



Guidelines for Initiating a Right-of-Way Closing/Vacation (i.e. to extinguish a street or alley public right-of-way)

A Working Document

Surveys ***Right-of-Way Management*** **Department of Public Works**

Location: City Hall (Written Requests to Room 701 City Hall)

Hours: 8 AM – 5 PM

Contacts: Division of Surveys in Room 600 City Hall, 900 E. Broad Street, at 646-0436

Note: As these guidelines and/or requirements will be revised and updated on occasion by the department, the applicant will be responsible for the requirements as outlined on the City's most current version of this outline, in addition to any City Code requirements.

- I. At times, citizens will make a request that a public right-of way (i.e. improved or unimproved streets and alleys) be closed (i.e. extinguish the right-of way). The applicant must submit the following to initiate the closing process for a duly enacted ordinance of the City Council (ref. City Code Section 90-326):
 - a) A letter of request to the Director of Public Works denoting the actual request and the purpose or reason(s) for the request (Address: Director of Public Works, City Hall, Room 701, 900 E. Broad Street, Richmond, Virginia, 23219.); For the “purpose and reason” part, answer the question of “Why do you want or need to close the area?”, include details of any development plans, briefly describe the nature and scope of the development, any schedule for a Plan of Development (POD) if required in your plans, which may need submittal or approval by Community Development or the Planning Commission prior to introducing a closing ordinance, and include any support or opposition that has been conveyed to you.
 - b) A \$300 non-refundable application and processing fee, payable to City of Richmond);
 - c) A licensed professional land surveyor’s plat showing the exact extent and dimensions of the closing, names, parcel numbers and deed references of adjoining properties, metes and bounds based on a NAD83 datum, area of proposed closure, etc. and a minimum of two NAD 83 State Plane coordinates. [The City administration reserves the right to request a digital copy of the plat/plan be submitted/forwarded to the Surveys Division in a compatible format. Such a request will incorporate the submittal as one of the requirements for initiating the closing process]

- d) For right-of-way closing requests that are suspected or considered to be residual right-of-way initially acquired by the State and is suspected or considered to have been (or should have been) transferred by the State to the City, the applicant will need to provide a copy of the deed transferring the right-of-way from the State to the City, in addition to providing a surveyor's plat as noted above.
 - e) The written consent (ref. City Code Section 90-327) of all the adjoining landowners (i.e. any owner who touches any portion of the area requested to be closed. If the applicant owns all the surrounding property that touches the closed area then the written consent could be a moot issue). The City will consider the recommendation or concerns of others who do not border the subject area or anyone who may be adversely impacted by its closure)
 - f) the written consent of those who use the closed area for a primary/necessary ingress or egress (i.e. if they are different individuals than the adjoiners)
 - g) the written consent from all additional adjoiners who became adjoiners prior to the introduction or adoption of the closing ordinance
 - h) possibly, additional written consent/acknowledgement may be required in the event the applicant is not an adjoining property owner of the proposed closing at any time in the process
- II. Once we receive the required fee and requested information, all city agencies will review and provide their comments to Public Works. Items, issues, concepts, etc. that will be reviewed and considered prior to the administration's recommendation include, but are not limed to, the following:
- a) Current use of the area proposed to be closed
 - b) Potential future use of subject area
 - c) Utility relocation needs (at applicant's expense) when an easement will not suffice
 - d) Easements for utilities that need to be reserved/retained (reduces value of closed area)
 - e) Emergency service and use of area
 - f) Refuse Collection service and use of the area
 - g) Impact to pedestrian or vehicular traffic

Should it be determined that the right-of-way is needed or necessary for services by the City, the administration would have difficulty in recommending approval to Council for a closing request.

III. In regard to a request to close only a portion of a right-of-way:

- a) The administration will typically *not* recommend a closing that creates a jog or unevenness within the consistency of a right-of-way line or boundary pattern.
- b) Often a request is made to close a small portion of unimproved right-of-way, which establishes a break or disconnect in the entire or full-length stretch of right-of-way and creates a scenario where any possible future use of the remaining right-of-way is taken away. If the "small portion" that disconnects the entire (contiguous) stretch of right-of-way can be favorably recommended by the administration then it is probable that the entire stretch could receive the same favorable recommendation. In this instance, Public Works will not typically recommend that only a dividing section be closed and will require the applicant to seek closure of the entire stretch.

