

**MUNICIPAL DRIVEWAY PERMIT ISSUANCE AGREEMENT**

THIS AGREEMENT, made on \_\_\_\_\_,  
(Date)

by \_\_\_\_\_  
(Municipality)

a \_\_\_\_\_  
(\_\_\_\_\_ Class City) (Incorporated Town) (Borough) (Township)

with its address at \_\_\_\_\_

hereinafter called the MUNICIPALITY, in favor of the Commonwealth of Pennsylvania, acting through Engineering District \_\_\_-0 of the Department of Transportation, hereinafter called the DEPARTMENT:

WITNESSETH:

WHEREAS, the Secretary of Highways (now Transportation), is empowered by the State Highway Law, Act of June 1, 1945, P.L. 1242, in Section 420, as amended, to authorize MUNICIPALITIES, in writing, to issue driveway permits for the DEPARTMENT; and,

WHEREAS, the DEPARTMENT is willing, subject to the terms, conditions, and provisions contained in this Agreement, to delegate a portion of its driveway permit issuance authority to a MUNICIPALITY determined to be capable of controlling driveway access in a fashion acceptable to the DEPARTMENT; and,

WHEREAS, the MUNICIPALITY proposes to issue driveway permits and control highway occupancy for the DEPARTMENT on State highway right-of-way located within the MUNICIPALITY's jurisdiction, and

WHEREAS, the MUNICIPALITY has adopted an Ordinance approved by the DEPARTMENT.

NOW, THEREFORE, the parties agree to abide by the requirements set forth in this Agreement, with the intention of being legally bound hereby, as follows:

1. The foregoing recitals are hereby incorporated by reference as a material part of this Agreement.
2. Pursuant to a predelegation meeting between the MUNICIPALITY and the District Executive of the DEPARTMENT and the execution of this Agreement by the DEPARTMENT, the DEPARTMENT grants permission to the MUNICIPALITY to issue, for the DEPARTMENT, driveway highway occupancy permits to the owner of adjacent property – except driveways onto property owned by the MUNICIPALITY or local roads -- for the purpose of constructing or altering an entrance or exit or associated drainage facility within non-limited access State highway right-of-way within the MUNICIPALITY. Such delegation authority shall extend to the types of driveways indicated below.

Minimum Use Driveways:	<input type="checkbox"/> Delegated	<input type="checkbox"/> Not Delegated
Low Volume Driveways:	<input type="checkbox"/> Delegated	<input type="checkbox"/> Not Delegated
Medium Volume Driveways:	<input type="checkbox"/> Delegated	<input type="checkbox"/> Not Delegated
High Volume Driveways:	<input type="checkbox"/> Delegated	<input type="checkbox"/> Not Delegated

3. The DEPARTMENT reserves the authority to issue all permits allowing access onto or involving work within limited access or controlled access highway right-of-way, projects that extend outside of the MUNICIPALITY's jurisdiction, driveways in connection with a DEPARTMENT highway construction project, driveways providing access to property owned by the MUNICIPALITY, local roads, as well as any other highway occupancy not specifically authorized in Section #2 of this Agreement. The MUNICIPALITY agrees to return to the applicant any application for a permit which involves limited access or controlled access highway right-of-way or any other occupancy as to which the MUNICIPALITY is not authorized in Section #2 of this Agreement, along with instructions for the applicant to apply to the DEPARTMENT's Engineering District \_\_\_\_-0 Office, located at \_\_\_\_\_.
4. The MUNICIPALITY agrees to issue each permit in accordance with all applicable Federal and State laws, including the State Highway Law, 36 P.S., Sections 670-101 – 670-1102, Regulations, and DEPARTMENT Publications, including 67 PA Code, Chapter 441, entitled Access to and Occupancy of Highways by Driveways and Local Roads; 67 PA Code, Chapter 203 (relating to work zone traffic control); the Manual on Uniform Traffic Control Devices (MUTCD), and Publication 408 and its supplements (which contains the DEPARTMENT's highway construction specifications), all as supplemented and amended from time to time. DEPARTMENT publications may be obtained from the DEPARTMENT's Publication Sales Warehouse.
5. Prior to execution of this Agreement, the MUNICIPALITY shall submit to the DEPARTMENT's Engineering District Office for approval by the DEPARTMENT of all local regulations that it proposes to use in lieu of 67 PA Code, Chapter 441. Such local regulations shall contain standards that are in every particular at least as high as those contained in 67 PA Code, Chapter 441.
6. The MUNICIPALITY shall retain an engineer or other person with verifiable experience in traffic engineering (for applications involving access) or hydraulic engineering (for applications involving drainage) to review and approve, modify or disapprove every application involving the installation of any access or drainage facility within the right-of-way.
7. The MUNICIPALITY agrees to accept properly completed applications submitted on DEPARTMENT Form M-945A. The MUNICIPALITY shall require the applicant to submit a traffic impact study where warranted, and a drainage impact report and/or drainage release when an increase in the flow of water is anticipated onto the highway, onto the property of some other person, or into any highway drainage facility. If the MUNICIPALITY refuses within sixty days to issue a requested permit, the MUNICIPALITY shall provide the applicant with a written statement specifying the reason for refusal and what action, if any, must be taken by the applicant to qualify for the requested permit and advising the applicant of the right to contest the refusal as provided by the State Highway Law.
8. The MUNICIPALITY agrees to issue each permit in writing, to the owner of the property in a timely manner. The issued permit will specify the State Route (SR), Segment and Offset where the permitted work is authorized, permit expiration date, the number and type(s) of access being permitted, authorized work methods and materials, approved drainage control plan, required traffic control measures, and the fees charged. The permit shall be valid for six months or multiples thereof.
9. The MUNICIPALITY shall furnish a copy of each issued permit, application, and plan(s) to the DEPARTMENT's Engineering District identified in Section #3 of this Agreement, within 15 days after the permit issuance date. The MUNICIPALITY shall, upon request, furnish additional information to the DEPARTMENT as may be required on a particular permit.

