

FISHING CREEK TOWNSHIP, COLUMBIA COUNTY, PA
ORDINANCE 02-2018
AN ORDINANCE REGULATING THE CONSTRUCTION AND MAINTENANCE
OF PRIVATE DRIVEWAYS CONNECTING TO TOWNSHIP ROADS

WHEREAS, the Board of Supervisors of Fishing Creek Township has determined that it is in the public welfare to insure the proper construction, and maintenance of private driveways entering upon Township roads; and

THEREFORE, BE IT ORDAINED AND ENACTED as follows:

- SECTION 1:** This Ordinance shall be known as the Fishing Creek Township Driveway Ordinance and supersedes all prior Driveway Ordinances.
- SECTION 2:** The following definitions shall apply to terms as used throughout this Ordinance:
- A. Board: The Board of Supervisors of Fishing Creek Township, Columbia County, Pennsylvania.
 - B. Contractor: The person, partnership, corporation or other entity which installs a driveway including all agents, officers or employees of such person, partnership, corporation or entity.
 - C. Department: The Pennsylvania Department of Transportation (PENNDOT).
 - D. Driveway: Any area of land designated, used, or to be used as a means of ingress or egress for either or pedestrian traffic from a public road to a parcel of land.
 - E. Owner: The owner of the land upon which a driveway is located or proposed to be located, whether such owner be a person, partnership, corporation or other entity.
 - F. Permit: The permit issued by the Board to signify approval of the design of the driveway connection.
 - G. Permanent Driveway: A driveway the use of which shall be for a period in excess of six (6) months.
 - H. Public Road: Any road, street, alley or public thoroughfare, whether actually maintained by Fishing Creek Township or shown on a subdivision or land development plan as intended to be dedicated to Fishing Creek Township in the future.
 - I. Temporary Driveway: A driveway the use of which shall be for a period not to exceed six (6) months, as a temporary means of ingress and egress to facilitate construction, logging or other similar temporary usage.
- SECTION 3:** No owner or contractor shall initiate, install, or allow any work to be performed towards the installation of a driveway, permanent or temporary, without first obtaining a driveway permit from the Township.
- SECTION 4:** A. Required Application: Any contractor or owner shall, prior to constructing a driveway, file an application with the Board on a form supplied by the Board. The application shall be accompanied by a detailed plan containing all information necessary for the Township to determine whether the proposed driveway and its construction is in compliance with the requirements of this Ordinance. Information

provided shall include the proposed location of the driveway to be installed, the location and detail of the adjoining Public Road, all sight distances, and the nature of the driveway (whether permanent or temporary). The application and accompanying plan must designate the course, grade structure, materials and drainage facilities, if any, involved in the construction of the driveway, and, in the case of a temporary driveway, the plan for restoration of the driveway area upon cessation of use. Further, the application and plan must make provision for control of soil erosion and include appropriate measures to protect the Public Road from damage during construction.

B. General Driveway Requirements:

1. General Rule: Driveways shall be located, designed, constructed and maintained in such a manner as not to interfere or be inconsistent with the design, maintenance and drainage of the Public Road.

2. Location Restrictions: Driveways shall be permitted only at locations in which:

- a) Sight distance is adequate to safely allow each permitted movement to be made into or out of the driveway. Minimum sight distance requirements established by the Department under 67 Pa. Code §441.8, as currently in effect or as hereinafter amended, shall be utilized as the standards employed by the Township in its review of an application for a driveway permit submitted hereunder.
- b) The free movement of normal highway traffic is not impaired.
- c) The driveway will not create a hazard.
- d) The driveway will not create an area of undue traffic congestion on the Public Road.

3. Number of driveways: The number and location of entrances which may be granted will be based upon usage and interior and exterior traffic patterns and will be consistent with then current Department design policies.

- a) Normally, only one driveway will be permitted for a residential property and not more than two driveways will be permitted for a non-residential property.
- b) If property frontage exceeds 600 feet, an additional driveway may be permitted.
- c) Regardless of frontage, a development may be restricted to a single entrance/exit driveway, served by an internal collector road separated from the traveled way.

4. Other Requirements: The Township will apply other standards for driveway design and construction as adopted by the Department in Chapter 441 of Title 67 of the Pennsylvania Code as may be in effect and as applicable to the driveway proposed in the application.

SECTION 5: A. The application shall be accompanied by the basic fee as the Board shall prescribe from time to time by proper resolution. The Board hereby establishes the basic fee to be in the amount of thirty five (\$35.00) dollars.

B. In addition to such basic fee, the owner shall be obligated to pay, prior to the issuance of a driveway permit, the reasonable cost actually incurred in review of the application by the engineer of the Township, if the Township Roadmaster shall deem it necessary to refer the application to the Township engineer for review.

SECTION 6: A. The application shall be reviewed by the Roadmaster of the Township who may refer the application to the Township engineer for review. Such review shall involve a determination as to whether the proposed driveway and construction thereof comply with the standards adopted in this Ordinance and further that the driveway as proposed will (a) minimize the adverse effects of storm-water runoff on the Public Road; (b) protect the Public Road from damage by the driveway connection; (c) to the extent possible maintain the existing berm of the Public Road at its existing width and grade prior to the driveway connection; (d) provide for the installation of any proposed drainage pipe at a location and depth which will be compatible with the existing Public Road drainage provisions; and, (e) not create or otherwise increase hazardous driving conditions for the users of the Public Road.

