

AVOCA BOROUGH

ORDINANCE NO. 5 OF 2000

AN ORDINANCE OF THE BOROUGH OF AVOCA, LUZERNE COUNTY, PENNSYLVANIA, REGULATING CONSTRUCTION AND MAINTENANCE OF DRIVEWAY ENTRANCES OR PRIVATE ROADS WITHIN THE BOROUGH; REQUIRING ALL PERSONS CONNECTING DRIVEWAYS TO PUBLIC ROADS TO OBTAIN PERMITS THEREFORE; REQUIRING THE SUBMISSION OF PLANS PRIOR TO THE ISSUANCE OF SAID PERMITS; AUTHORIZING DISAPPROVAL WHERE THE CONNECTION WOULD RESULT IN DRAINAGE OR OTHER PROBLEMS; REQUIRING THE PAYMENT OF A FEE FOR THE ISSUANCE OF SUCH PERMITS; AND PRESCRIBING PENALTIES FOR VIOLATION THEREOF.

Enacted On:

Effective On:

WHEREAS, the Borough of Avoca has suffered damage to the streets and property owned by the Borough as a result of the improper connection of driveways to Borough roads which improper connections have caused poor drainage and hazardous driving conditions; and

WHEREAS, the Borough deems it necessary for proper management, care and control of its public road system to regulate the connections of driveways to Borough roads.

NOW, THEREFORE, BE AND IT IS HEREBY ORDAINED AND ENACTED by the Council of the Borough of Avoca, Luzerne County, Pennsylvania, as follows:

Section 1. This Ordinance shall be known and hereafter referred to as the Borough of Avoca Driveway Ordinance.

Section 2. For the purposes of this ordinance, the following terms shall have meanings ascribed thereto, as follows:

Cutting and removal required; exemption.

- (A) **Council** - the Council of the Borough of Avoca, Luzerne County, Pennsylvania;
- (B) **Contractor** - the party, person, firm, partnership and/or corporation who or which installs a driveway, including all agents, officers, or employees of said party, person, firm, partnership and/or corporation;

- (C) **Driveway** - any area of land designated or to be used as a means of ingress and/or egress for either vehicles and/or pedestrian traffic from a public road to a piece, parcel, or tract of land;
- (D) **Engineer** - the Engineer for the Borough of Avoca;
- (E) **Owner** - the owner of the land upon which the driveway is located;
- (F) **Permit** - a permit issued by the Engineer to signify approval of the driveway connection; driveway plans must be submitted to the Engineer at least two (2) weeks prior to construction for permit approval; further, forty-eight (48) hours notice must be given to the Engineer before the actual construction to allow the Engineer to inspect the location;
- (G) **Person** - any individual, partnership, company, association, society, corporation, or other group or entity;
- (H) **Public Road** - any road, street, alley, or public thoroughfare whether actually maintained by Avoca Borough as part of its road system, or whether shown on a subdivision or land development plan intended to be offered or dedicated to Avoca Borough in the future as part of its road system.

**Section 3.** No person, owner, and/or contractor shall hereafter install, initiate any work, or allow the installation or initiation of any work toward the installation or improvement of an existing driveway without first obtaining a permit therefore from the Engineer. The fee for said permit shall be Ten (\$10.00) Dollars plus Borough Engineer cost for review pursuant to Section 4. The aforesaid Permit Fee may be modified by the Borough Council by resolution passed by Council and need not be amended by Ordinance.

**Section 4.** Any person, owner, and/or contractor shall, prior to obtaining a driveway permit, file an application on an application form supplied by the Engineer, reflecting the location of the driveway relative to the premises and designating the course, grade, structure (i.e. a swayle), material and drainage facilities, which would include, but not be limited to, plastic, smooth bore pipe (size will be determined by the drainage needs and approved by the Engineer), the width of the driveway plus three (3) feet on each side, involved in the construction of the driveway. The application shall be reviewed by the Borough Engineer. The Engineer shall determine if the proposed method of constructing or making of said connection, as reflected on the application, is such that it will (1) minimize the adverse affect of storm water run-off resulting from said connection; (2) not cause damage to the road to which the driveway is to be connected; and (3) not create or increase hazardous driving conditions for those persons using

the road to which the driveway is to be connected. If found satisfactory by the Engineer, he shall issue the permit. If the plan is found deficient, or if in the opinion of the Engineer the plan could be improved so as to minimize the adverse effect of storm water run-off; (2) lessen drainage to the road to which the driveway is to be connected; or (3) lessen hazardous driving conditions on the road to which the driveway is to be connected, the Engineer shall, by written communication to the owner, notify him of the changes to be made. The applicant shall immediately make such changes and return the revised plan to the Borough. When the plan is in acceptable form, the Engineer shall approve and <sup>Request</sup> cause the same to be approved by Council at the next scheduled meeting and the permit issued *if approved*.

**Section 5.** All construction in any way incidental to the installation of the driveway shall be performed in strict conformance with the approved plans.

**Section 6.** Each driveway, whether serving the same premises or not, shall require an individual permit.

**Section 7.** Any owner, person, and/or contractor who or which shall violate any of the provisions of this Ordinance shall, upon conviction thereof by summary proceeding before any District Magistrate or District Justice having jurisdiction, be sentenced to pay a fine of a minimum of Three Hundred (\$300.00) Dollars prescribed by Council which can be changed by Resolution. Upon judgment against any person by summary conviction, or by proceedings by summons on default of the payment of the fine imposed and the costs, the defendant may be sentenced and committed to the county jail or workhouse for a period no exceeding thirty (30) days. All fines collected for the violation of this Ordinance shall be paid to the Treasurer of the Borough for the general use of the Borough.

**Section 8.** If any section, sub-section, provision, regulation, limitation, restriction, sentence, clause, phrase, or word in this Ordinance is declared by any reason to be illegal, unconstitutional, or invalid, by any court of competent jurisdiction, such decision shall not affect or impair the validity of the ordinance as a whole, or any other section, sub-section, provision, regulation, limitation, restriction, sentence, clause, phrase, word, or remaining portion of the Ordinance. Council hereby declares that it would have adopted this Ordinance and each section, sub-section, provision, regulation, limitation, restriction, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more of the sections, sub-sections, provisions, regulations, limitations, restrictions, sentences, clauses, phrases, or words may be declared illegal, unconstitutional or invalid.

**Section 9.** This Ordinance shall replace any inconsistent Ordinances.

**Section 10.** This Ordinance shall become effective five (5) days after enacted by Council.

DULY ENACTED AND ORDAINED BY THE BOROUGH COUNCIL OF  
AVOCA BOROUGH this 8th day of June, 2000.

AVOCA BOROUGH COUNCIL

BY: Joseph Satkowski  
JOSEPH SATKOWSKI  
President of Council

ATTEST:

Ann BacLasky  
ANN BACLASKY, Secretary

(SEAL)

THE FOREGOING ORDINANCE is hereby approved by the Mayor of the Borough of  
Avoca, this 8th day of June, 2000.

BY: James L. Haddock  
JAMES L. HADDOCK, Mayor