

**LOCAL ROAD USE AND PRESERVATION LAW
LOCAL LAW NO. 2 OF THE YEAR 2012**

BE IT ENACTED by the Town Board of the Town of Callicoon, County of Sullivan, State of New York, as follows:

Section 1: Legislative Findings and Purpose.

The purpose of this local law is to maintain the safety, health, and general welfare of Town residents by regulating high-impact activities that have the potential to adversely affect roads and public and non-public property. Well-maintained roads are important to the economic well being of the Town, and while certain high-impact construction and maintenance operations, and high-impact commercial endeavors, can be economically beneficial, it is known that heavier trucks and equipment, and heavy loads carried by such vehicles, deteriorate the pavement structure at an accelerated rate. Such principles are embodied in documents published by the American Association of State Highways and Transportation Officials (“AASHTO”), which are widely accepted and used throughout the United States. As such, it is the intent of this law to protect Town roads from excess damages caused by frequent passes of heavy trucks.

Accordingly, the Town Board has determined that certain high-intensity traffic associated with large construction projects can damage and significantly reduce the life of Town highways, which must then be repaired at the expense of the Town’s taxpayers. The Town Board has further determined that such damage can be reliably measured using recognized engineering standards published by ASHTO and others. In addition, the Town Board has determined that the strength and capacity of Town highways may in some cases be inadequate to meet the demands of traffic for large construction and high-impact projects and that upgrades to Town highways may be necessary to accommodate such traffic. The Town Board finds that it is in the best interest of the citizens and taxpayers of the Town to have the developers of such large construction and high-impact projects bear responsibility for making any necessary upgrades to Town highways and repairing any damage caused to Town highways at the expense of such developers. The purpose of this local law is to establish a mechanism by which the developers of large construction and high-impact projects that will generate traffic likely to require upgrades or cause damage to Town highways shall ensure that such upgrades are made and such damage is repaired at the developer’s own expense.

Section 2: Authority.

This local law is enacted pursuant to the New York State Constitution, Art. 9, § 2(c)(6); New York Vehicle & Traffic Law § 1660; New York Municipal Home Rule Law § 10; New York Statute of Local Governments § 10; New York Highway Law §§ 320 & 326; and New York Town Law § 130.

Section 3: Definitions.

As used in this local law, the following terms shall have the meaning set forth herein:

Baseline Traffic means recurring ambient traffic presented on an annualized basis. It includes typical daily activities on Town Highways (hereinafter defined) such as passenger vehicles, school buses, delivery vehicles, garbage trucks, and normal commuter and business traffic. Baseline Traffic is the cause of normal wear and tear for which a Town Highway is constructed. Baseline Traffic does not include unusual heavy traffic occurring on a temporary basis for such things as Construction Activity (hereinafter defined).

Concentrated Traffic means traffic intended to travel upon or traveling upon Town Highways to or from the site of Construction Activity which (i) is not Baseline Traffic, and (ii) which will exceed the predetermined normal wear and tear thresholds of one or more Town Highways or segments of Town Highways.

Construction Activity means any activity occurring or to occur in or outside of the Town that results in land disturbance or the improvement of a parcel. Evidence of Construction Activity includes, without limitation, those activities which are also being undertaken subject to:

Federal permits and approvals including, without limitation, approvals subject to the National Environmental Policy Act and activities subject to the following Nationwide Permits as amended and issued by the U.S. Army Corps of Engineers: Permit 8 (Oil and Gas Structures), Permit 12 (Utility Line Activities), Permit 13 (Bank Stabilization), Permit 16 (Return Water from Upland Contained Disposal Areas), Permit 17 (Hydropower Projects), Permit 21 (Surface Coal Mining Operations), Permit 29 (Residential Developments), Permit 33 (Temporary Construction, Access, and Dewatering), Permit 38 (Cleanup of Hazardous and Toxic Waste), Permit 39 (Commercial and Institutional Developments), and Permit 44 (Mining Activities); or

State permits and approvals, including, without limitation: Highway Work Permits; Waste Transporter Permits; SPDES General Permit for Stormwater Discharges from Construction Activity and other SPDES discharge permits; Oil, Natural Gas, and Solution Mining Permits and other mining permits; Overweight/Oversize Vehicle Permits; Authority to Transport Property (Except Household Goods); Divisible Load Overweight Permits; Special Hauling Trip and Annual Oversize/Overweight Loads Permits; LCV/Tandem Trailer Permits; and Special Hauling Permits; or

Local permits and approvals, if applicable, including, without limitation: Aquifer Protection Permits, Sludge Disposal Permits, Mining Permits, Gravel Mining Permits, Permits for Well in Aquifer Area, Overweight/Oversize Vehicle Permits, Special Use Permits, zoning changes, and site plan approval.

