

ORDINANCE 2010-1

**AN ORDINANCE FOR THE TOWNSHIP OF
LOWHILL, LEHIGH COUNTY, PENNSYLVANIA
TO PROVIDE STANDARDS FOR DRIVEWAYS
ALONG WITH PROVISIONS FOR ENFORCEMENT,
PENALTIES, APPEALS, WAIVER, AND EFFECTIVE DATE**

WHEREAS, the Township of Lowhill seeks to provide an ordinance for the permitting of Driveways in the Township serving private property owners from public roads and allowing for uniform standards for all driveways constructed from the date of this ordinance forward.

WHEREAS, under the Second Class Township Code (53 P.S. 66601 et. seq) the Township is permitted to provide an ordinance for the setting and enforcement of standards for Driveways in the Township.

Section 1 – Short Title

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

Section 2 – Definitions

Applicant – Landowner or agent of such landowner applying for driveway permit.

Board of Supervisors (“Board” or “Township Supervisors”) – The Board of Supervisors of Lowhill Township, Lehigh County, Pennsylvania.

Cartway – The graded area of a public or private street within which vehicles are permitted, surfaced with asphalt, cement concrete or gravel, 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) lots or dwelling units with equal rights-of access by approved agreement, common maintenance, a singular street access, Township approved construction, and appropriate easement width.

Developer – Any landowner or authorized agent of such landowner or tenant with permission of the landowner who formally proposes or makes, or causes to be made, a subdivision, land development or any other development.

Driveway – A private roadway 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 distance measured along the front lot line, or possibly the side lot line in the case of a corner lot, being the dividing line between a lot and the outside boundary of a public street or street right-of-way from one side lot line to the other.

Local Street – Streets used primarily to provide access to abutting property, and serve or are anticipated to serve up to 500 vehicles a day, including all existing or proposed streets, alleys, courts and ways for which the Township receives liquid fuels tax funds and which has been formally dedicated and accepted by the Township as a public street, or which has become a public street in accordance with the Second Class Township Code provisions, or any privately owned street.

Pavement – A hard wearing road surface such as black top/macadam or concrete, or any combination thereof.

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

Permit – A permit issued by the Administrator for the penetration and occupancy of the right-of-way of any Township owned and maintained street by the installation and construction of a driveway therein.

Reviewer – Road Master and/or other person or entity assigned by the Board of Supervisors to review driveway permit applications for technical compliance with the provisions of this Ordinance and any other applicable Township ordinance.

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, providing a legal right of passage over another's private property to the defined limit. 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 street, 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 Lowhill, Lehigh County, Pennsylvania.

Township Administrator – The person and/or entity assigned 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 Lowhill 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.
- B. Any driveway which requires penetration or occupancy of a Township street shall be located, laid out, opened, installed, constructed or substantially improved only in accordance with a permit issued by the Lowhill Township Administrator under the provisions of this ordinance and any other applicable ordinances of Lowhill Township.
- C. Any existing 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 redesigned 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 adopted by the Board of Supervisors, from time to time.
- B. No permit 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 Township Administrator the application and the application fee, the application shall be accompanied by the following information:
 - (i) A statement giving the 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. The Applicant shall provide a field stake at the proposed driveway location on the right-of-way line to verify plan information.

- (iii) Information, design and mode of construction of all driveways.
- D. The location, design and mode of construction of all driveways are subject to the approval of the Reviewer. The Reviewer may require that the plans filed with the applications shall be altered to reflect any changes or modifications which he or she 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 Township Administrator issued a permit.
- F. The Township Administrator shall not issue a permit for any work to be performed under the terms and conditions of this ordinance until such time as he or she shall receive all required information from the applicant and has had an adequate opportunity to investigate and research the said application. The Reviewer shall either approve or reject an application for a permit within thirty (30) days after receiving from the applicant all information and documentation required by 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 as shown on the permit. Prior to the expiration date of the original permit, the applicant may apply for up to a single six (6) month extension of the permit upon the completed filing of the extension application and the paying of the applicable fee. After the applicable permit has expired, a new permit must be applied for in accordance with the applicable provisions in force at the time of the new permit application.
- 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. Any proposed driveway that will exceed 500 feet in length will need to receive approval for a Grading Permit from the Township, as well as meeting all applicable requirements contained herein.
- B. 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.

