

Seasonally Appropriate Notice - It's Mud Season Again: Weight Restrictions on Local Roads

Stephen C. Buckley, Legal Services Counsel

Q: Do local officials have the authority to set vehicle weight limits for local roads?

A. Since local officials have a statutory duty to maintain all Class V roads on a year round basis, [RSA 231:190](#) and [:191](#) allow them to take special steps to protect the roads from damage by imposing limits on the weight of vehicles that use the road. The limits may be permanent or temporary. Local roads, meaning Class IV, V and VI highways, are especially vulnerable to damage in the spring. If there is a problem with a bridge or other structure, the limits may be permanent. If the problem relates to the spring thaw, the restriction is usually temporary.

Q: Why does most of the risk of damage occur in the spring?

A. It's all about water and the freeze-thaw cycle. If a road is paved, and there is any crack in the surface, a water/sand/salt mixture will seep into the road base. The salt will cause this area to freeze at a lower temperature than the surrounding area, allowing more water to seep in. When the area eventually freezes, it heaves the pavement as much as four inches over a 10-foot distance in a process called "tenting." The uneven surface causes more cracks, and the process continues until the pavement is destroyed. On an unpaved road, the surface thaws while the subsurface stays frozen. Water can no longer drain away, and the surface becomes saturated, turning into mud. The mud cannot support the weight of a vehicle, allowing the wheels to sink until they hit the firm frozen layer, creating ruts as the vehicle moves forward. The ruts freeze overnight, and the process continues until the surface becomes impassable. The heavier the vehicle, the greater the potential for damage. Once the weather warms, the frost leaves all layers of the road, the water drains away, and both types of roads return to their ability to support heavy loads. The summer maintenance program must then deal with the damage caused during this vulnerable time.

Q: Since this happens every year, why aren't all roads built to handle the drainage, and minimize the damage?

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A. Because that would require every road to be built like an interstate highway, and we simply can't afford the cost. Many of our local roads came into existence when horses were the primary means of transportation, and the base layers were not built to withstand the weights of modern vehicles. Adding layer after layer of pavement does not solve the problem, because the base still can't take the load. Research shows that implementation of a spring restriction program will increase the life of pavement by 10 percent. If pavement is scheduled to last 30 years, that adds three years to the life of the road.

Q: How do local officials implement the maximum weight limit statute to protect local roads?

A. RSA 231:191 allows the governing body, in consultation with the highway agent, to establish and post maximum weight limits when needed to prevent "unreasonable damage or extraordinary municipal maintenance expense" on a Class IV, V or VI highway. Signs must be placed so that drivers of restricted vehicles will know of the restriction before entering the affected road. The restriction can be placed on any local public road. Depending upon the conditions, the restriction might deal only with the heaviest vehicles, such as tractor trailer units, but it could apply down to the passenger car or truck. Thus, even a Class VI road where the municipality has no duty for maintenance, and which is ordinarily passable only by a four-wheel drive vehicle or an ATV, may be restricted to prevent any vehicle from doing additional damage.

Q: What steps must the governing body take to adopt enforceable road weight limits?

A: When the governing body votes to establish a weight limit (whether year-round or seasonal), the written minutes of the meeting should reflect testimony from the road agent or highway engineer that the limit was necessary "to prevent unreasonable damage or extraordinary municipal maintenance expense." Municipalities typically lift the restrictions once the weather of "mud season" has passed, but extended closure may be justified. If a road has been seriously damaged, there may be a real need to keep the restriction in place until repairs can be completed.

Q: Once the weight limits are adopted what else is required?

A: The weight limit must be posted legibly and conspicuously at all entrances from other highways using "weather resistant materials." RSA 231:191, II. The names of those officials legally authorized to grant exemptions from the weight limit (that is, select boards, highway agents, or street commissioners) must be posted in the town or city hall. Exemptions must be granted "in an expeditious manner." RSA 231:191, III.

Q: Can we require a bond for the cost of road repair as a condition of granting an exemption?