Person means any person, persons, corporation, partnership, limited liability company, or other entity.

Program Manual means Road Protection Program Manual, Version 2.0 dated February 2012, prepared by Delta Engineers, Architects, & Land Surveyors, P.C., a copy of which is on file and available at the Town's offices located at 19 Legion Street, NY 12748.

Technical Manual means Road Protection Program Technical Manual, Version 2.0 dated February 2012, prepared by Delta Engineers, Architects, & Land Surveyors, P.C., a copy of which is on file and available at the Town's offices located at 19 Legion Street, Jeffersonville, NY 12748.

Town Highway means those roads and highways and related appurtenances of the Town which are owned or maintained by the Town or otherwise exist as Town Highways by dedication or use, including without limitation roadways, shoulders, guide rails, bridges, tunnels, culverts, sluices, ditches, swales, sidewalks, or any utilities or improvements therein, thereon, or thereunder.

Town Highway Superintendent means the Superintendent of Highways or his or her designee.

Section 4: Applicability.

This local law shall apply to any Person who, individually or in concert with another Person, intends to undertake Construction Activity that will result in Concentrated Traffic on Town Highways.

Section 5: Determination of Whether Proposed Use Constitutes Concentrated Traffic.

A. Any Person identified under Section 4 of this local law shall, prior to undertaking such Construction Activity or allowing, directing, or inducing Concentrated Traffic to travel upon Town Highways, submit a haul route application form and project traffic worksheet to the Town Highway Superintendent in accordance with the forms and procedures set forth in the Program Manual.

B. The Town Highway Superintendent shall review such application and worksheet in accordance with the Program Manual and the Technical Manual. Within no more than thirty (30) days after receipt of a complete haul route application and project traffic worksheet, the Town Highway Superintendent shall notify the applicant whether the use of Town Highways will result in Concentrated Traffic.

(1) If the proposed use of Town Highways will not result in Concentrated Traffic, the remaining provisions of this local law shall not be applicable to the applicant.

(2) If the proposed use of Town Highways will result in Concentrated Traffic, the applicant must either (a) modify the intended haul route and certify to the Town that no traffic generated by the applicant's Construction Activity will travel over or upon a Town Highway so that such traffic will not constitute Concentrated Traffic or (b) comply with the provisions of Section 6 of this local law.

Section 6: Requirements for Concentrated Traffic.

If the Town Highway Superintendent determines that traffic generated by an applicant's Construction Activity will result in Concentrated Traffic, the applicant shall be required to

comply with the following provisions:

A. The applicant shall be required to set forth a haul route declaration as set forth in the Program Manual.

B. The Town's engineering consultant shall examine each segment of the proposed haul route in order to:

(1) evaluate the Town Highways on the proposed haul route for design, geometric, or health and safety deficiencies, as those deficiencies are defined more fully by the Program Manual; and

(2) estimate the costs and procedures necessary to upgrade such Town Highways on the proposed haul route if the Town's engineering consultant determines that the Town Highways on the proposed haul route must be upgraded to accommodate the applicant's Concentrated Traffic; and

(3) if available, propose an alternate haul route if required due to design deficiencies or if desired by the applicant to minimize estimated upgrade or repair costs to the haul route.

C. The Town's engineering consultant shall design or approve, in conjunction with the Town Highway Superintendent or the Town engineer, all structural, geometric, and roadbed upgrades to Town Highways necessary to accommodate the applicant's Concentrated Traffic, which upgrades shall be made at the applicant's expense in accordance with the provisions of paragraph H of this Section 6. An applicant that has completed upgrades to Town Highways in accordance with this paragraph C will not be responsible for repairing Town Highways on the applicant's haul route provided that the applicant's actual traffic does not exceed the scope, volume, weight, or trips reported on the applicant's haul route declaration.

D. The Town's engineering consultant shall conduct all pre-use testing and capacity evaluation of each segment of a haul route that is a Town Highway in accordance with the methods set forth in the Program Manual and the Technical Manual.

E. If no upgrades have been required and/or made to the Town Highways on the proposed haul route and the Town's engineering consultant determines that the applicant's Concentrated Traffic is expected to cause damage to Town Highways, the Town's engineering consultant shall provide the Town Highway Superintendent and the applicant with an estimate of the cost to repair such expected damage. Prior to the use of any haul route segment on Town Highways, the applicant shall agree to make all such repairs at the applicant's expense in accordance with the provisions of paragraph H of this Section 6 (including the posting of appropriate security). If any haul route segment is on a Town Highway that is unpaved or prone to seasonal deterioration, or likely to suffer sudden failure that would impair the safe travel and usage of such Town Highway, the Town Highway Superintendent may require, upon the recommendation of the Town's engineering consultant, that such Town Highways be subject to weekly monitoring and that any damage be repaired within five (5) days at the applicant's expense in accordance with the provisions of paragraph H of this Section 6.

