

Village of St. Helena

STREET CLOSING PETITION CLOSING OF PUBLIC STREETS AND ALLEYS

Section A.

Submittal Requirements

PLEASE INCLUDE ALL OF THE FOLLOWING (CHECK OFF). If any information is missing from the petition package, you will be asked to complete the petition and re-submit, so please check the list below carefully before you submit:

- Pender County MAP. The petitioner(s) must provide a Pender County map of all associated properties.
 - Description of the streets or alley. The petitioner(s) must obtain a County property map showing the existing roadway to be closed and all abutting properties.
 - LIST OF PROPERTY OWNERS. The parcel identification number, names and addresses of the property owners utilizing the street right-of-way should be listed on Page 4&5. The petitioner(s) should obtain the signature of each property owner listed on the petition.
 - NOTE: It is the responsibility of the landowner to secure a Quitclaim Deed from the town as a result of a street or alley closure.
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STREET AND ALLEY CLOSING PROCESS

The Village Building Inspector cannot advise you concerning the legal effect on your property if a street or alley is closed pursuant to your request. For this reason, you may want to obtain the advice of an attorney.

Once the petition has been received, the Building Inspector will review your petition and make a recommendation to the Village Council. If the Council desires to consider your petition, a public hearing will be scheduled and notice given to the local paper. If after the public hearing, the Council decides to close the street or alley, it will adopt a resolution closing the street or alley. North Carolina General Statute 160A-299 (reprinted below) sets out who obtains ownership of a closed street or alley.

Please mail or deliver all of the items above to:
Village of St. Helena
P.O. Box 1508,
Burgaw, NC 28425

Section B.

NOTICE TO PETITIONERS

1. *Please read the petition and all other information carefully. It is important that you understand what you are signing and how it will affect you.*
2. *Find your property on the enclosed map. Each lot is assigned a number and you must sign beside the number that indicates your lot. If you own more than one affected property, you must sign beside each parcel listed that you own.*
3. *Make sure your deed and the petition map's road frontage correspond with one another. If there is a discrepancy, write the road frontage noted on your deed in the space provided on the petition.*
4. *Sign the petition as signed on the deed. If there are multiple owners, signatures must be listed in the same manner as on the deed.*
5. *If you are signing on behalf of a corporation, give your title and place your corporate seal over your signature.*

read the following excerpt from the North Carolina General Statutes that describes the process that must be followed by the Town to close a street or alley.

N. C. G. S. 160A-299 Procedure for permanently closing streets and alleys.

(a) When a city proposes to permanently close any street or public alley, the council shall first adopt a resolution declaring its intent to close the street or alley and calling a public hearing on the question. The resolution shall be published once a week for four successive weeks prior to the hearing, a copy thereof shall be sent by registered or certified mail to all owners of property adjoining the street or alley as shown on the county tax records, and a notice of the closing and public hearing shall be prominently posted in at least two places along the street or alley. If the street or alley is under the authority and control of the Department of Transportation, a copy of the resolution shall be mailed to the Department of Transportation. 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. If it appears to the satisfaction of the council after the hearing that closing the street or alley is not contrary to the public interest, and that no individual owning property in the vicinity of the street or alley or in the subdivision in which it is located would thereby be deprived of reasonable means of ingress and egress to his property, the council may adopt an order closing the street or alley. A certified copy of the order (or judgment of the court) shall be filed in the office of the register of deeds of the county in which the street, or any portion thereof, is located.

(b) Any person aggrieved by the closing of any street or alley including the Department of Transportation if the street or alley is under its authority and control, may appeal the council's order to the General Court of Justice within 30 days after its adoption. In appeals of streets closed under this section, all facts and issues shall be heard and decided by a judge sitting without a jury. In addition to determining whether procedural requirements were complied with, the court shall determine whether, on the record as presented to the city council, the council's decision to close the street was in accordance with the statutory standards of subsection (a) of this section and any other applicable requirements of local law or ordinance.

No cause of action or defense founded upon the invalidity of any proceedings taken in closing any street or alley may be asserted, nor shall the validity of the order be open to question in any court upon any ground whatever, except in an action or proceeding begun within 30 days after the order is adopted. The failure to send notice by registered or certified mail shall not invalidate any ordinance adopted prior to January 1, 1989.