- C. The location of all driveways is subject to approval by the Reviewer. Every effort shall be made to align a new driveway with an existing driveway on opposing sides of the street. 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 twenty-four (24) inches and below ten (10) feet measured from the centerline grade of the intersecting driveway and the street, beginning at a distance of ten (10) feet from the cartway and extending to the minimum safe sight distance required at the time of application, as determined in Section 5.D.
- D. Driveway entrances to any Township 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, or to approaching vehicles when entering said driveway, and shall conform to the minimum driveway intersection safe sight distance requirements of PennDOT Publication 441 and 282, 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 approved in writing by the Reviewer.
- F. Every driveway requiring a Township permit shall be constructed according to one of two standards:
1. Standard 1 - a minimum six (6) inches of PennDOT 2A modified stone or approved equivalent compactable material on a compacted base.
 2. Standard 2 - a minimum design of one and one-half (1 ½) inches of compacted wearing course on two (2) inches of compacted binder course, both approved by PennDOT, on a minimum of six (6) inches of PennDOT 2A stone or approved equivalent stone on a compacted base.

Every driveway which requires the occupancy of or connection to a paved (asphalt or cement concrete) Township street shall be constructed using Standard 2, from the pavement/cartway edge for a distance of twenty-five (25) feet or to the right-of-way line, whichever is greater. Driveways requiring the occupancy of or connection to an unpaved (being gravel or other aggregate surface) Township street shall provide either a Standard 1 or Standard 2 construction.

- G. All driveways shall have a width of at least ten (10) feet and must flare at the cartway, providing the entrance with a radius of ten (10) feet minimum. All driveways shall be located at least ten (10) feet from the lot line of any adjacent lot or property boundary line, not to include the flared portion. The entire driveway entrance, including flare, shall be located within the road frontage of the property which is to be served by the driveway. Common driveways shall be designed to encompass both properties being accessed, conditions allowing.

- H. The design requirements are based on the total length of the proposed driveway, as measured from the edge of existing cartway at the intersection of the driveway, to the farthest continuous point of improved surface along the driveway path. The design requirements are intended to provide progressively more stable driving and maneuvering capabilities for the responding emergency vehicles, as the driveway lengths increase.
1. Any driveway that will be less than or equal to 500 feet, may be constructed using either Standard 1 or Standard 2 specifications, as described in Section 5F, provided this does not contradict any other portion of this or any other ordinance, or any approval requirement set by the Reviewer.
 2. Any driveway that will be greater than 500 feet in length must have an approved Grading Permit issued by the Township, and shall be provided with a minimum of one pullover area, a minimum of 10 feet in width and 60 feet in length, with a tapered section, 20 feet in length, providing a transition from the 10-foot driveway width to the 20-foot driveway/pullover width. One additional pullover area shall be provided for each additional 500-foot length of driveway.
- I. The minimum distance between a driveway or point of access to a street shall be as follows:

Type of Subdivision or Land Development	Distance between centerlines of Access Drive and nearest Intersecting Road by type of Intersecting Road		
	Arterial	Collector	Local
Residential	150 FT.	100 FT.	75 FT.
Nonresidential	300 FT.	200 FT.	150 FT.

- J. 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 Reviewer that an additional driveway is necessary, then 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.
- K. All driveways shall have a leveling area not to exceed a grade of four (4) percent within twenty-five (25) feet of the intersection with the cartway of any local street or state highway when not in conflict with an approved PADOT permit.
- L. The maximum grade of a driveway shall not exceed eleven (11) percent.
- M. The intersection of all driveways with the pavement/cartway edge shall be constructed to continue the existing drainage across said driveway.

- N. 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.
- O. Provision for adequate drainage shall be made for any groundwater source, such as a spring, either existing at the time of driveway construction, or exposed during construction, such that flow will not occur across the surface of the driveway.
- P. All drives shall have a cross section slope of 1/4" per foot (2%) 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 Reviewer upon satisfactory demonstration by the applicant that the proposed cross slope is appropriate.
- Q. 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.

