

# TOWN OF WEARE ORDINANCE (DRAFT 4)

## TRAFFIC CONTROL IN CONSTRUCTION WORK ZONES

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Appendix A Roads requiring flaggers and/or uniformed law enforcement officers with police vehicles.

### **1.0. Statement of Purpose**

The purpose of this ordinance is to establish standards for the use of appropriate traffic control techniques when, in the course of repairs or construction on public roads or the laying or repairing of sewers, electrical, telephone, gas lines, water or any type of telecommunications equipment, cable TV or other types of underground utilities or the installation of above ground utilities which would interfere with the normal or regular flow of traffic within the Town of Weare, or the flow of vehicular or pedestrian traffic is impeded or displaced. In all cases, the priority shall be to provide for the safety and security of the general public and the workers in the work zone.

### **2.0. Authority**

New Hampshire RSA 41:11, 47:17 VII, VIII and XVIII provides the Board of Selectmen with full authority to control traffic in highway/bridge construction zones on Class IV, V and VI roads within the community.

New Hampshire RSA 228:21, 236:1 and 228:37 provides the Commissioner of the NH Department of Transportation with full authority to control traffic in highway/bridge construction zones on Class I, II and III highways.

### **3.0. Traffic Control Operations and Requirements**

To the extent possible, the Town of Weare shall utilize dynamic traffic control that can continuously adjust to meet changing work zones needs and traffic demands.

- 3.1. All traffic control efforts shall meet standards established by the nationally recognized Manual on Uniform Traffic Control Devices (MUTCD), the NH Department of Transportation Flagger and Uniformed Officer Guidelines and NH Department of Labor Administrative Rules (LAB 1403.21 and LAB 1403.58).
- 3.2. Traffic control operations may consist of:
  - MUTCD Signage, barricades, traffic lights or other devices and delineation
  - Centerline cones
  - Portable rumble strips
  - Automated speed signs
  - Alternating one-way traffic, lane control and closure
  - Road closures and detour routes
  - Flaggers
  - Uniformed Officers and marked cruisers
- 3.3. Roadways in the Town of Weare shall fall under one of three designated minimum requirements for traffic control:
  - Uniformed law enforcement officers with police vehicles
  - Flaggers
  - Cones, signage, barricades (per MUTCD guidelines)
- 3.4. Appendix A to this ordinance is an alphabetical list of roads that require flaggers and/or uniformed law enforcement officers with police vehicles, as determined by the Chief of Police. All other roads require minimum traffic control as designated in 3.2, but the contractor may choose to use a higher level of control, or a combination of controls, as desired.
- 3.5. Where a work zone includes two or more different designated control level areas, the higher level of traffic control shall prevail for the entire work area.
- 3.6. The cost of all traffic control measures shall be borne by the contractor performing the work.

### **4.0. Operational Standards**

- 4.1 All flaggers and uniformed law enforcement officers engaged in the duty of traffic control under this ordinance shall have been trained by an ATSSA American Traffic Safety Services Association (ATSSA)

certified instructor or equivalent within the preceding four years. A record of successful course completion shall be provided to, and kept on file, at the Board of Selectmen's Office.

- 4.2 All flaggers and uniformed law enforcement officers engaged in the function of traffic control, per this ordinance, shall use a STOP/SLOW paddle meeting the specifications of MUTCD Section 6E.03 or equivalent and shall wear high visibility clothing per MUTCD Section 6E.02 or equivalent.
- 4.3 All flaggers and uniformed law enforcement officers while performing those duties under this ordinance shall stand in a conspicuous position to the traffic being controlled.
- 4.4 The primary duty of flaggers and uniformed law enforcement officers while on a work zone site shall be the active safe control of traffic and pedestrians. Use of electronic communication devices, other than two-way radios or cell phones that are directly required to affect those duties, shall be prohibited.
- 4.5 While engaged in the duties of traffic control, uniformed law enforcement officers shall not be used for other duties. They may offer immediate assistance in emergency situations, such as a motor vehicle accident within the limits of the work zone, confining their assistance to the determination of whether injuries are involved and/or what additional services are required. If additional services are needed, the officer on traffic control shall call - in for the services needed and request an on-duty officer to handle any additional needs.
- 4.6 In cases where private contractors are used to meet the requirements of this ordinance, a certificate of liability insurance in the amount of \$1,000,000 shall be submitted to the Board of Selectmen's office prior to commencing work.

