

**OAKLAND TOWNSHIP, BUTLER COUNTY, PENNSYLVANIA**

**ORDINANCE NO. 1 OF 2010**

**DRIVEWAY MAINTENANCE**

**AN ORDINANCE OF THE TOWNSHIP OF OAKLAND, COUNTY OF BUTLER, AND COMMONWEALTH OF PENNSYLVANIA FOR THE GENERAL HEALTH, SAFETY AND WELFARE OF THE PUBLIC, REQUIRING ALL PERSONS TO OBTAIN A PERMIT PRIOR TO THE PERFORMANCE OF MAINTENANCE WORK ON PERMITTED DRIVEWAYS; TO RECOVER COSTS INCURRED BY THE TOWNSHIP WHEN PROPERTY OWNERS FAIL TO MAKE REQUIRED IMPROVEMENTS; AND PROVIDE PENALTIES FOR VIOLATIONS.**

BE IT ENACTED AND ORDAINED by the Board of Supervisors in the Township of Oakland, Butler County, Pennsylvania, hereby enacted and ordained by the authority of the same as follows:

**SECTION 1: SHORT TITLE**

This Ordinance shall be known as the "Driveway Maintenance Ordinance".

**SECTION 2: LEGISLATIVE INTENT AND APPLICABILITY**

The background of this Ordinance and the legislative intention of the Oakland Township Board of Supervisors ("Board") in enacting it are as follows:

- A. The Township of Oakland is a township of the second class.
- B. The Township of Oakland has suffered damage to its roads as the result of improper connection and drainage of driveways to Township roads.
- C. Improper drainage and connections have resulted in hazardous conditions.

- D. The Township deems it necessary for the proper management, maintenance and control of its public road system to regulate the construction and maintenance of driveways to Township roads.
- E. Roadway excavations have resulted in damage, improper drainage, and uneven riding surfaces on Township roadways, representing a danger and hazard for vehicular traffic.
- F. Roadway excavations have resulted in increased costs of repairs and maintenance to public roads.
- G. The Township shall require proper connection of driveways and proper roadway excavations to minimize damage to Township roads.

### **SECTION 3: DEFINITIONS**

For the purposes of this Ordinance, the following terms shall be defined as follows:

**Board** – The Board of Supervisors of Oakland Township, Butler County, Pennsylvania.

**Contractor** – The person who installs a driveway or excavates in a Township roadway or right-of-way, including all agents, subcontractors, officers or employees of a person or business entity.

**Driveway** – Every entrance or exit used by vehicular traffic to or from properties abutting a public road. The term includes proposed streets, alleys, courts and ways.

**Owner** – The owner of the land upon which the driveway is located and his/her heirs, successors or assigns.

**Person** – Any natural person, firm, partnership, corporation, or other entity. The singular shall include the plural and the masculine shall include the feminine.

**Public Road** – Any road, street, alley, bridge or public thoroughfare, including the entire area between right-of-way lines, either presently maintained by Oakland Township, or shown on a subdivision or land development plan and intended to be dedicated to Oakland Township in the future.

**PENNDOT** – Pennsylvania Department of Transportation.

**Right-of-way** – The area which has been acquired by the Township for highway purposes.

**Township** – Oakland Township, Butler County, Pennsylvania or its duly appointed representative.

#### **SECTION 4: REQUIREMENT OF PERMIT**

A. Permits required. No person shall hereafter install or alter an existing driveway or allow any work incident to the alteration or installation of a driveway including the alteration of existing drainage characteristics without first obtaining a permit from the Township. No person shall hereafter perform excavation or other work within a Township public road without first obtaining a permit from the Township.

B. No Combined permits. Each driveway, whether or not serving more than one premises, shall require an individual permit. Each excavation or other site performance within a public road shall require an individual permit.

#### **SECTION 5: APPLICATION PROCEDURES**

Any owner shall, prior to obtaining a permit for driveway maintenance, make application with the Board, on a form furnished by the Board. Every person shall, prior to obtaining a permit to perform excavation or other work within a public road, make application with the Board, on a form furnished by the Board. The application shall be accompanied by such permit issuance fees and general inspection fees as determined by resolution from time to time by the Board. Issuance fees are used to defray costs incurred by the Township in reviewing and processing the application and plan(s), including the preliminary review of the site location identified in the application, and issuing and processing the permit. General inspection fees are used to defray costs incurred by the

Township in spot inspection(s) during the progress of the work and after it has been completed to ensure the compliance with the permit and these regulations.

## **SECTION 6: REQUIREMENTS FOR DRIVEWAY MAINTENANCE**

A. Traffic protection and maintenance. Maintenance and protection of driveways shall be carried out in accordance with the requirements of the Pennsylvania Department of Transportation, as set forth in Publication No. 43 and Publication No. 90.

B. Drainage. All driveways which are installed on any public road will be required to install either a drainage pipe (culvert) or construct a drainage swale as directed by the Township representative.

C. PENNDOT requirements. When a driveway accesses a state road, the owner shall comply with all PENNDOT requirements, including the requirement to obtain a highway occupancy permit from PENNDOT.

