

CHECKLIST FOR STREET CLOSURE APPLICATION PACKAGE

The following list of items are **required** to be in a Street Closure Application at the time of submittal. If any of these items are not in the package, the application may be continued to a later public hearing until all necessary items are submitted.

Please read the "*Procedure for Officially Closing a Public Street or Alley*" attached to this checklist. *It's very important that you read this information.* Take notice of Paragraphs 1. and 2. This information helps you determine whether or not you have a valid application.

The required submittal items are as follows:

- 1) Enclosed application form filled out correctly and completely with all the proper signatures. Only the **original** of this form will be accepted by the Planning Office.
- 2) A **final** metes and bounds (legal) description of the street or alley to be closed, with a copy of the survey plat map. **IMPORTANT!** The legal description **MUST** be approved and signed off on by the City Engineer/City Surveyor **PRIOR** to submittal.
- 3) A list of all the abutting or adjacent property owners (including across the street and railroad right-of-ways) with the following information: the property owner's name, mailing address and tax parcel number. This is called your adjacent property owner list. (Make sure this is a separate list from that of the application form.)
- 4) Two sets of business-size envelopes pre-addressed to the adjacent property owners with the City Planning Division's return address. All envelopes must have postage and metered postage must be *undated*. The Department Account number 2670-419 should be shown just below the return address. This will assure any returned letters will come to this Department.
- 5) A current copy of a "to scale" New Hanover County tax map highlighting the street to be closed.
- 6) Payment for the application (Refer to the Fee Schedule). Please consult the City Clerk's office regarding payment for the advertising costs. **This cost is in addition to the application fee and will be a minimum of \$900.00.** Contact Penny Spicer-Sidbury at 910/341-7816.

- 7) Create a map using the New Hanover County tax map, if possible. Assign a letter to each adjacent parcel to correspond with the name of the adjacent property owners. Then make a list showing the letter and the owner's name and paste this list on the map, essentially creating a "legend", and visually showing the property ownership surrounding the street to be closed. This map cannot be any larger than 11" x 17". Be sure to keep this map "*to scale*", show the north arrow, and delineate the portion of the street to be closed. Submit two (2) copies of this map to the Planning Division.

We strongly encourage customers to consult with the Planning staff at least a week prior to the submittal deadline to review your information and to assist you with this application procedure. Please call the Planning Division at 254-0900 to schedule a pre-application meeting.

THE PROCEDURE FOR OFFICIALLY CLOSING A PUBLIC STREET OR ALLEY IN THE CITY OF WILMINGTON, NORTH CAROLINA

The purpose of this outline is to guide the applicant(s) step-by-step through the process of closing (removing from dedication) a public street or alley or portion thereof.

The proposed closing of any public street or alley may be initiated pursuant to Section 16.1 of the Wilmington City Charter by any City agency, the Wilmington Planning Commission, or any one or more interested parties by filing an application with the City Planning Division. The City Council may initiate a closure pursuant to N.C.G.S. 160A-299 and Section 16.1 of the Wilmington City Charter by adopting a Resolution of Intent. The necessary application for the closing of a public street or alley may be acquired from the City Planning Division, 305 Chestnut Street, Wilmington, NC.

- 1) The applicant(s) shall complete the application and provide all information as required therein. The completed application and required additional information shall be submitted to the Planning Division at least **thirty (30) working days** prior to a regularly scheduled Planning Commission meeting (the first Wednesday of each month). Should the application and/or any portion of the required additional information be found to be incomplete or inaccurate at the time submitted or during the review process, the Planning Division shall return the application and the required additional information to the applicant(s) for completion or to correct the inaccurate information. The revised application and required additional information shall be resubmitted to the Planning Division.

An application fee, in accordance with the City's fee schedule, made payable to the City of Wilmington if by check, shall be paid upon submittal, except when a City agency is applying for the closure. The applicant(s) or the designated representative of the applicant(s) requesting the closure shall be responsible for all other fees covering the cost of advertising, mailing notices, posting signs, recording fees and other administrative expenses involved in the closing. Please consult the City Clerk's office regarding payment for the advertising costs. **This cost is in addition to the application fee.** Contact Penny Spicer-Sidbury at 910/341-7816.