A: A municipality may condition an exemption upon bonding and restoration of the highway if damage occurs. The weight limit statute does not discuss allowable bonding requirements further, but guidance may be found in RSA 236:10, under which municipalities are authorized to require a bond as part of permission under RSA 236:9 for any person to disturb the traveled way, ditches, or other areas of a highway. Such bonds may be imposed to provide for the satisfactory restoration of the highway but must "be equitably and reasonably applied to other bonded vehicles using the highway." The type of commodity being transported cannot be the determining factor when requiring a bond or the dollar amount of the bond. The municipality may also impose other reasonable conditions. For example, an oil delivery truck could be required to use the road prior to 10:00 a.m., when it is more likely that the surface is still somewhat frozen from the overnight drop in temperature, or deliveries could be based on a weather forecast when the temperatures are as low as possible.

Q: Are there any exceptions to the restrictions that need to be allowed?

A. Yes. [RSA 231:191](#) permits landowners and commercial enterprises which use the road to be granted an exception if they show that "practical difficulty or unnecessary hardship" will result from the weight limit. The exception granted may be subject to conditions, and the user may be required to post a bond for the cost of restoring the road. [RSA 236:3-a](#) excludes heating fuel trucks, trucks delivering processed milk products, trucks carrying sap for maple syrup production and septic pumper trucks from seasonal weight limits. [RSA 266:19-a](#) exempts firefighting equipment from the restrictions. [RSA 266:21](#) exempts winter maintenance equipment that is owned, leased or rented by the state or any political subdivision of the state. [RSA 266:21-a](#) exempts damaged, disabled, or abandoned vehicles being towed by a tow truck for a reasonable distance to the nearest safe haven off the highway. [RSA 266:24](#) exempts "implements of husbandry" (farm equipment) from the restrictions.

Q: What if the restrictions cause special impacts to a business, such as restricting shipments and deliveries to a warehouse, or preventing a logging company from removing forest products from a parcel of land?

A.RSA 231:191, VII requires the governing body to hold a hearing within 15 days from receipt of a request from an "impacted business." If the hearing is not held, the weight restriction cannot be enforced. The statute provides little guidance for the governing body who receives such a request. Presumably, the business desires an exception which will allow it to move heavy vehicles over the road, and the governing body must decide whether or not there are conditions which could allow the movements to be made safely, and also decide how the business will compensate the municipality for any excessive damage that the movements may cause.

Q: How do we know when the time has come to restore regular traffic to the road?

A.Some municipalities create an ordinance which includes a fixed time limit, such as March 1 to May 1, and imposes the restriction year to year. However, it is probably better to respond to the actual conditions that occur. The need for restrictions will depend on variables such as amount of snowfall, ongoing spring precipitation, actual daytime and nighttime temperatures, and specific areas where drainage is poor. Also, research in Minnesota suggests that paved roads recover almost two weeks earlier than unpaved roads. Depending upon the actual conditions, restrictions might be placed or modified earlier or later than a fixed date in March or May. The experience of the road agent is helpful at specific locations.

Q: How are road weight limits enforced?

A: A person who violates the weight limits or the terms of an exemption is guilty of a "violation if a natural person, or a misdemeanor if a corporate or other entity." RSA 231:191, VI. Criminal prosecution is required to enforce those penalties. In addition, anyone whose action damages the highway is liable for the cost of restoration of the highway (or may be required to restore it themselves) to a condition satisfactory to the person authorized to grant exemptions from weight limits. RSA 231:191, VI. However, the municipality cannot impose restoration costs on anybody without "reason to believe that the...damage...is attributable" to that person. RSA 231:191, IV.



Stephen C. Buckley is Legal Services Counsel with the New Hampshire Municipal Association. He may be contacted at 603.224.7447 or at legalinquiries@nhmunicipal.org.

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Article Topics: **roads**



New Hampshire Municipal Association
25 Triangle Park Dr.
Concord, NH 03301
603.224.7447
nhmainfo@nhmunicipal.org

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