

MEMORANDUM



Department of Public Works | Traffic Division

To: Traffic Commissioners
Tony Wachewicz, City Attorney

From: David J.A. Hansen, P.E., PTOE, City Traffic Engineer

Re: **Proposed Policy on Non-Standard Warning Signs**

Date: Friday, January 18, 2013

REQUEST FOR POLICY

On September 18, 2012, City Council approved of the Traffic Commission report that included a motion to refer to staff to develop a draft non-standard warning signs policy to include the results of research into non-standard warning sign effectiveness and a review by the Legal Department into the legal ramifications of such signs. This was done in response to concerns raised by the proliferation of non-standard warning signs that had been taking place over the past few years and ultimately prompted by the request to install AUTISTIC CHILD AREA signs near Maria Abella's residence of 887 Elmore Street.

BASIC WARNING SIGN RULES AND LAWS

Warning signs give notice to motorists of a roadway condition or situation that might not be readily apparent. Most are diamond-shaped and contain black text or symbols on a yellow background. Non-standard warning signs have text or symbols not found in the Manual on Uniform Traffic Control Devices (MUTCD), which is published by the Federal Highway Administration, and is considered the final rulebook on signing, pavement markings, and traffic control. Examples of non-standard warning signs include SLOW CHILDREN AT PLAY, BLIND CHILD AREA, DEAF CHILD AREA, and AUTISTIC CHILD AREA. Where a standard word message is applicable, the wording shall be as provided in the MUTCD. In situations where word messages are required other than those provided in the MUTCD, the signs shall be of the same shape and color as standard signs of the same functional type.

CURRENT CITY POLICY

The City currently allows certain non-standard warning signs, namely BLIND CHILD AREA, DEAF CHILD AREA, the wheelchair symbol, and AUTISTIC CHILD AREA, to be installed at or near the residence of the requestor after meeting certain requirements. First, they must make a formal request to the Traffic Engineer, who then evaluates the request to assure there are no other signs similar in nature near the requestor's residence, and who verifies that a disabled person resides at that location. He then places a formal request to the City's Traffic Commission, who

will either approve or deny of the request. If Council approves, DPW-Traffic staff will install the signs at the locations as directed by the Traffic Engineer. The requestor's contact information is added to a list of approved non-standard warning sign requestors. Every even two years, the Traffic Engineer sends a letter to each sign requestor to determine future need for the signs. If the need still exists for each requestor, the signs will remain in place and will continue to be maintained. If not, they are removed. The City bears all costs to furnish, install, remove, and maintain each non-standard warning sign. Currently, no proof of a medical condition is required.

NATIONAL RESEARCH AND GUIDELINES

FHWA Manual on Uniform Traffic Control Devices (2009)

A search of the MUTCD found no instances of SLOW CHILDREN AT PLAY, WATCH FOR CHILDREN, SLOW CHILDREN, BLIND CHILD, or DEAF. Related guidance includes the following:

1. From Section 2C.02 (02), Application of Warning Signs: "The use of warning signs should be kept to a minimum as the unnecessary use of warning signs tends to breed disrespect for all signs."
2. CHILDREN AT PLAY (CAP) or other message signs are not specifically prohibited as long as they conform to the standard shape (diamond) and colors (black letters on yellow background) and as long as no symbols are used. Some state-specific MUTCD supplements (such as in New York) present the option of a CAP or similar sign.

Institute of Transportation Engineers (ITE): Traffic Control Devices Handbook (2001)

Page 444 states that "Agencies should avoid the use of CAUTION CHILDREN, CHILDREN AT PLAY, and/or SLOW CHILDREN nonstandard signs since such signs may imply "that the involved jurisdiction approves of streets as playgrounds, which may result in the jurisdiction being vulnerable to tort liability." To determine the original research basis for these claims, this source cites ITE's Design and Safety of Pedestrian Facilities (below) for the claim that using CAP signs "may result in the jurisdiction being vulnerable to tort liability," whereas this latter source, in its comments on CAP signs, refers back to this one.

