

# **PERKIOMEN TOWNSHIP**

## **ORDINANCE NO. 235**

### **AN ORDINANCE REGULATING ALL DRIVEWAYS WITHIN THE TOWNSHIP AND PROVIDING FOR PERMITS, INSPECTIONS, CONSTRUCTION STANDARDS, ESCROWS, AND ENFORCEMENT.**

**BE IT ENACTED AND ORDAINED** by the authority vested in the Board of Supervisors of Perkiomen Township, Montgomery County, Pennsylvania, including, but not limited to, the provisions set forth in Section 2401, et seq. of the Second Class Township Code, as follows:

#### **Section 1. General Intent**

- A. This Ordinance is intended to regulate the installation, construction, reconstruction, enlargement, repair, and relocation of all new and all existing driveways in Perkiomen Township (herein "Township") and requiring all owners to obtain a driveway permit prior to commencing any such work.
- B. Excluded from this Ordinance are:
  - (1) Driveways that are part of a new subdivision and which are controlled instead by the Subdivision and Land Development Ordinance. Any future work to such a driveway shall, however, be subject to the provisions of this Ordinance.
  - (2) Maintenance driveway work, as defined in Section 2 below.
  - (3) Any driveway work performed by Perkiomen Township or its agents or employees.

#### **Section 2. Definitions**

For purposes of this Ordinance, the following terms shall have the meanings indicated:

APPLICANT – Owner of land where driveway work is proposed.  
and for which a permit application is submitted. No workman, developer,  
contractor, or other non-owner may be an Applicant. Upon issuance of a driveway  
permit, the Applicant shall become the Permittee.

DRIVEWAY APRON – The transitional area between the edge of road pavement and the owner's driveway that is primarily used for vehicular access. This typically consists of portland cement or bituminous concrete and allows for a change in grade for vehicles.

CARTWAY – The portion of a road right-of-way, paved or unpaved, intended for vehicular use.

CURBING - DEPRESSED – Concrete, or other suitable material, located generally along the perimeter of a road, parking lot, or access way, that is generally flush with the ground. Depressed curbing includes transitions in elevations from the depressed curbing height to the vertical curbing height.

CURBING - VERTICAL – Concrete, or other suitable material, located generally along the perimeter of a road, parking lot, or access way, that is typically four (4) to eight (8) inches.

DRIVEWAY – A private vehicular access between a public or private road or alley and an individual lot. The strip of land used to access private or public property from any road where applicable. The driveway includes: Stone and bituminous material driven on by vehicles, aprons, depressed, tapered, and vertical curbing adjacent to the road which the driveway is accessed from, any stormwater conveyance infrastructure which allow stormwater conveyance from one side of the driveway to the other, as well as the area to be used as a means of ingress/egress from any road onto any lot, parcel, or tract of land.

DRIVEWAY WORK – Any driveway work that exceeds the type of work set forth in the definition of Maintenance Driveway Work, including, but not limited to, any new installation, construction, reconstruction, widening or extending a driveway, and, any driveway work adjacent to or involving any stormwater piping or conveyance infrastructure.

MAINTENANCE DRIVEWAY WORK – Sealcoating, crack sealing, patching, pothole filling, overlaying (not in excess of 1.5 inches), repaving (including milling, removing, and replacing an existing driveway or portion thereof), and other driveway maintenance not included as Driveway Work, as defined herein.

PENNDOT – The Pennsylvania Department of Transportation.

PERMITTEE – An owner of land who obtains a permit for driveway work.

RIGHT-OF-WAY – The total width of any land reserved or dedicated as a road, alley, crosswalk or for other public or semipublic purposes.

ROAD – A strip of land, including the entire right-of-way (i.e., not limited to the cartway) to provide access to more than one lot. The word "road" includes street, avenue, boulevard, road, highway, freeway, parkway, lane, alley, and other ways used or intended to be used by vehicular traffic or pedestrians, whether public or private.

ROADMASTER – Township staff member responsible for making decisions in regard to township owned roads and applicable road maintenance requirements.

STORMWATER CONVEYANCE INFRASTRUCTURE – Infrastructure including Pipes of any type, culverts, trench drains, swales, structures, inlets yard drains etc. which allow stormwater conveyance from one point to another.

TOWNSHIP ENGINEER – An employee of the Township's Engineering Consultant who contains an active Professional Engineering (PE) License in the Commonwealth of Pennsylvania.

