

CONSTRUCTION OR OPENING OF DRIVEWAY AND CULVERT ON ROADWAY ORDINANCE

Section I. Title/Purpose. This Ordinance is entitled “Construction or Opening of Driveway or Roadway Ordinance”. The purpose of this Ordinance is as follows:

To promote the safety, health and general welfare by regulating the construction or opening of driveways and placement of culverts on roadways in the Town of Shelby.

Section II. Adoption of Ordinance. The Town board of the Town of Shelby hereby adopts the following:

- A. Permit Required. It shall be illegal for any person or entity to commence the construction of, construct or open a driveway onto a public highway, road, street or alley or to excavate or disturb any public highway, road, street or alley in said Town, without first obtaining a permit from the Town of Shelby. A permit shall also be required for a driveway being widened, reconstructed, or resurfaced.
- B. Application. An application for the construction or opening of a driveway shall be in writing on a form created by the Town of Shelby. In addition, the application shall contain a drawing conforming to the requirements specified in the application.
- C. Driveways. If the application for a driveway permit pursuant to this Ordinance is approved, the Town of Shelby shall determine and prescribe the conditions of construction of the driveway, including, but not limited to, the following:
1. Driveway is to be located in front of the real property served by the driveway and is not to be placed in front of any part of adjoining real estate or on the right-of-way in front of any adjoining real estate;
 2. Driveways shall be adjoined onto or intersect with a public highway, road, street or alley at an angle greater than forty-five (45) degrees and as close to ninety (90) degrees as possible. The angle of the intersection shall follow through the right-of-way of the public highway, road, street or alley;
 3. The location of a driveway's intersection with a public highway, road, street or alley shall be as determined by the

Town of Shelby. Said placement shall be determine so as to allow for the ability to provide public services, including, but not limited to, snow removal and fire protection;

4. Driveways shall be designed and constructed so as to have a minimum of a twenty-five (25) foot landing area off the public highway, road, street or alley that they intersect. This landing area shall not have a slope greater than three percent (3%). Where applicable, the driveway shall slope downward to the property and not toward the road.
5. Driveway shall be constructed so as not to direct water or debris carried by water onto the public highway, road, street or alley with which the driveway intersects;
6. The intersection of the driveway of the public highway, road, street or alley shall be in a location that allows adequate sight distance for traffic (both motor vehicle and pedestrian) on the public highway, road, street or alley;
7. The surface of the driveway shall be a minimum of ten (10) feet in width; maximum width shall be twenty (20) feet.
8. The driveway shall be constructed of an all-weather surface such as gravel, asphalt or concrete;
9. The property owner shall provide for and maintain an open space above the driveway to a minimum height of twelve (12) feet;
10. The portion of any driveway located on private property shall not be placed on any part of a utility or drainage easement;
11. The slope of the driveway shall be as specified in the Town of Shelby, but generally shall not exceed ten percent (10%) in slope;
12. The Town of Shelby shall prescribe all drainage and erosion control measures to be utilized in conjunction with the construction, maintenance and use of the driveway, including, but not limited to, the use of culverts;
13. Each parcel of real estate may have a maximum of one driveway servicing the parcel, which intersects with a public highway, road, street or alley.

14. Such other requirements and conditions as the Town of Shelby shall determine necessary to promote the safety, health and general welfare of the Town of Shelby. The Town Fire Chief may be consulted to determine the adequacy of a driveway for emergency vehicle access.

These requirements may be altered by the Board or its designee at their discretion, based on each individual circumstance. These requirements are for new driveways and driveways being resurfaced. Reconstructed and resurfaced driveways shall meet as many of the requirements as practical as determined by the Board or its designee.

D. Easements. No part of any driveway benefiting a parcel of real estate shall be located on an easement or license across an adjoining parcel of real estate, which is not serviced by said driveway.

E. Excavation of Roadway. Upon application being made for the excavation or disturbance of a public highway, road, street or alley, the Town of Shelby shall be provided the following information from such applicant: location, purpose, size of proposed opening, duration of project and description of property to be benefited by such project.

F. Hazard-Nuisance. If, in the judgment of the Town of Shelby, the construction or opening of any driveway or excavation of any public highway, road, street or alley shall tend to create a permanent traffic hazard or nuisance to the public, such permit shall be denied.

G. Cost of Repairs. The holder of any such permit provided hereunder, and the owner of the land benefited, shall be responsible for the total cost of prompt construction or excavation, including the complete cost of repairs to and restoration of any public highway, road, street or alley, equal to or greater than the condition and quality of such public highway, road, street or alley existing prior to such construction or excavation.

H. Notice-Inspection. It shall be the responsibility of the holder of such permit to notify the Town of Shelby of the status of the project in accordance with regulation promulgated by the Town of Shelby in order to permit inspection of any project provide hereunder, including the bedding of culverts or pipe, the compaction of any fill and the complete surfacing of such public highway, road, street or alley in a satisfactory manner.

I. Non-Performance. Failure of any permit holder or party performing construction or excavation hereunder to comply with this

Ordinance, or to pay the necessary costs provided herein, shall permit the Town of Shelby Road Department to arrange for the restoration or repairs thereof and levy the costs against the benefited property on the next succeeding tax roll, as a special tax.

J. Safety. Any permit holder hereunder, or person constructing or excavating, shall be responsible for all necessary barriers, flags or other warning safety devices, during such period of construction or excavation, and shall indemnify and hold the Town of Shelby harmless from any damage to person or property resulting therefrom.

Section III. Enforcement of Penalties. Any person who violates, disobeys or refuses to comply with, or who resists the enforcement of this Ordinance, shall be subject to a forfeiture of One Hundred Dollars (\$100.00) for each such offense, each day of violation constituting a separate offense.

Section IV. Severability. The provisions of this Ordinance shall be deemed severable, and it is expressly declared that the Town Board would have passed the provision of this Ordinance irrespective of whether one or more provisions may be declare invalid, and if any provision of the Ordinance and the application thereof to any person or circumstance is held invalid, the remainder of the Ordinance and the application of such provision to other person or circumstances shall not be affected thereby.

Section V. Effective Date. This Ordinance shall take effect upon passage and publication. The provision of this Ordinance shall prevail over any previous ordinances of the Town of Shelby that are or may be in conflict therewith.

Date passed: March 22, 2010

Lynnetta P. Kopp, Town Chair

Randall R. Knapp, Town Supervisor

John O. Zahn, Town Supervisor

ATTEST:

Catherine Brott, Town Clerk