

RESOLUTION NO. 24532

A RESOLUTION APPROVING THE ADOPTION OF THE RIGHT-OF-WAY CLOSURE AND ABANDONMENT POLICY ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE FOR USE IN THE DEPARTMENT OF PUBLIC WORKS.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, That the Right-of-Way Closure and Abandonment Policy attached hereto and made a part hereof be and is hereby adopted for use in the Department of Public Works.

ADOPTED: August 23, 2005

/add

Right-of-way Closures & Abandonment Policy

I. Basis:

A resolution adopted by Planning Commission on January 13, 1997 will continue to form the basis for the continuing actions as described below. (A copy is attached)

II. Identification of Right-of-Way in GIS:

Technical Information Center (TIC) in the City Engineer's Office maintains a GIS layer on the right-of-ways (ROW). Right-of-ways are identified as follows:

- a.) Closed: Previously closed right-of-ways by a City Ordinance.
- b.) Opened: Right-of-ways which are declared open and are being maintained by the City.
- c.) Unopened- Dedicated for public use, but not maintained by the City.

III. Identification of Right-of-Way for Closure/Abandonment:

The primary focus of right-of-ways to be abandoned/closed will be the right-of-ways currently identified as "Unopened".

City Engineers Office will review right-of-ways for closure/abandonment under the following circumstances:

- a.) Citizens request for closure (Through Regional Planning Agency (RPA) or directly to City Engineer's Office.)
- b.) Citizens request for Temporary Use.
- c.) Citizens request for closure due to right-of-ways being used as a dumping area, safety issues or unsightly growth etc.
- d.) Right-of-ways identified by City Wide Services (CWS) or other City personnel during their normal course of other activities which may be a candidate for closure/abandonment.
- e.) Request by developers.

Date: 7/15/05

- f.) City Engineer's review of right-of-ways which are candidates for closure.

IV. Process of Closure/Abandonment:

Once a right-of-way is identified for closure under III, City Engineer's Office will follow the following process:

- a.) The review committee composed of 3 individuals from Public Works will review that right-of-way based on the criteria in attachment 'A'.
- b.) The committee will make their recommendation to the City Engineer.
- c.) If approved by the City Engineer, a "Mandatory Referral" will be initiated by the City Engineer (no fee will be collected) for abandonment, but reserving the easement for the entire right-of-way for City. A Mandatory Referral will not be required if an application is made with the RPA directly.
- d.) RPA will perform their due process of presenting the recommendation to the Planning Commission.
- e.) If approved by Planning Commission City Engineer will then make his recommendation to the City Council.
- f.) CWS will initiate the cleaning of these abandoned/closed right-of-ways ONCE and then notify the adjacent property owners that it will be their responsibility to maintain those alleys thereafter. Cutting of any trees will be decided by the City Forester.
- g.) City Engineer will issue a notification letter to all the adjoining properties of this action.
- h.) A copy of the ordinance will be forwarded to the Hamilton County Tax Assessors Office, for changing the property lines and the GIS map.
- i.) Any plat recording of the changed boundaries shall remain the responsibility of the respective property owners.

Date: 7/15/05

V. Maintenance of Right-of Ways:

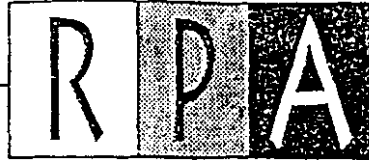
City Wide Services will continue to maintain the right-of-ways which are currently identified as "opened". The maintenance schedule for alleys is to cut and clean once a year. City Wide Services will schedule surfacing of these alleys once every five years, with CWS deciding on the choice of surfacing materials.

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VI. Labeling/Naming of Right-of Ways:

City Engineer's Office will initiate a systematic and progressive program of naming the right-of-ways which will remain open.

Date: 7/15/05



REGIONAL PLANNING AGENCY

RECEIVED

AUG 8 - 2005

STORM WATER

MEMORANDUM

TO: Planning Commission Members
FROM: Steve Leach
DATE: December 20, 1996

SUBJECT: Right-of-Way Closure and Abandonment Policy

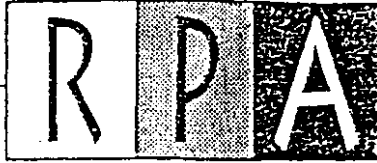
The attached closure and abandonment policy is designed to formalize the existing review process. As you are undoubtedly aware, closure and abandonment requests have steadily increased in number over the years and these requests have often proven to be very time consuming, technically challenging, and controversial. Because requests for abandonment and closures are mandated by TCA 13-4-104, the term "mandatory referral" has become associated with this procedure. By law, municipalities are required to have these reviewed by the Planning Commission in order to determine if the closure and abandonment is appropriate. In fact, on many occasions, this system has proven to be beneficial to all parties, but it does take time to insure that all public and private interests in the property (e.g., utilities, abutting neighbors) are recognized.

With this policy, we have attempted to recognize factors which are germane to the closure and abandonment process and to classify the requests into a priority (tiered) systems. Tier 1 rights-of-way are those which are currently in use and these will not be closed and abandoned unless an adequate replacement is provided. Tier 2 are those which may have been used in the past or currently serve abutting land in a marginal way. Tier 3 are those which have never been opened and in most cases are not able to physically be built.

Each request for closure and abandonment will be reviewed using a set of criteria and a detailed analysis presented. As always, these recommendations will be forwarded to the local jurisdiction for final action. It is important to note that our agency strongly endorses the preservation of rights-of-way, including alleys, and will only recommend closure and abandonment when there is no reasonable expectation that the right-of-way will be of benefit to the community.

