

PROCEDURES AND REGULATIONS GOVERNING HEAVY LOAD PERMITS AND BONDING REQUIREMENTS

Section 1 SCOPE AND PURPOSE

- 1.1 Pursuant to Sections 251.016, 251.153, 621.301, and 623.018 of the *Texas Transportation Code*, the Brazoria County Commissioners Court (hereinafter, "*Commissioners Court*") adopts these procedures and regulations (hereinafter, the "*Order*") for the transportation of overweight, oversize or over length equipment, which cannot reasonably be dismantled, on all county roads or highways of Brazoria County, Texas (hereinafter, the "*County*"), other than State highways and public roads in a municipality's territory.
- 1.2 The procedures provided for herein are not intended, nor shall they be construed, to limit in any way other remedies, causes of action, or rights provided for by law.
- 1.3 It is the purpose of these procedures to restrict and regulate the size and weight of Vehicles operating upon Brazoria County Roads. Additionally, this Order will provide the County with procedures and mechanisms to recover money to repair damage caused by heavy-haul Vehicles by issuing permits, collecting on an operator's bond, or filing an action to repair any damages to Brazoria County Roads against (i) the owner of the site/project, (ii) the Transporter, (iii) the operator or owner of the Vehicle, or (iv) a contractor or subcontractor.
- 1.4 This Order establishes standards consistent with Chapters 251, 621, 622, and 623 of the *Texas Transportation Code*.

Section 2 DEFINITIONS

- 2.1 As used in this Order, the words and terms defined in this Section shall have the meanings described below, unless the context clearly indicates another meaning.

BRAZORIA COUNTY ROADS: All roads, highways, or bridges accepted into the Brazoria County Road system. A map of all Brazoria County Roads is available in the County Engineering Department (hereinafter, "*Engineering*") or on the County website.

FEDERAL LAW: Any statute, act, rule or regulation that has been passed or approved by any agency or department of the United States of America, including Congress.

STATE LAW: Any statute, act, rule or regulation that has been passed or approved by any agency or department of the State of Texas (hereinafter, the "State"), including the Texas Legislature.

PERSON: An individual, association, partnership, corporation, contractor, municipality, State or Federal Agency, or an agent or employee thereof.

COMMERCIAL MOTOR VEHICLE: A Motor Vehicle, other than a motorcycle, designed or used for:

- a. The transportation of property; or
- b. Delivery purposes.

DEPARTMENT: The Texas Department of Transportation.

MOTOR VEHICLE: A Vehicle that is self-propelled.

SEMITRAILER: A Vehicle without motive power that is designed or used with a Motor Vehicle, so that some of its weight and the weight of its load rests on or is carried by the Motor Vehicle.

TRAILER: A Vehicle without motive power that is designed or used to carry property or passengers on its own structure exclusively and is drawn by a Motor Vehicle.

TRANSPORTER: A Person, entity, or corporation who contracts with a Vehicle operator or owner to transport loads in any manner.

TRUCK-TRACTOR: A Motor Vehicle designed or used primarily for drawing another Vehicle:

- a. That is not constructed to carry a load other than a part of the weight of the Vehicle and load being drawn; or
- b. That is engaged with a Semitrailer in the transportation of automobiles or boats and that transports the automobiles or boats on part of the truck-tractor.

VEHICLE: A mechanical device, other than a device moved by human power or used exclusively upon stationary rails or tracks, in, on, or by which a person or property can be transported on a public highway. The term includes a Motor Vehicle, Commercial Motor

Vehicle, Truck-Tractor, Trailer, or Semitrailer but does not include manufactured housing as defined by the *Texas Manufactured Housing Standards Act*.

SINGLE AXLE WEIGHT: The total weight transmitted to the road by all wheels whose centers may be included between two parallel transverse vertical planes 40 inches apart, extending across the full width of the Vehicle.

TANDEM AXLE WEIGHT: The total weight transmitted to the road by two or more consecutive axles whose centers may be included between parallel transverse vertical planes spaced more than 40 inches and not more than 96 inches apart, extending across the full width of the Vehicle.

