

ENFORCEABLE WEIGHT LIMITS SUMMARY

JANUARY 13, 2020

1. Any bridge or culvert on a Brookfield town highway not rated for at least 24,000 pounds must:
 - A. Have MUTCD approved signs posted for the correct limitation.
 - B. Be listed on the DMV database.
 - C. Be entered on the Brookfield Traffic Ordinance. A minor revision will be required.
 - D. The above steps are necessary for town liability in case of a structural failure because of an excessive vehicle weight.
2. The Select Board may post some or all town highways with weight limits. If they are for 24,000 pounds, they do not have to be listed on the DMV data base in normal (non-Mud Season or other damaged) conditions.
3. Only those town highways that are properly posted are enforceable.
4. Prior to or at the beginning of Mud Season all or selected town highways must have the following done to be enforceable:
 - A. The Select Board must pass a resolution and properly post it. See VLCT Mud Season attachment for more detail.
 - B. Approved paper signs with 16,000 pounds limitations posted at each end.
 - C. Be entered on the DMV data base and removed at the end of Mud Season.
 - D. I have inquired of DMV whether Mud Season signs are enforceable if the road is not properly posted for 24,000 pounds. So far, they can find no such requirement.
5. Although the Town should continue its overweight permit program, not having enforceable weight limits on Town Highways will detract from need to get permits.
6. We can find no authority in VSA for the Select Board or law enforcement over agricultural operations as long as their vehicles weigh less than 60,000 pounds. However, if one or more members of the Select Board were to talk with the two primary farm owners in town, the concerns raised by the residents of Northfield Road might be accommodated.
7. Other provisions of "What It Takes to Have Enforceable Weight Limits in Brookfield" should be considered as well.

WHAT IT TAKES TO HAVE ENFORCEABLE WEIGHT LIMITS IN BROOKFIELD

This is a summary of findings up to 12/18/2019. Some of the findings are not yet backed up by VSA or Agency regulation citations.

1. All six of Brookfield's bridges should be checked for proper posting limits, must be entered into the DMV data base and added to the Town Traffic Ordinance.
2. All of the 76 class 2,3 & 4 town highways should have a 24,000 Pound weight limit sign posted at each end with the following exceptions:
 - A. Where a town highway intersects a state highway and VTRANS has erected a 24,000 pound weight limit sign, the town does not need to erect another one.
 - B. At the end of a dead-end town highway, the town does not need to erect a 24,000 pound weight limit sign.
3. All town highways, when posted for 16,000 pound weight limits during mud season or other periods of damaged roads, must post both ends of all roads except for the dead ends of roads.
 - A. Currently the mud season signs are only posted at town boundaries and where town highways intersect with paved State Highways.
 - B. All Town highways posted for the mud season lower limits must be listed on the DMV data base.
4. If the town offers over-weight permits, the following must be performed:
 - A. If one or more applicants are permitted to operate overweight vehicles on one or more roads, all applicants must be treated the same. You cannot pick and choose who you permit at a certain weight on the same road(s). You must treat all applicants fairly.
 - B. Many applicants send applications for all roads with all of their vehicles listed. For larger vehicles you should add an addendum to the permit which limits the road(s) or weight limits for which the permit is issued. e.g. If some of their fleet are larger than you want on some roads, you may customize the permit by adding an addendum that describes the limits for some of their vehicles on all or specified roads.
5. The town weight limit procedure (a draft is being prepared) should have a maximum limit (perhaps 60,000 lbs.) that the Town Administrative Assistant can issue a permit. Permits above that maximum should be reviewed by the Select Board or the Select Board member assigned to monitor the Town Highway Department before being issued.
6. The unpaved portion of Route 65 may present special issues. Additional study should be done on that road.
7. Costs for one weight limit sign and post vary but approximately \$ 87.00 will buy one sign and post. There could be at least 100 signs needed. More study is needed to identify the exact number.
8. The Town of Brookfield should check at least two sign vendors:
 - A. Vermont Correctional Industries catalog at <https://vci.vermont.gov/sites/corrections/files/pdf/sign/file/VCI%20Sign%20Shop%20Catalog%203-22-2013.pdf>

B. Econosigns Catalog <https://www.econosignsllc.com/>

9. SELECT BOARD DECISIONS NEEDED:

- A. Do you make most or all town highways enforceable in 2020? If so, you may want to consider contracting with a private firm to erect the signs as a three-person road crew will have to give up other projects to complete this one.
- B. If less than all roads are to be made enforceable in 2020, great care has to be taken to select roads so that all the roads chosen are enforceable. You still may need to contract the sign erection.
- C. What weight limit requires Select Board or "Road Commissioner" approval.
- D. Who is assigned to do that? The whole board or one member?
- E. How will you enforce violations such as not having an overweight permit? If you do not enforce the permits, they become a paper tiger. DMV Enforcement requires the Select Board to designate someone to request enforcement and inform them at least annually who that person is.

MAC INFO SHEET: RESTRICTING THE USE OF ROADS DURING MUD SEASON

The selectboard of a town is authorized by 19 V.S.A. §§ 303 and 1110 to restrict the use of a town highway or even close that highway for a period of time when necessity demands. Selectboards frequently use this authority to prevent damage that might otherwise occur to a town highway during mud season. This authority is not seasonal, however; the selectboard may restrict or close a highway at any time when conditions are such that the traveling public, or the highway itself, might suffer harm caused by vehicles.