Institute of Transportation Engineers: Design and Safety of Pedestrian Facilities (1998)

<http://www.ite.org/decade/pubs/RP-026A-E.pdf>

Page 40 of Chapter 4, Pedestrian and Motorist Signing, states that "overuse of warning signs breeds disrespect and should be avoided. No accident-based studies have been able to determine the effectiveness of warning signs. However, this is understandable because of the complex nature of events leading into each accident."

Page 41 of the same document addresses the CAP sign by stating that "such signs also provide no guidance to motorists in terms of a safe speed, and the sign has no legal basis for determining what a motorist should do. Furthermore, motorists should expect children to be "at play" in all residential areas, and the lack of signs on some street may indicate otherwise. The signs are unenforceable and the act as another roadside obstacle to pedestrians and errant motorists. Use of these non-standard signs may also imply that the involved jurisdiction

approves of streets as playgrounds, which may result in the jurisdiction being vulnerable to tort liability.”

STATE AND LOCAL RESEARCH AND PRACTICES

WISCONSIN

Wisconsin Department of Transportation (WisDOT)

Chapter 2, Section 3, Subject 60 of the Traffic Guidelines Manual (TGM) provides a policy on CHILDREN AT PLAY signs. General and background support information is provided. The State’s policy is *not* to allow new CHILDREN AT PLAY signs to be installed on any State Highway. Existing CHILDREN AT PLAY signs on State Highways may be allowed to remain until the end of their useful life. Other opportunities such as knockdown damage, improvement projects or change in conditions may make it possible to have the signs removed earlier.

The Wisconsin Institute of Transportation Engineers (ITE) Traffic Engineering Council

During a meeting on October 11, 2012, a brief discussion took place regarding SLOW CHILDREN AT PLAY warning signs. The following comments were recorded in the minutes:

Commenter #1: Many installations are in areas where the same drivers are in the area. The signs become ineffective since motorists become numb to their existence.

Commenter #2: The City of Milwaukee was advised by its city attorney to remove, as there may be an implied protection that playing in the street is safe.

Commenter #3: There was a case where someone requested an “Autistic Child” warning sign. The concern was that someone would find out there is a child in the area that could be more easily taken advantage.

City of Appleton

The City’s DPW have uniformly denied these requests for these signs. However, they did not have a formally adopted policy. On September 11, 2012, their Municipal Services Committee directed the office of the City Traffic Engineer to investigate the possibility of installing Blind Child signs near a specific requestor’s residence. The recommendation from the Traffic Engineer’s report was to deny the request and to establish a formal policy which disallows this type of non-standard warning signs, including Deaf Child Area, Blind Child Area, Autistic Child Area, ADD Child Area, Handicapped Child Area, and similar. The Municipal Services Committee motioned to approve of this recommendation to their council, who ultimately approved it in October 2012.

City of Brookfield

The City’s DPW has not received any requests for AUTISTIC CHILD AREA warning signs in the past 5 years. They have allowed DEAF CHILD AREA non-standard warning signs to be installed. As a follow-up procedure addressing the continued need and potential removal of the sign, contact is made by their Street Department after a period of time since installation to verify

that the resident needs the signs to remain. Signs are furnished, installed, maintained, and paid for by the City. Signs are placed near the requestor's property line.

