

ORDINANCE NUMBER 63

MUDDY CREEK TOWNSHIP, BUTLER COUNTY, PENNSYLVANIA

AN ORDINANCE ESTABLISHING WEIGHT LIMITS ON CERTAIN TOWNSHIP ROADS; REQUIRING WEIGHT LIMITS TO BE POSTED; IMPOSING RESTRICTIONS ON OVER-POSTED-WEIGHT MOTOR VEHICLES OPERATING UPON POSTED TOWNSHIP ROADS; EXEMPTING CERTAIN LOCAL TRAFFIC; PROVIDING FOR THE ADMINISTRATION AND ENFORCEMENT OF OVER-POSTED-WEIGHT VEHICLE PERMITS; AND IMPOSING PENALTIES FOR VIOLATIONS

BE IT ORDAINED and RESOLVED, and it is hereby ordained and resolved, by the Board of Supervisors of the Township of Muddy Creek, County of Butler, and Commonwealth of Pennsylvania, as follows:

**SECTION 1: SHORT TITLE.** This Ordinance shall be known as the "Muddy Creek Township Over-Posted-Weight Vehicle Ordinance."

**SECTION 2: DEFINITIONS.** The following words when used in this Ordinance shall have the following meanings, unless the context clearly indicates otherwise:

*EMERGENCY VEHICLE* - A fire department vehicle, police vehicle, ambulance, blood delivery vehicle, Armed Forces emergency vehicle, or other vehicle used for answering emergency calls, or other vehicle designated by the State Police under Section 6106 of the Vehicle Code (relating to designation of emergency vehicles by Pennsylvania State Police), 75 Pa.C.S. § 6106.

*LOCAL TRAFFIC* - The following over-posted-weight vehicles shall be regarded as 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 road or in a location which can be reached only via a posted road; and
- (4) Vehicles and combinations going to or coming from a residence, commercial establishment, or farm located on a posted road or which can be reached only via a posted road, unless the Board of Supervisors has determined that one or more classification of such over-posted-weight vehicle is causing or likely to damage the road.

*MOTOR VEHICLE* - Any vehicle or combination as defined and/or governed by the Vehicle Code, 75 Pa.C.S.A. §101 *et seq.*, as amended.

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

*POSTED TOWNSHIP ROAD* - A township road having a posted weight limit.

*POSTED WEIGHT LIMIT* - A restricted weight limit posted on a road under authority of Section 4902 of the Vehicle Code, 75 Pa.C.S. § 4902.

*SCHOOL BUS* - A motor vehicle designated for carrying more than ten (10) passengers, exclusive of the driver, and used for the transportation of school children.

*TOWNSHIP* - Muddy Creek Township, Butler County, Pennsylvania.

**SECTION 3: ESTABLISHMENT OF WEIGHT LIMITS.** Based upon engineering studies conducted by the Township Engineer, and in accordance with the relevant provisions of the Second Class Township Code, the Board of Supervisors has determined that the following roads or parts of roads may be damaged or destroyed unless the gross weight of motor vehicles using the roads is restricted as follows:

<u>Route Number/ Road Name</u>	<u>Location or Limits</u>	<u>Maximum Gross Weight Limit</u>
T314/Levis Road	Entire Length	10 Ton
T337/Bauder School Road	Entire Length	10 Ton
T339/Bauder Mill Road	Entire Length	10 Ton
T346/Cheeseman Road	Entire Length	10 Ton
T359/Kirk Road	Entire Length	10 Ton
T365/Johnson Road	Entire Length	10 Ton
T370/Stanford Road	Entire Length	10 Ton

**[THIS SPACE INTENTIONALLY LEFT BLANK]**

**SECTION 4: WEIGHT LIMITS TO BE POSTED.** The Township shall erect or cause to be erected and maintained restriction signs designating weight restrictions at each end of the restricted road. In the case of a restriction on a road which does not begin or end at an intersection with an unrestricted highway, the Township shall also place an advance informational sign at the intersection nearest each end of the restricted portion of the road which would allow drivers to avoid the restricted portion of road.

