

City Council Policy

SUBJECT: Right-of-Way Vacation

Policy No: CC-3

Effective Date: September 14, 1982

Agenda Item # & Date: UB-3 (3/25/03)

Approved by City Council: *Adopted in accordance with
action of City Council
on March 25, 1997*

Amended by City Council: September 22, 2003

Administering Dept: Department of Development

I. POLICIES:

- A. Adjoining property owners may petition the City to vacate any public right-of-way for a street or alley. By State law, the general rule is that when a City vacates a right-of-way, it is divided between the adjoining property owners. This division rule does not apply when a right-of-way is on the edge of a subdivision.
- B. Generally, rights-of-way are owned "in fee simple" by the City, and when vacated, can be acquired by the adjoining property owners. However, there are some cases wherein the City does not own a right-of-way "in fee simple," but merely has the right to use the property. In these cases, the City vacates its right to use the property and ownership reverts to the original owner of the property, not to the adjoining property owners.
- C. As a matter of policy, any vacation of a right-of-way must not result in a dead-end situation which lacks sufficient room for a vehicle to turn around or in public property which is isolated and not connected to a public right-of-way.
- D. All expenses involved in the vacation process shall be borne by the petitioner and receiving property owners.
- E. It is the policy of the City Council not to seek to sell vacated land to adjoining property owners in the vacation of an alley or the vacation of a right-of-way twenty feet or less in width. That is, Council generally does not require that the receiving property owners purchase such rights-of-way.

- F. It is the policy of City Council that whenever a right-of-way over twenty feet is vacated and the amount of vacated land going to a single adjoining property owner is of an area equal to or exceeding the minimum area necessary to site a building in that zoning district, then the City will sell the land to that adjoining property owner for an amount equal to one-half of the assessed value of a building site of comparable area.
- G. It is the policy of City Council that if the ordinance has expired without the deed(s) being filed, the petitioning citizen must contact the City Manager's Office, to have the issue placed on the agenda of the next available Council meeting. Prior to Council consideration, the petitioning citizen(s) must submit to, and have approved by, the City Attorney all deeds of vacation. The citizen must appear at the meeting, to request that Council reaffirm its earlier action. The City Manager will include in the Council packet the original report on the requested vacation, with no additional staff work or research.

At the request of the citizen, Council may pass an ordinance on first reading to reaffirm its earlier ordinance governing the street or alley vacation, and establishing a 30 day period for the signing and filing of the deed(s) after the reaffirming ordinance has been adopted on second and final reading.

II. PROCEDURES:

Anyone wishing to vacate a right-of-way is encouraged to discuss the policies and procedures with representatives of the Department of Development or City Attorney prior to initiating the process.

- A. Filing of Petition – The attached petition must be filed with the Department of Development. All adjoining property owners must sign the petition. There must be a \$100.00 deposit for each property owner. The petitioners must agree to meet all expenses involved in the vacation process. Contact: Department of Development.
- B. Advertisement – Notice of the request to petition City Council for the vacation of a right-of-way must be published as a legal ad in the Hopewell News at least twice, with at least six days elapsing between the first and second publication. The notice shall specify the time and place of hearing by the Hopewell Planning Commission, at which time persons affected may appear and present their views. Contact: Department of Development.

- C. The Planning Commission will receive a staff report on the request, hold a public hearing, and make its recommendation to Council. Contact: Department of Development.
- D. Council receives the Planning Commission's recommendation. Council may pass on first reading an ordinance of vacation, with or without conditions. Contact: Department of Development
- E. The property owners shall have 90 days to submit to the City Attorney for approval all deeds of vacation. When an individual deed is approved, the respective \$100.00 deposit shall be refunded. Contact: City Attorney.
- F. Deeds of vacation must reflect that vacated parcels are assimilated into, and become a part of, the abutting properties. The property owners are responsible for effecting any resubdivision process necessary to accomplish this.
- G. At the end of the 90 day period, or earlier, the City Attorney shall report to Council:
 - 1. If all deeds have been received and approved, Council then may adopt on second and final reading the vacating ordinance. If adopted, the deeds will be returned to the respective property owners, for filing with the Clerk of the Circuit Court. No property is transferred until the deeds have been filed. Contact: City Attorney.
 - 2. If one or more deeds are not received within the specified 90 day time limit, Council will be requested to defeat the vacating ordinance on second and final reading. If the ordinance is defeated, all deeds shall be returned to the appropriate parties and the petition terminated.
 - 3. For property owners who have not had a deed submitted and approved, the respective \$100.00 deposit shall be forfeited to the City. Contact: City Attorney.

For additional assistance, please contact the Department of Development or the City Attorney.

Policies and procedures adopted in accordance with action of Council on March 25, 1997, amended March 25, 2003 and September 22, 2003.

NOTE: Supersedes Administrative Policy H-4 approved by City Council September 14, 1982.

APPLICATION FOR STREET/ALLEY VACATION

I (We) _____ of _____
(Names) (Mailing Address)

petition the City of Hopewell to vacate the undeveloped right-of-way situated at: _____

There has _____ has not _____ been previously a petition to vacate this right-of-way.

Attached is a drawing of the right-of-way to be vacated.

There is/are _____ property owner(s) adjoining this right-of-way. Attached is/are the signature(s) of the adjoining property owner(s) and a \$100.00 deposit per property owner.

I (We) agree to pay for two public notice advertisements in the Hopewell News as well as all other costs incurred by me/us associated with this application, regardless of Council's final decision regarding the petition.

I (We) have received Council's Policy concerning right-of-way vacations.

(Signature of Petitioner)

(Telephone Number)

(Signature of Petitioner)

(Date)