

ORDINANCE NO. 2022-04

AN ORDINANCE OF THE TOWN OF ANNETTA NORTH, TEXAS; PROHIBITING EXCAVATION WITHOUT A PERMIT; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATIONS; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Annetta North, Texas is a Type A general law municipality located in Parker County, and created in accordance with the provisions of Chapter 6 of the Local Government Code and operating pursuant to the enabling legislation of the State of Texas; and

WHEREAS, the Council finds that it is in the best interest of the health, safety and welfare of its citizens to prohibit excavation without Town Council approval; and

WHEREAS, the Council desires to adopt the regulation of excavations as designated below.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE OF THE TOWN OF ANNETTA NORTH, TEXAS:

SECTION 1.

A. Purpose.

The purpose of this Ordinance is to promote the public health, safety, and general welfare by:

- (1) Preserving and enhancing the Town's natural character by preventing untimely and indiscriminate removal or destruction of trees, understory, and ground cover;
- (2) Protecting the Town from sediment that finds its way into streets, storm sewers, ditches, streams, and lakes which may result in additional expenses for Town maintenance costs, increased flooding, impaired water quality, and damage to property; and
- (3) Promoting soil conservation by minimizing land disturbances, thereby reducing sedimentation, air, and surface water pollution.

B. Excavation Prohibited Without Permit.

- (1) It shall be unlawful for a person to engage in any mining, dredging, filling,

grading, or excavation in the Town without first receiving approval and a permit. If approval is given and a permit issued, authorized activities shall be limited to the area and scope identified on the site and construction plans submitted with the approved permit and application, and shall comply with local, state and federal storm water and flood plain regulations.

- (2) A permit will only be issued on review by the town council.

C. Exemptions.

The following shall be exempt from the provisions of this Ordinance:

- (1) Any activity where the total volume of material disturbed, stored, disposed of or used as fill does not exceed fifteen (15) cubic yards and the area disturbed does not exceed two thousand (2,000) square feet, provided it does not obstruct a watercourse and is not located in a floodplain or other environmentally sensitive area. Projects shall comply with state, local, and federal regulations.
- (2) Soil disturbing activities, excluding tree removal, that are associated with normal agricultural crop operations.
- (3) Stockpiling and handling of earth material associated with commercial quarry and landfill operations licensed under the state.
- (4) Activity conducted with an approved building permit. This exception only applies to activity that is necessary within the footprint of the building for which the building permit was granted.

D. Application and Permit.

- (1) An application along with the required fee shall be submitted for review and approval. The required fee is \$200.00. For approval of an excavation permit the applicant shall pay, in addition to the required fee, any and all engineering fees incurred by the Town in having the permit reviewed, if necessary, for approval. All fees must be paid prior to approval of the permit.
- (2) Any permit granted under this Ordinance shall expire one (1) year from the date of its issuance. Upon a showing of ongoing construction activity, the permit may be extended by the town council for one six (6) month period.
- (3) Reviewed plans shall not be amended without authorization of the Town Council.

E. Standards.

The permitted activity must comply with the following additional standards and regulations:

- (1) The activity will not create or contribute to landslides, accelerated soil creep, and settlement;
- (2) The activity will not create or contribute to flooding, erosion, or increased turbidity, siltation, or other forms of pollution in a watercourse;
- (3) The property owner shall be responsible for all cleanup operations incidental to the disturbance of the surface of the property within six (6) months of the operation completion date, including removal of temporary erosion and sediment controls if final stabilization has been obtained, and removal of all trash or other materials not suitable for fill;
- (4) No soil, rock, mud or and other construction debris shall be allowed to be deposited on or in the streets, alleys, utility facilities, rights-of-way, easements, or drainage facilities owned or required by the Town;
- (5) The permitted activity must comply with a Storm Water Pollution Prevention Plan (SWPPP), if applicable; and
- (6) The permitted activity must comply with the regulations under the National Flood Insurance Program (NFIP), Part 44 of the Code of Federal Regulations.

F. Offense; Penalty.

- (1) A person commits an offense if the person violates any provision of this Ordinance.
- (2) An offense under subsection (1) shall be a misdemeanor punishable by a fine not to exceed the sum five-hundred dollars (\$500.00) for each offense, except, however, where a different penalty has been established by state law for such offense, the penalty shall be that fixed by state law.

SECTION 2.

This ordinance shall be cumulative of all provisions of ordinances of the Town of Annetta North, Texas, as amended, except when the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

SECTION 3.

It is hereby declared to be the intention of the Town Council that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable, and if any section, paragraph, sentence, clause, or phrase of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining sections, paragraphs, sentences, clauses, and phrases of this ordinance, since the same would have been enacted by the Town Council without the incorporation in this ordinance of any such unconstitutional section, paragraph, sentence, clause or phrase.

SECTION 4.

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Five Hundred Dollars (\$500.00). Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION 5.

The Town Secretary of the Town of Annetta North is hereby directed to publish this ordinance or its caption and penalty in the official newspaper as required by Section 52.011 of the Texas Local Government Code.

SECTION 6.


This ordinance shall be in full force and effect from and after the date of its passage and publication as required by law, and it is so ordained.

PASSED AND APPROVED ON THIS 13th DAY OF DECEMBER, 2022.



Robert Schmidt, Mayor

ATTEST:



Sheila Elmore, Town Secretary