

# Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County  City  Town  Village  
(Select one.)

of Town of Hornellsville

FILED  
STATE RECORDS

NOV 22 2013

DEPARTMENT OF STATE

Local Law No. 3 of the year 2013

A local law providing for the preservation of Town roads in the Town of Hornellsville.  
(Insert Title)

Be it enacted by the Hornellsville Town Board of the  
(Name of Legislative Body)

County  City  Town  Village  
(Select one.)

of Hornellsville as follows:

## SECTION I: PURPOSE

The purpose of this law is to maintain the safety and general welfare of Town residents by regulating commercial activities that have the potential to adversely affect road right-of-ways. Well maintained roads are important to the economic well being of the Town. Commercial endeavors, such as timber harvesting, wind farms, mining, and natural gas drilling, are also economically beneficial. This law is not intended to regulate such business; the intent is to protect the public right-of-ways from damage. The Town Board of the Town of Hornellsville hereby enacts the following Road Preservation Local Law pursuant to the provisions of the Municipal Home Rule Law.

## SECTION II: APPLICABILITY

The Hornellsville Town Board delegates to the Hornellsville Highway Superintendent the oversight of assuring commercial activities do not have an adverse impact on public right-of-ways.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

### SECTION III: DEFINITIONS

1. *High Frequency, High Impact Truck Traffic:* Traffic to and from a single project site that generates more than ten truck trips per day for more than four consecutive days, involving trucks that exceed 20 tons (truck and load combined) that could impact Town road right-of-ways. Any seismic testing by vibrasise trucks (a/k/a “thumper trucks”) is considered high frequency, high impact truck traffic.
2. *Bond:* A commercial bond to ensure that the condition of the town roads impacted by high frequency, high impact truck traffic is left in as good or better condition at the completion of the project as they were at the start of the project.
3. *Road Preservation Local Law Worksheet (Attachment A):* Worksheet is to be completed by hauling contractor or project sponsor, summarizing the project, project location, start and completion dates, expected max gross vehicle weight used for the project, proposed truck routes, and any other items that the Town Highway Superintendent deems necessary.
4. *Preliminary Bond Release:* A bond release given by the Town Highway Superintendent based on satisfactory road conditions at project completion.
5. *Final Bond Release:* Final release of the Bond by the Hornellsville Town Board.

### SECTION IV: GENERAL PROVISIONS

1. Prior to the start of any project that involves high frequency, high impact truck traffic that could have an impact on Town right-of-ways, a permit must be obtained. A bond amount shall be determined by the Town Board and will be listed on the fee schedule on file with the Hornellsville Town Clerk. The amount of the bond may be changed by the Town Board by Resolution. A completed *Road Preservation Local Law (RPLL) Worksheet (Attachment A)*, available from the Town Clerk of Town Highway Superintendent, must be submitted to the Highway Superintendent.
2. The Highway Superintendent will decide if the scope of work is such that a Bond is required. If no Bond is needed, the RPLL worksheet is approved by the Superintendent and becomes the Work Permit.
3. If the Highway Superintendent determines that a Bond is required, the bond must be paid to the Town of Hornellsville and remitted to the Town Supervisor. The Worksheet will then be approved by the Highway Superintendent and becomes the Work Permit.
4. Upon issuance of the Work Permit and prior to commencement of the work, the permit applicant, through the Hornellsville Highway Superintendent will arrange for satisfactory core samples and video documentation of condition of the roads, shoulders, and all structures (culverts, bridges, etc.) that will be traversed by the permitted traffic. The core samples and documentation will be conducted by an independent third party and will be submitted to the Town Highway Supervisor prior to commencement of the work. All costs of core samples and video documentation shall be paid in full by hauling contractor and/or project sponsor promptly

and before Preliminary Bond Release. Video documentation and core samples will also occur at the conclusion of the permitted work. All core sample data and video documentation will be submitted to the Town Highway Superintendent within one week of recording. In the event the Town Highway Superintendent does not receive the required core sample data or video documentation for any reason, the Work Permit may be suspended or revoked.

