



Guidelines for Initiating a Right-of-Way Closing/Vacation

A Working Document

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

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 guideline, in addition to any City Code requirements.

At times, private entities (residents, property owners, etc.) 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 Chap 24, Article IV, sections 24-313 thru 24-316):

- 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 public r/w?" 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, which may need submittal or approval by the Department of Planning and Development Review 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, adjacent property owner 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 24-314) 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 adjoiningers).
- g) The written consent from all additional adjoiningers who became adjoiningers 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.

Once we receive the required fee and required supporting 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 limited 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; and,
- 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.

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 of the right-of-way and creates a scenario where any possible future use of the remaining right-of-way is eliminated. 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 length/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 dead-end 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 public right-of-way)

Other suggestions, recommendations, or requirements include:

- a) Prior to submitting a closing request, we encourage applicants to discuss their proposals with adjoining landowners adjacent to the proposed closed area and who must give written consent, 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, Police Department, Refuse Collection, Transportation Engineering, Planning & Development Review, Economic/Community Development, Public Utilities and any other interested parties who may be impacted prior to initiating a closing request.
- c) 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 City Attorney's Office.
- d) It is our policy to withhold the submission of preliminary papers to the City Attorney's Office 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.
- e) An assessment of 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 of the acquisition cost, unless other arrangements or private agreements are established (i.e. the applicant may choose to pay the entire amount).
- f) The applicant, or their legal council, is responsible for determining any reversionary rights to the right-of way area to be extinguished.
- g) Some applicants make private arrangements with adjacent property owners regarding funding or purchasing the appropriate portions of extinguished right-of-way that adjoiners are entitled to/required to purchase.
- h) In considering the value of the closed area, as a general rule, it would be considered at an equal value of the adjoining properties (i.e. dollar value assessment per square foot/acre).
- i) The City Attorney's Office will utilize Public Works' preliminary council papers to process the final ordinance document for Council action.

Closing ordinances are subject to various conditions prior to going into effect after Council adopts the ordinance, that include, but are not limited to:

- a) If not previously provided, consent to the closing is required in writing from each of the owners of land, buildings or structures from whom consent is required under Chapter 24 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 approved as to form and legality by the City Attorney.
- c) For the ordinance to go into effect (officially extinguishing the right-of-way), the total cost of the extinguished right-of-way must be paid. There is no option available where one adjacent owner can pay for their respective portion only (i.e. fractional piece typically one-half of the width of the closed portion) and then obtain a quitclaim deed for that fractional piece only, while the other areas/fractional pieces in the closed portion are not paid for by the responsible parties.
- 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 City Attorney's Office based upon evidence supplied by the applicant.

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, or installation; signage; removal, relocating, or replacement of brick or cobblestone where/when applicable; 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.

On the average, the process takes approximately twelve to sixteen weeks (i.e. length of process may be impacted by City Council schedules, City Attorney deadlines, property evaluation, and the applicant's submittal of a signed agreement regarding the cost and initial conditions of the ordinance, submittal of additional information, research, etc.

Once all drawings, assessment agreements, and supporting documents are completed, the ordinance can be introduced at a City Council meeting. Following the introduction, the proposed ordinance will be placed on the Planning Commission calendar for review. Subsequently, the proposed ordinance is returned to Council, with the Planning Commission recommendation, for final action.

A right-of-way closing must be re-initiated as if newly proposed if all conditions of the ordinance are not satisfied within the noted time frame.

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.