J-02a

CITY COUNCIL REPORT

TO: John Szerlag, City Manager

FROM: Gary Mayer, Chief of Police GM
David Livingston, Lieutenant, Troy Police Department DL#307

SUBJECT: Motor Carrier Enforcement Cost Recovery Initiative

Background:

- The City of Troy Police Department has three (3) police officers who are trained Motor Carrier officers. They conduct safety inspections of commercial vehicles on a daily basis throughout the year and issue violations for various infractions to drivers and trucking companies, ranging from having overweight trucks to not having the proper paperwork with them.

  About forty percent (40%) of commercial trucks inspected in 2009 had to be placed out of service due to safety issues with the trucks or the lack of driver qualifications to drive the trucks.

  The City of Troy Police Department commercial vehicle inspectors are making a difference in keeping residents and commuters safe from dangerous trucks and dangerous truck drivers.

  This draft ordinance is being provided to City Council as an informational item at this time, and is intended to be submitted as a regular business item at the April 5, 2010, City Council meeting. If City Council has any questions or concerns regarding the proposed ordinance, please let us know as soon as possible so we can address them in a timely manner.

Financial Considerations:

- Currently, the City of Troy does not receive any money from the fines that are levied against the drivers and trucking companies found in violation of ordinances, state laws, and federal motor carrier laws that our motor carrier officers are qualified to enforce.

  The fines levied for some of the safety violations on these commercial vehicles can run into the thousands of dollars because of the detrimental effect they have on roads and the safety of the motoring public.

  Currently, about seventy percent (70%) of all fines levied go to the State of Michigan. Most of the remaining thirty percent (30%) go to funding libraries. A small portion is received by the courts for administrative costs.

  As a matter of comparison, for traffic citations issued to a driver of a passenger vehicle, the City of Troy currently receives about thirty percent (30%) of those fines.

Legal Considerations:

- Because the City of Troy has not yet adopted the commercial vehicle laws as written in the Motor Vehicle Code and the Uniform Traffic Code, the fines associated with these types of violations will continue to go to the State of Michigan rather than to the City of Troy.

  By adopting these commercial vehicle laws, seventy percent (70%) of the fines recovered would come to the City of Troy.

Policy Considerations:

- By allowing the City of Troy to adopt the commercial vehicle laws as written in the Motor Vehicle Code and the Uniform Traffic Code, the City of Troy will be able to benefit both in terms of financial considerations and safety considerations that will enhance the health and safety of the community.

Options:

- The City Council could reject this consideration. In doing so, seventy percent (70%) of any monies from fines levied as a result of a commercial safety violation will continue to go to the State of Michigan.

Reviewed and approved as to legality:

Lori Grigg Bluhm, City Attorney

[DGL/Motor Carrier Cost Recovery Initiative]

CITY OF TROY
AN ORDINANCE TO AMEND
CHAPTER 106 OF THE CODE
OF THE CITY OF TROY

The City of Troy ordains:

Section 1. Short Title

This Ordinance shall be known and may be cited as an amendment to Chapter 106, Traffic, of the Code of the City of Troy.

Section 2. Amendment

Chapter 106, Traffic, of the City of Troy Code of Ordinances shall be amended to incorporate the following:

11. MOTOR VEHICLE SIZE, WEIGHT AND LOAD RESTRICTIONS

11.1 Size, weight and load restrictions.

(1) Unless specifically declared to be a municipal civil infraction , it is a misdemeanor for a person to drive or move or for the owner to cause or permit to be driven or moved on a highway a vehicle of a size and weight exceeding the limitations stated in this ordinance or otherwise in violation of this ordinance.

(2) The provisions of this ordinance governing size, weight, and load do not apply to a fire apparatus; to an implement of husbandry; to a boat lift or oversized hydraulic boat trailer that is owned and operated by a marina or watercraft dealer and used exclusively in a commercial boat storage operation which is incidentally moved upon a highway; or to a vehicle operated under the terms of a special permit issued as provided in this ordinance.

(3) The Michigan State Transportation Department, under the Administrative Procedures Act of 1969, 1969 PA 306 (MCL 24.201 to MCL 24.328), may promulgate rules permitting and regulating the operation of a vehicle or vehicles of a size or weight that exceeds the size or weight limitations of this ordinance. The City may enforce those rules under this ordinance, but can take no actions in conflict with Federal, State, or local law.

(4) A wrecker and a disabled vehicle, or a wrecker and a combination of a disabled vehicle and one trailer that exceeds the size and weight limitations in this ordinance may be operated upon the highways of the City under the following conditions:

(a) The wrecker is specifically designed for such towing operations; is equipped with flashing, oscillating, or rotating amber or red lights as permitted under MCL 257.698; and is capable of utilizing the lighting and braking systems of the disabled vehicle or combination of disabled vehicles if those systems are operational.

(b) For a combination of disabled vehicles, the wrecker is issued a special permit under section 106.11.15 by the Troy Police Department if each trip beginning from the place of original disablement is 25 miles or less. The special permit is valid for the entire 25 mile towing distance, and the operator of that wrecker may remove the disabled vehicles from the roadway at any lawful point of his or her choosing within that distance.

(c) For a single disabled vehicle, the wrecker is issued a special permit under section 106.11.15 by the Troy Police Department for the transport of the disabled vehicle. A wrecker operator is not subject to mileage limitations under such a special permit .

(d) The wrecker does not operate on any highway, road, street or structure that is included on a list provided annually (?) by the State Transportation Department that prohibits wreckers (?), unless the disabled vehicle or combination of vehicles is located on one of those roads or structures.

(5) The owner or operator of a wrecker that does not comply with Section 106.11.1 (4) is responsible for a (? Municipal or just civil infraction?) civil infraction and shall pay a civil fine of not less that $250.00 or more than $500.00. The civil fine imposed under this subsection is in addition to any fine that may be imposed under Section 106. 11.13 or 106.11.15.

11.2 <u>Maximum outside width of vehicles or loads; operation or movement of boat lifts and trailers</u>.

(1) The total outside width of a vehicle or the load on a vehicle that is operated on the highways, streets, and roadways in the City shall not exceed 96 inches, except as otherwise provided in this section.

(2) A person may operate or move an implement of husbandry of any width on a highway as required, designed, and intended for farming operations, including the movement of implements of husbandry, without obtaining a special permit for an excessively wide vehicle or load under section 106.11.15. The operation or movement of the implement of husbandry shall be in a manner so as to minimize the interruption of traffic flow. During the time that starts ½ hour after sunset and continues to ½ hour before sunrise, a person shall not operate or move an implement of husbandry to the left of center of the roadway, or at any other time where visibility is substantially diminished due

to weather conditions. A person operating or moving an implement of husbandry shall follow all traffic regulations.

(3) The total outside width of the load of a vehicle hauling concrete pipe; agricultural products; or unprocessed logs, pulpwood, or wood bolts shall not exceed 108 inches.

(4) Except as provided in subsections (2) and (5) above, if a vehicle that is equipped with pneumatic tires is operated on a highway, the maximum width from the outside of one wheel and tire to the outside of the opposite wheel and tire shall not exceed 102 inches, and the outside width of the body of the vehicle or the load on the vehicle shall not exceed 96 inches. However, a truck or trailer or a tractor and semi-trailer combination hauling pulpwood or unprocessed logs may operate with a maximum width of up to 108 inches, in accordance with a special permit issued under Section 106.11.15.

(5) The total outside body width of a bus, a trailer coach, a trailer, a semi-trailer, a truck camper, or a motor home shall not exceed 102 inches. However, an appurtenance of a trailer coach, a truck camper, or a motor home that extends not more than 6 inches beyond the total outside body width is not a violation of this Section.

(6) A vehicle shall not extend beyond the center line of a state trunk highway except when authorized by law. Except as provided in section (2) above, if the width of the vehicle makes it impossible to stay away from the center line, a permit shall be obtained under section 106.11.15.

(7) The City may designate a highway under its jurisdiction as a highway on which a person may operate a vehicle or vehicle combination that is not more than 102 inches in width, including load, the operation of which would otherwise be prohibited by this Section. The City may require that the owner or lessee of the vehicle or of each vehicle in the vehicle combination secure a permit before operating the vehicle or vehicle combination. This Section does not permit the operation of a vehicle or vehicle combination described in Section 106.11.11 if the operation would otherwise result in a violation of that Section.

(8) The Troy Police Department may issue a special permit under Section 106.11.15 to a person operating a vehicle or vehicle combination if all of the following are met:

(a) The vehicle or vehicle combination, including load, is not more than 106 inches in width.

(b) The vehicle or vehicle combination is used solely to move new motor vehicles or parts or components of new motor vehicles between facilities that meet all of the following:

(i) New motor vehicles or parts or components of new motor vehicles are manufactured or assembled in the facilities.

(ii) The facilities are located within 10 miles of each other.

(iii) The facilities are located with the Troy city limits.

(c) The special permit and any renewals are each issued for a term of one year or less.

(9) A person who violates this Section is responsible for a municipal civil infraction. The operator or the owner of the vehicle may be charged with a violation of this Section.

11.3 Passenger-type vehicles; projected load.

(1) A passenger type vehicle shall not be operated on a highway with a load carried on the vehicle extending beyond the line of the fenders on the left side of the vehicle nor extending more than six inches beyond the line of the fenders on the right side of the vehicle.

(2) A person who violates this section is responsible for a municipal civil infraction .

11.4 Height, length; combinations; connecting assemblies, lighting devices; weight; violations.

(1) A vehicle, either unloaded or with load, shall not exceed a height of 13 feet 6 inches. The owner of a vehicle that collides with a lawfully established bridge or viaduct is liable for all damage and injury resulting from a collision caused by a vehicle with an excessive height,,whether the clearance of the bridge or viaduct is posted or not.

(2) Lengths described in this Section shall be known as the normal length maximum. Except as provided in Section (3) below, the following vehicles and combinations of vehicles shall not be operated on a highway in this City in excess of these lengths:

(a) Subject to Section (8), any single vehicle- 40 feet; a crib vehicle on which logs are loaded lengthwise of the vehicle- 42.5 feet; any single bus or motor home- 45 feet.

(b) Articulated buses- 65 feet.

