

ORDINANCE 2012 - 03

TOWNSHIP OF COVINGTON LACKAWANNA COUNTY, PENNSYLVANIA

AN ORDINANCE OF THE TOWNSHIP OF COVINGTON, LACKAWANNA COUNTY, PENNSYLVANIA PROVIDING FOR ACCESS TO TOWNSHIP ROADS AND OTHER ROADS OF THE COMMONWEALTH OF PENNSYLVANIA.

NOW THEREFORE, under the authority of Section 2322 of the Second Class Township Code [53 P.S. §67322], as amended, the Board of Supervisors hereby make the following rules and regulations for access to roads in the Township.

ARTICLE I - DEFINITIONS

Driveway - Every entrance or exit used by vehicular traffic to or from properties abutting a roadway.

Roadway - Every public road or street including existing or proposed streets, lanes, alleys, courts and ways.

High Volume Driveway - A driveway used or expected to be used by more than 1500 vehicles per day.

Medium Volume Driveway - A driveway used or expected to be used by more than 750 but less than 1500 vehicles per day.

Low Volume Driveway - A driveway used or expected to be used by more than 25, but less than 750 vehicles per day.

Minimum Use Driveway - A residential or other driveway which is used, or expected to be used, by not more than 25 vehicles per day.

Driveway Permit - The written authorization of the Township for a landowner: (i) to construct a driveway for ingress or egress to or from a Township or state road; or (ii) to construct piping or poles of any type or manner upon or in the Township right of way; and providing for the conditions, restrictions and regulations governing this construction.

Application Fee - The fee paid to the Township to process the Driveway Permit.

Inspection Fee - The fee paid to the Township to inspect any construction authorized by a Driveway Permit.

ARTICLE II - APPLICATION

A. Every driveway connection; gas pipe, water pipe, electrical conduit or other piping; electric light or other pole of any type; or any other obstruction constructed in or upon any portion of a Township road or right-of-way shall only be constructed after a Driveway Permit is obtained from the Township.

B. No landowner shall grade, construct, install or build, or allow any person, firm, or corporation to grade, construct, install or build, a drain, culvert, pipe, swale or configuration of land that impacts on the discharge or flow of water, onto or along a Township Road unless and until the Township has granted a Driveway Permit for this grading, construction or installation.

C. The issuing of a Driveway Permit by the Township under this Ordinance does not relieve the landowner from any additional requirements under Federal or State laws or regulations.

D. Permit applications shall be submitted and signed by the owner of the property. Permits will not be issued to contractors of the property owner nor to any person other than the owner of the property.

E. Permit application shall be submitted to the Township Secretary and approved by the Township Board of Supervisors, or their designee.

F. Permit applications should be submitted at least 30 days prior to the start of construction of any building, which the proposed driveway will serve to assure that plans can be reviewed and approved as required by this ordinance. In the case of existing driveways, permit applications should be submitted at least 30 days prior to construction, modification, alteration or pavement of driveway.

G. Permit Applications:

1. Shall be submitted in person or by mail in triplicate on a properly completed Township Form.
2. Shall be signed by applicant, who is the landowner.
3. Shall include two sets of plans detailing location and pertinent dimensions of the proposed construction; in the case of minimum use driveways, submission of one set of plans is sufficient, if accompanied by a statement of the landowner that the plans are for a residential or other minimum use driveway.
4. Shall be accompanied by a check or money order payable to Covington Township in the amount of the fee required for the driveway or other construction.

H. Permit Fees

1. The fees for a permit shall be assessed in accordance with the Schedule of Fees established by the Board of Supervisors.
2. At the discretion of the Township, fees may be reduced or waived in the case of hardship when surfacing an existing driveway.

ARTICLE III — GENERAL CONDITIONS

A. Upon application made in accordance with this ordinance, a permit will be issued by the Township subject to this ordinance and conditions contained on the permit. The permit shall be the applicant's authority to proceed with the work and will serve as the receipt for the fees accompanying the application.

B. If any design requirement set forth in this Ordinance or any condition contained on the permit cannot be met, the Township may waive the requirement that can not be met. All waivers so approved shall not in any way be detrimental to access, road maintenance or drainage within the Township right-of-way. Any waiver of any requirement must be in writing and received from the Township by the landowner prior to the completion of work for the waiver to be effective.

C. The following general conditions shall apply to permits issued under these regulations.

1. The permit shall be binding upon the landowner, his/her/its agents, contractors, successors, and assigns.
2. The landowner shall be responsible for causing compliance with all terms and conditions of the permit by his/her/its employees, agents and contractors.
3. The permit shall be located at the work site and shall be available for inspection by any police officer or representative of the Township. The Director of Public Works is hereby authorized by the Board of Supervisors to make any inspection under an issued permit. The Director of Public Works may designate in writing any other individual who will then be authorized to make inspections under an issued permit.
4. The permit shall be maintained by the landowner as a permanent record and shall remain in effect, subject to this ordinance and the permit conditions, as long as the driveway or the other access authorized by the permit exists.
5. Responsibility for compliance with the terms of the permit cannot be assigned or transferred by the landowner without first obtaining written approval from the Township, except for transfer of the permit at the sale of the property to a new owner, who shall then become the responsible person.

