

**VILLAGE OF SOUTH LEBANON, OHIO  
ORDINANCE NO. 2017-02**

**AN ORDINANCE VACATING A PORTION OF COCHRAN ROAD, AND  
DECLARING AN EMERGENCY**

**WHEREAS**, The Village of South Lebanon approved the plat for Homestead at River's Bend Subdivision ("Plat") on June 16, 2005; and

**WHEREAS**, the Plat was recorded on September 13, 2005 in Plat Book 71 pages 60-63, Warren County, Ohio Recorder's Office; and,

**WHEREAS**, the Plat states that "[t]he existing right of way for Cochran Road on Lots 43-45 shall be vacated upon the recording off [sic] of the right of way for the remainder of Buena Vista Drive within the boundaries of Vista Point at Rivers Bend and the Homestead at Rivers Bend"; and,

**WHEREAS**, the Village desires to officially vacate the existing right of way as stated in the Plat; and,

**WHEREAS**, the owners of the property abutting the area to be vacated filed their written consent to the vacation with the Village on December 12, 2016, a copy of which is attached hereto as Exhibit A; and

**WHEREAS**, the Village has obtained a vacation plat survey, attached hereto as Exhibit B and incorporated herein by reference, detailing the specific area of the right-of-way and Cochran Road to be vacated;

**WHEREAS**, immediate action is required as the owners of Lot 43 and Lot 44 have requested the Village to vacate the portion of roadway as stated in the Plat, and such action is necessary in order to preserve the public peace, health, safety or welfare of the Village.

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the Village of South Lebanon, at least two-thirds of all members elected thereto concurring:

**Section 1.** The Village hereby vacates that portion of the right-of-way crossing lots 43, 44, and 45 of Homestead at River's Bend as recorded in Plat Book 71, Page 60 to the limits as prescribed in Warren County Engineer's Survey Record Volume 5, Page 274 pursuant to the attached Exhibit B. Said vacation will be effective on February 17, 2017, to provide the Village sufficient time to notify the public of the vacation and road closure. The Village hereby finds that there is good cause for vacating the portion of road described in Exhibit B, and that such vacation will not be detrimental to the general interest.

**Section 2.** The Village shall place necessary signage to indicate the closure of the right-of-way as described in Exhibit B.

**Section 3.** The Village shall install a barrier to prevent the passage of vehicles through the vacated portion of the roadway.

**Section 4.** That the Council is acting in its administrative capacity in passing this Resolution.

**Section 5.** That the recitals contained within the Whereas Clauses set forth above are incorporated by reference herein.

**Section 6.** That this Resolution is hereby declared to be an emergency measure in accordance with Ohio Rev. Code § 731.30 for the immediate preservation of the public peace, health, safety and general welfare; and, this Resolution shall be in full force and effective immediately upon its passage.

**Section 7.** That it is found and determined that all formal actions of the Council concerning and relating to passing this Resolution were adopted in an open meeting of Council in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Adopted this 26th day of January, 2017.

Attest: Nicole Armstrong James D. Smith  
Nicole Armstrong, Fiscal Officer James D. Smith, Mayor

Rules Suspended: <u>1 R</u> /2017 (if applicable)	Effective Date - <u>1 R</u> /2017
Vote - <u>6</u> Yeas ___ Nays	
First Reading -   /   /2017	Effective Date -   /   /2017
Second Reading -   /   /2017	
Third Reading-   /   /2017	
Vote - ___ Yeas ___ Nays	

Prepared by and approved as to form:

PAUL R. REVELSON  
VILLAGE SOLICITOR  
SOUTH LEBANON, OHIO

By: [Signature]  
Date: 1/26/2017

## Exhibit A

Village of South Lebanon  
99 High Street  
South Lebanon, OH 45065

December 12, 2016

Attention: Village of South Lebanon

Subject: Notice of Road Closing

We are aware that the Emerald Drive connection has been completed allowing safe public access from Cochran Rd. to Zoar Rd. Based on numerous indications on record by Mayor Jim Smith, as well as various Village of South Lebanon Council members, since Emerald Drive has been completed, the Cochran road connection will now be permanently closed.

As we've previously communicated numerous times to the Village of South Lebanon, the public use of this Cochran road thoroughway is a tremendous safety concern to those traveling on the narrow connection as well as residents residing in the Homestead at Rivers Bend community.

As homeowners of lots 43 and 44, we are no longer willing to accept any financial liability or public use of our private property. As verified by the prior Solicitor of the Village of South Lebanon, Bruce McGary, the Cochran Road Right-of-Way that traversed parts of lots 43 and 44 has been vacated. Included as Exhibit A is an excerpt of this communication previously provided by the Village of South Lebanon.

Based on confirmation our private property has been vacated as well as our concern over the safety of others, and lack of communicated action on this matter by the Village, we will be closing our private property to the public on or after January 2, 2017. A permanent barrier will be installed by our contractor so the public may no longer use our private property as a throughway. This letter shall serve as notice to the Village of South Lebanon that the homeowners on Lot No.'s 43 and 44 within the Homestead at River's Bend Subdivision are closing our private property to the public. We request the Village notify the appropriate parties as well as provide sufficient signage to the public on this change.

Included as Exhibit B to this letter is the South Lebanon Zoning permit application along with payment which provides details, as required, on the guardrail we plan to install on our private property.


Included as Exhibit C is confirmation from the Williams attorney, Anthony B. Holman, he is no longer representing Mr. and Mrs. Williams on this matter. Note, the Van Schoycks have not retained counsel at this time. Thus the matter of our private property should no longer be deemed "litigation" by the Village of South Lebanon and all communications should come directly to the homeowners.



Finally, as noted within the Ohio Revised Code sections 723.06, the Village (municipality) has the ability to vacate part of a street without public notice provided that the "owners of the property abutting the part of the street or alley proposed to be vacated" file written consent to such vacation. The vacation of this property would not be detrimental to the general interest and public safety services of the surrounding areas. Let this letter also serve as official consent to those grounds and evidence that the Village can immediately perfect the vacation of the noted property and properly file such notice with Warren County.

As homeowners there has never been any legal requirement for us to wait until Emerald Drive was completed to disallow public access to our private property, however, we have been patient with this process in the best interest of the Village. With this access now completed, we expect prompt action by the Village of South Lebanon to perfect the vacation and assist in permanently closing our private property .

  
Matt and Casey Van Schoyck Lot #44

  
Jeff and Bev Williams Lot #43

COCHRAN ROAD RIGHT-OF-WAY VACATION  
SITUATED IN MILITARY SURVEY #1547, VILLAGE OF  
SOUTH LEBANON, WARREN COUNTY, OHIO