5. Upon completion of the project, the hauling contractor or project sponsor will apply to the Highway Superintendent for a Preliminary Bond Release. Upon inspection of the work site, as necessary, the Highway Superintendent may approve the release of the Bond. If the release is not approved, the Superintendent will specifically document the tasks that must be accomplished in order for the Bond to be released. In this case, the hauling contractor or project sponsor will remedy the specified problem(s) items and then reapply for a Bond Release. Bond release must also be approved by the Town Board prior to any Bond(s) being released.

6. If the hauling contractor or project sponsor does not comply and operates outside the parameters as specified on the worksheet, the Town Highway Superintendent has the authority to stop the project until the hauling contractor and/or project sponsor is in compliance.

7. The hauling contractor or project sponsor will be responsible for the repair of any damages that occur to the Town of Hornellsville road right-of-ways when a project proceeds without a proper permit.

#### SECTION V: SEISMIC TESTING SPECIAL CONDITIONS

The hauling contractor or project sponsor shall supply proof of insurance co-naming the Town of Hornellsville with a minimum of \$4 million liability insurance coverage. The Town shall be notified 30 days prior by the insurance company of termination of such coverage.

#### SECTION VI: OTHER SPECIAL CONDITIONS

1. In no event shall vehicles or equipment be parked or located outside the roadway boundaries nor block access by neighboring landowners.

2. Traffic will be maintained in accordance with the Uniform Traffic Control Manual.

3. The hauling contractor or project sponsor shall be responsible for any and all repairs of damages caused by their operation to any Town property.

4. This law applies to the entire duration of any project that induces high frequency high impact traffic, as defined above, for any single five day interval of the project duration.

5. If any of these conditions are not met, the permit is automatically voided and all work shall cease.

6. In the event the Town Highway Superintendent reasonably believes stabilization of any part or all of Town road subject to High Frequency, High Impact Truck Traffic prior to use of the road(s) then the Highway Superintendent shall comply with all pre-stabilization requirements as set forth in the permit.

7. The Town Highway Superintendent may require reasonable conditions to be met in the permit to insure safety of the public and preservation of the Town roads.

#### SECTION VII: DUTIES OF THE HIGHWAY SUPERINTENDENT

The Town Superintendent is designated as the enforcement officer of all of the requirements of this local law with all powers of enforcement of this local law including but not limited to filing charges for violations with courts having jurisdiction thereof.

The Town Highway Superintendent is hereby granted the power to order the cessation of commercial operations within the Town of Hornellsville when weather conditions are such that the utilization of Town roads for the purposes of such operations may result in damages to said roads or the creation of a hazard to residents utilizing said Town roads.

The Town Highway Superintendent is further empowered to impose reasonable restrictions as hereinafter set forth when operations may result in the creation of a hazardous condition to residents or damage to town roads, regardless of weather conditions. The Highway Superintendent may require the following of the commercial operator:

1. The erection of signs indicating "truck entrance."
2. The installation of temporary culverts at the entrance to an operation, which abuts a Town road.
3. Off-street parking for all vehicles utilizing the commercial operation.

The Highway Superintendent may impose that effectuate the provisions of this section, including but not limited to the following:

1. The loading and storing of commercial equipment, materials and goods traveled way of any highway.
2. Equipment, materials or goods shall not be skidded across any highway nor shall skidders cross the highway as part of the commercial operation at any time.
3. All debris resulting from the commercial operation along the highway and at the loading area within 50 feet of the highway shall be cleaned and removed by the applicant.

#### SECTION VIII: FEES

1. A non-refundable fee as depicted in the Town of Hornellsville Fee Schedule, payable to the Town of Hornellsville must accompany each permit application submitted to the Town Highway Superintendent.
2. A non-refundable processing fee as depicted in the Town of Hornellsville Fee Schedule, payable to the Town of Hornellsville, must accompany each Worksheet submitted to the Highway Superintendent.

