

ORDINANCE NO. 2022-630

AN ORDINANCE OF THE CITY OF SMITHVILLE, TEXAS CLOSING, VACATING, AND ABANDONING AN ALLEY OR STREET IN THE CITY DESCRIBED GENERALLY AS A PORTION OF PINE STREET BETWEEN MOUNT PLEASANT ADDITION BLOCK 36 AND BLOCK 37 AND THE ALLEY OF MOUNT PLEASANT ADDITION BLOCK 36 BETWEEN LOTS 3-4 AND 5-6 AND PARTIAL ALLEY OF MOUNT PLEASANT ADDITION BLOCK 37 BEING THE PORTION BETWEEN LOTS 8 AND 5; AUTHORIZING THE CITY MANAGER TO EXECUTE A QUITCLAIM DEED PERTAINING TO SUCH ALLEYS AND STREETS; REPEALING CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Smithville, Texas (the “*City*”) is a Texas general law municipality;

WHEREAS, Texas Transportation Code § 311.008 authorizes a general law municipality to vacate, abandon, or close a street or alley of the municipality if a petition signed by all the owners of real property abutting the street or alley is submitted to the governing body;

WHEREAS, the Smithville City Council has received a petition, attached as Exhibit A, which the petitioners have represented is signed by all the owners of real property abutting the following described portion of a street in the City (the “*Road*”):

A Portion of Pine Street between Mount Pleasant Addition Block 36 and Block 37, the alley of Mount Pleasant Addition Block 36 between Lots 3-4 and 5-6, and a partial alley of Mount Pleasant Addition Block 37 is the portion between Lots 8 and 5, as more particularly shown in Exhibit A;

WHEREAS, the City Council finds as follows:

1. The Road is no longer essential to the safe and efficient flow of traffic in the area in which the Road is located.
2. Closing, vacating, and abandoning the Road serves the public purpose of relieving the public of any maintenance obligations of the Road.

WHEREAS, the City Council finds and determines that the adoption of this Ordinance promotes the health, safety, and welfare of the public; and

WHEREAS, the City Council finds and determines that the meeting at which this Ordinance was passed was open to the public, that public notice of the time, place, and purpose of said meeting was given as required by the Texas Open Meetings Act, Chapter 551, Texas Government Code;

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

1. **Findings of Fact.** The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.
2. **Enactment.** By this Ordinance:

(A) The City vacates, abandons, and closes the Road subject to the following:

- (1) All utility lines and facilities, including but not limited to water and wastewater lines, electric transmission and distribution lines, gas lines, and telecommunication lines, within the Road on the effective date of this Ordinance may remain in place and may continue to be used, repaired, enlarged, and maintained in the ordinary course of business.
- (2) Any person wanting the removal of an existing utility facility must negotiate such removal with the relevant utility.
- (3) After the effective date of this Ordinance, no utility may add additional lines or facilities within the Road based on a claim that the Road is a public street right of way.
- (4) All existing drainage rights in the Road are retained by the City.

(B) The City Council authorizes and directs the City Manager to execute a Street Closure Quitclaim Deed and to execute and deliver all documents and to do all other things conducive to reflect the vacation, abandonment, and closure of the Road.

3. **Repealer.** All ordinances, resolutions, or parts thereof, that are in conflict or are inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict or inconsistency, and the provisions of this Ordinance shall be and remain controlling as to the matter regulated herein.
4. **Severability.** Should any section, subsection, sentence, provision, clause, or phrase be held to be invalid for any reason, such holding shall not render invalid any other section, subsection, sentence, provision, clause, or phrase of this ordinance and the same are deemed severable for this purpose.
5. **Effective Date.** This Ordinance shall be effective as of the date of adoption.

PASSED, APPROVED, AND ADOPTED THIS 12th DAY OF DECEMBER, 2022.

APPROVED:


Sharon Foerster, Mayor

ATTEST:



Jennifer Lynch, City Secretary

EXHIBIT "A"

Date: December 6, 2022

To: Smithville City of Council

RE: Mt Pleasant Addition subdivision various plat Vacate Request

As the owner of the surrounding properties, I am requesting the city vacate certain undeveloped alleys, streets and lots of the Mt. Pleasant Addition, as follows:

- (A) The alley between Lot 3 & 4 and Lot 5&6 of Block 36
- (B) The alley between Lot 1 and Lot 8 of Block 37
- (C) The Pine Street located between Block 37 Lot 8 and Block 36 Lot 5

Thanks for your consideration.

Elizabeth Koch
Elizabeth Koch, Property Owner

December 7, 2022
Date

MAP OF SMITHVILLE

BASTROP CO., TEXAS

COMPILED BY
C. C. CAMPBELL, C. C.
AUSTIN, TEXAS