- 2) A complete and valid application must have the signatures of the majority of property owners owning the majority of the property abutting the proposed closure, except when only two property owners are involved. When more than two property owners abut the proposed length of the closure, whether that length is the entire right-of-way or just a portion of it, at least fifty-one percent (51%) of the property owners for fifty-one percent (51%) or more of the length of the closure must sign the application. An application may be initiated by the City of Wilmington by Council adopting a Resolution of Intent to Close.

When only two property owners abut the entire length of the closure or any portion thereof, both property owners must request the closure. This requirement must be met even if the closure affects only a portion of one property owner's frontage on the right-of-way to be closed. All signatures shall be those of the property owners or the legal representative of property owners adjacent to the closure, and not tenants or other occupants unless they have written authorization to act on behalf of the owner.

- 3) Upon receiving the completed application and the required additional information, the Planning Division shall transmit duplicates of the completed application to the affected agencies for review and recommendations.
- 4) After receiving all pertinent information from the affected agencies, the Planning Division shall present the original application, the required additional information, and the recommendation from the affected agencies to the Planning Commission for review and recommendation at a regularly scheduled public meeting, at which time all interested persons may attend. The applicant(s) or his/her agent is requested to be present at all public meetings at which the request for closing will be reviewed.
- 5) Upon the review and written recommendation of the Planning Commission, all pertinent information on the closing shall be transmitted to the City Manager's office to have the Resolution of Intent to Close placed on the consent agenda for consideration by the Wilmington City Council.
- 6) At the City Council meeting at which the Resolution of Intent to Close is presented to Council, there is no need to hear recommendations from the Planning Commission and the review agencies, nor is there a need to hear the applicant or other public comments on the closing. Council approval of the Resolution of Intent to Close is a requirement preceding the advertising of the public meeting at which the Close Order will be presented to City Council.
- 7) After the adoption of the Resolution of Intent to Close by City Council, and prior to the public hearing on the closing, the City Clerk shall:
 - (a) mail a copy of the Resolution of Intent to Close by registered or certified mail to all owners of property adjoining the street or alley as shown on the New Hanover County tax records;
 - (b) cause a notice of the closing and public hearing to be prominently posted in at least two (2) locations along the street or alley to be closed;
 - (c) publish the Resolution of Intent to Close and the public hearing notice once a week for four (4) successive weeks in a local newspaper; and
 - (d) mail a copy of the Resolution to the North Carolina Department of Transportation if the street or alley is under the authority of the N.C. Department of Transportation, and to the local Postmaster of the U.S. Postal Service.
- 8) The City Council, at the advertised public hearing, will consider the recommendation of the Planning Commission and the review agencies, and receive any additional information relative to the closing. At the hearing, any person may be heard on the question of whether or not the closing would be detrimental to the public interest, or the property rights of any individual.
- 9) Regardless of the final action (approval or denial) of the Close Order by the City Council, the applicant(s), or the designated representative of the applicant(s) requesting the closing, shall be responsible for all finances incurred by the City Clerk to cover the cost of advertising, mailing of notices, posting of signs, recording fees and any other administrative expenses involved in the closing. The signing of the application for the closing of a public street or alley shall indicate the applicant's or the designated representative's acceptance of this financial responsibility. Sufficient payment to cover all accumulated costs shall be received by the City Clerk prior to

recordation of the signed Close Order and any additional documents in the office of the New Hanover County Register of Deeds.

