

Weight limits on town roads

Vehicle and Traffic Law §1660

Traffic regulations in all towns

(a) The town board of any town with respect to highways outside of villages in any such town, but not including state highways maintained by the state except with respect to subdivisions six, eight, nine and ten, [FN1] subject to the limitations imposed by section sixteen hundred eighty-four may by ordinance, order, rule or regulation:

1. Designate county roads and town highways as through highways and order stop signs, flashing signals or yield signs erected on county roads or town highways at specified entrances to such through highways or designate any intersection except those where one or more entering highways is a state highway maintained by the state as a stop intersection or a yield intersection and order like signs or signals at one or more entrances to such intersections.
2. Upon a roadway which is divided into three lanes, allocate the center lane exclusively for traffic moving in a specified direction.
3. Order signs erected directing slow-moving traffic, trucks, buses or specified types of vehicles to use a designated lane, or with signs, signals or markings designate those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway.
4. Determine those highways or portions of highways which shall be marked to indicate where overtaking and passing or driving to the left of or crossing such markings would be especially hazardous in accordance with the standards, minimum warrants and sign or marking specifications established by the department of transportation.
5. Regulate traffic by means of traffic-control signals.
6.
 - (i) License, regulate or prohibit speed contests, races, exhibitions of speed, processions, assemblages, or parades. Whenever such a speed contest, race, exhibition of speed, procession, assemblage or parade authorized by a local authority will block the movement of traffic on a state highway maintained by the state, or on a highway which connects two state highways maintained by the state to make a through route, for a period in excess of ten minutes, such authority must, prior to such blocking, provide and designate with conspicuous signs a detour adequate to prevent unreasonable delay in the movement of traffic on said state highway maintained by the state.
 - (ii) Prohibit vehicles engaged in retail sales of frozen desserts as that term is defined in subdivision thirty-seven of section three hundred seventy-five of this chapter directly to pedestrians from stopping for the purpose of such sales on any highway within such town or on all such highways. Nothing herein shall be construed to prohibit the operator of such vehicle from stopping such vehicle off of such highway, in a safe manner, for the sole purpose of delivering such retail product directly to the residence of a consumer or to the business address of a customer of such retailer.
7. Prohibit or regulate the operation and the stopping, standing or parking of vehicles in cemeteries and in public parks.
8. Provide for the removal and storage of vehicles parked or abandoned on highways during snowstorms, floods, fires or other public emergencies, or found unattended where they constitute an obstruction to traffic or any place where stopping, standing or parking is prohibited and for the

payment of reasonable charges for such removal and storage by the owner or operator of any such vehicle.

9. Provide for the installation, operation, maintenance, policing and supervision of parking meters, establish parking time limits at such meters, designate hours of operation of such meters, and fix and require the payment of a fee applicable to parking where such meters are in operation. The town board of any town may exercise these powers on behalf and at the expense of a public parking district with respect to highways outside of villages but within such public parking district, in which event the fees from such parking meters shall belong to such district, and the cost of operation and maintenance thereof shall thereafter be borne by such public parking district.

10. Establish a system of truck routes upon which all trucks, tractors, and tractor-trailer combinations having a total gross weight in excess of ten thousand pounds are permitted to travel and operate and excluding such vehicles and combinations from all highways except those which constitute such truck route system. Such exclusion shall not be construed to prevent the delivery or pickup of merchandise or other property along the highways from which such vehicles and combinations are otherwise excluded. Any such system of truck routes shall provide suitable connection with all state routes entering or leaving such town.

