

Town of Chebeague Island
Meeting of the Ordinance Review Committee

Wednesday August 25th at 7 pm
Island Hall

1. Call to Order.
2. To define the scope and purpose of the committee
3. To determine the committee operating parameters
4. To determine a methodology
5. To review potential tasks
6. To assign tasks
7. Public Comment.
8. Adjourn

POTENTIAL PROJECTS

- *Dog Control*
- *All Terrain Vehicle Trespass*
- *Solid Fuel Stove Safety*
- *Public Swimming Pool*
- *Dance Hall*
- *Special Amusement*
- *Victualers License*
- *Solid Waste Facility*
- *Licenses and Permits*
- *Weight Limit Posting Roads*
- *Establishing Committees*
- *Minor changes to existing ordinances:*
 - *Fee and penalty consolidation*
 - *Town floats at Chandlers*
 - *Improved definitions*

Ad-hoc Ordinance Review Committee

The Board of Selectmen formed a new ad-hoc committee on 6/30/2010 to review ordinances that the comprehensive plan committee is not currently working on. These include many smaller tasks such as adapting the ordinances adopted by reference for Chebeague and developing a one-stop fee schedule.

Herb Maine was appointed to the committee by the Selectmen and will run this meeting.

The committee is expected to work in small, well-defined tasks without a lot of meetings. This means membership commitment is variable based on an individual's interest and availability.

Public airing and contact will primarily be through Board of Selectmen meetings when draft language is presented.

The term of the committee is until June 2011.

While committee membership will be flexible anybody interested in participating should come to this meeting and help define the working model. A formal letter is not necessary – just show up or contact Herb at 846-4769 , Herb.Maine@smemaine.com

To: Board of Selectmen
From: Herb Maine, (Ordinance Review Committee)
Cc: Scott Seaver
Date: 07/09/2010
RE: Proposed Guidelines for the Ordinance Review Committee

The Board of Selectmen (Board) formed an ad-hoc ordinance review committee (Committee) on 6/30/2010 and appointed me to the committee. This memo describes guidelines for the formation, operation and charge of the Committee. The Board set term of the committee and its general goal as: "to review and make recommendations on as many ordinances as possible before the 2011 annual town meeting.

The Committee will review ordinances based on a memo to the Board dated 6/7/2010 that included an un-prioritized list of tasks that could be undertaken. Considerations use in the order that topics are addressed are: Board requests, the amount of use an existing ordinance has received, the direction of the Town Meeting regarding the nine ordinances adopted by reference.

The goal is to provide a steady stream of proposals and ideas to the Board so that they choose efficiently judge the need and appropriateness of the ideas.

The formation of the Committee will accomplished by soliciting and adopting members loosely based on interests, time and skill sets. Tasks will be assigned to individuals, collected and presented to the board. While and face-to-face meetings of the committee will be noticed they are expected to be infrequent. Most work will be done by individuals while documents are collaboratively worked on via email. All documents and correspondence (email or otherwise) will be collected and made available to the public.

The expected procedure for each ordinance reviewed is:

1. Determine a task
2. Perform research (primarily web-based but other contact may also be employed). Research may also include soliciting conceptual and philosophical ideas from the Board or directly from the public.
3. Draft language based on research
4. Draft a 1 or 2 page memo having (at least) the following sections:
 - a. Current Status: what is currently in place
 - b. Perceived Need: why is this being considered
 - c. Benefits: to the public and municipal government
 - d. Risks: to the public and municipal government
 - e. Research: citation and summary
 - f. Options:
 - g. Recommended Action:
5. Submit the memo and draft to the Board at a regular (or special) meeting for a **FIRST READING**.
6. Take any action requested by the Board.
7. Submit the memo and draft to the Board at a regular (or special) meeting for a **SECOND READING**.
8. Take any action requested by the Board.

To: Board of Selectmen
From: team, (Ordinance Review Committee)
Cc: Scott Seaver
Date: mm/dd/2010
RE: Proposed Ordinance name

Current Status:

Perceived Need:

Benefits:

Risks:

Research:

Recommended Action

[TITLE]
ORDINANCE

of the Town of Chebeague Island
MAINE

Adopted by the Town Meeting:

Effective:

Attest:

Town Clerk

Seal:

SECTION 101. TITLE

This Ordinance shall be known as and may be cited as the “[TITLE] in the Town of Chebeague Island, Maine,” and shall be referred to herein as “this Ordinance” or “this chapter”.

SECTION 102. PURPOSE AND AUTHORITY

The purpose of this Ordinance is to This Ordinance is adopted pursuant to 30-A M.R.S.A. § 3009 and 29-A M.R.S.A. §§ 2395 and 2388.