F. The Town's engineering consultant shall conduct all post-use testing and damage assessment of each segment of a haul route that is a Town Highway in accordance with the methods set forth in the Program Manual and the Technical Manual. The Town's engineering consultant shall provide an estimate of the cost of repairing any actual damage to Town Highways caused by the applicant's Concentrated Traffic. Upon receiving the estimate, the applicant shall make all such repairs at the applicant's expense in accordance with the provisions of paragraph H of this Section 6. Upon the satisfactory completion of the repairs and the approval of such repairs by the Town Highway Superintendent, any unused security shall be returned to the applicant or otherwise released as herein required.

G. Any security for performance and/or payment required under this local law shall be in an amount set by the Town Board upon the recommendation of the Town's engineering consultant. Any such security shall be provided pursuant to a written security agreement with the Town, approved by the Town Board and also approved by the Town Attorney as to form, sufficiency, and manner of execution. At the Town Board's discretion, the security may be in the form of (i) a performance or payment bond, as applicable, (ii) the deposit of funds with the Town, (iii) an irrevocable letter of credit from a bank authorized to do business in New York State, or (iv) other financial guarantee acceptable to the Town Board. If the Town's right to collect against any security is contested and the Town prevails, then the applicant shall pay the Town an amount sufficient to reimburse the Town for its reasonable costs and expenses in obtaining a judgment, including attorneys' fees.

H. An applicant shall be permitted to undertake upgrade or repair work only if the Town Highway Superintendent determines that the applicant, or a contractor hired by the applicant, has the capability and experience to make the necessary repairs or upgrades. All work shall be performed pursuant to an agreement in writing between the applicant and the Town, which shall require, among other things, the applicant or its contractor to (i) complete the work in a timely fashion, (ii) post security in accordance with the requirements of paragraph G of this Section 6, (iii) indemnify the Town against all liability stemming from the applicant's work, and (iv) provide the Town with satisfactory evidence of insurance as determined by the Town, including liability insurance naming the Town as additional insured. All repairs or upgrades to Town Highways shall be made in accordance with the specifications established by the Town Highway Superintendent and must be approved by the Town Highway Superintendent. In addition, the applicant shall comply with all applicable laws and regulations, including without limitation the prevailing wage requirements of New York Labor Law. The applicant or its contractor shall obtain all governmental permits and approvals and obtain any private land rights that are necessary to make any required repairs or upgrades to Town Highways. If the applicant does not wish to make such repairs or upgrades to Town Highways, or is determined by the Town Highway Superintendent not to have the necessary capability to make such repairs or upgrades, then the applicant shall agree in writing to pay the Town for the cost of such repairs or upgrades to Town Highways and post security in accordance with the requirements of paragraph G of this Section 6.

I. To the extent permitted by law, the applicant shall defend, indemnify, and hold the Town harmless from all losses resulting from injury or death of persons or damage to property arising

from the applicant's upgrades and repairs to Town Highways.

J. If an applicant disagrees with any decision by the Town Board, the Town Highway Superintendent, or the Town's engineering consultant in the administration of this local law, including without limitation the extent or method of a proposed highway upgrade or repair, any cost imposed upon the applicant, or an estimate of the amount of security to be held by the Town, and the applicant and the Town are unable to resolve their dispute through negotiation, the applicant may make a written request to the Town Board appealing such decision and requesting a public hearing at which the applicant shall have the right to appear and be heard. The Town Board shall hold such public hearing not fewer than five (5) days nor more than thirty (30) days after such request. The Town Board may reverse, modify, or affirm, wholly or partly, the decision appealed from and shall make such decision as in its opinion ought to have been made in the matter and, to that end, shall have all the powers of the board, official, or consultant from whose decision the appeal is taken. The Town Board shall issue a determination on the applicant's request within fifteen (15) days of the public hearing. In view of the Town's obligation to provide its residents with safe and properly maintained highways, the Town Board's determination shall be final.

In order to comply with the requirements of this Section 6, an applicant shall have the option of entering into a road use agreement with the Town. A sample form of road use agreement meeting all the requirements set forth herein is attached to and made a part of this local law as Appendix 1. The applicant may ask to modify such form or propose a different form of road use agreement, but any such agreement must be in a form approved by the Town Board and also approved by the Town Attorney as to form, sufficiency, and manner of execution.

