

# New Hampshire Town And City

## It's Mud Season: Weight Restrictions on Local Roads

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By

### **Q. Do local officials have the authority to keep certain vehicles off of local roads?**

**A.** Local roads, meaning Class IV, V and VI highways, are especially vulnerable to damage in the spring. Since local officials have a statutory duty to maintain all Class V roads on a year round basis, New Hampshire statute, in [RSA 231:190](#) and [:191](#), allows 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. 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?**

**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. What does the statute allow us to do to prevent damage to the 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. 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](#) may allow heating fuel trucks and trucks delivering processed milk products to be granted an exception. [RSA 266:19-a](#) exempts fire fighting 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 266:24](#) 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 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 these decisions enforced?**

A. Pursuant to [RSA 231:191](#), VI, a person who violates a restriction may be brought to the district court and charged with a “violation.” Conviction can result in penalties imposed by the court in accordance with [RSA 651:2](#), which could include a fine of up to \$1,000 or a “conditional discharge,” which could include restitution for the damages caused. In addition, the

person faces the possibility of civil liability for the cost of restoring the road. Depending upon the location and the extent of the damage, this cost could be several thousands of dollars.

**Q. Where can we get more technical information on how to administer this issue?**

**A.** Highway agents can work with the New Hampshire Department of Transportation ([www.nh.gov/dot](http://www.nh.gov/dot)), since the state engineers are charged with making the same decisions on state roads located in the municipality. The University of New Hampshire Technology Transfer Center ([www.t2.unh.edu](http://www.t2.unh.edu)) maintains information on the issue, and also conducts training for local officials on all aspects of highway maintenance. There is a great deal of information available online from the other cold weather states, especially Minnesota ([www.lrrb.org](http://www.lrrb.org)), which will help in understanding both why the problem occurs, and the best practices available to minimize damage to the roads.