- 10) Upon approval of the closing by the City Council, and the signing of the Close Order by the Mayor and attested by the City Clerk, and upon receipt of the total administrative costs incurred by the City Clerk (to include the advertising, mailing of notices, signs posted, the Resolution of Intent to Close and the Close Order, the recording of the Order and copies of the Close Order), the City Clerk shall record a certified copy of the signed Close Order in the Office of the Register of Deeds. Six (6) copies shall be made of the recorded Close Order. The City Clerk shall transmit one copy each to the following: City Engineering Department, Planning Division, the applicant or the applicant's designated representative, the North Carolina Department of Transportation, the U.S. Postal Service, and the New Hanover County Tax Office.
- 11) After recording of the Close Order, all right, title and interest in the public right-of-way or portion closed shall be conclusively presumed to be vested in those persons, firms or corporations owning lots or parcels of land adjacent to the public right-of-way or portion closed, and the title to each person(s), firm(s) or corporation(s) shall, for the width of the abutting land owned, extend to the center of the public right-of-way or portion officially closed. This is an automatic procedure under the General Statutes of North Carolina. If the adjacent property owners wish to have the property within the closed street or alley reflected in a deed of land ownership, it shall be their responsibility to have an attorney prepare and process a deed referring to the Close Order recorded in the New Hanover County Register of Deeds office.
- 12) The City Council shall reserve the right to require the dedication of easements and/or deeding of land or portions thereof to the City within the right-of-way of the public street or alley to be closed as a condition of the approval for the closing when Council determines that the land or portion thereof is necessary for public utilities or for the public health, welfare and/or safety.
- 13) Should any portion of the public right-of-way be retained, the remaining portion may be closed upon approval by the City Council. Should an easement be requested as condition of the closing approval, the appropriate legal documents shall be prepared by the applicant's legal representative with assistance of the City Attorney and presented concurrently with the Close Order. The City Attorney and the City Engineer shall review the document, which will establish the easement by a metes and bounds description, for accuracy and to assure that it is properly drawn. The signed Close Order and other required legal documents shall be recorded concurrently and the cost made part of the administrative costs to be paid by the applicant or applicant's representative prior to recordation.
- 14) Upon approval and recordation of the Close Order, the public street or alley or portion thereof officially closed shall be removed from the official City and/or City/County maps.
- 15) Any person aggrieved by the closing may appeal the City Council Order to the appropriate division of the General Court of Justice within thirty (30) days after the date the Order was adopted.

**APPLICATION FOR THE OFFICIAL CLOSING
OF A PUBLIC STREET OR ALLEY IN THE
CITY OF WILMINGTON, NC**

The applicant(s) request that the Wilmington City Council consider officially closing the public street or alley described herein. The applicant(s) shall abide by the provisions of Article XVI. of the City Charter and the Administrative Guidelines of the City of Wilmington, and shall assume responsibility for the validity and submission of all supplemental information necessary to administer the application.

- 1) Official street or alley name requested to be closed:

- 2) Location of the street or alley: From _____
(Name of intersecting street or alley)

extending _____ to _____
(Direction) (Approx. distance) (Name of intersecting street or alley (If
dead-end or turn-around, state
"termination")

- 3) Supplementary information:

- (a) two (2) copies of diagrams, tax maps or subdivision plats, drawn to scale, depicting the street or alley right-of-way requested to be closed, showing the names of adjacent property owners, and indicating the locational relationship of the proposal to adjacent intersections and streets;
- (b) legal description (metes and bounds) of the street or alley right-of-way requested to be closed that has been reviewed and approved by the City Engineer; and
- (c) name and mailing address of all property owners adjacent to the public street or alley right-of-way requested for closing.

- 4) The applicant(s) requesting the closing shall designate one individual who shall be responsible for all administrative costs, including newspaper advertisements for public hearings, materials and postage for mailing notices to all adjacent property owners, the posting of the closing signs, and the recordation of the signed Close Order and any additional documents in the office of the New Hanover County Register of Deeds. The application for closing of a public street or alley, together with all required additional information set forth in Item 3. above, shall be submitted to Council after the review of the application by and upon the recommendation of the affected review agencies of the City and the Wilmington Planning Commission.

- 5) Upon the adoption of the Order closing the public street or alley by the City Council, and in accordance with the provisions of North Carolina General Statute 160A-299(c), all right, title and interest in the right-of-way of the public street or alley

closed, or portion thereof, shall be conclusively presumed to be vested in those persons, firms or corporations owning lots or parcels of land adjacent to such public street or alley or portion thereof, and the title of each person(s), firm(s) or corporation(s) shall, for the width of the abutting land owned by them, extend to the centerline of such public street or alley, or portion thereof, officially closed.

Signature and address of property owners owning property along the street or alley requested to be closed

Amt. (feet) of property fronting street to be closed

Applicant's Name: _____

Applicant's Mailing Address: _____

Applicant's Phone No: _____