

ORDINANCE 2001-9 as amended by ORDINANCE 2006-1

DRIVEWAY ORDINANCE

Section 1 – Short Title

This Ordinance shall be known and may be cited as the “East Nantmeal Township Driveway Ordinance”.

Section 2 – Definitions

Applicant – Person or entity applying for driveway permit.

Board of Supervisors (“Board” or “Township Supervisors”) – The Board of Supervisors of East Nantmeal Township, Chester County, Pennsylvania.

Cartway – The paved area of a public or private street within which vehicles are permitted, including travel lanes, but not including shoulders, curbs, gutters, sidewalks or drainage swales.

Clear Sight Triangle – An area of unobstructed vision at the intersection of two (2) streets, or a street and driveway defined by lines of sight between points at given distances from the intersection of the streets or street and driveway center lines.

Common Drive – A driveway shared by two (2) to three (3) lots or dwelling units with equal rights-of-access, common maintenance, a singular street access, Township approved construction, and appropriate easement width.

Driveway – A private cartway located on private property providing vehicular access from such property to and from a public or private street.

Driveway Width – The narrowest width of a driveway measured perpendicular to the centerline of the driveway.

Frontage – The width of a lot or property which abuts a street, being the distance measured along the street right-of-way from one side lot line to the other.

Local Street – Every publicly used street, not under jurisdiction of the State, within the boundaries of the Township including all existing or proposed streets, alleys, courts and ways.

Pavement – A hard wearing road surface such as black top/macadam or concrete, or any combination thereof, but not including a dirt or gravel surface.

Pavement/Cartway Edge – The edge of the main traveled portion of any street or highway, exclusive of shoulders.

Permit – A permit issued by the Zoning Officer for the penetration and occupancy of the right-of-way of any street by the installation and construction of a driveway therein. In addition, a State Highway Occupancy Permit shall be required on State roads.

Right-of-Way – Any street, avenue, boulevard, highway, sidewalk, alley or similar place which is owned by a governmental entity and/or the general public, and may include an area beyond the paved or finished surface portion thereof. In the case of a private street, there shall be a deemed right-of-way equivalent to a public street or equivalent cartway width.

Shoulder – The portion of a street, contiguous to the main traveled portion, for accommodation of stopped vehicles, for emergency use, and for lateral support of base and surface courses and pavements.

Street – A strip of land, including the entire right-of-way intended for use as a means of vehicular and pedestrian access. The word “street” includes avenue, boulevard, thoroughfare, road, highway, freeway, parkway, lane, alley, court, way, viaduct and other ways used or intended to be used by vehicular traffic or pedestrians whether public or private.

Substantial Improvement – Improvements to a driveway shall be deemed to be substantial: (1) if a previously unpaved driveway is to be paved; (2) if a drainage pipe is to be installed or replaced; (3) if any grading or excavation is to be done within ten (10) feet of a street right-of-way; (4) if the original grade or design of a driveway is to be changed; or (5) if any work done or to be done, is likely to create, increase or otherwise affect stormwater flow or discharge within the cartway or right-of-way of any street.

Township – The Township of East Nantmeal, Chester County, Pennsylvania.

Zoning Officer – The individual or firm appointed by the Board of Supervisors having the responsibility of administering and enforcing the terms and provisions of this Ordinance.

Section 3 – Scope – No person in East Nantmeal Township shall lay out, open, install, construct, substantially improve, or maintain any driveway or any portion thereof unless it shall be in accordance with the following:

- A. Any driveway which requires the penetration or occupancy of a state highway right-of-way area shall be located only in accordance with a permit issued by the Pennsylvania Department of Transportation pursuant to the provisions of Chapter 441 of Title 67 of the Pennsylvania Code. Such driveways shall be installed, constructed or substantially improved in accordance with a permit issued by East Nantmeal Township Zoning Officer under the provisions of this ordinance, any other applicable ordinances of East Nantmeal Township, and such driveway regulations, provisions and specifications as may be enacted by the Board of Supervisors of East Nantmeal Township, from time to time.