## **5.0. Procedure**

- 5.1 Except in cases of emergencies, 24 hour prior to commencement of work falling under this ordinance, the party responsible for performing the work shall notify the Town of Weare through the Chief of Police of the work to be performed. Notification shall include the location, expected duration and nature of work, and nature of work, and the method of traffic control to be implemented. Subsequently, the Chief of Police shall make notification to the Weare Fire Department, Public Works Director and School Department (in cases of road closure) of the planned work.

- 5.2 In cases of emergencies requiring immediate response, the requirement for 24-hour notification shall be waived. However, within one-hour of arrival on site, the party performing the work shall notify the Chief of Police as described above. Appropriate traffic control per this ordinance shall be implemented.
- 5.3 Work of less than one hour (Short Duration per MUTCD 6G.02) and operations where equipment and personnel are primarily conducting operations off the travel portion of the road and not impeding traffic shall be exempt from providing notification. Appropriate signage, cones and vehicle mounted high intensity warning lights or strobes shall be used.
- 5.4 In cases where possibly unsafe conditions are reported, the Chief of Police, after personally reviewing the job site, may require that a higher level of traffic control be implemented. In such cases, the Chief of Police shall notify the Board of Selectmen's Office within 48 hours, outlining the additional controls required and the reasons for doing so.
- 5.5 In cases where disputes arise, the Board of Selectmen shall have ultimate authority over interpretation and implementation of this ordinance.

## **6.0. Exemptions**

- 6.1 The NH Department of Transportation shall be exempt from the provisions of this ordinance when performing construction work on Class I, II or III highways or bridges, either contracted or with State forces, pursuant to the provisions of RSA 228:21, 236:1 and 228:37.
- 6.2 The Town of Weare shall be exempt from the provisions of this ordinance when performing construction work on its own streets and bridges, either contracted or with the Town of Weare Public Works Director. However, the Town will adhere to the minimum type of work zone traffic control outlined in Appendix A.

## **7.0. Penalty**

Any contractor(s) or their employees who willfully violate this ordinance shall be guilty of a violation, punishable by a fine not exceeding Five Hundred (\$500.00) dollars per day and may be assessed for each day the violation continues.

## **8.0. Appeal Process**

Any individual, company or group may appeal the Chief of Police's administrative decision authorized under Paragraph 5.4 to require a level of traffic control greater than the minimum required under this ordinance to the Board of Selectmen within 15 days of the decision. The appealing party must demonstrate to the Board why the Chief of Police's recommendation should not be followed and how all safety concerns and requirements would be met in order to ensure the safety of all those within the work zone and those traveling through the work zone.

## **9.0. Severability**

If any Section or part of a section or paragraph of this ordinance is declared invalid or unconstitutional, it shall not be held to invalidate, or impair the validity, force or effect of any other sections, or part of a section or paragraph of this ordinance.

## **10.0. Supersession**

Upon the vote of the Board of Selectmen, this ordinance shall take effect 04/01/2013 and shall supersede all previous rules, regulations, customs and/or past practices that may be in use on the effective date

## **11.0. Amendment Procedure**

This ordinance may be amended and changed from time to time as conditions require and as deemed appropriate by the Board of Selectmen. Any proposed amendments shall be presented to the Board of Selectmen for action. However, any amendment(s) must be the subject of at least one public hearing and shall not be rejected or adopted until at least fourteen (14) days after the public meeting.

Adopted by the Board of Selectmen, the 1<sup>st</sup> day of April, 2013.

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Thomas Clow, Chairman

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Richard Butt, Vice Chairman

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Keith Lacasse, Selectman

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John Lawton, Selectman

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James Leary, Selectman

WEARE BOARD OF SELECTMEN Received and recorded this 1<sup>st</sup> day of April, 2013