

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of the Adoption of an Ordinance)
Authorizing the Director of Public Works to)
grant Administrative Variances to Permit,)
Under Specified Conditions, a Vehicle Oper-)
ator to Exceed Weight Limits Imposed on a)
County Road by Board Order under ORS)
810.030, and Declaring an Emergency.)

YAMHILL COUNTY CLERK
ORDINANCE NO. 644

'98 APR -9 P3:34

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON ("the Board") sat for the transaction of county business in formal session on April 9, 1998, commissioners Ted Lopuszynski, Robert Johnstone and Thomas E. E. Bunn being present.

THE BOARD MAKES THE FOLLOWING FINDINGS:

A. On occasion, the Board imposes weight limits on county roads under authority of ORS 810.030. Weight limits are imposed when the Board finds that imposition of a weight limit is necessary to accomplish either of the following purposes:

- (1) Protect any county road or section of county road from being unduly damaged.
- (2) Protect the interest and safety of the general public.

B. A person who violates a Board Order imposing a weight limit under ORS 810.030 commits at Class D traffic infraction. ORS 818.130(5). Civil liability to the county under ORS 818.410 is also imposed on the owner or driver of any vehicle violating a posted weight limit. ORS 818.130(4).

C. In certain circumstances, it is necessary and appropriate for the owner or driver of a vehicle which exceeds the posted weight limit to use a county road which is subject to the weight limit. For example, it might be necessary for equipment heavier than the posted weight limit to be transported over a posted road in order to harvest crops in an agricultural field accessed by the road. If the Director of Public Works makes an objective determination on a case-by-case basis that sporadic use of the road to transport such an item of heavy equipment will likely not damage the road, and the county is provided adequate financial assurance of repayment in the event damage occurs to the road, then issuance of a trip permit authorizing movement of an overweight vehicle on the posted road is appropriate.

D. ORS 818.200 generally allows issuance of variance permits for operators of vehicles exceeding posted limits on certain terms and conditions determined appropriate by the "road

authority." Under ORS 810.010, the "road authority" for county roads within Yamhill County is the Board.

E. This ordinance is adopted to establish standards for the Director of Public Works or the county Roadmaster to grant trip permits to operators of overweight vehicles where adequate justification is established to move the vehicle over a posted road and the county is adequately assured of repayment of its costs for repair should movement of the vehicle result in damage to the road. The Board finds that the permit procedure established by this ordinance is fair and equitable, and is authorized by ORS 818.200. NOW, THEREFORE,

THE YAMHILL COUNTY BOARD OF COMMISSIONERS HEREBY ORDAINS AS FOLLOWS:

Section 1. Authority to issue variance permits; effect of permit; violation of permit.

(1) (a) The Director of the Department of Public Works or the Yamhill County Roadmaster (individually or collectively referred to in this ordinance as the "permit authority") may issue a variance permit if the permit authority determines that the public interest will be served by issuance of the variance permit and adequate justification has been established to exceed weight limits imposed by the Board under ORS 810.030. In making a determination that adequate justification has been established, the permit authority shall consider the following factors:

(1) Economic benefit to agriculture or commerce as compared to the potential detriment to the posted road.

(2) Amount of damage which could reasonably occur to the posted road as a result of issuance of the variance permit.

(3) The inconvenience to the traveling public if it is necessary to interrupt use of the road in order to make repairs which could reasonably occur as a result of use of the road by the overweight vehicle.

(b) Subject to Section (2) of this ordinance, a variance permit issued under this section shall allow any vehicle, combination of vehicles, load article, property, machine or thing to move over a county road without violation of a weight limit imposed by Board Order under authority of ORS 810.030.

(2) The fee for issuance of a variance permit under this section is \$8. No fee shall be charged for issuance of a permit to the Federal Government, agencies of the State of Oregon, school districts, cities or counties.

(3) A permit issued under this section is subject to all of the provisions under Section (3) of this ordinance and to any limits under Section (2) of this ordinance.

(4) Prohibitions and penalties relating to use of a variance permit issued under this section are provided under ORS 818.340 and 818.350, 1997 replacement part, which are incorporated into this ordinance by reference.

(5) Violation of the conditions of a variance permit issued under this section is subject to civil penalties as provided under ORS 818.410, 1997 replacement part, which is incorporated into this ordinance by reference.

