

## Chapter 85

### DRIVEWAYS

**[HISTORY: Adopted by the Board of Supervisors of the Township of West Earl 8-2-1988 as Ord. No. 71. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Streets and sidewalks â€” See Ch. 152.

Subdivision and land development â€” See Ch. 155.

#### **§ 85-1. Definitions.**

For the purpose of this chapter, the following terms shall have the meanings ascribed thereto, except where the context thereof clearly indicates another meaning:

**BOARD** — The Board of Supervisors of West Earl Township, Lancaster County, Pennsylvania, or its designated representative.

**CARTWAY** — The paved portion of any road.

**CONTRACTOR** — The party, person, firm, partnership and/or corporation who or which installs a driveway, including all agents, officers or employees of said party, person, firm, partnership and/or corporation.

**CULTIVATE** — To prepare and use soil or land for growing crops.

**DRIVEWAY** — Any lane, path or other area of land used by the owner or occupant of property within the township as a means of access to and from the cartway of a public road.

**HARROW** — To draw a harrow over land.

**OWNER** — The owner of the land upon which the driveway is located.

**PERSON** — An individual, group of individuals, partnership, corporation or association, whether incorporated, unincorporated or otherwise.

**PLOW** — To cut and turn up soil with a plow.

**RIGHT-OF-WAY** — The total width, including the cartway, of a road.

**ROAD** — Any road, street, alley or other thoroughfare owned or maintained by the township as part of its public road system or offered for dedication to the township.

**TOWNSHIP** — The Township of West Earl, Lancaster County, Pennsylvania.

#### **§ 85-2. Permit required.**

No person, owner and/or contractor shall hereafter install, reconstruct, repair or resurface

a driveway or any portion thereof without first obtaining a permit from the Board.

**§ 85-3. Design and construction.**

- A. All driveways shall be constructed in a manner that will not impede or divert the normal flow of surface drainage. The grade of all driveways shall be constructed in accordance with the standards and specifications which are attached hereto, marked Exhibit A and incorporated herein by reference thereto.<sup>1</sup>
- B. The sight distance for all driveways shall comply with the requirements for state highways prescribed by the Pennsylvania Department of Transportation as codified at 67 Pa. Code § 441.8.
- C. The Board will only permit the use of drainage pipes under a driveway if all of the following conditions are met:
  - (1) It is impossible or impractical to maintain drainage flow without a pipe.
  - (2) Calculations are submitted showing that the proposed pipe will have a capacity equal to or greater than the existing gutter or that such pipe will pass a ten-year storm from the drainage area without flooding the roadway.
  - (3) The owner agrees, in writing, to maintain the pipe in good condition, free of debris and siltation.
  - (4) The owner agrees, in writing, to relocate and/or replace the pipe if at some future date the township improves or widens the public road, requiring such relocation and/or replacement.
- D. As part of the driveway construction, the owner shall provide bituminous or concrete paving extending for a minimum distance of eight (8) feet from the edge of the cartway to the owner's property.

**§ 85-4. Filing of application; review; deficient plans.**

- A. Any person, owner and/or contractor shall, prior to obtaining a driveway permit, file an application, on an application form supplied by the township, reflecting and showing the location of the driveway relative to the premises and designating the course, grade, structure, materials and drainage facilities, if any, involved in the construction of the driveway.
- B. The application shall be reviewed by the Township Engineer or Road Superintendent. The Township Engineer or Road Superintendent shall determine if the proposed method of constructing or making said connection, as reflected on the application, is such that it will minimize the adverse impact of stormwater runoff or surface drainage resulting from said connection, not cause damage to the road to which the driveway is to be connected and not create or increase hazardous driving conditions for those persons using the road to which the driveway is to be

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<sup>1</sup>. Editor's Note: Exhibit A is on file and available for inspection in the office of the Township Secretary.

connected. If found satisfactory by the Township Engineer or Road Superintendent, the Township Engineer, the Road Superintendent or such other person as may be authorized from time to time by the Board shall issue or cause to be issued the permit.

- C. If the plan is found deficient or if, in the opinion of the Township Engineer or Road Superintendent, the plan could be modified so as to minimize the adverse effect of stormwater runoff, lessen drainage to the public road to which the driveway is to be connected or lessen hazardous driving conditions on the road to which the driveway is to be connected, the Township Engineer or Road Superintendent shall, by written communication to the owner, notify him of the changes to be made. The applicant shall immediately make such changes and return the revised plan to the township. When such plan is in acceptable form, the Township Engineer, the Road Superintendent or such other person as may be authorized from time to time by the Board shall approve the plan or cause the same to be approved and the permit issued.