(c) Notwithstanding any other provision of this Section, a combination of a truck and semi-trailer or trailer, or a truck tractor, semi-trailer, and trailer, or truck tractor and semitrailer or trailer, designated and used exclusively to transport assembled motor vehicles or bodies, recreational vehicles, or boats- 65 feet. Stinger-steered combinations shall not exceed a length of 75 feet. The load on the combinations of vehicles described in this Section may extend an additional 3 feet beyond the front and 4 feet beyond the rear of the combinations of vehicles. Retractable extensions used to support and secure the load that do not extend beyond the allowable overhang for the front and rear shall not be included in determining length of a loaded vehicle or vehicle combination.

(d) Truck tractor and semi-trailer combinations- the semi-trailer shall not exceed 50 feet.

(e) Truck and semi-trailer or trailer- 59 feet.

(f) Except as provided in Section (g) below, a combination of a truck tractor, semi-trailer, and trailer, or truck tractor and 2 semi-trailers- 59 feet.

(g) A combination of a truck tractor, semi-trailer, and trailer, or a truck tractor and 2 semi-trailers, in which no semitrailer or trailer is more than 28 ½ feet long- 65 feet. This Section only applies while the vehicle is being used for a business purpose that is reasonably related to picking up or delivering a load and only if each semi-trailer or trailer is equipped with a device or system capable of mechanically dumping construction materials or dumping construction materials by force of gravity.

(h) More than one motor vehicle, wholly or partially assembled, in combination, utilizing one tow bar or three saddle mounts with full mount mechanisms and utilizing the motive power of one of the vehicles in combination-,55 feet.

(3) The normal length maximums, as set forth in Section (2) above, may be exceeded for the following vehicles and combinations of vehicles, but they shall comply with the following:

(a) Truck tractor and semi-trailer combinations- the semi-trailer shall not exceed 53 feet. All semi-trailers longer than 50 feet shall have a wheelbase of 37.5 to 40.5 feet, plus or minus 0.5 feet, measured from the kingpin coupling to the center of the rear axle or the center or the rear axle assembly. A semi-trailer with a length longer than 50 feet shall not operate with more than 3 axles on the semi-trailer. Vehicles with a semitrailer longer than 50 feet are prohibited from stopping in the City

unless the stop occurs along appropriately designated routes, or is necessary for emergency purposes or to reach shippers, receivers, warehouses, and terminals along designated routes.

(b) Truck and semi-trailer or trailer combinations- 65 feet, except that a person may operate a truck and semi-trailer or trailer designed and used to transport saw logs, pulpwood, and tree length poles that does not exceed an overall length of 70 feet or a crib vehicle and semi-trailer or trailer designated and used to transport saw logs that does not exceed an overall length of 75 feet. A crib vehicle and semi-trailer or trailer designed for and used to transport saw logs shall not exceed a gross vehicle weight of 164,000 pounds. A person may operate a truck tractor and semi-trailer designed for and used to transport saw logs, pulpwood, and tree length wooden poles with a load overhang to the rear of the semi-trailer which does not exceed 6 feet if the semi-trailer does not exceed 50 feet in length.

(c) Notwithstanding 106.11.4 (4) (d), a truck tractor with a log slasher unit and a log saw unit- no maximum length limit if the length of each unit does not exceed 28 ½ feet, or the overall length of the log slasher unit and the log saw unit, as measured from the front of the first towed unit to the rear of the second towed unit while the units are coupled together, does not exceed 58 feet. The coupling devices of the truck tractor and units set forth in this Section shall meet the requirements established under the Motor Carrier Safety Act of 1963, 1963 PA 181, MCL 480.11 to MCL 480.25.

(d) Truck tractor and 2 semi-trailers, or truck tractor, semi-trailer, and trailer combinations- no overall length limit, if the length of each semi-trailer or trailer does not exceed 28 ½ feet each, or the overall length of the semi-trailer and trailer, or 2 semi-trailers as measured from the front of the first towed unit to the rear of the second towed unit while the units are coupled together does not exceed 58 feet.

(e) More than one motor vehicle, wholly or partially assembled, in combination, utilizing one tow bar or 3 saddle mounts with full mount mechanisms and utilizing the motive power of one of the vehicles in combination- maximum 75 feet.

(4) The following combinations and movements are prohibited:

(a) A truck shall not haul more than one trailer or semi-trailer, and a truck tractor shall not haul more than 2 semi-trailers or 1 semi-trailer and 1 trailer in combination at any one time, except that a farm tractor may haul 2 wagons or trailers, or garbage and refuse haulers may, during daylight hours, haul up to 4 trailers for garbage and refuse collection purposes, as

long as the total length of any combination does not exceed 55 feet and the vehicles are operated at a speed limit of 15 miles per hour or less.

(b) A combination of vehicles or a vehicle shall not have more than 11 axles, except when operating under a valid permit issued by the Troy Police Department on highways under its jurisdiction.

(c) Any combination of vehicles not specifically authorized under this Section is prohibited.

(d) Except as provided in Section 106.11.4 (3) (c) a combination of 2 semi-trailers pulled by a truck tractor, unless each semi-trailer uses a fifth wheel connection assembly that conforms to the requirements of the Motor Carrier Safety Act of 1963, 1963 PA 181, MCL 480.11 to MCL 480.25.

(e) A vehicle or combination of vehicles shall not carry a load extending more than 3 feet beyond the front of the lead vehicle.

(f) A vehicle described in Section 106.11.4 (2) (e) and (3) (e) employing triple saddle mounts, unless all wheels that are in contact with the roadway have operating brakes.

(5) All combinations of vehicles under this section shall employ connecting assemblies and lighting devices that are in compliance with the Motor Carrier Safety Act of 1963, 1963 PA 181, MCL 480.11 to MCL 480.25.

(6) The total gross weight of a truck tractor, semi-trailer, and trailer combination or a truck tractor and 2 semi-trailers combination that exceeds 59 feet in length shall not exceed a ratio of 400 pounds per engine net horsepower delivered to clutch or its equivalent, as specified in the handbook published by the Society of Automotive Engineers, Inc. (SAE), 1977 edition. (nothing more recent?)

(7) A person who violates this section is responsible for a civil infraction. The owner of the vehicle may be charged with a violation of this section.

(8) The provisions in Sections 106.11.4 (2) (a) and (3) (b) prescribing the length of a crib vehicle on which logs are loaded lengthwise do not apply unless section 127(d) of Title 23 of the United States Code, 23 USC 127, is amended to allow crib vehicles carrying logs to be loaded as described in this section.

(9) As used in this section:

(a) "Designated highway" means a highway under the jurisdiction of the City of Troy.

(b) "Length" means the total length of a vehicle, or combination of vehicles, including any load the vehicle is carrying. Length does not include devices described in 23 CFR 658.16 and 23 CFR part 658, appendix D, 23 CFR 658.16 and 23 CFR part 658, appendix D, as on file with the Michigan Secretary of State and as adopted by reference. A safety or energy conservation device shall be excluded from a determination of length only if it is not designed or used for the carrying of cargo, freight, or equipment. Semi-trailers and trailers shall be measured from the front vertical plane of the foremost transverse load supporting the structure to the rear-most transverse load supporting the structure. Vehicle components not excluded by law shall be included in the measurement of the length, height, and width of the vehicle.

(c) "Stinger-steered combinations" means a truck tractor and semi-trailer combination in which the fifth wheel is located on a drop frame located behind and below the rear-most axle of the power unit.

11.5 Towing vehicle with mobile home attached; operating restrictions; permits; transport requirements; violations; definitions.

(1) Notwithstanding any other provisions of this ordinance, a person shall not operate on a highway of this City a towing vehicle to which a mobile home is attached, if that mobile home is more than 45 feet in length or more than 60 feet in length when combined with the towing vehicle; or is more than 12 ½ feet in height; or has an actual body width of more than 102 inches at base rail, unless that person possesses either of the following:

(a) A permit issued by the Troy Police Department pursuant to this Section.

(b) A special permit issued by the Troy Police Department pursuant to Section 106.11.15.

(2) The Troy Police Department may issue an annual permit to a mobile home transport company; a mobile home manufacturer;; or a mobile home dealer to move a mobile home over a highway under the jurisdiction of the City, in the ordinary course of that company's, manufacturer's, or dealer's business, as long as the mobile home conforms to each of the following:

(a) The mobile home is not more than 12 feet wide.

(b) The actual body length of the mobile home is not more than 80 feet and the combined length of the mobile home and towing vehicle is not more than 105 feet; or the total length of a combination of mobile homes is not

more than 80 feet and the total length of a combination of mobile homes and towing is not more than 105 feet.

(3) The Troy Police Department may, in accordance with Section 106.11.15, issue a special permit for the movement of a mobile home over a highway within its jurisdiction if the width of that mobile home conforms to both of the following:

(a) The mobile home is not more than 16 feet wide plus normal appurtenances or eaves that extend not more than 6 inches from any side of the mobile home.

(b) The length of the mobile home complies with Section 106.11.5 (2) (b).

(4) A person operating a towing vehicle under Section 106.11.5 (3) shall transport a mobile home only on the lane farthest to the right of that person. When the wind velocity exceeds 25 miles per hour, a person shall not move a mobile home that is 14 or more feet in width.. .

(5) The Troy Police Department shall not issue a permit described in Section 106.11.5 (2) or (3) for the transportation of a mobile home on a Saturday, Sunday, legal holiday (from noon the day before until the noon after a holiday), or during the hours between sunset and sunrise.

(6) Persons operating a vehicle towing a mobile home shall comply with all of the conditions of a permit issued by the Troy Police Department. A permit issued under this Section shall include all of the following:

(a) The date, day, and time period during which a mobile home may be moved on a highway.

(b) Notice that the permit is conditioned upon its holder's compliance with all of the permit's terms and with the law.

(c) Notice that the operator of a towing vehicle transporting the mobile home shall operate the towing vehicle on a highway as follows:

(i) At a safe speed and in a safe manner that will not impede motor traffic.

(ii) Only when the surface condition of the highway is not slippery.

(iii) In accordance with seasonal load restrictions.

(d) Additionally, if the mobile home and towing vehicle,, when combined, are more than 80 feet in length or more than 12 feet wide, all of the following:

(i) Notice that the mobile home shall be equipped with two flashing amber lights on the rear of the mobile home and one flashing amber light on the top of the towing vehicle.

(ii) Notice that the mobile home shall be equipped with stop lights and directional lights on the rear of the mobile home.

(iii) Notice that the signs with the words "oversize load" shall be displayed on the front bumper of the towing vehicle and the back of the mobile home, or in the case of mobile homes that are 16 feet wide, notice that signs with the words "16-ft wide load" shall be displayed on the front bumper of the towing vehicle and the back of the mobile home.

