

ORDINANCE NO. 2-2017

AN ORDINANCE OF NORTH ANNVILLE TOWNSHIP
ORDAINING AND ENACTING A NEW STREET CUT
ORDINANCE IN ORDER TO REGULATE THE OPENING AND
CUTTING OF ROADS AND STREETS IN THE TOWNSHIP,
PROVIDING FOR DEDICATION OF CERTAIN ROADS AND
IMPOSING PENALTIES FOR NON-COMPLIANCE.

WHEREAS, North Annville Township, Lebanon County, owns and maintains roads located in the Township;

WHEREAS, the Board of Supervisors is required to maintain Township roads for the benefit and safety of Township residents.

BE IT ORDAINED AND ENACTED by the Board of Supervisors of North Annville Township, Lebanon County, Pennsylvania, **AND IT IS HEREBY ORDAINED AND ENACTED** as follows:

A. REGULATIONS.

Section 21-101. Purpose.

This Ordinance shall govern all cutting or opening of any new or existing roads or streets in the Township under the jurisdiction of the Township Board of Supervisors.

Section 21-102: This Ordinance shall be known and may be cited as "The North Annville Township Street Cut Ordinance."

Section 21-103. Definitions.

The following words as used in this Ordinance shall have the meanings hereby respectively ascribed thereto:

EMERGENCY- An unforeseen combination of circumstances or the resulting state that calls for immediate action.

ENGINEER – The Township Engineer, or other person duly authorized and appointed by the governing body to perform the duties of Engineer.

GENDER – The singular shall include the plural and the plural shall include the singular, and the masculine shall include the feminine and neuter.

GOVERNING BODY – The Board of Supervisors of the Township of North Annville.

PERMIT – A document issued by a person designated by the Township Supervisors regulating the opening and closing of excavations in dedicated streets pursuant to this Ordinance.

PERSON – Any natural person, partnership, association, firm or corporation or other legal entity.

STREET – The right-of-way of any dedicated public street, avenue, boulevard, highway or alley in the Township of North Annville, except for State Highways, to which this Ordinance shall not apply.

TOWNSHIP – The Township of North Annville, County of Lebanon and Commonwealth of Pennsylvania.

Section 21-104. Permit Requirements; Street Cuts.

1. It shall be unlawful for any person to dig, cut or drill any hole, or make any opening or excavation in any street in the Township without first having obtained from the Township a permit pursuant to this

Ordinance. The person making the opening or the person under whose direction the opening is being made shall obtain the permit.

2. All work authorized by permit shall be done in strict conformity with said permit and in strict conformity to the provisions of this Ordinance.
3. No permit shall be issued until the applicant therefore shall have complied with the following conditions:
 - A. Payment of permit fee in the amount of One Hundred Dollars (\$100.00) per proposed street opening, which sum shall be for the use of the Township.
 - B. Applicant shall deposit with the Township the minimum sum of Two Thousand Five Hundred Dollars (\$2,500.00) as a security deposit, which sum may be applied by the Township for the cost of restoration of the street opened or excavated. Any balance remaining on said security deposit may be returned by the Township to the permit holder, or the Township, in its discretion, may retain any balance as liquidated damages. In the event that said security deposit is not sufficient to cover all costs of restoration, then and in that event, the permit holder shall pay to the Township the amount of such deficiency within ten (10) days of written notification by the Township to the permit holder of the amount of the deficiency. The Township

may require greater security if in its discretion it believes the minimum sum to be insufficient.

- C. Any person in lieu of depositing the Two Thousand Five Hundred Dollar (\$2,500.00) security deposit as hereinabove provided, may submit a performance bond with corporate surety in such amount and shall include such conditions as the Township may require and approve. In the event said bond is approved by the Township, and hereafter any person having submitted such bond violates the provisions of this Ordinance, the Township, in its sole and absolute discretion, may cancel and return the bond to said person and require said person to deposit a cash security deposit as hereinabove stated.
- D. The Township may require and accept other sufficient security if approved by the Township Supervisors.
- E. In the case of an emergency, a person may open or excavate any street without first having obtained a permit pursuant to this Ordinance. In that event, said person shall, within twenty-four (24) hours of the commencement of said work, apply for a permit pursuant to this Ordinance. In the event that said work for said emergency occurs during a holiday or such other day when the Township Office is closed and a permit cannot be

obtained, then the required permit under the terms of this Ordinance shall be obtained on the first working day thereafter.

