

ORDINANCE NO. 2-87

AND ORDINANCE TO REGULATE HAULING IN EXCESS OF POSTED WEIGHT LIMIT, AND ENTITLED "ROAD WEIGHT LIMITATION ORDINANCE", WHICH REQUIRES THAT A PERMIT BE OBTAINED BEFORE HAULING IN EXCESS OF THE POSTED WEIGHT LIMIT UNLESS SAID HAULING IS FOR LOCAL TRAFFIC AND IS NOT DETERMINED LIKELY TO DAMAGE THE HIGHWAY, AND PRESCRIBING PENALTIES FOR VIOLATION.

WHEREAS, this Ordinance regulates the use of highways posted with weight restrictions authorized under Section 4902 of the Vehicle Code (75 Pa.C.S. Section 4902) by vehicles and combinations having a gross weight in excess of the posted weight limit, and applies to Kiskiminetas Township, Armstrong County, Pennsylvania; and,

WHEREAS, this ordinance is passed pursuant to the provisions of the Act of Assembly of June 17, 1976, P.L. 162, No. 81, Section 1, as amended by the Act of Assembly of June 18, 1980, P.L. 229, No. 68, Section 5; and,

WHEREAS, it is the desire of the Board of Supervisors of the Township to regulate hauling in excess of the posted weight limit.

BE IT ORDAINED AND ENACTED by the Board of Supervisors of Kiskiminetas Township, Armstrong County, Pennsylvania, and it is hereby ORDAINED AND ENACTED by the authority of the same as follows:

SECTION 1. Scope

The provisions of this Ordinance apply to bridges located on posted highways but do not apply to bridges posted independently of highways.

SECTION 2. Definitions

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

Department - Pennsylvania Department of Transportation

Excess maintenance - Maintaining or restoration or both (but not betterment) of a posted highway in excess of normal maintenance, caused by use of over-posted-weight vehicles.

Local traffic - The following shall be regarded as local traffic for the purpose of Section 3 of this Ordinance (relating to local traffic):

1. Emergency vehicles;
2. School buses;
3. 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; and,
4. Vehicles and combinations going to or coming from a residence, commercial establishment, or farm located on a posted highway or which can be reached only via a posted highway.

Normal maintenance - The usual and typical activities necessary to maintain the roadway, shoulders, and drainage facilities in the state of repair existing at the date of the inspection prescribed in Section 4(f) (1) of this ordinance (relating to use under permit).

Over-posted-weight vehicle - A vehicle or combination having a gross weight in excess of a posted weight limit.

Posted highway - A highway having a posted weight limit.

Posted weight limit - A restricted weight limit posted on a highway under authority of Section 4902 of the Vehicle Code (75 Pa. C.S. Section 4902) and under authority of this ordinance.

Township - Kiskiminetas Township, Armstrong County, Pennsylvania.

### SECTION 3. Local traffic.

(a) General rule. Over-posted-weight local traffic may exceed posted weight limits unless the Township determines that an over-posted-weight vehicle or vehicles being driven to or from a particular destination or destinations are likely to damage the highway.

(b) Vehicles determined likely to damage highway. If the Township determines that one or more over-posted-weight vehicles are likely to damage the highway, the Township will so notify the registrants of the over-posted-weight vehicles or owners of the destination or destinations, or both, and will

also notify State and Township police. After two (2) business days following delivery of the notice, or after five (5) days following mailing of the notice, such over-posted-weight vehicles shall not exceed the posted weight limits except in accordance with the provisions of Section 4 of this Ordinance (relating to use under permit).

(c) Proof of local traffic status. The following types of documents will constitute evidence that a vehicle is local traffic:

- (1) A bill of lading, shipping order, or similar document which shows a destination on the posted highway.
- (2) Certification by the permittee or an official of a permittee company on the company letterhead describing the local traffic nature of the activity which the vehicle is engaged in.

#### SECTION 4. Use under permit.

(a) General rule. No over-posted weight vehicle, (except local traffic authorized under Section 3(a) of this Ordinance relating to local traffic), shall be driven on a posted highway with a gross weight in excess of the posted-weight limit unless the Township has issued a permit for the vehicle or vehicles in accordance with this Section.

(b) Type of permits. Types of permits shall include the following:

- (1) A Type 1 permit authorizes use of a particular posted highway or portion thereof by an over-posted-weight vehicle. It is valid only when carried in the over-posted-weight vehicle.

(2) A Type 2 permit authorizes use of a particular posted highway or portion thereof by any number of over-posted-weight vehicles being driven to or from a common destination.

i. A Type 2 permit will be issued only upon request of the permittee and if the Township determines that it is not feasible to issue a Type 1 permit for each vehicle, for example, most over-posted-weight vehicles hauling to and from the place of business of the permittee belong to or are hauling under contract with customers or suppliers of the permittee.