10. The MUNICIPALITY may collect fees up to the amounts authorized in DEPARTMENT Regulation 441.4. The MUNICIPALITY shall not charge any additional fees unless such fees are approved by the DEPARTMENT and specified in an adopted Ordinance. The MUNICIPALITY may retain all fees.
  
11. The MUNICIPALITY shall retain qualified inspectors to review permitted work. Each of the MUNICIPALITY's permit inspection staff must meet at least one of the following requirements:
  - A) Be certified by the National Institute for Certification in Engineering Technologies (NICET) as a Transportation Engineering Technician-Construction, Level 2 or higher.
  - B) Be registered as a Professional Engineer by the Commonwealth of Pennsylvania with one year of highway experience acceptable to the DEPARTMENT.
  - C) Be certified as an Engineer-In-Training by the Commonwealth of Pennsylvania with two years of highway experience acceptable to the DEPARTMENT.
  - D) Hold a Bachelor of Science Degree in Civil Engineering with two years of highway experience acceptable to the DEPARTMENT or a Bachelor of Science Degree in Civil Engineering Technology with two years of highway experience acceptable to the DEPARTMENT.
  - E) Hold an Associate Degree in Civil Engineering Technology with three years of highway experience acceptable to the DEPARTMENT.

Inspectors shall be assigned to and remain on a project during all periods of time when backfill and restoration work is actually being performed or, when warranted, on a spot-inspection basis. The MUNICIPALITY is responsible for insuring that its inspectors require the permittee and its contractors to comply with all permit conditions and all DEPARTMENT Regulations and Publications referenced in Section #4 of this Agreement. The MUNICIPALITY's inspectors shall maintain accurate and complete written records of every permit inspection.

12. The MUNICIPALITY shall retain paper records of information in municipal files for every permit issued pursuant to this Agreement, as follows:
  - A) Five years from completion of permitted work:
    - i) all information submitted by the applicant, including plans;
    - ii) all data collected in the application review process;
    - iii) all inspection documentation.
  - B) Permanent record of:
    - i) every issued permit, including approved application and plans;
    - ii) a permit ledger, showing pertinent information including permittee, permit number, issuance and completion dates, and access location;
    - iii) a completion certificate, signed and dated by an inspector of the MUNICIPALITY, verifying the satisfactory completion of all work authorized by the permit.

The MUNICIPALITY agrees to allow any employee of the DEPARTMENT to audit its permit program including all records, without delay when requested during normal work hours.

