

Introduced by: County Administration, Transportation and Rural Development, Public Health and Environmental Protection, and Public Works Committees

Seconded by:

RESOLUTION ADOPTING LOCAL LAW INTRODUCTORY NO 4 OF 2010, ENTITLED: "A LOCAL LAW CREATING CHAPTER 100 OF THE BROOME COUNTY CHARTER AND CODE PROVIDING THAT A SPECIAL HAULING PERMIT SHALL BE REQUIRED FOR USE OF COUNTY ROADS BY CERTAIN VEHICLES THAT EXCEED THE WEIGHT OR DIMENSIONAL LIMITS IN SECTION 385 OF THE VEHICLE AND TRAFFIC LAW OF THE STATE OF NEW YORK."

WHEREAS, Section 385 of the Vehicle and Traffic Law of the State of New York (Section 385) provides that Special Hauling Permits shall be required for vehicles that exceed the gross weight or dimensional limits set forth in the statute, and

WHEREAS, Special Hauling Permits issued by the New York State Department of Transportation pursuant to Section 385 and Title 17, Transportation, New York Code of Rules and Regulations Part 154 allow operation of vehicles on highways under its jurisdiction , and

WHEREAS, Section 385.15 provides that a County may issue a similar Special Hauling Permit for operations on highways under its jurisdiction, and

WHEREAS, this Legislature finds that it is advisable to enact a Local Law allowing the issuance of Special Hauling Permits for vehicles that exceed the gross weight or dimensional limits set forth in Section 385 operating on highways under Broome County's jurisdiction, now, therefore, be it

RESOLVED, that Local Law Intro. No. 4 of 2010, entitled: "A Local Law creating Chapter 100 of the Broome County Charter and Code Providing that a Special Hauling Permit Shall Be Required for Use of County Roads by Certain Vehicles that Exceed the Weight or Dimensional Limits in Section 385 of the Vehicle and Traffic Law of the State of New York," be and the same hereby is adopted and approved in accordance with the Broome County Charter, the Municipal Home Rule Law and all applicable statutes and laws pertaining thereto.

LOCAL LAW INTRODUCTORY NO. 4 OF 2010

A LOCAL LAW CREATING CHAPTER 100 OF THE BROOME COUNTY CHARTER AND CODE PROVIDING THAT A SPECIAL HAULING PERMIT SHALL BE REQUIRED FOR USE OF COUNTY ROADS BY CERTAIN VEHICLES THAT EXCEED THE WEIGHT OR DIMENSIONAL LIMITS IN SECTION 385 OF THE VEHICLE AND TRAFFIC LAW OF THE STATE OF NEW YORK.”

Be it enacted by the Legislature of the County of Broome as follows:

Section 1 Chapter 100 of the Broome County Charter and Code shall be and hereby is adopted to read as follows:

Chapter 100-1. Authority for this Local Law

This Local Law is enacted pursuant to the authority of Vehicle & Traffic Law Section 385(15) authorizing a County to issue a Special Hauling Permit (hereinafter “Permit”) to operate or move a vehicle or a combination of vehicles, the weights or dimensions of which exceed the limitations provided in Section 385 on County roads or highways, similar to that *permit* issued by the State of New York relating to the state system of highways.

Chapter 100-2. Permit Requirement

A. A vehicle or a combination of vehicles, the weights or dimensions of which exceed the limitations provided in Section 385 shall not be operated on County roads or highways unless a Permit has been issued in accordance with the provisions of this Local Law.

B. The Commissioner of Public Works (hereinafter the “Commissioner”) of the County of Broome (hereinafter the “County”) is hereby designated as the authority to receive applications for permits to operate or move a vehicle or a combination of vehicles, the weights or dimensions of which exceed the limitations provided in Section 385 on County roads or highways. Such permit can only be issued to applicants who are eligible for or are holders of valid New York State Hauling Permits issued by the New York Department of Transportation (hereinafter NYSDOT) pursuant to Title 17 Transportation, New York Code of Rules and Regulations Part 154.

Chapter 100-3. Application Form

The Commissioner is hereby authorized to promulgate an application form requesting a Permit. The application form shall include

A. A list of Broome County highway(s) to be used as hauling routes, if any, by the permit holder.

B. Copies of valid New York State Vehicle Registrations for each vehicle.

C. Copies of valid New York State Special Hauling Permits, if any, for each vehicle.

D. Proof of Insurance as required by Chapter 100-6 of this Local Law.

E. The Commissioner is authorized to issue regulations that require additional reasonable information on application forms. Any such regulations must be filed by the Commissioner with the Clerk of the Broome County Legislature.