Section 2. Limits on authority to issue variance permit.

A permit authority shall not issue a variance permit under Section (1) of this ordinance for any vehicle or load that can readily or reasonably be dismantled or disassembled as determined by the permit authority.

Section 3. Requirements, conditions and procedures for issuance of variance permit; duration; cancellation.

This section establishes requirements, conditions and procedures for issuance of variance permits under Section (1) of this ordinance, as follows:

- (1) In issuing a permit, the permit authority may:
 - (a) Grant a permit that is valid for a single trip or a specific number of trips.
 - (b) Establish seasonal or other time limitations on a permit.
 - (c) Establish any additional terms, limits or conditions on a permit that are necessary or desirable for the protection of the county road and the public interest.
 - (d) Require the applicant to furnish public liability and property damage insurance in an amount fixed by the Director of Public Works.
 - (e) Require the applicant to furnish an indemnity assurance agreement, indemnity insurance or an indemnity bond, in a form and an amount fixed by the Director of Public Works, to:
 - (1) Indemnify Yamhill County for any damage to county roads that may be caused under the permit; and
 - (2) Indemnify the members, officers, employees and agents of Yamhill County from any claim that might arise out of the granting of the permit and the use of county roads under the permit.

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- (2) A permit shall be in writing and shall specify:
- (a) All county roads over which the permit is valid.
 - (b) Any vehicle, combination of vehicles, load, article, property, machine or thing allowed under the permit.
 - (c) Maximum dimensions and maximum weights allowed under the permit.
- (3) A permit authority shall not issue a permit under this section:
- (a) That is valid for longer than one year.
 - (b) Until any insurance, indemnification assurance agreement or bond required under this section is filed with and accepted by the Board, Director of Public Works, the County Roadmaster or County Counsel.
 - (c) Until the permit authority has investigated any representations made in the application for the permit.
- (4) An application for a permit issued under this section shall be in writing and shall specify:
- (a) The vehicle, combination of vehicles, load, article, property, machine or thing for which the permit is requested;
 - (b) The particular county road for which the permit is sought; and
 - (c) Whether the permit is sought for a single trip or specific number of trips.
- (5) This section does not authorize any movement or operation of a vehicle, combination of vehicles, load, article, property, machine or thing until a permit is issued.
- (6) The permit authority may appoint any county officers, employees or agents to be present at and during the movement. The presence of any person so appointed and any interference or suggestion made by that person shall not be considered supervision of the movement and shall not relieve the permit holder, or the permit holder's insurers or sureties, from liability for any damage done by the movement. If, in the opinion of the person appointed to be present at and during the movement, any of the terms and conditions of the permit are not being complied with, that person may order the movement to be stopped.
- (7) Any permit may be canceled at any time by the permit authority or road authority upon proof satisfactory to it that:
- (a) The permit holder has violated any of the terms of the permit;

- (b) The permit was obtained through misrepresentation in the application therefor;
- (c) Movement of the overweight vehicle has caused damages to the posted road to a degree greater than that reasonably anticipated by the permit authority; or
- (d) The public interest requires cancellation.

Section 4. Severability

A determination by a court of competent jurisdiction that any section, clause, phrase or word of this ordinance, or its application, is invalid or unenforceable for any reason shall not affect the validity of the remainder of the ordinance or its application and all portions not so stricken shall continue to remain in full force and effect.

Section 5. Emergency

To carry out the intent of this ordinance an emergency is hereby declared to exist and this ordinance shall take effect on April 10, 1998.

DONE at McMinnville, Oregon on April 9, 1998.

ATTEST

YAMHILL COUNTY BOARD OF COMMISSIONERS

CHARLES STERN
County Clerk

Ted Lopuszynski
Chairman TED LOPUSZYNSKI

By: *Carol Ann White*
Deputy CAROL ANN WHITE

Robert Johnstone
Commissioner ROBERT JOHNSTONE

FORM APPROVED BY:

John M. Gray, Jr.
JOHN M. GRAY, JR.
Yamhill County Counsel

Thomas E. E. Bunn
Commissioner THOMAS E. E. BUNN

Accepted by Yamhill County
Board of Commissioners on
4-9-98 by Board Order
98-257