; 1950, p. 722; 1962, c. 407, § 15.1-481; 1964, c. 564; 1987, c. 404; 1997, c. 587.)

§ 15.2-2272. Vacation of plat after sale of lot.

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

1. By instrument in writing agreeing to the vacation signed by all the owners of lots shown on the plat and also signed on behalf of the governing body of the locality in which the land shown on the plat or part thereof to be vacated lies for the purpose of showing the approval of the vacation by the governing body. In cases involving drainage easements or street rights-of-way where the vacation does not impede or alter drainage or access for any lot owners other than those lot owners immediately adjoining or contiguous to the vacated area, the governing body shall only be required to obtain the signatures of the lot owners immediately adjoining or contiguous to the vacated area. 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 record in the clerk's office of any court in which the plat is recorded.

2. By ordinance of the governing body of the locality in which the land shown on the plat or part thereof to be vacated lies on motion of one of its members or on application of any interested person. The ordinance shall not be adopted until after notice has been given as required by § 15.2-2204. The notice shall clearly describe the plat or portion thereof to be vacated and state the time and place of the meeting of the governing body at which the adoption of the ordinance will be voted upon. Any person may appear at the meeting for the purpose of objecting to the adoption of the ordinance. An appeal from the adoption of the ordinance may be filed within thirty days with the circuit court having jurisdiction of the land shown on the plat or part thereof to be vacated. Upon 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 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 any court in which the plat is recorded.

Roads within the secondary system of highways may be vacated under either of the preceding methods and the action will constitute abandonment of the road, provided the land shown on the plat or part thereof to be vacated has been the subject of a rezoning or special exception application approved following public hearings required by § [15.2-2204](#) and provided the Commissioner of Highways or his agent is notified in writing prior to the public hearing, and provided further that the vacation is necessary in order to implement a proffered condition accepted by the governing body pursuant to §§ [15.2-2297](#), [15.2-2298](#) or [15.2-2303](#) or to implement a condition of special exception approval. All abandonments of roads within the secondary system of highways sought to be effected according to either of the preceding methods before July 1, 1994, are hereby validated, notwithstanding any defects or deficiencies in the proceeding; however, property rights which have vested subsequent to the attempted vacation are not impaired by such validation. The manner of reversion shall not be affected by this section.

(Code 1950, §§ 15-793, 15-967.17; 1950, p. 722; 1962, c. 407, § 15.1-482; 1975, c. 641; 1990, c. 719; 1994, c. [341](#); 1997, c. [587](#).)

§ 15.2-2273. Fee for processing application under § [15.2-2271](#) or § [15.2-2272](#).

Any locality may prescribe and charge a reasonable fee not exceeding \$150 for processing an application pursuant to § [15.2-2271](#) or § [15.2-2272](#) for the vacating of any plat.

(1970, c. 161, § 15.1-482.1; 1975, c. 641; 1978, c. 554; 1984, c. 285; 1997, c. [587](#).)

§ 15.2-2274. Effect of vacation under § [15.2-2272](#).

The recordation of the instrument as provided under subdivision 1 of § [15.2-2272](#) or of the ordinance as provided under subdivision 2 of § [15.2-2272](#) 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 other owners of lots shown on the plat, but subject to the rights of the owners of any public utility installations which have been previously erected therein. If any street, alley or easement for public passage is located on the periphery of the plat, the title for the entire width thereof shall vest in the 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 statement required by § [15.2-2264](#) free and clear of any rights of public use in the same.

(Code 1950, §§ 15-793, 15-967.18; 1950, p. 722; 1962, c. 407, § 15.1-483; 1964, c. 564; 1997, c. [587](#).)

§ 15.2-2275. Relocation or vacation of boundary lines.

Any locality may provide, as a part of its subdivision ordinance, that the boundary lines of any lot or parcel of land may be vacated, relocated or otherwise altered as a part of an otherwise valid and properly recorded plat of subdivision or resubdivision (i) approved as provided in the subdivision ordinance or (ii) properly recorded prior to the applicability of a subdivision ordinance, and executed by the owner or owners of the land as provided in § [15.2-2264](#). The action shall not involve the relocation or alteration of streets, alleys, easements for public passage, or other public areas. No easements or utility rights-of-way shall be relocated or altered without the express consent of all persons holding any interest therein.

Alternatively, a locality may allow the vacating of lot lines by recordation of a deed providing 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.

(1982, c. 294, § 15.1-483.1; 1993, c. 121; 1997, cc. [524](#), [545](#), [587](#); 2005, c. [338](#).)

§ 15.2-2276. Duty of clerk when plat vacated.

The clerk in whose office any plat so vacated has been recorded shall write in plain legible letters across such plat, or the part thereof so vacated, the word "vacated," and also make a reference on the plat to the volume and page in which the instrument of vacation is recorded.

(Code 1950, §§ 15-794, 15-967.20; 1962, c. 407, § 15.1-485; 1997, c. 587.)

§ 15.2-2277.

Not set out. (1990, c. 906, § 15.1-465.1; 1997, c. 587.)

§ 15.2-2278. Vacating plat of subdivision.

Any plat of subdivision recorded in any clerk's office, whether or not pursuant to this article, may be vacated in the manner prescribed by § **15.2-2272** and the provisions of §§ **15.2-2274** and **15.2-2276** shall be applicable to such vacation.

(1964, c. 564, § 15.1-365; 1997, c. **587**.)