

## **300.7 Establishing Special or Seasonal Weight Limits Ordinance**

- I Authority
- II Adoption
- III Overweight Permits
- IV Effective Date

### **SECTION I - AUTHORITY**

The Town Board of the Town of Berry, Dane County, Wisconsin, has the specific authority under Wis. Stats. §§66.0114(1)-(3), 345.20-345.53, 349.03, 349.06, 349.16, 348.17, 348.26 & 348.27, to adopt this ordinance, as Towns have been authorized and delegated the authority to enact and enforce, in their own discretion, seasonal and special weight limits, and exceptions to those special and seasonal limits, on their own roads, pursuant to Wis. Stat. §349.16. The Board finds the following regulations to be in strict conformity with its authority and direction under Wis. Stat. §349.16, and not contrary to or inconsistent with chs. 341 to 348 and 350.

### **SECTION II - ADOPTION**

The Town Board of the Town of Berry, by this ordinance, adopted on proper notice with a quorum and a majority vote of the Town Board present and voting, provides the authority for the Town to establish special or seasonal weight limits, and overweight permits, as follows:

- A. The Town Board may, from time to time, designate by Resolution special weight limits on any portion of a Town Road determined by the Board to need additional protection due to road conditions then occurring. Until the next regularly scheduled Board Meeting, the Town Chair or the Town Highway Superintendant may temporarily designate and post special weight limits on any portion of a Town Roads in need of immediate additional protection due to weakness of the roadbed, due to deterioration, climatic conditions or other special or temporary conditions, which are likely to cause serious damage in the absence of such special limitations.
- B. The following seasonal vehicle weight limit of 15 tons maximum [30,000 pounds] shall be effective for the following Town Roads:

Scherbel Road,  
Schuman Road,  
South Valley Road,  
Spring Valley Road, and,  
Turkey Road

during the period set by the Highway Superintendent, in consultation with the Town Roadman, annually, to coincide with the Wisconsin Department of Transportation spring thaw determinations for the year in question, and,

reported to the Board at the first scheduled Board meeting following the posting.

- C. The reduced seasonal weight limit set under Section II B. above does not apply to:
  - (1) **Septic Haulers** complying with Wis. Stat. §349.16(3), which are traveling to destinations where they will be emptying holding tanks which are full or otherwise endanger public health and safety. This exception does not apply if pumping of a tank can safely be deferred until after the expiration of this seasonal limit;
  - (2) **Empty Vehicle Or Vehicle Combinations** being moved directly to or from a storage or maintenance facility located on a posted town road;
  - (3) **Farm Tractor Hauling A Single Or Tandem Axle Manure Trailer** operated under and complying with a permit allowing a weight limit, excluding the tractor, of 15,000 pounds per axle for up to two axles, for operations from a farm for spreading; and,
  - (4) **Milk Haulers** which are picking up and transporting milk from dairy farms. Milk haulers shall use the shortest lawful direct route over town roads to and from dairies, and shall have the vehicle tag axle fully deployed, or this exemption does not apply.
- D. Town vehicles engaged in official duties, public safety vehicles, fuel trucks, school buses and garbage and recycling trucks contracted by the Town, shall be exempt from the seasonal and special weight restrictions of this Ordinance.
- E. Unless otherwise exempt, delivery of heavy loads to their ultimate destination shall be delayed until after the expiration of the weight limits unless delivery of the load is necessary for health or safety or the care of farm animals, for which a permit may be issued.
- F. The Town Chair, Highway Superintendent or his or her designee shall erect signs as required under s. 349.16(2), Wis. Stats., on or before the effective date of this ordinance.

### **SECTION III – OVERWEIGHT PERMITS**

The Town of Berry, Dane County, Wisconsin, may authorize and issue to the owner or operator of specific vehicle, an overweight permit, exempting such Permittee from the special or seasonal Town weight limits as follows:

- A. The Town Chair or Highway Superintendent of the Town of Berry, Dane County, Wisconsin, for good cause in specified instances, (*with approval from the Town Board in the case of Multiple trip permits*) may authorize and issue to the owner or operator of specific vehicle, an overweight permit, effective for a designated period of time, up to one year, exempting operations by the described vehicle on designated Town Roads from special or seasonal weight

limits. Such permits may include such conditions as may be deemed necessary to protect and preserve the highway, including the designation of permit routes.

