

BOROUGH OF FREEMANSBURG
Northampton County, Pennsylvania

COPY

ORDINANCE #2019 – 002
(Duly Adopted February 5, 2019)

AN ORDINANCE PROHIBITING THE OPERATION OF ANY VEHICLE OR COMBINATION HAVING A GROSS WEIGHT IN EXCESS OF 10 TONS UPON MAIN STREET BETWEEN ITS INTERSECTION WITH FREEMANSBURG AVENUE AND ITS INTERSECTION WITH WASHINGTON STREET IN FREEMANSBURG; AUTHORIZING SIGNAGE AS IS NECESSARY AND APPROPRIATE TO REFLECT THE RESTRICTION; PROVIDING PROCEDURE FOR COUNCIL TO CONSIDER THE ISSUANCE OF A SPECIAL PERMIT FOR THE OPERATION OF A VEHICLE OR COMBINATION IN EXCESS OF MAXIMUM WEIGHT ESTABLISHED FOR SAID HIGHWAY PORTION; PROVIDING PENALTIES FOR VIOLATION OF THIS ORDINANCE; REPEALER; SEVERABILITY; AND EFFECTIVE DATE.

WHEREAS, Council of the Borough of Freemansburg is a local authority under the Pennsylvania Vehicle Code (75 Pa.C.S.A. Sections 101 et seq.) (“Vehicle Code”) having certain highways and bridges under its jurisdiction; and

WHEREAS, the part of Main Street in the Borough of Freemansburg between its intersection with Freemansburg Avenue and its intersection with Washington Street in the Borough is a highway under the jurisdiction of Council; and

WHEREAS, pursuant to Chapter 49 of the Vehicle Code, Council may impose a restriction as to the weight of any vehicle or combination operating upon a highway or portion thereof under Council’s jurisdiction when, per Section 4902(a) of the Vehicle Code, Council determines after conducting an engineering and traffic study as provided for in Title 67 of the Pennsylvania Code that the highway or portion thereof may be damaged or destroyed unless the permissible weight of vehicles operating upon said highway or portion thereof is reduced; and

WHEREAS, Council requested an engineering and traffic study of the subject highway portion to be conducted by its engineer which study is documented by letter dated January 15, 2019, prepared by Justin M. Coyle, P.E., of Carroll Engineering Corporation, and addressed to Gerald Gasda, Borough Manager (the “Study”); and

WHEREAS, pursuant to Section 3754 of the Vehicle Code, the Study and records and reports used in the preparation of the Study are not discoverable nor admissible as evidence in

any legal action or other proceeding, nor shall any officers, or employees or agencies charged with the development, procurement or custody of the Study be required to give depositions or evidence pertaining to anything contained in the Study or records or reports used in the preparation of the Study in any legal action or other proceeding; and

WHEREAS, after review of the aforementioned Study and Council's knowledge of the subject highway portion, Council has determined that the subject highway portion will be damaged or destroyed unless the permissible weight of vehicles or combination operating upon said highway portion thereof shall not exceed 10 tons as recommended by the Study; and

WHEREAS, because of Council's aforementioned determination, Council desires to prohibit the operation of any vehicle or combination exceeding 10 tons upon said highway portion as set forth hereunder; and

WHEREAS, Council also desires to direct the erection and maintenance of such signage as is necessary and appropriate to reflect the restriction set forth hereunder; and

WHEREAS, Council also desires to provide for a procedure for Council to consider the issuance of a special permit for the operation of a vehicle or combination in excess of the maximum weight established for said highway portion by this Ordinance; and

WHEREAS, Council further desires to provide for penalties for violation of this Ordinance.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by Council of the Borough of Freemansburg, Northampton County, Pennsylvania, as follows:

SECTION 1. Definitions. Words and phrases used in this Ordinance shall have the meanings ascribed to them in the Pennsylvania Vehicle Code (Act of June 17, 1976, P.L. 162, No. 81), as amended, except that the following words when used in this Ordinance shall have the following meanings, unless the context clearly indicates otherwise:

Borough – Borough of Freemansburg, Northampton County, Commonwealth of Pennsylvania.

Council – the governing body of the Borough.

Emergency Vehicle – a fire department vehicle, police vehicle, ambulance, blood delivery vehicle, any vehicle meeting the definition of emergency vehicle under Section 102 of the Vehicle Code or other vehicle designated by the State Police under Section 6106 of the Vehicle Code as an emergency vehicle.

Local Traffic – The following shall be regarded as local traffic for the purposes of this Ordinance:

- (1) Emergency Vehicle;
- (2) School bus;
- (3) Vehicles and combinations of governmental agency or utility or their contractor engaged in construction or maintenance on the Restricted Highway or in a location which can be reached only via the Restricted Highway; and
- (4) Vehicles and combinations going to or coming from a residence, commercial establishment or farm located on the Restricted Highway or which can be reached only via the Restricted Highway.

Special Permit – Type 1, Type 2 or Type 3 permit that may be issued by Council per Section 5 of this Ordinance pursuant to 67 Pa Code Sections 189.1 thru 189.4, as amended or superseded.

Vehicle Code – Pennsylvania Vehicle Code, Act of June 17, 1976, P.L. 162, No. 81, as amended.

SECTION 2. Findings of Council of the Borough. Council of the Borough has determined and hereby determines, based upon the Study and Council’s knowledge, that the part of Main Street in the Borough between its intersection with Freemansburg Avenue and its intersection with Washington Street in the Borough will be damaged or destroyed unless the permissible weight of any vehicle or combination operating upon said highway portion shall not exceed 10 tons as set forth hereunder.