City of Eau Claire

The City's DPW has not received any requests for AUTISTIC CHILD AREA warning signs. However, they receive about 1 request per 2 years for BLIND PERSON AREA and DEAF PERSON AREA signs, and have installed 2 to 3 of them throughout their city, but they discourage their installation since they are non-standard signs. They consider these signs in the same category as SLOW CHILDREN AT PLAY signs. Motorists lack an understanding of what to do when they encounter these signs. The signs provide a false sense of security to the requestor. They become invalid when requestors move, and they lack effectiveness because most motorists drive past the sign and never encounter a blind person to reinforce the warning. They have had advocates for those with disabilities say that they don't want this type of signage. They have installed DEAF PERSON AREA signs only to have the original requester ask that they be removed because it didn't change any driver behavior and in fact gave public attention to their property that they didn't want - including possible personal property and individual safety concerns about the vulnerability of the occupants of the property. They do not have a policy that addresses follow-up procedures for sign removal, but have had requests from requestors or neighbors stating the signs can be removed because the person with the condition no longer lives at the location. If installed, the City furnishes, installs, and maintains the signs that are typically placed 100 to 200 ft on each approach to the property.

City of Fitchburg

The City's DPW has not received any requests for AUTISTIC CHILD AREA warning signs and has received 1 request for BLIND PERSON AREA signs in the past 8 years. They denied the request for BLIND PERSON AREA non-standard warning signs due to lack of motorist understanding what to do when they see these signs, that the signs provide a false sense of security to the requestor, signs become invalid when requestors move, that the signs lack effectiveness because most motorists drive past the sign and never encounter a blind person to reinforce the warning. Since they do not have any non-standard warning signs, they do not have a policy that addresses follow-up procedures for sign removal, costs to furnish, install, and maintain, and on placement/location of the signs.

Village of Hartland

The Village's DPW has not received any requests for non-standard warning signs and accordingly have no policy established regarding sign removal, costs to install and maintain, and placement location. Note that the respondent was the former Traffic Engineer for the City of Reno, NV, and stated that while working for that City, had 1 request and ultimate installation of a pair of DEAF CHILD AREA signs installed about 200 ft in advance of the requestor's residence as to hide their identity. The City provided all costs to install and maintain the signs but required the requestor to notify the City when they moved.

City of Janesville

The City's DPW has not received any requests for AUTISTIC CHILD AREA warning signs, about 2 to 3 BLIND CHILD AREA or DEAF PERSON AREA sign requests, about 10 CHILDREN AT PLAY sign requests, and 1 DUCK CROSSING AREA sign request over the past 5 years, and has not installed

any non-standard warning signs. The City does not allow the CHILDREN AT PLAY sign to be installed, and discourages the installation of all other non-standard warning signs while providing information to requestors why they discourage their use. They have no non-standard warning signs installed anywhere in their city and accordingly have no policy established regarding sign removal, costs to install and maintain, and placement location.

City of La Crosse

The City's DPW has not received any requests for AUTISTIC CHILD AREA warning signs, and receives about 2 BLIND CHILD AREA or DEAF PERSON AREA sign requests per year. They have no non-standard warning signs installed anywhere in their city and accordingly have no policy established regarding sign removal, costs to install and maintain, and placement location. They stated that even though the MUTCD does provide latitude for worded warning signs, these are not officially recognized signs. Their installation would be a slippery slope; once one is installed, there are no grounds for denying another, unless some policy is developed and adopted for equal and consistent application.

City of Madison

The City's DPW allows installation of non-standard warning signs with qualifications. A letter of verification from a doctor is required to be on file. The signs will be removed during a road reconstruction project if the City learns that the disabled person is high school age or greater, or has moved (sign requestors must contact City if these conditions are met). Sign locations are determined on a case-by-case basis. Staff has not received any requests in 2012 for such signs. Staff stated they are concerned the signs provide a false sense of security, and that their city officials have made emotional decisions to install them.

City of Milwaukee

The City's DPW has not installed any non-standard warning signs. Since they do not have any non-standard warning signs, they do not have a policy that addresses follow-up procedures for sign removal, costs to furnish, install, and maintain, and on placement/location of the signs. They do not support installing such signs, and would recommend against all requests of signs of this type.