6. The landowner shall be liable to the Township for any failure to comply with this ordinance or the permit. The principal liability of the landowner to the Township shall not preclude the landowner or the Township from bringing any action against the landowner's contractor, subcontractor, engineer, architect, or any other person.
 7. In granting a permit, the Township waives none of its powers or rights to require any change in operation, removal, relocation or proper maintenance of any access within Township right-of-way.
 8. The Township specifically retains its powers and rights under 53 P.S. §67322 to enforce compliance with this Ordinance within two years after completion of any construction authorized under this Ordinance; to give notice to a landowner to correct a defect within certain times; and upon the failure of the landowner to correct any defect after proper notice, for the Township to correct the defect at the cost to the landowner and to add an additional 20% to the cost of correcting the defect.
- D. All disturbed slopes or earthen areas shall be restored to their original condition or in a manner approved by the Township.
- E. Unless specifically authorized by the permit, the landowner, his/her/its agents, contractors, subcontractors or assigns shall not:
1. Alter the existing drainage pattern or the existing flow of drainage water;
 2. Direct any drainage of surface water onto or into the Township road or right-of-way;
 3. Install any piping under, across or into the Township right of way; or
 4. Break the surface of any paved road of the Township other than the minimum amount of cut needed to merge a paved driveway with the Township paved road.

ARTICLE IV - DESIGN

Driveway design and construction shall comply with the figure at Exhibit A to this Ordinance.

Where a drainage ditch or swale exists, the landowner shall install adequate pipe under the driveway in accordance with Penn DOT Form 408, latest edition. Drainage pipe installed under driveways shall be plastic drainage pipe at least 15 inches in diameter.

No Township Building Permit may be issued without first securing and providing evidence of an approved permit from Covington Township or the Pennsylvania Department of Transportation (PENNDOT), where applicable.

ARTICLE V - ENFORCEMENT

Any individual, person, partnership, corporation or other entity who or which has violated the provisions of this Driveway Ordinance shall, upon being found liable therefore in a civil enforcement proceeding commenced by the Township before a district justice, pay a judgment of no more than six hundred dollars (\$600.00) plus all court costs, including reasonable attorney, witness and consultant fees incurred by the Township as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the district justice. If the defendant neither pays nor timely appeals the judgment the Township may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the district justice determining that there has been a violation, further determines that there was a good faith basis for the individual, person, partnership, corporation or other entity violating the ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of the violation by the district justice and thereafter each day that a violation continues shall constitute a separate violation.

The provisions of this Ordinance are severable. If any paragraph, sentence, clause or phrase of this Ordinance shall be held illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair the remaining paragraphs, sentences, clauses, or phrases of this ordinance. It is hereby declared as the intent of the Board of Supervisors that this Ordinance would have been adopted had such invalid or unconstitutional paragraph, sentence, clause or phrase not been included herein.

Furthermore, it is the intent of this Ordinance to be supplementary to and not contrary to any laws of the Commonwealth of Pennsylvania or regulations of any of its executive agencies.

All ordinances or parts of ordinances that are inconsistent herewith are hereby repealed. Ordinance 1982-04, the former Driveway Ordinance for the Township, is specifically repealed by this Ordinance.

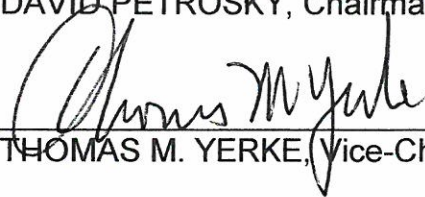
This Ordinance shall become effective five (5) days after enactment.

ORDAINED AND ENACTED into law by the Board of Supervisors of the Township of Covington this 25th day of September, 2012.


BOARD OF SUPERVISORS
TOWNSHIP OF COVINGTON
LACKAWANNA COUNTY



DAVID PETROSKY, Chairman



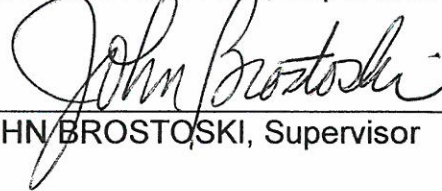
THOMAS M. YERKE, Vice-Chairman



MARLENE BEAVERS, Supervisor



CHARLES LINDNER, Supervisor



JOHN BROSTOSKI, Supervisor

ATTEST:



KATE TIERNEY, Secretary

EXHIBIT A