Section 3 AUTHORITY

- 3.1 This Order is passed pursuant to Sections 621.301 and 623.018 of the *Texas Transportation Code*.
- 3.2 The County Engineer is authorized to approve any permits received by Engineering for and on behalf of Commissioners Court. Further, Engineering will notify the appropriate County Commissioners precinct offices of any and all permits. This notice to the precinct offices is considered delivered if the particular service center superintendent is notified of the permit.
- 3.3 The specific reference to any State Laws or Federal Laws does not limit or exclude from incorporation in this Order any other State Laws or Federal Laws not specifically referenced.

Section 4 REGULATIONS

- 4.1 Section 621.301 of the *Texas Transportation Code* provides that the Commissioners Court may establish load limits for any county road or bridge with the concurrence of the Department. Additionally, the Commissioners Court may limit the maximum weights to be moved on or over a county road, bridge, or culvert by exercising its authority pursuant to this subsection in the same manner and under the same conditions provided by Section 621.102. With this Order, the Commissioners Court authorizes the County Engineer to establish and post the aforementioned load and weight limits. These load and weight limits shall be available to all applicants for road permits.

Section 5
APPLICABILITY

- 5.1 This Order applies to all Vehicles requiring a permit pursuant to Chapters 621, 622, and 623 of the *Texas Transportation Code*. Vehicles operating over a public highway maintained by the County requiring a permit include, but are not limited to:
- a. Super heavy or oversize equipment for the transportation of an overweight, oversize, or over length commodity that cannot be reasonably dismantled;
 - b. Vehicles or combinations of Vehicles exceeding the weights authorized under Subchapter B, Chapter 621, or as determined by the Commissioners Court under Section 621.301; or
 - c. Ready-mixed concrete trucks, other than 3-axle ready-mixed concrete trucks with a State issued permit.

Vehicles that do not have a State issued permit must obtain a County permit in order to operate on Brazoria County Roads. Vehicles with a State issued permit but that are operating outside the scope of the permit must also obtain a County permit.

A Vehicle operating pursuant to a permit issued by the Department pursuant to Section 623.011, 623.071, 623.094, 623.121, 623.142, 623.181, 623.192, 623.212, or 623.321 may operate under the conditions authorized by the permit over a Brazoria County Road for which the Commissioners Court has set a maximum weight pursuant to Section 621.301.

- 5.2 *State-permitted vehicles.* If a Vehicle has a State permit issued for the County pursuant to Section 623.011 or 623.402, no County permit or fee is required concerning the regulation of the weight of the Vehicle so long as the Vehicle is operating within the scope of the permit. The County will not require these State-permitted Vehicles to file an application. Additionally, Vehicles with a permit issued pursuant to 623.011, that are operating within the scope of the permit, will not be required to provide a bond or letter of credit other than the bond or letter of credit prescribed by Section 623.012. If a Vehicle has a State permit restricting it to non-County roads, the Vehicle must comply with this Order and obtain a County permit if it travels over Brazoria County Roads.
- 5.3 *State-permitted Vehicles use of weight and load limited roads and bridges.* Unless otherwise indicated in the permit, a Vehicle operating pursuant to a State issued permit as defined in Section 5.1, may operate on Brazoria County Roads for which a maximum weight and load limit has been established and posted by the Commissioners Court pursuant to Section 621.301.

a. Exceptions/Clarifications:

- i. State permitted Vehicles may operate on any load zoned road or bridge, unless otherwise specified in the permit, but may not exceed the posted weight limits thereon by more than 5%. The Vehicle must be registered for the maximum amount of weight allowed for the Vehicle in order for the permit to be valid.
- ii. A Vehicle with a State permit under Section 623.011 is not authorized to operate on a bridge for which a maximum weight and load limit has been established and posted by the Commissioners Court pursuant to Section 621.301, if the gross weight of the Vehicle and load or the axles and wheel loads are greater than the limits established and posted pursuant to that Section. This restriction does not apply if the bridge provides the only public vehicular access from an origin or to a destination by a State permit holder. State-permitted Vehicles, however, are required to notify Engineering if they are to travel on any load zoned County bridge so measures can be put in place to protect the integrity of the bridge.
- iii. A State permit for an intermodal shipping container issued pursuant to Section 623.402 does not authorize the operation of a Truck-Tractor and Semitrailer combination on Brazoria County Roads for which a maximum weight and load limit has been established and posted by the Commissioners Court pursuant to Section 621.301. Additionally, a permit issued pursuant to Section 623.402 is only valid within a thirty (30) mile radius from either the port authority or port of entry.
- iv. A State permit for a 3-axle ready-mix concrete truck issued pursuant to 623.0171 authorizes the operation of a 3-axle ready-mix concrete truck over Brazoria County Roads for which a maximum weight and load limit has been established and posted by the Commissioners Court pursuant to Section 621.301, so long as the weight does not exceed the weight restrictions in Section 622.012(b). This permit, however, does not authorize the operation of 3-axle ready-mix concrete trucks over County bridges for which a maximum weight and load limit has been established and posted by the Commissioners Court pursuant to Section 621.301.