### **Section 3. Driveways, Permits and Fees**

- A. Prior to commencing any driveway work that leads to a road owned by the state, a permit shall be obtained for said purpose from PennDOT.
- B. Prior to commencing any driveway work that leads to a road maintained or owned by (or to be dedicated to) Perkiomen Township, a permit shall be obtained for said purpose from the Township.
- C. All driveway permit applications shall be subject to the following requirements:
  - (1) The application shall be submitted in person, by mail, or electronically, on a properly completed Township form provided for that purpose.
  - (2) The application shall be signed by the owner and by whoever will perform the work.
  - (3) The application shall be submitted to the Township at least twenty-one (21) days prior to the proposed start of work.
  - (4) The application shall be accompanied by such fee or fees as the Board of Supervisors shall prescribe from time to time by resolution and set forth in the annual Township Fee Schedule. For driveway work mandated by the Township, a permit shall still be required; however, the Township, in its sole discretion, may waive the applicable permit fee.
  - (5) PA One Call - PA One Calls shall be placed in accordance with PA requirements. The Applicant, or Contractor, shall acquire a PA One Call (811) serial number by calling 1-800-242-1776, prior to construction if any excavation is proposed. The PA One Call Serial Number shall be provided to the Township.



- D. For Driveway Work, the application shall include scaled or dimensional plans/drawings detailing the location and pertinent dimensions of both the proposed driveway work and associated road features and any stormwater conveyance infrastructure.
- E. All driveway work shall also comply with the standards set forth in Section 7 below.
- F. Waiver of Design Requirements: Waiver of design requirements shall be as follows:
  - a. If any design requirements set forth in this Ordinance cannot be met, the Township Roadmaster, with or without consultation with the Township Engineer, may waive the requirement if all of the following conditions are satisfied:
    - (i) No other reasonable access is available;
    - (ii) The Applicant has done all that can reasonably be done to satisfy the requirements;
    - (iii) If additional land is required, the Applicant provides satisfactory evidence that it cannot be purchased at a reasonable price; and
    - (iv) No traffic problems will be created by the work performed.
- G. Requesting permit time extension: Once issued, a driveway permit shall be valid for six (6) months. If the applicant has not completed all authorized work by the end of the six (6) months, an Applicant shall submit a request for a time extension. If approved, the Road Master will issue an authorization to continue the work for an additional six (6) months. The application shall be accompanied by such fee or fees as the Board of Supervisors shall prescribe from time to time by resolution and as set forth in the annual Township Fee Schedule.

#### **Section 4. Drainage**

- A. All driveway permit applications shall take in consideration stormwater runoff / drainage. All stormwater management infrastructure shall be adequately sized, as determined by a qualified contractor, consultant and / or a professional engineer. Applicable drainage area and capacity calculations may be required. All pipes installed beneath a driveway shall be High Density Polyethylene (HDPE) pipe (i.e., ADS N-12 smooth lined, or equivalent) or Reinforced Concrete Pipe (RCP). All pipe diameters shall be adequately sized. The minimum permitted pipe diameter is 12 inches, unless otherwise approved by the Township. Where applicable, headwalls, endwalls, or other stormwater conveyance infrastructure may be required, as determined by the Township Engineer, in consultation with the Roadmaster.



- B. The Township or its designated representative, in accordance with the conditions in the area, shall have the right to do a site inspection in order to determine the need for the installation, maintenance, or replacement of a driveway culvert pipe.
- C. The Township Engineer, in consultation with the Roadmaster, may require specific stormwater infrastructure criteria (i.e., pipe size, type, slopes) as determined necessary.
- D. No driveway work shall direct surface water onto or into the road in a way which would have a detrimental effect. If the Township or its designated representative, in accordance with the conditions in the area, determines the proposed installation, maintenance, or replacement will adversely affect the flow of stormwater such as to aggravate an existing adverse condition or create a new adverse stormwater condition in the public right-of-way or on other properties, the Applicant shall be required to submit a stormwater management plan in accordance with the Township's Stormwater Management Ordinance. In such situations, the issuance of a driveway permit shall be conditioned upon the Township's approval of the stormwater management plan.
- E. No proposed driveway work shall block the natural flow of water or cause ponding of water adjacent to a driveway or the Township road. Stormwater Conveyance Infrastructure shall be maintained free and clear of any debris. After each storm event, debris shall be removed as necessary. The Township shall not be responsible for maintaining privately owned Stormwater Conveyance Infrastructure.