City of Racine

The City's DPW only allows BLIND CHILD AREA and DEAF CHILD AREA signs under a written policy with multiple conditional requirements. Consideration of these signs are subject to 1) The maximum age of the child shall be 13 years, 2) A signed certificate from a qualified doctor shall be provided indicating that the child is visually impaired or hearing impaired. 3) A maximum of (2) signs shall be approved per applicant and shall be within a reasonable distance, as determined by the Traffic Engineer, from the primary residence of the child, 4) The exact location of the signs shall be as determined by the Traffic Engineer, 5) The installation of the signs shall be performed by authorized City Personnel at the expense of the applicant, and 6) The installation cost shall be determined by the Traffic Engineer and paid by the applicant upon approval by the Traffic Engineer. The applicant shall be responsible for the initial signing material and labor costs, which fee shall cover all maintenance costs of the signs. In the event that the child no longer meets the requirements as outlined above, the signs shall be removed by the City Department of Transportation and become the property of the City.

The City of Racine has never considered a sign for autistic children.

City of Waukesha

The City's DPW has not received any requests for AUTISTIC CHILD AREA warning signs in the past 5 years. They allow only DEAF CHILD AREA non-standard warning signs. As a follow-up procedure addressing the continued need and potential removal of the sign, a phone call is made after a period of time since installation to verify that the resident needs the signs to remain. Signs are furnished, installed, maintained, and paid for by the City. Signs are placed based on typical warning sign installation locations.

ILLINOIS

Illinois Department of Transportation

Circular Letter 2011-08 dated June 22, 2011, by Darrell W. Lewis, P.E., Acting Engineer of Local Roads and Streets, addressed all State county engineers, superintendents of highways, municipal engineers, directors of public works, mayors, and consulting engineers, providing a policy on non-standard warning signs. In summary, the policy states that "children warning signs should not be used since they may encourage children to play in the street and may encourage parents to be less vigilant." The policy continues by stating that "other word message warning signs dealing with children such as AUTISTIC CHILD, BLIND CHILD, DEAF CHILD, or CHILDREN AT PLAY are not recommended". Other signs should be considered as an alternative to the word message signs if engineering judgment warrants a warning sign and the location being considered for the sign complies with MUTCD requirements such as the BICYCLE (W11-1), PEDESTRIAN (W11-2), HANDICAPPED (W11-9), BIKE/PED (W11-15), and PLAYGROUND (W15-1) warning symbol signs.

OTHER STATES

For the sake of not being repetitive, many other states' policies regarding non-standard warning signs were found, and the recommendations were nearly identical to the State of Illinois.

SUMMARY

The overall conclusion found after reviewing the multiple credible sources and agency policies is that there is no proof or evidence that non-standard warning signs change motorist behavior, reduce driver speeds, or lower crash rates.

Furthermore, conclusions that such signs:

1. Do not provide clear and enforceable guidance to motorists,
2. Provide a false sense of security to parents and children that may increase risk,
3. Expose the government to liability,
4. Give the false impression that areas without such signs do not have children,
5. Represent an unnecessary cost that then propagates as additional signs are requested,

6. Violate Chapter 2 of the MUTCD that sign installation should be based on engineering, not political, decision making.
7. Place the City in a vulnerable position of determining which disability groups would be eligible for such signs.

RECOMMENDATIONS

For the many reasons described in this memorandum, but placing emphasis on that there is no proof or evidence that non-standard warning signs change motorist behavior, reduce driver speeds, or lower crash rates, and with close consideration to align with this State's and other local municipalities' policies, the Department of Public Works recommends that:

1. No new non-standard warning signs are to be installed on any City of Green Bay street.
2. Any existing non-standard warning signs on City of Green Bay streets may be allowed to remain in place until the end of their useful life, or that their need no longer exists, i.e., the person with the disability from the residence moves or dies. End of useful life includes but is not limited to sign knockdown damage, substandard sign retroreflectivity, removal due to conflicts with improvement projects, or change in conditions that make it possible to have the signs removed earlier.
3. The Legal Department reviews this memorandum and its recommendations, and provides a legal opinion on the ramifications of installing and maintaining non-standard warning signs in the City of Green Bay.