

AN ORDINANCE TO AMEND CHAPTER 61 OF THE MOBILE CITY CODE, 1991,
TO ESTABLISH POLICIES AND PROCEDURES FOR
CLOSURES OF STREETS, ALLEYS AND PUBLIC WAYS

Sponsored by: Councilor(s) _____

WHEREAS, Code of Alabama Sec. 11-43-56 vests management and control of municipal streets, alleys and public ways in the City Council; and,

WHEREAS, the decision to close any street, alley or public way is committed to the legislative discretion of the City Council; and,

WHEREAS, in the exercise of its legislative powers the City Council desires to set forth policies and procedures in regards to closures of streets, alleys and public ways.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MOBILE, ALABAMA that Chapter 61 of the Mobile City Code, 1991, is hereby amended to add a new Article as follows:

CLOSURES OF STREETS, ALLEYS AND PUBLIC WAYS

Sec. 1. – Methods and Criteria.

- (A) *Closure by City Council.* Pursuant to its statutory and inherent legislative and police powers, the City Council may temporarily or indefinitely close or partially close any street, alley or public way to vehicular or foot traffic whenever it determines such closure necessary for any reason it deems to be in the public interest. Any closure for an indefinite time period shall not be deemed to be a vacation or abandonment of the affected street, alley or public way, and the Council may elect to re-open such street, alley or public way at any time. The Council in its discretion may, but is not required to, call a public hearing to discuss the impact of such closure prior to taking action on the closure.

- (B) *Closure by Administration.* The Mayor, Director of Public Safety, Police Chief, Fire Chief, City Engineer, or City Traffic Engineer may temporarily close or partially close any street, alley or public way to vehicular or foot traffic whenever any of them determine such closure to be necessary for any reason they deem to be in the public interest for no more than sixty (60) total days in any calendar year per section or area closed. City Council approval must be obtained for desired closures in excess of sixty (60) total days in any calendar year. Notwithstanding the foregoing, there shall be no time limitations for closures due to construction projects provided the closure is reasonable in length and scope in the context of the construction project.

- (C) *Closure by City Council Pursuant to Petition.* Citizens may petition the City Council, via filing a petition with the City Clerk, for an indefinite closure of a street or public way location to vehicular traffic in residentially zoned areas. The preferable method of a citizen petition for closure is through an established homeowner's association. In the absence of a homeowner's association, or if the geographic area encompassed by the homeowner's association exceeds or does not cover the impact area of the proposed closure, the input of those persons or entities owning property within a geographic area reasonably determined by the City to be impacted by the proposed closure shall be considered in the public involvement process.
- i. Persons seeking closures of streets or public ways shall appoint a single individual to act as a point of contact between the City and the represented group, who shall endeavor to meet with City staff prior to the submission of a petition to first attempt to resolve the issue(s) leading to the request and, if unsuccessful, to identify those persons or entities whose approval is necessary criteria for submitting a valid petition to the City Council. No petition shall be considered where the petitioners have not first attempted to resolve the issue(s) leading to the request by meeting with City staff.
 - ii. The petition for closure must be approved by a 75 percent majority of all property owners within the confines of either the homeowner's association or geographic impact area as determined by the City. In any case, only one signature/vote on a petition per property tax parcel in the affected area will be counted.
 - iii. In addition to being signed by those persons or entities required above, the petition must:
 - a. Describe and identify the street or public way proposed to be closed;
 - b. Describe exactly where the street or public way is proposed to be barricaded, etc., and include a drawing of same with reasonable detail;
 - c. Identify all owners of properties as required above, identify any entity known or suspected to have facilities or equipment such as utility lines located within the street or public way proposed to be closed, and include three (3) sets of printed adhesive labels that can be used to mail notices to such persons or entities;
 - d. Describe all prior efforts to alleviate the traffic situation, including communications with City staff, and describe how such efforts have not obtained the desired effect;
 - e. Include a \$100.00 filing fee payable to the City of Mobile.
 - f. Any petition not meeting these criteria shall be considered incomplete.

