

Speed bumps/humps – adapted from MMA’s “Legal Notes”, June, 2018

QUESTION: We’re considering installing speed bumps on several local roads in order to slow down traffic. Do you have any advice?

ANSWER: Yes, we do. In the first place, you should have a traffic ordinance authorizing the installation of traffic control devices such as speed bumps and speed humps (an improved variant of speed bumps). This is because speed bumps and humps might otherwise constitute a highway defect for which a municipality arguably could be held liable under Maine’s “Pothole Law” (see “The ‘Pothole Law,’” Maine Townsman, Legal Notes, April 2104). But structures that exist in a roadway in accordance with a municipal ordinance are deemed not to be highway defects, so a municipality cannot be held liable for them (see 23 M.R.S. § 3651). Nevertheless, it is critical from a highway safety standpoint that speed bumps and humps be properly designed, marked and signed according to the standards in the Federal Highway Administration’s Manual on Uniform Traffic Control Devices (MUTCD). For a good discussion of speed bumps versus speed humps (the preferred alternative), and for links to the MUTCD and other “traffic calming” information, go to this Maine Local Roads Center [webpage](#). Incidentally, the municipal officers (selectmen or councilors) have the exclusive authority to enact traffic and parking ordinances, even in a town meeting form of government. For details, including the procedure for doing so, see “Traffic & Parking Ordinances,” Maine Townsman, Legal Notes, November 2015. Finally, on a related note, municipalities generally do not have legal authority to set speed limits on local roads – the MDOT (Maine Department of Transportation) does. There is a narrow exception for “qualifying municipalities,” but the technical requirements are so burdensome that no municipality in the state currently qualifies. For details, see “Speed Limits on Local Roads,” Maine Townsman, Legal Notes, July 2015. (By R.P.F.)