B. If the application shall meet the above criteria, the Roadmaster shall so advise the Board. If the application shall request approval of the construction of a temporary driveway, the Board shall issue, or cause to be issued, a temporary driveway permit which shall permit installation of the driveway and its usage for a period not in excess of six (6) months. At the expiration of such period, usage of the temporary driveway shall cease, unless a permanent driveway permit shall have been issued with respect to such driveway. If the application shall request approval of the construction of a permanent driveway, the Board shall issue, or cause to be issued, a permanent driveway permit.

C. If the application is found to be deficient, or if in the opinion of the Roadmaster or engineer the application should be modified to meet the criteria above, the Roadmaster or engineer shall notify the applicant in writing of changes required, whereupon the applicant may make such changes and submit a revised application to the Township. When a revised application is acceptable to the Roadmaster or engineer, the Board shall issue, or cause to be issued, a driveway permit as specified in Paragraph B of Section 6 preceding.

SECTION 7: The construction of a driveway shall conform to the application as approved by the Board.

SECTION 8: Each driveway, whether or not serving the same premises, shall require a separate permit.

SECTION 9: A. The owner of a driveway which has been constructed pursuant to the provisions of this Ordinance shall maintain the driveway in a good repair in conformity with the initial approved plan of construction.

B. In the case of a temporary driveway, the owner shall not use or permit the use of the same following the expiration of the temporary permit period and shall restore the driveway area in accordance with the application as approved by the Board.

C. No owner shall permit a driveway, whether pre-existing or constructed pursuant to this Ordinance, to become deteriorated to the end that such state of deterioration increases the adverse effects of storm-water runoff on the public road, fails to protect the public road from damage, or creates or otherwise increases hazardous driving conditions for the users of the public road. An owner of a driveway, whether pre-existing or constructed pursuant to the provisions of this Ordinance, shall maintain any drainage pipe or other drainage mechanism in good repair, unclogged and opened.

SECTION 10: In the case of a violation of the provisions of this Ordinance, the Roadmaster for the Township may give written notification of such violation to the owner setting forth the nature of the Ordinance violation. In the event that the owner shall fail to remedy a violation within ten (10) days of such written notice, the Township may make any repairs necessary to correct such violation and the reasonable cost and expense incurred by the Township in connection with such repairs shall be a charge to the owner. The giving of a notice of violation under this provision shall not be a condition precedent to the initiation of summary proceedings provided hereunder.

- A. Any person shall be guilty of a summary offense when such person:
 - 1. Violates any provision of this Ordinance; or
 - 2. Fails to comply with any condition or requirement in accordance with any provision of this Ordinance.

- B. A separate summary offense shall arise:
 - 1. For each day or portion thereof in which a violation is found to exist; or
 - 2. For each provision of this Ordinance which is found to have been violated; or
 - 3. For each condition of requirement of this Ordinance which is found not to have been complied with.

- C. Any person, upon conviction of any summary offense under this Ordinance, shall be sentenced to pay a fine of not more than \$1,000.00 plus costs per violation, and, may be sentenced to imprisonment to the extent allowed by law for the punishment of summary offenses.
 - 1. The enforcement of any violation of this Ordinance as being a summary offense shall be brought by an appropriate action before a district justice in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. As permitted by the Second Class Township Code, 53 P.S. §66601(c.1)(2), the Township Solicitor may assume charge of the prosecution without the consent of the District Attorney as required under the Pennsylvania Rules of Criminal Procedure relating to trial in summary cases.

- D. All fines and costs collected for any violation as prescribed in this Ordinance shall be paid to the Township Secretary/Treasurer.

- E. The Board may institute in the name of the Township any appropriate action or proceeding at law or in equity to prevent, restrain, correct or abate a violation of this Ordinance. Such action or proceeding shall be in addition to all other remedies available to the Township under the provisions hereof.

SECTION 11: The provisions of this Ordinance pertain to construction of a new driveway or modification of an existing driveway which would significantly change the configuration of existing driveway. This Ordinance is not intended to deter owners/contractors from placing stone, paving, replacing pipes or general maintenance of an existing driveway. Owner/contractor is required to consult with the Board to discuss the scope of maintenance/improvements to be undertaken by owner/contractor.

SECTION 12: This Ordinance pertains to driveway construction onto Township roads. Driveways that will have ingress and egress onto State roads are not regulated by the Township Board. Before beginning construction on any State road, owner/contractor must contact PENNDOT to have a site inspection before permits will be issued by the Department.

SECTION 13: All provisions of Township Ordinances inconsistent with the provisions of this Ordinance are hereby repealed.

This Ordinance supersedes all previous Driveway Ordinances and updates to same and shall become effective immediately upon enactment.

ORDAINED AND ENACTED THIS 3rd day of April, 2018.

BOARD OF SUPERVISORS OF FISHING CREEK

TOWNSHIP

Coralie Kendt

ATTEST

James L. Kline
CHAIRMAN

E. H. W. Bennett
VICE CHAIRMAN

Jerry R. Deeth
SUPERVISOR