

## **WIDTH OF RIGHT-OF-WAY FOR TOWN OF HORNELLSVILLE HIGHWAYS IN STEUBEN COUNTY**

For the edification of the public, it is appropriate to explain the width of rights-of-way along County Roads and Town Highways.

We are frequently asked, "How wide is the highway right-of-way in front of my house?"

The answer is "a minimum of 50 feet (3 rods)" unless otherwise recorded in Town or County records. Sometimes more than 50 feet is acquired and recorded.

In 1826, the State Legislature enacted Chapter 198, Laws of 1826 requiring Commissioners of Highways to lay out public roads not less than 3 rods in width. During the past 148 years, there has been no change in this statutory minimum width.

The first law regarding highways adopted by the Legislature of the State of New York was Chapter 186, Laws of 1801 which provided --- "That all public roads to be laid out by the Commissioners of Highway shall not be less than 4 rods in width ...." "As a result, if your road was laid out between 1801 and 1826, it has a 4 rod (66 feet) right-of-way, or if it was laid out between 1703 and 1801, the Colonial Legislature 9Law of 17030 required "a breadth of six rods at the least...."

Many of our roads have a row of trees on one or both sides. These tree lines sometimes confuse the issue. They are often misconstrued as right-of-way boundaries, which they are not unless they are at least 25 feet from the center of the road.

In 1802, 1830, 1860, 1869 and 1883, laws were passed authorizing the planting of trees within highway right-of-way. Adjacent landowners were paid 25 cents per tree for planting them. Section 2, Chapter 371, Law of 1883 specified that trees should not be set nearer the travelled portion than eight feet from the outside of any highway three rods wide....

Therefore, tree lines are often found two rods apart, which legal, but the right-of-way width is still three rods (25 feet each side of the center line) and fence lines should be along the 25 foot line (R.O.W. Line), but not the tree line.

Furthermore, any encroachment within the three rod right-of-way is a violation of law for which the adjacent owner is responsible. This violation includes buildings, dumping, vehicles or equipment, discharge of drains from sinks, septic tanks or barnyards and obstruction of highway drainage.

**RESOLUTION RELATING TO THE LAYING OUT AND CONSTRUCTION OF HIGHWAYS  
PRIOR TO THEIR DEDICATION TO THE TOWN OF HORNELLSVILLE AS PUBLIC HIGHWAYS**

The Town Board, pursuant to the authority conferred by law, resolves as follows:

SECTION 1: The purpose of this resolution is to regulate the laying out and construction of highways prior to their dedication to the Town of Hornellsville as public highways.

SECTION 2: (a) Wherever used in this resolution, the term "highway" shall be construed to include any type road or thoroughfare constructed or planned to be constructed for dedication to the Town of Hornellsville as a public highway pursuant to law.

(b) Wherever used in this resolution, words in the singular number include the plural and words in the plural number include the singular.

(c) The word "shall" is mandatory and not directory. Words in the present tense include the future.

(d) All applications for approval of plans shall be made as heretofore specified in this regulation.

(e) All applications shall be accompanied by three copies of the highway plans and profiles of each highway showing existing and proposed grades as well as all the necessary detail required by the provisions of this regulation.

(f) All applications for the dedication of a highway to the Town of Hornellsville shall be accompanied by a proposed warranty deed conveying said highway to the town, with all necessary releases from mortgages or other claimants. Such deed shall describe the road to be conveyed as shown on map and shall state the date on which said map was filed in the Steuben County Clerk's office and the number thereof. Maps are to be of size acceptable to the Steuben County Clerk.

SECTION 3: (a) The owner or all the owners shall have had the land comprising the highway surveyed, mapped, and a map thereof shall have been filed in the Steuben County Clerk's office, and adequate metal or stone boundary markers shall be inserted in a permanent manner at intervals of not less than 500 feet on tangents and P.C. and P.T. of curves along the boundary lines of such highways. Boundary lines at road intersections shall have a minimum radius of 25 feet.

(b) If sewer, water, gas or other utility service is to be installed in such highway, they shall be installed prior to the final surfacing of such highway, and all laterals and other service connection shall be installed and brought to the outer street line prior to such final surfacing.

SECTION 4: The minimum right-of-way width hereinafter laid out shall be fifty (50) feet. These widths shall be measured from lot line to lot line. Said widths shall be measured normal to the lot lines on tangents and on radical lines with curves. Approved turn-a-a rounds are to be used on dead end streets and roads. Recommended radius of turn-a-rounds shall be 50 feet minimum.

SECTION 5: There shall be no reserve strips controlling access to highways except where control of such strips is definitely placed in the Town under the offer to dedicate.

SECTION 6: Highway grades shall not exceed eight percent (8%) nor be less than one percent (1%) at the ditch. Changes may be made with the approval of the Town Superintendent.