#### **Section 5. Traffic Control**

Throughout all driveway work, the Permittee shall maintain and protect adjacent road traffic by providing Traffic Control, in accordance with PennDOT regulations, including but not limited to the latest version of PennDOT Publication 213. The Permittee shall provide and maintain all necessary precautions to prevent injury or damage to persons and property.

#### **Section 6. Sight Distance**

In order to prevent a safety hazard on any road, a driveway may only be installed or relocated if the location of the connection allows adequate visibility of oncoming traffic from both directions for vehicles exiting the driveway and sufficient braking distance for any vehicle traveling the road which encounters a vehicle slowed to safely enter the driveway.

- A. The driveway's connection point with a Township road shall be located to maximize available sight distance in both directions. Pennsylvania Code Title 67, Chapter 441 (Access to and Occupancy of Highways by Driveways and Local Roads) shall govern this subsection. Applications shall, to the maximum extent feasible, provide the desirable sight distance (see Tables 1-6). If the desirable sight distance cannot be achieved, the minimum acceptable sight distance shall be provided. See Safe Sight Stopping Distance – SSSD Formula, or the tables in the "Driveway Sight Distance Measurements" (PennDOT Form M-950S).
- B. The Permittee may be required to clear vegetation, trees, and brush in order to establish adequate sight distance, at their expense, regardless if it is on private property or within the Township right-of-way.
- C. The owner where the driveway is located shall be responsible for maintaining proper sight distance for the driveway, in perpetuity.

#### **Section 7. Other Standards**

- A. General – The Township will not approve the proposed driveway work unless all of the following criteria are satisfied by the Applicant:
  - (1) The free movement of normal highway traffic is not impaired.
  - (2) The driveway work will not create a hazard.
  - (3) The driveway work will not create an area of undue traffic congestion.
- B. Compliance with Regulations - The Applicant shall be responsible for all aspects of the construction, including, but not limited to, safety during construction, compliance with the Pennsylvania Underground Utility Protection Law, and compliance with any permits or regulations of the Pennsylvania Department of Environmental Protection.
- C. Location - The following specific location restrictions shall apply to all driveway permits:
  - (1) The location and angle of any access driveway approach in relation to the road intersection shall be such that a vehicle entering or leaving the driveway may do so in an orderly and safe manner and with a minimum of interference to highway traffic.
  - (2) The location of a driveway near a signalized intersection may include a requirement that the applicant provide new or relocated detectors, signal heads, controllers and the like for the control of traffic movement from the driveway.
  - (3) Access to property which abuts two or more intersecting roads or highways may be restricted to only that roadway which can more safely accommodate traffic.

- (4) The Township may require the Applicant to locate an access driveway directly across from a highway, local road, or access driveway on the opposite side of the roadway if it is determined that an offset driveway will not permit left turns to be made safely or that access to the roadway from one access to another will create a safety hazard.
  - (5) Access driveway approaches used for two-way operation shall be positioned at right angles, that is, 90 degrees to the highway or as near thereto as site conditions permit.
  - (6) Corner Lots - Private driveways on corner lots shall be located at least 40 feet from the point of intersection of the nearest street right-of-way lines.
- D. Entrances - Driveway entrances should be rounded at a minimum radius of five feet or should have a flare construction that is equivalent to this radius at the point of intersection with the cartway edge (curbline).
- E. Grade/Slope - Grades shall not exceed a 5% slope measured 15 ft. beyond the right-of-way line on private property. Further, private driveways shall not exceed a slope of 14% at any point of the driveway. This provision does not apply to a pre-existing driveway with a slope in excess of 14%.
- F. Multiple Driveways – Multiple Driveways servicing the same property must be separated by a minimum distance of fifteen (15) feet measured along the right of-way line and twenty (20) feet measured along the shoulder, ditch line, or curb.
- G. Driveways shall be designed and constructed in accordance with the following:
- 1. Distance from Property Line – No driveway shall be closer to a property boundary line than the minimum distance set forth in Chapter 310 (Zoning) of the Township Code of Ordinances.
  - 2. Width – The driveway shall have a minimum width of ten (10) feet, except that a minimum width of fifteen (15) feet shall be provided at the driveway entrance and over any swale or drainage pipe.
  - 3. Radius. A minimum radius of six (6) feet shall be provided at the driveway entrance.
  - 4. Curb. Where curb is involved, the curb shall be depressed to a height of 1 ½ inches above gutter line, and the curb depression shall be two (2) feet wider than the driveway.



