

CHAPTER 3

Driveways

(Rev. 9/04', Ord. 2004-6)

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SEC. 6-3-1 DRIVEWAY PERMIT REQUIRED.

- (a) **Purpose.** For the safety of the general public, the Village shall determine the location, size, construction and number of access points to public roadways within the Village limits. It is the Village's intent to - provide safe access to properties abutting public roadways suitable for the property to be developed to its highest and best use, provided that access is not deficient or dangerous to the general public.
- (b) **Permit Required to Construct, Reconstruct, Alter or Enlarge.** No person, firm or corporation shall construct, reconstruct, alter or enlarge any private driveway, any portion of which is located within the limits of the dedicated portion of any public street under the control and jurisdiction of the Village of Marshall without first obtaining a driveway and a sidewalk permit therefor as provided by this Chapter. A sidewalk permit is not required when a new sidewalk is to be constructed in conjunction with the construction of a new principal structure; the sidewalk is included in the building permit process in such cases.
- (c) **Application.** Application for such permit shall be made to the Village Clerk-Treasurer on a form provided by the Village and shall be accompanied by a drawing accurately depicting the portion of the proposed private driveway to be constructed, reconstructed, altered or enlarged lying within the dedicated portion of the public street, the dimensions thereof and a statement of the materials proposed to be used. The fee for a driveway permit shall be set by the Village Board by resolution. Upon receipt of the application and the fee the Director of Public Works or his/her designee shall approve such application if the proposed driveway complies with the terms and conditions of this and any other applicable Village ordinance.
- (d) **Application Provisions.** All driveway permit applications shall contain the applicant's statement that:
- (1) The applicant represents all parties in interest, and that such proposed driveway is for the bona fide purpose of securing access to his property and not for the purpose of parking or servicing vehicles, advertising, storage or merchandising of goods within the dedicated portion of the Village street, or for any other purpose.
 - (2) The Village, notwithstanding the construction of such driveway, reserves the right to make any changes, additions, repairs or relocations within the dedicated portion of the Village street at any time, including relocation, reconstruction, widening and maintaining the street without compensating the owner of such private driveway for the damage or destruction of such private roadway.

- (3) The permittee, his successors or assigns, agrees to indemnify and hold harmless the Village of Marshall, its officials, officers, agents or employees, against any claim or any cause of action for personal injury or property damage sustained by reason of the exercise of such permit.
- (4) The Village does not assume any responsibility for the removal or clearance of snow, ice or sleet or the opening of any windrows of such material upon such portion of such driveway within the dedicated portion of the Village street.

SEC. 6-3-2 DRIVEWAY LOCATION, DESIGN AND CONSTRUCTION REQUIREMENTS.

- (a) **General Requirements.** *(Rev. 8/95', Ord. 1995-8, 9/95' Ord. 1995-9)* The location, design and construction of driveways parking areas shall be in accordance with the following:
 - (1) Width. Private driveways shall be of such width and so located that all of such driveways and their appurtenances are within the limits of the frontage abutting the street of the property served.
 - (2) Encroachment on Right-of-Way. Driveways shall not provide direct ingress or egress to or from any street intersection area and shall not encroach upon or occupy areas of the street right-of-way required for effective traffic control or for street signs or signals.
 - (3) Sight Distances. A driveway shall be so located and constructed that vehicles approaching or using it shall have adequate sight distance along the street.
 - (4) Driveway Approaches. Driveway approaches shall be at least ten (10) feet apart except by special permission from the Village Board, and driveways shall in all cases be placed wherever possible as not to interfere with utilities in place.
 - (5) Surfacing. All new and replacement driveways/open off-street parking areas shall be surfaced with a dustless all-weather material, either asphalt, Portland cement or brick, which is capable of carrying a wheel load of four thousand (4,000) pounds [normally, a two (2) inch blacktop on a four (4) inch base or five (5) inches of Portland cement will meet this requirement.
 - (6) Completion Required. Driveway construction shall be completed within a time period set by the Director of Public Works or his/her designee, which time period shall not be less than 30 days nor more than 12 months from the date of issuance of the driveway permit, which permit shall specify the time period for completion set by the Director of Public Works or his/her designee. If the applicant for a permit requests an extension of the deadline set by the Director of Public Works or his/her designee, the applicant shall submit a timely written request to the Director of Public Works or his/her designee, describing the reasons an extension is necessary. The time for submission of such a request shall be indicated in the Driveway Permit, and failure to file a request for an extension within this time period shall constitute a waiver of the opportunity to request an extension.
- (b) **Special Requirements for Commercial and Industrial Driveways.** The following regulations are applicable to driveways serving commercial or industrial establishments:
 - (1) Width of Drive. No part of a private driveway located within the dedicated area of a public street shall, except as hereinafter provided, have a width

greater than thirty-five (35) feet measured at right angles to the center line of said driveway, except as increased by permissible radii. In instances where the nature of the commercial or industrial activity or the physical characteristics of the land would require a driveway of greater width than herein specified, the Village Board in its discretion may permit a driveway of additional width.