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. In the case of a common driveway, maintenance shall be conducted according to the maintenance agreement, reviewed and approved by the Township, and recorded with the Recorder of Deeds for the County.

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 Reviewer shall have inspected the site and approved the work performed up to the date of the site inspection. The applicant shall give the Reviewer 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 Township Administrator of the completion of the work so that he or she can notify the Reviewer to inspect the same. If the work was not performed in accordance with the plans and specifications approved by the Reviewer, the holder of the permit shall be directed by the Township Administrator 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 – 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 9 – 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 Township Administrator may revoke any permit issued under this ordinance when the permit holder has violated the provisions of this ordinance.

Section 10 – 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 Lowhill Township in accordance with the applicable portions of the Pennsylvania Local Agency Law (2 Pa.C.S. Section 551 et seq.).

Section 11 – 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 12 – 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 Lowhill 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 Lowhill 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.

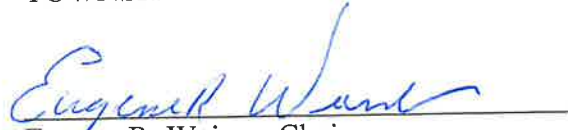
Section 13 – Effective date.


This ordinance and all of its terms and provisions shall become effective five (5) days after its adoption.

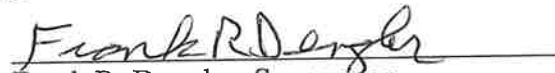
Duly enacted and ordained this 7th day of October, 2010, by the Board of Supervisors of the Township of Lowhill, Lehigh County, Pennsylvania in lawful session and duly assembled.

TOWNSHIP OF LOWHILL


Lucille C. Hahn, Secretary


Eugene R. Weiner, Chairman

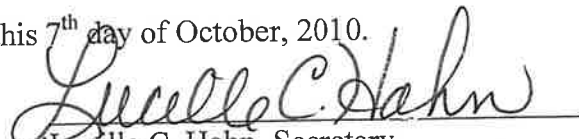

Richard B. Hughes, Vice Chairman


Frank R. Dengler, Supervisor

ENACTED AND ORDAINED, as an Ordinance this 7th day of October, 2010.

I, Lucille C. Hahn, Secretary of the Board of Supervisors of the Township of Lowhill, do hereby certify that the above and foregoing is a true and correct copy of an Ordinance adopted at a meeting of the Supervisors aforesaid convened and held on this 7th day of October, 2010.

Witness my hand and the seal of this Township this 7th day of October, 2010.


Lucille C. Hahn, Secretary

APPENDIX A

Table 1

Minimum Safe Stopping Sight Distance (SSSD) for Vehicles Approaching Down Hill (Descending) Towards Intersection

SSSD'S FOR DOWN HILL GRADES APPROACHING INTERSECTION
(Feet)

Speed MPH	Level	1%	2%	3%	4%	5%	6%	7%	8%	9%	10%	11%	12%	13%	14%
25	161	163	166	169	172	175	178	181	186	191	196	202	207	214	222
35	265	270	275	280	286	292	299	306	315	323	333	344	356	369	384
45	390	398	406	415	425	435	446	458	472	486	502	521	540	562	587
55	538	550	562	575	590	605	622	640	660	682	706	733	762	795	832
65	708	724	742	760	780	802	825	851	879	909	943	980	1021	1067	1119

Table 2

Minimum Safe Stopping Sight Distance (SSSD) for Vehicles Approaching Up Hill (Ascending) Towards Intersection

SSSD'S FOR UP HILL GRADES APPROACHING INTERSECTION
(Feet)

Speed MPH	Level	1%	2%	3%	4%	5%	6%	7%	8%	9%	10%	11%	12%	13%	14%
25	161	159	157	155	153	151	150	148	147	145	144	143	141	140	139
35	265	260	256	252	249	245	242	239	236	233	231	228	226	224	221
45	390	383	376	370	363	358	353	348	343	338	334	330	326	322	319
55	538	527	517	507	499	490	482	475	467	461	454	448	442	436	431
65	708	693	679	666	653	641	630	620	610	600	591	582	574	566	559