SCL:jb
Attachment

pg 1



REGIONAL PLANNING AGENCY

A RESOLUTION TO ADOPT A RIGHT-OF-WAY CLOSURE AND ABANDONMENT POLICY
FOR CHATTANOOGA, HAMILTON COUNTY, EAST RIDGE, RED BANK, LAKESITE,
RIDGESIDE, WALDEN, LOOKOUT MOUNTAIN, AND
THE SIGNAL MOUNTAIN PLANNING COMMISSION

WHEREAS, pursuant to TCA 13-4-104, the Chattanooga-Hamilton County Regional Planning Commission is required to review and comment on each request to abandon and close rights-of-way, and

WHEREAS, rights-of-way are an important elements of our community infrastructure and should be retained where it is at all possible, and

WHEREAS, there has never been a concise policy outlining the standards and review criteria for closure and abandonment requests, and

WHEREAS, the policy developed provides guidance to the professional staffs of the various public agencies, the Planning Commission members, citizens and elected officials on the standards and criteria for reviewing each request.

NOW, THEREFORE, BE IT RESOLVED that the Chattanooga-Hamilton County Regional Planning Commission, on January 13, 1997 recommends to the City of Chattanooga City Council, County Executive and County Commission, City of East Ridge Mayor and City Council, City of Red Bank Mayor and City Commission, City of Lakesite Mayor and City Commission, City of Ridgeside Mayor and City Commission, Town of Walden Board of Mayor and Aldermen, Town of Signal Mountain Chairman and Members of the Signal Mountain Planning Commission, and the Town of Lookout Mountain Mayor and Commission the attached Right-of-Way Closure and Abandonment Policy.

Respectfully submitted,

Ann Couiter, Secretary

Date of Adoption: January 13, 1997

AC/SL/pd

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PURPOSE

The following policy is designed to give guidance to citizens, staff, Planning Commission members, and Elected Officials regarding the closure and abandonment of rights-of-way (ROW'S). It is intended to form a basis and a rationale for decisions on these closure and abandonment requests.

DEFINITIONS:

Closure -- The act of closing a public right-of-way

Abandonment -- To cease from maintaining or using a right-of-way

Mandatory Referral -- Provisions under TCA 13-4-103 for review of public ways or streets prior to vacating or change of use

Right-of-way -- The strip of land over which is built, or proposed to be built, a public way. In addition to the roadway, it normally incorporates the curbs, lawn\planting strips, sidewalks, lighting and drainage facilities, and may include special features such as grade separation, landscaped areas, viaducts, and bridges.

Alley -- A way which affords only secondary means of access to abutting property

Streets -- Those rights-of-way dedicated or deeded to the public and accepted by the proper authorities for public use

Acceptance -- Agreeing either expressly or by conduct to the act or offer of another that a right-of-way is under public domain

Dedication -- The transfer of property interests from private to public ownership for a public purpose. The transfer may be of fee-simple interest or of a less than fee-simple interest, including an easement.

Way -- A street or alley or other thoroughfare or easement permanently established for passage of persons or vehicles

POLICY

Public rights-of-way are a public resource and an integral element in shaping the community. Rights-of-way contain roads and other public services, allow access to, and servicing of, individual properties along its frontage, and provide shape and form to our neighborhoods and to commercial and industrial areas. It is the policy of the Regional Planning Agency and other public agencies to retain rights-of-way for public use and only to recommend the permanent closure and abandonment of rights-of-way when it is concluded that the public has no further need to retain this right-of-way and that its abandonment is necessary to achieve a significant private or public interest.

Rights-of-way may be classified as either having been accepted by the local jurisdiction and this right-of-way can either be opened or allowed to remain unimproved; or it may have been dedicated and offered for acceptance but never actually accepted by the local government.

For purposes of this policy, acceptance of rights-of-way indicates the City\County has an established interest in it. This interest could have been established in several ways. First, by being formally accepted through the subdivision platting process; second, by being accepted through long-established use by the general public and some overt act on the part of the jurisdiction to accept and use the right-of-way as public right-of-way; or third, acceptance by specific legislative act (i.e., ordinance or resolution).

The Planning Agency will accept petitions for closure and abandonment of any right-of-way created by plat, by deed or by drawing, by ordinance\resolution and which are of public record. Rights-of-way will be reviewed by various public agencies, utility companies, and the jurisdictional engineer to determine its current use and its potential for future development. In those situations where a full closure is not warranted, a temporary use of the right-of-way may be granted by the jurisdiction if it is deemed that the City or County has an interest in it. A temporary use process begins with the jurisdictional engineer.

Review of Rights-of-way for closure will be based on a tiered classification.

- Tier 1: Rights-of-way currently open and in use by the public and which include any elements of a normal road including road pavement, sidewalks, curbs, storm drainage systems, sanitary drainage systems, water distribution systems, fire hydrants, utilities (electric, telephone, cable television, gas), provision for future utilities, streetlights, and trees. These rights-of-way will be not be closed unless a suitable replacement is provided.
- Tier 2: Rights-of-way which are not currently opened or only partially opened but which provide a limited level of service to the abutting property owners or to utilities. Applications for closure and abandonment will be accepted on Tier 2 rights-of-way and reviewed using the adopted review factors and according to the tenets of this policy.
- Tier 3: Rights-of-way which are not currently opened or which have never been opened. Applications for closure and abandonment will be accepted on Tier 3 right-of-way and reviewed using the adopted review factors and according to the tenets of this policy.