- (2) Angular Placement of Driveway. The angle between the center line of the driveway and the curb line shall not be less than 45°.
 - (3) Island Areas. Where the public sidewalk is adjacent to the curb, an island of a minimum length of six (6) feet measured along the curb line shall be placed between each entrance to a Village street. The curb shall be left intact for the length of this island. Where the public sidewalk is remote from the curb, an island of a minimum length of ten (10) feet measured along the right-of-way line shall be maintained along each entrance to the Village Street. All flares shall be tangent to the curb line. A curb length of not less than three (3) feet shall be left undisturbed adjacent to each property line to serve as an island area in the event an adjoining property owner applies for a driveway permit to serve his property.
- (c) **Special Requirements for Residential Driveways. The following regulations are applicable to driveways serving residential property:**
- (1) Width of Driveways. Openings for vehicular ingress and egress shall be at least ten (10) feet wide at the property line for residential properties, but shall not exceed twenty-four (24) feet at the property line and thirty (30) feet at the curb opening.
 - (2) Angular Placement. The center line of the drive may be parallel to the property line of the lot where access is required or at right angles to the curb line.
- (d) **Prohibited Driveways.**
- (1) No person, firm or corporation shall place, construct, locate in, or cause to be placed, constructed or located in, any obstruction or structure within the limits of any public road, highway or street in the Village of Marshall except as permitted by this Section. As used herein the word “structure” includes private driveways, a portion of which extends into any public road, highway or street, and which is in non-conformance with this Chapter.
 - (2) No driveway shall be closer than ten (10) feet to the extended street line at an intersection. At street intersections a driveway shall not provide direct ingress or egress to or from the street intersection area and shall not occupy areas of the roadway deemed necessary by the Village for effective traffic control or for highway signs or signals.
 - (3) The grade of that portion of any private driveway or pedestrian path located within the limits of any public road, highway or street shall be such as shall meet the grade of the existing public roadway at its edge and not cause an obstruction to the maintenance or clearing of such public roadway.
 - (4) No driveway apron shall extend out into the street further than the facing of the curb and under no circumstances shall such driveway apron extend into any gutter area. All driveway entrances and approaches shall be constructed as not to interfere with the drainage of streets, side ditches or roadside areas, or with any existing structure on the right-of-way.
 - (5) No portion of any curb, parapet or retaining wall, rising above the grade of the driveway, erected by the owner of the premises involved shall extend beyond the culvert spanning the water course located in such public way.

(f) **Culvert Construction and Standards.**

(1) **Size.** Culverts shall be installed prior to construction work being commenced on the property served. No pipe smaller than twelve (12) inches in diameter (or equivalent elliptical or arch pipe) will be allowed. All culverts shall be constructed of galvanized steel or reinforced concrete, and shall be made of new manufacture, unless specifically accepted by the Director of Public Works or Village Engineer.

(2) **Gauge.** The minimum wall thickness for the galvanized steel pipe culverts shall be in accordance with the following:

<u>Pipe Diameter</u>	<u>Gauge</u>
15 to 24 inch	16
30 to 36 inch	14
42 to 54 inch	12
60 to 72 inch	10
78 to 84 inch	8

The class of reinforced concrete pipe shall be in accordance with the following:

<u>Height of Cover</u> (in feet)	<u>Class of Pipe</u>
0-2	IV
2-3	III
3-6	II

(3) **Drainage.** The culverts shall be placed in the ditch line at elevations that will assure proper drainage.

(4) **End walls.** Culverts shall be provided with a concrete or metal apron end walls as directed by the Village Engineer.

(5) **Backfill Material.** Material used for backfill shall be of quantity acceptable to the Village Engineer or Director of Public Works and shall be free from frozen lumps, wood, or other extraneous or perishable materials. The minimum cover, measured from the top of the pipe to the top of the subgrade, shall be six (6) inches.

(6) **Erosion Control.** Erosion control measures shall be implemented as necessary to control erosion, or as directed by the Village Engineer or Director of Public Works.

(7) **Distance.** The distance between culverts under successive driveways shall not be less than ten (10) feet except as such restricted area is permitted to be filled pursuant to Subsection (a)(6).

(8) **Cost.** The property owner shall install the culvert and be responsible for the cost thereof. The property owner shall keep his culverts unobstructed and clean.

(9) **Appeal.** Persons may request a variance from the culvert requirements of this Section by filing a written appeals request with the Village Clerk-Treasurer, who shall place the matter as an agenda item for the Village Board's next meeting. The Village Board may only waive the requirement for a culvert upon a finding that unique physical characteristics of the location in question render a culvert unnecessary. The Village Engineer or Director of Public Works may be asked to render an opinion on the request.

