

HOWE TOWNSHIP
APPLICATION FOR TYPE 2 CLOSED ROAD PERMIT

INSTRUCTIONS

This is an application for a company or individual that intends to have numerous trips and or motor vehicles hauling to and from a certain point or across one particular closed road within Howe Township. The applicant may make application for a permit which authorizes the use of a particular closed highway or portion thereof by any number of over-posted-weight vehicles. At the time of submitting an application, the Applicant shall pay the fee of \$250 for every 3 months, or may pay \$500 to \$1000 per year. Additional materials such as the signing of an Excess Maintenance Agreement, etc may be required by the township. **THE INFORMATION BELOW AS TO THE NAMES OF COMPANIES OR INDIVIDUALS WHOM THE APPLICANT AUTHORIZES TO USE THE TYPE 2 PERMIT AND AS TO TOTAL NUMBER OF VEHICLES AUTHORIZED UNDER THE TYPE 2 PERMIT MUST BE PROMPTLY UPDATED BY THE APPLICANT UPON ANY CHANGE.**

INFORMATION REGARDING APPLICANT

Name of Applicant: _____

Street Address: _____ City: _____

State: _____ Zip: _____ Telephone Number: _____

Fax Number: _____ Email: _____

The Applicant requests a Type 2 permit to move a vehicle on _____

Roads from _____ to _____ beginning _____

and ending _____ .

INFORMATION CONCERNING AUTHORIZED USERS OF THE TYPE 2 PERMIT

The Applicant intends to authorize the following individuals or companies to utilize the Type 2 permit (if more than one company list on second page):

1. _____

The total number of over-posted-weight vehicles which the Applicant will authorize to use

the Type 2 permit: _____

I, the undersigned Applicant, hereby certify that the data submitted is correct to the best of my information, knowledge and belief.

Title: _____ Date: _____

INFORMATION CONCERNING AUTHORIZED USERS OF THE TYPE 2 PERMIT

The applicant hereby certifies that the data submitted is correct and intends to authorize the following individuals or companies to utilize the Type 2 permit:

2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____
11. _____
12. _____
13. _____
14. _____
15. _____
16. _____
17. _____
18. _____
19. _____
20. _____

USAGE REPORT

**TO BE SUBMITTED TO HOWE TOWNSHIP PURSUANT TO THE EXCESS
MAINTENANCE AGREEMENT SIGNED BY THE UNDERSIGNED USER**

For the month of _____, _____, the undersigned user made _____
trips on Howe Township Roadway _____
from _____
to _____.

("Trip" is intended to mean a one-way trip.)

This report is made pursuant to Paragraph 3 of the EXCESS MAINTENANCE AGREEMENT
executed between the undersigned user and Howe Township. I certify that the foregoing report is
true and correct to the best of my information, knowledge and belief.

User's Company Name _____

Signature _____

EXCESS MAINTENANCE AGREEMENT

THIS AGREEMENT, made this . *day* of by and between

HOWE TOWNSHIP, Forest County, Pennsylvania, hereinafter referred to as "TOWNSHIP",

AND

hereinafter referred to as "USER."

WHEREAS, the User in the conduct of its business makes use of portions of highways which are under the jurisdiction, maintenance and control of the Township; and

WHEREAS, pursuant to the provisions of the Township Code, the Township has closed highways located within the Township's jurisdiction; and

WHEREAS, the User wishes to move motor vehicles over and across portions of these closed Township highways; and

WHEREAS, the Township is willing to permit the movement of User's motor vehicles conditioned upon and in accordance with the terms, conditions and provisions of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties, intending to be legally bound hereby, agree for themselves, their successors and assigns, as follows:

1. DEFINITIONS.

User means the user who signs and executes this Agreement.

Township means Howe Township, Forest County, Pennsylvania.

Appurtenance means the property lying within the right-of-way of a highway, together with any improvement placed within this right-of-way.

Highway means any highway or bridge on the Township's system of highways and bridges, including the entire width between right-of-way lines, over which the Township has assumed, or has been legislatively given, jurisdiction.

Excess Maintenance means maintenance or restoration or both (but not betterment) of a closed highway (in excess of normal maintenance) caused by use of motor vehicles.

Normal Maintenance means the usual and typical activities necessary to maintain the roadway, shoulder, drainage facilities, and other appurtenances in the state of repair existing at the date of the inspection.

2. PERMISSION TO MOVE VEHICLES.

The Township will permit the User to move motor vehicles on the portions of Township's closed highways indicated below subject to all provisions of the Pennsylvania Motor Vehicle Code, regulations adopted, hereunder, and all applicable Township Ordinances. The Township has issued a permit to travel on the portions of Township's closed highways identified below:

Township Highway

From

To

3. JOINT USE.

Because more than one (1) User may make use of the portions(s) of Township's closed highways described in the preceding paragraph, the User shall report to the Township the number of trips by User over each portion of Township's closed highways. The User agrees to make said reports on a monthly basis. The Township may assess and proportion in its own discretion, the maintenance and restoration costs among the Users on a periodic basis or upon the termination of this Agreement. The number of trips may be used as one of the factors in the assessment process; other factors may include weather and road conditions at the time of travel. The assessment is intended to reflect, as closely as can be determined, the cost of excess maintenance made necessary by the User's use of the closed highway. In the event that the User shall fail to submit the usage reports as above recited, the Township may assess all maintenance and restoration costs to the User that fails to submit usage reports.

