

Howe Township

Perry County, Pennsylvania

Driveway Ordinance

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ARTICLE 1 - PURPOSE

Section 101. PURPOSE

The purpose of this Driveway Ordinance is to:

1. Prevent the damage to roads maintained by Howe Township caused by improper connection of new driveways to Township roads.
2. Prevent the construction of new driveways in dangerous locations.

ARTICLE 2 - DEFINITIONS

Section 201. CLARIFICATIONS

Unless otherwise expressly stated, the following terms shall, for the purpose of the regulations, have the meaning indicated:

1. Words in the singular include the plural and those in the plural include the singular.
2. Words used in the present tense include the future tense.
3. The words "person", "subdivider", "developer" and "owner" include a corporation, unincorporated association and a partnership, or other legal entity, as well as an individual engaged in the subdivision of land and/or land development.
4. The words "building" includes structure and shall be construed as if followed by the phrase "or part thereof".
5. The word "watercourse" includes channel, creek, ditch, dry run, spring, stream and river.
6. The words "should" and "may" are permissive; the words "shall" and "will" are mandatory and directive.

Section 202. DEFINITIONS

Other terms or words used herein shall be interpreted or defined as follows:

APPLICATION FOR DEVELOPMENT - every application, whether preliminary, tentative, or final, required to be filed and approved prior to start of construction or development including but not limited to, an application for a building permit, for the approval of a subdivision, plan; or for the approval of a development plan.

BOARD OF SUPERVISORS (SUPERVISORS) - the Board of Supervisors of the Township of Howe.

CARTWAY - that portion of a street or alley which is improved, designated or intended for vehicular use.

CUT - an excavation. The difference between a point on the original ground and designated point of lower elevation on the final grade. Also, the material removed in excavation.

DEP - the Pennsylvania Department of Environmental Protection or any agency successor thereto.

DEVELOPER - a landowner, agent of such landowner, or tenant with the permission of such landowner, who makes or causes to be made a subdivision of land or a land development

DRAINAGE - the flow of water or liquid waste and the method of directing such flow, whether natural or artificial.

DRIVEWAY - a minor vehicular right-of-way providing access between a street and a parking area or garage within a lot or property.

ENGINEER - registered professional engineer of Pennsylvania.

EROSION - the removal of surface materials by the action of natural elements.

FILL - any act by which earth, sand, gravel, rock or any other material is placed, pushed, dumped, pulled, transported or moved to a new location above the natural surface of the ground or on top of the stripped surface. It shall include the conditions resulting therefrom. The difference in elevation between a point on the original ground and a designated point of higher elevation of the final grade. The material used to make fill.

IMPROVEMENTS - those physical changes to the land necessary to produce usable and desirable lots from raw acreage including but not limited to: grading, paving, curbing, gutters, storm sewers and drains, improvements to existing watercourses, sidewalks, crosswalks street signs, monuments, water supply facilities, and sewerage disposal facilities.

LAND DEVELOPMENT - any of the following activities:

1. The improvement of one (1) lot or two (2) or more contiguous lots, tracts or parcels of land for any purpose involving:
 - A. A group of two (2) or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure;
or,

- B. The division or allocation of land or space whether initially or cumulatively, between or among two (2) or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features;
 - C. The construction of a residential building having more than one residential unit.
2. A Subdivision of land.
 3. "Land development" does not include development which involves:
 - A. The conversion of an existing single family detached dwelling or single family semi-detached dwelling into not more than three residential units, unless such units are intended to be a condominium;
 - B. The addition of an accessory building, including farm building, on a lot or lots subordinate to an existing principal building; or
 - C. The addition or conversion of buildings or rides within the confines of an enterprise which would be considered an amusement park. For the purposes of this subsection, an amusement park is defined as a tract or area used principally as a location for permanent amusement structures or rides. This exclusion shall not apply to newly acquired acreage by an amusement park until initial plans for the expanded area have been approved by the proper authorities.

RIGHT-OF-WAY, STREET - a public thoroughfare for vehicular traffic and/or pedestrian traffic, whether designated as a street, highway, thoroughfare, parkway, road, avenue, boulevard, lane, alley or however designated.

RUNOFF - the surface water discharge or rate of discharge of a given water shed after a fall of rain or snow that does not enter the soil but runs off the surface of the land.

SEDIMENT - solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site or origin by water.

SEDIMENTATION - the process by which mineral or organic matter is accumulated or deposited by moving wind, water or gravity. Once this matter is deposited (or remains suspended in water), it is usually referred to as "Sediment".