(iv) Notice that the signs identified in paragraph (iii) above shall be of durable material, in good condition, with black lettering on interstate yellow background, and that each letter shall be of block lettering that is not less than 12 inches high at the front and not less than 16 inches high at the rear of the unit.

(v) Notice that a vehicle escort is required on those roads where the City considers escort vehicles necessary for highway safety.

(7) Signs and other special identification for escort vehicles shall conform to Michigan Transportation Department's requirements for all escort vehicles for oversized loads.

(8) For a mobile home being moved pursuant to this Section or Section 106.11.15, the distance between mobile home axle centers shall not be less than 34 inches. The axle and tires shall meet standards established by the Michigan Transportation Department.

(9) A person who violates this section is responsible for a (is it a municipal or just a civil infraction?) civil infraction and may be assessed a civil fine of not more than $500.00. The operator or the owner of the towing vehicle may be charged with a violation of this section.

(10) The Troy Police Department shall comply and act in conformity with all notifications and directives issued under MCL 257.719a (11) from the Michigan State Transportation Department , which can determine that the issuance of special permits creates an unreasonable safety hazard or hazards, and therefore requires the immediate cessation of special permits for moving mobile homes that are more than 14 1/3 feet wide along the highways of the lower peninsula of Michigan.

(11) As used in this section:

"Mobile home" means any of the following:

(a) A pre-built housing module.

(b) That term,,as defined in section 2 of the Mobile Home Commission Act, Act No. 96 of the Public Acts of 1987, being section 125.2302 of the Michigan Compiled Laws.

(c) A section of a mobile home as that term is defined under this Ordinance.

11.6 Mobile homes; additional requirements for transporting.

All mobile homes transported on the highways of the City that are more than 14 1/3 feet wide (plus normal appurtenances that expand no more than 6 inches, and an eave that extends no more than 2 feet from the width of the mobile home), are subject to the following requirements in addition to the requirements of Section 106.11.4:

(a) Two escort vehicles shall escort the towing vehicle and mobile home on all 2-lane roads and on those roads where the Troy Police Department considers two escort vehicles necessary for highway safety.

(b) Each towing vehicle shall be equipped with a radio or other device that allows for continuous communication between the towing vehicle and each escort vehicle.

(c) The person transporting the mobile home shall have in effect a liability insurance policy covering personal injury and property damage and having a policy limit of not less than $1,000,000.00.

(d) The towing vehicle and mobile home shall not exceed a speed of 45 miles per hour or 10 miles per hour below the posted speed limit, whichever is lower.

11.7 Trucks hauling semitrailers, transportation of passengers for sightseeing purposes; approval of city; speed limitation; safety equipment; inspection.

(1) Notwithstanding Section 106.11.4, the Troy Police Deparment may give approval for a truck to be used to haul up to 4 semi-trailers for the purpose of transporting passengers for sightseeing purposes, as long as the truck does not travel more than 3 miles beyond the City boundaries and does not exceed a speed limit of 25 miles per hours.

(2) A truck and a semi-trailer, as described in this Section, shall meet the following requirements:

(a) Be equipped with hazard warning lights, and slow-moving vehicle emblems, as described in MCL 257.688.

(b) Be equipped with safety belts, as described in MCL 257.710e, for each individual seat.

(c) Be compliant with any applicable federal safety standards.

(3) Before operating a truck regulated by this Section, the operator of the truck shall secure the proper group vehicle designation and any required endorsement required on his or her operator's or chauffeur's license.

(4) A truck and semi-trailer used as described in this Section shall be inspected annually by the Michigan Department of State Police.

11.8 Construction or loading of vehicle to prevent spillage on highway or roadway; loading of vehicle which is not completely enclosed; operation of vehicle equipped with front end loading device with protruding tine: offenses and penalties.

(1) A person shall not drive or move a vehicle on a highway unless the vehicle is so constructed or loaded as to prevent its contents from dropping, sifting, leaking, blowing off, or otherwise escaping from the vehicle. This requirement does not apply to a vehicle transporting agricultural or horticultural products, such as hay, straw, silage, or residue from a product (but not including the product itself), or when materials such as water that is used to preserve and handle agricultural or horticultural products while in transportation, escape from the vehicle in an amount that does not interfere with other traffic on the highway. The tailgate, faucets, and taps on a vehicle shall be securely closed to prevent spillage during transportation, whether the vehicle is loaded or empty, and the vehicle shall not have any holes or cracks through which material can escape. Any highway maintenance vehicle engaged in either ice or snow removal shall be exempt from this Section.

(2) Actual spillage of material on the highway or proof of that spillage is not necessary to prove a violation of this Section.

(3) Except as provided in this Section, a vehicle carrying a load, (other than logs or tubular products), which is not completely enclosed shall meet either of the following requirements:

(a) The load shall be covered with firmly secured canvas or a similar type of covering. A device used to comply with the requirement of this Section

shall not exceed a width of 108 inches nor by design or use have the capability to carry cargo by itself.

(b) The load shall be securely fastened to the body or the frame of the vehicle with binders of an adequate number and of adequate breaking strength to prevent the dropping off or shifting of the load.

(4) A company or individual who loads or unloads a vehicle or causes it to be loaded or unloaded, with the knowledge that it is to be driven on a public highway, and the loading or unloading is done in a manner so as to cause a violation of Section 106.11.8 (1) shall be prima facie liable for a violation of this Section.

(5) Section 106.11.8 (3) does not apply to a person operating a vehicle to transport agricultural commodities or to a person operating a farm truck or implement of husbandry that is transporting sand, gravel, and dirt which is necessary in the normal operation of a farm. However, if such person violates subsection 106.11.8 (1) or (4), the person is guilty of a misdemeanor and is subject to the penalties prescribed in subsection 106.11.8 (9).

(6) Section 106.11.8 (3) (a) does not apply to a motor vehicle transporting items in a load that, because of their weight, will not fall off the moving vehicle and that have their center of gravity located at least 6 inches below the top of the enclosure. Similarly, Section 106.11.8 (3) does not apply to a motor vehicle carrying metal that, because of its weight and density, is so loaded as to prevent it from dropping or falling off the moving vehicle.

(7) Section 106.11.8 (3) (a) does not apply to motor vehicles and other equipment that is engaged in work upon the surface of a highway or street in a designated work area.

(8) A person shall not drive or move on a highway a vehicle equipped with a front end loading device with a tine protruding parallel to the highway beyond the front bumper of the vehicle unless the tine is carrying a load designed to be carried by the front end loading device. This Section does not apply to a vehicle designed to be used or being used to transport agricultural commodities; to a vehicle en route to a repair facility; or to a vehicle engaged in construction activity. As used in this Section, "agricultural commodities" means that term as defined in section 106.11.10.

(9) A person who violates this section is guilty of a misdemeanor, punishable by a fine of not more than $500.00 or imprisonment for not more than 90 days, or both.

(10) As used in this section, "logs" means saw-logs, pulpwood, or tree length poles.

11.9 Trailers towed by passenger vehicle, attachment.

(1) Except as otherwise provided in Section 106.11.9 (5), a passenger vehicle or a pickup truck shall not be driven upon a highway drawing or having attached to the passenger vehicle or pickup truck more than one vehicle or trailer.

(2) The drawbar or other connection between 2 vehicles, one of which is towing or drawing the other on a highway, shall not exceed 15 feet in length from one vehicle to the other. If the connection consists of a chain, rope, or cable, there shall be a red flag or other signal or cloth on the connection that is at least 12 inches both in length and width.

(3) A vehicle or trailer towed or drawn by a vehicle shall be attached to the vehicle with coupling devices in a manner so that when the combination is operated in a linear alignment on a level, smooth, paved surface, the movement of the towed or drawn vehicle or trailer does not deviate more than three inches to either side of the path of the towing vehicle. The vehicle or trailer shall also be connected to the towing vehicle by suitable safety chains or devices, one on each side of the coupling and at the extreme outer edge of the vehicle or trailer. Each chain or device and connection used shall be of sufficient strength to haul the vehicle or trailer when loaded. In the case of an implement of husbandry with a gross vehicle weight rating or gross combination weight rating of 10,000 pounds or less, the safety chains or devices required under this subsection shall conform to the federal motor carrier safety regulations requirements, which are currently provided in 49 C.F.R. 393.70(d)(5).

(4) A pickup truck with a fifth wheel assembly shall not tow a semi-trailer unless the fifth wheel assembly conforms to the standards prescribed in the Motor Carrier Safety Act of 1963, 1963 PA 181, MCL 480.11 to MCL 480.22 and Section 12.1 to section 12.20 of this ordinance.

(5) Notwithstanding Section 106.11.9 (1), a pickup truck with a towing rating equal to or greater than the weight being towed, that is equipped with a fifth wheel assembly that conforms with the standards prescribed in the Motor Carrier Safety Act of 1963,1963 PA 181, MCL 480.11 to MCL 480.22, which is towing a semi-trailer that is designated for recreational living purposes, may tow an additional trailer or semi-trailer under the following conditions:

(a) The additional trailer or semi-trailer shall be attached pursuant to Section 106.11.9 (3). The safety chains described in Section 106.11.9 (3) shall be securely attached at the extreme outer edge of the attached trailer or semi-trailer with a locking mechanism. The towing vehicle hitch shall be of

substantial material and shall be attached in a proper and skillful manner to the frame of the towing vehicle.

(b) The total length of the pickup truck, plus the semi-trailer that is designed for recreational living purposes, and the additional trailer or semi-trailer, and the load of the vehicle, shall not exceed 65 feet while on any highway in the City.

(c) The gross weight of the additional trailer or semi-trailer towed or drawn shall not exceed the empty weight of the pickup truck or the empty weight of the semi-trailer.

(6) For the purpose of this Section, a pickup truck towing a semi-trailer and an additional trailer shall be considered a passenger vehicle and shall comply with the speed limit requirements of MCL 257.627 (5).

(7) A person who violates this section is responsible for a (municipal or regular?) civil infraction.

11.10 <u>Wheel and axle loads; seasonal weight restrictions, exceptions</u>.

(1) The maximum axle load shall not exceed the number of pounds, as designated in the following provisions which prescribe the distance between axles:

(a) If the axle spacing is 9 feet or more between axles, the maximum axle load shall not exceed 18,000 pounds for vehicles equipped with high pressure pneumatic or balloon tires.

(b) If the axle spacing between two axles is less than 9 feet but more than 3 ½ feet, the maximum axle load shall not exceed 13,000 pounds for vehicles equipped with high pressure pneumatic or balloon tires.

