

ORDINANCE NO. 2008-07

AN ORDINANCE OF THE TOWNSHIP OF PENN, BERKS COUNTY, PENNSYLVANIA, AMENDING AND RESTATING THE REGULATIONS FOR DRIVEWAY CONSTRUCTION IN THE DRIVEWAY ACCESS AREA, REQUIRING A PERMIT, ESCROW AND FEE, PROVIDING FOR CORRECTION OF IMPROPER WORK AND PRESCRIBING PENALTIES FOR VIOLATIONS

BE IT ENACTED AND ORDAINED BY THE BOARD OF SUPERVISORS OF PENN TOWNSHIP, Berks County, Pennsylvania, and it is hereby enacted and ordained by authority of the same, as follows:

SECTION 1. TITLE AND APPLICABILITY.

A. This Ordinance shall be known as "THE PENN TOWNSHIP DRIVEWAY ORDINANCE".

B. This Ordinance shall apply to all new private driveways constructed after the effective date of this Ordinance. The provisions of this Ordinance shall also apply to existing driveways that are improved after the effective date of this Ordinance. Driveway improvements subject to this Ordinance include paving, repaving, widening for the purpose of adding additional lanes, and constructing, changing or modifying that portion of a driveway between the paved cartway of the intersecting road and the right of way boundary of said road or twenty (20) feet, whichever is greater (hereafter, the "Driveway Entrance Area"). Normal repairs and maintenance shall not be subject to this Ordinance. Access to farm fields for farming purposes where no building is being accessed is excluded from the provisions of this ordinance

SECTION 2. PERMIT REQUIREMENTS.

A. No person, firm, corporation or other entity shall perform any construction, excavation or other work in connection with the Driveway Entrance Area of any driveway until a permit has been issued by the Township for such work.

B. A permit application shall be submitted to the Township by the owner or authorized representative of the owner prior to the issuance of a driveway permit. The application shall be on a form provided by the Township and shall be accompanied by the fee established by the Township from time to time, plus, for new driveways only, an escrow payment of Five Hundred Dollars (\$500.00). The escrow amount shall be deposited into a separate account established by the Township for that purpose. Upon approval of the completed work, as described in Section 2.B below, the escrow amount shall be returned to the applicant. If the applicant should fail to complete satisfactorily the required work within the period of time designated on the permit, the Township shall have the right to complete the work, to expend the escrowed amount or so much thereof as may be necessary to complete the work, and to collect from the applicant by any lawful means, including the imposition of a municipal lien or liens on the property which is the subject of the application, any expenses of such work which exceed the escrowed amount. By virtue of accepting a permit issued under this ordinance, the property owner thereby authorizes the Township to come onto any portion of the property for which a permit has been issued under this ordinance, including any such portions of the property which may be outside of the public right-of way, and to do all of the work, inspections, and other activities described in this ordinance. Notice of this implied authorization shall be included on the face of the permit.

C. The Township's designated officer shall review the application and either issue a permit or provide written comments as to why the permit cannot be issued as applied for.

D. Should the Township not act on an application submitted hereunder within fifteen (15) days after receipt of the application, the application shall be deemed approved.

SECTION 3. INSPECTIONS.

A. The Township's designated officer shall inspect each driveway being constructed pursuant to a permit issued under this ordinance to determine whether it is being or has been constructed in accordance with the permit. The permittee shall contact the Township to request an inspection at least seven (7) days prior to completion of the work.

B. Upon satisfactory completion of the work, the Township's designated officer shall sign the permit indicating approval of the driveway as constructed or reconstructed.

SECTION 4. DRIVEWAY STANDARDS.

A. The Driveway Entrance Area of all driveways shall be paved and shall be located and constructed in such a manner as to not impair drainage or normal maintenance within the intersecting road right-of-way, alter the stability of the intersecting roadway, subgrade, or roadway embankment, change the drainage of adjacent areas, or interfere with the travelling public.

B. No driveway or exit for a driveway serving single family dwellings shall be less than ten (10) feet or more than twenty (20) feet in width, excluding radii.

C. No driveway serving a single family dwelling shall be located within two (2) feet of any side lot line, except in the case of driveways which adjoin one another or shared driveways, where permitted under the Subdivision and Land Development Ordinance.

D. No driveway serving a non-residential use shall be located within five (5) feet of any rear or side lot line, provided that a driveway serving a non-residential use shall not be located within ten (10) feet of a rear or side lot line when the adjoining land is located within an A, P, L or H District under the Penn Township Zoning Ordinance.

