

MODEL TOWN ORDINANCES

Road Preservation and Protection

Section 100/101: Truck Exclusions Based on Weight

Authority: Vehicle and Traffic Law §1660, subdivision 28

Section 200/201: Truck Route System

Authority: Vehicle and Traffic Law §1660, subdivision 10

Section 300/301: Temporary Exclusions Based on Weight

Authority: Vehicle and Traffic Law §1660, subdivision 11

**Section 400/401: Truck Exclusions Based on Height, Length or Width
in Excess of Eight Feet**

Authority: Vehicle and Traffic Law §1660, subdivision 28

Section 500/501: Truck Exclusions Based on Hours of Operation

Authority: Vehicle and Traffic Law §1660, subdivision 28

Cornell Local Roads Program
Cornell University

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INSTRUCTIONS AND GUIDELINES FOR USE

1. A municipal traffic regulation which excludes trucks and similar vehicles from a highway “must have some basis of necessity, and usually requires the affording of another route reasonably adequate and useful” (People v. Grant, 306 N.Y. 258, 264-265 (1954) citing with approval, Associated Transport v. City of Syracuse, 274 App. Div. 565, 568 (4th Dept 1948); People v. Randazzo, 60 N.Y.2d 952, 953-954 (1983) .
2. These requirements are based on the court imposed rule that local traffic regulations must be “reasonable” (NYS PEF by Condell v. City of Albany, 72 N.Y.2d 96 (1988) People v. Grant, 306 N.Y. 258, 262 (1954). Local traffic regulations and restrictions “generally are deemed reasonable only if they pertain to matters of public safety (7 McQuillin, Municipal Corporations § 24.610 [3d rev ed]) “(NYS PEF by Condell v. City of Albany, 72 N.Y.2d 96 (1988)).
3. Therefore, in determining the proper weight limits to fix, consideration must be given to the characteristics of the particular highway or highways and how the weight limit sought to be imposed will further some goal of public safety or preservation of the highway.

This will usually require engineering study if a weight limit is sought to be justified on the basis that damage to the highway will result if vehicles in excess of the proposed weight are permitted to travel on the highway.

Therefore, different highways may be subjected to different weight limits depending on the results of an engineering study.

NOTE: The Schedules set forth in the model legislation assume the same weight limit for all highways on the Schedule but these Schedules can, and should, be modified if differing weight limits are sought to be applied to the highways on the Schedule.

4. With respect to any truck routes established (see, section 200 and 201 below), the system must “provide suitable connection with all state routes entering or leaving the town” as required by Vehicle and Traffic Law §1660 [10].
5. Vehicle and Traffic Law § 1660(a) authorizes a town board to act with respect to these matters “with respect to highways outside of villages in any such town, but not including state highways maintained by the state” with exceptions for state highways not relevant here (see, Vehicle and Traffic Law §1660(a)[6],[8],[9],[10]).
6. Pursuant to Vehicle and Traffic Law §1604, unless the State Legislature gives a town a particular power to regulate traffic, a town “shall have no power to pass, enforce or maintain any ordinance, rule or regulation requiring from any owner of

a motor vehicle ...any tax, fee, license or permit for the use of the public highways, or excluding any such owner ...from the free use of such public highways.”

7. General court principles will enforce the concept that “the right to use of the highways is said to rest with the whole people of the State, not with the adjacent proprietors or the inhabitants of the surrounding municipality” and “this public right is 'absolute and paramount' “(NYS PEF by Condell v. City of Albany, 72 N.Y.2d 96, 101 (1988)).
8. “A traffic ordinance established by a municipality will be upheld so long as it is reasonable and nondiscriminatory” (People v. Randazzo, 60 N.Y.2d 952, 953 (1983). A discriminatory regulation is one that favors municipal residents over non-residents (NYS PEF by Condell v. City of Albany, 72 N.Y.2d 96 (1988)).
9. Vehicle and Traffic Law § 1660(a) authorizes a town board to act with respect to these matters by “ordinance, order, rule or regulation.”

However, the Municipal Home Rule Law states that if a town board has the power to act by ordinance, it may also act by enacting a local law (see Municipal Home Rule Law §10[2]).

