

Town of Brooklin

Incorporated June 2, 1849
23 Bay Road – PO Box 219
Brooklin, Maine 04616

Ordinance Restricting Vehicle Weight on Posted Ways Town of Brooklin

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 Brooklin, Maine which may be caused by vehicles of excessive weight, to lessen safety hazards and 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 judgement, be necessary to protect the traveling public and prevent abuse of the roads, 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 posted except as provided herein.

Section 4. Exemptions

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

*Copies of Maine Statutes are following this Ordinance.

- (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 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 roads 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.

Section 6. Administration and Enforcement

This Ordinance shall be administered and may be enforced by the municipal officers or 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 \$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. 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.

Attest: Heather Candage
Heather Candage, Town Clerk

Date: 1/30/2018

Deborah Brewster
Deborah Brewster, Chair

William Cohen
William Cohen

Laura Sherman
Laura Sherman

Maine Revised Statutes
Title 30-A: MUNICIPALITIES AND COUNTIES
Chapter 141: ORDINANCES

§3009. AUTHORITY OF MUNICIPAL OFFICERS TO ENACT ORDINANCES

1. Exclusive authority. The municipal officers have the exclusive authority to enact all traffic ordinances in the municipality, subject to the following provisions.

A. The municipal officers may regulate pedestrian traffic in the public ways, including, but not limited to, setting off portions of a municipality's public ways for sidewalks and regulating their use; providing for the removal of snow and ice from the sidewalks by the owner, occupant or agent having charge of the abutting property; and establishing crosswalks or safety zones for pedestrians.

(1) The violation of any ordinance authorized by this paragraph is a civil violation.

(2) The municipal officers may establish a method by which persons charged with the violation of ordinances governing pedestrian traffic on the public ways may waive all court action by payment of specified fees within stated periods of time. [1991, c. 549, §16 (AMD); 1991, c. 549, §17 (AFF).]

B. The municipal officers may regulate the operation of all vehicles in the public ways and on publicly owned property.

(1) The violation of any ordinance authorized by this paragraph is a civil violation.

(2) A municipality may not adopt or enforce an ordinance authorized by this paragraph that is the same as or conflicts with any speed or other traffic control limits imposed by the Department of Transportation pursuant to Title 23 or 29-A. [1999, c. 753, §8 (AMD).]

C. The municipal officers may regulate the parking of motor vehicles on any public way or public parking area, including, but not limited to, providing for the installation of parking meters, providing the fact that any vehicle is illegally parked or is in a metered space when the time signal on the parking meter for that space indicates no parking permitted without the deposit of a coin or coins is prima facie evidence that the vehicle has been parked illegally by the person in whose name the vehicle is registered, and establishing reasonable charges for metered parking.

(1) Illegal parking of a vehicle in violation of any ordinance authorized by this paragraph is a civil violation.

(2) The municipal officers may establish a method by which persons charged with the violation of parking regulations may waive all court action by payment of specified fees within stated periods of time.

(3) The revenue collected from parking meters must be used:

- (a) To purchase, maintain and police the meters;
- (b) To construct and maintain public ways;
- (c) To acquire, construct, maintain and operate public parking areas; and
- (d) For no other purpose.

(4) A vehicle that exhibits a permanent placard, a temporary placard or a disability registration plate issued under Title 29-A, section 521 may park at a parking area with a meter without a charge and may park a length of time that does not exceed twice the time limit otherwise allowed. [2001, c. 151, §2 (AMD).]

D. The following provisions apply to the establishment and policing of parking spaces and access aisles for disabled persons.

(1) Municipal public parking areas are subject to any applicable requirements of the Maine Human Rights Act, Title 5, chapter 337, subchapter 5. The municipality shall post a sign adjacent to and visible from each disability parking space established by the municipality. The sign must display the international symbol for accessibility.

(2-A) Enforcement of disability parking restrictions must be in accordance with Title 29-A, section 521, subsection 9-A.

(3) Any vehicle or motorcycle parked in a parking space clearly marked as a disability parking space and that does not bear a special registration plate or placard issued under Title 29-A, section 521 or 523, or a similar plate issued by another state, must be cited for a fine of not less than \$200 and not more than \$500. "Clearly marked" includes painted signs on pavement and vertical standing signs that are visible in existing weather conditions.

(4) The municipal officers may establish and enforce the time limit for use of a parking space reserved as a disability parking space on a public way or public parking area. [2005, c. 528, §3 (AMD) .]

E. The municipal officers may provide for the regulation of motor vehicles as defined in Title 29-A, section 101, subsection 42 on icebound inland lakes during the hours from sunset to sunrise of the following day. The Maine Land Use Planning Commission shall regulate motor vehicles on icebound inland lakes that are completely encompassed by unorganized territories. Motor vehicles on icebound inland lakes that are abutted by an unorganized territory and either one or more municipalities, village corporations or plantations, in any combination, are regulated by those municipalities, village corporations or plantations, as provided in subparagraphs (1) and (2).

