

ORDINANCE NO. 11-4-2020

**TOWNSHIP OF MORRIS
CLEARFIELD COUNTY, PENNSYLVANIA**

AN ORDINANCE OF MORRIS TOWNSHIP, CLEARFIELD COUNTY, PROVIDING FOR THE REGULATION OF DRIVEWAYS AND PRIVATE STREET ACCESS, MAINTENANCE, AND PROHIBITING CERTAIN CONDUCT; REGULATING STORMWATER AND SURFACE WATER FLOW FROM DRIVEWAYS AND PRIVATE STREETS; AUTHORIZING THE ISSUANCE AND REVOCATION OF PERMITS AND FEES; ESTABLISHING APPLICABLE STANDARDS AND REGULATIONS; DELEGATING AUTHORITY TO ENFORCE, INSPECT, AND ADMINISTER PROVISIONS THEREOF; AND PROVIDING FOR CERTAIN CIVIL AND CRIMINAL PENALTIES FOR VIOLATIONS.

WHEREAS, the Township of Morris is a Second Class Township and Municipality in the Commonwealth of Pennsylvania organized and governed according to the Second Class Township Code (53 P.S. § 65101, et seq.); and

WHEREAS, the Second Township Code authorizes each township to regulate, among other things, parking, streets, the towing of vehicles, the licensing of parking and the general regulation of nuisances and protections for the health, safety and welfare of the public, see 53 P.S. §66601, et. seq., and 53 P.S. Section 67301, et. seq., and such other authority generally granted under the Second Class Township Code 53 P.S. § 65607, *et seq.*; and

WHEREAS the Board of Supervisors has been granted broad powers under the Pennsylvania Vehicle Code (Title 75) to designate, control, and regulate municipal streets, alleyways, and carpaths, as an empowered "local authority" thereunder, see 75 Pa.C.S.A. § 3308 & 6109 (a)(4); and

WHEREAS, this Ordinance is necessary to further protect the public's health, safety, and welfare, by regulating, controlling, and restricting the construction, improvement, removal, and encroachments of certain private roads, streets, and lanes onto and into public roads, streets, and carpaths and to regulate the flow of storm or surface water onto or into the same to protect motorists and the safe operation of vehicles on said public roadways; and

NOW, THEREFORE, in consideration of, and pursuant to, the authority granted by the Second Class Township Code, and the laws of the Commonwealth including the authority recited herein, be it ORDAINED and ENACTED, and it is hereby ORDAINED and ENACTED, by the Township of Morris, as follows:

Section 1: Title and Applicability

This Ordinance shall be known and referred to as the "Morris Township Road Encroachment Ordinance."

This Ordinance shall apply to all new driveways and private streets or lanes, and those existing driveways and private streets or lanes, accessing a Township Road when and if the following conditions apply:

- i. Any improvements including paving, repaving, widening, construction, changing or modifying a driveway or private street or lane entrance; however, normal repairs and maintenance shall not be subject to the provisions of this Ordinance; or
- ii. Any driveway or private street or lane that constitutes a hazardous condition or nuisance run-off situation impacting a Township roadway or affecting the safe use thereof by the public.

This Ordinance shall have no applicability in or over the issuance of "Highway Occupancy Permits," provided through the Pennsylvania Department of Transportation relating to connections to Pennsylvania state highways and roads, except to the extent that no permits shall be issued by the Township for driveways or private streets and lanes, if a necessary Highway Occupancy Permits has not been properly issues first.

Section 2: Definitions

For the purpose of this Ordinance, the following terms shall have the meanings as defined and ascribed herein:

1. Commercial Driveway: Any area of land designated or to be sued as a means of vehicular ingress and egress from a public road to a single parcel of land and intended to serve a nonresidential or multifamily structure.
2. Driveway: Any area of land designated or to be sued as a means of vehicular ingress and egress from a public road to a single parcel of land and intended to serve only one (1) single family residence.
3. Public Road: Any road, street, alley, cartpath, or public thoroughfare owned, opened, or maintained by either the Morris Township or the Commonwealth of Pennsylvania.

