

Street or Alley Vacation or Closure Process Guide



WHAT IS A STREET OR ALLEY VACATION?

A *street or alley vacation* is an abandonment of the public's right to use a street or alley, or property that was previously platted for use as public right-of-way. It may also be referred to as a permanent right-of-way closure, but should not be confused with temporary closures for construction or road work, or closure by barricade (see below). The term, right-of-way vacation is also correct, but 'street or alley vacation' is used here. A street or alley vacation can be initiated by anyone; however, applicants must have signatures from all adjoining owners, indicating their agreement with the application.

Because a street or alley vacation is a legal matter, we recommend that you have an attorney represent you and assist with the preparation of the application; however, legal representation is not required. Likewise, as property boundaries may change as part of the vacation, a plat of the affected properties is required to be prepared by a licensed surveyor if City Council approves the request. While Planning staff will provide assistance, the applicant is responsible for the application's content, the decision to hire legal representation, and hiring a licensed surveyor to prepare and record the plat.

WHAT IS A STREET OR ALLEY CLOSURE BY BARRICADE?

A *street or alley closure by barricade* is the closure of a street by placement of a barricade to prevent vehicular access. A closure by barricade application follows the same steps as a vacation application, however, when a street or alley is closed by barricade, it remains City property. City Council reserves the right to remove any such barricade at any time.

Barricades may be in the form of guard rail, bollards, or various types of fencing, subject to City Council approval. A closure by barricade is not the same as a temporary street closure for construction work. Permits for such work can be applied for at the Permit Center (540) 853-1090.

HOW IS THE DECISION MADE?

A street or alley vacation, or closure by barricade, application requires two public hearings before a decision is made – one by the Planning Commission and one by City Council. The Planning Commission holds the first public hearing and makes a recommendation to City Council. City Council then holds a public hearing and makes the final decision.

HOW LONG DOES IT TAKE?

The process takes a minimum of two months once an application is filed. An application and the schedule of filing deadlines and hearing dates can be found at www.roanokeva.gov/1088/Planning_Commission.

HOW MUCH WILL IT COST?

The application fee is \$100.00; however, **the applicant must pay for several services and should evaluate these costs prior to filing.** These costs can only be estimated beforehand and are as follows:

- (1) All requests to *vacate* a portion of right-of-way are evaluated to determine its fair market or contributory value prior to filing. The City may charge for the vacated portion of right-of-way. If so, this amount must be paid in full before a plat can be recorded. Partial payments will not be accepted. The applicant and adjoining property owners are responsible for establishing any payment agreements between themselves.

- (2) Payment of all fees for legal advertisements required by Virginia Code, standard fee of \$250. If an application is withdrawn and the legal advertisement has already been submitted, the applicant remains responsible for the cost.
- (3) If City Council votes to *vacate the subject street or alley*, a surveyor must be hired by the applicant to prepare and record a new plat.
- (4) For a *closure by barricade* the applicant is responsible for all costs associated with erecting the barricade.

WHAT IS THE PROCESS?

All vacations and closures by barricade follow the same general process as follows:

1) STAFF EVALUATION OF RIGHT-OF-WAY VALUE AND DETERMINATION OF SALE PRICE

Prior to filing an application, you should contact the Department of Planning Building and Development at (540) 853-1730, and inform staff of the street or alley you wish to vacate or close by barricade. In the case of *vacation* applications, the value of the right-of-way is evaluated based on the assessment of adjoining properties and potential for development in the event of vacation. After consulting with the Director of the Department of Real Estate Valuation, the Director of the Department of Planning Building and Development will recommend how much the City will charge for the street or alley. Staff will advise the prospective applicant of this information prior to filing the application.

2) PRE-FILING CONFERENCE

Applicants should schedule a pre-filing conference with staff to ensure that all required materials and information are provided. To schedule a pre-filing conference, please call (540) 853-1730.

Applications are due by the last Monday of the month and will be placed on the agenda for the second month following the filing; e.g., an application filed in October will be on the Planning Commission agenda in December. Late applications will be held until the following filing deadline. Hearing dates will change if the application is postponed, continued, or remanded by action of the applicant, Planning Commission, or City Council. Applicants are strongly advised to discuss the proposed closure with area neighborhood organizations and/or civic leagues and adjoining property owners prior to filing an application.

3) APPLICATION SUBMITTAL

A vacation or closure by barricade application, consisting of the following components, should be filed in the Permit Center, Room 170, of the Noel C. Taylor Municipal Building, 215 Church Avenue, Roanoke, Virginia 24011.