No ordinance authorized by this paragraph is valid unless:

(1) Each municipality abutting a lake has enacted an identical local ordinance, in which case the ordinance of any municipality is in effect on the entire lake and any law enforcement officer from any of those municipalities may enforce the ordinance on any portion of the lake; or

(2) In cases where a lake is divided by an easily identifiable boundary into 2 or more nearly separate bodies, each municipality abutting one of the distinguishable portions of the lake has enacted an identical local ordinance. The ordinance of any municipality is in effect only on that distinguishable portion of the lake and any law enforcement officer from any of those municipalities may enforce the ordinance anywhere on that portion of the lake. [1995, c. 65, Pt. A, §129 (AMD); 1995, c. 65, Pt. A, §153 (AFF); 1995, c. 65, Pt. C, §15 (AFF); 2011, c. 682, §38 (REV) .]

F. The municipal officers may regulate or establish a licensing authority which may regulate rates of fare, routes and standing places of vehicles for hire, except where jurisdiction rests with the Public Utilities Commission and may require an owner or operator of a vehicle for hire to carry a liability insurance policy in amount and form satisfactory to the licensing authority as a condition precedent to the granting of a license to operate. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

[2005, c. 528, §3 (AMD); 2011, c. 682, §38 (REV) .]

1-A. Transfer of mobile home or modular construction home. To ensure the fair and efficient administration of property taxation, municipal officers may enact an ordinance requiring the owner of a mobile home or modular construction home to notify the municipal assessor, according to such reasonable terms as the ordinance may establish, upon the transfer of a mobile home or modular construction home when that mobile home or modular construction home is situated on land that is not owned by the mobile home or modular home owner.

[1999, c. 427, §1 (NEW) .]

2. Powers of village corporation. The officers of a village corporation have the same powers and duties as municipal officers under this section.

[1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

3. Method of enactment; effective date. When enacting ordinances under this section, the municipal officers shall give 7 days' notice of the meeting at which the ordinances are to be proposed in the manner provided for town meetings. Unless otherwise provided, these ordinances take effect immediately.

[1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

4. Enforcement of municipal ordinances.

[2005, c. 53, §2 (RP) .]

SECTION HISTORY

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§A28,C8,C10 (AMD). 1989, c. 394, §2 (AMD). 1991, c. 549, §16 (AMD). 1991, c. 549, §17 (AFF). 1995, c. 65, §§A127-129 (AMD). 1995, c. 65, §§A153,C15 (AFF). 1997, c. 60, §1 (AMD). 1997, c. 392, §1 (AMD). 1997, c. 673, §3 (AMD). 1997, c. 750, §A4 (AMD). 1999, c. 127, §A45 (AMD). 1999, c. 427, §1 (AMD). 1999, c. 753, §8 (AMD). 2001, c. 151, §2 (AMD). 2003, c. 80, §1 (AMD). 2003, c. 117, §1 (AMD). 2005, c. 53, §2 (AMD). 2005, c. 528, §3 (AMD). 2011, c. 682, §38 (REV).

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Maine Revised Statutes
Title 29-A: MOTOR VEHICLES AND TRAFFIC
Chapter 21: WEIGHT, DIMENSION AND PROTECTION OF WAYS

§2395. WAYS REQUIRING SPECIAL PROTECTION

1. Right of the Department of Transportation. The Department of Transportation may restrict the weight or passage of any vehicle over any way when, in its judgment, such passage would be unsafe or likely to cause excessive damage to the way or bridge. Nothing in this Title may be construed to restrict or abridge this right.

[1995, c. 1, §26 (COR) .]

2. Rules. The Department of Transportation may adopt rules to ensure proper use and prevent abuse of the public ways under the department's jurisdiction whenever those ways require special protection. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2013, c. 55, §1 (AMD) .]

3. Designation by the Department of Transportation. The Department of Transportation may designate state and state aid highways and bridges over which restrictions on gross weight, speed, operation and equipment apply during periods of the year determined by the Department. It is unlawful for any vehicle to travel over public ways with a gross registered weight exceeding that prescribed by the Department and traveling with a load other than tools or equipment necessary for operation of the vehicle.

[1993, c. 683, Pt. A, §2 (NEW); 1993, c. 683, Pt. B, §5 (AFF) .]

4. Designation by counties and municipalities. County commissioners and municipal officers may designate public ways other than those in subsection 3 and impose restrictions within their respective jurisdictions similar to those made by the Department of Transportation under subsection 3. Any vehicle delivering home heating fuel or organic animal bedding material and operating in accordance with a permit issued by the Department of Transportation pursuant to this section may travel over any county or town way without a specific municipal or county permit. A municipality may impose additional restrictions for a vehicle delivering home heating fuel or organic animal bedding material to operate on public ways within that municipality but may not require a permit to operate according to those restrictions.