E. All driveways which provide access to arterial streets, if such driveways are permitted by the Township, shall be designed with turnaround areas so that cars will not back onto the arterial street and will enter the street head-on.

F. Repairs to the Driveway Entrance Area of a driveway, and any drain, culvert or swale located within the Driveway Entrance Area, shall be performed in such a manner that the repairs shall not change the original design or existing conditions unless a new design and specifications are submitted for approval.

G. Where storm water will cross the Driveway Entrance Area, paved swales shall be installed rather than pipes, except where a paved swale would not handle the anticipated flows. Where a pipe under the Driveway Entrance Area is required, the pipe shall be sized based on the 10-year storm event runoff, but shall not be less than 15" in diameter in any case. Drainage plans shall comply with the details shown on the "Driveway Drainage Diagram" included with this ordinance.

H. Driveways shall be so located as to provide reasonable and safe sight distance at intersections with streets for both the operator of a vehicle departing the driveway and the operator of a vehicle on the intersected street who would be approaching the driveway. Driveways shall be located such that the free movement of normal street traffic is not impaired,

the driveways will not create a hazard, and the driveways will not create areas of undue traffic congestion on streets. To accomplish this, Pennsylvania Code, Title 67, Transportation, Department of Transportation, Chapter 441, Access to and Occupancy of Highways by Driveways and Local Roads, shall be used as a guide and the requirements therein shall be followed as closely as reasonably possible, subject to the review of the Township.

I. A clear sight triangle of a minimum of twenty-five (25) feet shall be provided at the intersection of a driveway servicing a one or two family dwelling with a township street. A clear sight triangle of a minimum of forty (40) feet shall be provided at the intersection of all other driveways with township streets. Such clear sight triangles shall be measured from the intersection of the center line of the driveway and the center line of the street and measured along the center line of the street and driveway. Within such clear sight triangles, no vision-obstructing object shall be permitted which obscures vision above the height of thirty (30) inches and below the height of ten (10) feet, measured from the center line grades of the intersecting driveway and street.

J. Grades and Slopes.

(1) Driveway grades shall not exceed five percent (5%) within the Driveway Entrance Area.

(2) For one or two family residential driveways, the maximum permissible grade within the next fifty (50) feet shall be fifteen (15) percent.

(3) For all other driveways, the maximum permissible grade within the next fifty (50) feet shall be ten (10) percent.

(4) The township may require driveways to be paved when grades

exceed eight (8) percent on residential driveways and five (5) percent on all other driveways and/or if the street is paved. Except for the Driveway Entrance Area, paving shall not be required for farm lanes where no residence is to be accessed from the farm lane.

(5) All driveways with a center line grade exceeding five (5) percent in the first twenty (20) feet behind the ultimate right-of-way shall have a separate area (20' x 12') outside of the shoulder and drainage areas graded to a maximum slope of five (5) percent for emergency parking.

(6) Special consideration shall be given to avoid excessive cuts and/or fills to achieve the grading standards of this ordinance. Slopes on cuts or fills shall not exceed 2:1 (two horizontal to one vertical).

K. Not more than one driveway entrance shall be permitted for a residential lot.

L. Not more than two driveway entrances shall be permitted for a non-residential lot.

M. For residential driveways, entrances shall be rounded at a minimum radius of five (5) feet and a maximum radius of twenty (20) feet.

N. For non-residential driveways, entrances shall be rounded at a minimum radius of twenty (20) feet and a maximum radius of fifty (50) feet and shall have a minimum width of twenty (20) feet and a maximum width of thirty (30) feet.

O. Driveways shall intersect roads as nearly as possible to ninety (90) degrees, but not less than sixty (60) degrees nor greater than one hundred twenty (120) degrees.

P. The center line of entrances to private driveways serving one and two family

dwellings shall be located at least sixty (60) feet from the point of intersection of the nearest street cartway lines if only minor streets are involved, at least eighty (80) feet if a collector street is involved, and at least one hundred twenty (120) feet if an arterial street is involved. The center line of entrances to private driveways serving multiple-family dwellings or nonresidential buildings shall be located at least eighty (80) feet from the point of intersection of the nearest street cartway lines if only minor streets are involved, at least one hundred twenty (120) feet if a collector street is involved, and at least one hundred sixty (160) feet if an arterial street is involved. The township may also require a driveway to be located directly across from a street or driveway on the opposite side of the street the driveway intersects if the township judges that offset driveways will create a safety hazard.

