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**ORDER LIMITING THE WEIGHT  
AND  
ESTABLISHING RULES AND REGULATIONS  
GOVERNING THE OPERATION OF CERTAIN  
HEAVY-HAUL VEHICLES  
ON AND OVER  
COUNTY ROADS MAINTAINED BY  
SMITH COUNTY, TEXAS  
AND  
PROVIDING FOR A LICENSE AND WEIGHT OFFICER, AND  
PROVIDING PENALTY FOR VIOLATION(S)**

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BE IT REMEMBERED that on this the 23rd day of August, 2011, the Smith County County Commissioners Court met in regular session.

Whereupon, among other proceedings had, the following Order was approved.

**I.  
County Over Weight Permit**

Pursuant to the authority granted in the Texas Transportation Code, the Smith County Commissioners Court adopts an order governing the issuance of a permit for operation of vehicles on and over county roads maintained by Smith County, a political subdivision of the State of Texas (hereinafter "County" or "The County"). **Tex. Transp. Code § 623.018.<sup>1</sup>**

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<sup>1</sup> Except those vehicles authorized by the Tex. Transp. Code or other law under various exceptions, including but not necessarily limited to:

Tex. Transp. Code § 621.302 (agricultural or farm products);  
Tex. Transp. Code § 622.014 (transport of ready-mix concrete);  
Tex. Transp. Code § 622.031 (transport of milk);  
Tex. Transp. Code § 622.041 (transport of timber or timber products);  
Tex. Transp. Code § 622.133 (transport of recyclable materials);  
Tex. Transp. Code § 622.952 (fire department vehicles);  
Tex. Transp. Code § 623.011 (state overweight tolerance permit 1547/2060);

**II.**  
**Issuance of Permit**

The County shall issue an over-weight permit for:

(1) the operation of a motor vehicle, trailer, semitrailer, or combination of those vehicles, or a truck-tractor or combination of a truck-tractor and one or more other vehicles, over County maintained roads, other than state highways and public roads in the territory of a municipality, at a gross weight greater than the posted road limit; and

(2) If a vehicle has a permit issued under the Texas Transportation Code Chapter 623, or is exempt under other state statutes, County shall not require a permit under this ordinance.

**III.**  
**Application Procedures**

Application Procedures and Policies include:

(1) Application for an overweight permit will be on a form approved by The County and administered through the Road & Bridge Department.

(2) Permits are issued for no longer than ninety (90) days.

(3) Application for an overweight permit is to be submitted by an authorized owner or representative.

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Tex. Transp. Code § 623.071 (annual permit for heavy equipment);  
Tex. Transp. Code § 623.094 (transport of manufactured home);  
Tex. Transp. Code § 623.121 (transport of portable building unit);  
Tex. Transp. Code § 623.142 (transport of oil well servicing or drilling machinery);  
Tex. Transp. Code § 623.163 (transport of solid waste);  
Tex. Transp. Code § 623.181 (annual permit for unladen lift equipment);  
Tex. Transp. Code § 623.192 (permit for unladen lift equipment not under Sec. 621.101); and  
Tex. Transp. Code § 621.503(c) (agriculture/forestry commodity before change from natural state).

**IV.**  
**Duration of County Permit**

The County shall maintain a permit program that incorporates regulation and enforcement of this ordinance. The County permit program is a program that is valid for ninety (90) day increments.

**V.**  
**Permit Processing Procedures**

An applicant for a permit under this ordinance shall file the application or approved form with the Road & Bridge Department, which will issue approved applicants with a permit free of charge.

**VI.**  
**County Permit Non-Transferable**

A permit issued under this ordinance may not be transferred.

**VII.**  
**Permit Renewal**

Permit renewal shall be the responsibility of the permit holder, which may be renewed by faxing an updated application (or approved form) to the Road & Bridge Department.

**VIII.**  
**County Bridges**

A permit holder under this ordinance must not cross a bridge for which a maximum weight and load limit has been established and posted by the County, if the gross weight of the vehicle or the axles and wheel loads are greater than the limits established and posted. The restrictions do not apply if a bridge provides the only public

vehicular access from an origin or to a destination by a holder of a permit. However, the permit holder assumes liability if the bridge is damaged.

**IX.**  
**County Permit Holder's**  
**Liability for Damages**

*Upon sufficient evidence,*<sup>2</sup> a permit holder is liable to the County for the actual damage to a county road, bridge, or culvert that is attributed in whole or in part to the permit holder. If the county judge, county commissioner, county road supervisor, or an authorized law enforcement officer enforcing traffic regulations requires a vehicle to travel over a designated route, it is presumed that the designated route, including a bridge or culvert on the route, is of sufficient strength and design to carry and withstand the weight of the vehicle traveling over the designated route.

