

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

SENATE BILL 1245

By: Ford

AS INTRODUCED

An Act relating to cities and towns; amending 11 O.S. 2001, Sections 42-106 and 42-109, which relate to vacation of plat and replatting; modifying approval for vacation of plat; defining procedure for replatting; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 11 O.S. 2001, Section 42-106, is amended to read as follows:

Section 42-106. A. Any plat of a municipality or addition thereto or any subdivision of land may be vacated by the owners thereof at any time before the sale of any lots therein by a written instrument declaring the same to be vacated, duly executed, acknowledged or proved and recorded in the same office with the plat to be vacated. The executing and recording of the written instrument, bearing the approval or consent of the municipality in which the plat is situated, shall operate to destroy the force and effect of the recording of the plat so vacated, and to divest all public rights in the public ways, commons, and public grounds laid out as described in the plat.

B. Where any lots in the plat sought to be vacated have been sold, the plat or a portion thereof may be vacated as provided in subsection A of this section, ~~or replatted,~~ provided that ~~sixty percent (60%) of the owners of lots~~ the owners of sixty percent (60%) of the lots in the plat and all of the owners in the area to be vacated join in the execution of the written instrument, the instrument bears the approval of the municipality in which the plat

is situated, and such action is not prohibited by any restrictive covenants encumbering the lots in plat.

C. Notwithstanding the foregoing provisions, any plat of record in the office of the county clerk in the county in which the real property is situated, for a period of not less than ten (10) years, which bears the approval of the municipality in which the real property is situated, which replats an existing plat, or a portion thereof, shall be deemed a lawful replatting of any plat, or portion thereof, thereby vacating the plat, or a portion thereof, which is replatted.

D. This section shall not be construed as applying to any of the territory included within the limits of any incorporated municipality created and organized under and by virtue of a special act of the Legislature.

SECTION 2. AMENDATORY 11 O.S. 2001, Section 42-109, is amended to read as follows:

Section 42-109. A. The owner of any lot in a plat which has been vacated by decree or written instrument may cause the same and a proportionate part of adjacent public ways and public grounds to be ~~platted~~ replatted and numbered by a registered land surveyor. The owner of any platted lot or lots may replat the lot or lots without necessity of vacating the initial plat or applicable portion thereof if such action is not prohibited by any restrictive covenants encumbering the lots. A replat shall not be deemed a vacation of the initial plat nor affect any preexisting public ways, utility easements or rights-of-way. A replat or a vacation of a plat shall not be deemed a termination of any restrictive covenants which are otherwise enforceable. When ~~the~~ a plat replat is acknowledged by the owner and bears the approval of the municipality in which the plat is situated and is recorded in the office of the county clerk of the county in which the plat is located, the lots may be conveyed and assessed by the numbers given them on the plat.

B. When any part of a plat has been vacated by decree or written instrument, the owners of the lots so vacated may enclose the public ways and public grounds adjoining the lots in equal proportion.

C. Nothing contained in this article shall operate to preclude a fee from reverting to its owner when a public right-of-way is vacated in law or in fact.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

48-2-2303

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