Section 3: Prohibited Activity

No person, owner, agent, contractor, or company or corporate entity shall install, initiate any work, or allow the installation or initiation of any work toward the installation, modification, or improvement of a driveway or private street or lane; or affecting the stormwater flow or discharge within the right-

of-way of any public road, as defined, without first having obtained a properly issued permit from Morris Township and without having first complied with the requirements and standards for driveway and private street and lane connections, as set forth in the provisions of this Ordinance.

Section 4: Permits

Permits are hereby specifically authorized for permitted and authorized activity.

To obtain a "Road Occupancy Permit", the owner or the owner's authorized agent shall file with Morris Township an application on a form supplied by the Township. The application shall include a diagram and plan showing the location of the driveway or private street or lane, in relation to the public road and lands on which the access is to be provided, other roads (public or private), driveways, and property boundaries in the vicinity of the driveway or private street or lane for which a permit application has been submitted. The application shall include information about the course, grade, structure, materials used, and drainage facilities, if any, involved in the construction of the driveway or private street or lane. Before any permit is issued by Morris Township the driveway or private street or lane must meet the proper sight-distance by law.

Section 5: Fees

Permit Fee: There shall be due and payable to Morris Township, at the time an application is submitted, a fee in an amount established, from time-to-time, by Resolution of the Board of Supervisors of Morris Township.

Additional Fees: If, in the opinion of the Township Road Master, the Township Engineer must be consulted in conjunction with the review of the application or, during the course of construction, or to review any alleged violation of this Ordinance, or the permit issued for subject construction, any costs incurred by Morris Township as a result thereof will be the responsibility of the applicant. Any failure to promptly pay any additional costs and fees shall alone be basis for an immediate revocation of any properly issued permit provided for herein or required by this Ordinance.

Section 6: Issuance of Permits

The Road Master, or his or her duly authorized designee, shall review each application to determine if the proposed method of construction, modifying or improving the driveway or private street or lane connection, as reflected on the application, is such that it will:

- (i) Meet the requirements of this Ordinance;
- (ii) Mitigate the adverse effects of stormwater run-off resulting from the scope of work performed;
- (iii) Not cause damage to the public road being to which the

- (iv) connection is being made; and
- (iv) Not create or increase hazardous driving condition for those persons using the public road to which the connection is being made.

In the course of reviewing the application, the Roadmaster, or his or her designee, may determine, from time-to-time, the necessity of meeting with applicant or the applicant's agent at the proposed site. Should the applicant fail to or refuse to allow for such a meeting, the application may be denied.

If the driveway or private street or lane connection is found to be satisfactory by the Roadmaster, or his or her designee, the Roadmaster shall cause a permit to be issued forthwith.

If the plan is found deficient, or if in the opinion of the Roadmaster, or his or her designee, the plan could be improved so as to (1) mitigate the effects of stormwater run-off, (2) lessen drainage onto a public road, (3) lessen hazardous driving conditions on a public road to which the driveway or private street or lane is or will be connected, the Roadmaster, or his or her designee, shall notify the owner or the owner's authorized agent of the changes to be made. If a revised plan is submitted to the Township with the required changes, and is determined to be acceptable, the Roadmaster, or his or her designee, shall approve the application and cause a permit to be issued forthwith.

A permit shall be valid for one (1) year. If the permittee has not completed all authorized and/or required work prior to the expiration of the permit, the Roadmaster, or his or her designee, may, upon receipt of a written request prior to the permit expiration, grant an extension of up to six (6) additional months.

For those permits that have expired, all work previously permitted must cease and a new permit must be obtained, including the payment of any and all additional costs and fees herein provided.

