

**ALLEYS, EASEMENTS, RIGHTS-OF-WAY
(CLOSING)**

City of Willis, Code of Ordinances, Chapter 30.05, Ordinance No. '35/2: 42

Alleys, Easements and Public Rights-of-Way may be closed by the City Council upon the request of a citizen, provided:

1. Each property owner abutting the alley consents to the proposed abandonment.
2. All franchised utility providers sign a release consenting to the abandonment.
3. The city has no need to the continued use of the alley, easement, or right of way.

Owners requesting the closing shall use the attached form to apply for the abandonment.

The form shall be submitted to the Director of Public Works for review and processing. The Director or the Director's designee will investigate the location, the existing use, utilities, future needs of the land, and any abutting land owner objections.

After the investigation is complete the Director will set the request on the next available City Council agenda. The Director will make a staff recommendation to the council based on his investigation findings to either approve or disapprove the abandonment request. City Council will make the final decision.

The City Council of the City of Willis, as a Texas Home Rule city, has the authority under Section 311.007 of the Texas Transportation Code to close a public street or alley, and also under section 3.02(15) of the Willis Home Rule Charter; and the City has the right to retain ownership after closing a street, alley or easement, but may also sell the abandoned property to abutting property owners in an equitable manner; and Section 272.001(b) of the Texas Local Government Code provides that a city may not convey its fee simple title to an abandoned street, alley, or easement unless it receives fair market value for the property.

CITY OF WILLIS

ABANDONMENT REQUEST FORM

NON-REFUNDABLE FEE \$200.00

STREET <input type="checkbox"/>	ALLEYWAY <input type="checkbox"/>	EASEMENT <input type="checkbox"/>
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I, _____ THE OWNER(S) OF _____
 REQUEST THAT THE CITY OF WILLIS ABANDON THE ITEM(S) AS HIGHLIGHTED ON THE
 ATTACHED MAP.

SUBDIVISION NAME: _____
REAL PROPERTY RECORDING REFERENCE: _____
STREETS AND ALLEYS: BLOCK # _____ **OTHER EASEMENTS:** PARCEL #: _____
BETWEEN: _____

INCLUDE THE NAME, ADDRESS (AS INDICATED ON CURRENT TAX ROLL), AND
 PROPERTY TAX ACCOUNT NUMBER FOR ALL ABUTTING PROPERTY OWNERS. ALSO,
 INCLUDE AN ADDRESSED ENVELOPE WITH FIRST CLASS POSTAGE TO EACH ABUTTING
 PROPERTY OWNER WHO DID NOT SIGN A CONSENT FORM. IF A CONSENT FORM FOR
 ANY ABUTTING PROPERTY OWNER IS NOT PROVIDED, THEN AN EXPLANATION IS
 REQUIRED FROM THE APPLICANT.

NAME	ADDRESS	TAX ACCOUNT NUMBER	PHONE NUMBER

ABANDONMENT RELINQUISHES THE PUBLIC RIGHT, TITLE AND INTEREST IN A STREET,
 ALLEY OR OTHER EASEMENT. PRIVATE PROPERTY RIGHTS, INCLUDING PRIVATE
 EASEMENT AND ACCESS RIGHTS, POSSESSED BY ABUTTING OWNERS, ARE NOT
 AFFECTED.

ITEMS REQUIRED WITH THE APPLICATION:

FOR CITY USE

- | | |
|---|-----|
| 1. A DETAILED OWNERSHIP MAP OF THE AREA. | [] |
| 2. CONSENT FORM FROM EACH ABUTTING PROPERTY OWNER. | [] |
| 3. SIGNATURE FROM EACH UTILITY COMPANY. | [] |
| 4. ENVELOPES WITH FIRST CLASS POSTAGE FOR EACH OWNER NOT PROVIDING
A CONSENT FORM. | [] |

AGENCIES REQUIRING APPROVAL:

