

Department of Planning
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STREET CLOSURE PETITION INSTRUCTIONS

PURPOSE

A street closure petition is required when an owner of property located adjacent to a street or other public right-of-way seeks to close the street or other public right-of-way and convert it to private property.

REVIEW PROCESS

The deadline for submitting a petition for a Street Closure is the Monday prior to the second Wednesday of the month. All petitions are to be submitted to the Planning Department.

The Planning Department will review the petition for completeness. One adjacent property owner is required to serve as a primary point of contact, i.e. primary petitioner. If the petition is found to be incomplete, the Planning Department will return the petition, exhibits, and filing fee to the primary petitioner, with a description of the manner and areas in which the petition is incomplete.

Once a petition is determined to be complete, the Planning Department distributes the petition and exhibits to various City departments for review. Affected City departments will comment on the benefits, needs and hardships, which may result from the street closure. Development review departments include Development and Permits, Public Utilities, Police, Schools, Economic Development, Libraries, Fire, Inspections, Zoning, Parks & Recreation and Planning. Based on these comments, the Planning Department will determine whether or not the right-of-way is needed for public safety and convenience; is needed for future street extensions; utility or drainage easements will be necessary; and whether the proposed street closure is consistent with the Chesapeake Comprehensive Plan.

Pursuant to Chesapeake City Code, Section 66-15, the abutting property owner or owners petitioning for a street closure may be required to purchase from the City the street or other public right-of-way for which the vacation is requested. For this reason, the Planning Department will request the City's Right-of-Way Agent to determine the fair market or contributory value of the City's interest in the street, or public right-of-way to be vacated. This value shall be used in determining the purchase price, if any, to be paid to the City by the petitioners for the property to be vacated.

REVIEW PROCESS (Continued)

After receiving comments from the other departments, the Planning Department will advise the petitioners of the departmental findings and the feasibility of the street closure. The Planning Department will also notify the petitioners of the City's determination of the value of the property to be vacated. The Planning Department will also notify the petitioners that City Council will consider this value in determining the purchase price, if any, which the petitioners will be required to pay if the property is vacated. At the same time, the Planning Department will forward an agreement to the petitioners, wherein the petitioners agree to pay the purchase price set by City Council in the event the property is vacated and payment is required. **The agreement must be signed and returned to the Planning Department before the petition is scheduled for City Council consideration.** It is recommended that the agreement be executed and submitted to the Planning Department as soon as possible to prevent delays in the processing of the petition.

Adjacent property owners who do not choose to join in the petition must indicate their lack of objection by completing and signing the Adjacent Property Owner (non-petitioner) Consent Form. Any adjacent property owner who wishes to purchase his one-half share of the right-of-way, must join the petition as a petitioner.

The Planning Department will prepare the advertisement and signs for posting. At this time, the petitioner will be required to post the property with signs giving NOTICE OF PETITION FOR A STREET CLOSURE. Such posting must be in accordance with the instructions set out by the Planning Department. Applicants are encouraged to take pictures of the signs after posting and provide them to the Planning Department as proof that the signs were properly posted. Improper posting may delay processing of petition. The primary petitioner will be contacted by the Planning Department when the signs for posting are available. There is a sign fee of \$25.00 for the first sign and \$20.00 for each additional sign, as required. The advertisement will be published in the Clipper section of the Virginian Pilot on the third and fourth Sundays of the month preceding the public hearing date. The petitioner(s) are responsible for all newspaper advertising costs for public hearing notifications. **The applicant will be billed separately for these costs.** The average cost is \$100 per advertisement, with a minimum of four (4) advertisements required (average \$400 per application). These costs include the required advertisements for Planning Commission and City Council. All additional advertising costs incurred due to continuances will also be the responsibility of the petitioner(s).

APPLICATIONS THAT DO NOT MEET MINIMUM APPLICATION REQUIREMENTS AS SPECIFIED IN THE CHESAPEAKE CITY CODE WILL NOT BE ADVERTISED.

The Planning Department will compile departmental comments, the petitioner's response, and analysis for approval of the street closure, approval with certain conditions, or denial of the petition in a staff report. The Planning Department will forward a copy of the petition, exhibits and staff report to each Planning Commission member. A copy of the staff report will be provided to the petitioner. All staff reports are available for review in the Planning Department and Public Libraries.

REVIEW PROCESS (Continued)

The Planning Commission will hold a public hearing the second Wednesday of the month after the application has been deemed complete by the Planning Department. The public hearing is open to all citizens. The petitioner(s) must attend the Planning Commission public hearing. Failure of the petitioner(s) to attend the Planning Commission Public Hearing may result in the continuance of the petition to a future Planning Commission hearing date.

At the public hearing, the Planning Commission will hear proponents and opponents of the application, as well as staff comments and recommendations. Pursuant to Virginia Code, Section 15.2-2232, the Planning Commission must find that the requested vacation of the street or other public right-of-way is in accord with the City's Comprehensive Plan. Pursuant to City Code Section 66-14(f), the Planning Commission must also find whether vacation of the right-of-way will 1) adversely affect public safety and convenience, 2) will negatively impact the City's system of streets and highways, 3) will adversely affect public or private utility facilities, 4) will promote a public purpose, including but not limited to, improving traffic conditions, disposing of surplus land that is no longer functional or necessary, 5) leave all properties within the vicinity with reasonable access, and 6) whether any person affected by the street closure voices meritorious objections. The Commission considers all information and recommends to the City Council to either, approve the petition as presented, approve with conditions, or disapprove the petition.

