

**ORDINANCE OF THE TOWN OF ROXBURY
DANE COUNTY, WISCONSIN
Town Ordinance No. 2013-01
Creating Chapter 20 of the Town Ordinances**

**Title: An Ordinance Regulating the Weight Limits of Vehicles on Town Roads
in the Town of Roxbury**

Ordinance Identification Number	<u>2013-01</u>
Code Section (s) created	<u>Chapter 20</u>
Code Section(s) repealed	<u>Portions of Ch. 9 in conflict with this new Chapter 20</u>
Presented to Board by	<u>Tim Breunig, Supervisor</u>
Date(s) Public Hearing(s) held (if required)	_____
Date Adopted	_____
Vote	_____
Date of Publication of Adoption of Ordinance	_____

**THE TOWN BOARD OF SUPERVISORS OF THE TOWN OF ROXBURY
DOES HEREBY ORDAIN** as follows:

1. The attached Ordinance, titled as indicated above, is hereby adopted and approved.
2. The Clerk shall publish and/or post the Ordinance as required by law.
(Note: Ordinance includes penalty provision and forfeitures which require publication.)

Approved by the Town board on December 2, 2013, by a vote of 3 for, 0
against, and 0 abstain.

TOWN OF ROXBURY

Ervin Breunig
Ervin Breunig, Town Chair

ATTEST:

Robert Pings
Robert Pings, Town Clerk

Approved as to form as of this
2nd day of December, 2013.

STAFFORD ROSENBAUM, LLP

Constance L. Anderson
Roxbury Town Attorney

CHAPTER 20
AN ORDINANCE REGULATING THE WEIGHT LIMITS
OF VEHICLES ON TOWN OF ROXBURY ROADS

Section 20.01 – Statement of Authority.

The Town Board of the Town of Roxbury, 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. 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 Wis. Stat. chs. 341 to 348 and 350.

The Town Board, 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 and/or seasonal weight limits, general weight limits, overweight permits, enforcement and penalties, all as set forth herein.

Section 20.02 – Adoption of General Weight Limitations on Town Roads.

For purposes of this Ordinance, all highways maintained by the Town shall be referred to as “Town Roads,” except that no portion of any such highway which is a state trunk highway or connecting highway may be designated a Town Road.

The Town Board, by this Ordinance, designates the following Town Roads to be class “B” highways for the purpose of putting into effect the weight limitations set forth in Wis. Stat. §348.16:

- Breunig Road
- Hornung Road
- Inama Road
- Leuth Road
- Loper Road
- Mack Road
- Mussen Road

Section 20.03 – Adoption of Special and Seasonal Weight Limitations on Specified Town Roads.

(a) Special Weight Limitations.

The Town Board may designate, from time to time and by Resolution of the Town Board, special weight limits on any portion of a Town Road determined by the Board to need additional protection due to road conditions then occurring.

Where a Town Road is in need of immediate additional protection due to weakness of the roadbed, deterioration, climatic conditions or other special or temporary conditions, which are likely to cause serious damage in the absence of such special limitations, as determined in the discretion of the Town Highway Superintendent,¹ Town Chair or Town Supervisor, then said Town Highway Superintendent, Town Chair or Town Supervisor may temporarily designate and post special weight limits on any portion of a Town Road. Such designation shall remain in full force and effect until the next Board Meeting, at which the Town Board shall consider whether to extend or terminate the special weight limitations. The Town Board's action shall be by Resolution of the Town Board.

The Special Weight Limitations shall apply to Town Roads specified in the “*Resolution Designating Special Weight Limitations.*”

(b) Seasonal Weight Limitations.

Seasonal vehicle weight limits of 12 tons maximum [24,001 or more pounds] shall be effective during the period set by the Town Highway Superintendent annually to coincide with the Wisconsin Department of Transportation spring thaw determinations for the year in question, and reported to the Town Board at the first scheduled Town Board meeting following the posting. The Town Board may modify the determinations of the Town Highway Superintendent as the Town Board deems necessary. The Town Board's action shall be by Resolution of the Town Board.

The Seasonal Weight Limitations shall apply to Town Roads specified in the “*Resolution Designating Seasonal Weight Limitations.*”

¹ The Town has historically called the Town Highway Superintendent “the Town Patrolman” and there is no intention to create a new or separate position by using the term “Town Highway Superintendent” in this ordinance.

