

## ORDINANCE REGULATING THE WEIGHT OF CERTAIN VEHICLES ON TOWN WAYS

## Section I. Title, Purpose, Authority and Definitions, Rules of Construction

A. Title

This ordinance shall be known and may be cited as the Vehicular Weight Control Ordinance of the Town of North Yarmouth.

B. Purpose

The purpose of this ordinance is to regulate the weight of vehicles on certain town ways within the Town of North Yarmouth. The restrictions imposed prevent safety hazards and damage which damage has been or will be caused by the designated town ways. Preventing safety hazards and damage to the roads reduces the cost of maintenance, reduces the danger of injury to the traveling public, and generally improves the use of roads by the public.

C. Authority

This ordinance is enacted pursuant to Title 30 MRSA 1917 and 2151 and Title 29 MRSA 902, 1702, 1703 and 1611, and amendments.

D. Definitions

1. Gross Weight – Shall mean the total weight of the vehicle and its load. A vehicle and any attached trailer or semi-trailer shall be considered one vehicle for purposes of determining gross weight.
2. Town Way – An area or strip of land designated and held by a municipality for the passage and use of the general public by motor vehicle and all town or county ways not discontinued or abandoned before the affective date of this ordinance.
3. Other words – the definitions contained in Title 29, Section 1 or the Maine Revised Statutes Annotated shall govern the construction of other words contained in this ordinance.

E. Rules of Construction

1. Any reference to a Title and Section of the Maine Revised Statutes Annotated shall include any amendments, whenever enacted, to the referenced Title and Section unless the amendments support a result which is inconsistent with the purposes of this ordinance, in which case the amendments shall be disregarded.

## Section II. Rules and Regulations

A. Permanent load restrictions upon vehicles using certain ways

When signs are erected giving notice thereof, no person shall operate any vehicle with a gross or axle weight in excess of the amounts specified in Schedule A, attached to this ordinance and made a part hereof, at any time upon any of the town ways described in said Schedule A attached to and made a part of this ordinance.

B. Seasonal load restrictions upon vehicles using certain ways

1. When signs are erected giving notice thereof, no person shall operate any vehicle with a gross or axle weight in excess of the amounts specified in Schedule B, attached to this

ordinance and made a part hereof, during the prescribed time, upon any of the town ways described in said Schedule B attached to and made a part of this ordinance.

2. The signs erected to give notice of seasonal closing shall be conspicuously posted at each end of the designated section or way and shall specify the section or way affected, the periods of closing and the applicable restrictions and exemptions.

3. The municipal officers may suspend the operation of any seasonal load restriction when, in their sole discretion, the posted way is frozen to the extent necessary to allow overweight vehicles to use it without damage. When the municipal officers vote to suspend the operation of any seasonal load restriction, the municipal officers shall notify the public of that decision by either publishing a notice to that effect in the newspaper having the largest circulation in the municipality or removing the signs.

C. Enactment of Restrictions

1. Any restriction, alteration, amendment, or removal of a restriction proposed by the municipal officers pursuant to this ordinance shall be enacted after notice and a public hearing.

2. The public hearing may be held as part of a regularly scheduled meeting of the municipal officers.

3. The notice of the public hearing shall be posted at least seven days before the hearing in the same manner and place required for posting the warrant for calling a town meeting and a notice shall also be published at least seven days before the hearing in a newspaper having a general circulation in the municipality.

4. The provisions of this Section II D shall not apply to any suspension of a seasonal road restriction which suspension of enacted pursuant to Section II (C) (3).

D. Emergency Enactment

If the municipal officers determine that an emergency exists which required the immediate enactment or removal of a restriction, alteration or amendment the municipal officers may enact the necessary restriction, alteration or amendment without notice and a public hearing as required by Section II D and any restriction, alteration or amendment so enacted shall be effective as soon as signs are erected giving notice thereof.

Any restriction, alteration, or amendment enacted or removed as an emergency measure shall only remain in effect for 20 days from the date signs are erected.

E. Permits

Permits may be granted by the municipal officers pursuant to 29 MRSA 1703 and at the discretion of the Board of Selectmen.