- B. Any driveway which requires penetration or occupancy of a street right-of-way area, other than a state highway, shall be located, laid out, opened, installed, constructed or substantially improved only in accordance with a permit issued by East Nantmeal Township Zoning Officer under the provisions of this ordinance, any other applicable ordinances of East Nantmeal Township, and such driveway regulations, provisions and specifications as may be enacted by the Board of Supervisors of East Nantmeal Township, from time to time.
- C. Any driveway which causes silt, stone, debris or water to be deposited in a right-of-way area of any street or state highway shall be improved to eliminate said discharge. A permit is required as set forth above if the corrective work is a substantial improvement.

Section 4 – Permit Requirements for Driveways

- A. Any person required to obtain a driveway permit under the terms of this Ordinance shall make application for the same on a form approved by the Board of Supervisors, and said application shall be accompanied by a fee to be adopted by the Board of Supervisors, from time to time.
- B. No permit as herein provided for shall be required for normal and customary maintenance and repair of an existing driveway, providing such normal and customary maintenance and repair does not constitute substantial improvements.
- C. In addition to submitting to the Zoning Officer the application and the application fee, the application shall be accompanied by the following information:
 - (i) A statement giving the location, purpose and description of all work to be done;
 - (ii) A driveway sketch and driveway profile plan showing the area to be affected, existing improvements presently erected or constructed thereon, proposed improvements and all property boundary lines within 100 feet of the proposed driveway;
 - (iii) If the discharge or passage of surface water drainage onto or within the right-of-way area of a local street or state highway will be affected, storm water runoff calculations indicating runoff prior to and after the proposed work and a remediation plan, when such calculations and plan are requested by the Zoning Officer;
 - (iv) Information, design and mode of construction of all driveways, and drainage and means of sediment and erosion control during and after the proposed work, when requested by the Zoning Officer.

- D. The location, design and mode of construction of all driveways, and drainage facilities is subject to the approval of the Zoning Officer. The Zoning Officer may require that the plans filed with the applications shall be altered to reflect any changes or modifications which the Zoning Officer shall deem necessary to meet the requirements of this ordinance.
- E. All work shall be in strict compliance with the plans and specifications for which the Zoning Officer issued a permit.
- F. The Zoning Officer shall not issue a permit for any work to be performed under the terms and conditions of this ordinance until such time as the Zoning Officer shall receive from the applicant all required information and until such time as the Zoning Officer has had an adequate opportunity to investigate and research the said application. The Zoning Officer shall either approve or reject an application for a permit within thirty (30) days after the Zoning Officer has received from the applicant all information and documentation required by this ordinance and that required by the Zoning Officer in accordance with the terms and conditions of this ordinance.
- G. A permit issued pursuant to the terms and provisions of this ordinance shall be valid for a period of one (1) year from the date of issuance shown on the said permit.
- H. It shall be the joint responsibility of the owner, lessee, if any, and the contractor to determine that any permit required by this ordinance has been obtained before performing any work. It shall be unlawful for any contractor or subcontractor to perform any work for which a permit is required unless a permit is obtained.

Section 5 – Standards for Driveways

- A. All driveways and related improvements shall be constructed and located in such manner as not to impair drainage or maintenance within any street right-of-way area, alter the stability of a roadway sub-grade, materially change the drainage of adjacent areas, interfere with the traveling public, present a hazard to the free movement of normal street traffic, or create areas of undue traffic congestion on the highway. All surface water shall be retained on the applicant's lot whenever possible, and in no case shall the applicant channel surface water and direct it or allow it to flow in force into lower land.
- B. All work for which a permit is required under the provisions of this ordinance, shall be done in accordance with these design standards and any driveway regulations, provisions and specifications adopted by the Board of Supervisors, from time to time.

