**Ordinance 119**

**TOWN OF CROSS PLAINS WEIGHT LIMITS ORDINANCE**

* **Creates Heavy Traffic Routes**
* **Does Not Regulate Implements Of Husbandry**
* **Designates Certain Roads As Class B roads**

Section 1: Statement of Purpose

In order to promote the general welfare and safety of the public, it is deemed necessary to establish weight limitations on Town roads in the Town of Cross Plains (hereinafter, the “Town”).

Section 2. Definitions. As used in this section –

(1) “Heavy traffic” means:

(a) All vehicles not operating completely on pneumatic tires; and

(b) All vehicles or combination of vehicles, other than motor buses, designed or used for transporting property of any nature and having a gross weight of more than 6,000 pounds.

(2) “Implement of husbandry” means:

(a) Subject to par. [(b)](http://docs.legis.wisconsin.gov/document/statutes/340.01%2824%29%28b%29), “implement of husbandry" means all of the following:

1. A self-propelled or towed vehicle that is manufactured, designed, or reconstructed to be used and that is exclusively used in the conduct of agricultural operations. An “implement of husbandry" may include any of the following:

a. A farm tractor.

b. A self-propelled combine; a self-propelled forage harvester; self-propelled fertilizer or pesticide application equipment but not including manure application equipment; towed or attached tillage, planting, harvesting, and cultivation equipment and its towing farm tractor or other power unit or farm tractor or other power unit to which it is attached; or another self-propelled vehicle that directly engages in harvesting farm products, directly applies fertilizer, spray, or seeds but not manure, or distributes feed to livestock.

c. A farm wagon, grain cart, farm trailer, manure trailer, or trailer adapted to be towed by, or to tow or pull, another implement of husbandry.

2. A combination of vehicles in which each vehicle in the vehicle combination is an implement of husbandry as described in subd. [1.](http://docs.legis.wisconsin.gov/document/statutes/340.01%2824%29%28a%291.) or in which an implement of husbandry described in subd. [1.](http://docs.legis.wisconsin.gov/document/statutes/340.01%2824%29%28a%291.) is towed by a farm truck, farm truck tractor, motor truck, or agricultural commercial motor vehicle.

(b) “Implement of husbandry" does not include any of the following:

1. An agricultural commercial motor vehicle.

2. A vehicle that, notwithstanding s. [340.01 (8)](http://docs.legis.wisconsin.gov/document/statutes/340.01%288%29), is a commercial motor vehicle under [49 CFR 390.5](http://docs.legis.wisconsin.gov/document/cfr/49%20CFR%20390.5).

(3) “Ordinary traffic” means all road users other than heavy traffic.

(4) “Public Safety Vehicle” means an ambulance or paramedic vehicle; a vehicle operated by a fire department or district; an emergency response vehicle operated by a law enforcement or disaster response agency; or, a road maintenance vehicle operated by the Town or Dane County.

Section 3: Classification of Towns Roads.

(1) Certain identified Town Roads are classified, for weight limitations purposes, as Heavy Traffic Routes.

(2) All Town Roads are subject to ordinary weight limits unless designated as a Heavy Traffic Route, and such designation is indicated by signs.

(3) The portions of Town Roads which are designated as Heavy Traffic Routes are identified on Map 1, which is an exhibit to this Ordinance.

Section 4: Implements Of Husbandry.

(1)The Town elects not to impose any local regulations on the operations of implements of husbandry.

Section 5:

Weight Limits On Heavy Traffic Routes.

(1) Pursuant to the authority granted by Section 349.17 (1), Wisconsin Statutes, the Town Board may designate any Town road under its jurisdiction as a heavy traffic route and designate the type and character of vehicles which may be operated thereon.

(2) All portions of the Town Road system designated as Heavy Traffic Routes are also designated, pursuant to sec. 349.15 (2), Wis. Stats., as Class B highways for the purpose of putting into effect the weight limitations set forth in s. 348.16, Wis. Stats.

Section 6: Permanent Weight Limitations On Heavy Traffic Routes.

(1) Except as hereinafter provided, no person without a permit allowing for a specified exception from the weight limits stated herein shall operate any vehicle or combination of vehicles on any Town road in the Town unless the vehicle or combination of vehicles complies with the following weight limits:

(a) The gross weight imposed on the highway by any one wheel or multiple wheels supporting one end of an axle may not exceed 6,600 pounds.