- c) In the event a proposed closing would leave some existing public alley or street with a dead end (i.e. some of the subject right-of-way remains and dead ends), it is often our policy (at a minimum) to require the applicant provide a turnaround area as required by Public Works, and typically as guided by City/VDOT standards on turnarounds. However, Public Works will often recommend the entire area/length of right-of-way be closed as opposed to leaving only a small portion open/remaining as right-of-way.
- d) The administration would be unable to recommend a closing that would leave a parcel of land landlocked (i.e. without direct and adjoining access to an established and approved street public right-of-way)

IV. Other suggestions, recommendations, or requirements include:

- a) Prior to submitting a closing request, we encourage applicants to discuss their proposals with adjoining landowners that adjoin the closed area and who must give written approval, and with all those property owners in the immediate area who currently have some use of the right-of-way.
- b) Although Public Works will solicit input and comment from various City agencies, the applicant is welcome to contact the Fire department (646-6640), Police department (646-1343), Refuse Collection (646-1798), Utilities, Transportation Engineering (646-0442), Planning & Development Review (646-6304), Economic/Community Development (646-5633), Public Utilities (646-8544) and any other interested parties who may be impacted prior to initiating a closing request.
- c) It is estimated that the Surveys Division would need to actually receive the letter of request and required fee/data (i.e. after reviewed and processed through the Director's office) approximately 40 business days/50 calendar days prior to the desired Council meeting introduction. The City's Chief Administrative Officer's office cut-off day (a Wednesday) for a Department's preliminary (completed) ordinance submittal to qualify for an upcoming Council meeting introduction is 23 business days/33 calendar days prior to the desired Council meeting introduction. To give the administration the opportunity to satisfy this cut-off day after receiving the letter of request, Public Works will need to receive, be provided, and/or obtain the following information (at a minimum) from the applicant and all stakeholders, reviewing agencies, etc. by the Wednesday that is 30 business days/40 calendar days prior to the desired Council meeting introduction:
 - The requested information from the applicant
 - Completed research material
 - Site visit information drawing calculations and data
 - Completed drawing
 - The final considerations, responses, requests, and directions from all the reviewing City departments and agencies, and;
 - A copy of the Agreement to Conditions letter to the applicant signed by the applicant agreeing to the ordinance conditions and the amount to be paid for the closed area (i.e. which also means that time will be needed to make assessments and negotiate with the applicant, prepare the letter, and obtain a signed letter). The Agreement to Conditions letter addresses the preliminary conditions being agreed upon and additional or revised conditions may be added to the ordinance following the signature of the initial agreement letter and prior to introduction at any time, as deemed necessary by the Department of

Public Works. Our policy is to have the preliminary conditions accepted by the applicant, or their representative, prior to Public Works submitting the preliminary ordinance paper to the Chief Administrative Officer. Also, the complexity of the research for record information needed, time necessary for Real Estate transactions, or other unforeseen issues may extend the proposed introduction date.

- d) The times frames illustrated above that are needed for the department to collect information and complete the preliminary ordinance should not be considered as committed timeframes because they are subject to vary depending on the size and nature of the project. The complexity of the research of record information needed may extend the introduction date. Also, the needs of reviewing departments or advisory commissions, committees, or boards may also alter the completion times, introduction dates, or final Council action dates. The applicant may contact Public Works, Surveys Division, at 646-0436 for any inquiries in monitoring condition revisions or additions. All final conditions by the department will be included in the ordinance to be considered for adoption.
- e) Once the administration has given an initial approval of the request *and* an agreement concerning the conditions and cost of the closed area has been signed by the applicant(s), then Public Works can finalize the drawing and the preliminary Council papers for submittal to the Law Department.
- f) It is our policy to withhold the submission of preliminary papers from the Law Department and/or disallow an ordinance introduction until a signed agreement is received from the applicant illustrating the applicant's agreement to the conditions and the cost of the right-of-way area to be closed.
- g) An assessment the property (i.e. the area proposed to be closed) will be made by the City and the adjoiners will be expected to pay their proportional share, unless other arrangements or private agreements are established (i.e. the applicant may choose to pay the entire amount).
- h) The applicant, or their legal council, is responsible for determining any reversionary rights to the right-of way area to be extinguished.
- i) Some applicants make private arrangements with adjoiners in regard to funding or purchasing the appropriate portions of extinguished right-of-way that adjoiners are entitled to/required to purchase.
- j) In considering the worth of the closed area, a general rule of thumb to use as an initial guideline only would be to use the same worth of adjoining properties (i.e. dollar value assessment per square foot/acre).
- k) Questions concerning the assessment and sale of the property should be addressed to DPW, at 646-0436.
- l) The Law Department will utilize Public Works' preliminary council papers to process the final ordinance document for Council action.