(c) If the axles are spaced less than 3 ½ feet apart, the maximum axle load shall not exceed 9,000 pounds per axle.

(d) Sections 106.11.10 (a), (b), and (c) shall be known as the normal loading maximum.

(2) When normal loading is in effect, the Troy Police Department may designate certain highways, or sections of those highways under its jurisdiction,, where bridges and road surfaces are adequate for heavier loading, and may also revise a designation to allow the maximum tandem axle assembly loading of

up to 16,000 pounds for any axle of the assembly, as long as there is no other axle within 9 feet of any axle of the assembly. (Is this correct ???)

(3) On a legal combination of vehicles, only one tandem axle assembly shall be permitted on the designated highways at the gross permissible weight of 16,000 pounds per axle, but only if there is no other axle within 9 feet of any axle of the assembly, and if no other tandem axle assembly in the combination of vehicles exceeds a gross weight of 13,000 pounds per axle. On a combination of truck tractor and semi-trailer having up to 5 axles, two consecutive tandem axle assemblies shall be permitted on the designated highways at a gross permissible weight of 16,000 pounds per axle, if there is no other axle within 9 feet of any axle of the assembly.

(4) Notwithstanding Section 106.11.10 (3), on a combination of truck tractor and semi-trailer having up to 5 axles, two consecutive sets of tandem axles may carry a gross permissible weight of up to 17,000 pounds on any of the tandem axles if there is no other axle within 9 feet of any tandem axle and if the first and last axle of the consecutive sets of tandem axles are at least 36 feet apart and the gross vehicle weight does not exceed 80,000 pounds, to pick up and deliver agricultural commodities between the national truck network or special designated highways and any other highway. This Section is not subject to the maximum axle loads of subsections 106.11.10 (1), (2) and (3). For purposes of this Section, a "tandem axle" means two axles spaced more than 40 inches but not more than 96 inches apart or two axles spaced more than 3 ½ feet but less than 9 feet apart. This Section does not apply during that period when reduced maximum loads are in effect, pursuant to Section 106.11.10 (8).

(5) In order to be exempt from the loading maximums and gross vehicle weight requirements, the person hauling agricultural commodities, who picks up or delivers either from a farm or to a farm, shall notify the Road Commission for Oakland County at least 48 hours before the pickup or delivery, indicating the time and location of the pickup or delivery. Pursuant to MCL 257.722 (5) the Oakland County Road Commission shall issue a permit to such a person and charge a fee that does not exceed the administrative costs incurred. The permit shall contain the all of the following:

(a) The designated route or routes of travel for the load.

(b) The date and time period requested by the person who picks up or delivers the agricultural commodities during which the load may be delivered or picked up.

(c) A maximum speed limit of travel, if necessary.

(d) Any other specific conditions agreed to between the parties.

(6) In order to be exempt from the loading maximums and gross vehicle weight requirements, public utility vehicles that are owned or operated by public utilities under the jurisdiction of the Michigan Public Service Commission, or are subcontracted by public utilities under the jurisdiction of the Michigan Public Service Commission, when performing electrical emergency public utility work, must meet the following circumstances:

(a) For emergency public utility work on restricted roads, as follows:

(i) If required by the Road Commission for Oakland County, the public utility shall notify the Road Commission for Oakland County, as soon as practical, of the location of the emergency public utility work and provide a statement that the vehicles that were used to perform the emergency utility work may have exceeded the loading maximums and gross vehicle weight requirements of this Ordinance. The notification may be made via facsimile or electronically.

(ii) The public utility vehicle travels to and from the site of the emergency public utility work while on a restricted road at a speed not greater than 35 miles per hour.

(b) For non-emergency public utility work on restricted roads, as follows:

(i) If the Road Commission for Oakland County requires, the public utility shall apply to the Road Commission for Oakland County annually for a seasonal truck permit for roads under its authority before seasonal weight restrictions are effective. Pursuant to MCL 257.722(6), the Road Commission for Oakland County shall issue a seasonal truck permit for each vehicle or vehicle configuration the public utility anticipates will be utilized for non-emergency public utility work. Pursuant to MCL 257.722 (6), the Road Commission for Oakland County may charge a fee for a permit that does not exceed the administrative costs incurred for the permit. The seasonal truck permit shall contain all of the following:

(A) The seasonal period requested by the public utility, during which the permit is valid.

(B) A unique identification number for the vehicle and any vehicle configuration to be covered on the seasonal truck permit that is requested by the public utility.

(C) A requirement that travel on restricted roads during weight restriction periods will be minimized and only utilized when

necessary to perform work using the public utility vehicle or vehicle configuration and that non-restricted roads shall be used for travel when available and for routine travel.

(ii) Pursuant to MCL 257. 722 (6), if the Road Commission for Oakland County requires notification, the Road Commission of Oakland County shall provide a notification application for the public utility to use when requesting access to operate on restricted roads and the public utility shall provide notification to the Road Commission of Oakland County, via facsimile or electronically, not later than 24 hours before the time of the intended travel. Notwithstanding this Section or an agreement under this Section, if the Road Commission for Oakland County determines that the condition of a particular road under its jurisdiction makes it unusable, the Road Commission for Oakland County may deny access to all or any part of that road. The denial shall be made and communicated via facsimile or electronically to the public utility within 24 hours after receiving notification that the public utility intends to perform non-emergency work that requires use of that road. Any notification that is not disapproved within 24 hours after the notice is received by the Road Commission of Oakland County is considered approved. The notification application, as required under MCL 257.722 (6), may include all of the following information:

(A) The address or location of the non-emergency work.

(B) The date or dates of the non-emergency work.

(C) The route to be taken to the non-emergency work.

(D) The restricted road or roads intended to be traveled upon to the non-emergency work site or sites.

(7) The normal size of tires shall be the rated size, as published by the manufacturers, and the maximum wheel load permissible for any wheel shall not exceed 700 pounds per inch of width of tire.

(8) Except as provided in this Section and Section 106.11.10 (9), during the months of March, April, and May in each year, the maximum axle load allowable on concrete pavements or pavements with a concrete base is reduced by 25% from the maximum axle load as specified in this ordinance, and the maximum axle loads allowable on all other types of roads during these months are reduced by 35% from the maximum axle loads as specified. The maximum wheel load shall not exceed 525 pounds per inch of tire width on concrete and concrete base or 450 pounds per inch of tire width on all other roads during the time that the seasonal road restrictions are in effect.

This Section does not apply to vehicles transporting agricultural commodities or public utility vehicles on a highway, road, or street under the jurisdiction of Troy. For the highways, roads, or streets under Troy's jurisdiction to which the seasonal restrictions prescribed under this Section apply, Troy shall post all of the following information on the homepage of its website:

(a) The dates when the seasonal restrictions are in effect.

(b) The names of the highways and streets and portions of highways and streets to which seasonal restrictions apply.

(9) Pursuant to MCL 257.722 (9), the Michigan State Transportation Department (for roads under its jurisdiction) and the Road Commission for Oakland County (for roads under its jurisdiction) may grant exemptions from seasonal weight restrictions for the transport of milk on specific routes, when requested in writing. Approval or denial of a request for an exemption shall be given by written notification to the applicant within 30 days of submission of the application. If a request is denied, the written notice shall state the reason for the denial and alternate routes for which the permit may be issued. The applicant may appeal to the Michigan State Transportation Commission or the Road Commission for Oakland County. These exemptions do not apply on county roads in counties that have negotiated agreements with milk haulers or haulers of other commodities during periods of seasonal load limits before April 13, 1993. This subsection does not limit the ability of these counties to negotiate such agreements.

(10) The Troy Police Department, with respect to highways under its jurisdiction, may suspend the restrictions imposed by this Section when and where conditions of the highways or the public health, safety, and welfare warrant suspension, and impose the restricted loading requirements of this Section on designated highways at any other time that the conditions of the highway require.

(11) For the purpose of enforcing this ordinance, the gross vehicle weight of a single vehicle and load or a combination of vehicles and loads shall be determined by weighing individual axles or groups of axles, and the total weight on all the axles shall be the gross vehicle weight. In addition, the gross axle weight shall be determined by weighing individual axles or by weighing a group of axles and dividing the gross weight of the group of axles by the number of axles in the group. The overall gross weight on a group of two or more axles shall be determined by weighing individual axles or several axles, and the total weight of all the axles in the group shall be the overall gross weight of the group.

(12) The loading maximum in this subsection applies to the highways under Troy's jurisdiction. The Troy Police Department may designate a highway, or

a section of a highway for the operation of vehicles having a gross vehicle weight of up to 80,000 pounds, subject to the following load maximums:

(a) Twenty thousand pounds on any one axle, including all enforcement tolerances.

(b) A tandem axle weight of 34,000 pounds, including all enforcement tolerances.

(c) An overall gross weight of a group of two or more consecutive axles equaling:

$$W = 500 \left(\frac{LN + 12N + 36}{N - 1} \right)$$

where W = overall gross weight on a group of two or more consecutive axles to the nearest 500 pounds, L = distance in feet between the extreme of a group of two or more consecutive axles, and N= number of axles in the group under consideration; except that two consecutive sets of tandem axles may carry a gross load of 34,000 pounds each if the first and last axles of the consecutive sets of tandem axles are not less that 36 feet apart. The gross vehicle weight shall not exceed 80,000 pounds, including all enforcement tolerances. Except for a five axle truck tractor; semi-trailer combinations having two consecutive sets of tandem axels, vehicles having a gross weight in excess of 80,000 pounds or in excess of the vehicle gross weight determined by application of the formula in this subsection are subject to the maximum axle loads of Section 106.11.10 (1), (2), and (3). As used in this Section, "tandem axle weight" means the total weight transmitted to the road by two or more consecutive axles, the centers of which may be included between parallel transverse vertical planes spaced more than 40 inches but not more than 96 inches apart, extending across the full width of the vehicle. Except as otherwise provided in this section, vehicles transporting agricultural commodities shall have weight load maximums as set forth in this Section.

(13) As used in this section:

(a) "Agricultural commodities" means those plants and animals useful to human beings produced by agriculture and includes, but is not limited to, forages and sod crops, grains and feed crops, field crops, dairy and dairy products, poultry and poultry products, cervidae, livestock, including breeding and grazing, equine, fish, and other aquacultural products, bees and bee products, berries, herbs, fruits, vegetables, flowers, seeds, grasses, nursery stock, mushrooms, fertilizer, livestock

bedding, farming equipment, and fuel for agricultural use. The term does not include trees or lumber.