3. The Fee Schedule may be amended from time to time by resolution of the Hornellsville Town Board and shall be on file with the Town Clerk.

#### SECTION IX: APPEALS

8. Contractor has the right to appeal to Hornellsville Town Board.

#### SECTION X: REQUEST FOR VARIANCE

Request for a variance from the standards set forth in this Local Law shall be made to the Hornellsville Town Board in writing and shall contain the grounds on which the appellant relies for requesting the variance, including allegations on any facts on which the appellant will reply. Where the Hornellsville Town Board finds that due to special circumstances of the particular case a waiver of certain requirements as stated in Section IV is justified, then a variance may be granted. No variance shall be granted, however, unless the Town Board finds and records in its minutes that: (a) granting the variance would be keeping the intent and spirit of this Local Law and is in the best interests of the community, (b) there are special circumstances involved in the particular case: (c) denying the variance would result in undue hardship to the applicant, provided that such hardship has not been self-imposed: (d) the variance is the minimum necessary to accomplish the purpose.

#### SECTION XI: INVALID SEGMENT

Should any section or provision of this Local Law contained herein or as amended hereafter be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Local Law as a Whole or any part thereof other than the part declared to be invalid.

#### SECTION XII: PENALTIES

Any person who shall violate any of the provisions of this local law or any order promulgated hereunder shall, upon conviction, be punished by a fine not to exceed One Thousand Dollars (\$1,000.00) for each violation, and each day that such violation shall continue shall be deemed a separate and distinct offense.

#### SECTION XIII: EFFECTIVE DATE

This Local Law shall take effect upon filing with the State of New York.

ATTACHMENT A  
ROAD PRESERVATION LAW WORKSHEET

1. Hauler/Project Sponsor: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_
  
2. Work Description (logging, gravel mining, wind farm, natural gas drilling, etc.):  
\_\_\_\_\_  
Work Location: \_\_\_\_\_  
Proposed Truck Routes (include miles to be traveled on each road):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
3. Landowner: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_
  
4. Start Date: \_\_\_\_\_  
Completion Date: \_\_\_\_\_  
Expect maximum gross vehicle weight: \_\_\_\_\_  
Maximum truck trips per day: \_\_\_\_\_
  
5. Bond Amount: \_\_\_\_\_ Date Paid: \_\_\_\_\_  
Approval Date: \_\_\_\_\_  
  
\_\_\_\_\_, Highway Superintendent
  
6. Highway Superintendent Bond Release Application Date: \_\_\_\_\_
  
7. Deficiencies to be repaired: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
8. Town Board Bond Release Application Date: \_\_\_\_\_
  
9. Final Bond Release: \_\_\_\_\_ Date: \_\_\_\_\_  
  
\_\_\_\_\_, Town Supervisor
  
10. Proof of Adequate Motor Vehicle and Liability Insurance  
Insurance Company: \_\_\_\_\_  
Policy No. \_\_\_\_\_  
Amount of Insurance: \_\_\_\_\_  
(Attach copy of Insurance Certificate)

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No. 3 of 2013 of the ~~(County)(City)(Town)(Village)~~ of Hornellsville was duly passed by the Hornellsville on 7/22/13, 2013, in accordance with the applicable provisions of law.  
*(Name of Legislative Body)*

**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted *(Elective Chief Executive Officer\*)* on \_\_\_\_\_ 2013, in accordance with the applicable provisions of law.

**3. (Final adoption by referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. *(Elective Chief Executive Officer\*)*

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law. *(Elective Chief Executive Officer\*)*

\* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on Nov 12, 2013, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 20\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.

*Sheryl Isaman*  
Clerk of the county legislative body, ~~City~~, Town or ~~Village~~ Clerk or officer designated by local legislative body Sheryl Isaman

Date: November 12, 2013

(Seal)