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MOTOR VEHICLE WEIGHT LIMITATIONS

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CHAPTER 88
ARTICLE VI
MOTOR VEHICLE WEIGHT LIMITATIONS

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[HISTORY: Adopted by Borough Council by Ordinance 2016-12, on November 7, 2016.]

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~~§88-20~~. **SHORT TITLE.** This Ordinance shall be known as the "Callery Borough Motor Vehicle Weight Limitation Ordinance."

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~~§88-21~~. **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.A. § 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 street or in a location which can be reached only via a posted street; and
- (4) Vehicles and combinations going to or coming from a residence, commercial establishment, or farm located on a posted street or which can be reached only via a posted street, unless council has determined that one or more classification of such over-posted-weight vehicle is causing or likely to damage the street.

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.

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Over-Posted-Weight Vehicle - A vehicle or combination having a gross weight in excess of a posted weight limit.

Posted Street - A borough street or road having a posted weight limit.

Posted Weight Limit - A restricted weight limit posted on a street under authority of Section 4902 of the Vehicle Code, 75 Pa.C.S.A. § 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.

Borough - Callery Borough, Butler County, Pennsylvania.

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§88-22. ESTABLISHMENT OF WEIGHT LIMITS. Based upon engineering and traffic studies conducted by the borough engineer, and in accordance with the relevant provisions of the Vehicle Code, council has determined that the following streets or parts of streets may be damaged or destroyed unless the gross weight of motor vehicles using the streets is restricted as follows:

<u>Street Name</u>	<u>Location or Limits</u>	<u>Maximum Gross Weight Limit</u>
Breakneck Street	Entire Length	10 Tons

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§88-23. WEIGHT LIMITS TO BE POSTED. The borough shall erect or cause to be erected and maintained restriction signs designating weight restrictions within twenty-five (25) feet of each end of the restricted street. In the case of a restriction on a street which does not begin or end at an intersection with an unrestricted highway, the borough shall also place an advance informational sign at the intersection nearest each end of the restricted portion of the street which would allow drivers to avoid the restricted portion of street.

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§88-24. PROHIBITION. It shall be unlawful to operate a motor vehicle or combination on a posted street or part of a posted street with a gross weight in excess of the posted weight limit, unless an over-posted-weight vehicle permit has been issued by the borough.

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§88-25. EXEMPTION FOR LOCAL TRAFFIC. Local traffic, as defined herein, may exceed posted weight limits. However, if council determines that one or more classification of local traffic is causing or likely to damage the streets, council 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 borough.

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~~§88-26. PERMIT REQUIREMENTS.~~

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

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

(1) Type 1 Permit: Authorizes the use of a posted street 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 posted street 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 borough 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. Street 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 street or portion thereof to be used by the permit holder. Under the agreement, the permit holder will be required to pay for all excess street 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 borough to assure compliance with the street 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 streets to be maintained at a level consistent with the type of street.

(2) \$12,500 per linear mile for paved streets to be maintained at a level consistent with the type of street.

(3) \$50,000 per linear mile for any street which the borough allows to be maintained below a level consistent with the type of street.

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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 borough; or in some other form of security acceptable to the borough.
- (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 thirty (30) miles of the boundaries of the borough.
 - (ii) The performance bond or letter of credit shall have an expiration date of no earlier than ninety (90) days after the expiration of the term of the street use and maintenance agreement. The borough, 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 one (1) year from any present or future expiration date unless the borough receives notice in writing from the issuer at least sixty (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 borough 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 street is estimated by the borough to constitute 75% or more of the amount of the financial security, the borough may require the street to be maintained, repaired, or restored within thirty (30) days unless the permit holder agrees to provide such additional financial security as the borough shall determine.

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

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

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~~§88-27~~. STREET INSPECTIONS AND COSTS.

A. Initial Inspection. The applicant/permit holder and a borough representative shall conduct an on-site inspection of the posted street immediately prior to the issuance of each permit to determine the relative condition of the street. During the inspection, the borough representative and the applicant/permit holder shall complete a detailed report documenting the condition of the street and any areas of concern. The applicant/permit holder and the borough 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 street shall be re-inspected:

- (1) Upon issuance of any new permit;
- (2) From time to time as the borough determines repairs may be required; or
- (3) Upon the expiration of permit 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 street or portion thereof will be notified of all inspections and re-inspections on the street or portion thereof, and may participate in the inspections and re-inspections.

D. Inspection Fees and Costs. Applicants/permit holders shall reimburse the borough for inspection fees and costs in accordance with the schedule adopted by council and revised from time to time.

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~~§88-28~~. SUSPENSION OF PERMITS.

A. The borough is authorized to suspend over-posted-weight vehicle permits for a street or portion thereof if the borough determines, in its sole discretion, that immediate maintenance, repairs or restoration to the street are required. All permit holders shall immediately cease the operation of all over-posted-weight vehicles upon receipt of the borough'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 borough, vehicle operation shall not be permitted to resume until the borough is fully reimbursed by the permit holders for the allocated cost of such repairs. If a permit holder does not reimburse the borough for such costs within thirty (30) days of invoicing, the financial security posted by the permit holder shall be used to cover the allocated repair costs. The face amount of the financial security posted with the borough shall not relieve permit holder of its responsibility to fully pay for damages found by the borough in excess of the face amount of the security. 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 borough shall have the authority to order the suspension of over-posted-weight vehicle permits if the borough 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 street. All permit holders shall immediately cease the operation of all over-posted-weight vehicles upon receipt of the borough's suspension notice. The operation of over-posted-weight vehicles shall not be permitted to resume until the borough determines, in its sole discretion, that street and weather conditions have stabilized enough to allow the operation of over-posted weight vehicles.

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

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~~§88-29~~. REVOCATION OF PERMITS.

A. The borough may revoke an over-posted-weight vehicle permit if it determines, in its sole discretion, that the permit holder and/or vehicle fail 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 borough shall provide written notice of the revocation to the permit holder.

C. The permit holder may appeal the revocation order to council, 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 borough and providing such additional information, materials, and fees as may be required by the borough.

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

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- (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.

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~~§88-30~~. PERMIT ISSUING AUTHORITY AND ADMINISTRATIVE FEES.

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

B. Council 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 and shall be available for public inspection in the borough office.

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~~§88-31~~. 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 3,000 pounds over the maximum allowable weight, plus costs. Such fines are in addition to, and not in lieu of, any other penalties established by this Ordinance.

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.

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