[2017, c. 25, §1 (AMD) .]

4-A. Municipal permit not required during declared drought emergency. Notwithstanding subsection 4, during a period of drought emergency declared by the Governor pursuant to Title 37-B, section 742, a person operating a vehicle that is transporting well-drilling equipment for the purpose of drilling a replacement water well or for improving an existing water well on property where that well is no longer supplying sufficient water for residents or agricultural purposes may travel over a county or municipal way without a specific county or municipal permit, as long as the following conditions are met:

A. The operator of the vehicle is operating in accordance with a permit issued by the Department of Transportation when a department permit is required for a road or way necessary to reach the county or municipal way on which the property to be drilled is situated; [2001, c. 540, §1 (NEW) .]

B. The municipal or county manager or, in the absence of a municipal or county manager, a municipal or county officer or road commissioner is notified in advance; and [2001, c. 540, §1 (NEW) .]

C. The operator of the vehicle is traveling on a road that is posted by a county or municipality in accordance with any additional restrictions the municipality or county may impose, excepting any requirement for a specific county or municipal permit. [2001, c. 540, §1 (NEW) .]

[2001, c. 540, §1 (NEW) .]

5. **Notice.** A notice specifying the designated sections of a public way, the periods of closing and prescribed restrictions or exclusions must be conspicuously posted at each end of the public way requiring special protection in accordance with this section.

[1993, c. 683, Pt. A, §2 (NEW); 1993, c. 683, Pt. B, §5 (AFF) .]

6. **Enforcement.** Municipal officers within their respective municipalities have the same power as the State Police in the enforcement of this section and of all rules of the Department of Transportation, the county commissioners and the municipal officers that pertain to this section. The municipal officers, in such cases, serve without compensation.

[1993, c. 683, Pt. A, §2 (NEW); 1993, c. 683, Pt. B, §5 (AFF) .]

7. **Violation.** A violation of this section is a traffic infraction punishable by a fine, which may not be suspended, of not less than \$250.

[2009, c. 2, §83 (COR) .]

8. **Information on bridges.** Whenever necessary, the Department of Transportation may provide to municipal and county officials information concerning the capacity of bridges under the jurisdiction of those officials and the advisability of posting those bridges.

[2009, c. 2, §84 (COR) .]

SECTION HISTORY

1993, c. 683, §A2 (NEW). 1993, c. 683, §B5 (AFF). RR 1995, c. 1, §26 (COR). 1999, c. 600, §1 (AMD). 2001, c. 540, §1 (AMD). RR 2009, c. 2, §§83, 84 (COR). 2013, c. 55, §1 (AMD). 2017, c. 25, §1 (AMD).

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Maine Revised Statutes
Title 29-A: MOTOR VEHICLES AND TRAFFIC
Chapter 21: WEIGHT, DIMENSION AND PROTECTION OF WAYS

§2388. VIOLATIONS; BOND; APPEALS

1. Violation. Except as otherwise provided, an operator who violates a provision of this subchapter commits a traffic infraction for which a forfeiture of not less than \$25 nor more than \$1,000 for each offense may be adjudged.

[1993, c. 683, Pt. A, §2 (NEW); 1993, c. 683, Pt. B, §5 (AFF) .]

2. Bond. In granting a permit under this subchapter, an operator may be required to post a satisfactory bond to reimburse for expenses necessarily incurred in repairing damage caused to the way or bridge by the operator's use.

[1993, c. 683, Pt. A, §2 (NEW); 1993, c. 683, Pt. B, §5 (AFF) .]

3. Appeals. An appeal in writing may be taken to the Department of Transportation from an order or decision of a municipal official under sections 2380 to 2382, 2387 and 2395.

The Department of Transportation may hear and decide the matter in a summary manner, modifying, affirming or vacating the action and may issue any order necessary to carry out its decision.

An appeal does not suspend the order or decision of the municipal official unless ordered by the Department of Transportation.

An appeal may be taken to the Public Utilities Commission from an action by a railroad corporation under section 2387 in respect to a highway bridge maintained by the corporation. The commission, after notice and hearing, may confirm or modify that action.

[1995, c. 65, Pt. A, §112 (AMD); 1995, c. 65, Pt. A, §153 (AFF); 1995, c. 65, Pt. C, §15 (AFF) .]

SECTION HISTORY

1993, c. 683, §A2 (NEW). 1993, c. 683, §B5 (AFF). 1995, c. 65, §A112 (AMD). 1995, c. 65, §§A153,C15 (AFF) .

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