SECTION 103. DEFINITIONS

- a) **[term]**. The term ‘[term]’ shall refer to / mean. . . .
- b)
- c) The definitions contained in Title 29-A M.R.S.A. shall govern the construction of words contained in this Ordinance.
- d) Any words not otherwise defined therein shall be given their common and ordinary meaning.

SECTION 104. [INSERT DEFINING SECTIONS]

SECTION 105. ADMINISTRATION AND ENFORCEMENT

This Ordinance shall be administered and may be enforced by the municipal officers, the road commissioner, code enforcement officer or law enforcement officer with jurisdiction in the Town of Chebeague Island.

SECTION 106. PENALTIES

Any violation of this Ordinance shall be a civil infraction subject to a fine of not less than \$250.00 nor more than \$1000.00. 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 related structure 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 107. AMENDMENTS

This Ordinance may be amended by the municipal officers or Town Meeting at any properly noticed meeting.

SECTION 108. SEVERABILITY

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.

Ordinance Review Committee 2010-2011

8/25/2010 12:23

ORDINANCES ADOPTED BY REFERENCE

	Team	submitted	1 st Reading	2 nd Reading	Town Meeting	Notes
Dog Control						
All Terrain Vehicle Trespass						
Solid Fuel Stove Safety						
Public Swimming Pool						
Dance Hall						
Special Amusement						
Victualers License	hm	11/18/09	07/14/10			
Solid Waste Facility						
Licenses and Permits						

EXISTING WITH POETENTIAL SECTION REVIEW

Coastal Waters Sec. 13.5 and 13.6

POTENTIAL NEW ORDINANCES

Weight Limit Posting Roads	hm	06/30/10	07/14/10			
Cemetery Committee						
Road Plan Committee	hm-jw					
Capital Projects Committee	jw					May supplant the Road Plan Committee
Authorize BOS to set fees	hm					Tonw ordinance to authorize BOS
Fees document	hm					Selectmen Ordinance to set fees

CENTRALIZE FEE & PERMITS

Emergency Management						Alter language to allow fee schedule
Zoning						Alter language to allow fee schedule
Floodplain Management						Alter language to allow fee schedule
Growth Management						Alter language to allow fee schedule
Coastal Waters						Alter language to allow fee schedule
Parking						Alter language to allow fee schedule

To: Board of Selectmen
From: Herb Maine, (Ordinance Review Committee)
Cc: Scott Seaver
Date: 7/1/2010
RE: Proposed Ordinance Restricting Vehicle Weight on Posted Ways

This is a rework of the memo date 6/30/2010 based on discussion and comments at last evenings meeting. I have added specific sections that appear to be critical to the decision process and by documenting them ahead of time the hope is to give the Board sufficient information to efficiently process future ordinance proposals.

Current Status: The Town of Chebeague Island has no rules, regulations or ordinance in place governing the restriction of vehicle weight on public ways. The State Statues cited below give municipal officers the authority to impose temporary restrictions and appear to provide a means for the municipal officers to enforce it.

Perceived Need: There appears to be a will on the Board to use weight limit restrictions on our roads. After reviewing 29-A M.R.S.A. § 2395 it seems advisable to refine the rules for our community. As an example: allowing temporary exemptions (and defining how they work) may provide great benefit to contractors and individuals working on the island without endangering our road system. The best illustration is that used by the MDOT rules for State Roads : *This regulation shall not apply to any closed highway which is solidly frozen. The highway is considered "solidly frozen" only when the air temperature is 32 degrees Fahrenheit or below and no water is showing in the cracks of the road. Both conditions must be met.*

Without passing rules or an ordinance the Selectmen don't have the authority to make such an exemption and no defined procedure.

Benefits: The primary benefit is to specify posting details and clarify exemptions beyond those in Statute (the model ordinance pretty much echoes the MaineDOT rules and regulations established in 1996). It may also allow the Board to designate a Town Official such as the Road Commissioner to carry out some of the functions that are expected to be done by the Board.

Risks: Adopting rules or an ordinance would increase the body of rules that govern the town and poorly written documents could cause confusion. Town Staff will likely assist in administering the ordinance (granting temporary exemptions and enforcing).

Research: The phrase "Maine Restricting Vehicle Weight" placed in a Google search will yield a host of documents. Towns that have based their ordinance on the model ordinance include: Vinalhaven, Holden, Harpswell, Veazie, Randolph, Dixmont, Arundel, York, Freedom, Gardiner, Bath, Sebago, Presque Isle and others.

Gouldsboro does not appear to have adopted the model ordinance and relies on the State Statute.

The town of Fryeburg adopted the model ordinance but is considering changes.
<http://www.fryeburgmaine.org/public-works.html> - Fryeburg Town Web Site

Currently there is a procedure in place which requires a permit to travel over a pos ted roadway if the vehicle is registered for a gross weight of more than 23,000 pounds unless otherwise posted . There are exemptions which include but are not limited to school buses, emergency vehicles, heating fuel trucks, and solid waste trucks. The permit application and \$75 application fee can be filed with the Code Enforcement Officer along with a \$10,000 insurance bond.

