



Legal Driveway vs. Unpermitted Driveway

A Legal Driveway, along a State Road, is an access that a Highway Occupancy Permit was issued and constructed as permitted in compliance with Chapter 441.

All other accesses are deemed unpermitted and as such are illegal. There is no 'Grandfather' clause, law, rule or regulation to legalize existing accesses.

Common examples of unpermitted driveways are: An access that was constructed or reconstructed with a PennDOT project. A property owner that has a Long-Existing Access; defined as an access constructed or last altered five years ago. These are not legal accesses.

Top Five reasons why a Property-Owner should have a Legal permitted driveway:

5) Legal Access Rights:

Establish the Property-Owner's Legal access from the State Roadway to your property and Right of Access for any impact on future state roadway work and/or future local projects such as access management corridor plans.

4) Confirmation:

Provide Legal documentation for any State, County or Local approvals needed for real estate, subdivision, sales, etc. that the site meets appropriate Legal access requirements.

3) Compliance:

An existing driveway that is no longer in compliance with an issued permit will cause it to be void and no longer legal; as such it will need to be revised and/or upgraded.

2) State Investigations:

Possibly resolve, for the Property-Owner, any officially reviewed complaints, safety issues, concerns or other issues received by PennDOT concerning the driveway.

1) Tort Liability/Safety:

Minimizes, if not eliminate, Property-Owners Tort Liability for any lawsuits that may occur in the area of your access. Vehicular crashes that result in a court case, which the incident occurred within the vicinity of a driveway, the property-owner will be joined in a lawsuit. An access that possesses a Highway Occupancy Permit usually results in the Property-Owner being dismissed in the lawsuit on the first level of litigation. Acquiring a Highway Occupancy Permit, in this context, is comparable to having a one-time premium payment for a perpetuity liability insurance policy.

Driveways on State Highways require a Permit

Property owners should be aware that if planned property improvements include constructing or altering a driveway that connects to a State highway, a Highway Occupancy Permit must first be obtained from the Pennsylvania Department of Transportation (PennDOT), as required by Section 420 of the State Highway Law. If your driveway does not have a permit, you should obtain one from PennDOT. The permit legitimizes the driveway and is evidence of your compliance with the law.

Permit applications can be obtained from your PennDOT County Office. After completing an application, simply submit it to your PennDOT County Office for review. PENNDOT will review the driveway location for compliance with applicable laws and regulations, such as sight distance, drainage and proposed driveway design features, in order to eliminate costly problems that the property owner might otherwise face, such as relocating the driveway.

Property owners need to apply for a permit at least 30 days in advance of the date they plan to start work on their driveway, unless making application for a long-existing driveway. However, to avoid costly problems, PennDOT strongly encourages property owners to obtain a driveway permit before obtaining a building permit. In fact, your municipality may require you to obtain a driveway permit by ordinance. Problems can often be avoided by determining an acceptable driveway location prior to constructing a building on the property.

Once the driveway construction or alteration is completed, the property owner can notify their PennDOT County Office so that a final inspection can be conducted to verify that the work that was done is consistent with the permit.

The application/inspection fee for a residential driveway permit is \$25. A property owner who fails to obtain a permit prior to the construction of a new driveway or altering the design of an existing driveway is subject to a minimum \$100 fine plus court costs. Additional costs would also result if the driveway is installed improperly and needs to be corrected by the property owner or PennDOT.

Although a driveway permit is not normally required for paving an existing and properly permitted driveway, if you are planning on paving an existing permitted driveway, please contact your PennDOT County Office to discuss the effects that such paving might have on highway drainage. If highway drainage is not properly accommodated, you may be required to make costly repairs to your driveway.