- C. Driveway entrances to an existing state highway shall be located in accordance with a permit issued by the Pennsylvania Department of Transportation pursuant to the provisions of Chapter 441 of Title 67 of the Pennsylvania Code. Driveway entrances to any other existing street shall be so located as to provide reasonable and safe sight distance to the operator of a vehicle departing from a driveway into a street. The location of all driveways is subject to approval by the Zoning Officer. Clear sight triangles shall be provided at all intersections of driveways with streets. The clear sight triangles shall be free of any vegetative obstructions. Within such triangles, no vision obstructing objects other than utility poles, street lights, street signs or traffic signs shall be permitted which obscures vision above the height of thirty (30) inches and below ten (10) feet measured from the centerline grade of the intersecting driveway and the street.
- D. A safe sight distance shall be available for all permitted turning movements at all driveway intersections and shall conform to the minimum driveway intersection safe sight distance requirements of PennDOT Publication 441 and 282. Safe sight distances shall be determined as provided in Appendix A.
- E. Any repairs to a driveway, for which a permit has been issued under this ordinance shall be done in such a manner that the repairs shall not change the original design and specifications for the driveway, unless the new design and specifications are first submitted to the Zoning Officer for approval.

There may be a required payment of a filing fee, as established by the Board of Supervisors, when, in the determination of the Zoning Officer, a substantial improvement or change is made.

- F. Every driveway which requires the penetration of occupancy of a paved street shall be paved from the pavement/cartway edge for a distance of fifteen (15) feet or to the right-of-way line, whichever is greater. Driveway paving shall consist of at least two (2) inches of compacted HMA (Hot Mix Asphalt) Super Pave wearing course on at least six (6) inches of PennDOT 2A stone.
- G. All driveways shall have a width of at least twelve (12) feet and must flare to a minimum of eighteen (18) feet at the cartway. All driveways shall be located at least ten (10) feet from the lot line of any adjacent lot. The entrance shall be rounded at a minimum radius of six (6) feet. The entire driveway entrance, including radii, shall be located within the road frontage of the property which is to be served by the driveway. No driveway shall be closer than ten (10) feet from a property boundary line.
- H. All driveways on corner lots shall be located at least fifty (50) feet from nearest right-of-way line of a local street intersection and at least one hundred (100) feet from a collector street intersection's nearest right-of-way line. For any lots other than corner lots, driveways shall be at least one hundred (100) feet from the point of intersection of the nearest street rights-of-way lines.

- I. No single lot or parcel of land shall have more than one (1) driveway; however, a second driveway may be permitted if the owner of a parcel with at least four hundred (400) feet of frontage can demonstrate to the satisfaction of the Zoning Officer that an additional driveway is necessary, the Zoning Officer may issue a permit for a second driveway provided that such driveway complies with all other provisions of this Ordinance. Ingress points separated from egress points and common accesses for two or more adjacent lots, buildings or uses shall be encouraged to minimize the conflicts between turning movements of entering, exiting and through traffic.
- J. All driveways shall have a leveling area not to exceed a grade of five (5) percent within twenty (20) feet of the intersection with the cartway of any local street or state highway.
- K. The maximum grade of a driveway shall not exceed twelve (12) percent. Driveways with a grade of greater than seven (7) percent shall be paved. Driveway paving shall consist of at least two (2) inches of compacted HMA (Hot Mix Asphalt) Super Pave wearing course, on at least six (6) inches of PennDOT 2A stone.
- L. The intersection of all driveways with the pavement/cartway edge shall be constructed by use of a paved drainage swale if deemed necessary by the Zoning Officer. Otherwise, a stabilized vegetative cover may be used. The drainage swale shall slope down from the cartway at a grade of six (6) percent for a maximum depth of four (4) inches and a minimum width of six (6) feet from the pavement/cartway edge. A pipe may be used only when approved by the Township Engineer. If a pipe is used, it shall have a minimum diameter of fifteen (15) inches and shall be sized according to drainage runoff calculations based upon a twenty-five (25) year storm frequency. The pipe shall be placed far enough from the edge of the cartway to allow for a four (4) foot shoulder slopes not greater than 2:1 to the swale or ditch. The distance shall be at least six (6) feet from the edge of the cartway. Drainage pipes shall be a length considered sufficient by the Township Engineer.
- M. Where driveways are placed in relation to curb areas, “the curb depression shall be two feet wider than the drive. The curb shall be depressed to 1 ½” from the gutter line.
- N. All drives shall have a cross section slope of 3/8” per foot (3.125%) incorporated as a crown or continuous slope from the edge to edge of pavement or such other cross slope as may be approved by the Zoning Officer upon satisfactory demonstration by the applicant that the proposed cross slope is appropriate.

- O. The angle of a driveway as it intersects a street shall be such that a vehicle entering the driveway may do so in an orderly and safe manner with a minimum of interference to other street traffic and such that a vehicle leaving the driveway may enter safely into the lane of traffic moving in the desired direction. Driveways shall intersect streets as nearly as possible at right angles, and in no case at an angle of less than seventy (70) degrees or more than one hundred ten (110) degrees.
- P. A minimum of one (1) parking space shall be provided outside of the road right-of-way but within fifty (50) feet of the right-of-way where the centerline grade of the driveway exceeds ten percent (10%).

Section 6 – Maintenance. All driveways shall be maintained by the property owner in such a manner as not to interfere with the design, maintenance, and drainage of local streets, or the safe and convenient passage of traffic upon the streets.

Section 7 – Inspection.

- A. No paving of a driveway for which a driveway permit has been issued pursuant to the terms of this ordinance shall be commenced until the Zoning Officer shall have inspected the site and approved the work performed up to the date of the site inspection. The applicant shall give the Zoning Officer the opportunity to perform the site inspection.
- B. Within forty-eight (48) hours after completion of the work for which a permit was issued, the party to whom the permit was issued shall notify the Zoning Officer of the completion of the work so that the Zoning Officer may inspect the same. If the work was not performed in accordance with the plans and specifications approved by the Zoning Officer, the holder of the permit shall be directed by the Zoning Officer in writing to take immediate steps at the permit holder's own expense toward placing the work in such condition as to conform to the approved plans and specifications.

Section 8 – Requirements for Subdivision and Land Development Applicants.

- A. The Board of Supervisors may require an applicant to submit with his subdivision and/or land development plans evidence that the standards for driveway construction established in this Ordinance can be met for each lot within the subdivision and/or land development. The Board of Supervisors may further require subdivision and/or land development plans to show a typical treatment of the construction of driveways and the handling of storm drainage and erosion and sediment control along driveways.
- B. Subdivision and land development plans shall be designed to minimize the number of driveway intersections with existing streets. Wherever deemed feasible by the Township and required by the Township to minimize driveway intersections with existing streets, thus lessening interruptions to traffic flow and accident hazards, and to minimize erosion, sedimentation and run-off problems into existing streets, subdivisions shall be provided with internal streets on which proposed lots will front and to which the lots will have driveway access.

Section 9 – Indemnification of Township. Any person, firm, corporation, or other entity applying for any permit under this ordinance agrees by making said application to indemnify and save the Township harmless from and against all liabilities of whatever nature arising during the design of the work, performance of the work or as a result of the work for which a permit is granted, whether or not the liability arises as a result of the negligence of the person, firm, corporation or other entity to whom the permit was issued. The application for a permit shall contain appropriate language acknowledging that the applicant agrees to indemnify and save the Township harmless as required by this section.

Section 10 – Penalties and remedies for violations.