JG/July 6, 2010

Recitals

MODEL TOWN ORDINANCES
[various limitations on heavy truck traffic]

Pursuant to the authority granted by Vehicle and Traffic Law §1660, the Town of _____, hereby ordains and enacts the following legislation to ***{select one or more purposes}*** [establish a system of truck routes], [to temporarily exclude trucks and other similar vehicles exceeding a certain designated gross weight from highways], [to exclude certain trucks and other similar vehicles from highways]

Recitals

{These sample Recitals are optional, typical examples, general in form and should be modified so as to be tailored to the specific facts confronting the Town Board and related to the justification for the particular restrictions enacted}

Whereas, the highways designated in this ordinance are maintained in whole or in part at Town expense; and

Whereas the Town Board has been advised, and from its own observation has ascertained, that certain Town highways are caused to be rapidly deteriorating by the operation of certain trucks and similar vehicles; and

Whereas certain Town highways will have to be repaved, reconstructed or repaired shortly by reason of such operation at an estimated cost to Town property tax payers in excess of _____ dollars; and

Whereas the highways from which trucks and other similar vehicles are excluded or limited are in predominantly residential areas, highly congested areas or areas containing schools and children;

Whereas this Town Board has determined that for the preservation of its limited resources and the health, safety and the welfare of the inhabitants of the Town and the protection and security of its highways that certain trucks, commercial vehicles, tractor-trailer semi trailer combinations must be restricted from certain Town highways as set forth below.

NOW THEREFORE BE IT ORDAINED

That the Town Board of the Town of _____ hereby enacts the following legislation by adding to the Town Code a new section in chapter _____ as follows:

{The sections below contain examples of the general types of exclusions, limitations and restrictions that a town board may enact and/or delegate to a town superintendent of highways}

§100. Truck exclusions based on weight

§100. Truck exclusions based on weight

A. All trucks, commercial vehicles, tractors and tractor-trailer combinations in excess of ____ thousand (___ ,000) pounds gross weight, as defined in Vehicle and Traffic Law §117, are hereby excluded from the highways or portions thereof as described in the Schedule set forth in subdivision “C” below as authorized by Vehicle and Traffic Law §1660, subdivision 28.

B. This section shall not be construed to prevent: (1) the delivery or pickup of merchandise or other property along the highways from which such vehicles or combinations are otherwise excluded; or (2) the use of the highways designated in the attached Schedule by such vehicles or combinations if the town superintendent of highways determines that the use of such highways by such vehicles or combinations is necessary to assist in the maintenance, service and repair of highways, sidewalks, sewers and other similar public improvements or the installation of such.

C. SCHEDULE

Name of highway or portion thereof

{examples}

Ferris Road - entire length

Lewis Street – from its intersection with Emerson Avenue to its intersection with Woods Road

[etc.]

§101. Truck exclusions based on weight as established by the town superintendent of highways

{Alternate to §100 based on delegation to town superintendent of highways to designate highways}.

A. All trucks, commercial vehicles, tractors and tractor-trailer combinations in excess of the gross weight, as defined in Vehicle and Traffic Law §117, as determined by the town superintendent of highways for a particular highway or highways, are hereby excluded from the highways or portions thereof as described in any Schedule that the town superintendent of highways files with the town clerk.

B. This section shall not be construed to prevent: (1) the delivery or pickup of merchandise or other property along the highways from which such vehicles or combinations are otherwise excluded; or (2) the use of the highways designated in any Schedule filed by the town superintendent of highways if the town superintendent of highways determines that the use of such highways by otherwise excluded vehicles or combinations is necessary to assist in the maintenance, service and repair of highways, sidewalks, sewers and other similar public improvements or the installation of such.

§100. Truck exclusions based on weight

C. Pursuant Vehicle and Traffic Law §1603(e), this town board hereby delegates to the town superintendent of highways its authority to designate such highways and gross weights under Vehicle and Traffic Law §1660, subdivision 28.

§200. Truck Route System

A. A truck route system 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 shall consist of the highways described in the Schedule in “C” below and such vehicles are hereby excluded from all other highways within the Town, outside of villages, pursuant to Vehicle and Traffic Law §1660, subdivision 10.

