

BOARD OF SELECTMEN  
Town of Warner  
Warner, N.H. 03278

ORDINANCE REGULATING HEAVY HAULING OVER TOWN HIGHWAYS

Pursuant to the authority conferred by New Hampshire Revised Statutes Annotated, Chapter 41 Section 11, in order to promote the public health and safety and to provide for the general welfare of the citizens of the Town of Warner, the following Ordinance is hereby enacted:

Section I: PERFORMANCE BOND REQUIRED

From and after the effective date of this Ordinance, it shall be unlawful for any person, partnership or corporation to haul, transport or cause to be transported by vehicle with gross weight over six(6) tons any material over Class six(VI), Class five(V) Seasonal roads and where they intersect with a Class V highway without securing prior written permission from the Board of Selectmen. Said permission may be conditioned upon the filing with the Board of a Performance Bond to secure the repair of said roads damaged as a result of said operations in any amount and surety sufficient to cover the estimated costs of repair as determined by the Road Agent. Said Bond shall be approved by the Town and conditioned upon the completion and guarantee of said repairs within a period specified by said Board and expressed in said Bond.

Section 11: BOND FORM

Said Performance Bond shall be in substantially the following form:

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENT THAT \_\_\_\_\_ of \_\_\_\_\_ in the county of \_\_\_\_\_ and State of \_\_\_\_\_, hereinafter referred to as "Principal" and \_\_\_\_\_ of \_\_\_\_\_ in the County of \_\_\_\_\_ and State of \_\_\_\_\_ hereinafter referred to as "Surety" are held firmly bound unto the Town of Warner, a Municipal Corporation, in the County of Merrimack and State of New Hampshire, hereinafter referred to as "Town", in the sum of \$ \_\_\_\_\_ ( \_\_\_\_\_ dollars) lawful money of the United States payment of which is made herewith to be held by said Town upon the following conditions:

The condition of this obligation is such that whereas Principal has undertaken hauling operations within said Town, and in accordance with Town Ordinance, has agreed to repair any damage to Class VI and Class V Seasonal town roads and where they intersect with a Class V highway, resulting from such operations, as determined by the Town's Road Agent, said obligation to be completed on or before the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_.

NOW THEREFOR, if said Principal shall well and truly perform in all respects its obligations hereunder in strict accordance with the requirements of its agreement herein, and shall save said Town harmless from all loss, costs or damage by reason of its failure to complete its agreements herein, then this obligation shall be void and fully terminated and all payments hereunder shall be returned to Principal. Upon failure of Principal to perform its agreements herein, payment thereunder shall

be retained by said Town as liquidated damages in full settlement of all its claims against said Principal and Surety for breach of obligations set forth herein.

IN WITNESS WHEREOF the parties have hereunto caused their hands and seal to be affixed this \_\_\_\_ day of \_\_\_\_ 19\_\_.

Witness:

\_\_\_\_\_  
Principal  
\_\_\_\_\_  
Surety

SECTION III: PENALTY

Whoever shall fail to comply with the conditions of this Ordinance shall be guilty of a violation and subject to a fine of Five Hundred Dollars (\$500.00) plus restitution of costs for each such occurrence. For the purposes of this ordinance, each load hauled, transported or moved over said Town roads shall be deemed a separate occurrence.

SECTION IV: EFFECTIVE DATE

This ordinance shall be effective upon acceptance by the Board of Selectmen, publication in the Concord Monitor and upon recording an attested copy of the same with the Warner Town Clerk.

Given under our hands and seal this 28<sup>th</sup> day of June 1983.

*Rees G. Harbury*  
Rees G. Harbury  
*Carther-Lynn Bean*  
Carther-Lynn Bean  
*John Kelley Jr.*  
John Kelley Jr.  
Selectmen