

PROCEDURE FOR CLOSING STREETS AND ALLEYS UNDER N.C.G.S. 160A-299

CITY OF GASTONIA, LEGAL DEPT., P. O. BOX 1748, GASTONIA, NC 28053 (866-6735)

1. Applicant requests closing of street or alley through the City Attorney's Office by submitting a map of the area requested to be closed (subdivision plat, survey or tax map) and a petition requesting closure (sample attached). Applicant must verify that street or alley has been dedicated to the public (subdivision plat, title search, etc.) and provide an accurate legal description. Applicant must also verify and provide the names of all of the people who are property owners adjacent to the proposed closure. Applicant must submit a check made payable to the City of Gastonia in the amount of five-hundred and fifty dollars (\$550.00), representing the \$50.00 Street Closing Request Fee approved by City Council and \$500.00 for advertising costs required by state statute. In the event applicant's advertising costs exceed \$500.00, applicant must reimburse City for the costs in excess of \$500.00. If applicant's advertising costs are less than \$500.00, the balance remaining after payment of actual advertising costs will be reimbursed to applicant.
2. Proposed closing is reviewed by City Departments. This normally takes about three (3) weeks.
3. The City Attorney's Office prepares the Resolution Setting Public Hearing Date for placement on City Council Agenda (NOTE: A sample of this Resolution is NOT attached as it is prepared by the City Attorney's Office, not you or your attorney.). City Council sets a public hearing date by adopting the Resolution. The date for the public hearing will be approximately four (4) weeks after the Resolution is adopted in order to allow time for the public advertisement required by state law.
4. The following procedure then takes place:
 - (a) In accordance with state statute, the City publishes the Resolution Setting Public Hearing Date once a week for four (4) consecutive weeks prior to the public hearing. Applicant must reimburse City for cost of advertising if in excess of the \$500.00 advanced by applicant at the time of application. If applicant's advertising costs are less than \$500.00, the balance remaining after payment of actual advertising costs will be reimbursed to applicant.
 - (b) Prior to the Public Hearing, the Applicant must send copies of the Resolution Setting Public Hearing Date by certified mail to all adjoining property owners as shown on the public records of the county, and posts copies of resolution in two (2) prominent places along the street or alley which is to be closed.
 - (c) If the street or alley is under the control of the North Carolina Department of Transportation, the applicant must send a copy of the Resolution to the Department of Transportation.
5. Prior to the public hearing, the applicant must submit to the Legal Department:
 - (a) A Resolution Closing the street or alley in question (sample attached). You may wish to consult with your private attorney to assist in the drafting of the Street Closing Resolution.

- (b) Proof that all adjoining property owners (and NCDOT, if applicable) were mailed a copy of the Resolution Setting Public Hearing Date. "Proof" normally means a copy of your cover letter and the Resolution Setting Public Hearing Date as mailed to the adjoining property owners along with attached green Domestic Return Receipt forms (USPS Form 3811, August 2001) demonstrating service of your letter and the Resolution Setting Public Hearing upon said adjoining property owners.
 - (c) A letter certifying that the Resolution Setting Public Hearing Date was posted on the street or alley which is to be closed.
 - (d) Payment for the cost of advertising.
6. Petitioner or a representative must attend the public hearing to present the request and answer questions from the City Council.
7. Upon City Council's adoption of the resolution closing the street or alley, the applicant will be given a certified copy for recording. No certified copy shall be supplied unless the fee and cost of advertising have been paid. Applicant is responsible for recording the resolution at the Register of Deeds and for having necessary revisions made to the deed of his/her property.
8. Here is a procedure that has been approved by the Office of the Register of Deeds:
- (a) Record a copy of the Resolution adopted by the City Council in both the Book of Ordinances and in the Grantor Index for Real Estate Conveyances in the Gaston County Registry.
 - (b) Attach a copy of the Notice of Publication to the Resolution.
 - (c) Attach a copy of the pertinent map to the Resolution when possible.
 - (d) Index the governmental entity issuing the Resolution as the grantor and those who will benefit from the street closing as grantees.
 - (e) The Register of Deeds will depend on the attorney recording the document to provide the names of the grantees, since the property owners on each side of the right-of-way will become the owners in fee of the area withdrawn from public use.
 - (f) The document needs to be notarized.

***NOTE: THIS IS A SAMPLE ONLY. DO NOT USE THESE FORMS.**
REVISE TO FIT YOUR PARTICULAR CIRCUMSTANCES
PLEASE READ EACH PARAGRAPH CAREFULLY.