11. **Temporarily exclude** from any portion of any town highway any vehicle with a gross weight of over four or more tons or any vehicle with a gross weight in excess of any designated weight on any wheel, axle, any number of axles, or per inch width of tire when in its opinion such highway would be materially injured by the operation of any such vehicle thereon. Such exclusion shall take effect upon the erection of signs on the section of highway from which such vehicles are excluded, and a notice that such vehicles are excluded shall be published in a newspaper in the county where the highway is situated. The exclusion shall remain in effect until the removal of the signs as directed by the town board. Upon written application by any operator of a vehicle subject to this section, the town board may issue a permit providing appropriate exemption to such vehicle, if it is deemed that said vehicle is performing essential local pickup or delivery service and that a failure to grant such permit would create hardship. Every such permit may designate the route to be traversed and contain other reasonable restrictions or conditions deemed necessary. Every such permit shall be carried on the vehicle to which it refers and shall be open to inspection of any peace officer, acting pursuant to his special duties, or police officer. Such permits shall be for the duration of the restriction imposed under this section.

12. Prohibit, restrict or regulate the operation of vehicles on any controlled-access highway or the use of any controlled-access highway by any vehicle, device moved by human power or pedestrian.

13. Prohibit or regulate the turning of vehicles or specified types of vehicles at intersections or other designated locations.

14. Regulate the crossing of any roadway by pedestrians.

15. Authorize angle parking on any roadway.

16. Designate any highway or any separate roadway thereof for one-way traffic.

17. Exclude trucks, commercial vehicles, tractors, tractor-trailer combinations, tractor-semitrailer combinations, or tractor-trailer-semitrailer combinations from highways specified by such town board. Such exclusions shall not be construed to prevent the delivery or pickup of merchandise or other property along the highways from which such vehicles and combinations are otherwise excluded.

18. Prohibit, restrict or limit the stopping, standing or parking of vehicles.

19. Designate safety zones.

[20. Repealed.]

21. Designate a portion of a slope as a path for the use of bicycles.

22. Order signs or markings to identify the portion of the highway to be used for bicycle travel.

23. Designate preferential use lanes for specified types or classes of vehicles.

24. Prohibit, restrict or regulate the operation of limited use vehicles on any street or highway.

25. Adopt such additional reasonable ordinances, orders, rules and regulations with respect to traffic as local conditions may require subject to the limitations contained in the various laws of this state.

26. Make special provisions with relation to stopping, standing or parking of vehicles registered pursuant to section four hundred four-a of this chapter or those possessing a special vehicle identification parking permit issued in accordance with section one thousand two hundred three-a of this chapter.

27. Declare a snow emergency and designate any highway or portion thereof as a snow emergency route.

28. Exclude trucks, commercial vehicles, tractors, tractor-trailer combinations, tractor-semitrailer combinations, or tractor-trailer-semitrailer combinations in excess of any designated weight, designated length, designated height, or eight feet in width, from highways or set limits on hours of operation of such vehicles on particular town highways or segments of such highways. Such exclusion shall not be construed to prevent the delivery or pickup of merchandise or other property along the highways from which such vehicles or combinations are otherwise excluded.

(b) Each such town board shall cause to be determined, for all bridges and elevated structures under its jurisdiction, the capacity in tons of two thousand pounds which the bridge or structure will safely carry. Upon bridges or structures of insufficient strength to carry safely the legal loads permissible by section three hundred eighty-five of this chapter, the town board shall cause signs to be erected to inform persons of the safe capacity.

(c) Each such town board shall cause signs to be erected to inform persons of the legal overhead clearance for all bridges and elevated structures on highways under its jurisdiction. The legal clearance shall be one foot less than the measured clearance. The measured clearance shall be the minimum height to the bridge or structure measured vertically from the traveled portion of the roadway. On bridges or structures having fourteen feet or more of measured clearance, no such signs shall be required.

(d) Such a town board also may by ordinance, order, rule or regulation prohibit, restrict or limit the stopping, standing or parking of vehicles upon property owned or leased by such town.

(e) Any town with a population of seven hundred thousand or more may by local law or ordinance, provide for the removal and storage of vehicles parked on private property upon request of the owner of such private property, where such vehicles constitute an obstruction to the private property owner's right of ingress and egress, and for the payment of reasonable charges for such removal and storage by the owner or operator of any such vehicle. Such local law or ordinance shall be applicable only in the unincorporated areas of such town.