The Selectmen , along with the Road Commissioner and CEO, have been working to amend the procedure for traveling over pos ted roads and new standards are expected to be in place prior to the spring "mud season".

The following is from MMA:

For temporary (seasonal) closings, the municipal officers may adopt "rules" (29-A M.R.S.A. § 2395). To regulate traffic permanently, however, they must enact "ordinances" (30-A M.R.S.A. § 3009).

No matter what they are called, these regulations should be adopted only at a public meeting of the board; public notice of the meeting, given at least 7 days in advance, and a copy of the proposed regulations should be posted in all the places where town meeting warrants are usually posted.

<http://www.memun.org/members/infopks/Legal/roadweights.htm>

Recommended Action

If the Board of Selectmen wishes to post weight limits on roads on a temporary basis then it is advisable to adopted rules and regulations specific to Chebeague. If the Board wishes to be able to permanently restrict some roads then an ordinance is more appropriate.

Adopting "rules" or an "ordinance" regard weight retrictions on public ways appears to be in the purview of the Board and does not need to go to Town Meeting (but must be noticed as if they were).

The recommendation is to adopt the ordinance as drafted and presented to the Board on 6/30/2010.

**RESTRICTING VEHICLE WEIGHT
ON POSTED WAYS
ORDINANCE**

**of the Town of Chebeague Island
MAINE**

Adopted by the Town Meeting:

Effective:

Attest:

Town Clerk

Seal:

SECTION 101. TITLE

This Ordinance shall be known as and may be cited as the “Restricting Vehicle Weight on Posted Ways Ordinance in the Town of Chebeague Island, Maine,” and shall be referred to herein as “this Ordinance” or “this chapter”.

SECTION 102. PURPOSE AND AUTHORITY

The purpose of this Ordinance is to prevent damage to town ways and related structures in the Town of Chebeague Island 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 related structures, 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 103. DEFINITIONS

- a) **Related Structures.** The term ‘related structures’ shall refer to any and all structures that are considered to be part of the road system in the Town of Chebeague Island and including but not limited to: bridges and culverts, public parking areas, ramps for water access, the Stone Wharf, and access ways for Chandler’s Pier.
- b) **Temporary Exemption.** A temporary exemption may be granted in accordance with Section 105 of this ordinance. A temporary exemption is defined as one traverse of the posted way or related structure. A traverse may be considered the trip both to and from a destination for a specific purpose.
- c) The definitions contained in Title 29-A M.R.S.A. shall govern the construction of words contained in this Ordinance.
- d) Any words not otherwise defined therein shall be given their common and ordinary meaning.

SECTION 104. RESTRICTIONS AND NOTICES

The municipal officers 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 road system, and designate the town ways and related structures to which the restrictions shall apply.

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 related structure so posted unless otherwise exempt as provided herein.

The notice shall contain, at a minimum, the following information: the name of the way or related structure, the gross registered weight limit, the time period during which the restriction applies, the date on which the notice was posted, and the signatures of the

municipal officers or their designee. The notice shall be conspicuously posted at each end of the restricted portion of the way or related structure 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 105. EXEMPTIONS

The following vehicles are exempt from this ordinance:

- a) Any two-axle vehicle while delivering home heating fuel;
- b) Any vehicle while engaged in highway maintenance or repair under the direction of the State or Town;
- c) Any emergency vehicle (such as fire fighting apparatus or ambulances) while responding to an emergency;
- d) Any school transportation vehicle while transporting students;
- e) Any public utility vehicle while providing emergency service or repairs;
- f) Any vehicle detoured by a law enforcement officer at an accident scene; and
- g) Any owner or operator granted a temporary exemption by the road commissioner.

The owner or operator of any vehicle may request a temporary exemption by written request to the road commissioner. In determining whether to allow a temporary exemption, the road commissioner shall consider the following factors:

- a) the gross registered weight of the vehicle;
- b) the current and anticipated condition of the way or related structure;
- 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 road commissioner may require the applicant to tender cash, a bond or other suitable security running to the municipality in an amount sufficient, in their judgment, to repair any damage incurred as a result of granting a temporary exemption.

For cases where restrictions are imposed to protect roads during spring thaw conditions the criteria of ambient temperatures below 32°F and no visible unfrozen water on the surface or in road defects may be used to grant a temporary exemption.

The road commissioner shall record all exemptions granted stating the applicants name, vehicle weight, date and times of the temporary exemption, public ways involved and the reason for the temporary exemption.

Rulings made by the road commissioner under Section 105 of this ordinance may be appealed to the municipal officers.

SECTION 106. ADMINISTRATION AND ENFORCEMENT

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