Section 7: Inspection

The Township's Roadmaster, or his or her designee, may inspect the progress of the work for which a permit has been issued or determine whether work is being performed in accordance with the requirements of this Ordinance or the terms of any permit issued hereunder.

Should the Roadmaster, or his or her designee, determine the work is not being done in accordance with the requirements of this Ordinance or the terms of any permit issued hereunder, the permittee shall be immediately notified and the permittee shall taken such action as appropriate and necessary to bring the work into compliance with these requirements.

If it is determined that, despite notice, the work continues to be performed in a manner contrary to the requirements of this Ordinance, the permit, and/or the specific directives of the Roadmaster, or his or her designee, such action shall be deemed to be a violation of this Ordinance and enforcement action shall be taken in accordance with the terms of this Ordinance.

When all permitted work has been completed, the permittee must notify the Township office or the Roadmaster, or his or her designee, to request a final inspection. Should the Roadmaster, or his or her designee, determine the work does not meet all the terms and conditions of the permit, issued pursuant to this Ordinance, the permittee shall immediately perform such additional corrective work required by the Roadmaster, or his or her designee.

Upon satisfactory completion of the work, the Roadmaster, or his or her designee, shall sign the permit indicating approval of the driveway or private street or lane, as constructed or reconstructed.

Section 8: Design Standards

All driveways and private streets and lanes to comply with this Ordinance, or to be properly permitted hereunder, must comply with all of the following standards, as applicable.

a.) Driveways

1. All driveways and private streets and lanes, and related improvements, shall be located and constructed in a manner as to not impair drainage or normal maintenance within a public road or right-of-way; alter the stability, sub-grade, or embankment of a public road; change the drainage of adjacent areas; or interfere with the traveling public.
2. Repairs to a driveway or private street or lane, or access thereof, drains, culverts, or swales shall be performed in such a manner that the repairs shall not change the original design or existing conditions unless a new design and specifications are submitted and properly approved.
3. Driveway and private street or lane entrances shall be located so as to provide safe access to intersecting public roads. To accomplish, the provisions of Title 67 of the PA Code, Ch. 441, relating to Access to Occupancy Highway by Driveways and Local Roads, as amended, shall be used as a guide and the requirements therein shall be followed as closely as practicable, subject to review and approval by the Roadmaster, or his or her designee.
4. Grades shall not exceed eight percent (8%) within the public road right-of-way, or within ten (10) feet of outside edge of the public road shoulder or existing drainage ditch, whichever is greater. In instances where the remaining grade is greater than fourteen

percent (14%), the Roadmaster, or his or her designee, may, at his or her discretion, increase the distance required to meet the eight percent (8%) slope requirement.

5. Not more than one (1) driveway entrance shall be permitted for properties having up to four hundred (400) contiguous feet of public road frontage. For properties with more than four hundred (400) contiguous feet of public road frontage, two (2) entrances may be considered, provided both entrances can satisfy the requirements of this Ordinance.
6. Not more than two (2) commercial driveway entrances shall be permitted for nonresidential or multifamily properties.
7. Driveway entrances serving one (1) single family residence shall be rounded at a minimum radius of five (5') feet and a maximum radius of twenty (20') feet, and shall have a minimum width of twelve (12') feet and a maximum width of fifteen (15') feet.
8. Commercial driveway entrances shall be rounded at a minimum radius of twenty (20') feet and a maximum radius of fifty (50') feet and shall have a minimum width of twenty (20') feet and a maximum width of thirty (30') feet.
9. Driveways and private streets and lanes shall intersect public roads as near as possible to ninety (90) degrees, but not less than sixty (60) degrees or greater than one hundred twenty (120) degrees.
10. Public road access to any property, also having a legal means of access from a private street, will not be permitted. Should the physical features of the property reasonably prohibit access to the private street, a modification to this requirement may be applied for and considered in accordance with Section 9 herein.
11. No driveway or private street or lane shall be located closer than ten (10') feet to a property line.
12. A driveway or private street or lane shall not be used as a means of conveying stormwater run-off away from the physical improvements on the property. Stormwater run-off shall be directed to stable, channel, or other natural outfall.
13. For all properties proposing improvements that also fall under the jurisdiction of, and regulation by, the Morris Township Subdivision & Land Development Ordinance (SALDO), the requirements to both ordinances shall be applicable. In instances where a conflict in regulations exists, the more stringent regulation shall prevail and control and regulate the circumstance.
14. A construction access consisting of, at minimum, sub-base materials adequate to allow the safe access of earthmoving and construction vehicles and equipment onto the property and prevent damage to the public roadway, drainage ditches, etc., must be installed, extending a minimum of forty (40') feet from the shoulder of the public road and onto the property. Said access shall be installed in the same location stipulated on the permit.