- B. Any overweight permit, as issued, applies only to the vehicle designated in the permit, during operations as permitted. The permit, as issued, is not transferable, is revocable, and may be suspended by the Town Chair or Highway Superintendent at any time for good cause. The Permittee may, within 5 days of revocation or suspension, request in writing a hearing before the Town Board, which shall be held within 30 days or the permit shall automatically be reinstated.
- C. There is no application fee for overweight permits exceeding Town imposed weight limits, which may be issued by fax or electronic transmission.
- D. Permittee shall have a current, fully executed **Permit Application and Indemnification Form**, on file with the Town Clerk. The **Permit Application and Indemnification Form** shall provide the identity and address of the applicant, contact information, the name of the applicable liability insurance provider, the effective dates requested, the type of permit requested, the proposed routes of operation, and a description of the vehicle or vehicles to be permitted. It shall also provide that Permittee agrees to reimburse, indemnify and hold harmless the Town for the repair of any damage which results from Permittee's operations under the permit requested, or any liability alleged to have resulting from such damage, together with any costs of enforcing or fulfilling this paragraph, including expert witness and attorneys fees.
- E. To be valid, an overweight permit must be carried in the vehicle and displayed to any law enforcement officer, the Town Highway Superintendent, or the Town Roadman, promptly upon request.
- F. The issuance of a permit under this section shall be reported to the Town Board at the first regular meeting following issuance.
- G. Permits issued under this section are applicable solely to Town special and seasonal weight limits, and do not authorize or allow overweight operations in excess of the limits in Wis. Stat. §348.15.

#### **SECTION IV – PENALTIES**

- A. No person may operate any vehicle on the above-noted highways, in violation of a posted seasonal or special weight limit, without a written permit issued and carried in the vehicle, pursuant to SECTION III, above.
- B. The forfeiture for a first violation of any provision of this ordinance shall be Five Hundred (\$500.00) Dollars. The forfeiture for a second or subsequent

offense shall be One Thousand (\$1,000.00) Dollars. Notwithstanding the forgoing, the total forfeiture shall not exceed the total forfeiture for equally overweight vehicle, with the same history of convictions, as calculated under the formulas included in Wis. Stat §348.21.

- C. Pursuant to Wis. Stat. §§ 345.47, the Town, shall recover as costs of the action under Wis. Stat. §§814.01 and 814.036, its actual reasonable expert witness and attorneys fees.
- D. The vehicle need not be physically weighed, nor must the precise weight of the vehicle be shown, to prove a violation of this Ordinance, provided there is clear and convincing circumstantial evidence a violation existed. The manufacturer's published empty weight of a vehicle shall be presumed to be the empty weight of a vehicle, in the absence of evidence to the contrary.
- E. If any section, clause, provision or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remaining provisions shall not be affected or the charge may be amended to a violation of Wis. Chapter 348.

#### **SECTION V – EFFECTIVE DATE**

This ordinance is effective on September 30, 2011

Dated this 19 day of September, 2011

Published: September 29, 2011

Posted: September 21, 2011

Brenda Kahl, Clerk/Treasurer  
Don Witmer-Kean, Supervisor  
Jim Laubmeier, Supervisor

Anthony Varda, Chair  
Chris Upper, Supervisor



www.townofberry.org

9046 State Road 19, Mazomanie, WI 53560, 608-767-4152, twnberry@chorus.net

# PERMIT APPLICATION AND INDEMNIFICATION AGREEMENT

The undersigned, [hereinafter "Permittee"] hereby requests The Town of Berry, Dane County, Wisconsin, [the "Town"] by its Board and its officer in charge of maintenance of its highways, authorize and issue to:

**Permittee** \_\_\_\_\_  
[Include legal name and any d/b/a's used]

**Address** \_\_\_\_\_

**Insurer** \_\_\_\_\_ **Policy #** \_\_\_\_\_

(circle one A single, or An annual or A consecutive month or A multiple) trip permit for operations by the following vehicle owned or operated by Permittee: *(describe vehicle)* \_\_\_\_\_, allowing operations at weights up to those allowed under Wis. Stat. §340.15, by the described vehicle, and exceeding specified and posted Town Weight Limits.

Permittee requests the permit be in effect from \_\_\_\_\_, 20\_\_ to \_\_\_\_\_, 20\_\_, for operations over the following routes: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Permittee agrees to reimburse, indemnify and hold harmless the Town for the repair of any damage which results from Permittee's operations under the permit requested, or any liability alleged to have resulting from such damage, together with any costs of enforcing or fulfilling this paragraph, including expert witness and attorneys fees.

- Permittee acknowledges that:
- The original condition of the road prior to use under the overweight permit may be inspected and documented by Permittee, with photos of existing condition and/or damage prior to operations under the permit.
  - If judged necessary or desirable, video tape or pictures of the road for which the overweight permit is granted, may be taken by the Town prior to use, to document and determine if damage resulted from permitted use.