F. Exempt Vehicles

The following vehicles are exempt from this ordinance:

- a. Any home heating fuel delivery truck
- b. Any vehicle engaged in road maintenance under the direction of the municipality
- c. School buses
- d. Emergency vehicles

### Section III Enforcement

- A. This ordinance may be enforced by any duly appointed law enforcement officer of the Sheriff's Department or any duly appointed law enforcement officer of the Maine State Police.
- B. This ordinance shall be enforced according to the provisions of 29 MRSA 2300, 2301 and 2301A which are hereby incorporated by reference.
- C. Any other provision of this ordinance notwithstanding, the operator of any vehicle entering or leaving the Town of North Yarmouth or operating on ways designated in Schedules A or B within the Town of North Yarmouth, upon request or direction of any law enforcement official shall drive such vehicle upon a suitable set of platforms or portable scales for the weighing of motor vehicles, and shall permit examination of the registration certificate covering such vehicle and examination of load carried requires the breaking of a seal previously placed on the vehicle, a new seal shall be placed thereon and complete records mad and forwarded to the Chief of the State Police concerning the seal so broken and replaced, except that seals on trucks having exposed refrigeration units shall not be so broken.
- D. When an officer determines that a vehicle which is within the gross maximum weight limits is in violation of the axle weight limits, he shall permit the operator to redistribute the load by hand before proceeding and if it then conforms to the axle weight limits of this ordinance. No penalty for such violation shall be imposed.
- E. The empty vehicle weight as stated by the manufacturer shall also be determining evidence of violation of this ordinance
- F. Prima Facie Evidence. The operation of the vehicle shall be prima facie evidence that said operation was caused by the person, firm or corporation holding any permit or certificate for said vehicle from the public utilities commission.
- G. The Maine District Court shall have original and exclusive jurisdiction over all prosecutions for violations of this ordinance.

### Section IV Penalties

#### A. Penalties

1. Any person found guilty of violating any provision of this ordinance shall be subject to a fine of not less the \$10.00 nor more the \$500.00 according to the following schedule:
  - a. less than 1,000 lbs. overweight -- \$10.00
  - 1,000 lbs or more overweight -- \$50.00

for each 1,000 lbs. or part thereof in excess of the posted limit.

Each violation shall be considered a separate offense and violation of this ordinance. All fines imposed pursuant to this ordinance shall accrue to the Town of North Yarmouth.

2. In addition to any fines imposed pursuant to Section IV (A), any person violating this ordinance shall be responsible for all damage which said town may sustain a result thereof and the amount may be recovered in a civil action brought by the municipality. Any amount so recovered shall be used for repair of the ways so damaged. This section shall not be construed to limit the amount that may be recovered by the town in a civil action. Any amount recovered in excess of the amount needed to repair the damage way shall accrue to the Town. If the Town prevails in a civil action brought pursuant to this section, it shall be entitled to an award of reasonable attorney's fees in addition to any damages awarded.

3. The operator or owner of any vehicle operating on any of the streets or ways designated in Schedule A or B, who refuses to permit the weighing of such vehicle or the inspection of the manufacturer's net weight certification shall be punished by a fine of not less than \$500.00 nor more than \$1,000.00 or by imprisonment for not more than 90 days or by both. All fines and forfeitures collected shall accrue to the Town of North Yarmouth.

#### Section V. Severability

If any section or provision or part of this ordinance shall be judged invalid or unconstitutional such invalidity or unconstitutionality shall not affect the validity of the ordinance as a whole or of any other section or provision or part hereof.

#### Section VI. Effective Date

This ordinance shall be effective immediately upon enactment by the municipal officers.

#### Schedule A

Town ways with permanently posted weight restrictions	Weight limit Gross
1. Lufkin Road, located off Route 231	5 tons
2. Mountfort Road, located from Route 9 to Ledge Road	5 tons
3. Milliken road, located from North Road to West Pownal Road	5 tons

#### Schedule B

Town ways with Seasonal Weight restrictions

1. Mill Road, located from Route 231 to within 100 feet north of Royal River	5 tons
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