Q. Driveway Entrance Areas shall be constructed as follows: Compact and prepare suitable sub-grade; place 4" compacted depth of Modified 2A aggregate; pave with a hot-mix bituminous material such as ID-2 Wearing Material at a minimum. Alternate proposals for driveway construction may be permitted on a case-by-case basis by the Township provided the intent of this ordinance is maintained.

R. Driveways will be constructed in such a way as to accommodate reasonable snow removal without placement of any snow on the public cartway or shoulder areas of the public cartway or shoulder. It shall be unlawful to deposit plowed snow from off of the public cartway or shoulder areas onto the public cartway or shoulder.

S. A plan or description of proposed methods for controlling storm water runoff and erosion and sedimentation control shall be submitted with each application for a permit.

A driveway shall not be used as means of conveying storm water runoff away from the physical improvements on the property. Storm water runoff shall be directed to stable, pervious areas whenever possible.

T. In the preparation of land development and subdivision plans, evidence shall be submitted to show that the requirements set forth herein can be met for each proposed building lot. A note shall be placed on the plan, before it is recorded, stating that each individual lot owner will be responsible for obtaining a driveway permit as required by this ordinance. The note shall make specific reference to the number and name of this ordinance.

SECTION 5. CORRECTION OF IMPROPER WORK.

In case any person shall construct a driveway and shall not conform to the requirements of this Ordinance, the Township may order such person to remove the improper work and replace same in compliance with this Ordinance. Notice to remove and replace improper work shall be given by certified mail, and shall state that compliance shall be made within ten (10) days from receipt of the notice.

SECTION 6. PENALTIES FOR VIOLATIONS.

Any person, partnership or corporation who or which has violated the provisions of this Ordinance shall, upon being found liable therefore in a civil enforcement proceeding commenced by the Township, pay a judgment of not more than \$500 plus all court costs, including reasonable attorney fees incurred by the Township as a result thereof. No judgment shall commence or be imposed, levied or be payable until the date of the determination of a violation by the district justice. If the defendant neither pays nor timely appeals the judgment, the Township may enforce

the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the district justice determining that there has been a violation and further determines that there was a good faith basis for the violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the district justice and thereafter each day that a violation continues shall constitute a separate violation.

The court of common pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem judgment pending a final adjudication of the violation and judgment.

Nothing contained in this section shall be construed or interpreted to grant to any person or entity other than the Township the right to commence any action for enforcement pursuant to this section.

SECTION 7. CONFLICTING ORDINANCES.

If any other ordinance or part of an ordinance is inconsistent herewith, the more restrictive requirement shall apply.

SECTION 8. SEVERABILITY.

If any sentence, clause, section, or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such finding shall not affect or impair any of the remaining sections, sentences, clauses, or parts of this Ordinance. It is hereby declared as the intent of the Township that this Ordinance would have been adopted had all unconstitutional, illegal or invalid sentences, clauses, sections or parts hereof not been included therein.

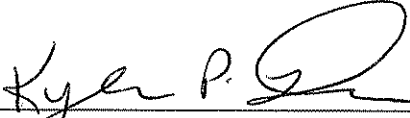
SECTION 9. EFFECTIVE DATE.

This Ordinance shall take effect five (5) days after enactment, as provided by law.

ENACTED AND ORDAINED this 27th day of October, 2008.

BOARD OF SUPERVISORS OF PENN TOWNSHIP,
BERKS COUNTY, PENNSYLVANIA

By:



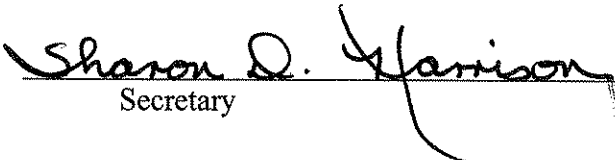
Chairman



Member

Member

ATTEST:



Secretary

CERTIFICATE OF ENACTMENT

I HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 2008-07 of Penn Township, Berks County, Pennsylvania, which was adopted by the Board of Supervisors of said Township at a regular meeting held pursuant to notice as required by law on October 27, 2008.

WITNESS my hand and seal this 27th day of October, 2008.

Sharon D. Harrison
Secretary, Penn Township