B. Notwithstanding the above exclusion, the above 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 or the use of such highways if the town superintendent of highways determines that the use of such highways by such vehicles or combinations is necessary to assist in the maintenance, service and repair of highways, sidewalks, sewers and other similar public improvements or the installation of such.

C. SCHEDULE

Name of highway or portion thereof

{examples}

Academy Boulevard - entire length

Navigation Highway – from its intersection with County Road 12 to its intersection with State Route 190

[etc.]

§ 201 Truck Route System as established by the town superintendent of highways

{[Alternate to §200 based on delegation to town superintendent of highways to designate highways]}

A. A truck route system 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 shall consist of the highways or portions thereof as described in any Schedule that may be filed with the town clerk by the town superintendent of highways and such vehicles are hereby excluded from all other highways within the Town outside of villages pursuant to Vehicle and Traffic Law §1660, subdivision 10.

§200. Truck Route System

B. Notwithstanding the above exclusion, the above 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 or the use of such highways if the town superintendent of highways determines that the use of such highways by such vehicles or combinations is necessary to assist in the maintenance, service and repair of highways, sidewalks, sewers and other similar public improvements or the installation of such.

C. Pursuant Vehicle and Traffic Law §1603(e), this town board hereby delegates to the town superintendent of highways its authority to designate a truck route system of highways under Vehicle and Traffic Law §1660, subdivision 10.

§300. Temporary exclusions based on weight

A. From (month, date, year) to (month, date, year), all trucks, commercial vehicles, tractors and tractor-trailer combinations in excess of a gross weight, as defined in Vehicle and Traffic Law §117, of over four or more tons {or any vehicle with a gross weight in excess of _____ pounds on any wheel, axle, any number of axles, or per inch width of tire} are hereby excluded from the highways or portions thereof as described in the Schedule set forth in "C" below as authorized by Vehicle and Traffic Law §1660, subdivision 11.

B. Upon written application by any operator of a vehicle subject to the restrictions of this section, the town board {or town superintendent of highways pursuant Vehicle and Traffic Law §1603(e)} may issue a permit providing an appropriate exemption to such vehicle from the above exclusions, if it is determined that said vehicle is performing essential local pickup or delivery service, or services related to the maintenance, repair or installation of public improvements, 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, police officer or town highway department officer or employee. Such permits shall be limited to the time periods of the restrictions imposed under this section.

C. SCHEDULE

Name of Highway or portion thereof

{examples}

Avery Avenue - entire length

Harrington Street – from its intersection with Tompkins Avenue to its intersection with Terry Road

§300. Temporary exclusions based on weight

§301 Temporary exclusion of trucks based on weight as established by the town superintendent of highways

{Alternate to §300 based on delegation to town superintendent of highways to designate highways}.

A. The town superintendent of highways is hereby delegated the power of this town board as granted to it by Vehicle and Traffic Law §1660, subdivision 11, to temporarily exclude from highways designated by him all trucks, commercial vehicles, tractors and tractor-trailer combinations in excess of a gross weight, as defined in Vehicle and Traffic Law §117, of over four or more tons {or any vehicle with a gross weight in excess of _____ pounds on any wheel, axle, any number of axles, or per inch width of tire}.

B. The highways applicable to such temporary exclusions shall be as designated by the superintendent of highways on any Schedule that he files with the town clerk.

C. Upon written application by any operator of a vehicle subject to the restrictions of this section, the town superintendent of highways may issue a permit providing an appropriate exemption to such vehicle from any exclusions he establishes as authorized above, if he determines that said vehicle is performing essential local pickup or delivery service, or services related to the maintenance, repair or installation of public improvements, 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, police officer or town highway department officer or employee. Such permits shall be limited to the time periods of the restrictions imposed under this section by the superintendent.

D. Pursuant Vehicle and Traffic Law §1603(e), this town board hereby delegates to the town superintendent of highways its authority to designate such highways under Vehicle and Traffic Law §1660, subdivision 11.

§400. Truck exclusions based on {height, length or width in excess of eight feet} – {chose all or one of the types of exclusions}

A. All trucks, commercial vehicles, tractors, tractor-trailer combinations, tractor-semitrailer combinations and tractor-trailer-semitrailer combinations {in excess of ___ feet in height} {in excess of ___ feet in length} {in excess of eight feet in width} are hereby excluded from the highways or portions thereof as described in the Schedule set forth in “C” below as authorized by Vehicle and Traffic Law §1660, subdivision 28.

