

**This replaces all of section 8.9 in the West Lakeland Township Ordinances.
Approved 01/09/2023**

8.9 Driveway Performance Standards

8.9.1 PURPOSE

The purpose is to regulate the establishment, repair, construction, improvement, modification, and reconstruction of private driveways; to ensure that the methods of repair, construction, improvement, modification, and reconstruction practices used for any driveway will properly protect the public health, safety, and general welfare of persons in the Township and to uphold the goals set forth in the Township's Comprehensive Plan. No person shall construct or modify a driveway on lands in the Township without complying with Sections 8.9.2 through 8.9.9.

8.9.2 DRIVEWAY PERMIT REQUIRED

8.9.2.1. No person may establish or construct a driveway or reconstruct, reroute, or alter an existing driveway in a manner that changes the existing topography of the land, without first obtaining a Driveway Permit from the Township.

8.9.2.2. Any person prior to and at the time of seeking a Driveway Permit must own or have a legal interest in and current legal access to the land to which the permit(s) will apply.

8.9.2.3. No building permit for new residential construction will be issued until the driveway permit has been issued and grading plan is approved. No occupancy permit will be issued until the driveway is completed in compliance with this ordinance and applicable Water Management Organization, County or State regulations.

8.9.2.4 Maintenance or repair activities that do not modify the current drainage, slope or footprint of the driveway shall not require a permit. This repair may include, but not be limited to, repaving, crack sealing, seal coating, grading or other resurfacing such that the requirements that would require a grading permit are not met.

8.9.3 FEES

A nonrefundable fee of an amount for the driveway permit will be required, as defined in the West Lakeland Fees and Escrows (fee schedule). Fees for permits determined to be no longer required after the permit is issued will also be non-refundable.

At the time of application, the applicant shall provide a security deposit or escrow in a form approved by the township attorney to provide for bituminous or equivalent surfacing of any area of a newly constructed driveway which exceeds 6% slope and to provide for repair of any damaged township roads or easements or cleaning or maintenance of township roads, easements, wetlands, or adjoining property resulting from the construction project and to ensure that the applicant complies with the requirements for erosion management as defined by ordinance or as approved by the township engineer in any area where run-off from the construction site exists or will exist as a result of the construction project. The security shall be in the amount set by the fee schedule or such greater amount as the township board may determine to provide assurances set forth above.

8.9.4 EROSION CONTROL

8.9.4.1. EROSION CONTROL PLAN REQUIRED. A Driveway Permit Application for any proposed driveway construction, improvement, or modification shall be accompanied by an erosion control plan. An erosion control plan shall include the driveway owner's intentions and timing to seed, mulch, ditch, place culverts and other erosion control practices, all of which shall be complete within 120 days after beginning

driveway construction or modification.

8.9.4.2. EROSION CONTROL REQUIREMENTS. All driveways shall be constructed and maintained to meet the erosion control and stormwater management requirements of Section 9.

8.9.4.3. TEMPORARY EROSION CONTROL MEASURES. Once the construction of the driveway has begun, all specified erosion controls shall begin immediately. For winter construction, erosion control alternatives must be completed within 30 days and maintained until specified controls may be accomplished.

8.9.5 SPECIFICATIONS FOR THE CONSTRUCTION OF DRIVEWAYS

No permit shall be issued unless the materials submitted as required under Sections 8.9.4 and 8.9.7 demonstrates compliance with the requirements of this section. These specifications shall apply to construction of new driveways and major reconstruction of existing driveways. The Township Board shall determine on a case-by-case basis which, if any, of these specifications shall be applied to minor improvement of existing driveways.

8.9.5.1. COSTS. All costs of construction of said driveway, including the cost of the culverts and engineer's plan, if required, shall be paid by the property owner requesting the permit.

8.9.5.2. DRIVEWAY DIMENSIONS. The driveway shall be constructed with a minimum roadway of twelve feet in width, a maximum of 30 feet width within the road right of way, a minimum of 4 feet on each side with a slope of 1 foot of vertical rise per 4 feet of horizontal distance. Driveways for commercial property shall have a minimum width of 24 feet and a maximum of width of 50 feet at the road right of way.