(b) "Emergency public utility work" means work performed to restore public utility service or to eliminate a danger to the public due to a natural disaster, an act of God, or an emergency situation, whether or not a public official has declared an emergency.

11.11 Restrictions on transportation of flammable liquids and gases; violations, penalties; enforcement.

(1) A truck pulling a trailer, a truck tractor pulling a semi-trailer and trailer combination, or a truck tractor pulling two semi-trailers shall not transport within the City a flammable liquid, in bulk, with a flash point at or below 70 degrees Fahrenheit.

(2) A truck pulling a trailer, a truck tractor pulling a semi-trailer and trailer combination, or a truck tractor pulling two semi-trailers shall not transport within the City a flammable gas or a compressed flammable gas, in bulk, as defined by 49 C.F.R. parts 100 to 180.

(3) A truck or a truck tractor pulling a semi-trailer shall not transport within the City a flammable liquid, in bulk, which has a flash point at or below 70 degrees Fahrenheit, unless the truck or the semi-trailer has a water capacity of less than 13,800 gallons. This Section does not apply to those vehicles registered with the Motor Carrier Division of the Michigan Department of State Police on or before January 1, 1986.

(4) A truck or truck tractor pulling a semi-trailer shall not transport within the City a flammable liquid, in bulk, which has a flash point at or below 70 degrees Fahrenheit in a quantity of more than 13, 400 gallons.

(5) The owner or driver of a vehicle that transports, or a shipper who loads a vehicle with a flammable liquid, flammable gas, or compressed flammable gas in violation of this Section is guilty of a misdemeanor, punishable by a fine of not more than $500.00, or imprisonment for not more than 90 days, or both.

(6) This section shall be enforced only by a police officer.

(7) For the purposes of this section, "in bulk" means an amount of product or material of 3,500 water gallons or more in a single containment system. Commercial motor vehicles transporting hazardous materials shall comply with the Motor Carrier Safety Act, Act Nol. 181 of the Public Acts of 1963, being sections MCL 480.11 to MCL 480.21 and section 12 of this ordinance.

11.12 Information to be painted or permanently attached on certain commercial vehicles and towing or platform bed wrecker service vehicles; use of removable devices; effects of compliance with federal identification requirements; exemptions; penalties.

(1) All commercial vehicles with a single or combination gross weight rating or total gross weight of more than 5,000 pounds and all towing or platform bed wrecker road service vehicles in operation upon the public highways of the city shall have the name, city, and state or the registered logo or emblem of the registered owner of the vehicle, (and lessee of the vehicle if the vehicle is being operated under lease), painted or permanently attached on each side of the vehicle in letters of not less than 3 inches in height, not lower than the bottom edge of the door. This information shall be in sharp color contrast to the background.

(2) Except for towing or platform bed wrecker road service vehicles, the identification requirement of Section 106.11.12 (1) may be met through the use of removable devices which meet the requirements. These devices shall be of durable construction and securely attached to each side of the motor truck or truck tractor. The removable devices shall be attached so that the identification is in a horizontal position.

(3) A vehicle in compliance with the identification requirements of the federal Motor Carrier Safety Regulations, 49 C.F.R. 390-399, is considered to be in compliance with this Section.

(4) This Section does not apply to a truck eligible for and registered under a farm or manufacturer license plate, that has a gross vehicle weight of less than 10,000 pounds.

(5) A person who violates this section is responsible for a (regular or municipal?) civil infraction .

11.13. Stopping vehicles for weighing; offense and penalties.

(1) A police officer, having reason to believe that the weight of a vehicle and load is unlawful, may require the driver to stop and submit to a weighing of the vehicle by either portable or stationary scales approved and sealed by the Department of Agriculture as a legal weighing device; and may require that the vehicle be driven to the nearest weigh station of the Michigan State Transportation Department for the purpose of allowing a police officer to determine whether the vehicle is loaded in conformity with this ordinance.

(2) When a police officer, upon weighing a vehicle and load, determines that the weight is unlawful, the officer may require the driver to stop the vehicle in a

suitable place and remain standing until that portion of the load is shifted or removed as necessary to reduce the gross axle load weight of the vehicle to the limit permitted under this ordinance. All material unloaded as provided under this subsection shall be cared for by the owner or operator of the vehicle at the risk of the owner or operator. A judge or magistrate imposing a civil fine and costs under this Section that are not paid in full immediately or for which a bond is not immediately posted (in double the amount of the civil fine and costs) shall order the driver or owner to move the vehicle at the driver's own risk to a place of safekeeping, and keep the vehicle until the fine and costs are paid or sufficient bond is furnished or until the judge or magistrate is satisfied that the fine and costs will be paid. The officer who has determined, after weighing a vehicle and load, that the weight is unlawful, may require the driver to proceed to a judge or magistrate within the City. If the judge or magistrate is satisfied that the probable civil fine and costs will be paid by the owner or lessee, the judge or magistrate may allow the driver to proceed, after the load is made legal. If the judge or magistrate is not satisfied that the owner or lessee, after a notice and a right to be heard on the merits is given, will pay the amount of the probable civil fine and costs, the judge or magistrate may order the vehicle to be impounded until trial on the merits is completed under conditions set forth in this Section for the impounding of vehicles after the civil fine and costs have been imposed. Removal of the vehicle, and forwarding, care, or preservation of the load shall be under the control of and at the risk of the owner or driver. Vehicles impounded shall be subject to a lien, subject to a prior valid bona fide lien of prior record, in the amount of the civil fine and costs and if the civil fine and costs are not paid within 90 days after the seizure, the judge or magistrate shall certify the unpaid judgment to the Troy City Attorney, who shall proceed to enforce the lien by foreclosure sale in accordance with procedure authorized in the case of chattel mortgage foreclosures.

(3) Subject to Section 106.11.13 (4), an owner of a vehicle, or a lessee of the vehicle, or other person, who causes or allows a vehicle to be loaded and driven or moved on a highway, when the weight of that vehicle violates Section 106.11.10, is responsible for a civil infraction and shall pay a civil fine in an amount equal to 3 cents per pound for each pound of excess load over 1,000 pounds when the excess is 2,000 pounds or less; 6 cents per pound of excess load when the excess is over 2,000 pounds but not over 3,000 pound; 9 cents per pound for each pound in excess load when the excess if over 3,000 pounds but not over 4,000 pounds; 12 cents per pound for each pound of excess load when the excess is over 4,000 but not over 5,000 pounds; 15 cents per pound for each pound of excess load when the excess is over 5,000 pounds but not over 10,000 pounds; and 20 cents per pound for each pound of excess load when the excess if over 10,000 pounds.

(4) If the court determines that the motor vehicle or the combination of vehicles was operated in violation of this Section, the court shall impose a fine as follows:

(a) If the court determines that the motor vehicle or the combination of vehicles was operated in such a manner that the gross weight of the vehicle or the combination of vehicles would not be lawful by a proper distribution of the load upon all the axles of the vehicle or the combination of vehicles, the court shall impose a fine for the violation according to the schedule provided for in Section 106.11.13 (3).

(b) If the court determines that the motor vehicle or the combination of vehicles would be lawful by a proper distribution of the load upon all of the axles of the vehicle or the combination of the vehicles, but that one or more axles of the vehicle exceeded the maximum allowable axle weight by 4,000 pounds or less, the court shall impose a mislead fine of $200.00 per axle. Not more than three axles shall be used in calculating the fine to be imposed under this Section. This Section does not apply to vehicles subject to the maximum loading provisions of Section 106.11.10 (11) or to a vehicle found to be in violation of a special permit issued under Section 106.11.15.

(c) If the court determines that the motor vehicle or the combination of vehicles would be lawful by a proper distribution of the load upon all of the axles of the vehicle or the combination of vehicles, but that one or more axles of the vehicle exceeded the maximum allowable axle weight by more than 4,000 pounds, the court shall impose a fine for the violation according to the schedule provided in Section 106.11.12 (3).

(5) A driver or owner of a commercial vehicle with other vehicles or trailers in combination, a truck or truck tractor, a truck or truck tractor with other vehicles in combination, or any special mobile equipment, who fails to stop at or bypasses any scales or weighing station, is guilty of a misdemeanor.

(6) Reserved.

(7) A driver or owner of a vehicle who knowingly fails to stop when requested or ordered to do so, and fails to submit to a weighing by a police officer authorized to require the driver to stop and submit to a weighing of the vehicle and load by means of a portable scale, is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than $100.00, or both. A driver or person who dumps his or her load when ordered to submit to a weigh, or who otherwise attempts to commit or commits an act to avoid a vehicle weigh is in violation of this Section.

11.14 <u>Axle weight requirements; vehicles equipped with lift axles</u>.

(1) The axle weight requirements of this ordinance do not apply to a vehicle equipped with` lift axles during the period in which axles are raised to negotiate an intersection, driveway, or other turn and until the lift axles are fully engaged after the period of time or the distance necessary to negotiate that intersection, driveway or other turn.

(2) If a vehicle is to be weighed to determine whether the vehicle is being operated in violation of this ordinance or a rule promulgated under the Motor Carrier Safety Act, and the vehicle is equipped with lift axles that have been raised to allow the vehicle to negotiate an intersection, driveway, or other turn, the vehicle shall be weighed only after the lift axles have been fully lowered and are under operational pressure as provided in Section 106.11.14 (1).

(3) As used in this section, "lift axle" means an axle on a vehicle that can be raised or lowered by mechanical means.

11.15 Special permits for non-conforming vehicles; applications; farm machinery, telephone, telegraph, or electric poles, concrete pipes, mobile homes.

(1) Upon receipt of a written application and upon good cause being shown, the Troy Police Department may issue a written special permit, authorizing an applicant to operate upon or remove from a highway maintained by the City, a vehicle or combination of vehicles that are any of the following:

(a) Of a size, weight, or load exceeding the maximum specified in this ordinance.

(b) Otherwise not in conformity with this ordinance.

(2) The special permit application shall be on a form prescribed by the Troy Police Department and shall specifically describe the vehicle or vehicles and load to be operated or moved and the particular highways upon which the special permit to operate is requested.

(3) The Troy Police Department may issue a special permit and charge a fee, as set out in Chapter 60, which shall not exceed the administrative costs incurred. The special permit can authorize the operation of the following upon a highway:

(a) Traction engines or tractors having movable tracks with transverse corrugations upon the periphery of those movable tracks on farm tractors.

(b) Other farm machinery otherwise prohibited under this ordinance.