SIGHT DISTANCE - the length of roadway visible to the driver of a passenger vehicle at any given point on the roadway when the view is unobstructed by traffic.

SLOPE - the face of an embankment or cut section; any ground whose surface makes an angle with the plane of the horizon. Slopes are usually expressed in a percentage based upon vertical difference in feet per 100 feet of horizontal distance.

STREET - includes street, avenue, boulevard, road, highway, freeway, parkway, lane, alley, viaduct and any other ways used or intended to be used by vehicular traffic or pedestrians whether public or private.

STRUCTURE - any man-made object having an ascertainable stationary location on or in land or water, whether or not affixed to the land.

SUBDIVIDER - see Applicant and Developer.

SUBDIVISION - the division or redivision of a lot, tract or parcel of land by any means into two (2) or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership or building or lot development; Provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than ten (10) acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.

SWALE - a low lying stretch of land characterized as a depression used to carry surface water runoff.

TOWNSHIP - the Township of Howe Perry County, Pennsylvania, Boards of Supervisors, its agents or authorized representatives.

ARTICLE 3 - PROCEDURE

Section 301. ABROGATION AND GREATER RESTRICTIONS

This Ordinance supersedes any provisions currently in effect with respect to Driveway Ordinance. However, all other ordinances and regulations shall remain in full force and effect to the extent that those provisions are more restrictive.

Section 302. MUNICIPAL LIABILITY

The degree of Driveway management sought by the provisions of this Ordinance is considered reasonable for regulatory purposes. The approval of Plans or the issuance of permits by the Township of Howe, its officers, or employees shall not be deemed to relieve the Applicant of responsibility, if any such responsibility exists, to those adversely affected by the construction of a driveway.

Section 303. REPEALER

Any resolution, ordinance, or part of any resolution or ordinance inconsistent herewith or any amendments thereof are hereby repealed to the extent of inconsistency only. Nothing in this Ordinance hereby adopted shall be construed to affect any suit or proceedings now pending in any Court, or any rights accrued, or liability incurred, or any cause or causes of action accrued, or any right or remedy of any character is lost, impaired or affected by this Ordinance.

Section 304. SEVERABILITY

The provisions of this Ordinance are severable and if any provisions, sentence, clause, section, part or application thereof shall be held illegal, invalid, or unconstitutional, such illegality, invalidity or unconstitutionality shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or applications. It is hereby declared to be the legislative intent of the Board of Supervisors that this Ordinance would have been adopted had such illegal, invalid, or unconstitutional provision, sentence, clause, section, or part not been included therein and if such illegal, invalid, or unconstitutional application had been specifically exempted there from.

In any case where a provision of this Ordinance is found to conflict with the provision of a zoning, building, fire, safety or health ordinance or code of this Township or law, rule, or regulation of the Commonwealth of Pennsylvania, the provision which established the higher standard for the promotion and protection of the health and safety of the people shall prevail. In any case where a provision of this Ordinance is found to be in conflict with the provisions of another ordinance or code of this Township or law, rule, or regulation of the Commonwealth of Pennsylvania which establishes a lower standard for the promotion and protection of the health and safety of the people, the provisions of this Ordinance shall be deemed to prevail, and such other ordinances or codes are hereby declared to be repealed to the extent that they may be found in conflict with this Ordinance.

Section 305. RIGHT OF ENTRY

Upon presentation of proper credentials, duly authorized representatives of the Township of Howe may enter at reasonable times upon property within the Township to investigate or ascertain the condition of the subject property in regard to any aspect regulated by this Article. The landowner shall grant to the Township, or its agents, access to the site of the work at all times, while under construction, for the purposes of inspecting the work.

In the event of a situation requiring immediate action which threatens the health or safety of the residents of Howe Township, the right of entry shall include the right to make improvements to avert a potential health or safety hazard. Upon completion of the remedial activity, the Township or its authorized agent shall return the property to its former condition as soon as possible provided no further maintenance is required.

Upon arrival, the Township agent shall present identification and request that the owner, manager, lessee, or occupant legally in control of the property sign a release granting the inspection. The inspection shall be completed in a courteous and timely manner, and the signatory of the release shall be given a copy of the inspection report.

In the event that a release to inspect the property is denied, the following steps shall be taken:

1. The matter will be officially referred to the Howe Township Board of Supervisors for action.
2. The Board may schedule a review at the next scheduled meeting of the Board of Supervisors, or, if the situation threatens the health or safety of the residents of Howe Township, the Board may commence a procedure to obtain a search warrant from the District Justice.
3. Upon receipt of a search warrant to inspect the property, the authorized agent of the Township shall be accompanied by an officer of the County or State Police, and the inspection shall be completed in a courteous and timely manner, and the owner, manager, lessee, or occupant legally in control of the property shall be given a copy of the inspection report.
4. The provisions of this Article for obtaining a search warrant may be waived only when the Township Board of Supervisors and its authorized agents have good cause that the situation poses an immediate and substantial safety, water pollution, or health hazard.