(b) The gross weight imposed on the highway by the wheels of any one axle may not exceed 12,000 pounds. In addition, the gross weight imposed on the highway by the wheels of the steering axle of a truck tractor may not exceed 7,800 pounds unless the manufacturer's rated capacity of the axle and the tires is sufficient to carry the weight, but not to exceed 12,000 pounds.

(c) In the case of a vehicle or combination of vehicles transporting exclusively milk from the point of production to the primary market and the return of dairy supplies and dairy products from such primary market to the farm, the gross weight imposed on the highway by the wheels of any one axle may not exceed 12,600 pounds or, for 2 axles 8 or less feet apart, 22,200 pounds or, for groups of 3 or more consecutive axles more than 9 feet apart, a weight of 1,200 pounds more than is shown in par. (c), but not to exceed 48,000 pounds.

(d) In the case of a vehicle or combination of vehicles transporting exclusively peeled or unpeeled forest products cut crosswise or in the case of a vehicle or combination of vehicles transporting exclusively scrap metal, the gross weight imposed on the highway by the wheels of any one axle may not exceed 12,900 pounds or, for 2 axles 8 or less feet apart, 22,200 pounds or, for groups of 3 or more consecutive axles more than 9 feet apart, a weight of 2,400 pounds more than is shown in par. (c), but not to exceed 48,000 pounds.

(e) In the case of a vehicle or combination of vehicles used primarily for the transportation of septage, as defined in s. 281.49 (1) (m), the gross weight imposed on the highway by the wheels of any one axle may not exceed 12,900 pounds or, for 2 axles 8 or less feet apart, 22,200 pounds or, for groups of 3 or more consecutive axles more than 9 feet apart, a weight of 2,400 pounds more than is shown in par. (f) or, for groups of 4 or more consecutive axles more than 10 feet apart, a weight of 4,800 pounds more than is shown in par. (f) or, for groups of 5 or more consecutive axles more than 14 feet apart, a weight of 4,200 pounds more than is shown in par. (f), but not to exceed 48,000 pounds.

(f) The gross weight imposed on the highway by any group of 2 or more consecutive axles of a vehicle or combination of vehicles may not exceed the maximum gross weights in the table attached to the end of this Ordinance for each of the respective distances between axles and the respective numbers of axles of a group.

(g) Notwithstanding par. (f), 2 consecutive sets of tandem axles may impose on the highway a gross load of 20,400 pounds each if the overall distance between the first and last axles of such consecutive sets of tandem axles is 36 feet or more.

(h) Notwithstanding pars. (a), (b) and (f), in the case of a vehicle or combination of vehicles transporting exclusively livestock, the gross weight imposed on the highway by the wheels of any one axle or axle group may exceed the applicable weight limitation specified in pars. (a), (b) and (f) by 15% if the gross weight of the vehicle or combination of vehicles does not exceed the maximum gross weight specified for that vehicle or combination of vehicles under par. (f).

(i) 1. In this paragraph:

a. "Heavy-duty vehicle" has the meaning given in 42 USC 16104 (a) (4).

b. "Idle reduction technology" has the meaning given in 42 USC 16104 (a) (5).

2. Notwithstanding the other provisions of this ordinance, and subject to subd. 3., in the case of a heavy-duty vehicle equipped with idle reduction technology, the gross weight of the vehicle, and the gross weight imposed on the highway by the wheels of any one axle or axle group of the vehicle, may exceed the applicable weight limitation specified in this ordinance or posted as provided in this ordinance by not more than 400 pounds or the weight of the idle reduction technology, whichever is less.

3. This paragraph applies only if the heavy-duty vehicle operator, upon request, proves, by written certification, the weight of the idle reduction technology and, by demonstration or certification, that the idle reduction technology is fully functional at all times.

Section 7: Weighing Vehicles.

(1) The owner and operator of any vehicle or combination of vehicles operated on the roads of the Town shall be deemed to have impliedly consented to allowing the vehicle or vehicles to be weighed by a certified weight inspector using accepted weighing methods.

(2) Notwithstanding the possibility of increased weight on a particular wheel or axle or group of axles due to practical operating problems, including, but not limited to, accumulation of snow, ice, mud or dirt, the use of tire chains or minor shifting of load, the maximum weights set forth in this ordinance include absolutely all weights allowable.