**X.**  
**Commerce Route Designation Exception**

(1) Any commercial business located on a roadway maintained by The County may identify a section of county road(s) closest to a City, State or Federal highway, as a commerce route for the benefit of commercial vehicle traffic in support of their business or businesses also receiving commercial traffic adjacent to or reasonably close to the commerce route applicant. Once approved, the commerce route will be exempt, from the gross weight limitations set by County for such county roadway(s) included in the

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<sup>2</sup> The County reserves the right to pursue all reasonable claims for damages to County roads based on documented damages. Such claims must be pursued within any applicable statute of limitations. In choosing to pursue a claim, The County may factor in both the amount of damages involved and whether or not a party has made good faith efforts to comply with Smith County Heavy-Haul Regulations under this Order.

commerce route, and the possession of a County permit for the commercial vehicle(s) involved in the delivery or shipping of products in support of said business.<sup>3</sup>

(2) Commerce route(s) may be applied for and granted for commercial business location. Applications for commerce route designation must be filed with the Road & Bridge Department, which must in turn submit recommendations for action and have the applications placed on the Commissioners Court agenda no later than forty-five (45) days after receipt of the application. Once approved, the commerce route designations continues pursuant to subsection 5 below. Should the commerce route include a load zone bridge, the Road & Bridge Administrator, shall recommend an alternate route, if feasible.

(3) Applications for commerce routes under this Order will generally be approved by the Smith County Commissioners Court upon presentation with a favorable recommendation from the Road & Bridge Administrator, subject to the overall policies and criteria of the Commissioners Court.

(4) Application for a commerce route designation of a county road will be made on a form provided by the Road & Bridge Department which will review the application for accuracy. The Road & Bridge Department will complete the process as directed by the Commissioners Court. Commerce routes recommended for approval will be set when approved by commissioners court, and shall be published pursuant to subsection 6. A

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<sup>3</sup> The purpose of the commerce route designation herein is to facilitate and support commercial business operation by not putting an undue burden on temporal commercial vehicle utilization of county roadways in support of otherwise legal shipping and deliveries for that business.

copy of approved or rejected applications will be maintained by the Road & Bridge Department.

(5) An approved "Commerce Route" will be valid as long as the business of application is operating or is reasonably necessary, and may be used by all heavy-haul vehicles needing the access to the applicable business(es).<sup>4</sup> It will not be necessary for the business to reapply for commerce route designation every year as long as the commerce route is considered valid and active. Upon closure or relocation of a business or business operation, the commerce route will no longer be considered valid and shall automatically lapse. The published commerce route map shall be revised to reflect lapsed commerce route designations.

(6) Commerce route designations shall be published on the Smith County Road & Bridge website for public notice.

#### **XI.** **License & Weights Officer(s)**

This Order establishes the position of License and Weight Officer, who must be a licensed peace officer. The Officer must maintain a Peace Officer Certificate at all times. The responsibilities of the Officer relevant to this county-wide program will be determined by state law and the priorities and policies set by the Commissioners Court of Smith County, which will also fund the License & Weight budget from year to year. This Order contemplates that the License and Weight Officer will assist by enforcing traffic regulations, and the Road & Bridge Department will handle preserving civil claims for commercial companies who cause significant damages to county roads.

**XII.**  
**Violation(s) Subject to Penalties**

(1) Any individual, corporation, association or entity, who violates<sup>4</sup> a provision of this Order or fails to comply therewith, shall be subject to a penalty as set forth in Tex. Transp. Code § 621.506, or § 621.507, and each and every violation of this Order shall constitute a separate and distinct offense.

(2) It shall be unlawful and constitute a class C misdemeanor for any individual, corporation, association or entity to drive, operate, or move, or for the owner to cause or permit to be driven, operated or moved, on any County road<sup>5</sup> any vehicle which in any respect exceeds the limitations set forth above without holding a valid (Road Use) Permit.<sup>6</sup> Any individual, corporation, association or entity who violates the provisions of this Order, or fails to comply there with, shall be guilty of a class C misdemeanor, and upon conviction shall be fined in any sum not exceeding Two Hundred Dollars (\$200.00) for every violation.

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<sup>4</sup> May not be necessary where a state-law exception to compliance is already applicable. *See* FN1, *supra*.

<sup>5</sup> County Commissioners have express authority to “regulate traffic on a county road or on real property owned by the county that is under the jurisdiction of the commissioners court” pursuant to **Tex. Transp. Code § 251.151**.

<sup>6</sup> A valid and current State of Texas permit issued by the Texas Department of Transportation under **Tex. Transp. Code § 623.011** preempts this Order.


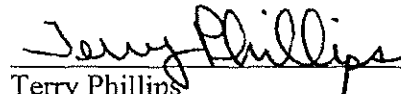
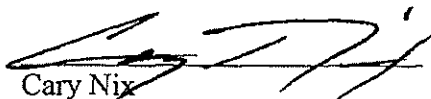
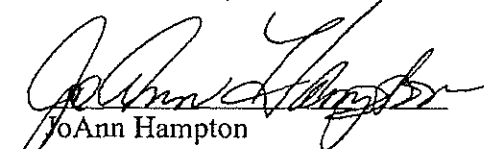
**XIII.**  
**Severability**

That all provisions hereof are hereby declared to be severable and if any provision is declared judicially to be invalid or unconstitutional, such judicial determination will not invalidate or effect the remaining provisions of this Order and such will be and remain in Full Force and Effect.

APPROVED this the 23<sup>rd</sup> day of August, 2011.



Joel V. Baker  
Smith County Judge

  
Jeff Warr  
Commissioner, Precinct 1  
Terry Phillips  
Commissioner, Precinct 3  
Cary Nix  
Commissioner, Precinct 2  
JoAnn Hampton  
Commissioner, Precinct 4