

ORDINANCE NO. 2017 -

**BOROUGH OF PHOENIXVILLE
CHESTER COUNTY, PENNSYLVANIA**

**AN ORDINANCE PROVIDING FOR THE VACATION AND ABANDONMENT
TO THE ABUTTING PROPERTY OWNERS CERTAIN PORTIONS OF FAIRVIEW
STREET, WHICH WAS ORIGINALLY LAID OUT AS A PUBLIC STREET AND
REMAINS (OR PORTIONS THEREOF REMAIN) UNOPENED AS A PUBLIC STREET**

WHEREAS, the Pennsylvania Borough Code (“Borough Code”), 8 Pa. C.S. § 1731, states that Borough Council has the authority to vacate or close a street or portion of a street previously opened or laid out provided that no street or portion of a street providing the sole means of access to a tract of land is vacated without the consent of those to whom access would be denied; and

WHEREAS, the Council of the Borough of Phoenixville (the “Borough Council”) has become aware of laid out but unopened streets, or portions thereof, located within the Borough of Phoenixville (the “Borough”) known as Fairview Street, (the “Street”); and

WHEREAS, the Borough Council acknowledges that certain portions of the Street remain and shall remain an opened public street and the Borough Council is not seeking to vacate those portions of such street; and

WHEREAS, the Borough Council has determined that the vacation of the Street will serve the interests of the Borough and its residents, including those property owners owning property abutting such Street; and

WHEREAS, the Borough Council has determined that the Street has remained unopened for a period of well beyond twenty-one (21) years and neither the Street nor any portion thereof as described herein provide the sole means of access to any lot or tract of land; and

WHEREAS, it has also been determined that all properties abutting the Street has means of access separate and apart from this Street and do not require the Street for access to the properties; and

WHEREAS, the Borough Council has determined to vacate a portion of the Street by the within ordinance; and

WHEREAS, the Street is unnecessary for the public convenience and Borough Council desires to vacate formally the Street as a public road; and

WHEREAS, all notice requirements as set forth in the Borough Code 8 Pa. C.S. § 1731 have been met and additional notices required following enactment shall be met.

NOW, THEREFORE, BE IT ENACTED by the Borough Council of the Borough of the Phoenixville and it is hereby enacted, as follows:

Section I. The Council of the Phoenixville Borough, Chester County, Pennsylvania, does hereby vacate and close as a public street of Phoenixville Borough, ALL THAT CERTAIN portion of former Fairview Street situate in the Phoenixville Borough, more particularly bounded and described on legal description attached as Exhibit "A" attached hereto and incorporated herein.

Section II. For clarification purposes and for ease of reference, attached hereto and incorporated herein as Exhibit "B" is a map depicting the areas of such Street to be vacated although the above referenced legal description supersedes the attached map as the final determination of street area to be vacated.

Section III. Officer Authorization. The appropriate officers of the Borough Council are authorized to take whatever actions are necessary and appropriate to carry out the purpose and intent of this Ordinance.

Section IV. Severability. If any sentence, clause, section, or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, parts, or sections hereof. It is hereby declared as the intent of the Borough Council that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, part or section thereof not been included herein.

Section V. Repealer. All ordinances or parts of ordinances conflicting or inconsistent herewith are hereby repealed.

Section VI. Effective Date. This Ordinance shall become effective upon enactment as provided by law.

PASSED by Borough Council this 12th day of December, 2017.

By: _____
James C. Kovaleski
President, Borough Council

APPROVED by the Mayor, this 12th day of December, 2017.

By: _____
Michael J. Speck, Mayor

ENACTED this 12th day of December, 2017.

By: _____
E. Jean Krack
Borough Manager/Secretary

I HEREBY CERTIFY that the foregoing is a true and correct copy of the said Ordinance duly adopted at a regular meeting of Borough Council held on the 12th day of December, 2017.

By: _____
E. Jean Krack
Borough Manager/Secretary