The Township may require the correction or alteration of a use or structure in the event that the inspection reveals a code deficiency or violation. The agent of the Township shall provide a written notification requiring specific remedial action to be completed within a reasonable period of time as is deemed necessary according to the severity of the deficiency or violation.

ARTICLE 400. OBTAINING A PERMIT

Section 401. OBTAIN PERMIT

No owner or contractor shall hereafter initiate, install or allow to be performed any work toward the installation of a driveway without first obtaining a permit from the board.

Section 402. FILE APPLICATION

Any owner or contractor shall, prior to obtaining a driveway permit, file an application with the board on a form furnished by the board, showing the location of the driveway to the premises served and designating the course, grade structure, materials and drainage facilities, if any, involved in the construction of the driveway.

Section 403. FEES

The application shall be accompanied by such fees as the Board shall prescribe from time to time. Fees shall not exceed the approximate reasonable cost of processing and reviewing the application and inspecting the work performed on the driveway.

Section 404. APPLICATION REVIEW

The application shall be reviewed by the Township Engineer. The Township Engineer

shall determine if the proposed method of construction of the driveway will:

1. Eliminate the hazardous effects of stormwater run-off.
2. Protect the public road from damage by the connection.
3. Not increase hazardous driving conditions for the users of the public road.
4. Comply with driveway design requirements promulgated by the Township and PENNDOT, which are in effect as of the date the application is filed and which regulations of Howe Township and PENNDOT are incorporated herein by reference, when the driveway fronts on a state controlled road the first twenty feet of the driveway will be controlled by PENNDOT regulations or Howe Township regulations whichever are stricter. The balance of the driveway will be required to meet Howe Township regulations.

If the plans meet the criteria set forth in items 1 through 4, the Code Enforcement/Permit Officer, shall issue a Driveway Permit .

If the plan is found to be deficient, or if in the opinion of the Code Enforcement /Permit Officer, the plan should be improved or amended to meet criteria set forth in Items 1 through 4, the Code Enforcement/Permit Officer shall notify the applicant in writing of such changes to be made, whereupon the applicant shall make such changes and return the revised plans to the Township. When the plan is acceptable to the Code Enforcement/Permit Officer, the Code Enforcement/Permit Officer shall issue a Driveway Permit. When the driveway accesses a state highway a Highway Occupancy Permit from the state will be required prior to the Township issuing a Driveway Permit.

ARTICLE 500. EROSION AND SEDIMENT POLLUTION CONTROL

Section 501. EROSION AND SEDIMENT POLLUTION CONTROL

The Board of Supervisors shall not issue a driveway permit to those engaged in earth moving activities requiring an approved Erosion and Sediment Pollution Control Plan until such approval is recieved from the Perry County Conservation District.

ARTICLE 600 - DRIVEWAY DESIGN STANDARDS

Section 601. DRIVEWAY DESIGN STANDARDS

1. General Standards

The arrangements, character, extent, width, grade and location of all driveways shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and in the appropriate relation to the proposed uses of the land to be served by such streets. The arrangement and other design standards of driveways shall conform to the provisions found herein.

2. Sight Distance

Sight distances must be provided with respect to both horizontal and vertical alignment. Sight distances shall be measured and shall conform to the requirements on PENNDOT Form M-950S (03-04) as amended. This form is contained in PENNDOT Publication No. 282 "Highway Occupancy Permit Guidelines"

3. Driveway Widths

A. Provision for additional driveway width (right-of-way, cartway, or both) may be required when determined to be necessary by the Township Supervisors in specific cases for:

(1.) Public safety and convenience.

(2.) Parking in commercial and industrial areas and in areas of high density development.

B. The minimum width is ten feet (10') for private driveways and twenty feet (20') feet for commercial driveways.

4. Driveway Grade

A. The grades of driveways shall not be less than the minimum grade of one (1) percent or more than maximum grade of twelve (12) percent within 200' of a township road or state road where state regulations would apply to the first 20 feet and the balance shall meet township requirements.