D. Owner's responsibility. As part of obtaining a driveway permit, all property owners shall be responsible for long-term maintenance of the driveway related drainage or stormwater management plan. In the event that excess stormwater runoff or sediment is diverted onto public roads, the owner shall be given notice and required to make necessary corrections to bring the driveway and drainage into compliance. In the event that a driveway culvert pipe becomes crushed or blocked, it may be replaced at the owner's expense. The Township reserves the right to require the owner to make repairs to at the owner's expense, or to contract with a third part at owner's expense to perform the needed repairs. All property owners shall be responsible for any and all costs for maintenance to public roadways from water runoff caused by improperly maintained driveways.

E. Overnight parking. Where construction permitted by this Ordinance requires equipment to park at the site overnight, it shall be located a minimum distance of four (4) feet from the edge of the cartway of the Township road.

F. Debris on the roads. In the course of excavation, building, construction, or development of any property, any mud, dirt or other foreign substance is unavoidably carried onto any street or road in the Township, it shall be the duty of the contractor having supervision over the job to remove the same at the end of each work day so as to make the street or road clean and safe for the passage of normal vehicular traffic. In the event that said contractor does not remove the mud or dirt or any other foreign substance at the end of the work day, then it shall be the duty of the property owner to remove the same within twenty-four (24) hours thereafter.

G. Damage to public roads. The owner and/or contractor are responsible for damage to any portion of the public road caused by equipment en route to and used at the work site.

H. Traffic protection and maintenance. Maintenance and protection of passersby shall be carried out in accordance with the requirements of the Pennsylvania Department of Transportation, as set forth in Publication No. 43 and Publication No. 90.

I. Re-Inspections. The Township may re-inspect a driveway and if there is settlement of the connection to the Township road or other defects appear in the work contrary to the conditions, restrictions, and regulations of the Ordinance, the Township may enforce compliance therewith. If the owner fails to rectify a defect which presents an imminent safety or health problem within forty-eight (48) hours or any defect within sixty (60) days after written notice from the Board of Supervisors, the Township may do the work and impose upon the owner the cost of repair. The cost of repair shall include material, labor, and equipment, (using the FEMA schedule of Equipment Rates) together with an additional twenty (20%) percent.

J. Indemnification. The permittee shall fully indemnify and save harmless and defend the Township of and from all liability for damages or injury occurring to any person or persons or property through, in, or as a consequence of any act or omission of any contractor, agent, servant, employee or person engaged or employed in, about or upon the work by, at the instance or the approval or consent of the permittee; from

any failure of the permittee or any such person to comply with the permit or these regulations; and, for a period of two (2) years after completion of the work performed.

K. Permit Issuance. If the plans meet the criteria above, the Township will issue the permit. If the application is found to be deficient, or if in the opinion of the Township the plan should be revised in order to meet the criteria, the Township shall notify the owner of the changes to be made, where the applicant shall make such changes and return the revised plans to the Township. When the application is acceptable to the Township, the permit shall be issued.

## **SECTION 7: ADDITIONAL SPECIFICATIONS BY RESOLUTION**

From time to time, the Board of Supervisors may adopt, by resolution, additional driveway and/or excavation specifications and requirements and may supplement or modify the driveway and excavation specifications set forth in this Ordinance. Any violation of the additional requirements or specifications, modifications and supplements, as duly adopted, shall be subject to the penalties set forth in Section 9 of this Ordinance.

## **SECTION 8: INSPECTION**

It shall be the duty of the Township to inspect all work for conformity with the ordinances of the Township. Notice must be given by the owner and contractor to the Township when work is sufficiently advanced for inspection, when it shall be the duty of the proper officer to inspect the work after receipt of said notification.

## **SECTION 9: PENALTIES**

Any owner or contractor who violates any provision of this Ordinance shall upon being found liable therefore in a civil enforcement proceeding pay a fine not exceeding One

Thousand (\$1,000.00) Dollars plus all court costs including reasonable attorney's fees or consultant fees incurred by Oakland Township. Each day of violation shall constitute a separate offense and be subject to the penalty set forth herein.

**SECTION 10: SEVERABILITY**

If any sentence, clause, phrase or section of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining portions, sentences, clauses, phrases, sections or parts of this Ordinance.

It is hereby declared as the intention of the Board of Supervisors of this Township that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, phrase, section thereof not been included therein.

**SECTION 11: REPEALER**

Any other Ordinance or parts thereof inconsistent with this Ordinance are hereby expressly repealed.

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**SECTION 12: EFFECTIVE DATE**

This Ordinance shall become effective five (5) days after enactment.

ENACTED and ORDAINED this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

ATTEST:

THE TOWNSHIP OF OAKLAND

\_\_\_\_\_  
Nadine A. Neff, Secretary/Treasurer  
(SEAL)

By: \_\_\_\_\_  
Brian G. Hans, Chairman

By: \_\_\_\_\_  
Regis V. Thoma, Vice-Chairman

By: \_\_\_\_\_  
Brent A. Patten, Supervisor