(f) No town shall enact any local law or ordinance to prohibit the use of sidewalks by persons with disabilities who use either a wheelchair or an electrically-driven mobility assistance device being operated or driven by such person.

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Informal Opinion
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MUNICIPAL HOME RULE LAW, §10(1[i, ii(a[6])]); VEHICLE AND TRAFFIC LAW, §§ 385, 1600, 1604, 1640(a[5, 10]), 1660(a[10, 11, 12, 17], b, c), 1684.

Town board's limited power to exclude certain vehicles from certain highways--general discussion.

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You request our opinion whether a town board may exclude vehicles from highways in a town and if so, what vehicles and under what circumstances.

This opinion does not apply in the event of highway construction, reconstruction or repair or in cases of sudden, unforeseeable emergencies such as accidents, washouts, etc.

In *People v Grant*, 306 NY 258 (1954), it was stated, at page 260:

'Streets pertain to the exercise of a governmental function [citations omitted]. Political subdivisions and municipal corporations hold the fee of streets for the benefit of the public. This refers not alone to adjacent property owners, nor to the inhabitants of the particular political subdivision or municipality, but to the whole people [citations omitted]. It signifies that streets are subject exclusively to regulation and control by the State as sovereign, except to the extent that the Legislature delegates power over them to political subdivisions and municipal corporations.'

and at page 262 the Court remarked:

'Bearing in mind the principle above mentioned that political subdivisions and municipal corporations hold the fee of streets for the benefit of the whole people, it follows that residents of a particular area in a town or village do not possess and cannot be granted proprietary rights to the use of the highways therein in priority to or exclusive of use by the general public.'

The Municipal Home Rule Law was adopted in 1963. In section 10 subd 1 par i it authorizes municipalities to adopt local laws not in conflict with the provisions of the Constitution or not inconsistent with any general laws relating to their property, affairs or government and, in paragraph ii, relating to certain specified subjects whether or not they relate to property, affairs or government, unless the Legislature restricts the adoption thereof. One such grant of power, in paragraph ii subparagraph a clause 6, is '[t]he acquisition, care, management and use of its highways, roads, streets, avenues and property'. Home rule power is not a factor in this opinion because the Vehicle and Traffic Law is a general law (§ 1600) and, in addition, in section 1604 it restricts the adoption of inconsistent local laws.

Vehicle and Traffic Law Article 41 (§§ 1660-1664) deals with regulation of traffic by towns and in section 1660 subd a lists the subjects which can be so regulated, provides that the regulations cannot apply to highways in villages in a town and, with certain exceptions, cannot apply to State highways maintained by the State. Exclusion of vehicles is one of the subjects upon which a town board may act.

Exclusions of vehicles can be both temporary and permanent. Temporary exclusion is authorized in paragraph 11:

'§1660. Traffic regulations in all towns

'(a) The town board of any town with respect to highways outside of villages in any such town, but not including state highways maintained by the state except with respect to subdivisions six, eight, nine and ten, subject to the limitations imposed by section sixteen hundred eighty-four may by ordinance, order, rule or regulation:

'11. Temporarily exclude from any portion of any town highway any vehicle with a gross weight of over four or more tons or any vehicle with a gross weight in excess of any designated weight on any wheel, axle, any number of axles, or per inch width of tire when in its opinion such highway would be materially injured by the operation of any such vehicle thereon. Such exclusion shall take effect upon the erection of signs on the section of highway from which such vehicles are excluded, and a notice that such vehicles are excluded shall be published in a newspaper in the county where the highway is situated. The exclusion shall remain in effect until the removal of the signs as directed by the town board. Upon written application by any operator of a vehicle subject to this section, the town board may issue a permit providing appropriate exemption to such vehicle, if it is deemed that said vehicle is performing essential local pickup or delivery service and that a failure to grant such permit would create hardship. Every such permit may designate the route to be traversed and contain other reasonable restrictions or conditions deemed necessary. Every such permit shall be carried on the vehicle to which it refers and shall be open to inspection of any peace officer. Such permits shall be for the duration of the restriction imposed under this section.'