Section 6
GENERAL REQUIREMENTS

- 6.1 Every Commercial Motor Vehicle traveling on Brazoria County Roads, which does not have an applicable permit from the State of Texas, must be covered by a permit issued by the County if the Vehicle has:
- a. a Single Axle Weight heavier than 20,000 pounds, including all enforcement tolerances;
 - b. a Tandem Axle Weight heavier than 34,000 pounds, including all enforcement tolerances; or
 - c. an overall gross weight on a group of two or more consecutive axles heavier than the weight computed using the following formula and rounding the result to the nearest 500 pounds:

$$W=500(LN/(N-1)) + 12N + 36)$$

Where:

“W” is maximum overall gross weight on the group;

“L” is distance in feet between the axles of the group that are the farthest apart;
and

“N” is the number of axles in the group.

- 6.2 *Maximum Load Limits.* The weight limits stated in Subchapter B of Chapter 621 of the *Texas Transportation Code* and as indicated above, are adopted as the maximum weight limits for purposes of this Order.
- 6.3 *Responsibility to Obtain Permits.* The Transporter or owner of the site/project is ultimately responsible for ensuring that each Vehicle that requires a permit has complied with either the State or County bonding and permitting application requirements and received a permit before commencement of use of such Vehicle. In some circumstances, a Vehicle may require both State and County permits.

Section 7
PERMITS; RIGHT TO REVOKE

- 7.1 The County’s power to revoke a permit is inherent in the permit and cannot be hindered or limited through contract. The County retains the right to revoke the permit on verbal and/or written notification.

- 7.2 By allowing a permit holder to operate a Vehicle over Brazoria County Roads when the Vehicle exceeds applicable weight limits, the County is acting within its police power to not only regulate the usage of those roads but also to allow the permit holder to do that which would otherwise be illegal. As such, the County's grant of authority to the permit holder pursuant to Section 623.018 is a license/permit instead of a contract, as those terms are used in Texas law.
- 7.3 The County may, in its discretion, revoke a permit holder's permit or choose to not issue a permit for interests of public health, safety or welfare or for failure to comply with the conditions or requirements of the permit, including the failure to pay road damages upon demand, or for any other reason deemed sufficient by the County and related to legitimate governmental purposes of the County. A permit may also be revoked for failure to follow the procedures and guidelines of this Order and the conditions and requirements of the permit.
- 7.4 Permits may not be issued for longer than 90 days.
- 7.5 Amendments may be made to the permit at the discretion of the County Engineer with notice to the permittee.
- 7.6 Upon issuance and termination of the permit, the County may make an inspection of the particular road or bridge at issue in the permit. If repairs or modifications are required to return the road to its original condition, (i) the owner of the site/project, (ii) the Transporter, (iii) the operator or owner of the Vehicle, and (iv) any contractor or subcontractor shall either individually bear the entire expense or jointly bear the expense to restore the road. For avoidance of doubt, filing suit against the permit holder and the issuer of the bond is not the County's exclusive remedy. The County may file suit against each party individually or all parties jointly.
- 7.7 The responsibilities of the permit holder as set forth in the permit shall not be transferred, assigned, or conveyed to a third party without approval of the County Engineer.

Section 8 FINANCIAL RESPONSIBILITY; BONDS

- 8.1 For each Vehicle weighing more than 80,000 pounds gross Vehicle weight, a \$100,000 bond is required. For each Vehicle weighing less than 80,000 pounds of gross Vehicle weight, but more than the weights set out in Section 6.1 of this Order, a \$50,000 bond is required. Only original bonds or letters of credit will be accepted by the County. A facsimile copy of the bond or letter of credit will not comply with this Order. Depending on the scope of the project, the County may determine that a single bond is sufficient to cover potential damages.