SECTION 7: The highway shall be shaped and crowned so as to slope laterally in order to drain surface water off the roadway onto sides of the highway where shallow ditches or gutters shall be built to carry off said water. Recommended crown one quarter inch ( $\frac{1}{4}$ ) per foot. If the grade or pitch of the road is sharp, so that flow of surface water might wash out said ditches or gutters, same shall be lined with stone and found with hard topping to prevent such washing out. These ditches or gutters shall be connected at all intersections by piping of a size and length prescribed by the Superintendent of Highways of the Town of Hornellsville, and he may require the installation of catch basins or dry wells at such locations as he deems necessary to properly catch and carry off such surface water as he may estimate will accumulate along the highway or at said highway intersections. Headwalls may be required by the Town Superintendent. Bridges over (5) foot span to be approved by the County Superintendent.

Proper drainage shall be installed where required. Drainage pipe is to conform to the standard usage adopted by the Town Superintendent of Highways. A profile map, in duplicate, shall be filed with the Town Board, showing the grade and fall of surface water to be not less than one percent (1%), and also showing the final disposition of flow, which must be to a live stream or well established natural drainage ditch. If the grade and fall of surface water is shown to be less than the above prescribed, the Superintendent of Highways of the Town of Hornellsville shall require the installation of a surface water drainage system consisting of piping and catch basins or dry wells of such size as he deems necessary under the circumstances. In case where access to a live stream or well established natural drainage ditch is required, easements or rights-of-way leading thereto shall be secured and conveyed to the Town of Hornellsville as below set forth.

The developer or owner laying out said street or highway shall obtain all necessary easements of rights-of-way to take care of any surface water caused by reason of the development of said street or highway, and by reason of the installation of culverts or surface drains. No street or highway will be taken over by the Town of Hornellsville, nor approved by the Town Superintendent of Highways before such necessary easements or rights-of-way have been obtained and the legal sufficiency thereof shall be passed upon by the attorney for the Town of Hornellsville. Such easements or rights-of-way shall be at least twenty (2) feet in width.

SECTION 8: Prior to being offered for dedication to the Town, all roads shall be graded and surfaced as follows: All highways or roads offered for dedication shall be suitable and properly graded and shall meet with the approval of the Town Superintendent of Highways. Fill shall be added, using suitable run-of-bank gravel or material acceptable to the Town Superintendent, properly crowned and compacted, to be approved by the Town Superintendent of Highways. All boulders, organic material, soft clay, spongy material, and any other objectionable material shall be removed and replaced with suitable material. The subgrade shall be properly shaped, rolled with a 10 ton roller and uniformly compacted to conform with accepted cross section and grades.

There shall be a gravel base of at least twenty-six (26) feet in width, located in the center of the proposed highway, allowing for eighteen (18) feet of roadway and four (4) feet of supporting shoulders on each side, and said gravel base shall be run-of-bank gravel of the quality described below and compacted to twelve (12) inches. The top three (3) inches shall be crushed run-of-bank gravel, maximum size to be determined by the Town Highway Superintendent.

Run-of-bank gravel shall consist of hard durable particles of gravel and filler of sand or other finely divided mineral matter. The gravel shall be free from organic matter and lumps or balls of clay. Shale or crumbly rock will not be accepted.

SECTION 9: When a road has been accepted by the Town under conditions outlined in Section 277 of the Town Law pending final surfacing and approval, the responsibility and liability for maintenance of the drainage system and roadway shall rest with the owner and/or developers. The Town shall have the responsibility and liability for snow removal and ice control.

SECTION 10: The Steuben County Superintendent of Highways shall make the final decision on sizes and quantities of materials, methods of construction and other details outlined in Sections 6, 7, and 8, if the Town Superintendent and the owners and/or developers are unable to agree.

SECTION 11: The use of proper names for road names is discouraged. The Town Board of the Town of Hornellsville must by law approve road names and may change any chosen by the developer or owner to avoid duplication, or for any other reason of its own.

Road signs three (3) inches wide and eighteen (18) inches long at the top of iron poles three (3) inches in diameter shall be erected by the owner or developer, in the first instance, later to be maintained by the Town of Hornellsville.

SECTION 12: No street or highway shall be taken over by the Town unless it meets all of the above requirements and approval of the Town Superintendent of Highways. No special district improvements shall be placed or installed in any street or highway of the Town until such street or highway has been properly graded and drained as provided in this resolution and approved by the Town Superintendent of Highways.

SECTION 13: Approval in writing shall be obtained by the owners and/or developers from the New York State Department of Transportation regarding drainage where proposed streets or highways intersect state roads and its permission to connect said streets with such roads.

Approval in writing shall be obtained by the owners and/or developers from the Steuben County Superintendent of Highways regarding drainage where proposed streets or highways intersect county roads and his permission to connect said streets with such roads.

SECTION 14: All previous regulations or resolutions affecting the acceptance of roads by the Town are hereby rescinded.

SECTION 15: The Town Board may, in the exercise of its best judgment, refuse to accept title to any street, roadway, or highway in said Town, notwithstanding that all the foregoing rules and regulations have been performed and complied with.

SECTION 16: Any amendments to the foregoing must be made with the approval of the Town Board and the Town Highway Superintendent.