

ORDINANCE NO. 2016-1

AN ORDINANCE ESTABLISHING WEIGHT LIMITS FOR CERTAIN TOWNSHIP ROADS AND PROHIBITING THE USE OF SUCH ROADS BY OVERWEIGHT VEHICLES, AND PROVIDING PENALTIES FOR VIOLATIONS

WHEREAS, the Board of Supervisors has determined that certain Berwick Township roads may be seriously damaged or destroyed unless vehicles of excessive weight are prohibited; and

WHEREAS, the Township has authority under Sections 4902 and 6109(a)(7) of the Pennsylvania Vehicle Code to impose weight restrictions and to prohibit use of Township roads by overweight vehicles under these circumstances.

NOW THEREFORE, BE IT ORDAINED AND ENACTED by the Board of Supervisors of Berwick Township and it is hereby enacted and ordained by virtue authority of same as follows:

Section 1. *Title.* The title of this Ordinance is the Berwick Township Weight Limit Ordinance.

Section 2. *Authority.* This Ordinance is enacted and shall be administered and enforced in accordance with the authority set forth in 75 Pa. C.S.A. Section 4902 and Chapters 63 and 65 of the Pennsylvania Vehicle Code, other applicable PennDOT regulations and other applicable laws and regulations, as amended from time to time.

Section 3. *Definitions.* Definitions set forth in Section 102 of the Pennsylvania Vehicle Code, 75 Pa. C.S. §102, and the PennDOT regulations found at 67 Pa. Code §189.1, et seq., as amended from time to time, shall apply in interpreting the provisions of this Ordinance. Other definitions include the following:

Local Traffic - Shall mean and include emergency vehicles; school buses; vehicles of governmental agencies and utilities and their contractors engaged in maintenance or construction on a posted highway or at a location which can only be reached by the posted highway; and vehicles going to or coming from a residence, commercial establishment, or farm located on a posted highway. This definition shall incorporate definitions set forth in PennDOT regulations as amended from time to time.

Person - Any individual, partnership, corporation, association, institution, cooperative enterprise, governmental entity or agency, or any other legal entity which is recognized by law. In any provision of this Ordinance prescribing a fine or penalty, the term Person shall include the officers and directors of any corporation or other legal entity having officers and directors.

PennDOT - Pennsylvania Department of Transportation and its successors.

Township — Berwick Township, its Board of Supervisors and its duly appointed representatives.

Section 4. *Weight Limits for Township Roads Established.* Based on the results of engineering studies, the weight limits applying to the following streets, avenues, and alleys within Berwick Township is 10 tons:

- a. Race Track Road (T-505)
- b. Kinneman Road (T-506)
- c. Hershey Heights Road (T-499)
- d. Lobel' Road (T-507)
- e. Bair Road (T-504).

Section 5. *Overweight Vehicles Prohibited on Designated Township Roads.* No vehicle or combination, including but not limited to, any truck, tractor, trailer, semi-trailer, commercial vehicle, construction equipment, or other vehicle or equipment, with a gross weight in excess of the weight limit established by this Ordinance, shall be operated on the Township roads identified in Section 4., above, unless exempt or operating under a permit as provided in this Ordinance.

Section 6. *Exemptions.* The following vehicles shall be exempt from the weight restrictions imposed by this Ordinance: emergency vehicles, school buses, and local traffic as defined in the applicable PennDOT regulations. If the Township determines that local traffic being driven to or from a particular destination is likely to damage the road, then upon notice required by law, vehicles with a gross weight in excess of the weight limit using the posted road to or from that destination shall not be exempt. Vehicles used in the oil and gas drilling and extraction process, and logging, are not and shall not be exempt from the weight limit restrictions as local traffic.

