

# TOWN OF LINCOLNVILLE

## RESTRICTING VEHICLE WEIGHT ON POSTED WAYS ORDINANCE

### SECTION 1. Purpose and Authority

The purpose of this Ordinance is to prevent damage to Town ways and bridges in the Town of Lincolnville 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 Title 30-A M.R.S.A., Section 3009 and Title 29-A M.R.S.A. Sections 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 word 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 way and bridges to which 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. NOTE: There is no restriction if the road is solidly frozen, the term *solidly frozen* to mean – the air temperature is below 32 degrees Fahrenheit and no water is showing in the cracks or ruts in the road

The notice shall contain, at a minimum, the following information:

- (a) The name of the way or bridge,
- (b) the gross registered weight limit,
- (c) the time period during which the restriction applies,
- (d) the date on which the notice was posted, and
- (e) the signature of the Municipal Officers.

The notice shall be conspicuously posted at each end of the restricted 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 from this Ordinance:

- (a) any vehicle delivering home heating fuel and operating in accordance with a permit issued by the Department of Transportation pursuant to Title 29-A Maine Revised Statutes 2395;
- (b) any vehicle while engaged in highway maintenance or repair under the direction of the State of Town;
- (c) any emergency vehicle (such as firefighting apparatus or ambulances) while responding to an emergency;
- (d) any school transportation vehicle while transporting students;
- (e) any public utility vehicle while providing emergency service or repairs; and
- (f) any vehicle whose owner or operator holds a valid permit from the Municipal Officers as provided herein.

NOTE: The Municipal Officers request that owners and operators of exempted vehicles use common sense when conducting necessary travel over posted ways or bridges during the posting period by reducing the gross weight of their vehicles as much as possible before traveling these ways or bridges.

#### **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 Town 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. 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;
- (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 and 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 Town 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 Town of Lincolnville 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.

Approved and Signed this 22<sup>nd</sup> day of April 1996, in Lincolnville, Maine.

Amendment: Add Note to Section 3, second paragraph, February 23, 1998.

Amendment: Change the 2-axle fuel delivery truck to any fuel delivery truck, Section 4 Exemptions (a), December 10, 2001.