- A. It shall be a violation of this ordinance to commit or to permit any other person to commit any of the following acts:
 - 1. To commence activities for which this ordinance requires a permit before obtaining a permit or in violation of the terms or conditions of any permit issued under this ordinance;
 - 2. To misuse or fail to maintain any driveway installed upon a property;
 - 3. To place intentionally false information on or intentionally omit information from an application for a permit under this ordinance; or
 - 4. To fail to comply with any other provisions of this ordinance.
- B. For each violation of the provisions of this ordinance, the owner, agent, lessee, or contractor or any other person who commits, takes part in, or assists in any such violation shall be liable upon conviction thereof in a summary proceeding to pay a fine of not less than two hundred (\$200.00) dollars not more than one thousand (\$1,000.00) dollars for each offense, together with the costs of prosecution. Each day or portion thereof in which a violation exists shall be considered a separate violation of this ordinance, and each section of this ordinance which is violated shall be considered a separate violation. In default of payment of such fine, such person shall be liable to imprisonment for a period not exceeding thirty (30) days.
- C. In addition or in lieu of the penalties provided in Section 10.B, the Township may proceed against the violator in a court of equity to obtain injunctive or other relief to abate the violation.
- D. In addition or in lieu of the penalties provided in Section 10.B, the Zoning officer may revoke any permit issued under this ordinance when the permit holder has violated the provisions of this ordinance.

Section 11 – Appeals. This ordinance is adopted pursuant to the Township’s police power and is hereby declared not to be related to zoning and land planning and any person aggrieved by the application, enforcement or other adjudication made pursuant to the terms of this ordinance may appeal within thirty (30) days of said adjudication for a hearing before the Board of Supervisors of East Nantmeal Township in accordance with the applicable portions of the Pennsylvania Local Agency Law (2 Pa.C.S. Section 551 et seq.).

Section 12 – Waivers. The provisions of this ordinance are intended as a minimum standard for the protection of public health, safety and welfare. Any person desiring a waiver of the requirements of this ordinance shall make application for such waiver in writing, identifying the section of the ordinance from which a waiver is requested, the reasons for the waiver, and the alternative proposed. If the literal compliance with any mandatory provision of this ordinance is shown by the applicant, to the satisfaction of the Board of Supervisors, to be unreasonable or to cause undue hardship as it applies to a particular property, or if the applicant shows that an alternative proposal will allow for equal or better results, the Board of Supervisors may grant a waiver from such mandatory provisions so that substantial justice may be done and the public interest secured while permitting the reasonable utilization of the property. However, the granting of a waiver shall not have the effect of making null and void the intent and purpose of this ordinance. In granting waivers, the Board of Supervisors may impose such conditions as will, in its judgment, secure substantially the objectives of the standards and requirements of this ordinance.

Section 13 – Repealer and severability.

- A. All ordinances and resolutions and parts of ordinance and resolutions inconsistent with the provisions of this ordinance are hereby repealed insofar as they affect any work done after the effective date of this ordinance, but said ordinances or resolutions or parts thereof shall not be repealed insofar as they apply to permits issued or acts of violations occurring before the effective date of this ordinance.
- B. Notwithstanding anything set forth above in this ordinance, whenever the provisions of this ordinance shall be inconsistent with the provisions of the Zoning Ordinance of East Nantmeal Township or other applicable Township ordinances as are from time to time in effect and the provisions of the said ordinances are more restrictive or contain more stringent requirements than are set forth in this ordinance, then the provisions of the Zoning Ordinance of East Nantmeal Township or other applicable Township ordinances shall prevail and be applicable.
- C. The provisions of this ordinance are severable and if any sentence, clause or section of this ordinance is for any reason found to be unconstitutional, illegal or invalid by a court of competent jurisdiction, such findings shall not affect or impair any of the remaining provisions, sections, sentences or clauses of this ordinance. It is hereby declared to be the intent of the Board of Supervisors that this ordinance would have been adopted as such unconstitutional, illegal or invalid sentence, clause or section not have been included herein.

Section 14 – Effective date. This ordinance and all of its terms and provisions shall become effective five (5) days after its adoption.

ENACTED AND ORDAINED, as an Ordinance this 7th day of June, 2001.