Section 7: Deposit of Monies and Payment of Expenses

A. The applicant shall pay the Town for all of the Town's reasonable and necessary expenses in implementing the requirements of this local law, including without limitation the fees of the Town's engineering consultant in conducting all activities required hereunder and under the Program Manual and Technical Manual and all other legal and consultant expenses.

B. Simultaneous with the filing of a haul route declaration, an applicant shall deposit with the Town Supervisor an initial deposit of monies, as determined by a schedule of deposits established from time to time by resolution of the Town Board, which monies shall be used to pay the expenses incurred by the Town in implementing the requirements of this local law. Any schedule of deposits established by the Town Board shall remain in effect and apply to all applicants until amended or revised by subsequent resolution of the Town Board.

C. Upon receipt of any deposit, the Town Supervisor shall cause the monies to be placed in a separate non-interest bearing account in the name of the Town and shall keep a separate record of all such monies so deposited in the name of the applicant for whom such monies were deposited.

D. Upon receipt and approval by the Town Board of itemized invoices from the Town's engineering consultant or other consultant or attorney for services rendered and/or costs incurred on behalf of the Town pertaining to the applicant's activities regulated by this local law, the Town Supervisor shall cause such invoices to be paid out of the monies so deposited and shall debit the separate record of such account accordingly. When submitting invoices to the Town Board, the consultant or attorney shall simultaneously furnish copies of such invoices to the applicant.

E. The Town Board shall review and audit all such invoices and shall approve payment of only such expenses as are reasonable in amount and necessarily incurred by the Town in connection with any of the following activities: the evaluation of haul routes; pre-use testing and capacity evaluation of haul routes; design and approval of all structural, geometric, and roadbed upgrades to Town Highways; post-use testing and damage assessment of haul routes; the preparation and review of cost estimates for upgrades and repairs; the evaluation of repairs and upgrades made to Town Highways and the maintenance and removal of same; the preparation of recommendations for the amount of security to be posted by an applicant; the preparation and negotiation of road use agreements, security agreements, or other agreements between the Town and an applicant; the enforcement of any such agreement; the collection of or enforcement against any security posted by an applicant; and all other activities performed by consultants and attorneys on behalf of the Town in connection with the application of this local law to a particular applicant. For purposes of the foregoing, an expense is reasonable in amount if it bears a reasonable relationship to the average charge by consultants and attorneys to the Town for performing similar services, and in this regard, the Town Board may take into consideration the length of the haul routes to be evaluated, the condition of the Town Highways under consideration, the extent of the upgrades and repairs to be made to Town Highways, the complexity of the issues addressed by the consultant or attorney, the difficulty of negotiations with an applicant, and any special considerations that the Town Board may deem relevant. An expense is necessarily incurred if it was charged by a consultant or attorney in performing services or providing material in order to: promote, protect, and maintain the safety, health, and general welfare of the public; protect, preserve, and maintain Town Highways; protect the legal interest of the Town including the avoidance of claims and liability; and promote, protect, or preserve such other interests as the Town Board may deem relevant.

F. If at any time during the Town's oversight of an applicant's activities regulated by this local law there shall be insufficient monies on deposit with the Town to pay approved invoices, or if it shall reasonably appear to the Town Supervisor that such monies will be insufficient to pay anticipated invoices, then the Town Supervisor shall cause the applicant to submit additional sums as the Supervisor deems necessary or advisable in order to meet such expenses.

G. In the event that an applicant fails to deposit such monies or additional monies as reasonably requested, the Town Supervisor shall notify, as appropriate, the Town Board and/or Town Highway Superintendent of such failure, and any review or approval under this local law may be withheld until such monies are deposited. The failure to deposit such monies within thirty (30) days after receipt of notice by the Town Supervisor shall constitute a violation of this local law enforceable in accordance with Section 13 of this local law.

H. After the cessation of all of applicant's activities regulated by this local law, and after payment of all approved invoices submitted in connection with such activities, any sums remaining on account to the credit of such applicant shall be returned to such applicant together with a statement of the invoices so paid.

Section 8: Updates to the Program Manual and the Technical Manual.

From time to time, updates to the Program Manual and the Technical Manual may be published. The Town Board may from time to time update or replace any manual referenced in this local law by adopting a local law referencing such new or updated manual, and thereafter, the new or updated manual shall be binding on all Persons subject to this local law.

Section 9: Application Fees.

The Town Board may establish a schedule of fees relating to applications, approvals, inspections, and enforcement under this local law.

Section 10: General Terms and Conditions.

