

ORDINANCE 12-02

AN ORDINANCE ESTABLISHING ARTICLE III IN CHAPTER 34, SECTIONS 34-28 OF THE CODE OF ORDINANCES OF THE CITY OF WILLS POINT, TEXAS RELATED TO THE CITY'S CLOSURE OF AN ALLEY WITHIN THE CITY OF WILLS POINT BETWEEN WEST O'NEAL AND WEST ORVILLE AND SOUTH 4TH AND SOUTH 5TH STREETS AS UNNECESSARY FOR PUBLIC USE; RELEASING ANY AND ALL PUBLIC RIGHTS, TITLE AND INTEREST AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to Chapter 311 of the Texas Transportation Code, the City of Wills Point, Texas ("City"), a general-law municipality, has exclusive control over the streets and alleys of the City; and

WHEREAS, pursuant to Chapter 311 of the Texas Transportation Code, the City of Wills Point, Texas has the authority to vacate, abandon, and close streets and alleys within the City; and

WHEREAS, pursuant to Texas Local Government Code section 51.012, the City Council may adopt an ordinance, act, law, or regulation, not inconsistent with state law, that the City Council considers necessary for the government, interest, welfare, or good order of the City as a body politic; and

WHEREAS, within the City of Wills Point, Texas an alley is located going North and South between West O'Neal and West Orville and South 4th and South 5th streets ("Alley"), described in more detail in Exhibits 1 through 4 attached hereto and incorporated by reference herein; and

WHEREAS, in a signed petition dated March 13, 2012, all of the four abutting property owners identified as J.R. Everett, Sam Massey, Terry Furrh, and Calvin Cunigan have requested that the Alley be closed, as more fully described in Exhibit 5, attached hereto and incorporated by reference herein; and

WHEREAS, the City Council of the City of Wills Point ("City Council") has determined that the Alley has not been used as a public thoroughfare for many years, is not necessary as a public thoroughfare and has no other public use; and

WHEREAS, the City Council finds that closing the Alley will not have an adverse effect on adjacent properties, utilities or the like; and

WHEREAS, the City Council has determined that it is in the best interest of the City to vacate, abandon and close the Alley.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WILLS POINT, TEXAS:

Section 1: That all of the above premises are found to be true and correct and are incorporated into the body of this ordinance as if copied in their entirety.

Section 2: That Section 34-28, Article III of Chapter 34 of the Code of Ordinances of the City of Wills Point, Texas, entitled "Closure of City Alley" is hereby established as follows:

"Sec. 34-28. Closure of City Alley.

The City Council hereby abandons any and all public rights, title and interest, if any, to the alley, located going North and South between West O'Neal and West Orville and South 4th and South 5th streets."

Section 3: The City Secretary is hereby authorized and instructed to file a signed and sealed copy of this Ordinance in and among the records of the City and in the property records of Van Zandt County, Texas.

Section 4. This ordinance shall be cumulative of all other ordinances of the City and shall not repeal any of the provisions of those ordinances except where provisions of those ordinances are in direct conflict with the provisions of this ordinance and such ordinances shall remain intact and are hereby ratified, verified and affirmed.

Section 5. If any section, article, paragraph, sentence, clause, phrase or word in this ordinance, or its application to any person or circumstance, is held invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this ordinance, and the City Council hereby declares it would have passed such remaining portions of this ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

Section 6. This ordinance shall become effective from and after the date of its passage by City Council and publication as provided by law, and it is accordingly so ordained.

Section 7. It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required and that public notice of the time, place and purpose of the meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

13th DAY OF March , 2012, BY A VOTE OF 5 (AYES) TO 0 (NAYS) TO 0 (ABSTENTIONS) OF THE CITY COUNCIL OF THE CITY OF WILLS POINT, TEXAS.

Deby S. Frye, Mayor

ATTEST:

Carla Oldacre, City Secretary

APPROVED AS TO FORM:

T. Shaina Primeaux, City Attorney