A SAMPLE RESOLUTION PROVIDING FOR AN EXEMPTION TO CMV DRIVING TIME LIMITS DURING CERTAIN EMERGENCIES

– TO BE REVIEWED BY TOWNSHIP SOLICITOR PRIOR TO ADOPTION -

BOARD OF SUPERVISORS OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ TOWNSHIP,

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ COUNTY, PENNSYLVANIA

RESOLUTION NO. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

“A RESOLUTION PROVIDING FOR AN EXEMPTION TO CMV DRIVING

TIME LIMITS DURING CERTAIN EMERGENCIES”

WHEREAS, the Township of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“Township”) is a municipal township of the second class situated in \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ County, Pennsylvania, and;

WHEREAS, the state’s Vehicle Code at Title 67 Pa. Code Chapter 231.8(15) exempts local government drivers performing Roadway Maintenance, Snow Plowing Operations, and Traffic Control Support Operations from the commercial motor vehicle driving time limits normally imposed on such operations, and;

WHEREAS, the state’s Vehicle Code at Title 67 Pa. Code Chapter 231.7(7) imposes commercial motor vehicle driving time limits on all other municipal operations not specifically exempted by Title 67 Pa. Code Chapter 231.8(15), and;

WHEREAS, the state’s Vehicle Code at Title 67 Pa. Code Chapter 231.7(3) incorporates federal regulation 49 CFR Part 390.23 providing a mechanism for local governments to obtain needed relief from commercial motor vehicle driving time limits when engaged in municipal operations not already exempted by Title 67 Pa. Code Chapter 231.8(15), and;

WHEREAS, the Township wishes to establish a procedure to clarify when a situation exists for which the Township must specifically declare an emergency solely for the purpose of legally allowing its commercial motor vehicle drivers to exceed the normally-imposed commercial motor vehicle driving time limits;

NOW, THEREFORE, BE IT RESOLVED that:

A. An emergency shall exist anytime that the Township, upon decision of the Chairman of the Township Board of Supervisors, or, in his absence, his duly-appointed alternate, determines that a situation currently exists or is imminent, and which is not a situation already exempted by Title 67 Pa. Code Chapter 231.8(15), requiring Township drivers to exceed the normal daily driving time limits for commercial motor vehicles.

B. Declaring an emergency shall be the responsibility of the Chairman of the Township Board of Supervisors or, in his absence, his duly-appointed alternate, who shall: (1) Inform all Township commercial motor vehicle drivers that an emergency has been declared which authorize all qualified township drivers to exceed the normal commercial motor vehicle driving time limits; (2) Evaluate the rest status of the available drivers and take such status into account when dispatching qualified drivers, and (3) Provide written documentation of such declaration and authorization to such drivers, who shall carry said documentation while on driving duty in response to the emergency.

C. The Chairman of the Township Board of Supervisors, or, in his absence, his duly-appointed alternate, shall inform the Board of Supervisors of the declaration of any emergency at the next regular meeting of the Board of Supervisors.

D. As guidance, the individual making driving assignments during an emergency should employ best efforts to limit any individual driver’s emergency assignment to fourteen (14) total driving hours before requiring at least eight (8) hours off-duty before re-assignment.

E. Further, the emergency suspension of commercial motor vehicle driving time limits shall neither exceed the duration of the Township’s direct action in providing emergency relief, nor extend longer than five days from the date of this declaration of emergency.

APPROVED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ TOWNSHIP BOARD OF SUPERVISORS

by\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Board Chairman

ATTEST: by\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Board Vice-Chairman

by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ by\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Secretary Supervisor

by\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Supervisor

by\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Supervisor

## End of Resolution.

Sample declaration form follows… ##

Form to Document the Needed

Declaration of a CMV-only Emergency

In accordance with the municipal authority provided by 49 CFR Part 390.23 and Pennsylvania’s emergency services law at 35 Pa. C.S.A. Section 7501(b) and pursuant to the authority delegated by the Board of Supervisors to me or my designee, I declare that an emergency currently exists or will exist in this township (as noted below and not otherwise already exempted from driving time limits by 67 Pa. Code 231.8(15)) requiring the township’s commercial motor vehicle drivers to exceed the driving time limits normally imposed on such vehicles in order to address the emergency for the purpose of protecting public health and safety.

The reason for this declaration is

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Accordingly, normal driver hours of service limits will not apply<http://www.fmcsa.dot.gov/rules-regulations/administration/fmcsr/fmcsrguidedetails.aspx?reg=r49CFR399> to any township employee operating an authorized commercial motor vehicle while providing appropriate emergency relief.

Further, the suspension of driving time limits under this “CMV-only” emergency shall neither exceed the duration of the driver’s direct assistance in providing emergency relief nor extend longer than five days from the date of this declaration of emergency.

The undersigned affirms that he/she is duly authorized by the Board of Supervisors of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Township, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ County

to declare a “CMV-only” emergency at this date and time

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ , 20\_\_\_ at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_a.m./p.m.

 (Date) (Time)

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Name

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Signature

 Note: A signed copy of this form should be posted during the emergency at the township’s vehicle operations facility for inspection by any employee or police officer, and be forwarded to the Board as soon as practical after cessation of such emergency.