8.9.5.3. DRAINAGE CONTROL.

8.9.5.3.a. Each driveway shall have a culvert installed at the ditch line where the driveway meets the public road, Any exception to this requirement must be confirmed by the building inspector who may consult with the township engineer. The culvert shall be sized to carry the expected stormwater sufficient for the 10-year mean recurrence storm event and shall be at least 15 inches in diameter. Any modification to this requirement shall be approved by the Township Board and, in the case of county or state highways, County Highway Commission or district engineer of the Minnesota Department of Transportation.

8.9.5.3.b. Ditches, roadway crowning, and culverts shall be designed to carry the expected stormwater flow from a 2-year 24 hour storm event and a 10-year mean recurrence storm event.

8.9.5.3.c. The driveway shall be planned, constructed, and maintained to prevent diversion of surface water onto public roads, and to prevent adverse impacts on adjoining properties.

8.9.5.4. SURFACING. Any grade of more than 6% slope in the proposed driveway must be surfaced in a hard surface such as concrete or bituminous surfacing.

8.9.5.5. CLEARING. An area 20 feet in width and 15 feet in height shall be cleared along the driveway right-of-way in order to permit the safe passage of emergency vehicles

8.9.5.6. SHARED ACCESS. Access for more than one residence to a public road via any shared private road or driveway may be approved if the Township Board determines that a shared private road or driveway is desirable for environmental or safety reasons. If shared access is approved by the Township Board, the following shall be required:

8.9.5.6.a. Each property must have road access guaranteed by legal easement

8.9.5.6.b. A shared driveway maintenance agreement is executed and properly recorded with the Register of Deeds; and

8.9.5.6.c. No more than two residences share a single driveway.

8.9.5.7. Landowners shall be responsible to maintain their driveways in a condition that allows safe emergency vehicle access. The Township will not be responsible for the condition of private driveways.

8.9.5.8. No more than two driveway access points are permitted.

8.9.5.9. Access points must be 10 feet from the property line and separated by at least 10 feet from any other access point.

8.9.6 ENGINEERING PLAN

8.9.6.1. When required. The Township Board may require a plan prepared by a licensed engineer prior to any driveway construction or modification. An engineer's plan is required:

8.9.6.1.a. for any driveway or segment of a driveway whose construction requires the disturbance of land with a slope of more than 20%.

8.9.6.1.b. for a driveway or segment of a driveway which requires a retaining wall or other special erosion control measure as determined by the Township Board; and

8.9.6.1.c. when the Township Board requests a plan.

8.9.6.2. Contents of Plan. The engineer's plan will include the following:

8.9.6.2.a. the precise location of the driveway or segment of driveway which requires an engineer's plan.

8.9.6.2.b. the existing and future grade of the driveway showing no segment of the final grade exceeding 13%.

8.9.6.2.c. location and structure of any retaining walls.

8.9.6.2.d. location and size of any culverts.

8.9.6.2.e. horizontal cross section of the driveway showing side banks and ditches. Cross sections should be shown for all segments that disturb side slopes over 20%; that will have a retaining wall; or will have cutting or filling; and

8.9.6.2.f. An erosion control plan must be submitted.

8.9.6.3. Review of Plan. The Township Board, at its option, may engage a licensed professional engineer to review the plan, with all expenses of the review to be paid by the applicant. The Township board shall, when applicable, seek review and comment from the local fire chief, or his or her deputies, regarding the proposed driveway and whether the proposed driveway will allow for adequate and timely emergency vehicle access and other equipment access to buildings and structures within the premises.

8.9.6.4. The preparation of an engineering plan does not guarantee the approval of a driveway permit.

8.9.7 EXISTING DRIVEWAYS

When wash out or other conditions created by existing driveways or field roads become a potential hazard to a public road, the Township Board shall notify the property owner of the conditions. Any property owner failing to correct such condition(s) within fourteen (14) days after notice by the Township Board shall be subject to the Penalties of this ordinance and shall also be liable for any costs incurred by the Township to eliminate the hazard.

