

ORDINANCE NO: 395

THE BOROUGH OF HARMONY

BUTLER COUNTY, PENNSYLVANIA

AN ORDINANCE OF THE BOROUGH OF HARMONY, BUTLER COUNTY, PENNSYLVANIA TO ESTABLISH PROCEDURES RELATING TO OVERWEIGHT VEHICLES IN THE BOROUGH

WHEREAS, in order to promote and protect the health, safety and welfare of the residents of the Borough of Harmony, Butler County, Pennsylvania, the Borough Council has determined it necessary to amend the Code of Ordinances.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE COUNCIL OF THE BOROUGH OF HARMONY, BUTLER COUNTY, PENNSYLVANIA, AND IT IS HEREBY ORDAINED AND ENACTED BY AND WITH THE AUTHORITY OF THE SAME AS FOLLOWS:

SECTION ONE:

The Borough of Harmony's Code of Ordinances Chapter 15, Part III, shall be amended to add the following provisions:

302a. Overweight Vehicle Permit

1. **Prohibition.** No vehicle may exceed the vehicle weight limits established by §15-302 of this Part without the issuance of an overweight vehicle permit pursuant to the requirements of this §15-302a.
2. **Application for Overweight Vehicle Permit.** Any person wishing to operate any vehicle or combination having a gross weight in excess of the maximum weights prescribed by §15-302 shall file an application for overweight vehicle permit with the Borough in a form and including such additional information or materials as may be required by the Borough Streets Department.
3. **Types of Overweight Vehicle Permits.** Overweight vehicle permits shall be classified as follow

MOTOR VEHICLES AND TRAFFIC

- A. A Type 1 Permit authorizes use of a particular posted highway or portion thereof by an over-posted-weight vehicle. It is only valid when carried in the over-posted vehicle.
 - B. 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. Copies of a Type 2 Permit may be used.
 - 1) A Type 2 Permit will be issued only if the Borough Streets Department 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 belonging to or are hauling under contract with customers or suppliers of the permittee.
4. **Display of Permit.** Every Type 1 Permit shall be carried in the vehicle and shall be open to inspection by the Borough Streets Department, any Borough police officer or other authorized agent of the Borough, Pennsylvania State Police officer, Department of Transportation ("PennDOT") enforcement official, and any person involved in an accident involving a permitted vehicle. A Type 1 Permit is valid only when carried in the over-posted-weight vehicle.
5. **Issuing Authority.** The Borough Streets Department, or other representative of the Borough as may be designated by Borough Council from time to time, shall be responsible for issuing overweight vehicle permits pursuant to §15-302a.
6. **Revocation.**
- A. An overweight vehicle permit may be revoked for cause and shall be subject to summary confiscation or invalidation. Sufficient cause includes, but is not limited to, failure to obey the restrictions and conditions of the permit; failure to post the required financial security set forth in 302b; failure to comply with the terms of the road use and maintenance agreement pursuant to 302c; fraud in the procurement of a permit; operating a vehicle without a valid driver's license; or for any other violation of the Borough's ordinances, rules and regulations.
 - B. Any Borough police officer, Pennsylvania State Police Officer, or PennDOT enforcement official, is authorized to revoke and confiscate or invalidate an overweight vehicle permit. Any person aggrieved pursuant to this Section may

appeal the revocation of the permit to Borough Council, provided that a written application for an appeal is filed within 10 days after receipt of revocation.

C. At said hearing, the Borough police officer, Pennsylvania State Police officer, or PennDOT enforcement official who revoked the permit and the aggrieved person shall present evidence bearing on the hearing on the propriety of the revocation. At the conclusion of the hearing and based upon the evidence presented to it, the Borough shall:

- 1) Affirm the revocation until the offending reason for the revocation of the permit has been brought into compliance.
- 2) Reverse, cancel or suspend the revocation order upon a finding that the person and/or vehicle is in compliance with its permit, and/or vehicle is in compliance with its permit, and/or that there is no sufficient cause otherwise.

7. **Authorized Travel Periods.** A vehicle may be driven, hauled or towed 24 hours a day, 7 days a week, if the vehicle is operated at prevailing speeds. Movement is not authorized during any of the following:

- A. A holiday period specified in the PennDOT regulations or in the permit.
- B. Inclement weather, as defined in PennDOT regulations.
- C. During times in which the Borough has made a determination that, due to the health, safety and welfare of the Borough, traffic may not proceed on a particular highway.

8. **Application Fees.** All applicants for an overweight vehicle permit shall pay an application fee as the same shall be established from time to time by resolution of Borough Council.

302b. Financial Security.

1. **Required Security.** As a prerequisite to the issuance of a Type 1 Permit or Type 2 Permit, the applicant shall provide financial security in an amount and type required by this Part, the Pennsylvania Vehicle Code, 75 Pa. C.S.A. §101 *et seq.*, and PennDOT regulations.

2. **Amount of Security.** The permittee shall be required to provide financial security in favor of the Borough to assure compliance with the road use and maintenance agreement require by 302c of this Part.