Section 21-105. Application for Permit.

Each person requesting a permit under this Ordinance shall file an application therefore with the Township, which application shall state the following:

- A. The purpose for which such opening or excavation is to be made.
- B. The location and approximate dimensions of each opening or excavation.
- C. An estimate of the length of time required for the work to be done under said permit.

Section 21-106. Conditions of Permit.

Any permit granted pursuant to this Ordinance shall be granted for a designated purpose at a specific location and for a specified period of time. The permit may contain any further conditions as may be required by the Township. All work performed pursuant to a permit issued under this Ordinance shall be done strictly in accordance with the terms of this Ordinance and strictly in accordance with the terms and conditions set forth in any permit issued hereunder.

Section 21-107. Safety and Warning Measures.

The holder of the permit shall be responsible at all times from the commencement of work until the termination of work for placing barriers, warning signs, and warning signals around said opening or excavation and shall carry liability insurance of at least One Million Dollars (\$1,000,000.00) and provide satisfactory proof thereof to the person to whom application for a permit is made. Before beginning work, all public utilities shall be notified in advance by the permit holder of the intended work to be done.

The permittee shall fully indemnify and save harmless and defend the Township of and from all liability for damages or injury occurring to any person, persons or property (i) through or in consequence of any act or omission of any contractor, agent, servant or employee of the permittee or other person engaged or employed in, about or upon the work, by, at the instance or with the approval or consent of the permittee; (ii) for any failure, of the permittee or any such person to comply with the permit or the regulations set forth in this Ordinance, and (iii) from the failure during the two (2) year period after completion of the permitted work, of the street in the immediate area of the work performed under the permit where there is no similar failure of the street beyond the area adjacent to the area of the permitted work.

Section 21-108. Notification of Completion of Work; Supervision and Inspection of Refilling Restoration.

Upon completion of the work but before paving the opening, the permit holder shall notify the Township for inspection of the refilling restoration.

Section 21-109. Limitation Upon Street Openings or Excavations.

No street opening or excavation shall be permitted, and no permit pursuant to this Ordinance shall be granted for any street opening or excavation of any newly paved street for any purpose whatsoever within three (3) years from the date of completion of the paving, except for emergency repairs. In the event that any opening or excavation shall take place for any purpose whatsoever, including emergencies within the first year from the date of completion of paving of any street, then and in that event the person performing such work shall pay to the Township the sum of Five Thousand Dollars (\$5,000.00) or other approved security for the use of the Township for the cost of repair and restoration of said street. Said Five Thousand Dollar (\$5,000.00) payment for the use of the Township shall be in addition to all costs to said person for the refilling and restoration of said street, opening or excavation, which shall be the sole responsibility of the person making such street opening or excavation.

Section 21-110. Manner of Opening, Refilling and Restoration; Purpose of Deposit; and Remedy for Unsatisfactory Work.

1. All openings or excavations of streets, except drill holes, shall before completion, be cut with a power saw and not with an air jack hammer or similar device.
2. Any person opening or excavating any street shall upon completion of the project and after notification to the Township, immediately and completely refill such openings or excavations, mechanically tamping the same so as to prevent any settling thereof, and shall restore the surface to the same condition as it was prior to the making of such opening or excavation and thereupon, prior to the expiration of the permit, shall remove from the site of work all debris, tools and equipment.
3. All refilling and restoration shall be done in strict conformance with the directions of the Township and any PennDOT regulations which govern this work.
4. Where test holes have been drilled, they shall be filled and sealed with hot tar.