NORTH CAROLINA

PETITION FOR CLOSING STREET

GASTON COUNTY

TO: THE CITY COUNCIL OF THE CITY OF GASTONIA, NORTH CAROLINA:

NOW COMES your petitioner, and respectfully shows unto the City Council as follows:

1. Your petitioner is the owner of those parcels of land located within the City limits of the City of Gastonia and on both sides of _____ Street (or alley), said parcels being more fully described as: LEGAL DESCRIPTION.
2. Your petitioner seeks to close _____ Street to public use.
3. Your petitioner owns all of the land on both sides of the street(s) (or alley(s)) and no owners adjoining said street(s) (or alley(s)) or those portions petitioner seeks to close use the same for ingress, or egress and no one will be deprived of any means of egress and ingress by closing said portion(s) of said street(s) (or alley(s)).
4. Your petitioner maintains that is not contrary to the public interest to close said portions of said street(s) or alley(s), and no individual owning property in the subdivision in which said portion(s) of said street (s) are located would by reason of closure of said street(s) or alley(s), be deprived of reasonable means of ingress and egress to or from his property.
5. The locations of said portion(s) of said street(s) or alley(s) are shown on Exhibit A attached hereto, the same being a cop of a portion(s) of the tax map referred to above, which portions are crosshatched for illustration. The lands of your petitioner are shaded in red for illustrative purposes. A metes and bounds description of the portions of said street(s) or alley(s) is/are attached as Exhibit B.

WHEREFORE, your petitioner respectfully requests this Council to adopt a resolution declaring its intent to close _____ Street (or alley) as indicated on said exhibits and calling a public hearing on the question all in accordance with North Carolina General Statutes Section 160A-299.

PETITIONER

BY: _____

[Attach Exhibits A & B as described above]

***THIS IS A SAMPLE ONLY. REVISE TO FIT YOUR PARTICULAR CIRCUMSTANCES.**

RESOLUTION OF THE CITY COUNCIL
FOR THE CITY OF GASTONIA, NORTH CAROLINA
CLOSING _____ STREET

THAT WHEREAS, (Petitioner's Name), with the knowledge and consent of the adjacent property owners who are: _____, _____, _____, have petitioned the City Council of the City of Gastonia, North Carolina, to withdraw from dedication a portion of _____ Street pursuant to Section 160A-299 of the General Statutes of North Carolina; and

WHEREAS, pursuant to said Petition, the City Council did on (date Council passed Resolution Setting Public Hearing Date), establish a public hearing for (adopted hearing date), to consider the request as proposed by Petitioner; and

WHEREAS, it appears that the Petitioners are the owners of the real property which adjoins the portion of the street to be closed, and that the public hearing has been properly advertised by publishing the notice for four (4) successive weeks in the (Gaston Gazette/Charlotte Observer) and, further, by prominently posting copies of the notice of the public hearing in at least two places along the portions of the street to be closed; and

WHEREAS, pursuant to said notice duly given, a public meeting of the City Council of the City of Gastonia, North Carolina, was held at _____ p.m. on the _____ day of _____, 20____, in the Council Room in City Hall (or the Public Forum Room of the Gaston County Courthouse¹) of the City of Gastonia, North Carolina, to consider the request for the closing of a portion of _____ Street at which time no person, firm or corporation appeared in opposition thereto; and

WHEREAS, it appears to the satisfaction of the City Council of the City of Gastonia, that the closing of a portion of _____ Street as described by the Resolution of the City Council dated _____, 20____ is not contrary to the public interest, and that no individual owning property in the vicinity of the street would thereby be deprived of reasonable means of ingress and egress to their property by reason of the closing of the described portions of said streets; and

WHEREAS, it appears to the satisfaction of the City Council of the City of Gastonia, North Carolina, that all the requirements of law have been fully complied with pertaining to the closing of said street described herein; and

WHEREAS, it further appears that it is necessary that a utility easement be reserved by the City along that portion of _____ Street which is being withdrawn from dedication and that said easement shall be the full width and length of said street.

¹ The Gastonia City Council meets on the first and third Tuesdays of the month at 6:00 p.m. The first Tuesday meeting is held in Council Chambers, City Hall, 181 South Street, Gastonia. The third Tuesday meeting is held in the Public Forum Room of the Gaston County Courthouse, 325 N. Marietta Street, Gastonia, NC. Your Resolution should reflect the appropriate venue.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Section 160A-299 of the General Statutes of North Carolina, the following portion of _____ Street shall be and the same is hereby closed and withdrawn from public dedication and public use, subject to a public utility easements below set forth: LEGAL DESCRIPTION

The City further reserves a permanent right-of-way and easement for purposes of drainage and utilities over the full width and length of that portion of _____ Street which is being withdrawn from dedication.

BE IT FURTHER RESOLVED that at the expense of the Petitioner, a certified copy of this Resolution duly adopted by the City Council of the City of Gastonia be recorded in the office of the Register of Deeds for Gaston County, North Carolina.

This the ____ day of _____, 20__.

Mayor

ATTEST:

(Deputy) City Clerk

NORTH CAROLINA
GASTON COUNTY

I, _____, a Notary Public of the aforesaid County and State do hereby certify that _____ personally appeared before me this day and acknowledged that he/she is the **(Deputy) City Clerk** of the **City of Gastonia** and that by authority duly given and as the act of the municipal corporation, the foregoing instrument was signed in its name by its Mayor, sealed with its corporate seal and attested by him/her as its (Deputy) Clerk.

WITNESS my hand and Notarial Seal, this the ____ day of _____, 20__.

Notary Public
(Seal)

My Commission Expires: _____

Resolution adopted this ____ day of _____, 20__, upon motion of Councilman _____ seconded by Councilman _____ by a vote of ____ affirmative votes to ____ negative votes.