The entire written record developed through the time of Planning Commission action will be forwarded to the City Council for review prior to its public hearing on the petition, which is usually held on the third Tuesday of the month following the Planning Commission's action.

The City Council holds a public hearing and considers the Planning Commission's recommendation, as well as information submitted by the Planning Department, citizens, and either approves the petition as presented, approves the petition with certain conditions, or denies the petition.

In considering the request for the street closure, City Council will determine whether the abutting property owners will be required to purchase that portion of the street or other public right-of-way to be vacated. City Council may, in its discretion, require the abutting property owners to pay the fair market value of the property or its contributory value to the abutting properties or a lesser amount set to by City council. In determining whether payment shall be required, or the amount of such payment, City Council may consider the following, as well as any other relevant factors:

- a. Fair market value of the property or its contributory value to abutting properties.
- b. Economic and other benefits the abutting property owners will enjoy in acquiring the property.
- c. Previous contribution or dedication of property made to the City by the Petitioner or predecessors in title.

REVIEW PROCESS (Continued)

- d. Charitable, educational or benevolent purpose of Petitioner or other factors which demonstrate beneficial contributions to the good of the City or its citizens.

If the ordinance is adopted and purchase of the vacated property is required, a check from all petitioners for the full amount of the purchase price must be received in the Planning Department within ten (10) calendar days. If payment is not received from the abutting landowner within the ten (10) day period, other abutting land owners may purchase the abandoned share of the vacated right-of-way, provided that the price for same is remitted to the Department of Planning within thirty (30) days of City Council's approval of the street closure. If any portion of the vacated right-of-way is not purchased within the time limits, the right-of-way shall revert to the City without further action of City Council.

After the ordinance is adopted, and a check or checks for the full amount of the purchase have been received by the Planning Department, the Planning Department will notify the City Clerk's Office that payment of the purchase price has been made. The City Clerk's Office will then forward the ordinance to the Circuit Court for recordation. After receipt of the recorded ordinance, the City Clerk shall mail a copy of said ordinance to the petitioners.

Vacation of the right-of-way will not become effective until 1) thirty (30) days have elapsed from City Council's approval of the street closure application, 2) the street closure ordinance and exhibit have been recorded in the Clerk's Office for the Circuit Court of the City of Chesapeake, 3) all conditions of the street closure have been fulfilled, and 4) the purchase price approved by the City Council has been paid in full.

Except in extraordinary circumstances approved by the City Clerk, the street closure petition will not be scheduled for City Council consideration until an agreement has been fully executed and submitted to the Planning Department

If no purchase payment is required by City Council, the City Clerk's Office will forward the ordinance to the Circuit Court Clerk's Office for recordation. After receipt of the recorded ordinance, the City Clerk shall mail a copy of said ordinance to the Petitioners.

FILING REQUIREMENTS

The following items are required as part of the filing of a Petition for Street Closure:

1. The completed original Street Closure Petition. Petitions for street closure must be filed by an adjacent property owner. All adjoining property owners of the portion of the street or other public right-of-way to be closed must either join in the petition or indicate their lack of objection by completing and signing the Adjacent Property Owner (Non-petitioner) Consent Form. Any adjacent property owner who wishes to purchase his one-half share of the right-of-way, must join the petition as a petitioner. *Please include this checklist with the original application.*
2. Signatures for all adjacent property owners must be **notarized**. If additional sheets are needed, please use copies of the Acknowledgement of Additional Petitioner Form or Adjacent Property Owner (Non-petitioner) Consent Form that is included with the petition, as applicable.
3. The Filing fee of \$100.00. Make check payable to: City of Chesapeake
4. A title certification indicating fee simple ownership of the right-of-way to be vacated. Where the City is not the fee simple owner, the title certification must indicate the City's interest in the right-of-way.
5. Thirty (30) copies of a vicinity map and street closure exhibit depicting the precise location and dimensions of the area to be vacated, reduced to 8½" x 11" paper, which includes all parcels of land abutting the subject right-of-way, and all public and private easements, public utility facilities and private franchise facilities located in or upon said right-of-way. The exhibit shall meet the minimum standards promulgated by the Virginia State Library Board for plats, as interpreted and applied by the Department of Development and Permits.
6. In addition to the \$100.00 filing fee, the petitioner(s) are responsible for all newspaper advertising costs for public hearing notifications. **The petitioner will be billed separately for these costs.** The average cost is \$100.00 per advertisement, with a minimum of four (4) advertisements required (average \$400.00 per application). These cost include the required advertisements for Planing Commission and City Council. All additional advertising costs incurred due to continuances will also be the responsibility of the petitioner(s).
7. The sign fee of \$25.00 for the first sign and \$20.00 for each additional sign, as required by the Planning Department.