

RESOLUTION NO. HR -- 10 -- 4-2

A RESOLUTION REQUIRING PERMITS FOR OVERSIZE AND OVERWEIGHT VEHICLES; DELEGATING PERMITTING AUTHORITY TO THE DIRECTOR OF PUBLIC WORKS; AND PROVIDING FOR PENALTIES AND ENFORCEMENT.

WHEREAS, K.S.A. 19-101a(a), and amendments thereto, authorize the Board of County Commissioners, hereinafter called "Board", subject to certain enumerated limitations, restrictions and prohibitions, to transact all County business and perform all powers of local legislation and administration it deems appropriate; and

WHEREAS, K.S.A. 17-1914 *et seq.* authorizes the County Clerk to administer a permit process involving vehicles and/or their loads with a height of 16 feet or more; and

WHEREAS, K.S.A. 12-3901 *et seq.* authorizes the Board to consolidate and transfer operations, procedures and functions of offices and agencies to more efficiently and effectively serve the needs of their constituents; and

WHEREAS, under state law the Board has jurisdiction and responsibility over certain roads and bridges in Douglas County; and

WHEREAS, individuals and/or businesses routinely request permission to utilize Douglas County roads and bridges for the transportation of oversize and/or overweight vehicles and/or loads; and

WHEREAS, K.S.A. 8-1911 authorizes the Board, with respect to highways under its jurisdiction, upon application and in its discretion, to issue a special permit authorizing the applicant to operate or move a vehicle or combination of vehicles, of a size or weight of vehicle or load exceeding the maximum specified under Article 19 of Chapter 8 of the Kansas Statutes Annotated, upon any highway under its jurisdiction and for the maintenance of which such party is responsible; and

WHEREAS, the Board and the County Clerk believe the authority to review and approve such routine requests should be transferred and assigned to the Director of the Douglas County Department of Public Works to better serve the public interest and to provide an orderly administrative procedure for the review and approval of such applications.

WHEREAS, by Resolution 08-11-3, the Board, with the County Clerks consent, has adopted regulations pursuant to the foregoing authority, which are codified at Section 9-601 through Section 9-618, inclusive, of the Douglas County Code, and the Board and County Clerk desire to amend and restate those regulations.

NOW THEREFORE, the Board of County Commissioners of Douglas County, Kansas, sitting in regular session and intending to exercise authority specifically granted by statute and its additional powers of home rule legislation pursuant to K.S.A. 19-101a, does hereby resolve as follows:

1. AMENDMENT TO PERMITTING REGULATIONS. The Board amends and restates Section 9-601 through Section 9-618, inclusive, of the Douglas County Code, as contained in Article 6 is added to Chapter 9 (Public Works) of the Douglas County Code, as follows:

ARTICLE 6. PERMITS FOR OVERSIZE OR OVERWEIGHT VEHICLES

- 9-601. **DEFINITIONS.** For purposes of this Article, the following terms have the following definitions:
- “Applicant” means a Person who applies for a Permit.
- “Application” means an application for a Permit, including an application pursuant to K.S.A. 8-1911, and amendments thereto, and K.S.A. 17-1915, and amendments thereto.
- “Board” means the Board of Douglas County Commissioners.
- “County Road” means any public road in the unincorporated areas of Douglas County, Kansas under the Board’s jurisdiction, including Township-maintained roads but excluding any highway under the jurisdiction of the Secretary of the Kansas Department of Transportation.
- “Director” means the Director of the Douglas County Department of Public Works or designee.
- “Permit” means a permit issued pursuant to this Article to operate or move an oversize vehicle on a County Road or bridge.
- “Person” means an individual, trust, trustee, limited liability company, corporation, partnership, and any other association or organization.
- “Trustee” means the Trustee of the applicable Township or designee.
- 9-602 **DESIRE TO EXERCISE POWERS.** The Board desires to exercise the powers conferred upon it by K.S.A. 8-1911, and amendments thereto, to issue or deny permits of oversize and overweight loads and, in addition, exercises its home rule authority to adopt additional regulations not inconsistent with K.S.A. 8-1911.
- 9-603 **TRANSFER AND DELEGATION OF PERMITTING AUTHORITY.** The Board finds that (i) the authority of the Douglas County Clerk to issue permits pursuant to K.S.A. 17-1915, and amendments thereto (to permit operation of vehicles having a height of 16 feet or more), and (ii) the authority of the Board to issue permits pursuant to K.S.A. 8-1911, and amendments thereto (to permit operation of oversize or overweight vehicles), both relating to public roads under the Board’s jurisdiction, can be more efficiently and effectively exercised by the Director, and the Board hereby transfers and delegates such permitting authority to the Director. The Douglas County Clerk and other Douglas County offices shall forward any such applications to the Director and the Director shall handle such applications in accordance with this Article.
- 9-604 **UNLAWFUL USE OF PUBLIC ROADS.** It shall be unlawful to operate or move on a County Road, or for the owner or lessee to cause or knowingly permit to be operated or moved, a vehicle or combination of vehicles if the vehicle or combination of vehicles is of a size or weight of vehicle or load exceeding the