- iv. Following receipt of the petition, the City Clerk will forward the petition and any other submitted documentation to the Mayor, the City engineer, the City traffic engineer, the police chief, the fire chief, the City attorney, the Council attorney, the real estate department, the right-of-way department, and the community and housing development department, for their review and comment. Written comments and objections from such persons or departments, if any, must be received by the City Clerk within thirty (30) days thereafter in order to be considered by the Council.
- v. After the thirty (30) day comment/objection period has passed the City Clerk will prepare a resolution to set a public hearing on said proposed closure to be presented to the City Council. The public hearing will be scheduled at a date and time to-be-determined by the City Council at least forty-five (45) days thereafter. Notice of the hearing shall be provided as set out in Section 36-25A-3 of the Code of Alabama for notice of meetings and shall describe the street, alley, or public way, or portion thereof, requested to be closed in the petition. A copy of the notice shall also be served by U.S. Mail at least 30 days prior to the scheduled hearing to any potentially impacted property owner described above and to any entity identified by petitioner as being known or suspected to have facilities or equipment such as utility lines, both above-ground or buried, within the public right-of-way of the street or alley, or portion thereof, requested to be closed in the petition.
- vi. In addition to the aforesaid notice provisions, two signs shall be conspicuously posted at the location of the street, alley, or public way, or portion thereof, requested to be closed in the petition. The signs shall be plainly visible to passers-by and posted no less than 15 days before the day of the scheduled public hearing and shall remain so posted at all times until the hearing has been held. The signs shall be weatherproof and the petitioners shall be responsible for obtaining and posting such signs and providing photographic proof to the City Clerk that such signs were and remained posted as required herein. The wording on the signs shall not be less than two inches in height and shall be in substantially the following form:

NOTICE OF PUBLIC HEARING
APPLICATION HAS BEEN MADE TO THE CITY OF MOBILE TO
CLOSE THE STREET, ALLEY OR PUBLIC WAY ADJACENT
HERETO. FOR MORE INFORMATION CALL THE
MOBILE CITY CLERK'S OFFICE
AT 251-208-7414.

- vii. The person(s) who submitted the petition shall pay all costs of scheduling the public hearing and providing notice thereof, including the costs of advertisement, mailing, and posting the signs required by this section. The

Clerk shall submit an invoice to the petitioner for such costs which must be paid prior to the scheduling of such hearing. Failure to pay such costs shall constitute a withdrawal of the petition unless the City Council grants a waiver of this requirement.

- viii. The City Council may consider in regard to any proposed closure the present and long term effects on existing utilities, proposed utilities, master traffic plan, traffic patterns, traffic counts, reasonable and convenient ingress and egress, public services, and any other factor deemed relevant by the City Council. Any representative of the Mayor or any City department shall be entitled to speak at such hearing.
 - ix. Any closure may be subject to reservations of rights in the City or conditioned upon other factors, in the discretion of the City Council.
 - x. Any closure hereunder shall not be deemed to be a vacation or abandonment of the affected street, alley or public way, and the City Council reserves the right to re-open any such street or public way closed at any time.
 - xi. For closures approved based on petition from the public, the petitioners shall be responsible for any costs of closure. The City traffic engineer will determine the cost for same and provide the amount to the petitioners' point of contact which cost must be paid before the closure can be finalized.
- (D) *Means of Closure.* Closures as set forth in this Section should be evidenced by barricades, lights, signs, or other warning devices or structures. For closures of indefinite time periods, or longer than sixty (60) consecutive days, and upon recommendation of the Public Safety Director, Police Chief or Fire Chief, the City may install a manual gate(s) or, where circumstances warrant, electronically controlled remote-access gate(s), at appropriate locations in the closed street, alley or public way so as to allow ingress and egress by public safety vehicles.
- (E) *Enforcement.* It shall be unlawful for any person to enter or pass or to cause or allow any vehicle to enter or pass upon or through any such closed area of a street, alley or public way when warned of the closure either verbally or by means of the existence of any barricade, light, sign or other warning device or structure, and it shall also be unlawful for any person to drive a vehicle upon or against, or to knock down, tamper with, or remove any such barricade, light, sign or other warning device or structure.
- (F) *No Deprivation of Access.* No closure as set forth in this Section shall deprive any person, entity or business, or customers thereof, access to the property or location of such person, entity or business, and the City should endeavor to make sure that reasonable access to such property or location is maintained throughout the period of closure if reasonable alternate access points are not available.

Sec. 2. – Miscellaneous Provisions.

- (A) *Severability.* If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council declares that it would have passed this ordinance and each article, section, subsection, subdivision, sentence, clause and phrase thereof, irrespective of the fact that any one or more article, section, subsection, subdivision, sentence, clause or phrase be declared unconstitutional, ineffective, or in any manner in conflict with the laws of the United States or the State of Alabama.
- (B) *General Repealer.* Any ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.
- (C) *Effective Date and Jurisdiction.* This ordinance shall be effective within the City of Mobile and its police jurisdiction immediately upon its enactment and publication as required by law.

ADOPTED: _____

City Clerk