#### **§ 85-5. Fees.**

The application shall be accompanied by such fee or fees as the Board shall prescribe from time to time not exceeding the approximate reasonable cost of processing and reviewing the application and making any necessary inspections.<sup>2</sup>

#### **§ 85-6. Incidental construction; protection of work.**

- A. All construction in any way incidental to the installation of the driveway shall be performed in strict conformance with the approved plans. After the proposed driveway has been stoned in but before the driveway has received final surfacing, the person to whom the permit has been issued shall notify the Township Road Superintendent. The driveway shall not be final surfaced until the stoned-in area has been inspected and approved by the Road Superintendent or his designated representative.
- B. The contractor shall utilize procedures and/or traffic control devices as necessary for the maintenance and protection of traffic in strict accordance with PennDOT Publication 203 "Work Zone Traffic Control", unless otherwise directed in writing by the Board.

#### **§ 85-7. Driveways to have separate permits.**

Each driveway, whether serving the same premises or not, shall require an individual permit.

#### **§ 85-8. Timing of permit application.**

A permit under this chapter shall be applied for and obtained prior to the application for a

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2. Editor's Note: See Ch. A190, Fees.

permit to commence the excavation for or the construction or erection of any building under the provisions of Chapter 184, Zoning.

**§ 85-9. Nonliability of township.**

The grant of a permit under this chapter shall not constitute a representation, guaranty or warranty of any kind by the township or by any official or employee thereof of the practicability or safety of the proposed driveway and shall create no liability upon the township or its officials or employees.

**§ 85-10. Expiration of permit; extension.**

A permit issued under this chapter shall be valid for six (6) months from the date of issuance. The Board may, in its discretion, grant one (1) extension of the permit for up to three (3) months upon written application of the person to whom the permit was issued prior to the expiration of the permit. The application for extension must indicate good cause for the failure to complete work within the six-month time period.

**§ 85-11. Posting of permit.**

The permit granted under this chapter shall be posted at the right-of-way line so as to be visible from the roadway. The permit shall remain posted until final approval of the work has been given.

**§ 85-12. (Reserved)**<sup>3</sup>

**§ 85-13. (Reserved)**

**§ 85-14. (Reserved)**

**§ 85-15. Construal of provisions; waivers; costs.**

The provisions of this chapter relating to driveways are intended as a minimum standard for the protection of the public health, safety and welfare. If the literal compliance with any mandatory provision of this chapter relating to driveways 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 provision 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 chapter. 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 chapter. The Board may also require the applicant to pay all or part of the cost to perform traffic studies, enact ordinances and/or install traffic

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3. Editor's Note: Former §§ 85-12 through 85-14, Disturbing land near roads, Depositing debris near roads and Removal of debris, respectively, were repealed 5-13-1996 by Ord. No. 114. See now Ch. 152, Art. III.

signs or other traffic control devices which are related to the waiver request.

**§ 85-16. Violations and penalties.** [Amended 8-9-1993 by Ord. No. 101; 4-28-1997 by Ord. No. 129]

If the Board of Supervisors or the officer designated to enforce this chapter by the Board of Supervisors determines that a person has committed or permitted the commission of a violation of this chapter, the Board of Supervisors or such enforcement officer shall inform such person, in writing, of the violation, shall notify such person to cease the violation of this chapter and shall inform such person that he or she must pay a civil penalty to the township within the range of the amounts set forth below to settle the violation. The penalty for a first offense shall be not less than \$50 and not more than \$600; the penalty for a second offense shall be not less than \$100 and not more than \$600; and the penalty for a third or greater offense shall be not less than \$200 and not more than \$600. If such person fails or refuses to remit the penalty to the township within 10 days from the date of the written notice of the violation of this chapter, the township may commence a civil enforcement proceeding seeking penalties and costs for the violation of this chapter and/or may commence an action in equity. The township shall seek a judgment for the penalty previously imposed, together with additional daily penalties for continuing violations, plus all court costs, including the reasonable attorneys' fees incurred by the township in the enforcement proceedings. Each day that a violation continues shall constitute a separate violation, and each section of this chapter which is violated shall constitute a separate violation. If the defendant neither pays nor timely appeals the judgment, the township may enforce the judgment pursuant to the applicable rules of civil procedure.

**§ 85-17. Abatement of violations.**

In addition to or in lieu of the penalties provided in § 85-16, violations of this chapter may be abated by the township in a proceeding against the violator in a court of equity to obtain injunctive relief.