(3) A Type 3 permit authorizes use of a number of specified posted highways or portions thereof by an over-posted-weight vehicle.

i. A Type 3 permit is valid only when carried in the over-posted-weight vehicle.

ii. A Type 3 permit is issued only if the Township determines that damage to the posted highway covered by the permit will be minimal because of the limited number of moves by over-posted-weight vehicles and short term use of the highways anticipated by the permittee.

c. Excess maintenance agreement. Issuance of a permit to exceed a posted weight limit or limits will be conditioned on the agreement by the permittee to accept financial responsibility for excess maintenance of the posted highway or portion thereof to be used by the permittee. The agreement may provide for the work to be performed by the Township or its contractor or by the permittee or its contractor, except that in the case of a self-bonded agreement, the township will require that all work be performed by the permittee or its contractor.

d. Security. Except as provided in Paragraph (4) of this subsection, the permittee shall be required to provide security in favor of the Township to assure compliance with the maintenance-reconstruction agreement.

1. Amount of security. Amount of security shall be as follows:
  - i. Type 1 and 2 permits. Type 1 and 2 permits shall include:
    - A. \$6,000.00 per linear mile for unpaved highways to be maintained at a level consistent with the type of highway.
    - B. \$12,500.00 per linear mile for paved highways to be maintained at a level consistent with the type of highway.
    - C. \$50,000.00 per linear mile for any highway which the Township allows to be maintained below a level consistent with the type of highway.
  - ii. Type 3 permits. Amount to be determined by totalling the amounts which would be due for each type and length of highway in accordance with Section (i) above.
  - iii. Schedule of bonding amounts. The Township will from time to time, but not more often than annually, publish a revised schedule of bonding amounts based on increased or decreased maintenance costs. Said revised schedule of bonding amounts shall comply with regulations promulgated 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 Township; or in some other form of security acceptable to the township.
- (3) Additional security. When the amount of damage in excess of normal maintenance to a posted highway is estimated by the Township to constitute 75% or more of the amount of the security, the Township may require the highway to be maintained or reconstructed within 30 days unless the permittee agrees to provide such additional security as the township shall determine.
- (4) Self-bonding. The Township may authorize self-bonding if it determines, on the basis of the financial ability of the permittee, that it is unlikely that the Township will be unable to collect a judgment rendered against the permittee for failure to comply with the maintenance agreement.

- i. The Township may require corporate officers and stockholders and their spouses to execute a self-bond, if the financial ability of a corporation is insufficient in itself to justify self-bonding.
  - ii. The Township may require the permittee to execute liens on real or personal property, or both, as a condition for authorizing self-bonding.
  - iii. In order to be considered for self-bonding by the Township, a permittee shall file contractor's financial statement, Department Form CS 4300, Part 1. The financial statement shall be updated annually, and within 30 days of any Township request for an update.
- e. Multiple permittees. Multiple permittees shall confirm 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 township will enter into agreements and accept security on the basis of the agreed shares.
2. Determination by Township. If multiple applicants for Type 1 or Type 2 permits cannot agree on their relative responsibility, the Township will determine their relative shares, and will enter into agreements with and accept security from any person agreeing to such a determination.
3. Subsequent permit applicants. Paragraphs 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.

f. Determination of highway condition. Determination of highway condition shall consist of the following:

1. Inspection. Representatives of the township and of the permittee or permittees will make an onsite inspection of the posted highway immediately before issuance of each permit in order to determine its condition.
  2. Reinspection. The posted highway will be reinspected:
    - i. upon issuance of any new permit;
    - ii. from time to time as the Township determines repairs may be required; and,
    - iii. 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 Township 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 reinspections. All Type 1 and Type 2 permittees on a posted highway or portion thereof will be notified of all inspections and reinspections on the highway or portion, and may participate in the inspections and reinspections.
  5. Inspection and reinspection costs. The inspection and reinspection costs of the Township shall be paid by the permittee or permittees. Said inspection and reinspection costs to be deducted from the security provided by the permittee or permittees pursuant to this ordinance. Reinspection costs shall include any costs or fees reasonably connected with the reinspection of a posted highway, including the township solicitors fees and the township engineer's fees.
- g. Administrative fee. The Township will charge a \$100.00 administrative fee for issuance of each permit.

#### SECTION 5. Penalties

Any person who shall violate the provisions of this ordinance and haul in excess of the posted weight limit shall, upon summary conviction thereof, be



sentenced to pay a fine of \$150.00 plus \$150.00 for each 500 pounds, or part thereof, in excess of 3000 pounds over the maximum allowable weight.

SECTION 6

Any Ordinance, or part of Ordinances conflicting with the provisions of this Ordinance, be and the same is hereby repealed insofar as the same affects this Ordinance.

ORDAINED AND ENACTED by the Supervisors of Kiskiminetas Township, Armstrong County, PA, on the 10 day of June, 1987.

TOWNSHIP SEAL

ATTEST:

Barbara Palmadge  
Secretary

Jack Wilmat

Emerson D. Townsend

William W. Miller

William W. Jackson

Ronald E. Held