Permanent Restoration. Backfilling of any openings or excavations shall be as follows:

- A. A bed of screening 2 inches under the utility or conduit line up to the spring line of the utility or conduit line;

- B. From spring line to a level 7 inches below the surface of the trench shall be backfilled with 2A crushed stone aggregate, mechanically tamped at 4 inch intervals;
 - C. Before completing backfill of trench, a saw cut shall extend a minimum of 12 inches beyond the trench opening on all sides of the excavation. (Refer to schedules on file in the Township Office.)
 - D. The next 5 inches shall be backfilled with 25mm base course and shall extend a minimum of 12 inches on either side of the trench. The contractor shall be responsible for any settlement within 1 year of the final restoration;
 - E. The next 2 inches shall be an application of 9.5mm wearing course properly graded to the surface of the street and sealed at the saw cut with an approved asphalt sealing material.
6. **Temporary Restoration.** During winter construction periods, the trench shall be backfilled as in Subsection (5)(A)-(D); however, concrete only will be acceptable during those months when 25mm base course is not available. The fifth step shall be a temporary application of bituminous stock pile mix to bring the trench to street grade. Periodically, inspection shall be made to maintain the trench in condition satisfactory to the Township. On or before May 31st following

the date the street cut was first made, the permittee shall permanently restore the cut as in Subsection (5)(E).

7. Where major street opening or excavations are done on a newly constructed street, or a street repaved within three (3) years prior to the date of issuance of said permit, the entire street covered by the permit issued at the location where the work is to be done, in the discretion of the Board of Supervisors, shall be re-topped with paving materials prescribed by the Township. The work of resurfacing shall be examined and inspected by the Township. Upon satisfactory completion of said resurfacing, the Township shall return to the permit holder any deposit and/or bond as provided for in this Ordinance. In the event said person shall fail to restore or resurface said street in a satisfactory manner, the Township may perform said work and apply any amount of the security and/or bond against the costs incurred by the Township for said restoration. In addition, in the event that, should the cost of said work exceed the amount of the deposit and/or bond, the permit holder shall pay to the Township the deficiency within ten (10) days of the date of written notification by the Township to the permit holder. No further permit shall be issued to any person, unless and until all deficiencies so billed by the Township to said person shall have been paid in full.

Section 21-111. Penalties.

Any person, firm or corporation who shall violate any provision of this Ordinance and/or permit issued hereunder, upon conviction thereof in an action brought before a magisterial district justice in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than One Thousand Dollars (\$1,000.00), plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed ninety (90) days. Each day that a violation of this Ordinance continues for each Section of this Ordinance which shall be found to have been violated shall constitute a separate offense.

B. DEDICATION AND ACCEPTANCE OF STREETS

Section 21-112. Requirements for Dedication of Street to Public Use.

The Township of North Annville may accept into the Township road system only those streets which have been constructed in accordance with specifications and requirements of the Township. Proof of compliance with the specifications and requirements of the Township shall be provided by requesting the Engineer/or Road Foreman to inspect and supervise the work during construction and installation of the same or by providing boring data acquired under the supervision of the Engineer/or Road Foreman as required of all Township road construction. The costs of such inspection, supervision or test shall be borne by the developer. The

Township shall only accept dedication of Roads which the supervisors consider to be in the best interest of the Township.

Section 21-113. Acceptance of Dedication of Street by the Township.

The Township may hereafter take into its road system any street constructed in accordance with this Ordinance upon receipt of a petition containing a general release in favor of the Township, duly executed by all of the abutting freeholders, requesting the Township to accept such street into the Township road system, provided that all other conditions imposed by the Second Class Township Code concerning the taking over of said streets are complied with.

Section 21-114. Effective Date.

This Ordinance is to become effective immediately as permitted by law.

Section 21-115. Severability.

If any section, subsection, clause, part and/or provision of this Ordinance is found to be ineffective or unconstitutional for any reason, said ineffectiveness or unconstitutionality shall not effect the remaining provisions of the Ordinance and said remaining provisions shall remain in full force and effect.

[Signatures on the following page]

SO ORDAINED AND ENACTED into law by the North Annville Township Board of Supervisors in lawful session on the ~~10th~~ day of July, 2017.

ATTEST:

NORTH ANNVILLE TOWNSHIP BOARD OF SUPERVISORS

By Adam D. Wolfe
Secretary

By Randall H. Linn
Chairman

By Ryde B. Meyer
Vice Chairman