maximum specified under Article 19 of Chapter 8 of the Kansas Statutes Annotated, and amendments thereto, or of a height exceeding the maximum specified at K.S.A. 17-1914, and amendments thereto, without first receiving a Permit for such operation. The Permit may be for a single trip or for annual operation. Further, it shall be unlawful to violate the terms and conditions, or for the owner or lessee to cause or knowingly permit the violation of the terms and conditions, of any Permit issued pursuant to this Article, including but not limited to failing to follow the permitted route on the permitted date.

- 9-605 **APPLICATION FOR PERMIT.** Before operating or moving a vehicle or combination of vehicles of a size or weight for which a Permit is required under Section 9-604, or before the owner or lessee causes or knowingly permits any such operation or move, an Application shall be filed with the Director to permit such operation or move. The Director shall review the Application for the possible need for professional consultation, and, if deemed necessary by the Director, shall inspect each route/location for which such approval is requested, and, if determined appropriate, approve the issuance of a Permit therefor, with such terms and conditions as the Director determines appropriate. The Director shall take reasonable effort to accommodate the needs of each Applicant while at the same time considering the continued integrity and safety of County Roads and bridges. An Application may be denied upon the Director's determination that the granting of the Permit would compromise the integrity or safety of County Roads.
- 9-606 **TOWNSHIP-MAINTAINED ROADS.** If the Director determines that any Application includes a route/location involving the use of Township-maintained roads, the Director shall forward such Application or otherwise communicate the information from such Application to the Trustee of the appropriate Township. The Trustee shall review such Application, inspect each route/location for which such approval is requested, and make a recommendation to the Director to issue or deny a Permit for such route/location, with or without conditions. The Trustee should take reasonable effort to accommodate the needs of each Applicant while at the same time considering the continued integrity and safety of the applicable Township-maintained County Road. The Trustee's involvement is in an advisory role. Only the Director may issue the Permit.
- 9-607 **PROFESSIONAL CONSULTATION.** The Director is authorized and has sole discretion to utilize professional consultants for all or any portion of the review of an Application. When the Director determines professional consultation is necessary, the Applicant shall deposit an amount that the Director estimates as compensation for professional consultation. The Director shall then retain the professional consultant on the matters the Director determines necessary. If the deposited amount is greater than the actual consultation fee, the overage shall be refunded to the Applicant upon Permit issuance or denial. If the deposited amount is less than the actual consultation fee, the underage shall be paid by the Applicant prior to Permit issuance.
- 9-608 **PERMIT TERMS AND CONDITIONS; PERMIT DURATION AND FREQUENCY OF USE.** Any Person operating or moving a vehicle or combination of vehicles pursuant to a Permit shall comply with all provisions of this Article and all terms and conditions of the Permit. Term of the Permit shall be 14 calendar days from

the issuance date of the Permit. The Director may extend a Permit term for just cause. Term of the annual Permit shall be 365 calendar days from the issuance date of the Permit.

