

TOWN OF WINDHAM
RESTRICTION OF VEHICLE WEIGHT ON POSTED WAYS ORDINANCE

Adopted

Section 1. Purpose and Authority.

The purpose of this "Restriction of Vehicle Weight on Posted Ways Ordinance" (hereinafter, the "Ordinance") is to prevent damage to town ways and bridges in the Town of Windham 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.

Except as otherwise provided herein, 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 Town Council may, by order, either permanently or seasonally impose such restrictions on the gross registered weight of vehicles as may in their judgment be necessary to protect the traveling public and prevent abuse of the highways 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 exempt as provided herein.

Pursuant to 29-A M.R.S.A. §2395, the notice shall contain, at a minimum, the following information: the name of the way or bridge, the gross registered weight 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.

- The following vehicles are exempt under State law: Any vehicle delivering home heating fuel or organic animal bedding and operating in accordance with a permit issued by the MOOT 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 MOOT under 29-A M.R.S.A. § 2395 (4-A).

The following vehicles are also exempt under the specific provisions of this ordinance:

1. Any vehicle or combination of vehicles registered for a gross weight of 23,000 pounds or less;
2. Any vehicle or combination of vehicles registered for a gross weight in excess of
 - a. 23,000 pounds and traveling without a load other than tools or equipment necessary for the proper operation of the vehicle. This exemption does not apply to special mobile equipment. It shall be a defense to a violation of this sub-section if the combined weight of any vehicle or combination of vehicles registered for a gross weight in excess of 23,000 pounds and its load is in fact less than 23,000 pounds.
3. Maine D.O.T. vehicles or other vehicles authorized by Maine D.O.T. or a municipality or county to maintain the roads under their authority.
4. Authorized emergency vehicles as defined in 29-A M.R.S.A. §2054, and
 - a. school buses;
 - b. wrecker towing a disabled vehicle of legal weight from a posted highway; and
 - c. vehicles with three axles or fewer under the direction of a public utility and engaged in utility infrastructure maintenance or repair.
5. Any two-axle vehicles registered for a gross weight in excess of 23,000 pounds and less than or equal to 34,000 pounds that are carrying any Special Commodities may operate without a permit. Special Commodities includes any of the following:
 - a. Home delivered heating fuel (oil, gas, coal, stove size wood that is fewer than 36" in length, propane and wood pellets);
 - b. Petroleum products;
 - c. Groceries;
 - d. Bulk milk;
 - e. Bulk feed;
 - f. Solid waste;
 - g. Organic animal bedding;
 - h. Returnable beverage containers;
 - i. Sewage from private septic tanks or porta-potties; or
 - j. Medical gases.

Commented [KMC1]: Note that only home heating fuel and organic animal bedding are required by statute to be exempted.

Section 5. Permits.

The owner or operator of any vehicle not otherwise exempt as provided herein may apply in writing to the Public Works Director or designee for a permit to operate on a posted way or bridge notwithstanding the restriction. The Public Works Director or designee may issue a permit only in emergency circumstances, including but not limited to:

1. Failing septic system;
2. Driveway repair due to mud;

3. Water line repair or replacement;
4. Emergency structure or system repairs.

The applicant may be required to post suitable security running to the municipality in an amount sufficient, in the judgment of the Director of Public Works and Town Manager, to repair any damage to the way or bridge which may reasonably result from the applicant's use of same.

The Public Works Director or designee need not issue a permit if they determine the applicant's use of the way or bridge could reasonably be expected to create or aggravate a safety hazard or cause substantial damage to a way or bridge 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 and bridges.

In determining whether to issue a permit, the Public Works Director or designee shall consider the following factors:

- a. the gross registered weight of the vehicle;
- b. the current and anticipated condition of the way or bridge;
- 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 Public Works Director or designee may issue permits subject to reasonable conditions, including but not limited to restrictions on the actual load weight 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 Town of Windham Police Department.

Section 7. Penalties.

Any violation of this Ordinance shall be a civil infraction subject to a fine of not less than \$250.00 nor more than \$1,000.00. Each violation shall be deemed a separate offense. 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

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.