A. **Amount of Security.** The amount of financial security for Type 1 Permit or Type 2 Permit shall be as follows:

- 1) \$6,000 per linear mile for unpaved highways to be maintained at a level consistent with the type of highway.
- 2) \$12,500 per linear mile for paved highways to be maintained at a level consistent with the type of highway.
- 3) \$50,000 per linear mile for any highway which the Borough allows to be maintained below a level consistent with the type of highway.

3. **Additional Security.** When the amount of damage in excess of normal maintenance to a posted highway is estimated by the Borough to constitute 75% or more of the amount of the financial security, the Borough may require the highway to be maintained and reconstructed within 30 days unless the permittee agrees to provide such additional financial security as the Borough shall determine.

4. **Form of Financial Security.** Financial 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 cashiers' check, bank account, or irrevocable letter of credit in favor of the Borough; or in some other form of security acceptable to the Borough Solicitor.

A. **Surety Bond.** The following requirements shall apply to any surety bond provided for an overweight vehicle permit:

- 1) The bond shall be obtained from a surety incorporated in the United States and authorized to do business in the Commonwealth of Pennsylvania.
- 2) The surety shall have a current A.M. Best's rating of no less than "A" and an underwriting capacity as stated in Best's equal to or greater than the amount of the bond written by that surety, or in the alternative, be listed on the current United States Department of the Treasury's Annual List of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as

published in the Federal Registrar and have an underwriting capacity in said list equal to or greater than the amount of the bond written by that surety.

B. Letter of Credit. The following requirements shall apply to any letter of credit provided for an overweight vehicle permit:

- 1) The letter of credit shall be issued by a Federal or Commonwealth chartered lending institution having an office located within 30 miles of the boundaries of Harmony Borough at which draft on site can be presented during regular business hours.
- 2) The letter of credit shall have an expiration date of no earlier than 90 days after the expiration of the term of the road use and maintenance agreement required by 302c of this Part. The Borough, at its discretion, may accept a letter of credit having an earlier expiration date, provided the letter of credit states that it will automatically be renewed for a period of at least 1 year from any present or future expiration date unless the Borough receives notice in writing from the issuer at least 60 days prior to the expiration date that the issuer elects to not further extend the letter of credit, and that if such notice is given the Borough may draw on the letter of credit up to the amount of its unused balance on or before the relevant expiration date.
- 3) Multiple draws on the letter of credit shall be permitted.
- 4) Draws shall be permitted at sight at the issuer's office in a location as set forth in subsection (2)(a) above, or by overnight mail.

C. Self Bonding. The Borough may authorize self-bonding if the Borough Solicitor determines, on the basis of the financial ability of the permittee, that it is unlikely that the Borough will be unable to collect a judgment rendered against the permittee for failure to comply with the road use and maintenance agreement.

- 1) The Borough 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.
- 2) The Borough may require the permittee to execute liens on real or personal property, or both, as a condition for authorizing self-bonding.

- 3) In order to be consistent for self-bonding by the Borough, a permittee shall file with PennDOT a Contractor's Financial Statement, Department Form CS4300, Part 1. The financial statement shall be updated annually, and within 30 days of any Borough request for an update.

5. **Term of Financial Security.** Unless otherwise provided by this Part or agreed to by the Borough, the financial security required under this Part shall be for a minimum term set forth in the road use and maintenance agreement required by 302c

302c Road use and Maintenance Agreement

1. **Execution of Agreement.** The issuance of a Type 1 Permit or a Type 2 Permit shall be conditioned upon the permittee's execution of a road use and maintenance agreement in a form approved by resolution of the Borough Council and acceptable to the Borough Solicitor.
2. **Permittee's Obligation.** Pursuant to the road use and maintenance agreement, the permittee must pay for all excessive road maintenance repair costs which include, but are not limited to, costs incurred for extensive patching and base repair, reshaping shoulders that have heaved because of heavy load hauling, and repairing crushed pipes.

303 Designated Truck Route

The requirements set forth in Section 302 shall not apply to the following Established Truck Route within Harmony Borough:

Beginning at the intersection of Route 68 and Main Street, and proceeding to the intersection of Main Street and German Street; thence proceeding East on German Street to the Borough boundary also Spring Street from German Street to Mercer Street and then either East or West on Mercer Street to the west driveway of the property now or formerly known as the Moose Lodge. At the West end of Mercer Street the truck route proceeds South on Water Street. Gallyhill Street from the West side of Main Street West to the B & O Railroad. Old Mercer Road from the Borough boundary to the intersection of Evergreen Mill Road. All of Evergreen Mill Road within the Borough boundaries as shown on the official zoning map #223 of the Borough of Harmony.

SECTION TWO: CONFLICT

Any Ordinance, Resolution or part thereof in conflict herewith, is hereby repealed to the extent of said conflict.

SECTION THREE: AUTHORIZATION

The Borough Council of the Borough of Harmony is hereby authorized and directed to execute any and all documents necessary to effectuate the purposes of this Ordinance.

ORDAINED AND ENACTED BY THE COUNCIL OF THE BOROUGH OF HARMONY THIS
3rd DAY OF April, 2012


ATTEST

BOROUGH OF HARMONY


Sharon McCormick
Secretary

By: 
Jack Shanks
Council President

EXAMINED AND APPROVED BY ME THIS 3rd DAY OF April, 2012


Cathy Rapé
Mayor