9-609 APPLICATION PROCESS AND INFORMATION TO BE SUBMITTED. The Director shall determine procedural matters for submitting an Application and issuance of a Permit based on the following general guidelines. The Director shall develop such forms and standards as the Director determines necessary for the issuance of Permits pursuant to this Article. At a minimum, the Application shall contain details on the vehicle or combination of vehicles, load or cargo, requested route, and the requested date of the operation or move. The Applicant shall provide any additional information the Director determines necessary. Absent exigent circumstances, the Application, together with the Application fee, proof of required insurance, and all other required documentation shall be submitted no later than 3 days prior to the requested date for the Permit.

9-610 APPLICATION FEE. The Application fee for a single trip Permit is based on the following guidelines.

Base fee \$ 50.00
Additional fee based on travel length on
County Roads \$ 10.00 per mile
Professional consultation fee, if required As estimated

The base fee is not refundable, even if a single trip Permit is not issued.

The Application fee for an annual Permit is based on the following guidelines.

Base fee \$300.00
Professional consultation fee, if required As estimated

9-611 APPLICANT RESPONSIBILITY AND SECURITY DEPOSIT. The Applicant shall be personally responsible for any and all damage occurring as a result of the permitted activity. Prior to issuance of any single trip Permit, the Applicant shall deposit with the Director a certified cashier's check or other official check in the amount of \$1,000.00, payable to Douglas County. If the Director determines a proposed permitted activity poses greater risk of damage to County Roads and bridges than routine transportation of oversize and/or overweight vehicles and/or loads, the Director may condition issuance of a Permit upon provision of a larger deposit. A security deposit will not be required for issuance of an annual Permit.

The Applicant shall replace any traffic control or directional signs moved to allow for the load to pass **IMMEDIATELY UPON PASSAGE OF THE LOAD.**

Upon completion of the move, the Director shall, if deemed necessary by the Director, inspect the route/location and determine the extent of any damage caused. The Director shall notify the Applicant of any such damage. The Applicant shall cause such damage to be repaired within 48 hours if the damage is of a type the Director permits third-parties to repair. Failure to repair any damage shall be a violation of this Article and is subject to the penalties contained herein.

If the Applicant fails or refuses to repair such damage or if the damage is of the type the Director does not permit third-parties to repair, the Director shall cause such damage to be repaired. The cost of repairs shall be deducted from any funds deposited by the Applicant and the balance shall be refunded. If the cost of repairs exceeds any funds deposited, the Applicant shall pay the County and/or Township the amount of the excess within 30 days of the date the Director mails notice to the Applicant of the excess.

9-612 **APPLICANT INSURANCE AND PROOF THEREOF.** The Applicant, driver(s), vehicle(s) and/or load(s) thereon shall carry liability insurance in the following amounts:

- a. Housetrailers, manufactured homes, and mobile homes not exceeding 16 ½ feet in width: insurance amount as provided by K.S.A. 8-1911(h)(3), and amendments thereto;
- b. All others: combined single limit of a minimum of \$500,000.00 for bodily injury and property damage.

Proof of insurance shall be provided to the Director prior to issuance of a Permit and such proof of insurance shall accompany the vehicle, item, and/or person insured during any activity permitted.

9-613 **PERMIT DISPLAY.** Any Permit issued pursuant to this Article shall be present and available for inspection by any law enforcement officer or other authorized agent, as designated by the Director or Trustee, during all activities permitted. Any sticker or decal issued with the Permit shall be displayed on the load and/or vehicle in a manner the Director directs.

9-614 **TRAFFIC CONTROL.** Applicants and other holders of Permits shall comply in all respects with the latest edition and addenda of the "Manual on Uniform Traffic Control Devices" and any other requirements the Director determines necessary, and shall pay for all costs thereof.