- B. Vertical curves shall be used in changes of grade when the algebraic difference exceeds one percent (1), and shall be designed for maximum visibility. The intersection of a driveway with a Township road shall be approached on all sides by leveling areas, where the grade exceeds seven percent (7), within one hundred feet (100') of the intersection. Such leveling (areas) shall have a minimum length of fifty feet (50') measured from the intersection of the centerline) within which no grade shall exceed a maximum of five percent (5).

5. Slope of Banks Along Driveways

The slope of banks along driveways measured perpendicular to the driveway centerline shall be no steeper than the following:

- A. One foot (1') of vertical measurement for three feet (3') of horizontal measurement for fills
- B. One foot (1') of vertical measurement for two feet (2') of horizontal measurement for cuts.

6. Driveway Material

The entire length of all driveways must be constructed of a six inch (6") compacted shale or limestone base topped by 3 inches (3") of 2A modified aggregate. The Township Supervisors may require the driveway tie-in be constructed of bituminous material if warranted by field conditions to maintain proper drainage and prevent untimely deterioration of the Township road. If required, the portion of the driveway located between the edges of the existing Township road and the Legal Right-of-Way of the Township road shall be constructed of a four inch (4") compacted shale or limestone base, a four inch (4") compacted bituminous concrete base course, and a one and a half inch (1 ½") compacted ID-2 bituminous wearing course.

- 7. Drainage facilities shall be in accordance with PENNDOT Design Manual 2 procedures, and requirements, except that 15" diameter pipe should be permitted if the stormwater flow from the 10-year storm at a time of concentration of 5 minutes does not exceed the capacity of the 15" diameter pipe. If a pipe is proposed beneath a proposed driveway, hydraulic calculations shall be submitted to show that the pipe will meet the requirements of PENNDOT Design Manual 2 for the 10- year storm.

- 8. The outermost edge of any driveway must be located at least ten feet (10') from any property line.

ARTICLE 7. STORM DRAINAGE FROM DRIVEWAYS

Section 701. STORM DRAINAGE FROM DRIVEWAYS

1. Whenever the evidence available to the Township Supervisors and/or the recommendation of the Planning Commission indicates existing surface drainage is inadequate, the applicant shall install storm sewers, culverts and related facilities designed by a Registered Professional Engineer, and as necessary to:
 - A. Permit the unimpeded flow of natural water courses.
 - B. Ensure the drainage of all low points along the line of streets and driveways.
 - C. Intercept stormwater runoff along driveways at intervals reasonably related to the extent and grade of the area drained.
 - D. Provide positive drainage away from on-site sewage disposal facilities.
 - E. Promote on-site recharge of groundwater.
2. Storm drainage facilities must be designed to safely accommodate the anticipated peak discharge from the driveway, so that no net increase in natural runoff occurs from the property. Storm drainage facilities shall also safely accommodate the peak natural surface water flow through the site. Storm water that may result from the driveway shall not endanger landowners or adversely impact existing storm drainage facilities at lower elevations in the drainage basin.
3. **Existing Facilities**

Where adequate existing storm sewers are readily accessible, the Applicant must connect his stormwater facilities to these existing storm sewers. Where the development of a property results in the overloading of existing Township stormwater facilities the Applicant shall be responsible for replacing the facilities.
4. **Abutting Properties**

In the design of storm drainage facilities, special consideration must be given to preventing excess runoff onto adjacent properties. In no case may a change be made in the existing topography which would result in increasing any portion of the slope steeper than one foot (1') of vertical measurement for three feet (3') of horizontal measurement for fills, or on foot (1') of vertical measurement for two feet (2') of horizontal measurement for cuts within a distance of twenty feet (20') from the property line unless an adequate retaining wall or other structure is provided.

ARTICLE 8 - RESPONSIBILITIES

Section 801. Responsibilities

1. Whenever sedimentation is caused by stripping vegetation, regrading or other development, it shall be the responsibility of the person, corporation, or other entity causing such sedimentation to remove it from all adjoining surfaces, drainage systems and watercourses, and to repair any damage at his expense as quickly as possible.
2. Maintenance of all drainage facilities and watercourses within any division or land development is the responsibility of the Applicant until they are accepted by the Township or some other official agency, after which they become the responsibility of the accepting agency.
3. It is the responsibility of any person, corporation or other watercourse or swale or upon the floodplain or right-of-way thereof, to maintain as nearly as possible in its present state the stream, watercourse, swale, floodplain or right-of- way during the activity and to return it to its original or equal condition after such activity is completed.
4. Maintenance of drainage facilities or watercourses originating and completely on private property is the responsibility of the owner to their point of open discharge at the property line or at a communal watercourse within the property.
5. No person, corporation or other entity shall block, impede the flow or, alter, construct any structure, or deposit any material or thing, or commit any act which will affect normal or flood flow in any communal stream or watercourse without having obtained prior approval from the Township.
6. Where a subdivision is traversed by a watercourse, there shall be provided a drainage easement or right-of-way, conforming substantially to the line of such watercourse, and of such width as will be adequate to preserve natural drainage.
7. Each person, corporation or other entity which makes any surface changes shall be required to:
 - A. Collect on-site surface runoff and dispose of it to the point of discharge into a common natural watercourse of the drainage area.
 - B. Handle existing and potential off-site runoff through his development by designing to adequately handle storm runoff from a fully developed area upstream.
 - C. Pay the total cost of off-site improvements including easement cost, if applicable, to the common natural watercourse, based on a fully developed drainage area.