ITEM NO.	AGENCY	NAME	OBJECTION *
1.	CenterPoint Energy SURVEYING & RIGHT OF WAY 1111 Louisiana Street 7th Floor Houston, Texas 77002 (713) 207-6348 or (713) 207-5769	_____ SIGNATURE _____ TITLE	YES [] NO []
2.	Sam Houston Electric Co-Op Cloy Baxley, Staking Supervisor PO Box 1121 Livingston, TX 77351 (936) 328-1269	_____ SIGNATURE _____ TITLE	YES [] NO []
3.	ENTERGY Right of Way Dept. 9425 Pinecroft Dr. The Woodlands, TX 77380 RL (Bo) Harrison Senior Right of Way Agent (281) 362-4040	_____ SIGNATURE _____ TITLE	YES [] NO []
4.	Verizon Darrin Albrecht 2611 45 th Street Dickenson, TX 77539 281-338-2221	_____ SIGNATURE _____ TITLE	YES [] NO []
5.	SuddenLink Either go directly to SuddenLink Store: 903 N. Loop 336, Conroe, TX 77301 or email: conroefieldteam@suddenlink.com	_____ SIGNATURE _____ TITLE	YES [] NO []
6.	City Of Willis Public Works (936) 856-4611	_____ SIGNATURE _____ TITLE	YES [] NO []

*OBJECTIONS SHALL BE EXPLAINED BELOW.

I, _____ AGREE, AS THE APPLICANT, TO INDEMNIFY AND HOLD HARMLESS THE CITY, ITS OFFICERS, AGENTS, AND EMPLOYEES FROM ANY CLAIMS OR CAUSES OF ACTION RELATED TO OR ARISING OUT OF THE ABANDONMENT, INCLUDING CLAIMS FOR LOSS OF ACCESS BY PARTIES NOT JOINING THE APPLICATION.

APPLICANT'S SIGNATURE

DATE

NOTICE: CITY COUNCIL SHALL CONDUCT A PUBLIC HEARING BEFORE AUTHORIZING ABANDONMENT. 10 DAYS BEFORE THE DATE OF THE HEARING, NOTICE OF THE DATE, TIME, AND PLACE OF THE HEARING MUST BE PUBLISHED IN A NEWSPAPER OF GENERAL CIRCULATION WITHIN THE CITY. WRITTEN NOTICE OF THE PUBLIC HEARING MUST BE MAILED BY FIRST CLASS MAIL TO EACH ABUTTING PROPERTY OWNER(S) WHO HAVE NOT JOINED THE APPLICATION AT LEAST 10 DAYS BEFORE DATE OF THE PUBLIC HEARING.

Adjacent Property Owner's Letter of Consent – Notarized

Date: _____

City of Willis
Attn.: Public Works Department
200 N. Bell Street
Willis, Texas 77378

Re: [Enter the Description of Street/Alley to be Vacated, Abandoned & Closed]

Dear Sir or Madam:

It is my understanding that (Applicant's Name) _____ has filed an application with the City of Willis to permanently vacate, abandon, and close the above described public right(s)-of-way.

I am the owner of (Legal Description of Adjacent Property Owner's Property):

This letter constitutes my written consent to vacating, abandoning and closing of the above described public right(s)-of-way by the City of Willis.

I hereby waive any personal claims for damages against the City of Willis and further agree to save and hold harmless the City from any other claims that may arise against the City in vacating, abandoning, and closing the above described public right(s)-of-way.

Sincerely,

Adjacent Property Owner (Printed Name)

Adjacent Property Owner's Signature

Address of Adjacent Property Owner (City, State, & Zip Code)

The State of _____ County of _____

Before me, _____, a notary public, on this day personally appeared _____, known to me (or proved to me on the oath of _____) to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this _____ day of _____, A.D., _____

Notary Public Printed or Typed Name

Notary Public Signature

Commission Expiration Date



**RELEASE OF EASEMENT APPLICATION FORM
SURVEYING & RIGHT OF WAY**

1111 Louisiana Street 7th Floor
Houston, Texas 77002
TELEPHONE: (713) 207-6348 or (713) 207-5769

STREET ADDRESS

FOR THE PROPERTY: _____

Date of Application _____

REQUESTOR INFORMATION: (Print or Type Only)

Name: Individual Company Phone Number _____

Address City State Zip Code _____

E-mail Address: _____

PROPERTY LEGAL DESCRIPTION (Including Recording References)

THE FOLLOWING INFORMATION MUST BE INCLUDED WITH THIS APPLICATION:

1. Three (3) copies of a property survey or drawing highlighting the easement(s) to be released. Said survey or drawing must be legible, show clear details and include a north arrow.
2. If improvements are being made to the property (new building or additions to an existing building), three (3) copies of the site plan should be included.
3. A **non-refundable** processing fee made payable by check or money order to CenterPoint Energy Houston must accompany this application before it can be processed. **Select service from rate schedule below:**

RATE SCHEDULE

- Within 14 working days \$500.00**
- Within 7 working days \$800.00**
- Within 4 working days \$1200.00**
- Within 2 working days \$1500.00**

The scheduled turnaround times are null & void if electrical/gas facilities are located within the easement to be released.