(4) A special permit shall specify the trip or trips and date or dates for which it is valid, and the Troy Police Department may restrict or prescribe conditions of operation of a vehicle or vehicles, if necessary, to protect the safety of the public or to insure against undue damage to the road foundations, surfaces, structures, or installations, and may require a reasonable inspection fee and other security as the Troy Police Department determines necessary to compensate for damages caused by the movement. A special permit may be issued on an annual basis. Except as otherwise provided in this section, pursuant to MCL 257.725 (6), the fee charged by the Troy Police Department shall be no more than $50.00 for a single trip and $100.00 for multiple trips or $100.00 annually.

(5) A special permit issued under this section shall be carried in the vehicle or combination of vehicles to which it refers and shall be open to inspection by a police officer. A person shall not violate any of the terms or conditions of the special permit.

(6) A person who violates this Section is responsible for a (municipal or regular?) civil infraction.

(7) A person who is issued a special permit to move a mobile home under this section is subject to Section 106.11.5.

11.16 Regulation of highways by City; penalty for violations.

(1) For highways under the City's jurisdiction, except state trunk line highways, the City may do any of the following:

(a) Prohibit the operation of trucks or other commercial vehicles on designated highways or streets.

(b) Impose limitations as to the weight of trucks or other commercial vehicles on designated highways or streets.

(c) Provide that only certain highways or streets may be used by trucks or other commercial vehicles.

(2) Any prohibitions, limitations, or truck route designations established under Section 106.11.16 (1) shall be designated by appropriate signs placed on the highways or streets. The design and placement of the signs shall be consistent with the requirements of MCL 257.608.

(3) A person who violates a prohibition, limitation, or truck route designation established pursuant to section 106.11.16 (1) is responsible for a (municipal or regular?) civil infraction.

11.17 Police officer's authority to enforce ordinance on boundary streets and highways.

Pursuant to MCL 257.726a, a police officer of the City may exercise authority and powers outside his or her own City or County when enforcing this ordinance on a street or highway which is on the boundary of the City or County, the same as if the police officer were in his or her own City and County.

11.18 Stopping motor vehicles for possible load, weight, or height violations; temporary detention; arrests.

Any police officer having reason to believe that the load, weight, or height of a vehicle or load is in violation of Section 106.11.4, 106.11.8, 106.11.11, or 106.11.13, and that violation is a misdemeanor, may require the driver of the vehicle to stop, and the officer may investigate, weigh, or measure the vehicle or load. If after personally investigating, weighing, or measuring the vehicle or load, the officer determines that the load, weight, or height of a vehicle or load are in violation of the requirements of Section 106.11.4, 106.11.8, 106.11.11, or 106.11.13, the officer may temporarily detain the driver of the vehicle for purposes of making a record or vehicle check, and may make an arrest for the violation, and may proceed as otherwise provided in this Ordinance.

12. MOTOR CARRIER SAFETY

12.1 Title.

1. This section of Chapter 106 shall be known as the Motor Carrier Safety Ordinance.

12.2 Adoption of federal regulations; modifications of federal definitions; application of ordinance; definitions.

1. The City of Troy adopts the following provisions of Title 49 of the Code of Federal Regulations, on file with the office of the Michigan Secretary of State and the Troy City Clerk, except where modified by this ordinance:

   (a) Hazardous materials regulations, being 49 CFR parts 100 through 180 except for the transportation of agricultural products (for which an exception from the application of 49 CFR subchapter C and 49 CFR subchapters G and H, part 172, is provided under 49 CFR 173.5), is specifically authorized if the transportation is in compliance with this ordinance and state law.

(b) Motor carrier safety regulations, being 49 CFR parts 40, 356, 365, 368, 371 through 373, 375, 376, 379, 382, 385, 387, 390 through 393, 395 through 399 including the appendices of each part except for the following:

(i) Except as provided in this subparagraph, where the term "United States Department of Transportation ", "Federal Motor Carrier Safety Administration", "Federal Motor Carrier Safety Administrator", "Director", "Bureau of Motor Carrier Safety", Pipeline and Hazardous Materials Administration", or "Associate Administrator for Hazardous Materials Safety" appears, it refers to the Michigan Department of State Police or the City of Troy. If the term is being used for purposes of 49 CFR 397 as it relates to routing and movement of hazardous materials, it refers to the Michigan State Transportation Department or the City of Troy.

(ii) Where "interstate" appears, it shall mean intrastate or interstate, or both, as applicable, except as specifically provided in this ordinance.

(iii) Where "Special Agent of the Federal Motor Carrier Safety Administration", "Administration Personnel", or "Hazardous Materials Enforcement Specialist" appears, it either means a police officer or an enforcement member of the Motor Carrier Division of the city.

(iv) Where MCS 63 appears, it means MC 9 and MC 9b.

(iv) Where MCS 64 appears, it means UD-70.

(v) Exempt intra-City zones and the regulations applicable to exempt intra-City zones do not apply to this ordinance.

(2) This ordinance does not apply to a bus operated by a public transit agency operating under any of the following:

(a) A county, city, township, or village as provided by law, or other authority incorporated under 1963 PA 55, MCL 124.351 to MCL 124.359. Each authority and governmental agency incorporated under 1963 PA 55, MCL 124.351 to MCL 124.359, has the exclusive jurisdiction to determine its own contemplated routes, hours of service, estimated transit vehicle miles, costs of public transportation services, and projected capital improvements or projects within its service area.

(b) An authority incorporated under the Metropolitan Transportation Authorities Act of 1967, 1967 PA 204, MCL 124.401 to MCL 124.426, or an authority that operates a transportation service pursuant to an interlocal agreement under the Urban Cooperation Act of 1967, 1967(Ex Sess) PA 7, MCL 124.501 to MCL 124.512.

(c) A contract entered into pursuant to 1967 (Ex Sess) PA 8, MCL 124.531 to MCL 124.536 or 1951 PA 35, MCL 124.1 to MCL 124.13.

(d) An authority incorporated under the Public Transportation Authority Act, 1986 PA 196, MCL 124.451 to MCL 124.479, or a nonprofit corporation organized under the Nonprofit Corporation Act, 1982 PA 162, MCL 450.2101 to MCL 450.3192, that provides transportation services.

(e) An authority financing public improvements to transportation systems under the Revenue Bond Act of 1933, 1933 PA 94, MCL 141.101 to MCL 141.140.

(3) As used in this ordinance:

(a) Hazardous material vehicle inspection or repair facility" means a commercial enterprise that performs inspections, certification, testing, or repairs to commercial motor vehicles transporting hazardous materials as required by 49 CFR parts 100 to 180 and includes motor carriers that perform the inspections, certification, testing, or repairs to vehicles owned or leased by the motor carrier.

12.3 <u>Operation of commercial motor vehicle; requirements; qualifications for operation in intrastate transportation.</u>

(1) A person shall not drive a commercial motor vehicle unless he or she is qualified to drive that vehicle. A motor carrier shall not require or permit a person to drive a commercial motor vehicle unless that person is qualified to drive that vehicle.

(2) In the case of intrastate or intracity transportation, a person is qualified to drive a commercial motor vehicle if he or she meets all the requirements of 49 CFR part 391except the following provisions:

(a) Except as otherwise provided in this subdivision (b), the person is at least 18 years old when transporting intrastate or intracity property or passengers.

(b) The person is at least 21 years old when transporting hazardous materials in a quantity that requires the vehicle to be marked or placarded under 49 CFR parts 100 to 180.

(c) The person is eligible for and displays a grandfather rights card issued In accordance with the Motor Carrier Safety Act, MCL 480.11, et. seq.

12.4 Trailers; equipment with surge brakes.

Trailers with a gross vehicle weight or gross vehicle weight rating of 15,000 pounds or less or trailer-vehicle combinations with an actual gross vehicle weight or a gross vehicle weight rating of 26,000 pounds or less may be equipped with surge brakes for intrastate and intracity operations as allowed by section 705(1)(c) of the Michigan Vehicle Code, 1949 PA 300, MCL 257.705.

12.5 Application of ordinance to drivers for intrastate or intracity motor carriers regularly employed for period beginning on or before June 10, 1984; application of certain requirements of ordinance to all drivers granted grandfather rights; duration of grandfather rights; application of exemption.

(1) The provisions of this ordinance and 40 CFR 391.21, adopted by reference, relating to the applications for employment, 49 CFR 391.23, adopted by reference, relating to investigations and inquiries, and 49 CFR 391.31 and CFR 391.33 adopted by reference, relating to road tests, do not apply to a driver who has been a regularly employed driver of an intrastate or intracity motor carrier of property for a continuous period which began on or before June 10, 1984, as long as he or she continues to be a regularly employed driver of that motor carrier or a driver who has been a regularly employed driver of an intrastate or intracity motor carrier of passengers for a continuous period which began on or before March 3, 1991, as long as he or she continued to be a regularly employed driver of that motor carrier. Such a driver is qualified to drive a commercial motor vehicle if he or she fulfills the requirements of section 12. 2 (d) (2).

12.6 Application of ordinance to operation of farm vehicles, implements of husbandry, public utility vehicles, government vehicles, combinations of vehicles, school buses, motor buses, and commercial vehicles engaged in seasonal construction-related activities; definitions.

(1) In the case of intrastate or intracity transportation, the provisions of 49 CFR 391.21, adopted by reference, relating to application for employment, 49 CFR 391.23, adopted by reference, relating to investigations and inquires, 49 CFR 391.31, adopted by reference, relating to road tests, 49 CFR part 395, adopted by reference, relating to hours of service, 49 CFR 391.41 to 391.45, adopted by reference, to the extent that they require a driver to be medically qualified or examined and to have a medical examiner's certificate on his or

her person and the provisions of this act relating to files and records do not apply to a farm vehicle driver as defined in 49 CFR 390.5, adopted by reference.

(2) For intrastate or intracity transportation, the provisions of this ordinance do not apply to a self-propelled implement of husbandry or an implement of husbandry being drawn by a farm tractor or another implement of husbandry.

(3) The provision of this ordinance related to driver qualifications do not apply to public utility, telephone, and cable television company service employees if those employees are not otherwise being used as a regularly employed driver and are not operating a vehicle that meets the definition of a commercial motor vehicle in 49 CFR part 383.

(4) The requirements of 49 CFR part 395 do not apply to any driver of a public utility service vehicle when being used in cases of emergency. As used in this subsection, "emergency" means any instance of loss of public utility service due to an unforeseen circumstance, a natural disaster, or an act of God. A declaration of emergency by a public official is not required to constitute an emergency under this subsection.