b.) Culvert Pipes

1. Pipes under driveways and private streets and lanes shall be sized based upon a ten (10) year storm event, but shall not be less than fifteen (15") inches in diameter in any case.
2. The pipe shall be of sufficient strength to withstand the proposed vehicle loads the driveway or private street or lane will be accommodating.
3. The pipe shall be located a minimum of ten (10') feet from the edge of the shoulder of the public road or five (5') feet from the edge of the public road right-of-way, whichever is greater.
4. The pipe shall be laid on a slope drain, generally conforming to the slope of the ditch. Side slopes shall be no steeper than a ratio of two-to-1 (2:1).
5. The pipe shall be protected by a one (1) foot minimum cover of material from the top of the pipe to the top of the driveway or private street or lane surface.
6. Special pipe end treatments may be required by the Township to suit specific field conditions.
7. Where headwalls are used, the top of the concrete shall be a minimum of six (6") inches below the top of the driveway or private street or lane.
8. In the event than an existing cross-pipe is located within the driveway or private street or lane location, the permittee shall ensure unimpeded flow to said cross-pipe.

c.) Additional Requirements

1. No increase in stormwater run-off (based on a ten (10) year storm event) shall be permitted to discharge onto a public road right-of-way or adjacent property. A stormwater report satisfying the requirements of the Morris Township Subdivision & Land Development Ordinance (SALDO) may be required by the Roadmaster, or his or her designee.
2. Driveways requiring earth disturbance shall apply and receive approval from the Clearfield County Conservation District prior to initiation of any work and the failure to do so may result in the immediate revocation of a permit issued hereunder.

Section 9: Modification of Conditions

When a term or condition of this Ordinance cannot be met or complied with, an applicant or permittee may request, in writing, that the Township modify a term or condition. If it is not required by other statute, code provision, or regulation, the Township, through its Board of Supervisors, may allow a modification or grant a full or conditional variance, under the following circumstance and conditions:

1. The proposed modification represents the minimum feasible deviation from the standard or condition to be modified.
2. The requested modification is necessary to avoid serious hardship, which is not merely an economic hardship or mere inconvenience.
3. No traffic or safety issues will be created or compounded.
4. No additional undue burden of any kind will be placed on the Township in the approval of the requested modification
5. When deemed appropriate, the property owner executes an indemnification agreement or waiver of resulting liability, as reviewed and approved by the Township Solicitor.

Section 10: Maintenance

All property owners shall be strictly responsible for any and all long-term maintenance of driveways and private streets and lanes, and for any and all related drainage or stormwater management plan, concerning the property owner's real property or on property used by them for access thereto. In the event that excess stormwater run-off or sedimentation is diverted onto any public road, or it is determined that installed stormwater facilities are not functioning as designed or intended, or require additional maintenance or replacement, or a driveway or related facility otherwise causes or is likely to cause damage to any public road, then the Township reserves the right, after written notice to the property owner, to require the owner to make any and all necessary repairs or improvements and to make said improvement and repairs the owner's sole and exclusive expense or to contract with a third-party to undertake the necessary repairs and improvements at the owner's sole and exclusive expense. All property owners shall be responsible for any and all costs for maintenance to or upon public roads, resulting from stormwater run-off caused by improperly maintained driveway pipes, culverts, or other drainage facilities.