**SECTION 5: PROHIBITION.** Pursuant to Section 4902(a) of the Vehicle Code, 75 Pa.C.S. §4902(a), it shall be unlawful for any person or persons to operate a motor vehicle or combination on a posted Township road or part of a posted Township road, as the case may be, with a gross weight in excess of the posted weight limit, unless an over-posted-weight vehicle permit has been issued by the Township.

**SECTION 6: EXEMPTION FOR LOCAL TRAFFIC.**

A. Local traffic, as defined herein, may exceed posted weight limits.

B. However, if the Board of Supervisors determines that one or more classification of local traffic is causing or likely to damage the roads, the Board of Supervisors will so notify the registrants of the vehicles or owners of the destination or destinations, or both, and will also notify all law enforcement agencies with jurisdiction. 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 unless an over-posted-weight vehicle permit has been issued by the Township.

**SECTION 7: PERMIT REQUIREMENTS.**

A. To obtain an over-posted-weight vehicle permit, the registrant of the vehicle shall file a permit application with the Township on a form provided by the Township and provide such additional information, materials, agreements, fees, and security as may be required by the Township.

B. Over-posted-weight vehicle permits shall be classified as follows:

(1) Type 1 Permit: Authorizes the use of a particular posted road or portion thereof by an over-posted-weight vehicle or combination. Type 1 Permits are valid only when carried in the over-posted weight vehicle.

(2) Type 2 Permit: Authorizes the use of a particular posted road or portion thereof by any number of over-posted-weight vehicles or combinations being driven to or from a common destination. Type 2 Permits will be issued only upon the request of the applicant 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 applicant belong to or are hauling under contract with customers or suppliers of the applicant).

C. Road Use and Maintenance Agreement. Prior to the issuance of a permit to exceed a posted weight limit or limits, the permit holder shall be required to sign a written agreement to accept financial responsibility for excess maintenance, repair, and restoration of the posted road or portion thereof to be used by the permit holder. Under the agreement, the permit holder will be required to pay for all excess road maintenance, repair and restoration 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.

D. Security. Prior to the issuance of a permit to exceed a posted weight limit or limits, the permit holder shall be required to provide security in favor of the Township to assure compliance with the road use and maintenance agreement. The amount of financial security for Type 1 and Type 2 Permits shall be as follows:

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

E. Form of Financial Security.

- (1) 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 permit holder, 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.
- (2) The following requirements shall apply to any financial security provided for an over-posted-weight vehicle permit:
  - (i) Letters of credit shall be issued by a Federal or Commonwealth chartered lending institution having an office located within 30 miles of the boundaries of Muddy Creek Township.
  - (ii) The performance bond or 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. The Township, at its discretion, may accept a security having an earlier expiration date, provided the security states that it will automatically be renewed for a period of at least 1 year from any present or future expiration date unless the Township 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 security, and that if such

notice is given the Township may draw on the security to the amount of its unused balance on or before the relevant expiration date.

(iii) Multiple draws on a letter of credit shall be permitted.

(iv) Draws on a letter of credit shall be permitted at sight at the issuer's office during regular business hours or by overnight mail.

F. Additional Security. When the amount of maintenance, repair, or restoration to a posted road is estimated by the Township to constitute 75% or more of the amount of the financial security, the Township may require the road to be maintained, repaired, or restored within 30 days unless the permit holder agrees to provide such additional financial security as the Township shall determine.