(3) For enforcement of weight limitations specified by this ordinance the gross weight, measured in pounds, imposed on the highway by any wheel or any one axle or by any group of 2 or more axles shall be determined by weighing the vehicles and load, either by single draft or multiple draft weighing on certified stationary scales or on portable scales in good working order which are tested in comparison to certified stationary scales within 180 days immediately prior to any weighing operation by the department of agriculture, trade and consumer protection or other authorized testing agencies for accuracy to within standard accepted tolerances. The weighing operation shall be performed in accordance with and under conditions accepted as good weighing technique and practice. In multiple draft weighing the sum of the weight of respective components shall be used to establish the weight of a combination of the components. It is recognized that the weight, determined in accordance with methods prescribed in this chapter, includes all statutory weights and represents the momentary load force or reaction imposed on the scale at the time of weighing. Such weights include any variation due to the following factors:

(a) Positioning or tilt of the vehicle on the scale platform and adjacent bearing surface;

(b) Momentary position of axle centers with respect to wheel bearings and vehicle body;

(c) Temporary distribution of loading on the wheel or axle; and

(d) Miscellaneous variable factors of spring flexure, shackle friction, clutch engagement, brake pressure, tire compression and other variable factors.

(4) The distances between axles and between the foremost and rearmost of a group of axles shall be measured between axle centers to the nearest even foot, and when a fraction is exactly one-half foot, the nearest larger whole number shall be used.

(5) In determining overweight, the results of weighing by means of either portable scales or certified stationary scales shall be admissible as evidence. In all cases where a vehicle is weighed on a certified stationary scale, axles less than 6 feet apart shall be weighed as one unit.

(6) At any weighing scale where a vehicle is found overloaded, the driver may request its reweighing at the same scale. Upon reweighing the weighing officials shall supply the tabulated weight ticket to the driver. All weight tickets for any vehicle shall be supplied to the court in case the matter goes to trial.

(8) Unless the Department of Transportation provides otherwise by rule, any axle of a vehicle or combination of vehicles which does not impose on the highway at least 8% of the gross weight of the vehicle or combination of vehicles may not be counted as an axle for the purposes of Section 5 (1) (f).

Section 8: Exemptions and Limited Exception For Pick-Up And Delivery.

(1) (a) The restrictions herein contained shall not prohibit vehicles which exceed weight limits in this ordinance from using a Town Road for the purpose of obtaining orders for supplies or moving or delivering supplies or commodities to or from any place of business or residence fronting on such Town Road. When it is necessary for the operator of such a vehicle to travel upon a street not designated as a Heavy Traffic Route, such operator shall leave and re-enter such Heavy Traffic Routes at the point closest to the operator’s immediate destination.

(b) The restrictions herein shall not apply to a Public Safety Vehicle.

(2) In no event may a vehicle or combination of vehicles with a gross weight in excess of 80,000 pounds operate on any Town Road, unless exempted by state statute.

Section 9: Special Or Seasonal Weight Regulations. (1) Winter. The transportation of peeled or unpeeled forest products cut crosswise or for abrasives or salt for highway winter maintenance in excess of gross weight limitations under this Ordinance shall be permitted during the winter months when the highways are so frozen that no damage may result thereto by reason of such transportation.

(3) Beyond the permanent weight limitations on Town Roads provided in this ordinance, the [Town Chairperson][Town Road Patrolman][Town Board] may, pursuant to sec. 349.16, Wis. Stats., impose special seasonal limitations on any Town road or portion thereof which because of weakness of the roadbed due to deterioration, climate conditions, or other special or temporary condition which would likely be seriously damaged or destroyed in the absence of such special limitations. The action may:

(a) Impose special weight limitations on any such highway or portion thereof which, because of weakness of the roadbed due to deterioration or climatic conditions or other special or temporary condition, would likely be seriously damaged or destroyed in the absence of such special limitations;

(b) Impose special weight limitations on bridges or culverts when in its judgment such bridge or culvert cannot safely sustain the maximum weights permitted by statute;

(4) Special Weight Limits. The Town [Chairperson][Road Patrolman][Board] may order the owner or operator of any vehicle being operated on a highway to suspend operation if in its judgment such vehicle is causing or likely to cause injury to such highway or is visibly injuring the permanence of the road or the public investment therein, except when s. 84.20 is applicable or when the vehicle is being operated pursuant to a contract which provides that the governmental unit will be reimbursed for any damage done to the highway. Traffic officers also may order suspension of operation under the circumstances and subject to the limitations stated in this paragraph.