Section 11: Remedies and Penalties

Violations of this Ordinance, or any applicable permit requirements or conditions, may result in any one of the following remedial actions:

1. Morris Township may order the permittee to cease and desist any further work in the permitted area, except to restore areas to a safe condition. No further work may commence in the permitted area unless and until the violations have been remediated or cured, and the reimbursement to applicable professional costs and expenses has been made, as incurred by Morris Township as a result of the violations or deficiencies.

Morris Township is hereby authorized to undertake the following enforcement action for violations of this Ordinance, as follows:

1. The Township may order the removal of the facilities installed without permit or in violation of the provisions of this Ordinance.
2. The Township may initiate proceedings before the Magisterial District Court, with proper jurisdiction, or in any other court of general jurisdiction to enforce any penalties and recover any costs, penalties, or fees, provided for herein.
3. The Township may initiate a civil action in any trial court of general jurisdiction to abate any violation hereunder.
4. The Township may initiate an action to recover any and all penalties, costs, or fees imposed by this Ordinance and to collect any and all amounts dues, including any and all court costs, to enforce or execute upon any judgment results or to impose any lawful lien against a violator.

Morris Township hereby authorizes and imposes the following penalties for violations of this Ordinance, as follows:

1. Any person who violates this Ordinance, or otherwise permits a violation, shall, upon being found guilty, or otherwise liable therefore, in a summary criminal or civil enforcement action or proceeding, pay a fine, court costs, and restitution as provided for herein, not to exceed six hundred dollars (\$600.00), together with any and all legal costs and attorneys fees, imposed by the court or incurred by Morris Township. Each day a violation continues shall constitute a separate violation, excepting periods of time allowed by the Township for correction or elimination of the violation. No judgment shall be imposed until the date of determination or adjudication of an alleged violation by a Magisterial District Court or trial court of general jurisdiction.
2. Escalation of Penalties: The penalties provided for each violation hereunder, shall be subject to an escalation schedule for repeated violations by the same owner found to have violated this Ordinance:
 - a. First Violation: Two Hundred Dollars (\$200.00).
 - b. Second Violation: Four Hundred Dollars (\$400.00).
 - c. Third Violation: Six Hundred Dollars (\$600.00).

Any person who violates this Ordinance, or otherwise permits a violation, shall, upon be found guilty, or otherwise liable therefore, in a summary criminal or civil enforcement action may be incarcerated for a period of time not to exceed ninety (90) days, as determined by a Magisterial District Judge or trial judge of general jurisdiction.

Section 12: Savings Clause & Repealing Provision:

Any other ordinance, resolution, or similar legislative instrument that is now rendered inconsistent herewith the provision of this Ordinance are automatic repealed to the extent the same is inconsistent.

In the event any provision, section, sentence, clause or part of this Ordinance shall be held to be invalid, such invalidity shall not affect or impair any of the remaining provisions, sections, sentences, clauses or parts of this Ordinance; it being the intent of the Township of Morris that the remainder of the Ordinance shall be and shall remain in full force and effect.

Section 13: Effective Date

This Ordinance shall become effective thirty (30) days following its proper adoption.

THIS ORDINANCE ORDAINED, ADOPTED, AND ENACTED, by the Board of Supervisors of the Township of Morris, Clearfield County, Pennsylvania, this 4th day of November, 2020.

ATTEST:

BOARD OF SUPERVISORS OF MORRIS TOWNSHIP:

Sarah Moore
Secretary
(SEAL)

BY *[Signature]*
James Williams, Chairman

BY *[Signature]*
Josiah Jones, Vice Chairman

BY *[Signature]*
John J. Saggese, Jr., Supervisor