9-615 **PENALTY.** Any Person who fails to comply with the provisions of this Article, including violation of terms and conditions of a Permit when operating a vehicle pursuant to a Permit, shall be guilty of a Class C misdemeanor and subject to the maximum penalties prescribed by Chapter 21 of the Kansas Statutes Annotated for conviction of a Class C misdemeanor and, in addition, subject to an action brought by the Board or the Director enjoining such violation pursuant to the provisions of K.S.A. 19-101d, and amendments thereto, and/or penalties provided for violations of Article 19 of Chapter 8 of the Kansas Statutes Annotated, and amendments thereto. Any Person who violates the provisions of this Article a second time within 12 months of a previous violation shall be guilty of a Class B misdemeanor and subject to the maximum penalties prescribed by Chapter 21 of the Kansas Statutes Annotated for conviction of a Class B misdemeanor. If the Director determines any Person has not complied with the provisions of this Article and the rules and regulations of the Director relating thereto, the Director may revoke any annual Permit, if applicable, and may withdraw the privilege of such Person from receiving additional Permits in the

future. Any Person who fails to comply with the provisions of this Article and is apprehended during an unauthorized activity shall: 1) immediately cease all unauthorized activity; 2) be issued a citation, notice to appear, or warrant by a law enforcement officer; and 3) apply for a Permit, as provided by this Article.

9-616 TYPICAL VEHICLES AND LOADS INCLUDED. Typical vehicles and/or loads covered by this Article include, but are not limited to, the following: Any vehicle, trailer or load with a width greater than 8 1/2 feet; any vehicle, trailer or load with a height greater than 14 feet; and any vehicle, trailer or load with the weight on any wheel exceeding 10,000 pounds. Examples are: hauled construction vehicles; houses being relocated; and house trailers, manufactured homes, or mobile homes. Vehicle/load combinations must meet the requirements of K.A.R. 36-1-37(a), as amended, to be eligible for movement under an annual permit.

9-617 EXEMPTIONS. The following vehicles and/or loads are exempted from the provisions of this Article: Farm tractors, combines, fertilizer dispensing equipment or other farm machinery, or machinery being transported to be used for terracing or soil or water conservation work upon farms; and vehicles owned by counties, cities and other political subdivisions of Kansas, except this Section shall not exempt trucks owned by counties, cities and other political subdivisions specifically designed and equipped and used exclusively for garbage, refuse or solid waste disposal operations from the maximum gross weight limitations contained in the table in K.S.A. 8-1909, and amendments thereto.

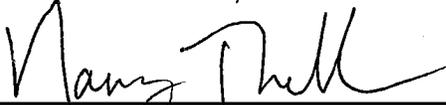
9-618 ADDITIONAL POWERS, RULES, AND REGULATIONS. The Director is authorized to establish and enforce such additional rules and regulations necessary for the orderly administration of this Article. Without limiting the scope of the Director's authority in establishing and enforcing rules and regulations to administer this Article, the Director is authorized to adopt rules and regulations generally restricting annual permit holders to the use of County routes and limiting the dimensions, weights, and types of vehicle/load combinations eligible for an annual Permit. The violation of any such rule or regulation shall constitute a violation of this Article.

2. REPEAL OF PRIOR PROVISIONS. Resolution 08-11-3_, together with Section 9-601 through 9-618, inclusive, of the Douglas County Code, as existing prior to the effective date of this Resolution, are repealed.

3. EFFECTIVE DATE. This Resolution shall take effect and be in force from and after its adoption and publication once in the official County newspaper.

IN WITNESS WHEREOF, this Resolution was adopted this 14th day of April, 2010.

BOARD OF COUNTY COMMISSIONERS
OF DOUGLAS COUNTY, KANSAS:



Nancy Thellman, Chair



Mike Gaughan, Member



Jim Flory, Member

ATTEST:



Jameson D. Shew, Douglas County Clerk

Pursuant to K.S.A. 12-3903(c), Jameson D. Shew, Douglas County Clerk, consents to the transfer the K.S.A. 17-1914 *et seq.* permitting authority (for vehicles and/or their loads with a height of 16 feet or more) from the Douglas County Clerk to the Douglas County Department of Public Works.



Jameson D. Shew, Douglas County Clerk