



# City of Hampton, Virginia

## Ordinance - Coded

22 Lincoln Street  
Hampton, VA 23669  
[www.hampton.gov](http://www.hampton.gov)

File Number: 12-0211

Enactment Number: 12-0031

**Ordinance to Amend and Reenact Chapter 34 of the Code of the City of Hampton, Virginia by Adding a New Article V entitled "Vacation of Public Streets, Alleys, Easements and Other Public Ways" and the Establishment of an Application and Review Fee of \$100.00 as Authorized by Code of Virginia §15.2-2007**

**BE IT ORDAINED** by the Council of the City of Hampton, Virginia, that Chapter 34 of the Code of the City of Hampton, Virginia, be amended and re-enacted to read as follows:

**ARTICLE V. VACATION OF PUBLIC STREETS, ALLEYS, EASEMENTS AND OTHER PUBLIC WAYS**

**Sec. 34-118. Application; processing fee; review process.**

(a) In addition to the powers contained in section 2.05 of the city charter, public streets, alleys, easements and other public ways may be vacated or discontinued pursuant to Code of Virginia §15.2-2006. An application for vacation of a public street, alley, easement or other public ways shall be made available to an applicant at the office of the director of the department of public works.

(b) Pursuant to the authority granted under Code of Virginia §15.2-2007, a nonrefundable fee of one hundred dollars (\$100) shall be paid to the city for processing the application including applications processed under section 2.05 of the city charter. The director of public works or his designee shall not accept any application unless such fee is paid at the time the application is filed.

(c) The director of public works or his designee is hereby authorized and directed to prepare and adopt a procedure for the processing of such applications. The director of public works or his designee shall prepare a report to the city council when a vacation request should not be approved due to the necessity of continuance of the public street, alley, easement or other public way by a city agency for utilities, stormwater management, future road widening, consistency with the comprehensive plan, redevelopment or other public purpose or the protection of the public health, safety, and welfare.

**Sec. 34-119. Public hearing required.**

(a) A public hearing shall be held before any ordinance is adopted vacating a public street, alley, easement or other public way or any portion thereof. Notice shall be given as required by Code of Virginia §15.2-2204. The cost of publishing the notice shall be paid for by the applicant as required by Code of Virginia §15.2-2006. The director of public works or his designee shall not schedule the public hearing until the publication fee is paid by the applicant to the city.

(b) This section shall not apply to the vacation of a public street, alley or other public way pursued under the authority of section 2.05 of the city charter.

**Sec. 34-120. Sale of public street, alley, easement and other public ways; conditional vacation.**

(a) Pursuant to the authority set forth in Code of Virginia §15.2-2008, unless otherwise waived by city council, as a condition of the vacation or discontinuance of any public street, alley, easement or other public way, the abutting property owner or owners requesting the vacation shall purchase from the city such abutting owner's fractional portion of the public street, alley, easement or other public way. The price shall be no greater than the property's fair market value or its contributory value to the abutting property, whichever is greater, or the amount agreed to by the parties. No such vacation shall be concluded until the agreed upon price has been paid. If any abutting owner does not pay for such owner's fractional portion within one (1) year, or other time period made a condition of the vacation, then the vacation shall be void as to any such property owner. This provision shall not apply to a vacation pursued under the authority of section 2.05 of the city charter, a vacation filed by the city or the vacation of a street, alley or easement pursuant to Code of Virginia §15.2-2270.

(b) When an applicant requests a vacation in order to accommodate expansion or development of an existing or proposed business, city council may condition the vacation upon commencement of the expansion or development within a specified period of time. Failing to commence within such time may render the vacation, at the option of the city council, void.

(c) City council may attach any additional conditions to the vacation request it deems necessary.

**Sec. 34-121. Ordinance of vacation; vacation agreement; recordation of ordinance of vacation.**

(a) Any application for vacation of a public street, alley, easement or other public way, pursued under this article or section 2.05 of the city charter shall be accomplished by an ordinance of vacation adopted by city council.

(b) The ordinance of vacation shall be accompanied by a vacation agreement executed by all parties requesting the vacation in the case of a vacation request pursued under section 2.05 of the city charter or a conditional vacation under section 34-120 of this article and shall be made a part of the ordinance of vacation.

(c) A certified copy of the ordinance of vacation and a fully executed vacation agreement, if applicable, shall be recorded as deeds are recorded and indexed in the name of the city. The cost of recording the ordinance of vacation and any applicable vacation agreement shall be borne by the applicant or applicants. A conditional vacation shall not be recorded until the condition or conditions have been met.

Adopted at the regular meeting of the City Council of the City of Hampton, Virginia held on June 13, 2012.

**Signed by** \_\_\_\_\_ **Date** \_\_\_\_\_  
Molly Joseph Ward, Mayor

**Attested by** \_\_\_\_\_ **Date** \_\_\_\_\_  
Katherine K. Glass, CMC  
Clerk of the Council