

Town of Prospect

Road Posting Ordinance

Section 1. Purpose and Authority

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 Prospect 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 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.

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

Vehicles that are exempt from the Maine Department of Transportation's (MaineDOT) "Rules and Regulations Restricting Heavy Loads on Closed Ways" dated December 31, 1996 and amended on March 4, 1998, a copy of which is hereby incorporated as part of this Ordinance, are exempt from this Ordinance. In addition, any vehicle delivering home heating fuel and operating in accordance with a permit issued by the MaineDOT 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 MaineDOT under 29-A M.R.S.A. § 2395 (4-A).

Section 5. Permits

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 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 or bridge; and
- (c) the applicant has tendered cash, a bond or other suitable security running to the municipality in an amount sufficient, in their judgment, 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 judgment, 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 judgment, 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.

Section 6. Administration and Enforcement

This Ordinance shall be administered and may be enforced by the municipal officers and their duly authorized designee [such as road commissioner, code enforcement officer or law enforcement officer].

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 \$1000.00. 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. Amendments

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

Section 9. 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.

Rules and Regulations Restricting Heavy Loads on Closed Ways

SUMMARY: The following rules and regulations restrict heavy loads on posted State and State Aid Highways from November 15 to June 1, pursuant to the Department's authority under Title 29-A M.R.S.A., Section 2395.

Definitions

A. The definitions contained in Title 29-A, Section 101 of the Maine Revised Statutes Annotated shall govern the construction of the words contained in this regulation.

B. Gross weight is the combined weight of the vehicle and its load.

C. Special Mobile Equipment. "Special Mobile Equipment" shall mean every self-propelled vehicle not designed or used primarily for the transportation of persons or property but which is operated over the highways, including road construction or maintenance machinery, ditch-digging apparatus, stone crushers, air compressors, power shovels, cranes, graders, rollers, trucks used only as snowplows and for carrying sand for ballast only, well drillers and wood-sawing equipment used for hire. This enumeration shall be deemed partial and shall not operate to exclude other such vehicles which are within the general terms of this section.

Designated Closed Ways

In order to prevent excessive damage to State and State-Aid Highways, the Director of Bureau of Maintenance and Operations or the Region Manager in whose Region the highway lies may close all or part of a highway to heavy vehicles during any time from November 15 to June 1. No vehicles shall travel over closed ways except those permitted by this regulation.

Notice

Notice shall be given by erecting at each end of the closed highway a poster indicating the following: (1) the date of the posting, (2) a description of the highway closed, (3) a summary of the vehicles exempt from the closing, (4) the name of the Region Manager, and (5) statutory and regulatory references.

Exemption - Frozen Highways

This regulation shall not apply to any closed highway which is solidly frozen. The highway is considered "solidly frozen" only when the air temperature is 32 degrees Fahrenheit or below and no water is showing in the cracks of the road. Both conditions must be met.

Exempt Vehicles

The following vehicles are exempt from this regulation:

A. Any vehicle or combination of vehicles registered for a gross weight of 23,000 pounds or less.

B. 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.

C. Maine Department of Transportation highway maintenance vehicles or vehicles under the direction of a public jurisdiction with permission of the Department engaged in emergency maintenance of public highways or appurtenances thereto.

D. Passenger cars, pickup trucks, emergency vehicles, school buses, a wrecker towing a disabled vehicle of legal weight from a posted highway, and vehicles with three axles or less under the direction of a public utility and engaged in plant maintenance or repair.

E. Any vehicle transporting home heating fuel (oil, gas, coal, stove size wood, propane and wood pellets) to a private consumer, gasoline, groceries, bulk milk, bulk feed, solid waste, rubbish, animal bedding, returnable beverage containers, removing sewage from private septic tank or providing porta-potty services, or medical gases may apply for an exemption certificate (Attachment A). These vehicles must be registered in excess of 23,000 pounds and must be carrying a partial load with a weight equal to or less than that indicated on an exemption certificate issued by the Maine Department of Transportation (Attachment B). This certificate shall accompany the vehicle at all times as shall weigh slips, delivery slips, or bills of lading for the load being carried. The allowable weight indicated on the exemption certificate will be based on weights listed in the table in Attachment C. Applicants for exemption certificates must present a certified weigh slip for the empty weight of the unloaded vehicle as a prerequisite to obtaining an exemption certificate.

F. Any combination vehicle of five axles or more weighing 80,000 pounds gross or less hauling perishable products. A permit issued by the Department of Transportation shall accompany any load of perishable products.

G. Maine Department of Transportation, at their discretion, may allow heavy loads over posted roadways involving singular, nonrecurring moves. Such permission shall be made in writing specifying limitations and shall accompany the vehicle at all times.

Procedures for obtaining and using trip tickets for hauling perishable products over seasonally posted roads

A. It is now possible for a shipper to haul perishable products over seasonally closed ways by securing a permit from the Maine Department of Transportation at any one of MaineDOT's five Region Offices.

B. The permit issued will be in the form of individual pre-numbered trip tickets for hauling of perishable products by 5 axle or more combination vehicles and will be limited to a combined weight of 80,000 lbs. and may, on occasion, be further limited by time, route, and temperature.

C. These trip tickets for hauling perishable products over seasonally closed ways will cost \$5.00 each. (Checks payable to Treasurer, State of Maine). These trip tickets will consist of three copies each with the following distribution: (1) original copy (white) - for driver, (2) second copy (green) - to be returned immediately to the Maine Department of Transportation, and (3) third copy (pink) - to be retained by the shipper.

D. The shipper or shipper's agent will call the appropriate Region Office and complete his/her form simultaneously with, and under guidance of the Permit Clerk. The customer is to have all the information that is required on the trip ticket before he/she makes the call. Trip tickets are to be made out in ink.

E. After routing check and verification, the customer will be given a permit number which must be entered on the form in order to make it valid for law enforcement purposes. When the required information is entered and the call is completed, the permit is issued and the move may be made. The original trip ticket must accompany the load.

F. Each time a trip ticket is filled out, the green copy must be mailed immediately to the Maine Department of Transportation.

G. MaineDOT clerks will be available to take information for these trip tickets between the hours of 7:30 A.M. and 4:30 P.M., Monday through Friday at the appropriate Region Office.

H. Additional trip tickets will not be issued to shippers in continual violation of any of the required procedures.

I. The Department will retain the right to close any posted road to the hauling of perishable products in extreme circumstances.

EFFECTIVE DATE:

SIGNED _____
, COMMISSIONER
MAINE DEPARTMENT OF TRANSPORTATION

Section 5D amended on March 4, 1998, to include wreckers towing vehicles.

Subsection D is amended to read: "Passenger cars, pickup trucks, emergency vehicles, school buses, a wrecker towing a disabled vehicle of legal weight from a posted highway and vehicles with three axles or less under the direction of a public utility and engaged in plant maintenance and repair".

Section 5E amended on January 4, 2006 to include animal bedding

Section 5E amended on January 10, 2013 to include removing sewage from private septic tanks or providing porta-potty services.

Section 5E amended on March 13 2013 to include propane and wood pellets to the list of fuels used for home heating use.