B. This section shall not be construed to prevent: (1) the delivery or pickup of merchandise or other property along the highways from which such vehicles or

§400. Truck exclusions based on {height, length or width in excess of eight feet} – {chose all or one of the types of exclusions}

combinations are otherwise excluded; or (2) the use of the highways designated in the Schedule by such vehicles or combinations if the town superintendent of highways determines that the use of such highways by such vehicles or combinations is necessary to assist in the maintenance, service and repair of highways, sidewalks, sewers and other similar public improvements or the installation of such.

C. SCHEDULE

Name of Highway or portion thereof

{examples}

Charles Street - entire length

Herkimer Avenue – from its intersection with Orchard Avenue to its intersection with Kensington Street

[etc.]

§401. Truck exclusions based on {height, length or width in excess of eight feet} as established by the town superintendent of highways

A. All trucks, commercial vehicles, tractors and tractor-trailer combinations, tractor-semitrailer combinations and tractor-trailer-semitrailer combinations, in excess of any height or length as may be established by the town superintendent of highways {or in excess of eight feet in width} are hereby excluded from the highways designated by the town superintendent of highways as described in any Schedule that the town superintendent of highways files with the town clerk.

B. This section shall not be construed to prevent: (1) the delivery or pickup of merchandise or other property along the highways from which such vehicles or combinations are otherwise excluded; or (2) the use of the highways designated in the attached Schedule by such vehicles or combinations if the town superintendent of highways determines that the use of such highways by such vehicles or combinations is necessary to assist in the maintenance, service and repair of highways, sidewalks, sewers and other similar public improvements or the installation of such.

C. The town superintendent of highways is hereby delegated the power of this town board as granted to it by Vehicle and Traffic Law §1660, subdivision 28, to exclude such vehicles from designated highways.

§500. Truck exclusions based on hours of operation

A. From the hours of {set forth range of hours and days of week} all trucks, commercial vehicles, tractors and tractor-trailer combinations {in excess of ____ feet in height} { in excess of ____ feet in length} {in excess of eight feet in width} are hereby

§500. Truck exclusions based on hours of operation

excluded from the highways or portions thereof as described in the Schedule set forth in "C" below, as authorized by Vehicle and Traffic Law §1660, subdivision 28.

B. This section shall not be construed to prevent: (1) the delivery or pickup of merchandise or other property along the highways from which such vehicles or combinations are otherwise excluded; or (2) the use of the highways designated in the attached Schedule by such vehicles or combinations if the town superintendent of highways determines that the use of such highways by such vehicles or combinations is necessary to assist in the maintenance, service and repair of highways, sidewalks, sewers and other similar public improvements or the installation of such.

C. SCHEDULE

Name of Highway or portion thereof

{examples}

Freeman Street - entire length

Winthrop Road – from its intersection with Andiron Drive to its intersection with Highbridge Street

[etc.]

§501. Truck exclusions based on hours of operation as determined by the town superintendent of highways

A. The town superintendent of highways is hereby delegated the power of this town board, which it possess pursuant to Vehicle and Traffic Law §1660, subdivision 28, to establish the hours of operation during which all trucks, commercial vehicles, tractors and tractor-trailer combinations in excess of any height or length as fixed by the town superintendent of highways {or in excess of eight feet in width}, are excluded from the highways or portions thereof as described in any Schedule that the town superintendent of highways files with the town clerk.

B. This section shall not be construed to prevent: (1) the delivery or pickup of merchandise or other property along the highways from which such vehicles or combinations are otherwise excluded; or (2) the use of the highways designated in the attached Schedule by such vehicles or combinations if the town superintendent of highways determines that the use of such highways by such vehicles or combinations is necessary to assist in the maintenance, service and repair of highways, sidewalks, sewers and other similar public improvements or the installation of such.

C. Pursuant Vehicle and Traffic Law §1603(e), this town board hereby delegates to the town superintendent of highways its authority to designate such highways under Vehicle and Traffic Law §1660, subdivision 28.