

## ORDINANCE NO. 2024-40

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, CLOSING, VACATING, AND ABANDONING PORTIONS OF TATE STREET LOCATED WITHIN THE PETER KERR DONATION ADJACENT TO NORTH HALF OF 10 ACRE BLOCK 8 AND PORTION OF 10 ACRE BLOCK 14; CONDITIONALLY AUTHORIZING CONVEYANCE TO THE ABUTTING PROPERTY OWNERS; AND MAKING SAID ABANDONMENT AND VACATION SUBJECT TO RESERVATION AND DEDICATION OF PUBLIC UTILITY AND DRAINAGE EASEMENTS; DIRECTING THE CITY SECRETARY TO CAUSE AN INSTRUMENT OF ABANDONMENT TO BE RECORDED IN THE DEED RECORDS OF BURNET COUNTY AND PROVIDING AN EFFECTIVE DATE

**WHEREAS**, Section 311.007 of the Texas Transportation Code, provides a "home-rule municipality has exclusive control over and under the public highways, streets, and alleys of the municipality"; and

**WHEREAS**, Section 272.001 (b) of the Texas Local Government Code authorizes the sale of a municipality's interest in real property for less than market value if the municipality's interest in the real property is by easement and the conveyance, sale, or exchange is with one or more abutting property owners who own the underlying fee simple; and

**WHEREAS**, on the plat map signed and dated January 8, 1963, as the "Official Map of the City of Burnet", Tate Street is still shown as a public right-of-way; and

**WHEREAS**, that portion of Tate Street that is the subject of this Ordinance, to its northern and southern width, abuts real property owned by the Burnet Consolidated Independent School District (hereinafter "Burnet CISD"); and

**WHEREAS**, the Burnet County Public Records appear to be inconclusive as whether any portion of Tate Street was previously conveyed to Burnet CISD; and

**WHEREAS**, the Burnet CISD requires the closing and vacation of Tate Street, to the extent it remains a Paper Street, to facilitate the sale of a portion of its real property to Burnet County; and

**WHEREAS**, City Council finds the vacation and abandonment of the aforementioned street segment is not detrimental to the general welfare, health, and safety of the public provided there is a reservation/dedication of a public utility/drainage easement and the abutting properties are replatted to incorporate the street segment vacated and abandoned.



**WHEREAS**, City Council, finds, determines, and declares that publication of notice of this Ordinance, as required by Section 3.14 of the City Charter and the laws of the State of Texas, was made by the City Secretary within the period prescribed by Section 3.14; and

**WHEREAS**, City Council, finds, determines, and declares that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given as required by Chapter 551 of the Texas Government Code.

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

**Section One. Findings.** The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

**Section Two. Abandonment and Vacation of Street Rights-of-Way.** Subject to the reservations and required dedication, and replatting requirements, stated in sections three and four respectively, that portion of Tate Street located within the Peter Kerr Donation adjacent to north half of 10 acre Block 8 and portion of 10 acres Block 14 as more particularly describe on Exhibit "A" attached to the instrument referenced in Section Five, and to the extent same remains Public Rights-of-Way, are hereby abandoned and vacated in favor of the abutting property owners, in proportion of their abutting ownership.

**Section Three. Retention of Public Utility Easement.** Said abandonment and vacation is subject to the following:

- reservation of a Public Utility and Drainage Easement over, across, and under the entire width and length of abandoned and vacated Public Rights-of-Way segments; and
- to insure any portion of the Public Rights-of-Way that might have been previously abandoned is dedicated as Public Utility and Drainage Easement, a dedication of such easement by the Burnet CISD.

**Section Four. Replatting.** Notwithstanding any provision herein to the contrary, the replatting of the properties abutting the abandoned and vacated street segment shall occur before the instrument authorized by Section Five may be recorded in the public records of Burnet County. Such replatting shall be finalized no later than 180 days after the effective date of this resolution.

**Section Five. Authorization.** The City Manager is hereby authorized and directed to:

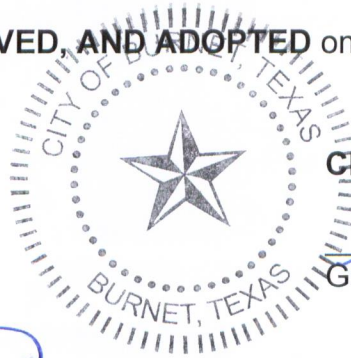
- execute an instrument releasing, abandoning and vacation of the Public Rights-of-Way contemplated by this Ordinance, in substantial form as Appendix "One" attached hereto; and
- accept on behalf of the City, a Public Utility and Drainage Easement from the Burnet CISD; and

- executed such other instruments and documents reasonably necessary to facilitate the purpose of this Ordinance.

The executed Public Rights-of-Way Vacation instrument shall be held in escrow by the City Secretary to record said instrument in the Real Property Records of Burnet County upon compliance with the replatting requirements stated in section four and the dedication of a Public Utility and Drainage Easement stated in Section 3. The City Secretary shall not record said instrument should the replatting described in Section Four, or the dedication described in Section Three, not be completed within the period specified in said section.

**Section Six. Effective Date.** This ordinance is effective upon passage and approval. Notwithstanding the foregoing, such effectiveness is subject to the completion of the replatting requirement described in Section Four, and dedication described in Section Three, and should either requirement not be finalized within 180 days of the effective date this ordinance shall be void and shall have no further effect.


**PASSED, APPROVED, AND ADOPTED** on this 10<sup>th</sup> day of September 2024.



**CITY OF BURNET, TEXAS**

  
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Gary Wideman, Mayor

**ATTEST:**

  
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Maria Gonzales, City Secretary