8.9.8 APPROVALS, DENIALS, VARIANCES AND EXCEPTIONS

8.9.8.1. Township Action. The Township board or designated staff shall approve or deny every Driveway Permit Application, and may include as a condition of issuance, specific restrictions, or conditions on the permit.

8.9.8.2. Performance standards for approval of the driveway permit application include, but are not limited to:

8.9.8.2.a. Consistency with this ordinance, township comprehensive plan, land use plan or any applicable state, county or federal laws or regulations.

8.9.8.2.b. Safe and consistent with standard accepted construction practices.

8.9.8.2.c. A complete and correct application

8.9.8.2.d. Provisions for safe public transit on the connected roadway.

8.9.8.3. Denial of Permit. In the event of a denial of a Driveway Permit Application, the Township board shall recite in writing the particular facts upon which it bases its denial of the permit.

8.9.8.4. Effective Period: A driveway permit is effective for 24 months from the date of issuance.

8.9.8.5. Inspection. The Township Board, or its designees, shall have the right of inspection onto land for the purpose of inspecting existing or proposed driveways to determine if the driveways will allow for safe and timely travel by emergency vehicles or vehicles of the general public.

8.9.8.6. Variance. Any of the requirements of this chapter may be varied or excepted by the Township Board in such instances where, because of the unique nature of the property rigid adherence to the above requirements would impose practical difficulties and the variance or exception includes measures to provide an equivalent level of health and safety protection as the provision being varied or excepted.

8.9.8.7. The approval of a Driveway Permit application by the township does not constitute a determination that the driveway is safe, suitable for use or otherwise passable for vehicles of the general public or emergency vehicles, that public access and travel is authorized, or that the applicant or permittee follows this ordinance. No person may rely on the issuance of either permit to determine that a driveway, bridge, culvert, or highway access location is fit or safe for any purpose or that any person follows this ordinance or any State or County laws or ordinance. Issuance of a permit does not ensure that the driveway will be suitable for use or otherwise passable for emergency vehicles at any time after the date of issuance.

8.9.8.8. The approval of a Driveway Permit application does not establish or commit the township to future approval of any driveway as a public road or highway in the township.

8.9.9. PENALTIES

8.9.9.1. Forfeiture. Should a driveway be constructed or modified in violation of the provisions of this ordinance, the owner(s) of the land through which the driveway passes shall, upon conviction pay a forfeiture equal to two (2) times the fee charged for the permit application plus applicable assessments and fees and, in addition, shall make the corrections ordered by the Township Board within a period of time determined by the Township Board, but not less than ten (10) days. Each day a violation exists or continues constitutes a separate offense under this ordinance.

8.9.9.2. Special Charge for Correction by Township. If the owner(s) of the land through which the driveway passes do(es) not make required corrections ordered by the Board within the specified time period, the Township Board shall cause the required corrections to be made and charge the cost of correcting such violations, including, when necessary, the return of disturbed land to its original condition. The Township's direct and indirect costs of correcting the violation, including but not limited to engineering, legal, administrative, materials and construction expenses.

8.9.9.3. Reimbursement for Damages Caused by NonConforming Driveways. In the event that any emergency vehicle is damaged when responding to a call within the township and such damage is caused by a property owner or property owner's agent's failure to comply with the specifications set forth in this section, the property owner shall

reimburse the emergency service provider for the reasonable cost of repair of the vehicle or equipment.

8.9.9.4. Failure to Comply. In the event a property owner fails to pave the portions of a driveway exceeding 6% slope within 6 months of issuance of a certificate of occupancy for the new home or substantial completion of a structure or building not requiring a certificate of occupancy, the Township may use the security posted by the owner to pave the portion of driveway over 6% slope. The landowner has 30 days after receipt of a written notice from the Township for such paving to be completed. In the event a property owner fails to clean soil or sediment run-off from Township roads, easements, wetlands, or private property or in the event a property owner fails to erect a silt fence or an approved substitute in the manner described by township ordinance or watershed management requirements within 48 hours of receipt of a written notice from the Township demanding such performance, the township shall perform such cleanup as required and deduct the cost from the security posted by the Owner.
spell