**SEC. 6-3-3 DRIVEWAY APRONS INSTALLATION/REPLACEMENT
IMPROVEMENT POLICY. (Rev. 8/95', Ord. 1995-8)**

- (a) **General requirements.** (Rev. 8/96', Ord. 1996-12) The design and construction of driveway aprons shall be in accordance with the following:
- (1) General Design. All new or replacement driveway aprons shall be concrete and of such width and so located that all of such apron and their appurtenances are within the limits of the frontage abutting the street of the property served.
 - (2) Encroachment on Right-of-Way. Aprons shall not extend out into the street, and under no circumstances shall such driveway apron extend into the gutter area. All driveway entrances and approaches shall be so constructed that they shall not interfere with the drainage of streets, side ditches or roadside areas or with any existing structures on the right-of-way.
 - (3) Culverts. When required by the Director of Public Works or the Village Engineer to provide adequate surface water drainage along the street, the property owner shall install any necessary culvert pipe. The expense of obtaining and placing said culvert pipe shall be paid entirely by the property owner. Said pipe shall conform to standards determined by the Village Engineer.
 - (4) Surfacing Specifications. All concrete driveway aprons shall have a minimum thickness of six (6) inches.
- (b) **Concrete Aprons Required.** All new or replacement driveway aprons shall be concrete. The specifications for concrete driveway aprons shall be as determined by the Director of Public Works, after consultation with the Village Engineer.
- (c) **Specific Policies.**
- (1) When Curb and Gutter is already Installed. In areas where curb and gutter is already installed, and the Village has not begun scheduled replacement or improvement of curb and gutter and/or sidewalks, the following policy shall be enforced:
 - a. All missing driveway aprons or driveway aprons in poor condition shall be removed, replaced and/or installed at the owner's expense within a time period set by the Director of Public Works or his/her designee, which time period shall not be less than 30 days nor more than 12 months.
 - b. Special assessments shall not be imposed and shall not be available for the costs incurred for driveway aprons removed, replaced and/or installed pursuant to this Subsection (c) (1).
 - (2) Whenever the Village Requires Installation, Replacement or Improvement of Curb and Gutter and/or Sidewalks. Whenever the Village requires installation, replacement, or improvement of curb and gutter and/or sidewalk, all missing driveway aprons, driveway aprons that are in poor condition and driveway aprons that are not concrete shall be replaced with concrete driveway aprons. The following policy shall be enforced:
 - a. Removal, replacement and/or installation shall occur concurrently with the curb and gutter and/or sidewalk project, as indicated by resolution of the Village Board.
 - b. All missing driveway aprons or driveway aprons in poor condition shall be removed, replaced and/or installed at the owner's expense.
 - c. All driveway aprons that are in good condition but are not concrete shall be removed, replaced and/or installed at the Village's expense.

- d. If the Village's project for installation, replacement, or improvement of curb and gutter and/or sidewalk includes the imposition of a special assessment, the cost of the driveway apron may be included in the special assessment in the manner indicated in the preliminary resolution, special assessment report and final resolution that imposes the special assessment for curb and gutter and/or sidewalk.
- (d) **Determination of Condition.** The Director of the Department of Public Works shall inspect driveway aprons and determine whether the driveway apron is in "good" or "poor" condition or whether the driveway apron is missing. The Director of the Department of Public Works, or his/her designee, shall provide notice of driveways in poor condition by either mail or by personal delivery to the address of the property served by the driveway. The notice shall specify the time period within which the apron or aprons shall be removed, replaced or installed. If an owner requests an extension of this time period, the owner shall submit a timely written request to the Director of Public Works or his/her designee describing the reasons an extension is necessary. The time for submission of a request for an extension shall be indicated in any notice given pursuant to this section, and failure to timely file a request for an extension shall constitute a waiver of the extension.

SEC. 6-3-4 APPEAL

Appeal from Permit Refusal or Deadlines Established by Director of Public Works or His/Her Designee. Any person feeling himself/herself aggrieved by the refusal of the Director of Public Works or his/her designee, to issue a permit for a private driveway or a deadline established by the Director of Public Works or his/her designee, including a decision regarding a request for an extension, may appeal such action or decision to the Village Board within twenty (20) days after such action or decision is taken or made.

SEC. 6-3-5 PENALTIES FOR FAILURE TO PERFORM; DECLARATION OF PUBLIC NUISANCE.

In the event that an owner or permit holder fails to perform as required by this Chapter, and in addition to any penalties imposed under Section 1-1-6, the Village may declare the driveway or driveway apron a public nuisance prohibited by Section 11-6-6 and require abatement of the nuisance.

NEW DRIVEWAY ENTRANCE CONSTRUCTION – DIAGRAM 1

DRIVEWAY ENTRANCE & CONSTRUCTION IN EXISTING CURB & GUTTER

DIAGRAM 2 – METHOD NO. 1

**DRIVEWAY ENTRANCE & CONSTRUCTION IN EXISTING CURB & GUTTER
DIAGRAM 3 - METHOD # 2**

SIDEWALK – BOULEVARD SECTION DIAGRAM #4