(5) A commercial motor vehicle constructed and maintained so that the body chassis or other parts of the vehicle afford the rear end protection required by 49 CFR 393.86 is in compliance with that section.

(6) This ordinance and the rules promulgated under the federal regulations which are adopted by reference do not apply to a commercial motor vehicle owned and operated by a unit of government or its employees, except as otherwise provided by this ordinance, and except for all of the following parts of 49 CFR:

(a) Part 382.

(b) Part 391.

(c) Part 392.

(d) Part 393.

(7) A combination of vehicles with an actual combination gross vehicle weight or a gross combination weight rating of 26,000 pounds or less, provided the trailer or semitrailer has an actual gross vehicle or gross vehicle weight rating of 15,000 pounds or less, may be equipped with surge brakes for intrastate and intracity operation as allowed by section 705 (1) (c) of the Michigan Vehicle Code, 1949 PA 300, MCL 257.705. Vehicles of any size that are transporting hazardous materials in an amount that requires placarding or

vehicles that are designed to transport more than 8 passengers, including the driver, are prohibited from being equipped with surge brakes for intrastate and intracity operation.

(8) This ordinance and the rules promulgated under the federal regulations which are adopted by reference do not apply to a school bus as defined in the Pupil Transportation Act, 1990 PA 187, MCL 257.1801 to MCL 257.1877, or a bus defined and certified under the Motor Bus Transportation Act, 1982 PA 432, MCL 474.101 to MCL 474.141.

(9) As use in Section 106.12 (3) and (4), "public utility" means a person or corporation operating equipment or facilities for producing, generating, transmitting, delivering, or furnishing gas or electricity for the production of light, heat, or power for the public for compensation.

(10) As used in this section:

(a) "Implement of husbandry" means that term as defined in section 21 of the Michigan Vehicle Code, 1949 PA 300, MCL 257.21.

(b) "Farm tractor" means that term as defined in section 16 of the Michigan Vehicle Code, 1949 PA 300, MCL 257.16.

12.7 <u>Submission of transportation safety related documents by motor carriers and hazardous materials vehicle inspection and repair facilities to motor carrier officers; facsimile of motor carrier division identification card; inspection of cargo or vehicle without warrant by motor carrier officer</u>.

(1) Motor carriers shall submit, upon demand, all their transportation safety related documents, such as all records and information pertaining to any accident, drivers' records of duty status, bills of lading, shipping records, driver time and payroll records, driver qualification records, vehicle maintenance records, and equipment for inspection or copying during regular business hours to any Troy motor carrier enforcement police officer.

(2) Hazardous materials vehicle inspections and repair facilities shall submit, upon demand, all their transportation safety related documents as required by this ordinance, such as hazardous materials tank certification and repair documents, and annual inspection certification documents to any Troy motor carrier enforcement police officer.

(3) A motor carrier or a hazardous material vehicle inspection or repair facility operating within the city with main offices in another city, state or province shall submit all transportation safety related documents as outlined in Section 106.12 (1) for inspection and copying within 10 working days after receiving formal notification requesting the documents.

(4) A Troy motor carrier enforcement police officer, may without a warrant, require the cargo carrying portion of a vehicle to be opened for inspection of the cargo, any object within that portion of the vehicle, or the interior of the vehicle or any compartment within the interior of the vehicle. If a commercial motor vehicle is inspected by breaking the load seal, then the police officer shall give to the driver a signed receipt of inspection and the police officer shall be responsible for applying a City of Troy seal.

12.8 Penalties for violations of ordinance or rules; warrantless stops and investigations of motor vehicles; issuance of citations; enforcement of federal or foreign out-of-service orders; penalties for violations of out-of-service orders.

(1) Except as provided in Sections 106.12.10, 106.12.11 and 106.12.12, any person, driver, or motor carrier, as defined by 49 CFR 390.5, who violates this ordinance or a rule adopted by reference under this ordinance, or permits or requires any person to violate this ordinance or a rule adopted by reference under this ordinance, is responsible for a (municipal or regular?) civil infraction and may be ordered to pay a fine of not more than $250.00 for each violation.

(2) A Troy motor carrier enforcement police officer, upon probable cause to believe that a motor vehicle is being operated in violation of this ordinance or a rule adopted by reference under this ordinance, may stop the motor vehicle and inspect the motor vehicle. If a violation is found, the officer may issue a notice to appear for that violation.

12.9 Adoption by Reference of Rules Promulgated by the Michigan Department of State Police.

Any rules promulgated by the Michigan Department of State Police necessary to the accomplishment of purposes of the Motor Carrier Safety Act, 1963 PA 181, MCL 480.11,et. seq. are hereby adopted by reference, as amended.

12.10 Penalties; "serious safety defect" defined.

(1) A driver, person, or motor carrier, as defined by 49 CFR 390.5, who operates or who requires or permits the driver to operate a commercial motor vehicle with a serious safety defect in violation of this ordinance or a rule adopted by reference under this ordinance, is responsible for a (municipal or regular?) civil infraction and shall be assessed a fine of not more than $500 for each violation. A fine ordered to be paid by the district court under this Section shall be paid to the court and the court shall apply the fines to the City and the State for library purposes, as provided by law.

(2) As used in this Section, "serious safety defect" means a violation of this ordinance or a rule adopted by reference under this ordinance relative to brakes, tires, steering, coupling devices, headlights, taillights, brake lights, and turn signals that results in the vehicle being placed out of service.

12.11 Offenses relating to operating or requiring or permitting operation of commercial motor vehicle in violation of provisions of ordinance or rules related to transportation of hazardous materials; penalties.

(1) A person who operates or who requires or permits a person to operate a commercial motor vehicle in violation of this ordinance or a rule adopted by reference under this ordinance related to the transportation of hazardous materials if the vehicle is transporting a package required to be marked or labeled under 49 CFR parts 100 to 180 is responsible for a (municipal or regular?) civil infraction and may be ordered to pay a fine of not more than $500.00 for each violation.

(2) A person or entity identified in Section 106.12.10 (1) who knowingly or willfully violates this ordinance or a rule adopted by reference under this ordinance is, upon conviction, guilty of a misdemeanor punishable by imprisonment of not more than 90 days or a fine of not more than $500.00, or both, for each violation.

(3) A person or entity identified in Section 106.12.10 (1), who causes injury or death during a violation of this ordinance, while a vehicle identified in subsection (1) that is transporting a package required to be marked or labeled under 49 CFR parts 100 to 180 is, upon conviction, guilty of a misdemeanor punishable by imprisonment of not more than 90 days or a fine of not more than $500.00, or both, for each violation.

(4) An officer, employee, owner, or agent of an individual, partnership, corporation, or association, or their lessees or receiver appointed by a court that is the owner or user of any hazardous materials vehicle inspection or repair facility that violates a section of this ordinance, or a rule adopted by reference under this ordinance, related to the transportation of hazardous materials, is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than $500.00, or both, for each violation.

12.12 Issuance and contents of compliance and shut down orders; penalties for failure to comply with shut down orders.

(1) As used in this section:

(a) "Immediate destination" means the next scheduled stop of a commercial vehicle already in motion where the cargo on board can be safely secured.

(b) "Motor carrier division" means the motor carrier division of the Michigan State Police and/or the City of Troy.

(c) "Person" means an individual, driver, or employee or a firm, motor carrier, lessee, lessor, association, partnership, or corporation, and their affiliated or related successors, that undertakes to control, direct, conduct, or otherwise perform transportation by commercial motor vehicle upon the public highways of this city.

(d) "Shut down order" means a court order issued to the Troy police department motor carrier enforcement division upon proof shown of unreasonable risk or an imminent hazard.

(e) "Unreasonable risk or an imminent hazard" shall be defined as any condition of commercial motor vehicle, employee, or commercial motor operation which creates, causes, or compounds the substantial likelihood that death, serious illness, or severe personal injury may occur if not discontinued immediately.

(f) Upon determination that the continued operation of commercial motor vehicles by a person upon the highways of this city and state poses an unreasonable risk or an imminent hazard to the public safety, the motor carrier division of the Troy Police Department shall issue a compliance order. The order may direct a person to make certain changes, repairs, or alterations to the person's vehicles or operations, to comply with the laws of the city and the State of Michigan. In making an order, restrictions shall not be imposed on any employee or person beyond that required to abate the hazard. Any vehicle or driver operating during the specified time period of the order shall be in compliance with all applicable laws and rules.

(g) A compliance order shall include the name and address of the person and the chief operating officer of the person, the reason or reasons for the order, and the requirements or conditions that must be met for rescission of the order. The order shall also include a statement that the person has a set time limit to comply with the order. If the set time limit expires and the person is not in compliance with the order, the motor carrier division of the Troy Police Department may seek a shut down order from the 52-4th District Court. The motor carrier division of the Troy Police Department shall set the time limit for compliance with the compliance order to be not less than 30 days and not more than 180 days.

(h) Upon petition to the 52-4th District Court by the motor carrier division of the Troy Police Department, the court may issue a shut down order. The order shall direct a vehicle or vehicles or employee or employees out of

service from further operations, or shall direct a person to cease all or part of the person's commercial motor vehicle operation. In making such an order, restrictions shall not be imposed on any employee or person beyond that required to abate the hazard.

(i) A shut down order shall include the name and address of the person and the chief operating officer of the person, the reason or reasons for the order, the requirements or conditions that must be met for rescission of the order, and a statement of the right of appeal.

(j) An order to any person to cease all or part of its operation shall not prevent vehicles in transit at the time the order is served from proceeding to their immediate destinations, unless that vehicle or person is specifically ordered out of service. However, vehicles and drivers proceeding to their immediate destination shall be subject to compliance upon arrival.

(k) A person who fails to comply with a shut down order is guilty of a misdemeanor, punishable by a fine of not more than $1,000.00 for each violation, or by imprisonment for not more than 90 days, or both. A person or vehicle found operating on the highway of this city while under a shut down order shall be immediately stopped, and impounded or arrested. The owner or lessee of the vehicle shall be responsible for any costs incurred during impoundment. The vehicle shall be released upon the court's determination that the order has been complied with.

12.13. Venue of prosecutions under this ordinance.

When this ordinance or a rule adopted by reference under this ordinance has been violated, the offense may be prosecuted in the City of Troy district court (52-4th District Court) if the motor vehicle, driver or operator implicated was situated in or passed through the city when the offense was committed.