F. Designation of a Permit Fee as allowed by the State of New York Vehicle and Traffic Law.

Chapter 100-4 Permit Form

The Commissioner is hereby authorized to promulgate the Permit form to be issued upon review and approval of an application for a Permit. In the event that the holder of a NYSDOT Special Hauling Permit(s) presents proof (satisfactory to the Commissioner of Public Works) that such holder, for itself, its agents and sub contractors plans to use more than one vehicle the weights or dimensions of which exceed the limitations provided in Section 385 on County roads or highways vehicle, the holder of the NYSDOT Special Hauling permit(s) may elect to execute a County wide road maintenance agreement in lieu of separate permits for each vehicle(s). Said road maintenance agreement shall conform to the minimum requirements of this local law, shall be executed by the County and the Permit holder and shall include such additional terms as are reasonably required by the Commissioner, including but not limited to insurance, maintenance bond, hauling route designations, traffic schedules, inspections and road surveys. All of the vehicles specifically listed in such agreement, including those owned by the holder, its agents and sub contractors, shall be deemed to be covered by such agreement, and upon execution of the agreement the Commissioner shall issue a blanket permit.

Chapter 100-5. Damage to County Roads

With the exception of normal wear and tear, the permit holder is responsible for all damages done to the roadways, ditches, curbs, sidewalks or other improvements and to public utilities in the roadway. Upon due notice being given to the permit holder and at the County option, the County may request the permit holder to repair all damages, or the County may arrange for the necessary repairs and charge the permit holder for all labor and materials at the prevailing rates.

Chapter 100-6. Insurance

The permit holder must present proof satisfactory to the Commissioner that it has satisfied the insurance requirements of the State of New York Department of Transportation for a single vehicle special hauling permit.

Chapter 100-7. Indemnity and Save Harmless

The Permit holder will be required to agree to fully indemnify, defend, save and hold harmless the County of Broome and all of its departments, bureaus, divisions, boards, officers and employees from and against any and all claims, costs, damages, expenses, charges, risks, losses, lawsuits, judgments, executions, penalties, fines, assessments or any other liability of any type arising out of, occurring in connection with, or resulting from any and all activity to be performed by permit holder pursuant to this permit.

Chapter 100-8. Stop Work Orders

The Commissioner shall have the right and authority to issue stop work orders to those operating in violation of the terms of this local law, or contrary to the permit holder's application or conditions upon which its permit was issued.

Chapter 100-9. Revocation of Permit

Upon the violation of any provisions of this permit, the Commissioner may suspend any permit issued hereunder for no more than thirty (30) days, and following a public hearing at which the permit holder shall have the right to appear and be heard, may revoke any permit on notice to the permit holder.

Chapter 100-10. Special Conditions and Exclusions

A. The permit shall not be assigned or transferred without the written consent of the Commissioner

B. The Commissioner shall be given one day's notice by said permit holder of the date when it intends to begin the activity authorized by the permit, and prompt notice of its completion.

C. The permit shall remain valid only for so long as the permit holder continues to hold a valid New York State Hauling Permit.

D. The permit shall not authorize the holder to exceed the maximum gross weight limit authorized for crossing any weight posted bridge.

E. Due to the vital nature of the following vehicles in providing public services deemed necessary in preventing emergencies or in safeguarding the public health, safety and welfare, and since overweight vehicles may be required to perform these services, the following vehicles are granted exemptions from the permitting process of this local law:

(1) Maintenance, repair and service vehicles owned and operated by the County of Broome or municipal corporations located in the County of Broome and on official County or municipal business.

(2) Maintenance, repair and service vehicles owned and operated by a utility company or authority and on official utility business.

(3) Emergency vehicles and vehicles owned by New York or municipal corporations of New York.

F. Nothing contained in this Chapter shall be deemed to limit the right to farm as set forth in Article 25-AA of the New York State Agricultural and Markets Law.

Chapter 100-11 Violation of Local Law; Penalties

A. Any person who shall operate or move a vehicle or a combination of vehicles, the weights or dimensions of which exceed the limitations provided in Section 385 on County roads or highways without obtaining the permit required hereunder shall be guilty of a Class A misdemeanor, which shall be punishable by a fine not exceeding One Thousand (\$1,000.00) Dollars.

B. In addition to the above prescribed penalties, the County Board may in its discretion maintain an action or proceeding in the name of the County in a court of competent jurisdiction to compel compliance with this Local Law by injunction, abatement or otherwise compel cessation of each violation, and obtain restitution to the County for costs incurred by the County in remedying each violation, including but not limited to reasonable attorney's fees.

Chapter 100-12. Severability

If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances, and the County Board of the County of Broome hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

Chapter 100-13. Repealer

All ordinances, local laws and parts thereof inconsistent with this Local Law are hereby repealed.

Section 2.

This Local Law shall take effect January 1, 2011 after filing in the office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.