Permittee Applicant's Signature \_\_\_\_\_

Contact Information – Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Name of Company \_\_\_\_\_

DATE: \_\_\_\_\_, 20\_\_.

Permit Issued:    Yes    No    Issuance/denial date: \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
(Town Chair or Highway Superintendent)



9046 State Road 19, Mazomanie, WI 53560, 608-767-4152, twnberry@chorus.net

**SINGLE TRIP OVERWEIGHT PERMIT #20 - \_\_\_\_\_**  
[YEAR-NUMBER]

The Town of Berry, Dane County, Wisconsin, by its officer in charge of maintenance of its highways, authorizes and issues to:

**Permittee** \_\_\_\_\_

**Address** \_\_\_\_\_  
\_\_\_\_\_

as owner or operator of (*describe vehicle/ vehicles*) \_\_\_\_\_, a single trip permit effective \_\_\_\_\_, 20\_\_\_\_, only, authorizing travel at weights up to those allowed under Wis. Stat. §348.15, by the described vehicle, on specified Town Highways, notwithstanding Township Seasonal or Special Weight Limits.

**Operations are subject to the following conditions:** (*Amend conditions as required*)

A. The highways and routes that may be used under this permit are as follows: (*List permit conditions, highways, routes and specific locations*) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

[*Attach further description if necessary.*]

- B. The permit issued is a single trip permit issued under Wis. Stats. §348.26(2).
- C. The permit, as issued, applies only to the above-described vehicle during operations as permitted. The permit, as issued, is not transferable, is revocable, and can be suspended by the Town Board or its designees at any time for good cause. The Permittee may, upon revocation or suspension, request a hearing before the Town Board.
- D. The Permittee shall stay to the center of the road as much as practical, and shall complete the trip between \_\_\_\_\_AM/PM and \_\_\_\_\_AM/PM.
- E. A copy of this permit must be carried on the permitted vehicle and displayed to any law enforcement officer, the Town Highway Superintendant, or the Town Roadman, promptly upon request.
- F. Permittee shall have a current, fully executed **Permit Application and Indemnification Form**, on file with the Town Clerk.
- G. The failure to comply with any condition of the permit renders the permit invalid.

Issued this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
(Town Chair or Highway Superintendant) Phone \_\_\_\_\_  
Email \_\_\_\_\_

**THIS PERMIT, OR A COPY OF THIS PERMIT, MUST BE CARRIED ON THE PERMITTED VEHICLE TO BE VALID.**



9046 State Road 19, Mazomanie, WI 53560, 608-767-4152, twnberry@chorus.net

**MULTIPLE TRIP OVERWEIGHT PERMIT #20 - \_\_\_\_\_**  
[YEAR-NUMBER]

The Town of Berry, Dane County, Wisconsin, by its officer in charge of maintenance of its highways, authorizes and issues to:

**Permittee** \_\_\_\_\_

**Address** \_\_\_\_\_

as owner or operator of *(describe vehicle/vehicles)* \_\_\_\_\_

a permit effective \_\_\_\_\_, 20\_\_ , authorizing travel at weights up to those allowed under Wis. Stat. §348.15, by the described vehicle, on specified Town Highways, notwithstanding Township imposed Weight Limits.

**Operations are subject to the following conditions:** *(Amend conditions as required)*

A. The Town highways and routes that may be used under this permit are as follows: *(List highways, routes and specific locations)* \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

*[Attach further description if necessary.]*

B. The permit issued is *(choose one an annual or consecutive month or multiple)* trip permit issued under the authority of Wis. Stat. §348.27(3), which shall be in effect from \_\_\_\_\_, 20\_\_ to \_\_\_\_\_, 20\_\_.

C. The permit, as issued, applies only to the above-described vehicle during operations as permitted. The permit, as issued, is not transferable, is revocable, and can be suspended by the Town Board or its designees at any time for good cause. The Permittee may, upon revocation or suspension, request a hearing before the Town Board.

D. A copy of this permit must be carried on the permitted vehicle and displayed to any law enforcement officer, the Town Highway Superintendent, or the Town Roadman, promptly upon request.

E. Permittee shall have a current, fully executed **Permit Application and Indemnification Form**, on file with the Town Clerk.

F. The failure to comply with any condition of the permit renders the permit invalid.

Issued this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
*(Town Chair or Highway Superintendent)* Phone \_\_\_\_\_  
Email \_\_\_\_\_

**THIS PERMIT, OR A COPY OF THIS PERMIT, MUST BE CARRIED ON THE PERMITTED VEHICLE TO BE VALID.**