V. Closing ordinances are subject to various conditions prior to going into effect after a Council adoption that include, but are not limited to:

- a) Consent to the closing is required in writing from each of the owners of land, buildings or structures from whom consent is required under Section 90-327 of the Code of the City of Richmond, which consents shall be in writing, approved as to form by the City Attorney, and filed in the office of the City Clerk. [Therefore, all adjoining landowners that adjoin the area to be closed will be required to consent to the closing in writing. These consent letters must

be forwarded with the letter of request to Public Works to initiate the process. On occasion, written consent will be required from those individuals who are not direct adjoiners to the closed area but are deemed by the City to be adversely affected by the closing.]

- b) The closing ordinance shall be effective upon execution of an agreement by any abutting property owner or owners, with a legal interest, to purchase the closed portion with such agreement to be in accordance with Section 15.2-366 of the Virginia Code and approved as to form and legality by the City Attorney. If any abutting property owner fails to make the required payment for such owner's fractional portion within one year of the adopted ordinance, the closing shall be null and void. [Note: Following an adopted ordinance by Council, all the adjacent owners with a legal interest will be deeded (i.e. by quitclaim deed) their proportional share of the closed right-of-way by the Law Department regardless of who pays for the closed area and regardless of who initiates the closing request. Any desired ownership or legal interest changes would need to be addressed through private agreements and deeds between interested parties. The Department of Public Works (646-0436), will advise the applicant on the final cost for the area encompassed by the proposed closed right-of-way. It is up to the adjacent owners requesting the closing to decide how the monetary arrangements to purchase the street/alley from the City will be handled. There is no option for one adjacent owner to purchase all of the proposed closed right-of-way and then receive a deed from the City unless all the other adjoiners transfer their legal interest to that one individual prior to the Law Department's preparation of the final quitclaim deeds for adjoining landowners. It is not permissible for one adjacent owner to obtain a quitclaim deed for their proportional piece of the closed area (typically one-half distance out into the closed portion running the width of the property) by paying their share of the total costs while the City has not been compensated for the remaining pieces in the closed portion. In order for the ordinance to go into effect (officially extinguishing the right-of-way), the total cost of the alley must be paid. There is no option available where one adjacent owner could pay for their respective portion only (i.e. fractional piece typically one-half distance out into the closed portion) and then obtain a quitclaim deed for that fractional piece while the other areas/fractional pieces in the closed portion are not paid for by the responsible parties.]
- c) The closing shall not become effective if such a closing will establish or create any parcel of property without direct, authorized, and legal access to an established public street right-of-way.
- d) The conditions of the ordinance must be satisfied as coordinated by the applicant within the given time frame (i.e. typically, one year from the adoption date) and as approved/determined by the Law department from evidence supplied by the applicant.

- VI. Other conditions include, but are not limited to, protecting public and private utility rights, applicant cost responsibilities (i.e. including, but not limited to utility removal/realignment/installation (ref. Code Section 90-329); signage; removal, relocating, or replacement of brick or cobblestone where/when applicable (and estimated rate, subject to be revised at time of application at discretion of the administration, may be \$5/sq. ft. if applicant chooses to reimburse City for the “worth” of in-place stone), etc.); applicant responsibility for surface overflow, reconstruction approvals, expiration clause, giving/establishing the appearance, as approved by Public Works, that the closed portion is not owned or maintained by the City (i.e. extending curb, gates or signs installed by applicant at termini of closing), etc.
- VII. On the average, the process takes approximately six to eight weeks (i.e. length of process may be impacted by Council schedules, Law Department deadlines, property evaluation, and the applicant’s submittal of a signed agreement regarding the cost and initial conditions cost of the area, submittal of additional information, research, etc.
- VIII. Once all drawings, assessment agreements, and initial ordinance are completed/signed, the ordinance can be introduced (2nd or 4th Monday) at one Council meeting (i.e. read into the minutes), a notice is sent to the owners of properties as referenced in City Code Section 90-328. Also following the introduction, the paper will go to the Planning Commission three weeks later on a 1st or 3rd Monday, and then back to Council the following Monday for final action
- IX. A proposed closing must be reinitiated for a particular closing to take place in the event a closing ordinance is deemed to be null and void by the City of Richmond for any reason including when ordinance conditions are not satisfied within the noted time frame.
- X. Those who have requests, projects, or inquiries associated with a right-of-way closing/vacation shall be responsible for verifying and utilizing the departments most updated version of the policies and guidelines.

Amended last 02.13.13 mwa