

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

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### **SECTION I - AUTHORITY**

The Town Board of the Town of Berry, Dane County, Wisconsin, has the specific authority under Wisconsin Statutes 66.0114(1)-(3), 345.20-345.53, 349.03, 349.06, 349.16, 348.17, 348.26 and 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 Wisconsin Statute 349.16. The Board finds the following regulations to be in strict conformity with its authority and direction under Wisconsin Statute 349.16, and not contrary to or inconsistent with chapters 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 Chairperson or the Town Highway Superintendant may temporarily designate and post special weight limits on any portion of a town road 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 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:
  - Scherbel Road
  - Schuman Road
  - South Valley Road
  - Spring Valley Road
  - Turkey Road
- C. The reduced seasonal weight limit set under Section II (B) above does not apply to:

1. Septic haulers complying with Wisconsin Statute 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.
  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 Chairperson, Highway Superintendent or his or her designee shall erect signs as required under Wisconsin Statute 349.16(2) on or before the effective date of this ordinance.

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

The Town of Berry 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 Chairperson or Highway Superintendent of the Town of Berry 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 Chairperson 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 Wisconsin Statute 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 \$500.00. The forfeiture for a second or subsequent offense shall be \$1,000.00. 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 Wisconsin Statute 348.21.
- C. Pursuant to Wisconsin Statute 345.47, the Town, shall recover as costs of the action under Wisconsin Statute 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 Wisconsin Statute Chapter 348.

**SECTION V – EFFECTIVE DATE**

This ordinance shall take effect and be in force from and after the day after passage and publication as required by law.

Adopted this 18<sup>th</sup> day of February, 2019

Attest: Brenda Kahl  
Brenda Kahl, Clerk/Treasurer

Anthony Varda  
Anthony Varda, Chairperson

Posted: February 19, 2019

Jeff Davis  
Jeff Davis, Supervisor

Published: February 28, 2019

Michael Statz  
Michael Statz, Supervisor

Joe Kruchten  
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