SECTION 3. Vehicle Weight Limit Established.

A. The part of Main Street in the Borough between its intersection with Freemansburg Avenue and its intersection with Washington Street in the Borough shall have a weight restriction of 10 tons (the “Restricted Highway”). No vehicle or combination having a gross weight in excess of 10 tons shall be operated upon the Restricted Highway.

B. Any vehicle or combination regarded as Local Traffic, as defined herein, is exempt from the restriction imposed under Section A above unless the Borough determines the over-posted weight vehicle(s) or combination(s) being driven to or from a particular destination or destinations are likely to damage the Restricted Highway. In the event the Borough determines the over-posted weight vehicle(s) or combination(s) are likely to damage the Restricted Highway, the manager of the Borough or Borough police 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 Borough 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 vehicle(s) or combination(s) shall not be exempt from the restriction imposed under Section A.

C. Any vehicle or combination permitted to operate upon the Restricted Highway by Special Permit that may be issued by Council for the Borough per Section 5 below is exempt from the restriction imposed under Section A above during the duration of the Special Permit.

SECTION 4. Establishment of Signage. The Borough shall erect or cause to be erected and maintained restriction signs designating the weight restriction within 25 feet of each end of the Restricted Highway per Section 4902(e) of the Vehicle Code. The Borough shall also place or cause to be placed advance informational signs at the intersection nearest each end of the Restricted Highway which would allow drivers to avoid the Restricted Highway. No person shall be convicted of violating this Ordinance unless the restriction sign designating the Restricted Highway to traffic moving in the direction the person was driving was posted as required by this Section. However, failure to post the restriction sign designating the Restricted Highway to traffic moving in the opposite direction or failure to post any advance informational sign shall not constitute a defense to a violation of this Ordinance.

SECTION 5. Special Permit. After written application submitted to the manager for the Borough and public meeting(s) before Council, Council may issue a Special Permit in accordance with Section 4902(c) of the Vehicle Code and 67 Pa. Code Section 189.1 thru 189.4, as amended or superseded, for the operation of a vehicle or combination in excess of 10 tons upon the Restricted Highway. As a pre-condition to such Special Permit, Council shall require written agreement(s) and security pursuant to Section 4902(c) of the Vehicle Code and 67 Pa. Code Section 189.1 thru 189.4, as amended or superseded. Council may also require any other restrictions or conditions as conditions of a Special Permit pursuant to the Vehicle Code and 67 Pa. Code Section 189.1 thru 189.4, as amended or superseded. The Borough's inspection costs of the Restricted Highway shall be paid by the applicant. The Borough shall charge an administrative fee for issuance of a Special Permit in an amount consistent with 67 Pa. Code Section 189.4(g), as amended or superseded.

SECTION 6. Violation and Penalties. Any person operating a vehicle or combination having a gross weight in excess of 10 tons upon the Restricted Highway in violation of Section 3.A. of this Ordinance is guilty of a summary offense and shall, upon conviction by a magisterial district judge, be sentenced to pay a fine as provided by the applicable section of the Vehicle Code in effect at the time of the violation, court costs and reasonable attorney fees (if any) incurred by the Borough in the enforcement proceedings. In default of payment(s) due by reason of this section, the violator shall be subject to imprisonment for a term not to exceed thirty (30) days. Each trip upon the Restricted Highway in violation of this Ordinance shall constitute a separate offense.

The current applicable section of the Vehicle Code is Section 4902(g).

SECTION 7. Repealer. All ordinances and parts thereof inconsistent herewith are hereby repealed.

SECTION 8. Severability. The provisions of this Ordinance shall be severable and, if any provision thereof shall be declared unconstitutional, illegal or invalid, such provision shall not affect the validity of any of the remaining provisions of this Ordinance. It is hereby declared as a legislative intent of the Borough of Freemansburg that this Ordinance would have been enacted had such unconstitutional, illegal or invalid provision(s) not been included herein.

SECTION 9. Effective Date. This Ordinance shall be effective immediately.

DULY ORDAINED AND ENACTED this 5th day of February, 2019, by Council of the Borough of Freemansburg in lawful session duly assembled.


BOROUGH OF FREEMANSBURG

By 
Homer "Bud" Lorrach, Council President

Attest:


Justine Rossi, Assistant Secretary

APPROVED this 5th day of February, 2019:


Donald Lasso, Mayor

CERTIFICATE

I, JUSTINE ROSSI, the undersigned, Assistant Secretary of the Borough of Freemansburg, Northampton County, Pennsylvania (the "Borough") certify that the foregoing is a true and correct copy of an Ordinance of the Borough which was duly enacted by affirmative vote of the majority of the members of Borough Council at a meeting duly held on February 5, 2019, and that said Ordinance remains in effect, unaltered and unamended, as of the date of this certificate.

I further certify that Borough Council met the advance notice requirements of Act #93 of the General Assembly of the Commonwealth of Pennsylvania, approved October 15, 1998, by advertising the date of said meeting and posting a notice of said meeting on the bulletin board at the Municipal Building, 600 Monroe Street, Freemansburg, Pennsylvania, the place of the meeting.

IN WITNESS WHEREOF, I set my hand and affix the official seal of the Borough this 5th day of February, 2019.



Justine Rossi, Assistant Secretary