(Emphasis supplied).

The temporary exclusion is most frequently applied when the ground is unstable due to the spring thaw and sometimes applied when a prolonged rainy spell has saturated the ground.

Permanent exclusions are authorized in paragraphs 10, 12 and 17 of section 1660 subdivision a and by subdivisions b and c.

Paragraph 12 provides that a town board may:

'12. Prohibit, restrict or regulate the operation of vehicles on any controlled-access highway or the use of any controlled-access highway by any vehicle, device moved by human power or pedestrian.' (Emphasis supplied.)

This power, because of the limitations above mentioned, cannot apply to State highways maintained by the State or any highway in a village, hence the words 'any controlled-access highway' apply to town and county highways in the town outside of villages.

Paragraphs 10 and 17 authorize a town board to:

'10. Establish a system of truck routes upon which all trucks, tractors, and tractor-trailer combinations having a total gross weight in excess of ten thousand pounds are permitted to travel and operate and excluding such vehicles and combinations from all highways except those which constitute such truck route systems. Such exclusion shall not be construed to prevent the delivery or pickup of merchandise or other property along the highways from which such vehicles and combinations are otherwise excluded. Any such system of truck routes shall provide suitable connection with all state routes entering or leaving such town.

'17. Exclude trucks, commercial vehicles, tractors, tractor-trailer combinations and trucks in excess of any designated weight from designated highways.'

In court decisions interpreting paragraph 17, the rule stated in People v Grant (supra) requires paragraph 17 to be read with and modified by paragraph 10. The 'designated highways' mentioned in paragraph 17 are those from which, under paragraph 10, specified vehicles have been excluded, but paragraph 17 authorizes exclusion of lighter vehicles than those specified in paragraph 10. Similar interpretations are made concerning Vehicle and Traffic Law §1640 subd a par 10, which is identical to paragraph 10 above, and paragraph 5 which is identical to paragraph 17 above, and which relate to regulation of traffic by cities and villages. In all cases the regulation must be reasonable (People v Grant, 306 NY 258 [1954]; Bakery Salvage v City of Lackawanna, 24 NY2d 643 [1969]; Gotham Sand & Stone Corp. v Inc. Vil. of Roslyn, 20 Misc 2d 478 [Sup Ct, Nassau Co, 1959]; People v Verity, 50 Misc 2d 50 [Dist Ct. Nassau Co, 1966]; Mobil Oil Corp. v Inc. Vil. of Roslyn Heights, 69 Misc 2d 79 [Sup Ct, Nassau Co, 1972]).

The first, unnumbered paragraph of Vehicle and Traffic Law § 1660 subd a (set forth above) contains exceptions to the limitation of power granted to a town board to regulate traffic on State highways

maintained by the State. One exception applies to paragraph 10, relating to truck routes and, because paragraph 17 must be coupled with paragraph 10 in its application, the exception applies indirectly to paragraph 17. Thus, the system of truck routes can include all portions of any such State highway, any county highway and any town highway not in a village. However, the exception to the limitation of power is, in turn, restricted by the provisions of Vehicle and Traffic Law § 1684, which prohibits local authorities from restraining traffic on and use of such State highways; thus, the town board cannot exclude vehicles from State highways maintained by the State.

Vehicle and Traffic Law §1660 subd b requires a town board to post signs showing the maximum safe load on bridges and elevated structures on highways under its jurisdiction if their capacities are less than the maximum weight limits for vehicles set by Vehicle and Traffic Law § 385 and subdivision c requires the town board to post signs on such highways if the minimum overhead clearance of bridges and elevated structures is less than fourteen feet.

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