- (a) **Application Form:** The application must be signed by the applicant(s). If only one person or entity is applying and there are other adjoining property owners affected, the applicant must provide signed statements from all such parties whose property adjoins the subject street or alley. If a legal representative signs for a property owner, a copy of the executed power of attorney is required.
- (b) **Location Map:** A map clearly identifying the property for which the street or alley vacation, or closure by barricade, is requested must accompany the application form. The location map should be no larger than 11"x17" and labeled as Exhibit 1.
- (c) **Filing Fee:** A check for \$100.00 made payable to *Treasurer, City of Roanoke*.
- (d) **Legal Advertisement Fee:** A check for \$250.00 made payable to *Treasurer, City of Roanoke*.

4) POST-FILING PROCESS

- (a) **Staff Review:** Once an application has been filed, it is distributed to City departments, affected neighborhood organizations, and adjoining localities (if applicable) for comment. Comments are then sent to the applicant who is responsible for amending and re-filing the application (minus the filing fee). Staff then prepares a report and

recommendations for the Planning Commission's consideration which are mailed to the applicant on the Thursday before the Commission's public hearing.

- (b) **Public Notice:** A notice of public hearing is published as a legal advertisement in the Roanoke Times for Planning Commission's public hearing and once for City Council's public hearing. Adjoining property owners are notified by mail of the closure request.
- (c) **Planning Commission Public Hearing:** The Planning Commission's public hearing is held the second Monday of each month at 1:30 p.m. on the 4th floor of the Noel C. Taylor Municipal Building in Council Chamber. At the Commission's public hearing, the applicant presents the request; staff presents its report and recommendation; the Commission takes public comment; and the Commission discusses the request and makes a recommendation to City Council (though the applicant may request to continue the matter another month or more).
- (d) **City Council Public Hearing:** City Council's public hearing is held the following week on the third Monday of each month at 7:00 p.m. on the 4th floor of the Noel C. Taylor Municipal Building in Council Chamber. The Commission's staff prepares a report, including their recommendation, and forwards the report to City Council for their consideration. At Council's public hearing, the applicant presents the request, the Commission's recommendation is presented; and City Council approves, denies, continues, or remands the matter back to the Commission.

5) POST APPROVAL (ORDINANCE) CONDITIONS

Street or Alley Vacation

Any street or alley vacation approved by City Council is subject to conditions required for approval and recordation of the plat and the ordinance. Typically, a period of one year is provided to have the plat and ordinance recorded, however this time frame may be adjusted based on the circumstances. Street and alley right-of-way vacations may be subject to the following conditions:

1. The applicant will submit payment to the City of Roanoke for the value of the property, if applicable.
2. The applicant shall submit a subdivision plat to the Agent for the Planning Commission, receive all required approvals of, and record the plat with the Clerk of the Circuit Court for the City of Roanoke. Such plat shall combine all properties which would otherwise dispose of the land within the right-of-way to be vacated in a manner consistent with law, and retain appropriate easements for the installation and maintenance of any and all existing utilities that may be located within the right-of-way, including the right of ingress and egress.
3. Upon meeting all other conditions to the granting of the application, the applicant shall deliver a certified copy of this ordinance for recordation to the Clerk of the Circuit Court of Roanoke, Virginia, indexing the same in the name of the City of Roanoke, Virginia, as Grantor, and in the name of the petitioner, and the names of any other parties in interest who may so request, as Grantees. The applicant shall pay such fees and charges as are required by the Clerk to effect such recordation.
4. Upon recording a certified copy of this ordinance with the Clerk of the Circuit Court of the City of Roanoke, Virginia, the applicant shall file with the Engineer for the City of Roanoke, Virginia, the Clerk's receipt, demonstrating that such recordation has occurred.
5. If the above conditions have not been met within a period of one year (or other time frame established by City Council) from year the from the date of adoption of this ordinance, then such ordinance shall be null and void with no further action by City Council being necessary.

Closure by Barricade

A street or alley closure by barricade approved by City Council may be subject to the following conditions:

1. The applicant shall erect a barricade per the ordinance, which may dictate specific design and installation requirements, and is subject to inspection by the Department of Public Works.
2. Unless otherwise stated in the ordinance, the applicant is responsible for all costs associated with such barricade.
3. City Council retains the authority to authorize removal of the barricade.