(c) Exemptions to Seasonal Weight Limitations.

The Seasonal Weight Limitations shall **NOT** apply to the following vehicles, which shall be exempt from all Seasonal Weight Limitations:

- (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) Exemptions to both Special and Seasonal Weight Limitations.

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) Delivery of Heavy Loads Not Exempt; Permit Required.

Unless otherwise exempt, delivery of heavy loads to their ultimate destination shall be delayed until after the expiration of the seasonal weight limits unless delivery of the load is necessary for health or safety, or the care of farm animals, in which case the driver/operator shall apply for and obtain a permit prior to making the delivery.

Section 20.04 – Signage and Maps.

Appropriate weight limitation signs shall be erected on Town Roads as required by Wis. Stat. §349.16(2).

Weight limit signage may include notice of the general weight limitations established

as well as special or seasonal weight limitations. For example, the Town Highway Superintendent (or designee) may identify roads frequently used in violation of the ordinance and erect proper signage to warn drivers of the ordinance requirements, such as *"NO THROUGH TRUCKS OVER XX TONS PER TOWN ORDINANCE,"* or *"WEIGHT LIMITS ENFORCED FOR VEHICLES EXCEEDING XX TONS. Permits required per Town Ordinance."* Flags or other markings may be used to draw attention to signage, particularly for seasonal signage.

All such signage existing as of the date of adoption of this Ordinance shall be considered approved by the Town Board. Periodically hereafter, the Town Highway Superintendent and Town Board shall review the use and location of such signage, and may recommend or approve changes to existing signage and/or addition of new signage by Resolution of the Board. The Town Clerk, in consultation with the Town Highway Superintendent, shall maintain a map showing the approximate location of the signs, which map shall be available for reference purposes at the Town Hall and/or the Office of the Town Clerk.

Section 20.05 – Overweight Permits.

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

(a) Overweight Permits Available for Owner/Operator and Specific Vehicle.

Permits issued under this section are applicable solely to the Town's special and seasonal weight limits, and class "B" highway weight limits, and do not authorize or allow overweight operations in excess of the limits in Wis. Stat. §348.15.

The Town Highway Superintendent or Town Clerk, for good cause and in specified instances, and with prior 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. Failure to operate in accordance with the permit shall be sufficient cause to revoke or suspend the permit.

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 Highway Superintendent at any time for sufficient cause.

Overweight permits may be issued by fax or electronic transmission.

The issuance of a permit under this Ordinance shall be reported to the Town Board at the first regular meeting following issuance.

(b) Denial, Revocation or Suspension; Appeal.

The Applicant or Permittee may, within 5 days of denial, revocation or suspension, request in writing a hearing to appeal the denial, revocation or suspension. Such appeal shall be before the Town Board, and shall be held within 30 days of the request. An Applicant's or Permittee's failure to timely appeal shall be deemed a waiver of the right for review, and the Town's decision to deny, revoke or suspend shall be final and not subject to further review.

(c) Fee for Overweight Permits.

The application fee for overweight permits exceeding Town imposed weight limits shall be set by Resolution of the Town Board.

(d) Requirements to Apply for Overweight Permit.

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.

To be valid, an overweight permit must be carried in the vehicle and displayed to any law enforcement officer, the Town Highway Superintendent, or other Town official promptly upon request.

Section 20.06 – Enforcement and Penalties.

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, as described in this Ordinance.

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 foregoing, 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.

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.

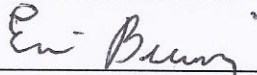
The vehicle need not be physically weighed, nor must the precise weight of the vehicle be shown, to prove a violation of this Ordinance, provided there is clear and convincing circumstantial evidence a violation existed. The manufacturer's published empty weight of a vehicle shall be presumed to be the empty weight of a vehicle, in the absence of evidence to the contrary.

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 and the charge may be amended to a violation of Wis. Chapter 348.

This Ordinance shall be enforced in accordance with the provisions of Wis. Stat. §§ 345.20 to 345.53, Chapter 800, and § 66.12, which are hereby adopted by reference and made a part of this Ordinance.

ADOPTED THIS 2nd DAY OF DECEMBER, 2013, BY THE TOWN BOARD OF
THE TOWN OF ROXBURY.