(5) The Town [Chairperson][Road Patrolman][Board] may exempt vehicles carrying certain commodities specified by the authority or which are used to perform certain services specified by the authority from the special weight limitations which are imposed under sub. (1) (a), or may set different weight limitations than those imposed under sub. (1) (a) for vehicles carrying those commodities or which are used to perform those services, if such exemption or limitation is reasonable and necessary to promote the public health, safety and welfare. The authority in charge of the maintenance of the highway shall exempt from the special or seasonal weight limitations imposed under sub. (1) (a) a vehicle that is used to transport material pumped from a septic or holding tank if, because of health concerns, material needs to be removed from a septic or holding tank within 24 hours after the vehicle owner or operator is notified and if the vehicle is operated for the purpose of emptying the septic or holding tank and disposing of its contents and is operated on a route that minimizes travel on highways subject to weight limitations imposed under sub. (1) (a). Within 72 hours after operating a vehicle that transported material pumped from a septic or holding tank and that exceeded special or seasonal weight limitations as authorized by this subsection, the owner or operator of the vehicle shall notify the authority in charge of maintenance of the highways over which the vehicle was operated.

Section 10: Signs, Route Maps and Posting.

(1) Appropriate weight limitations signs shall be erected on Town roads as well as appropriate signs designating high traffic roads giving notice thereof.

(2) Imposition of the special weight limitations authorized by this ordinance shall be done by erecting signs on or along the highway on which it is desired to impose the limitation sufficient to give reasonable notice that a special weight limitation is in effect and the nature of that limitation. Imposition of the special weight limitations authorized by this ordinance shall be done by erecting signs before each end of the bridge or culvert to which the weight limitation applies sufficient to give reasonable notice that a special weight limitation is in effect and the nature of that limitation. All weight limitation signs and their erection shall comply with the rules of the department and shall be standard throughout the state.

(3) The Town shall prepare maps showing the designating of the Town Roads such that the weight limits which apply to each road are discernible. The Town shall post a legible copy of the map on the Town’s web site. Failure to prepare, update or post the map on the internet shall have no effect on the enforceability of the ordinance if signs indicating the weight restrictions were placed on the Town Road on which a violation occurred.

Section 11: Permits For Overweight Vehicles.

(1) The Town finds that it may be necessary for vehicles which exceed these weight limits to travel on Town Roads. Permits to authorize overweight operations may be issued on terms and conditions which protect the public and assure that repair of any damage or excess wear and tear shall be paid for by the permitee.

(2) Permits may be issued for a single trip, or on a monthly, consecutive month, annual or multiple-trip basis.

(3) No permit may be granted without an application. The Town may make a telephone application available if staff and resources permit. The application shall state the name and address of the vehicle owner, an individual who is assuming personal responsibility for compliance with this Ordinance, including payment of any forfeitures and damages, the vehicle which will be operating, the specified route to be used, the time of use, the materials to be carried, and the requested weight.

(4) The application shall contain a provision under which the applicant agrees to be responsible for all damage caused to the Town Road, as well as compliance with the Ordinance. A copy of this ordinance shall be given to all applicants, and this ordinance is part of every permit granted.

(5) The permit, if granted, shall specify whether the applicant’s requested operations are approved, and if not, what route, weight, cargo and time of use is approved. The permit shall be provided to the Town Patrolman and the Dane County Sheriff’s Department.

(6) The Town shall receive and issue permits only during ordinary business hours.

(7) Where necessary to secure payment for damages, the permit may be issued on the condition that a bond or cash deposit is posted.

Section 12: Penalty for Violation

(1)Any person who operates any vehicle on the highways of the Town in violation of this ordinance without a written permit issued by the Town [Chairperson][Road Patrolman][Board] shall be in violation of this ordinance.

(2) Any violation shall be subject to the following penalties, for which the operator and the vehicle owner shall be jointly and severally liable.

(3) Except as provided in sub. (4), any person violating this Ordinance shall pay a forfeiture as follows:

(a) If the weight exceeds by 1,000 pounds or less the maximum set forth in this Ordinance or a Special or Seasonal Declaration or a Permit, a forfeiture of not less than $50 nor more than $100 upon the first conviction and, upon the 2nd and each subsequent conviction within a 12-month period, a forfeiture of not less than $100 nor more than $200.