- 8.2 The bond or letter of credit must include a condition that the Person obtaining the permit will pay to the County, within the limit of the bond or letter of credit, any damage to a road caused by the operation of Vehicles on Brazoria County Roads. For avoidance of doubt, the amount owed may exceed the bond or letter of credit amount but may not exceed the amount of actual damages.
- 8.3 Instead of a bond, a Person may secure a permit by providing a letter of credit. All letters of credit must be submitted to the Civil Division of the Brazoria County District Attorney's Office for approval.
- 8.4 A copy of the permit shall be carried in all Vehicles at all times when the Vehicles are traveling over Brazoria County Roads.
- 8.5 As for ready-mixed concrete trucks, except those 3-axle trucks covered by a State permit granted pursuant to Section 623.0171, the Commissioners Court requires that the owner of such truck file a surety bond for \$15,000. This bond must include a condition that the owner of the truck will pay to the County any damage to a highway caused by the operation of the truck with a Tandem Axle Weight that is heavier than 34,000 pounds.
- 8.6 A bond may be renewed if Engineering has inspected the roads used by the Vehicle during the 90-day period and no damage is found. If damage is found, however, a bond can only be renewed if payment is made to pay for the repairs (including labor, equipment, and material costs).

Section 9 ENFORCEMENT AND PENALTIES

- 9.1 The owner of the site/project, Transporter, the operator or owner of the Vehicle, and any contractor or subcontractor are jointly and severally liable for the costs of repairing the damaged road, including any associated labor, equipment, or material costs. By this Order, the Brazoria County District Attorney's Office is authorized to bring suit against the owner of the site/project, Transporter, the Vehicle operators or owners, any contractor or subcontractor, and/or the bond covering the Vehicle for these damages. Also, by this Order, the Brazoria County District Attorney's Office is authorized to present any letter of credit for payment to recover the costs of repairing the road, including any associated labor, equipment, or material costs.
- 9.2 The owner of the site/project, Transporter, the Vehicle operators or owners, any contractor or subcontractor damaging Brazoria County Roads without an applicable State or County permit, will not be issued a County permit unless and until a bond or letter of credit twice the applicable amount for the Vehicle is secured. This penalty will be in place for one year from the date of the original violation.

- 9.3 Where a Vehicle has a permit granted by the State (e.g. through § 623.011) and the Vehicle damages Brazoria County Roads, by this Order the Brazoria County District Attorney is authorized to bring an action to recover on the bond in a suit against the permit holder and the issuer of the bond or letter of credit brought in a district court of the County pursuant to Section 623.016 of the *Texas Transportation Code*.
- 9.4 Any civil suit instituted in accordance with the provisions of this Order may be instituted jointly against the owner of the site/project, Transporter, operator, contractor, and subcontractor, or may be instituted solely against the owner of the site/project, the Transporter, the operator, the contractor, or the subcontractor.
- 9.5 *De Minimus Violations*. There are no de minimus violations of this Order.
- 9.6 *Void Permits*. A permit will be voided when the County is informed by law enforcement that a citation has been issued for a violation of a permit's terms and conditions.

Section 10 FORMS

- 10.1 Engineering shall issue forms that can be used to apply for the permits to use Brazoria County Roads.
- 10.2 Engineering may provide these forms and this Order over the internet.
- 10.3 Upon request, a copy of this Order shall be given to each permit applicant.

Section 11 EFFECTIVE DATE

- 11.1 This Order shall be effective on April 9, 2019
- 11.2 Brazoria County Order No. 10 dated April 8, 1985; No. 22 dated January 12, 1987; Order No. 17 dated April 24, 1989; Order No. 22 dated May 29, 1990; Order No. 24 dated March 11, 1991; Order No. 24 dated March 22, 1993; and Order No. 56 dated April 13, 2004, and any other order dealing with permitting heavy loads on Brazoria County Roads are hereby repealed, but are kept in effect for the permits and bonds that were obtained under these Orders. All new bonds, permits, applications, and enforcement actions will be governed by this Order.