

# **Town of Embden**

## **Ordinance Restricting Vehicle Weight on Posted Ways**

*Adopted March 2009*

### **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 Embden 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 signature of the Road Commissioner. 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.

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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 (MDOT) Rules and Regulations Restricting Heavy Loads on Closed Ways, dated December 31, 1996 and amended on March 4, 1998, a copy of which is attached hereto and is hereby incorporated as part of this Ordinance, are exempt from this Ordinance.

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;
- c. and 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 applicants 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 Embden Board of Selectmen or their duly authorized designee, the Embden Road Commissioner.

#### **Section 7. Penalties**

Any violation of the 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.