(b) If the weight exceeds by more than 1,000 pounds the maximum set forth in the maximum set forth in this Ordinance, or in a Special or Seasonal Declaration or in a Permit, the forfeiture shall be computed according to the following schedule

1. For the first conviction, a forfeiture of not less than $50 nor more than $200 plus an amount equal to whichever of the following applies:

a. One cent for each pound of total excess load when the total excess is not over 2,000 pounds.

b. Three cents for each pound of total excess load if the excess is over 2,000 pounds and not over 3,000 pounds.

c. Five cents for each pound of total excess load if the excess is over 3,000 pounds and not over 4,000 pounds.

d. Eight cents for each pound of total excess load if the excess is over 4,000 pounds and not over 5,000 pounds.

e. Fifteen cents for each pound of total excess load if the excess is over 5,000 pounds.

2. For the 2nd and each subsequent conviction within a 12-month period, a forfeiture of not less than $100 nor more than $300, plus an amount equal to whichever of the following applies:

a. Two cents for each pound of total excess load when the total excess is not over 2,000 pounds.

b. Five cents for each pound of total excess load if the excess is over 2,000 pounds and not over 3,000 pounds.

c. Eight cents for each pound of total excess load if the excess is over 3,000 and not over 4,000 pounds.

d. Twelve cents for each pound of total excess load if the excess is over 4,000 pounds and not over 5,000 pounds.

e. Eighteen cents for each pound of total excess load if the excess is over 5,000 pounds.

(4) Any person who, while operating a vehicle combination that is transporting raw forest products, violates the maximum set forth in this Ordinance or a Special or Seasonal Declaration or a Permit may be penalized as follows:

(a) For a first conviction or a 2nd conviction within a 12-month period, a forfeiture of not less than $150 nor more than $250 plus an amount equal to whichever of the following applies:

1. Six cents for each pound of total excess load when the total excess is less than 2,000 pounds.

2. Eight cents for each pound of total excess load if the excess is 2,000 pounds or more and not over 3,000 pounds.

3. Nine cents for each pound of total excess load if the excess is over 3,000 pounds and not over 4,000 pounds.

4. Ten cents for each pound of total excess load if the excess is over 4,000 pounds and not over 5,000 pounds.

5. Eleven cents for each pound of total excess load if the excess is over 5,000 pounds.

(b) For the 3rd and each subsequent conviction within a 12-month period, a forfeiture of not less than $500 nor more than $550, plus an amount equal to whichever of the following applies:

1. Twenty cents for each pound of total excess load when the total excess is 3,000 pounds or less.

2. Twenty-one cents for each pound of total excess load if the excess is over 3,000 pounds and not over 4,000 pounds.

3. Twenty-two cents for each pound of total excess load if the excess is over 4,000 pounds and not over 5,000 pounds.

4. Twenty-three cents for each pound of total excess load if the excess is over 5,000 pounds.

(5) In determining the number of prior convictions for purposes of this ordinance, the court shall include convictions under both subsections, under state statutes and under any other municipal ordinance.

(6) For the purpose of determining a repetitious violator, receipt of a certificate of conviction by the department or a municipal court is prima facie evidence of conviction.

In determining whether a 2nd or subsequent conviction has occurred within a given 12-month period, either the original judgment of conviction in a circuit court or a municipal court or the affirmance of the judgment by an appellate court, if the judgment has been affirmed, may be counted. This method of counting is authorized to effectively reach the repetitious violator and to prevent misuse of the right of appeal for the purpose of forestalling imposition of the penalties provided by this section. Forfeiture of deposit or payment of a forfeiture is a conviction within the meaning of this section.

Section 13: Severability

If any provision or portion of this Ordinance is determined to be unconstitutional or invalid by a court of competent jurisdiction, the remaining provisions shall not be affected.

Section 14: Effective Upon Publication or Posting

This Ordinance shall take effect and be in full force and effect from the date after its passage by the Town and publication or posting as required by law.

Section 15: Interpretation.

In the interests of uniform administration of this Ordinance, the Town Board directs that this Ordinance be interpreted consistently with parallel provisions of Chapter 348 and 349 of the Wisconsin Statutes.

Section 16 – EFFECTIVE DATE

This ordinance is effective on \_\_September 11\_\_\_, 2017.

Adopted this \_\_\_11th\_\_ day of \_\_\_\_\_\_September\_\_, 2017. Published: \_\_September 21, 2017\_\_

 Posted: \_\_September 13, 2017\_\_

Signatures of Town Board:

Town Board Chair \_\_/s/\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Town Supervisor 1 \_/s/\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Town Supervisor 2 \_\_/s/\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Town Supervisor 3 \_\_/s/\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Town Supervisor 4 \_\_/s/\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Attest: Town Clerk \_\_/s/\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**MAP 1**