- D. Provide and install at his expense, in accordance with Township requirements, all drainage and erosion control improvements (temporary and permanent).
8. Easements for such common natural watercourse improvements shall be dedicated to the Township.

ARTICLE 9. CORRECTIVE MEASURES

Section 901. WORK TO BE DONE AT EXPENSE OF PERMITTEE

Supervision and approval will be given by Howe Township Supervisors. All work with respect to the connection of any driveway, or the alteration or improvement thereof, shall be done by the applicant at their expense, and all such work shall be subject to the provisions of this ordinance and to the supervision and approval of Howe Township.

Section 902. ALLOWANCE FOR STREET DRAINAGE

Township may correct unsatisfactory work and collect cost plus 10%. Connections, alterations or improvements on any driveway shall be made in such a way to allow adequate drainage of township roads. If any work performed on any driveway, by or for a permittee, shall be, in the opinion of the Board of Supervisors, an unsatisfactory connection, alteration or improvement, and such work shall not be correct in accordance with the instructions of the Board of Supervisors, within the time fixed by them, the Township may proceed to correct such unsatisfactory work and collect the costs thereof plus ten percent (10%) from said permittee.

Section 903. TOWNSHIP MAY ALTER OR REMOVE UNLAWFUL DRIVEWAY

Creating any connection, alteration or improvement of any driveway connection to any road in Howe Township without first obtaining a permit shall be a violation of this ordinance, and such driveway may be removed or altered by Howe Township, and the cost thereof plus ten percent (10%) may be collected from the violating property owner by the Township.

Section 904. COLLECTION OF PAYMENT FOR TOWNSHIP WORK

Payment for all work done by the Township under provisions hereof shall be made by the person made liable therefore under the provision hereof within thirty (30) days after a bill is sent to such person by the Township. Upon failure to pay such charges within such time, the same shall be collected by the Township in the manner provided by law for collection of municipal claims.

ARTICLE 10 - MODIFICATION OF REQUIREMENTS

Section 1001. GENERAL STATEMENT

When owing to special conditions, a literal enforcement of the provisions of these regulations will result in undue hardship because of peculiar conditions pertaining to the land, the Board of Supervisors, on recommendation of the Planning Commission, may make such reasonable modification thereto as will not be contrary to the public interest and so that the spirit of these regulations shall be observed and substantial justice done.

Section 1002. APPLICATION SUBMISSION

All requests for a modification of requirements shall be submitted in writing by the Applicant at the time the Application for development is filed with the Planning Commission. The reasonableness or hardship upon which the request is based, the provision or provisions of the ordinance involved, and the minimum modification necessary.

Section 1003. RECORDING OF DECISION - APPROVAL

In granting any modification of requirements, the Board of Supervisors shall record its action and the grounds for granting any modification in its minutes. The Board of Supervisors shall transmit a copy of its approval to the Applicant within fifteen (15) working days of the date of the Board's decision.

Section 1004. RECORDING OF DECISION - DENIAL

Whenever a request for an alteration of requirements is denied, the Board of Supervisors shall record its action and the grounds for such denial in its minutes. The Board of Supervisors shall transmit a copy of its action and the grounds for such denial of any modification to the Applicant within fifteen (15) working days of the date of the Board's decision.

Section 1005. APPEALS

Persons aggrieved by the granting or denial of a request from a modification of requirements may appeal the Board of Supervisor's decision through the use of the appeals procedure as outlined in the "Pennsylvania Municipalities Planning Code, Act 247, as amended".

ARTICLE 11 - ENACTMENT

Section 1101. ENACTMENT

ENACTED AND ORDAINED THIS 10th DAY OF March, 2005.

HOWE TOWNSHIP BOARD OF SUPERVISORS

x Anderson & Stokus
Chairperson

x Erica. Thusta

x Wendy Bruner

ATTEST

Wendy M. Bruner
Secretary

