

Ordinance Restricting Weight on Posted Town Ways and Bridges Lowell, Maine

Section 1. Purpose and Authority

The purpose of this "Ordinance Restricting Vehicle Weight on Posted Ways and Bridges" (hereinafter "Ordinance") is to prevent damage to town ways and bridges in the Town of Lowell, which may be caused by vehicles of excessive weight, to lessen safety hazards and the risk of injury to the traveling public, to extend the life expectancy of town ways and bridges, and to reduce the public expense of their maintenance and repair. This Ordinance is adopted pursuant to 30-A M.R.S.A. § 3009 and 29-A M.R.S.A. §§ 2395 and 2388.

Section 2. Definitions

The definitions contained in Title 29-A M.R.S.A. shall govern the construction of words contained in this Ordinance. Any words not defined therein shall be given their common and ordinary meaning.

Section 3. Restrictions and Notices

The municipal officers may, either permanently or seasonally, impose such restrictions on the gross registered weight or axle load limit of vehicles as may, in their judgment, be necessary to protect the traveling public and prevent abuse of highways and bridges, and designate the town ways and bridges to which the restrictions shall apply.

Whenever notice has been posted as provided herein, no person may thereafter operate any vehicle with a gross registered weight in excess of the restriction during any applicable time period on any way or bridge so posted unless otherwise except as provided herein.

The notice shall contain, at a minimum, the following information: the name of the way or bridge; the gross registered weight limit or axle load limit; the time period during which the restriction applies; the date on which the notice was posted; and the signatures of the municipal officers. The notice shall be conspicuously posted at each end of the restricted portion of the way or bridge in a location clearly visible from the traveled way.

Whenever a restriction expires or is lifted, the notices shall be removed wherever posted. Whenever a restriction is revised or extended, existing notices shall be removed and replaced with new notices. No person may remove, obscure or otherwise tamper with any notice so posted except as provided herein.

Section 4. Exemptions over Posted Ways

Vehicles that are exempt from the Maine Department of Transportation's (MDOT) "Rules and Regulations Restricting Heavy Loads on Closed Ways," dated December 31, 1996, as amended, which is hereby incorporated as part of this Ordinance, are exempt from this Ordinance. Those vehicles include, but are not limited to, any vehicle or combination of vehicles registered for a gross weight of 23,000 pounds or less, emergency vehicles, school buses, wreckers towing a disabled vehicles of legal weight from a posted highway, and vehicles with three axles or less under the direction of a public utility and engaged in road maintenance or repair. In addition, any vehicle delivering home heating fuel and operating in accordance with a permit issued by the MDOT under 29-A M.R.S.A. § 2395(4) and, when

necessary during a period of drought emergency declared by the governor, any vehicle transporting well-drilling equipment for the purpose of drilling a replacement well or for improving an existing well on property where that well is no longer supplying sufficient water for residential or agricultural purpose and operating in accordance with a permit issued by the MDOT under 29-A M.R.S.A. § 2395(4-A) is exempt from the permitting obligations set forth in Section 5 herein.

Section 5. Permits on Posted Ways

The owner or operator of any vehicle not otherwise exempt as provided herein may apply in writing to the municipal officers for a permit to operate on a posted way notwithstanding the restriction. The municipal officers may issue a permit only upon finding all of the following:

- A. No other route is reasonably available to the applicant;
- B. It is a matter of economic necessity and not mere convenience that the applicant use the way; and
- C. The applicant has tendered cash, a bond, or other suitable security running to the municipality in an amount sufficient, in its judgment, to repair any damage to the way which may reasonably result from the applicant's use of same.

Even if the municipal officers make the foregoing findings, they need not issue a permit if they determine the applicant's use of the way could reasonably be expected to create or aggravate a safety hazard or cause substantial damage to a way maintained by the municipality. They may also limit the number of permits issued or outstanding as may, in their judgment, be necessary to preserve and protect the highways.

In determining whether to issue a permit, the municipal officers shall consider the following factors:

- A. The gross registered weight of the vehicle or the axle load limit;
- B. The current and anticipated condition of the posted way;
- C. The number and frequency of vehicle trips proposed;
- D. The cost and availability of materials and equipment for repairs;
- E. The extent of use by other exempt vehicles; and
- F. Such other circumstances as may, in their judgment, be relevant.

The municipal officers may issue permits subject to reasonable conditions, including but not limited to restrictions on the actual load weight or axle load limit and the number or frequency of vehicle trips, which shall be clearly noted on the permit.

Section 6. Administration and Enforcement

This Ordinance shall be administered and may be enforced by the municipal officers or their duly authorized designee (e.g., road commissioner, code enforcement officer, law enforcement officer).


Section 7. Penalties

For a violation of this Ordinance shall be a civil infraction subject to a fine of not less than \$500.00 nor more than \$1,000.00. Each violation shall be deemed a separate offence. In addition to any fine, the municipality may seek restitution for the cost of repairs to any damaged way or bridge and reasonable attorney fees and costs. Prosecution shall be in the name of the municipality and shall be brought in the Maine District Court.

Section 8. Severability; Effective Date

In the event any portion of this Ordinance is declared invalid by a court of competent jurisdiction, the remaining portions shall continue in full force and effect. This Ordinance shall take effect immediately upon enactment.

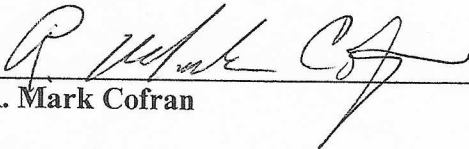
Adopted this 26 day of October, 2015.



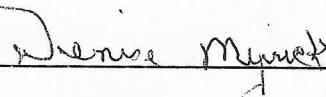
Jeremy Priest



April Fogg



R. Mark Cofran

A TRUE COPY: 

DENISE MYRICK, CLERK