G. Multiple Permit Holders. If more than one Type 1 or Type 2 Permit holder is using the same posted road, the relative shares of excess maintenance, repair, and restoration costs shall be determined by:

- (1) Agreement to Share Excess Maintenance Responsibility. If two or more persons wish to obtain a Type 1 Permit or a Type 2 Permit to operate over-posted-weight vehicles on the same posted road or portion thereof, they may agree among themselves as to their relative responsibility for the cost of excess maintenance, repair, and restoration and the Township will enter into agreements and accept financial security on the basis of the agreed shares.
- (2) Determination by Township. If multiple applicants for a Type 1 Permit or a Type 2 Permit cannot agree on their relative responsibility, the Township will determine their relative shares for the cost of excess maintenance, repair, and restoration by prorating the costs based on the number of trips or tonnage hauled and will enter into agreements and accept financial security on such basis.
- (3) Subsequent Permit Applicants. Subparagraphs (1) and (2), above, shall apply even if one or more persons have already entered into an road use and maintenance agreement, posted financial security, and been issued a Type 1 Permit or a Type 2 Permit, when another person files an application for a Type 1 Permit or a Type 2 Permit to operate over-posted-weight vehicles on the same posted highway.

## **SECTION 8: ROAD INSPECTIONS AND COSTS.**

A. Initial Inspection. The permit holder and a Township representative shall conduct an on-site inspection of the posted road immediately prior to the issuance of each permit to determine the relative condition of the road. During the inspection, the Township representative and the permit holder shall complete a detailed report documenting the condition of the road and any areas of concern. The permit holder and the Township representative shall drive the route together and shall videotape the permitted route so that the condition of the route is memorialized.

B. Re-Inspection. The posted highway shall be re-inspected:

- (1) Upon issuance of any new permit;
- (2) From time to time as the Township determines repairs may be required; or
- (3) Upon the expiration of permit in order to determine and assess the amount of damage for which the permit holder or holders are responsible.

C. Notification of Inspections and Re-Inspections. All permit holders on a posted road or portion thereof will be notified of all inspections and re-inspections on the road or portion thereof, and may participate in the inspections and re-inspections.

D. Inspection Fees and Costs. Permit holders shall reimburse the Township for inspection fees and costs in accordance with the schedule adopted and revised from time to time by resolution of the Board of Supervisors.

#### **SECTION 9: SUSPENSION OF PERMITS.**

A. The Township is authorized to suspend over-posted-weight vehicle permits for a particular road or portion thereof if the Township determines, in its sole discretion, that immediate maintenance, repairs or restoration to the road are required. All permit holders shall immediately cease the operation of all over-posted-weight vehicles upon receipt of the Township's suspension notice. The operation of over-posted-weight vehicles shall not be permitted to resume until the damages are repaired. If repairs are made by the Township, vehicle operation shall not be permitted to resume until the Township is fully reimbursed by the permit holders for the allocated cost of such repairs. If a permit holder does not reimburse the Township for such costs within 30 days of invoicing, the financial security posted by the permit holder shall be used to cover the allocated repair costs. The permit holder shall be required to replace or replenish the financial security to the original amount required under the permit prior to resuming operation of over-posted-weight vehicles.

B. The Township shall have the authority to order the suspension of over-posted-weight vehicle permits if the Township determines, in its sole discretion, that conditions created by the freeze and thaw cycle or any other weather related phenomena significantly increase the likelihood of over-posted weight vehicles causing damage to the road. All permit holders shall immediately cease the operation of all over-posted-weight vehicles upon receipt of the Township's suspension notice. The operation of over-posted-weight vehicles shall not be permitted to resume until the Township determines, in its sole discretion, that road and weather conditions have stabilized enough to allow the operation of over-posted weight vehicles.

C. The Township shall provide written notice of the permit suspension to all permit holders.

## **SECTION 10: REVOCATION OF PERMITS.**

A. The Township may revoke an over-posted-weight vehicle permit if it determines, in its sole discretion, that the permit holder and/or vehicle fails to comply with the requirements of this ordinance, any condition(s) attached to the issuance of the permit, or any other applicable statute, ordinance, or regulation.

B. The Township shall provide written notice of the revocation to the permit holder.

C. The permit holder may appeal the revocation order to the Board of Supervisors, provided that a written application for an appeal is filed within ten (10) days after receipt of revocation order, on a form provided by the Township and providing such additional information, materials, and fees as may be required by the Township.