5. Swale. The Township, upon field investigation, shall determine whether a swale on Applicant's property is required. When a swale is used, the gutter shall be at least six (6) inches lower than, and at least six (6) feet from, the edge of pavement. This requirement may be modified by the Township, if deemed necessary, based upon field conditions.
- H. Escrow Deposit – Any application proposing Driveway Work shall be reviewed by the Township to determine the appropriateness, as well as the potential impact on any adjacent properties and/or the flow of stormwater. When deemed necessary by the Township, the Township's consultants (engineer, solicitor, planner) may review the plans and may conduct a site inspection in order to make project recommendations and to develop plans, agreements, and legal documents needed to otherwise ensure that the proposed work meets the requirements of this Ordinance. Applicants shall be responsible for payment of all reasonable fees and expenses of said consultants. If, in the opinion of the Township, said fees and expenses are expected to exceed \$500.00, Applicant shall deposit with the Township (before the issuance of a permit and before the commencement of any work) financial security in an amount deemed necessary by the Township to be held in escrow and applied to the payment of all such costs, fees, and expenses consistent with the Township Fee Schedule. In the event the escrow account is exhausted before the consultants' work is completed, the Applicant shall post additional escrow funds in an amount determined by the Township in its sole discretion. Any unused portion of the escrow account shall be returned to Applicant upon completion of the project.

## **Section 8. Maintenance**

- A. Each owner shall have the responsibility of maintaining the driveway (as defined in Section 2 above), sight distance, and any stormwater management infrastructure in accordance with the standards of this chapter, so as not to interfere with or be inconsistent with the design, maintenance, and drainage of the road, or the safe and convenient passage of traffic upon the road.
- B. All costs associated with the maintenance of a driveway (as defined in Section 2 above), including, but not limited to, the stormwater management infrastructure, if any, whether or not a permit has been issued for the driveway, shall be borne by the owner of the property served by the driveway.

## **Section 9. Damage and Restoration**

- A. All equipment used to perform driveway work or maintenance driveway work shall, when operated on any road, curb, sidewalk, or other public or private property, have rubber wheels or runners and shall have rubber, wood, or similar protective pads between the outriggers and such surface in order to prevent any damage.
- B. If the driveway work damages the cartway, shoulder, curb, or driveway apron, the owner shall restore same to their former condition, or better, at owner's expense. Applicable repairs shall be to the satisfaction of the Township as determined by the Roadmaster.
- C. Any disturbed portion of the road, curbing, sidewalk, slopes, and/or any appurtenances or structures such as guardrail or drainpipes, shall be restored by the permittee to a condition at least equal to that which existed before the start of any work authorized by the permit. This includes providing appropriate end treatments on guardrail systems where the existing guardrail is being broken by the driveway work.

## **Section 10. Damage to Road**

If there is a failure of any Road, including slope or any other appurtenance thereto, in the immediate area or any area adjacent of the permitted work withing two (2) years after the completion of the work, the Permittee shall have absolute responsibility to make all repairs/restorations.

Where a Permittee is responsible for restoring the Road, including slope or any other appurtenance thereto, Permittee shall have the responsibility to restore the improved area in accordance with the permit. If the Permittee fails to restore the improved area promptly upon notification by the Township, the Township shall have the right to do the work at the expense of the Permittee. The Permittee shall reimburse the Township within thirty (30) days after receipt of an invoice from the Township. In addition, the Township shall have the right to collect the cost in the manner provided by law for the collection of municipal claims.

Where an owner is responsible for damage done to a road, owner shall repair or restore all such damage within thirty (30) days of notification by the Township. If the restoration work is not performed to the satisfaction of the Roadmaster, the Township shall have the right to do the work at the expense of the owner who shall reimburse the Township within thirty (30) days of receipt of an invoice from the Township. In addition, the Township retains all rights to collect the said expenses in any manner provided by law for the collection of municipal debts.

