

NOTICE OF PUBLIC MEETING

Town of Durham Board of Selectmen

**Kevin Nadeau, Chairman, Rob Pontau, Vice Chairman,
Todd Beaulieu, Richard George, Marc Farrin**

A virtual ZOOM Meeting of the Durham Board of Selectmen will be held on Tuesday, **May 25, 2021**, beginning at 6:30pm. To join Zoom Meeting use URL **<https://us02web.zoom.us/j/84992675613>** . , there is no password. Residents may also connect by phone by calling: 1-646-558-8656 or 1-301-715-8592 or 1-312-626-6799. The Meeting ID **849 9267 5613**. The meeting will also be streamed on Town Hall Streams which can be accessed through our website at www.durhamme.com. The meeting will NOT be available live on the local channel.

Please email any questions or concerns to Kathy Tombarelli at townmanager@durhammaine.gov prior to the meeting. Public comment will be allowed. Please keep your microphone muted and raise your virtual hand when you want to speak.

AGENDA

Consideration of:

1. Call to Order & Establishment of Quorum
2. Amendments to Agenda
3. Public Comment
4. Public Hearing
 - a. Ordinance Restricting Vehicle Weight on Posted Ways
5. Action & Discussion Items:
 - a. Discussion of Return to n-person Board and Committee Meetings
 - b. Input Regarding Town Facemask Policy
 - c. Discussion Concerning Stripping and Repainting the Bandstand Roof
 - d. Act on Appointment of Assistant Chief Curtis Dimock Jr. as Interim Fire Chief
 - e. Next Steps for Fire Chief Search
6. Departments/Committee Reports:
 - a. Road Commissioner
 - b. Fire Chief
 - c. Town Manager
7. Consent Agenda: (Any Board member may request to have an item removed from the consent agenda for discussion)
 - a. Approve Minutes for May 11, 2021
 - b. Approve Accounts Payable Warrant
8. Selectmen's Comments:

Upcoming Meeting(s) and Town News:

Select Board Meetings will be held:

Tuesday, June 8, 2021 at 6:30 pm

Tuesday, June 22, 2021 at 6:30 pm

9. Executive Session pursuant to 1 M.R.S.A. § 405(6)(A) – Personnel Matters
10. Adjourn

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Ordinance Restricting Vehicle Weight on Posted Ways

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 Durham 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

Except as otherwise provided herein, 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 or their designee 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.

For permanent year- round restrictions and to regulate heavy trucks that are using these roads as a through-road rather than using them to access homes or as a delivery or pickup point along the roads, no person shall operate a vehicle with a registered weight (GVWR) in excess of 23,000 pounds on the following roads:

- 1) Old Brunswick Road starting from the southeasterly side of the intersection with Plummer Mill Road to the Quaker Meeting House Road
- 2) Shiloh Road
- 3) Leighton Road
- 4) Meadow Road
- 5) Plummer Mill Road

The 23,000 GVWR restriction shall not apply to the permanently restricted list of roads above if the vehicle is providing a service to properties accessed by any of the listed roads. Nor shall the restriction apply to vehicles owned by places of business located on any of the foregoing roads whose normal business operations require the use of vehicles with a registered weight above 23,000 GVWR provided that the operation of any such vehicle complies with any notices issued by the municipal officers or their designee limiting their operation to a specific manner or to specific times. This exemption; however, shall not apply during the season of late winter and spring thawing period when they are posted with the annual temporary orange posters.

For the foregoing roads that have been permanently restricted, a sign post shall be erected upon which a sign displaying the maximum GVWR limit of 23,000 pounds shall be conspicuously

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posted at each end of the restricted portion of the way or bridge in a location clearly visible from the traveled way.

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.

For seasonal restrictions and to protect the town's investment during thawing periods, pursuant to 29-A M.R.S.A. § 2395, 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.

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 under State law: Any vehicle delivering home heating fuel or organic animal bedding and operating in accordance with a permit issued by the MDOT 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 MDOT under 29-A M.R.S.A. § 2395 (4-A).
- Frozen road exemption: This ordinance shall not apply to any restricted road which is solidly frozen. The highway is considered "solidly frozen" only when the air temperature is 32 F. or below and no water is showing in the cracks of the road (if paved). Alternatively, if the air temperature is 32 degrees F. or below and there is water showing in the cracks of the highway, the highway will be considered "frozen" if the adjacent gravel driveways, shoulders, or lawns remain frozen. On a gravel road, "solidly frozen" shall mean there is less than 1/4" of "thaw" on the gravel surface.
- The following vehicles are also exempt under the specific provisions of this ordinance:
 1. Any vehicle or combination of vehicles registered for a gross weight of 23,000 pounds or less.
 2. Any vehicle or combination of vehicles registered for a gross weight in excess of 23,000 pounds and traveling without a load other than tools or equipment necessary for the proper operation of the vehicle. This exemption does not apply to special mobile equipment. It shall be a defense to a violation of this sub-section if the

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- combined weight of any vehicle or combination of vehicles registered for a gross weight in excess of 23,000 pounds and its load is in fact less than 23,000 pounds.
3. Maine DOT vehicles or other vehicles authorized by Maine DOT or a municipality or county to maintain the roads under their authority.
 4. Authorized emergency vehicles as defined in 29-A M.R.S.A. § 2054, school buses, a wrecker towing a disabled vehicle of legal weight from a posted highway, and vehicles with three axles or fewer under the direction of a public utility and engaged in utility infrastructure maintenance or repair.
 5. Any two axle vehicles registered for a gross weight in excess of 23,000 pounds and less than or equal to 34,000 pounds that are carrying any of the Special Commodities may operate without a permit. Special Commodities includes any of the following:
 - a. Home delivered heating fuel (oil, gas, coal, stove size wood that is fewer than 36" in length, propane and wood pellets);
 - b. Petroleum products;
 - c. Groceries;
 - d. Bulk milk;
 - e. Bulk feed;
 - f. Solid waste;
 - g. Organic animal bedding;
 - h. Returnable beverage containers;
 - i. Sewage from private septic tanks or porta-potties; or
 - j. Medical gases.

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 or their designee 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 municipality 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 or their designee 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 or their designee shall consider the following factors:

- a) the gross registered weight of the vehicle;

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- 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 or their designee 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 by the Road Commissioner.

Section 7. Penalties

Any violation of this Ordinance shall be a civil infraction subject to a fine payable to the Town of Durham of not less than \$250.00 for the first offence and \$500.00 for each subsequent offense. 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.