(c) Upon the closing of a street or alley in accordance with this section, subject to the provisions of subsection (f) of this section, all right, title, and interest in the right-of-way shall be conclusively presumed to be vested in those persons owning lots or parcels of land adjacent to the street or alley, and the title of such adjoining landowners, for the width of the abutting land owned by them, shall extend to the centerline of the street or alley.

The provisions of this subsection regarding division of right-of-way in street or alley closings may be altered as to a particular street or alley closing by the assent of all property owners taking title to a closed street or alley by the filing of a plat which shows the street or alley closing and the portion of the closed street or alley to be taken by each such owner. The plat shall be signed by each property owner who, under this section, has an ownership right in the closed street or alley.

(d) This section shall apply to any street or public alley within a city or its extraterritorial jurisdiction that has been irrevocably dedicated to the public, without regard to whether it has actually been opened. This section also applies to unopened streets or public alleys that are shown on plats but that have not been accepted or maintained by the city, provided that this section shall not abrogate the rights of a dedicator, or those claiming under a dedicator, pursuant to G.S. 136-96.

Section C.

SUMMARY INFORMATION

1. Official street or alley name: _____

2. Location of the street or alley: From (name of intersecting street) extending (direction) _____

(distance in feet) to (name of intersecting street; if dead in or turnaround, state "termination") _____

3. Two (2) copies of tax maps or subdivision plats drawn to scale (at least 1" = 50') depicting the public street or alley _____

requested to be closed, showing the names of adjacent property owners, and indicating the location in _____

relation to adjacent intersections and streets. _____

4. REASON FOR CLOSING THE STREET OR ALLEY:

5. THIS PETITION IS SUBMITTED BY:

NAME (Printed): _____

MAILING ADDRESS: _____

CITY: _____

STATE: _____

ZIP: _____

DAYTIME TELEPHONE: _____

FAX: _____

E-MAIL: _____

6. TODAY'S DATE: _____

7. SIGNATURE: _____

(e) No street or alley under the control of the Department of Transportation may be closed unless the Department of Transportation consents thereto.

(f) A city may reserve a right, title, and interest in any improvements or easements within a street closed pursuant to this section. An easement under this subsection shall include utility, drainage, pedestrian, landscaping, conservation, or other easements considered by the city to be in the public interest. The reservation of an easement under this subsection shall be stated in the order of closing. The reservation also extends to utility improvements or easements owned by private utilities which at the time of the street closing have a utility agreement or franchise with the city.

(g) The city may retain utility easements, both public and private, in cases of streets withdrawn under G.S. 136-96. To retain such easements, the city council shall, after public hearing, approve a "declaration of retention of utility easements" specifically describing such easements. Notice by certified or registered mail shall be provided to the party withdrawing the street from dedication under G.S. 136-96 at least five days prior to the hearing. The declaration must be passed prior to filing of any plat or map or declaration of withdrawal with the register of deeds. Any property owner filing such plats, maps, or declarations shall include the city declaration with the declaration of withdrawal and shall show the utilities retained on any map or plat showing the withdrawal. (1971, c. 698, s. 1; 1973, c. 426, s. 47; c. 507, s. 5; 1977, c. 464, s. 34, 1981, c. 401; c. 402, ss. 1, 2; 1989, c. 254; 1993, c. 149, s. 1; 2015-103, s. 1.)

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Please Continue on Reverse Side.

FOR MULTIPLE OWNERS, DUPLICATE PETITION AS NECESSARY

WE, THE UNDERSIGNED PROPERTY OWNERS, owning land adjoining the street or alley shown on the attached map, hereby petition the Village Council to close such street or alley. The parcel identification numbers below refer to parcels as shown on the attached map dated _____.

PARCEL IDENTIFICATION NUMBER _____ ROAD FRONTAGE (from deed) _____
PROPERTY OWNER: _____
MAILING ADDRESS: _____
CITY: _____ STATE: _____ ZIP: _____
SIGNATURE: _____

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