4. RESPONSIBILITY OF USER.

The portions of Township's highways referenced above together with the associated appurtenances shall be maintained to a level consistent with the quality existing immediately prior to the issuance of the permit to the User. The User's responsibility shall extend only to excess maintenance and restoration. However, the non-performance of normal maintenance by the Township shall under no circumstances constitute grounds for an offset or credit against any excess maintenance or restoration responsibilities of the User.

5. ON-SITE INSPECTION.

The User and the Township agree that, in order to determine the condition of the portion(s) of the Township's closed highway(s) and appurtenances, an on-site field inspection shall be made jointly by the Township and the User prior to or at about the time of permit issuance. A memorandum shall be prepared describing the condition of Township highway(s) and appurtenances together with the nature and extent of any repairs needed to correct any existing damage for which the User will not be liable. Photographs, video tapes, and other records may also be taken. The memorandum and photographs (if taken) may be substituted for the memorandum. All costs of this inspection shall be paid by the User. The preceding sentences of this section notwithstanding, it shall be the obligation of User to arrange for and

schedule the on-site field inspection. In the event that no on-site field inspection is made and that there exists a dispute between Township and User as to the condition of the closed highway at the time of permit issuance, the issue of the condition of the highway shall be deemed to be that asserted by the Township, and the issue shall be resolved in favor of the Township with the User being precluded from submitting any evidence (in any relevant action) as to the condition of the highway at the time of the permit issuance.

6. MAINTENANCE NOT COVERED.

The User shall have no obligation for maintenance to remedy damage directly resulting from acts of God or war or for routine removal of snow and ice.

7. PERFORMANCE OF EXCESS MAINTENANCE AND RESTORATION.

Excess maintenance and restoration required in accordance with the terms of this Agreement shall be performed by the Township's maintenance forces and/or a contractor(s) selected by the Township through its prescribed procedures or, at the sole discretion of the Township, by the User under the supervision of the Township. The township may invoice the User for the estimated cost of repairs, and the User agrees to reimburse the Township for all estimated costs.

The User shall submit payment to the Township within thirty (30) days from the date of invoice. If the User fails to make timely payment, the Township may in its discretion:

- a. Rescind the User's permission to move motor vehicles on closed

Township highways until payment is made,

- b. Terminate this Agreement;
- c. Commence an action against the User for any available remedy including remedies at law and equity;
- d. Proceed against security (if any) provided pursuant to this Agreement;
- e. Any or all of the above.

8. SECURITY. (Optional based upon the discretion of the Township.)

To secure the performance of the User's obligations, the User shall execute and deliver to the Municipality the following type(s) of security in the amounts as indicated:

- A. Irrevocable Letter of Credit \$ _____
- B. Certified Check \$ _____
- C. Cashier's Check \$ _____
- D. Bank Account \$ _____
- E. Certificate of Deposit (Cash Value) \$ _____
- F. Security Agreement \$ _____
- G. Escrow Agreement \$ _____
- H. Performance Bond \$ _____
- I. Other \$ _____

Security option(s) of a

\$ _____ has (have) been agreed to.

This Agreement, together with the type(s) of security provided, may be filed in the appropriate prothonotary's office or other registry in a manner and at such time and frequency as the Township deems proper. The User shall pay the costs of such filings.

A copy of the security (ies) shall be attached to this Agreement as an Exhibit(s).

9. LIABILITY OF USER.

The User shall be liable for all costs of excess maintenance and restoration and all other expenses incurred pursuant to this Agreement. The User's liability shall not be limited to the total amount of security shown in the preceding paragraph.

10. TERMINATION.

The User and the Township retain the right to terminate their future obligations under this Agreement at any time by submitting a written notice of intent to terminate. As soon as possible after receipt of such notice, the Township and the User shall inspect the Township highway(s) and appurtenances. Maintenance and restoration, or the payment therefore, shall be performed as previously set forth. Thereupon, this Agreement shall be terminated and of no further force or effect, and all security delivered to the Township by the User shall be released and the User's permit(s) surrendered to the Township.

11. REVOCAION OF PERMIT.

The Township may revoke the User's permit and may pursue whatever legal remedies it deems proper, if it determines, in its discretion, that the User is not in compliance with any provision of this Agreement. In the event the User has concluded its operations on any or all portions of highway covered by this Agreement, the Township may, in its discretion, revoke the User's permit(s) to operate on any other highway(s) under any other similar Agreement.

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound hereby, have set their hands and seals the day and year first above written.

HOWE TOWNSHIP SUPERVISORS

ATTEST: (seal)

Secretary for Board of Supervisors

WITNESS:

USER: