

ORDINANCE NO. 99

AN ORDINANCE OF THE TOWNSHIP OF SOUTH HUNTINGDON, COUNTY OF WESTMORELAND, COMMONWEALTH OF PENNSYLVANIA, AMENDING ORDINANCE NO. 90 OF THE TOWNSHIP, PRESCRIBING AND SETTING CERTAIN LOAD LIMITS AND RESTRICTIONS ON SIZE, WEIGHT AND TYPE OF VEHICLE AND COMBINATION ON CERTAIN HIGHWAYS, STREETS AND BRIDGES IN THE TOWNSHIP; COMPILING ALL REGULATIONS CONCERNING THE SAME INTO ONE ORDINANCE; AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF.

BE IT ORDAINED AND ENACTED, and it is hereby ordained and enacted by the Board of Supervisors of the Township of South Huntingdon, Westmoreland County, Pennsylvania, as follows:

SECTION 1. Section 1 of Ordinance 90 of the Township of South Huntingdon is hereby amended and supplemented as follows

SECTION 1. VEHICLE WEIGHT LIMITS ESTABLISHED ON CERTAIN HIGHWAYS, STREETS AND BRIDGES

1. On the following highways, streets and bridges or parts thereof, and by the authority granted by Section 4902 of the Motor Vehicle Code of the Commonwealth of Pennsylvania, it shall be unlawful for any person or persons to drive, operate, park, locate, situate or maintain any vehicle or combination having a gross weight in excess of the maximum prescribed below for that highway, street, bridge or part thereof, on, over or upon such highway, street or bridge, as the case may be:

HIGHWAY, STREET OR BRIDGE	LOCATION	MAXIMUM GROSS WEIGHT
Angelcuk Road Twp. Road No. 414	From Apple Mills Rd to Dead End	10 Tons
Commer Road Twp. Road No. 385	From SR 981 to Twp. Road No. 381	10 Tons
Conrad Avenue Twp. Road No. 432	From Twp. Road No. 413 to Dead End	10 Tons

HIGHWAY, STREET

<u>OR BRIDGE</u>	<u>LOCATION</u>	<u>GROSS WEIGHT</u>
Creek Road Twp. Road No. 311	From SR 3029 to Dead End	10 Tons
Farm Road Twp. Road No. 541	From SR 3010 to Dead End	10 Tons
Fort Street Twp. Road No. 370	From Eureka Hill Road (Twp. Road No. 374) to Smithton Borough	10 Tons
Hubby Kelly Road Twp. Road No. 512	From SR 3035 to Twp. Road No. 376	10 Tons
Keller Road Twp. Road No. 383	From Twp. Road No. 363 to SR 3037	10 Tons
Kelly Road Twp. Road No. 379	From SR 3037 to SR 981	10 Tons
Layman Road Twp. Road No. 368	From Sager Road (Twp. Road No. 361) to Dead End	10 Tons
Matty Road Twp. Road No. 406	From SR 3059 to Dead End	10 Tons
Mellon Road Twp. Road No. 382	From Twp. Road No. 363 to Dead End	10 Tons
Mel Road Twp. Road No. 517	From Palmers Road (Twp. Road No. 400) to Dead End	10 Tons
Milbell Road Twp. Road No. 521	From SR 3059 to Dead End	10 Tons
Momyer Road Twp. Road No. 446	From 3059 to Dead End	10 Tons

HIGHWAY, STREET OR BRIDGE	LOCATION	MAXIMUM GROSS WEIGHT
Peterson Road Twp. Road No. 376	From Twp. Road No. 512 to SR 981	10 Tons
Shortcut Road Twp. Road No. 660	From Stants Road to SR 3037	10 Tons
Skyline Drive Twp. Road No. 373	From SR 981 to SR 3031	10 Tons
Stants Road Twp. Road No. 387	From SR 3037 to Township Line	10 Tons
Branthoover Road Twp. Road No. 449	From SR 3059 to Dead End	10 Tons
Sager Road Twp. Road No. 361	From SR 981 to Twp. Road No. 390	10 Tons
Hedgedus Road Twp. Road No. 508	From Township Line to Dead End	10 Tons

SECTION 2. The remaining portions of Ordinance No. 90 of the Township of South Huntingdon, are hereby amended and supplemented to read as follows:

* * *

2. Definitions. The following words and terms, when used in this Section, shall have the following meanings unless the context clearly indicates otherwise:

EXCESS MAINTENANCE - maintenance or restoration or both of a posted highway in excess of normal maintenance, caused by use of over posted weight vehicles.

HIGHWAY - the cartway, berm, drainage facilities and right-of-way of any public street, avenue, road or alley, together with bridges or other drainage structures of the same, within the Township of South Huntingdon.

LOCAL TRAFFIC - the following shall be regarded as local traffic for the purpose of subsection (3) of this Section:

- A. Emergency vehicles.
- B. School buses.
- C. Vehicles and combinations, of governmental agencies and utilities or their contractors, engaged in construction or maintenance, on a posted highway or in a location which can be reached only via a posted highway.
- D. Vehicles and combinations going to or coming from a residence, commercial establishment or farm located on a posted highway or in a location which can be reached only via a posted highway.

NORMAL MAINTENANCE - the usual and typical activities necessary to maintain the roadway, shoulders, bridges and drainage facilities in the state of repair existing at the date of the inspection prescribed in subsection (4) of this Section.

OVER POSTED WEIGHT VEHICLE - a vehicle or combination having a gross weight in excess of a posted weight limit.

PERSON - any natural person, partnership, association, firm, corporation or other legal entity.

POSTED BRIDGE - a bridge having a posted weight limit. However, if a bridge is part of a highway, street, road or portion thereof which is designated as having a posted weight limit, then such weight limit shall likewise apply to said bridge, and a separate posted weight limited shall not be required for such bridge.

POSTED HIGHWAY - a highway having a posted weight limit.

POSTED WIGHT LIMIT - a restricted weight limit posted on a highway under authority of §4902 of t he Vehicle Code (75 Pa. C.S. §4902).

POSTING AUTHORITY - the Township of South Huntingdon.

3. Local Traffic.

A. Over posted weight local traffic may exceed posted weight limits if the posting authority determines that an over posted weight vehicle or vehicles being driven to or from a particular destination or destinations will not likely cause damage to the highways.

B If the posting authority determines that one or more over posted weight vehicles which are also considered as local traffic vehicles are likely to damage the posted highway and/or posted bridge, the posting authority will so notify the registrants of the over posted weight vehicle or other owners of the destination or destinations or both of such over posted weight vehicles and shall also notify the State police. After two (2) business days following delivery of the notice or after five (5) days following mailing of the notice by regular mail, such over posted weight vehicles shall not exceed the posted weight limits, except in accordance with provisions of subsection (4), of this Section.

C. With the exception of emergency vehicles and school buses, which shall require no further documentation, the following types of documents shall constitute evidence that a vehicle is engaged in local traffic

- (1) A bill of lading, shipping order or similar document, which shows a destination on the posted highway or in a location which can be reached only via a posted highway.
- (2) Certification, in writing, by the operator, owner or proper official of any person or entity engaged in such trafficking, which describes and affirms the local traffic nature of the activity in which the vehicle is engaged and which is dated on or prior to the date of the over posted weight activity.

4. Permit. No over posted weight vehicle, except local traffic authorized under subsection (3) of this Section, shall be driven, operated, parked, located or situated on a posted highway unless the posting authority has issued a permit for the vehicle or vehicles in accordance with this Section. The application for any permit shall be made in writing to the Township Secretary on a form prescribed by the Township, and the person submitting such application shall specifically

5. describe the vehicle or vehicles and the load to be driven, operated or transported, together with the particular highway for which a permit to operate is requested and whether such permit is requested for a single trip or for more than a single trip. Each permit issued under this Section shall be issued for a period of sixty (60) days unless otherwise provided at the time of issuance of the permit, and said permit shall be valid only so long as the permittee complies with all of the terms and conditions of this Section and of the permit. In the event of a violation of the permit or terms and conditions of this Section, said permit shall be, by said action, revoked and said person shall not be permitted to continue any activities on a posted highway without first having obtained a new permit.

A. Type of Permits. Permits to be issued under this Section shall include the following:

- (1) A Type 1 permit may be issued for a single over posted weight vehicle on a single posted highway or portion thereof. Said permit must be carried in and shall be valid only when located in the over posted weigh vehicle.
- (2) A Type 2 permit may be issued for a number of over posted weight vehicles being driven, operated, parked, maintained or located on a particular posted highway or portion thereof if said vehicles all operate between a common destination. A Type 2 permit shall be issued only upon request of an applicant and after the posting authority determines that it is not feasible to issue a Type 1 permit for each vehicle involved in the prohibited activity.
- (3) A Type 3 permit shall be issued to permit an over posted weight vehicle to operate on more than one posted highway or portion thereof within the Township. Said Type 3 permit shall be carried in and shall only be valid if located within the over posted weight vehicle. A Type 3 permit shall be issued only if the posting authority determines the damage to the posted highway covered by the permit will be minimum because of the limited number of moves by the over posted weight vehicle and short term use of the highways anticipated by the permittee.

B. Excess Maintenance Agreement. The issuance of a permit to exceed a posted weight limit or limits shall be conditioned upon the prior execution of a written agreement between the Township and the permittee, whereby the permittee shall accept responsibility, both financial and otherwise, for excess maintenance of the posted highway or portion thereof to be used by the permittee.

C. Security. Except as provided in subsection (4) of this subsection (C), the permittee shall be required to provide security in favor of the posting authority to assure compliance with the excess maintenance agreement

(1) Amount of Security. Amount of security shall be as follows:

(a) Type I and Type 2 Permits. Type I and Type 2 shall include:

- (i) Six Thousand dollars per linear mile for unpaved highways to be maintained at a level consistent with the type of highway.
- (ii) Twelve Thousand Five Hundred dollars per linear mile for paved highways to be maintained at a level consistent with the type of highway.
- (iii) Fifty Thousand dollars per linear mile for any highway, which the posting authority allows to be maintained below a level consistent with the type of highway.

(b) Type 3 Permits. Ten Thousand dollars.

(c) The above bonding requirements shall be in the amount as determined from time to time by the Pennsylvania Department of Transportation and as the same is published in a revised schedule of bonding amounts issued by said Department. The Township hereby incorporates herein, by reference thereto, said schedules of amounts as from time to time are determined by the Pennsylvania Department of Transportation.

(2) Form of Security. The security may be in the form of a performance bond with surety by a company authorized to do business in the Commonwealth; or, at the option of the permittee, in the form of a certified or cashier's check, bank account, or irrevocable letter of credit in favor of the posting authority; or in some other form of security acceptable to the posting authority.

(3) Additional Security. When the amount of damage in excess of normal maintenance to a posted highway is estimated by the posting authority to constitute seventy-five (75%) percent or more of the amount of the security, the posting authority may require the highway to be maintained or reconstructed within thirty (30) days, unless the permittee agrees to provide such additional security as the posting authority shall determine.

(4) Self-Bonding. The posting authority may authorize self-bonding, if it determines, on the basis of the financial ability of the permittee, that it is unlikely that the posting authority will be unable to collect a judgment rendered against the permittee for failure to comply with the maintenance agreement.

(a) The posting authority shall require corporate officers, stockholders and their spouses to execute a self-bond if the posting authority, in its

sole judgment, determines the financial ability of the permittee corporation is insufficient in itself to justify self-bonding.

- (b) The posting authority shall require the permittee to execute liens on real or personal property or both as a condition for authorizing self-bonding.
- (c) The posting authority reserves the right to change, alter, increase or decrease the above self-bonding requirements as it deems in the best interests of the Township.
- (d) Multiple Permittees. Multiple permittees shall conform with the following:

(1) Agreement to Share Excess Maintenance Responsibility. If two or more persons wish to obtain Type 1 or Type 2 permits to operate over posted weight vehicles on the same posted highway or portion thereof, they may agree among themselves as to their relative responsibility for the cost of excess maintenance; and the posting authority will enter into agreements and accept security on the basis of the agreed shares.

(2) Determination by Posting Authority.

(3) If multiple applicants for Type 1 or Type 2 permits cannot agree on their relative responsibility, the posting authority will determine their relative shares, and will enter into agreements with and accept security from any person agreeing to such determination.

(4) Subsequent Permit Applicants. Subsections (1) and (2) of this subsection shall apply even if one or more persons have already entered into a Type 1 or Type 2 permit agreement and posted security when another person expresses the desire to obtain a Type 1 or Type 2 permit to operate over posted weight vehicles on the same posted highway.

E. Determination of Highway Condition. Determination of highway Condition shall consist of the following:

(1) Inspection. Representatives of the posting authority and of the permittees or permittee will make an onsite inspection of the posted highway immediately before issuance of each permit in order to determine its condition.

(2) Re-inspection. The posted highway will be re-inspected:

(a) Upon issuance of any new permit.

- (b) From time to time as the posting authority determines repairs may be required.
- (c) Upon termination of any permit, in order to determine the amount of damage for which the permittee or permittees are responsible.

(3) Type 3 Permits. Before and after using a Type 3 permit on any posted highway specified in the permit, the representatives of the permittee and the posting authority will make an onsite inspection to determine the relative condition of the highway before and after the use and to assess any excess maintenance caused by the permittee.

(4) Notification of Inspections and Re-inspections. All Type 1 and Type 2 permittees on a posted highway or portion thereof will be notified of all inspections and re-inspections on the highway or portion and may participate in the inspections and re-inspections.

(5) Inspection Costs. The inspection costs of the posting authority shall be paid by the permittee or permittees. The estimated costs of such inspections shall be paid in advance at the time of issuance of a permit.

(6) Administrative Fee. The posting authority will charge an administrative fee, in an amount to be established by resolution of the Board of Supervisors of the Township of South Huntingdon, for issuance of each permit, in addition to the inspection and security set forth above.

(7) Penalties. Any person operating a vehicle or combination upon a highway or bridge with a gross weight in excess of the posted weight shall, upon conviction thereof, be sentenced to pay a fine of One Hundred Fifty (\$150.00) Dollars plus One Hundred Fifty (\$150.00) Dollars for each Five Hundred (500) pounds, or part thereof, in excess of Three Thousand (3,000) pounds over the maximum allowable weight, plus costs; and, in default of payment of said fine and costs, to imprisonment for a term not to exceed thirty (30) days.

(8) Liability. Any person operating any vehicle, combination, object or contrivance upon any highway of the Township of South Huntingdon in excess of the maximum weight provided by this Section or by law shall be liable for all the damage and injury which said vehicle, combination, object or contrivance causes to said highway as a result of the driving, operation, location, parking or maintenance of such vehicle, combination, object or contrivance upon said highway, even though the same may be authorized by a permit issued under this Ordinance.

SECTION II. RESTRICTIONS ON SIZE OF VEHICLES ON CERTAIN STREETS AND BRIDGES.

I. On the following bridges and streets or parts of streets, by authority granted by Section 4902(a) of the Vehicle Code, it shall be unlawful for any person to drive any vehicle or combination in violation of the size restrictions prescribed below for that bridge or street or part of street:

<u>Street or Bridge:</u>	<u>Between</u>	<u>Restrictions</u>
	(Reserved)	

2. Any person who violates any provision of this Section shall be prosecuted under Section 4902(a) and Section 4902(g-1) of the Vehicle Code, and, upon conviction, shall be sentenced to pay a fine of Seventy-Five dollars and costs.

SECTION III. RESTRICTIONS AS TO WEIGHT AND SIZE OF VEHICLE ON CERTAIN STREETS AND BRIDGES

1. By reason of hazardous traffic conditions and other safety factors, by authority granted by Section 4092(b) of the Vehicle Code, it shall be unlawful for any person to drive any vehicle or combination in violation of the restriction prescribed below for that bridge or street or part of street:

<u>Street or Bridge</u>	<u>Between</u>	<u>Restrictions</u>
	(Reserved)	

2. Any person who violates any provision of this Section shall be prosecuted under Section 4902(a) and Section 4902(g-1) of the Vehicle Code and, upon conviction, shall be sentenced to pay a fine of not less than Twenty-five dollars and costs.

SECTION IV: TRUCK TRAFFIC RESTRICTED ON CERTAIN STREETS.

1. It shall be unlawful for any person to drive a vehicle other than a passenger car on any of the following streets or parts of streets:

<u>Between</u>
(Reserved)

Provided: Nothing in this Ordinance shall prohibit any person from driving an emergency vehicle on any of those streets or parts of streets, or from driving on any of those streets or parts of streets a truck or other commercial vehicle making local deliveries to or pickups from premises located along that street or part of a street.

2. Any person who violates any provision of this Section shall, upon - conviction, be sentenced to pay a fine of Twenty-Five (\$35.00) Dollars and costs.

SECTION V: The provisions of this Ordinance, so far as they are the same as those of ordinances and/or parts of Ordinances in force immediately prior to the enactment of this Ordinance, are intended as a continuation of such ordinances and not as new enactments. The provisions of this Ordinance shall not affect any act done or liability incurred, nor shall they affect any suit or prosecution instituted, pending or concluded, or to be instituted to enforce any right, rule, regulation, provision, penalty or to punish any offense under the authority of any such prior ordinances

SECTION VI: Severability. If any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionally, illegally or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses or sections or part of this Ordinance. It is hereby declared as the intent of the Board of Supervisors of the Township of South Huntingdon that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence clause, section or part thereof not been included herein

SECTION VII: General Repealer. Any Ordinance or parts of Ordinances in conflict with this Ordinance are hereby specifically repealed.

SECTION VIII: This Ordinance shall take effect immediately.

ENACTED THIS 16th DAY OF March, 2017.

ATTEST: (SEAL)

James Huber
Secretary

BOARD OF SUPERVISORS OF THE
TOWNSHIP OF SOUTH HUNTINGDON

By: Eddie Troup
Eddie Troup, Chairman

By: Richard Gates
Richard Gates, Vice Chairman

By: William Sherbondy
William Sherbondy, Supervisor