The submitted information will be reviewed to determine if the easement in question can be released, based on existing and/or future needs of this Company. If approved, we will prepare a recordable form instrument to be executed by the appropriate authority. The requestor will be provided with an original executed instrument for reference.

If facilities exist there will be a minimum of **5-6 weeks** for the release of easement to process to be completed. Should the relocation of facilities be necessitated by said release, the cost of such relocation(s) will be borne by a party or parties other than CenterPoint Energy Houston Electric, LLC or CenterPoint Energy Houston and must be paid before the release is granted. Also, the acquisition of new easements or the relocation/removal of facilities must be completed prior to CenterPoint Energy issuing a release of easement.

CenterPoint Energy Houston will make every effort to expedite your request as we realize that the processing of your request may be delaying a closing, building permit, or other important transaction.

I certify that the information provided is accurate and I realize that any inaccuracy or missing information, including failure to sign below, may delay processing or invalidate this application.

Signature of Requestor

Motion made by Tamara Young-Hector seconded by Bill Van Alstyne that the following Order be passed.

ORDINANCE NO. 13-0820

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF WILLIS, REPEALING ORDINANCE NO. 94-816-A, AND AMENDING TITLE III, SECTION 30.05 OF THE WILLIS CITY CODE OF ORDINANCES, BY ESTABLISHING A NEW PROCEDURE FOR ABANDONING, ALTERING, CLOSING AND VACATING STREETS, ALLEYS, EASEMENTS, AND RIGHTS-OF-WAY IN THE CITY OF WILLIS, AND PORTIONS THEREOF; PROVIDING FOR THE APPLICATION TO THE PUBLIC WORKS DIRECTOR; PROVIDING FOR ACTION BY THE CITY COUNCIL AFTER A PUBLIC HEARING; PROVIDING A PROCEDURE FOR PAYMENT TO THE CITY FOR ANY CONVEYANCE OF SAID RIGHTS-OF-WAY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR A TEXAS OPEN MEETINGS ACT CLAUSE; AND PROVIDING AN EFFECTIVE DATE UPON PUBLICATION

WHEREAS, the City Council by Ordinance No. 94-816-A, dated August 16, 1994, implemented an Ordinance establishing a procedure for abandoning, altering closing and vacating city streets and rights-of-way, as codified at Title III, Chapter 30, Section 30.5 of the City Code of Ordinances ("the Code"); and

WHEREAS, the City Council of the City of Willis, as a Texas Home Rule city, has the authority under Section 311.007 of the Texas Transportation Code to close a public street or alley, and also under section 3.02(15) of the Willis Home Rule Charter; and

WHEREAS, the City has the right to retain ownership after closing a street, alley or easement, but may also sell the abandoned property to abutting property owners in an equitable manner; and

WHEREAS, Section 272.001(b) of the Texas Local Government Code provides that a city may not convey its fee simple title to an abandoned street, alley, or easement unless it receives fair market value for the property conveyed;

NOW THEREFORE BE IT ORDAINED CITY COUNCIL OF THE CITY OF WILLIS, TEXAS, THAT:

Section 1. City Ordinance No. 94-816-A, dated August 16, 1994, as codified in the City Code of Ordinances, Title III, Chapter 30, Section 30.05 is hereby repealed and amended to read as follows:

Sec. 30.05 PROCEDURE FOR ABANDONING, ALTERING, CLOSING, AND VACATING STREETS, ALLEYS, EASEMENTS AND OTHER PUBLIC WAYS.

