

# **Town of Sullivan Ordinance Restricting Vehicle Weight on Posted Ways**

## **Section 1. Introduction**

### **1.1 Background**

The Town of Sullivan contains many town ways and bridges travelled for residential and commercial purposes. The town ways and bridges network are vital to the continued health and welfare of our community and the Town wishes to preserve the longevity of our town ways and bridges network.

### **1.2 Purpose**

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

## **Section 2. Authority and Administration**

### **2.1 Authority**

This Ordinance is adopted pursuant to 30-A M.R.S.A. §3009, 29-A M.R.S.A. §2395 and 29-A M.R.S.A. §2388.

### **2.2 Administration**

The municipal officers or duly authorized designee have the authority to enforce this Ordinance and is empowered to issue permits as outlined in this ordinance.

### **2.3 Reference Maine Statutes**

The following Maine Statutes apply to this ordinance:

Title 29-A M.R.S.A. - MOTOR VEHICLES AND TRAFFIC

Title 29-A M.R.S.A. §2054 - Emergency and auxiliary lights; sirens; privileges

Title 29-A M.R.S.A. §2388 - Violations; bond; appeals

Title 29-A M.R.S.A. §2395 - Ways requiring special protection

Title 30-A M.R.S.A. §3009 - Authority of municipal officers to enact ordinances

## **Section 3. 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 4. Restrictions and Notices**

The municipal officers may, 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 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. This 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 5. 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 MDOT under 29-A M.R.S.A. §2395 (4) and, when necessary during a period of drought emergency declared by the governor, or 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 purposes and operating in accordance with a permit issued by the MDOT under 29-A M.R.S.A. §2395 (4-A)
- Frozen road exemption: This ordinance shall not apply to any restricted road which is frozen. The highway is considered "frozen" only when the air temperature is 32° F or below and no water is showing in the cracks of the road. Both conditions must be met.
- 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 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. MaineDOT vehicles or other vehicles authorized by MaineDOT 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, school buses, a wrecker towing a disabled vehicle of legal weight from a posted highway, and 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 of the 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, "bio-bricks" 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 porte-potties; or
- j) Medical gases.

### **Section 6. Permits**

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

- 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 bridge; and
- c) the applicant has tendered cash, a bond or other suitable security running to the municipality in any amount sufficient, in their judgement, to repair any damage to the way or bridge 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 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 judgement, be necessary to preserve and protect the highways and bridges.

In determining whether to issue a permit, the municipal officers 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 judgement, be relevant.

The municipal officers 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.

The municipal officers shall make available a permit application, separate from this ordinance.

### **Section 7. Administration and Enforcement**

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

### **Section 8. 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 9. Amendments**

This Ordinance may be amended by the municipal officers at any properly noticed meeting.

### **Section 10. 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 by the municipal officers at any properly noticed meeting.