D. At the appeal hearing, the Township and the permit holder shall present any evidence bearing on the propriety of the revocation. At the conclusion of the hearing the Board of Supervisors shall:

(1) Affirm the permit revocation; or

(2) Reverse the permit revocation; or

(3) Reinstate the permit upon a finding that the permit holder and/or vehicle has been brought into compliance with the requirements of this ordinance, any condition(s) attached to the issuance of the permit, or any other applicable statute, ordinance, or regulation.

## **SECTION 11: PERMIT ISSUING AUTHORITY AND ADMINISTRATIVE FEES.**

A. The Board of Supervisors may from time to time designate a representative of the Township to be responsible for issuing, suspending, and/or revoking over-posted-weight vehicle permits.

B. The Board of Supervisors may prescribe reasonable fees for the issuance of over-posted-weight vehicle permits. The fee schedule may be set and may be revised from time to time by resolution of the Board of Supervisors and shall be available for public inspection in the Township office.

## **SECTION 12: PENALTIES FOR VIOLATIONS.**

A. Penalty for Operation Without a Permit. Any person operating a motor vehicle, combination or load with a gross weight in excess of a posted weight limit without a permit commits a summary offense and shall, upon conviction, 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, plus costs.

B. Penalty for Violation of Permit. Any person whose motor vehicle, combination or load is in violation of or not in compliance with any condition of a permit and any person who violates or fails to comply with any condition of a permit while operating or transporting a vehicle, combination or load commits a summary offense and shall, upon conviction, be sentenced to pay a fine of up to \$500.00 for each violation. Each day that a violation continues and each vehicle or vehicle run shall constitute a separate offense. Such fines are in addition to, and not in lieu of, any other penalties established by this ordinance.

C. Penalty for Operation with an Invalid Permit. Any person who operates a vehicle, combination or load with an expired, void, invalidated, suspended, or revoked permit commits a summary offense and shall, upon conviction, be sentenced to pay a fine of \$1,000.00 for each violation. Each day that a violation continues and each vehicle or vehicle run shall constitute a separate offense. Such fines are in addition to, and not in lieu of, any other penalties established by this ordinance.

**SECTION 13: SEVERABILITY.** The provisions of this Ordinance are severable. If any sentence, clause, or section of this Ordinance is for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, or sections of this Ordinance. It is hereby declared to be the intent of the Board of Supervisors that this Ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, or section not been included herein.


**SECTION 14: REPEALER.** All ordinances or parts of ordinances inconsistent with this Ordinance are hereby repealed insofar as they may be inconsistent herewith.

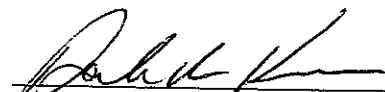
**SECTION 15: EFFECTIVE DATE.** This ordinance shall become effective five (5) days after enactment.


**DULY ENACTED AND ORDAINED** this 15<sup>th</sup> day of December 2010, by the Board of Supervisors in public session duly assembled.

MUDDY CREEK TOWNSHIP  
BOARD OF SUPERVISORS

ATTEST:

  
\_\_\_\_\_  
Kelly Livermore  
Township Secretary  
(SEAL)

  
\_\_\_\_\_  
Dale R. Kerr, Chairman

  
\_\_\_\_\_  
Eric Saunders

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Sean Gramz



ORDINANCE NUMBER 63.1

MUDDY CREEK TOWNSHIP, BUTLER COUNTY, PENNSYLVANIA

AN ORDINANCE AMENDING ORDINANCE NUMBER 63, KNOWN AS THE MUDDY CREEK TOWNSHIP OVER-POSTED-WEIGHT VEHICLE ORDINANCE, ESTABLISHING WEIGHT LIMITS ON ADDITIONAL TOWNSHIP ROADS.