### **Section 11. Notice to Correct Improper Installation**

- A. Any person who shall perform any driveway work or cause any driveway to be opened onto or lead to a road owned by or to be dedicated to Perkiomen Township in violation of the requirements of this chapter may be ordered by the Township to remove the improper work and replace the same in compliance with the provisions of this chapter, at their expense.
- B. Notice to remove and replace the improper work shall be given to the owner by certified mail, return receipt requested, which said notice shall require the owner to correct the deficiencies within 14 days of receipt of the notice of the violation. Upon noncompliance with the notice received from the Township, the Township may do or cause the necessary repairs to be done and levy the cost of such work on the owner and may cause a lien to be filed of record against the property and collect the same in any manner provided by law or utilize any other remedy provided at law or in equity.

### **Section 12. Failure to Make Required Improvements**

If an Owner fails or refuses to timely make any driveway improvements mandated by the Township, the Township shall be authorized to enter upon Owner's property in order to make any necessary driveway improvements at the sole cost and expense of Owner. Upon completion of said work, the Township shall submit an invoice to the Owner for reimbursement. If Owner fails to reimburse the Township in the full amount within thirty (30) days from the date of such invoice, the Township may pursue any or all of the legal remedies available to the Township to collect said amount from Owner, including those set forth in Section 16 below, and, including the placing of a lien on the property until such time as payment is made.

### **Section 13. Liability**

The grant of a permit under this Ordinance shall not constitute a representation, guarantee, or warranty of any kind by the Township or by any official, professional, consultant, employee, or agent thereof of the practicability or safety of the proposed driveway work, including the control of stormwater, and shall create no liability upon the Township or its officials, professionals, consultants, employees, or agents.



#### **Section 14. Indemnification**

The Permittee shall fully indemnify and save harmless and defend the Township, its officials, employees, and agents, from all liability for damages or injury occurring to any person or persons or property through or in consequence of an act or omission of any contractor, official, agent, employee, or person engaged or employed in, about or upon the work, under or pursuant to the permit, by, at the instance of, or with the approval or consent of the Permittee; from any failure of the Permittee or any such person to comply with this Ordinance, other applicable law, and/or the terms and conditions of the permit for a period of two (2) years after completion of the work under or pursuant to the permit.

#### **Section 15. Insurance Requirements**

The applicant, when requested by the Township, shall submit to and in favor of the Township a Certificate of Insurance for Public Liability and Property Damage, in such a form and in an amount satisfactory to the Township. This Certificate shall cover any loss that may be incurred for or on account of any matter, caused or arising out of work under or pursuant to the permit. Any request by the Township for a Certificate of Insurance may be made at any time prior to the issuance of said permit. If the request is made the permit shall not be issued until the Township is in receipt of the Certificate of Insurance.

#### **Section 16. Violations, Penalties, and Enforcement**

This Ordinance shall be deemed to regulate public safety, fire, and health (as authorized by 53 P.S. Section 66601(c.1)(2)). A violation of this Ordinance, or of the terms or conditions of any permit issued thereunder, shall be deemed to be a summary offense and shall be enforced in an action brought before a District Justice in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. The Township Solicitor may assume charge of the prosecution and shall be authorized to seek criminal fines not to exceed One Thousand Dollars (\$1,000.00) per violation and may obtain imprisonment of each violator to the extent allowed by law for the punishment of summary offenses. Each twenty-four hour period that the condition persists shall be deemed to be a separate offense.

The Township may require a Driveway Permit Application and Applicable Fees be provided to the Township if a driveway was installed by a homeowner who has failed to properly acquire an approved Driveway Permit prior to commencing construction. The Township reserves the right to file a lien upon the subject property for the equivalent cost of the applicable application fee, any Township inspection, coordination, or enforcement, and an equivalent cost of the driveway construction, as determined by the Township Engineer.

**Section 17. Repealer**

All other Township ordinances and resolutions, or parts of any ordinances or resolutions, which conflict with this Ordinance are hereby superseded by this Ordinance.

**Section 18. Severability**

The provisions of this Ordinance are severable, and if any provisions hereof are declared illegal or invalid on constitutional or statutory grounds by any court of competent jurisdiction, then those provisions not specifically declared illegal or invalid remain in full force and effect.

**Section 19. Effective Date**

This Ordinance shall become effective five (5) days after adoption.

**DULY ORDAINED AND ENACTED** by the Board of Supervisors of Perkiomen Township, Montgomery County, Pennsylvania, at its duly advertised public meeting this 1<sup>st</sup> day of June, 2021.

PERKIOMEN TOWNSHIP  
BOARD OF SUPERVISORS

By: William Patterson  
William Patterson, Chairman

Attest: Cecile M. Daniel  
Cecile M. Daniel, Secretary