TOWN OF ROXBURY



Ervin Breunig, Town Chair

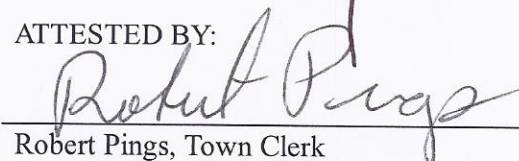


Nick Ganser, Town Supervisor



Tim Breunig, Town Supervisor

ATTESTED BY:



Robert Pings, Town Clerk

RESOLUTION OF THE TOWN BOARD OF THE TOWN OF ROXBURY
RESOLUTION NO. 2013-03

Resolution Designating Special Weight Limitations for Town Roads

THE TOWN BOARD OF THE TOWN OF ROXBURY HEREBY RESOLVES AS FOLLOWS:

The following Town Roads are designated as Town Roads with Special Weight Limits and subject to the provisions set forth in Chapter 20 of the Ordinances of the Town of Roxbury, Dane County, Wisconsin:

Approved by Resolution of the Town Board on this 2 day of Dec, 2013.

TOWN OF ROXBURY

Ervin Breunig

Ervin Breunig, Town Chair

Nick Ganser

Nick Ganser, Town Supervisor

Tim Breunig

Tim Breunig, Town Supervisor

ATTESTED BY:

Robert Pings

Robert Pings, Town Clerk

RESOLUTION OF THE TOWN BOARD OF THE TOWN OF ROXBURY

RESOLUTION NO. 2013-02

Resolution Designating Seasonal Weight Limitations for Town Roads

THE TOWN BOARD OF THE TOWN OF ROXBURY HEREBY RESOLVES AS FOLLOWS:

The following Town Roads are designated as Town Roads with Seasonal Weight Limits and subject to the provisions set forth in Chapter 20 of the Ordinances of the Town of Roxbury, Dane County, Wisconsin:

Approved by Resolution of the Town Board on this 2 day of Dec., 2013.

TOWN OF ROXBURY

Ervin Breunig

Ervin Breunig, Town Chair

Nick Ganer

Nick Ganer, Town Supervisor

Tim Breunig

Tim Breunig, Town Supervisor

ATTESTED BY:

Robert Pings

Robert Pings, Town Clerk

**TOWN OF ROXBURY
SINGLE TRIP OVERWEIGHT PERMIT**

#20 - _____ [#year-number]

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

Permit Holder _____

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 only, 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 Permit Holder may, upon revocation or suspension, request a hearing before the Town Board.

D. The Permit Holder 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 Superintendent, or the Town Roadman, promptly upon request.

F. Permit Holder 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____.

Phone _____
(Town Chair or Town Clerk or Highway Superintendent) Email _____

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

**TOWN OF ROXBURY
TOWN ROAD OVERWEIGHT PERMIT
APPLICATION AND INDEMNIFICATION AGREEMENT**

The undersigned, [hereinafter "Permit Holder"] hereby requests the Town of Roxbury, Dane County, Wisconsin, [the "Town"] by its Board and its officer in charge of maintenance of its highways, to authorize and issue a permit to the Permit Holder for the purposes set forth in this Application:

Permit Holder _____

[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 Permit Holder: *(describe vehicle)* _____, allowing operations at weights up to those allowed under Wis. Stat. §348.15, by the described vehicle, and exceeding specified and posted Town Weight Limits.

Permit Holder requests the permit be in effect from _____, 20__ to _____, 20__, for operations over the following routes: _____

In consideration of any Permit issued pursuant to this Application, Permit Holder agrees to reimburse, indemnify and hold harmless the Town for the repair of any damage which results from Permit Holder'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.

Permit Holder further acknowledges that:

»Permit Holder may inspect and document the original condition of the road prior to use under the overweight permit. If Permit Holder elects to do so, Permit Holder shall provide such photos or video of existing conditions and/or damage to the Town prior to operations under the permit.

»If determined necessary or desirable, the Town may take photos or videos of the road for which the overweight permit is granted to document and determine if damage resulted from permitted use.

»By signing below, Permit Holder warrants and represents that Permit Holder is authorized to act on behalf of the Company applying for the Permit and to bind Permit Holder and the Company as set forth herein.

Permit Holder 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)