Section 7. *Permits and Bonds Required for Use by Overweight Vehicles.* Any person desiring to operate or to move any truck, tractor, trailer, semi-trailer, commercial vehicle, construction equipment or other vehicle or equipment of any nature whatsoever in excess of the weight limits provided herein, over the Township roads restricted as to weight as herein provided, with the specific exemptions set forth above, shall apply to the Township for a permit for the movement of such vehicle in the manner established by this Ordinance. If it is determined by the Board of Supervisors that such movement requested by the applicant for the permit can be made without causing excessive damage to the road, or the destruction of the road or a traffic hazard to other users of the road and the public, then the Board of Supervisors may grant such permits subject to and conditional upon the execution of an Excess Maintenance Agreement in the form approved by the Board of Supervisors, the provision of security in the nature of a surety bond or other security approved by the Township for the protection of the Township and the road, and the performance of all other requirements imposed by the applicable Pennsylvania

Department of Transportation regulations relating to hauling in excess of posted weight limits, as amended, and such other reasonable conditions as may be appropriate under the circumstances.

Section 8. *Requirements for Permits.*

a. An application for a permit shall be submitted on forms to be provided by the Township, to the Township Secretary, together with such fee as shall be established by Resolution of the Board of Supervisors. The application shall include a description of all motor vehicles and equipment to be used in the transportation of materials and materials to be transported. Such list shall include, among other things, each vehicle's manufacturer, state of registration, registration number, plate number, weight classification, model, color and titled owner.

b. Upon determination that a permit should be granted, the Board of Supervisors or their designated representative shall inspect the subject road(s), prepare an inspection report, and obtain the required security and properly executed Excess Maintenance Agreement before issuing the permit.

c. Before the permit may be issued, the Township shall be provided with security in the form of a bond or other security which complies with applicable regulations.

d. Before the permit may be issued, the persons receiving the permit shall execute and deliver to the Township an Excess Maintenance Agreement, substantially in the form of the Agreement adopted from time to time by the Board of Supervisors and which is reasonably required to meet applicable state and local regulations.

e. The Board of Supervisors or their designated representative may impose conditions or restrictions on the permit as may be reasonable and necessary for the protection of the road and the public such as, but not limited to, time and manner of use.

f. The Township shall maintain all records relating to any permit granted for so long as the permit remains in effect and for a reasonable time thereafter.

Section 9. *Enforcement.* Enforcement of this Ordinance shall be by action brought before a District Magistrate in the manner provided for the enforcement of summary offenses under the applicable sections of the Pennsylvania Vehicle Code and of the Pennsylvania Rules of Criminal Procedure and in any other manner permitted by law.

Section 10. *Penalty for Violation.* Any person operating or responsible for operation of a vehicle or combination upon a road in violation of the prohibitions and restrictions set forth in this Ordinance, or in violation of the terms of a permit issued in accordance with this Ordinance, shall be guilty of a summary offense, and shall, upon conviction thereof, be sentenced to pay a

fine of Seventy-Five Dollars (\$75.00), plus One Hundred Fifty Dollars (\$150.00) for each five hundred (500) pounds, or part thereof, in excess of three thousand (3,000) pounds over the maximum allowable weight. In default of payment of the fine, such person shall be sentenced up to ten (10) days in prison.

Section 11. Severability. It is hereby declared to be the intent of this Ordinance that the provisions thereof are severable, and in the event that any section of this Ordinance or part thereof should be declared unlawful or unconstitutional, the balance of this Ordinance shall continue in full force and effect as though said unlawful or unconstitutional provision had been omitted at the original passage of the Ordinance.

Section 12. Repeal. All ordinances or parts of ordinances inconsistent herewith shall be and the same are hereby repealed.

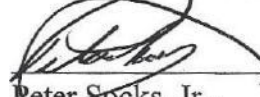
Section 13. Effective Date. This Ordinance shall become effective five (5) days after enactment.

ENACTED, AND ORDAINED this 9th day of May, 2016.

ATTEST:


Secretary

BERWICK TOWNSHIP


Peter Socks, Jr.,
Chairman