12.14 Incidents involving transportation of hazardous materials; notification of state police and fire department.

Immediately following any of the following occurrences involving the transportation of hazardous materials, the owner, driver, or lessee, or representative of the owner, driver, or lessee, shall notify the motor carrier division of the Department of State Police, the motor carrier division of the Troy Police Department and the Troy Fire Department of the known details regarding the incident.

12.15 Vehicle combination transporting combustible liquids; requirements; information required to be on file; retention and transfer of information; applicability of requirements in subsections (2) and (30; transport of flammable liquids, gases, or compressed gases. by vehicle combinations, equipment

requirements; retention of records regarding devices; compliance with other requirements by motor vehicles transporting flammable liquids or gases.

(1) A truck tractor pulling a semi-trailer and a trailer, or pulling 2 semi-trailers, shall not transport a combustible liquid unless the vehicle combination meets the following requirements:

(a) Is equipped with a device that restricts the horizontal and vertical rotation of the dolly assemblage of the vehicle combination in a manner that maintains the longitudinal tracking of the dolly and semi-trailer in a truck, tractor, semi-trailer, and trailer combination, or the dolly and the truck in a truck and trailer combination. This device shall be welded to the vehicle in a workmanlike manner, and the efficiency of a weld shall not be less than 85% of the mechanical properties of the adjacent metal in the chassis.

(b) Is equipped with stops in the spring hangers of each semi-trailer and trailer in the vehicle combination in a manner that improves the stability of the vehicle combination by reducing the free play of the leaf spring suspension to a maximum of ¾ of an inch when the spring passes from tension to compression.

(2) The owner of the semi-trailer or trailer to which the device described in Section 106.12.15 (1) is attached shall keep on file in their principal place of business the following information:

(a) Specifications and plans of the device.

(b) Name of the manufacturer of the device.

(c) Date of installation of the device

(d) An individual manufacturer identification number which is stamped or permanently affixed to the device.

(3) The information required in subsection (2) shall be kept by the vehicle's owner and shall be transferred to the new owner if the vehicle is sold, or may be destroyed if the vehicle is retired from service or scrapped.

(4) The requirements specified in Section 106.12.15 (2) and (3) apply to devices affixed to vehicles on or after January 8, 1996.

(5) Commercial motor vehicles used to transport flammable liquids, flammable gases, or compressed flammable gases shall also comply with Section 106.11.11 of this ordinance.

12.16 Adoption or enforcement of inconsistent ordinance or resolutions; disposition of fines for operation of vehicles with serious safety defects; issuance of multiple citations within 24-hour period for violation of provisions substantially corresponding to MCL 257.683 to MCL 257.725a; dismissal of city citations upon production of proof of repair of equipment violations; requirements for classification as motor carrier enforcement officer.

(1) This ordinance shall not be amended by the City of Troy to adopt or enforce provisions which are inconsistent with the Motor Carrier Safety Act, being MCL 480.11, et. seq. As used in this section, "inconsistent means a provision or rule that is more permissive or more restrictive than the Motor Carrier Safety Act, or that would require more action, equipment, or permits than required by the Motor Carrier Safety Act, or that prevents or obstructs compliance with the Motor Carrier Safety Act.

(2) The fine for operating a vehicle with a serious safety defect, which is ordered to be paid under this ordinance or a resolution adopted by the City of Troy that is consistent with Section 106.12.10, shall be paid as follows:

(a) Seventy percent to the City of Troy.

(b) Thirty percent for library purposes, as provided by law.

(3) Section 106.12.15 (2) does not apply to a fine ordered to be paid for a case in which the citation is dismissed, as set forth below.

(4) The owner or operator of a commercial motor vehicle shall not be issued more than one citation for each violation of the provisions of this ordinance regulating the operation of a commercial motor vehicle and substantially corresponding to 683 to 725a of the Michigan Vehicle Code, 1949 PA 300, MCL 257.683 to MCL 257.725a, within a 24-hour period. If the owner or operator of a commercial motor vehicle is issued a citation by the City of Troy for an equipment violation that does not result in the vehicle being placed out of service, the court shall dismiss the citation if the owner or operator of that commercial motor vehicle provides written proof of the court within 14 days after the citation is issued showing that the defective equipment indicated in the citation has been repaired.

(5) In order to be classified as a motor carrier enforcement officer, a Troy police officer must have training equal to the minimum training requirements, including any annual training updates, established by the Michigan Department of State Police for an officer of the motor carrier division of the Michigan Department of State Police. A police officer who has received training equal to these minimum training requirements before the effective date of this ordinance is considered a motor carrier enforcement officer for purposes of the Michigan Motor Carrier Safety Act and this ordinance.

12.17 Transfer of hazardous materials on highways, roads, streets, or alleys; overfilling of containers during transfers; penalties.

(1) Except as provided in Section 106.12.17 (2), a person, driver, owner, carrier, lessee, or lessor shall not transfer or allow to be transferred a hazardous material from a cargo tank, portable tank, or any other container to any cargo tank, portable tank, fuel tank, or any other container on a highway, road, street, or alley within the City.

(2) Section 106.12.17 (1) does not apply to the following transfer situations:

(a) Fueling machinery or equipment for construction, farm, and maintenance use.

(b) Fueling emergency vehicles.

(c) Under emergency conditions, a transfer may be made provided it is approved by the Troy Fire Chief, or his/her designee and the Bureau of Fire Service created in section 1b of the Fire Prevention Code, 1941 PA 207, MCL 29.1b, or a hazardous materials investigator of the motor carrier division of the Michigan Department of State Police pursuant to their respective authority under the Fire Prevention Code, 1941 PA 207, MCL 29.1 to MCL 29.34.

(3) A person shall not overfill a container, including a storage tank, during a transfer of a hazardous material from or into a vehicle, so that hazardous material is released from the package or container.

(4) The penalty for violating this section is as prescribed in Section 106.12.11.

12.18. Transportation or allowance of transportation of vehicle carrying hazardous materials on publicly maintained route.

(1) A person, driver, owner, carrier, lessee, or lessor shall not transport or allow to be transported a vehicle carrying hazardous materials in an amount required to be placarded under title 49 of the Code of Federal Regulations on a publicly maintained route as identified on the national hazardous materials route registry as determined by the United States Department of Transportation under title 49 CFR.

(2) The penalty for violating this section shall be as prescribed in Section 106.12.11.

12.19 Enforcement of municipal civil infractions; procedure for provision of security and appearance by nonresidents stopped for municipal civil infractions; disposition by police officers at end of tour of duty of certificates or deposits of money taken as

security for appearance; entry of default judgment and forfeiture of posted certificate or deposit.

(1) A municipal or regular? civil infraction action shall be enforced in the manner provided for enforcement under Chapter 100, Troy Code of Ordinances.

(2) When a person who is not a resident of the State of Michigan is stopped for a municipal or regular? civil infraction in the City of Troy, the police officer making the stop shall take security for the nonresident's appearance in court. The person stopped may recognize to the officer or to the court for his or her appearance by leaving with the officer or court a guaranteed appearance certificate or a sum of money not to exceed $100.00.

(3) If a magistrate is available for an immediate appearance, upon demand of the person stopped, the officer immediately shall take the nonresident driver before the magistrate to answer to the civil infraction alleged. If the nonresident defendant requests a hearing, the hearing shall be scheduled and the defendant shall leave with the court the guaranteed appearance certificate or deposit as security for appearance at the scheduled informal or formal hearing.

(4) The officer receiving a guaranteed appearance certificate or deposit of money shall give a receipt to the person stopped for the guaranteed appearance certificate or the money deposited together with the written citation.

(5) At or before the completion of his or her tour of duty, a police officer taking a certificate or deposit of money shall deliver the certificate or deposit of money and the citation either to the court named in the citation or to the police chief or person authorized by the police chief to receive certificates or deposits. The police chief or person authorized by the police chief shall deposit the certificate or the money deposited and the citation with the court. Failure to deliver the money deposited shall be embezzlement of public money.

(6) If the person who posts a certificate or deposit fails to appear as required in the citation or fails to appear for a scheduled informal or formal hearing, the district court shall enter a default judgment against the person, and the guaranteed appearance certificate or money deposit shall be forfeited and applied to any civil fine or costs ordered.

(7) For purposes of this Section, "guaranteed appearance certificate" means a card or certificate containing a printed statement that a surety company authorized to do business in Michigan guarantees the appearance of the person whose signature appears on the card or certificate and that the company, if the person fails to appear in court at the time of a scheduled informal or formal hearing or to pay any fine or costs imposed, will pay any

fine, costs, or bond forfeiture imposed on the person in a total amount not to exceed $200.00.

(8) As used in this ordinance, "municipal civil infraction" or "municipal civil infraction action" means those terms as defined in Chapter 101..

12.20 Prevention of throwing of water or other road surface substances from rear wheels of vehicles or combinations; use of flaps.

A truck, truck tractor, trailer, semi-trailer, or any combination of these, when used on a highway, shall be constructed, equipped, or operated to prevent water or other road surface substances from being thrown from the rear wheels of the vehicle or combination at tangents exceeding 22 ½ degrees measured from the road surface. If a flap type device is used, it shall not have attached any type of lamp, breakable reflective material, or reflecting buttons nor may the device extend beyond the maximum width of the vehicle or combination

Section 3. Repeal

All ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this ordinance full force and effect.

Section 4. Savings

All proceedings pending, and all rights and liabilities existing, acquired or incurred, at the time this Ordinance takes effect, are hereby saved. Such proceedings may be consummated under and according to the ordinance in force at the time such proceedings were commenced. This ordinance shall not be construed to alter, affect, or abate any pending prosecution, or prevent prosecution hereafter instituted under any ordinance specifically or impliedly repealed or amended by this ordinance adopting this penal regulation, for offenses committed prior to the effective date of this ordinance; and new prosecutions may be instituted and all prosecutions pending at the effective date of this ordinance may be continued, for offenses committed prior to the effective date of this ordinance, under and in accordance with the provisions of any ordinance in force at the time of the commission of such offense.

Section 5. Severability Clause

Should any word, phrase, sentence, paragraph or section of this Ordinance be held invalid or unconstitutional, the remaining provision of this ordinance shall remain in full force and effect.

Section 6. Effective Date

This Ordinance shall become effective ten (10) days from the date hereof or upon publication, whichever shall later occur.

This Ordinance is enacted by the Council of the City of Troy, Oakland County, Michigan, at a Regular Meeting of the City Council held at City Hall, 500 W. Big Beaver, Troy, MI, on the _____ day of _____, _____.

_____
Louise E. Schilling, Mayor

_____
Tonni L. Bartholomew, MMC
City Clerk