- (A) *All persons desiring to have the City Council exercise its powers under Texas Transportation Code, §§ 311.001–311.008 regarding the abandoning, altering, closing, and vacating of streets, alleys, easements, and other public rights-of-way, or portions thereof, shall file their application with the Director of Public Works, in writing, directed to the City Council. The application shall contain a description of the street, alley, easement or portion thereof, as the case may be, and attached to the application shall be a list of all owners abutting the street, alley, easement or portion thereof, as the case may be, together with the last known address of all the owners. In the event that all abutting property owners do not join in the petition, a statement shall be attached to the request showing the reason for non-participation of those who have not signed. In the event the requested abandonment or alteration pertains to or involves an easement, the applicant must acquire written approval with no objections documented from each utility providing service in the City of Willis. In any case where alteration or abandonment of easement(s) is requested, if approved, all costs associated with the relocation or alteration of any utilities shall be borne by the person making the request (applicant.)*
- (B) *Upon the filing of the application with the Director of Public Works as provided in subparagraph (A) above, an administration fee shall be deposited with the City Secretary in the amount of \$200 or more, in an amount sufficient to cover the expense of administering the procedure outlined in this section, plus costs of publication and preparation of appropriate documents, and the cost of mailing notices and release forms to all abutting property owners. The fee is nonrefundable.*
- (C) *Upon the filing of the application and fee as provided in subparagraphs (A) and (B) above, the City Secretary shall mail notices of the request and release forms by certified mail, return receipt requested, to all abutting property owners.*
- (D) *In the event the application requests that a portion of a through street, alley, easement or public way which is open to public access from either direction is to be abandoned, altered, closed, or vacated, then it shall be necessary for the applicant to provide the City Secretary with the names and last known mailing addresses of all abutting property owners both for the portion to be closed and for that portion which is to remain open in either direction up to the next intersection with another street, alley, or public way. Notices and release forms will be mailed to all the abutting property owners for the closed and open portions of the street, alley, or public way as provided in subparagraph (C) above.*

- (E) *The proposed action by the City Council shall be placed on the agenda for the next public meeting of the City Council after the completed application has been processed provided that there are at least 10 days between the date the completed application was received and processed until the date of the next City Council meeting. The City Council shall not act on the application until such time as the City Secretary has received an executed release form from each of the abutting property owners listed in the petition and a completed application.*
- (F) *The City Council may in its discretion require a public hearing before the application is considered. In such event, notice of the hearing shall be published one time in a newspaper of general circulation in the City at last 15 days before the hearing and posted for 15 days before the hearing at the City Hall.*
- (G) *The application, if not acted upon at the first public meeting at which it appears on the agenda, may be continued on the agenda to subsequent public meetings if it is in the best interest of the parties and the public as the City Council may, in its sole discretion, determine.*
- (H) *The City Council may elect to retain its fee simple ownership of any closed or abandoned street, alley, easement, or public right-of-way.*
- (I) *In the event that it is determined that the City owns in fee simple the closed or abandoned street, alley, easement, or public right-of-way, the City Council may sell the property to all abutting property owners in an equitable manner as provided by Section 272.001(c) of the Local Government Code by either determining the appraised fair market value of the property, or by selling the property at a public auction with two separate dates of publication as provided by Section 272.001(a) of the Texas Local Government Code. The notice must include a description of the property to be sold and its location.*
- (J) *Nothing in this Ordinance should be construed as preventing the City Council from abandoning, closing, altering, or vacating a street, alley, easement, or other public right-of-way on its own initiative without the need for submission of an application by abutting property owners.*

Section 2. Savings Clause.

If any section, subsection, sentence, clause or phrase of this Ordinance, or the application of same to a particular set of persons or circumstances, should for any reason be held to be invalid, such invalidity shall not affect the remaining portions of this Ordinance, and to such end the various portions and provision of this Ordinance are declared to be severable.

Section 3. Repealing Clause.

Any matters in this Ordinance which are contrary to existing Ordinances of the City of Willis, Montgomery County, Texas, shall prevail and all other Ordinances or parts of Ordinances in conflict are hereby repealed to the extent of any conflict.

Section 4. Texas Open Meetings Act.

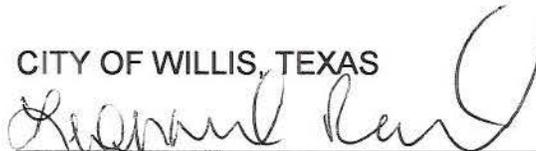
It is hereby officially found and determined that the meeting at which this Ordinance was considered was open to the public as required and that the public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

Section 5. Effective Date.

This Ordinance shall be effective upon its publication as provided by law.

PASSED AND APPROVED after a second reading on the 20th day of August, 2013.

CITY OF WILLIS, TEXAS



Mayor Leonard, Mayor

ATTEST:



Brenda Burns, City Secretary

APPROVED AS TO FORM



Larry L. Foerster