To restrict or temporarily close a town highway, a selectboard must pass a resolution at a duly warned open meeting. An example of such a resolution is as follows:

RESOLUTION FOR TEMPORARY CLOSURE of [insert name of town highway]

[insert name of town], VERMONT

WHEREAS the present conditions on [insert name of highway] are such that the traveling public, or the highway itself, might suffer harm caused by vehicular use of that highway due to [insert reason such as "excessive mud," "erosion from recent storm," etc.], and

WHEREAS, the [insert name of town] Selectboard is authorized under 19 V.S.A. §§ 1110, 23 V.S.A. § 1112 and 24 V.S.A. § 2291(4), to regulate the use of motor vehicles on town highways and to adopt rules to restrict the use of town highways,

NOW THEREFORE, the [insert name of town] Selectboard does RESOLVE that motor vehicle travel on [insert name of town highway] shall be [insert "prohibited" if the highway is to be closed; otherwise, insert restriction such as "prohibited except for travel by residents"] from [insert dates/times of closure].

DATED [insert date]

Signed [insert signatures].

Notice of the restriction or closure must be posted in at least two public places in town and signs provided by the Agency of Transportation must be "conspicuously placed" at each end of the portion of the highway that is restricted. 19 V.S.A. § 1110. The Municipal Assistance Center recommends as a best practice that the town maintain documentation of the time and date that a highway or bridge is posted for a seasonal restriction or closure and keep this documentation on file with the Vermont Department of Motor Vehicles (DMV), even though such documentation is not explicitly required in statute. The selectboard may also have physical

barriers placed in the highway to prevent travel as long as those barriers are clearly visible and are accompanied by clear signage. 23 V.S.A. § 1112.

The penalty for violating a road closure is set by statute and therefore a town may not alter that penalty. Nineteen V.S.A. § 1110 states that “A person who violates these rules shall be guilty of a traffic offense under 23 V.S.A. chapter 23, for which he or she shall be fined not more than \$100.00, and shall be liable to the State or town in which the damage is done for all damages to the highway to be recovered in a civil action.” This means that the person who is found to be in violation may be issued a traffic ticket by a law enforcement officer. In addition to that ticketing process, the town may sue the person in small claims court or superior court for the cost of repairing the damage caused to the road. A town may also recover the cost of aiding a stranded operator or moving a disabled vehicle that has been operated on a closed highway. 23 V.S.A. § 1112(c).

A selectboard may also lower the allowable weight limits on a town highway or bridge at any time, provided that it follows statutory process. Maximum allowable weight limits on highways and bridges are set by 23 V.S.A. § 1392. However, a selectboard may set lower limits on any of its class 2, 3, and 4 town highways or bridges based on its judgment of the best interest of the town. 23 V.S.A. § 1396. It is sometimes in the best interest of a town to lower weight limits on certain highways during mud season (or at other times) when operation by heavy vehicles might otherwise cause significant ruts or structural problems to the highway.

Local weight limits are set when the selectboard passes a resolution on the subject at a duly warned open meeting. In addition, the town must follow the procedures in 23 V.S.A. §§ 1397, 1400b. Specifically, signs giving notice of the limits must be posted at each end of each restricted highway or on the approaches to each restricted bridge. 23 V.S.A. § 1397. The town must also maintain documentation of the time and date a highway or bridge is posted, and keep all current restrictions on file with the DMV. Weight limits must be filed with the DMV within three working days of the date of posting in order to be enforceable. In addition, the town must annually file a “complete copy of the limitations” with the DMV not later than February 10 of each year. 23 V.S.A. § 1400b. Once conditions improve and the selectboard decides it is appropriate to raise the weight limits, it must go through the entire process of passing a resolution to change the local limit, posting the road, and notifying the DMV.

Some vehicles are exempt from road restrictions. Our interpretation of the law is that no vehicles are exempt from highway closures, seasonal or otherwise, and therefore all vehicles must abide by those closures. The same is true for restrictions such as those that limit travel over a highway to “residents only.”

On the other hand, certain vehicles are exempt from locally imposed weight restrictions, even when those weight limits are imposed to protect roads during mud season. The vehicles that are exempt include state and municipal fire-fighting and construction machinery as well as “agricultural service vehicles” that weigh less than 60,000 pounds. 23 V.S.A. §§ 4(71), 1399, 1400d. An “agricultural service vehicle” is defined as “a motor truck” that is registered with the

DMV and “is used for the purpose of transporting to or from a farm either: (A) agricultural inputs, including lime, fertilizer, commercial feed, or forages; or (B) agricultural outputs, including milk, vegetables, fruit, horticultural crops, forages, or livestock.” 23 V.S.A. § 4(71). Vehicles that fit such definition do not have to abide by local weight limits, even if they are set specifically to protect a highway during mud season.

Outside of the above exemptions, the operation of a vehicle in excess of the posted weight limit of a town highway without a permit is a statutory traffic violation for which the operator may be issued a state traffic ticket from a law enforcement officer. The penalties for violation of weight limits are established in 23 V.S.A. § 1391a and may not be changed by the municipality. In addition to that ticketing process, the town may sue the offender in small claims court or superior court for the cost of any damage caused to the road.