BE IT ORDAINED and ENACTED by the Board of Supervisors of the Township of Muddy Creek, County of Butler, and Commonwealth of Pennsylvania, that:

Ordinance Number 63, Section 3, Establishment of Weight Limits, is hereby amended by ADDING gross vehicle weight restrictions on the following roads:

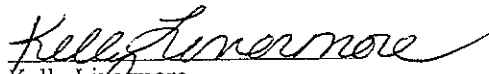
<u>Route Number/ Road Name</u>	<u>Location or Limits</u>	<u>Maximum Gross Weight Limit</u>
T312/Hufnagel Road	Entire Length	10 Ton
T357/Sawyer Road	Entire Length	10 Ton
T340/Ragan Road	Entire Length	10 Ton
T316/Kildoo Road	Entire Length	10 Ton
T366/Burnside Road	Entire Length	10 Ton
T760/Sunset Ridge Road	Entire Length	10 Ton
T342/Kelly Road	Entire Length	10 Ton
T338/Pfeifer Road	Entire Length	10 Ton
T334/Stone Church Road	Entire Length	10 Ton

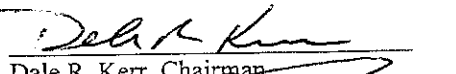
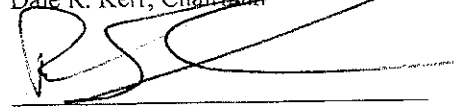
This ordinance shall become effective five (5) days after enactment.

**ORDAINED AND ENACTED** into law this 21st day of September 2011, by the Board of Supervisors in public session duly assembled.

MUDDY CREEK TOWNSHIP  
BOARD OF SUPERVISORS

ATTEST:

  
Kelly Livermore  
Township Secretary  
(SEAL)

  
Dale R. Kerr, Chairman  
  
Eric Saunders

Sean Gramz

ORDINANCE NUMBER 63.2

MUDDY CREEK TOWNSHIP, BUTLER COUNTY, PENNSYLVANIA

AN ORDINANCE AMENDING ORDINANCE NUMBER 63, KNOWN AS THE MUDDY CREEK TOWNSHIP OVER-POSTED-WEIGHT VEHICLE ORDINANCE, ESTABLISHING WEIGHT LIMITS ON ADDITIONAL TOWNSHIP ROADS.

IT IS HEREBY ENACTED AND ORDAINED by the Board of Supervisors of Muddy Creek Township, Butler County, Pennsylvania, as follows:

Ordinance Number 63, Section 3, Establishment of Weight Limits, is hereby amended by ADDING gross vehicle weight restrictions on the following roads:


<u>Route Number/ Road Name</u>	<u>Location or Limits</u>	<u>Maximum Gross Weight Limit</u>
T335/Walker Road	Entire Length	10 Ton
T341/Flinner Road	Entire Length	10 Ton
T361/Wallace Road	Entire Length	10 Ton
T921/Oak Grove Road	Entire Length	10 Ton
T342/Pleasant Valley Extension	Entire Length	10 Ton
T661/Kern Road	Entire Length	10 Ton
T373/Miller Road	Entire Length	10 Ton
T375/Badger Hill Road	Entire Length	10 Ton
T662/Williams Road	Entire Length	10 Ton
T318/Currie Road	Entire Length	10 Ton
T369/Fisher Road	Entire Length	10 Ton
T348/Book Road	Entire Length	9 Ton


This ordinance shall become effective five (5) days after enactment.

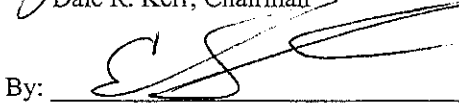
**ORDAINED AND ENACTED** into law this the 19<sup>th</sup> day of September 2012, by the Board of Supervisors in public session duly assembled.

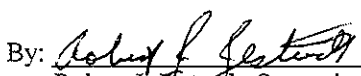
MUDDY CREEK TOWNSHIP  
BOARD OF SUPERVISORS

ATTEST:

  
Kelly Livermore  
Township Secretary  
(SEAL)

By:   
Dale R. Kerr, Chairman

By:   
Eric Saunders, Supervisor

By:   
Robert J. Gesteff, Supervisor