13. The MUNICIPALITY shall certify to the DEPARTMENT's District Executive before the first day of March each year that the MUNICIPALITY is complying with all terms of this Agreement. The MUNICIPALITY agrees to participate in a meeting with the DEPARTMENT's District Executive, upon request, to review the effectiveness of the MUNICIPALITY's permit program.
14. The MUNICIPALITY shall be responsible to the DEPARTMENT for the proper restoration of the roadway and surface within the right-of-way in accordance with the standards of the DEPARTMENT for the particular type of construction. The MUNICIPALITY shall take appropriate corrective measures whenever any person is doing or has done work that is not in compliance with the MUNICIPALITY's permit or the DEPARTMENT Regulations and Publications referenced in Section #4 of this Agreement. Appropriate measure would include stoppage of work, revocation of the permit, fines, and any other action deemed necessary to correct a violation.
15.
  - A) The MUNICIPALITY shall fully indemnify, save harmless and, if requested, defend the DEPARTMENT, its officers, agents, and employees, of and from liability for damages or injuries to persons or property in a claim, suit, or action seeking to impose liability on the DEPARTMENT, its officers, agents, or employees, arising out of any act or omission under this Agreement, including the issuance of or failure to issue a permit, by the MUNICIPALITY, its officers, agents, and employees.
  - B) The MUNICIPALITY shall have the DEPARTMENT added as an additional insured to its insurance policy(ies) to secure the MUNICIPALITY's indemnification of the DEPARTMENT for property damage and personal injury under this section. The coverage of the DEPARTMENT as an additional insured shall be limited to the acts or omissions of the MUNICIPALITY as described in Subsection 15.A. The amount of insurance shall be at least \$250,000.00 per person and at least \$1,000,000.00 per occurrence, or other statutory limitation on damages as the General Assembly may establish. The policy shall be of duration satisfactory to the DEPARTMENT.
16.
  - A) The MUNICIPALITY shall, by Ordinance, require the permittee to fully indemnify, save harmless, and, if requested, defend the DEPARTMENT and the MUNICIPALITY and all of their officers, agents, and employees, of and from liability for damages or injuries to persons or property in a claim or suit seeking to impose liability on the DEPARTMENT or the MUNICIPALITY or their officers, agents, or employees, arising out of an act or omission of a contractor, agent, servant, employee, or person engaged or employed in, about, or upon the work, by, at the instance of or with the approval or consent of the permittee, including failure of the permittee or person to comply with the permit or the DEPARTMENT Regulations at 67 PA Code, Chapter 441.
  - B) The permittee shall have the DEPARTMENT and the MUNICIPALITY added as an additional insured to its or its contractor's insurance policy(ies) to secure the permittee's indemnification of the DEPARTMENT and the MUNICIPALITY for property damage and personal injury under this section. The coverage of the DEPARTMENT and the MUNICIPALITY as an additional insured shall be limited to the acts or omissions of the permittee or its contractor as described in Subsection 16.A. The amount of insurance shall be at least \$250,000 per person and at least \$1,000,000 per occurrence, or other statutory limitations on damages as the General Assembly may establish. The Policy duration shall be satisfactory to the DEPARTMENT.

17. Prior to execution of this Agreement by the DEPARTMENT, the MUNICIPALITY shall amend any Ordinance that is in conflict with this Agreement. The MUNICIPALITY further agrees to submit to the DEPARTMENT for approval any amendments to the MUNICIPALITY's Ordinances which are to be adopted pursuant to this Agreement.
18. This Agreement may be terminated by either party after giving 30 days written notice to the other of its intentions. Upon termination of this Agreement, the MUNICIPALITY agrees to deliver all active permit records to the DEPARTMENT's Engineering District identified in Section #3 of this Agreement, within 15 days. The MUNICIPALITY further agrees to retain all inactive permit records in accordance with Section #12 of this Agreement. Any permit issued by the MUNICIPALITY after the DEPARTMENT has given the notice required by this paragraph is voidable at the option of the DEPARTMENT. The MUNICIPALITY also agrees that any permit issued after the giving of such notice shall contain notice to any permittee that such permit is voidable at the option of the DEPARTMENT.
19. This agreement shall be governed by the laws of the COMMONWEALTH and shall constitute the entire agreement between the MUNICIPALITY and the DEPARTMENT with respect to the matters covered in this Agreement.
20. The DEPARTMENT agrees that all driveway highway occupancy permits within the boundaries of the MUNICIPALITY, except permits for driveways in connection with a DEPARTMENT highway construction project, permits for project that extend outside of the MUNICIPALITY's jurisdiction, driveways providing access to property owned by the MUNICIPALITY, local roads, and permits involving work within limited access or controlled access highway right-of-way, shall be issued solely by the MUNICIPALITY, and the DEPARTMENT shall not issue any permits or overrule decisions of the MUNICIPALITY in issuing permits except upon written notice to the MUNICIPALITY and a subsequent conference between the MUNICIPALITY and the DEPARTMENT's District Executive. However, if in the opinion of the DEPARTMENT, a particular permit has not been issued in conformity with the minimum standards required in Section #4 of this Agreement or construction activities do not conform to the minimum standards required in Section #4 of this Agreement, then the DEPARTMENT can suspend work until the DEPARTMENT is satisfied that all deficiencies will be rectified.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed, attested, and ensealed by their proper officials, pursuant to due and legal action authorizing the same to be done, the day, month, and year first above written.

\_\_\_\_\_  
(MUNICIPALITY)

ATTEST:

\_\_\_\_\_  
TITLE:

By \_\_\_\_\_  
TITLE:

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION

ATTEST:

\_\_\_\_\_  
TITLE:

By: \_\_\_\_\_  
(DEPARTMENT Signatory)

APPROVED AS TO LEGALITY AND FORM

BY \_\_\_\_\_  
Deputy Attorney General

BY \_\_\_\_\_  
Chief Counsel