A. No approval issued under this local law, nor any rights granted, nor obligations imposed hereunder or pursuant to any road use agreement may be assigned, conveyed, pledged, or transferred without the express prior written consent of the Town Highway Superintendent.

B. Notwithstanding any approval granted under this local law or any rights granted under any road use agreement, all Town Highways shall be kept passable at all times for all motor vehicles, including emergency and public safety vehicles. If any Concentrated Traffic causes damage to any Town Highway such that, in the opinion of the Town Highway Superintendent, such Town Highway is impassable or unsafe for use by the general public, then and in any such event, and regardless of any approval, authorization, or agreement issued or to the contrary, the Town Highway Superintendent may close such Town Highway and/or require that the same be immediately repaired by the applicant or other Person whose use or abuse thereof caused or contributed to the damages or events as gave rise, wholly or partially, to such Town Highway Superintendent's determination as to closure, damage, safety, or need for repair.

C. In granting any approval under this local law or in entering into any road use agreement, the Highway Superintendent or Town Board, as the case may be, may impose conditions relating to seasonal restrictions or the documentation of road conditions or conditions deemed reasonably necessary to promote, protect, and maintain the safety, health, and general welfare of the public.

D. In the event that any applicant makes any upgrades or improvements to any Town Highway, the Town reserves the right to require that such improvements be removed at the conclusion of the relevant Construction Activity and that the Town Highway be restored, the extent feasible, to its original dimensions and specifications. All removal and restoration shall be performed in accordance with paragraph H of Section 6 of this local law.

Section 11: Exceptions.

The Town Board may by resolution except an applicant from the requirements of this local law provided that the Town Board makes a finding that the Town Highways to be used by the applicant will be adequately protected and any damage to Town Highways will be adequately repaired by virtue of the requirements or conditions imposed upon the applicant in connection with any federal, State, or local permit or approval, including without limitation mitigation measures imposed under the National Environmental Policy Act or the State Environmental Quality Review Act.

Section 12: SEQRA Compliance.

A. Before issuing any approval required under this local law or before approving any road use agreement, the Town shall comply with the applicable provisions of the State Environmental Quality Review Act, Article 8 of the New York State Environmental Conservation Law and its implementing regulations set forth in 6 NYCRR Part 617 (collectively referred to as “SEQRA”).

B. When required by the Town, an applicant must complete and submit and an Environmental Assessment Form (“EAF”) to the Town.

C. For purposes of this local law or for any road use agreement, the following actions have been determined not to have a significant impact on the environment and do not require any environmental review under SEQRA as a Type II action:

- (1) Maintenance or repair of an existing Town Highway involving no substantial changes to the Town Highway;
- (2) Replacement, rehabilitation or reconstruction of a Town Highway, in kind, on the same site, unless such action meets or exceeds any of the thresholds for a Type 1 action set forth in 6 NYCRR 617.4;
- (3) Repaving of an existing Town Highway not involving the addition of new travel lanes.
- (4) Openings in the pavement or right-of-way of a Town Highway for the purpose of repair or maintenance of existing utility facilities;
- (5) Installation of traffic control devices on existing Town Highways; and
- (6) Any other actions listed as a Type II actions in SEQRA.

All other actions require compliance with SEQRA.

Section 13: Enforcement and Penalties for Offenses.

A. The Town Highway Superintendent and Town police officers are hereby authorized to issue and serve appearance tickets with respect to any violation of this local law.

B. All provisions of New York law generally applicable to misdemeanors shall apply to any criminal proceeding brought under this local law, and any violation of this local law shall be deemed and classified as an unclassified misdemeanor. Each week that a violation continues uncorrected or is resumed shall constitute a separate additional violation. A conviction of a first violation is punishable by a fine of not more than \$5,000.00 or imprisonment not to exceed three months, or both. A conviction of a second violation occurring within a period of five years is punishable by a fine of not less than \$5,000.00 nor more than \$10,000.00 or imprisonment not to exceed six months, or both. A conviction of a third or subsequent violation occurring within a period of five years is punishable by a fine of not less than \$10,000.00 nor more than \$25,000.00 or imprisonment not to exceed nine months, or both.

C. In lieu of or in addition to any fine or imprisonment, or both, imposed for a conviction of a violation of this local law, each such violation may be subject to a civil penalty not to exceed \$10,000.00 to be recovered in an action or proceeding in a court of competent jurisdiction. Each week that a violation continues uncorrected or is resumed shall constitute a separate additional violation.

D. In addition to the foregoing punishments and penalties, the Town Attorney may, at the request of the Town Board, maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or restrain by injunction any violation of this local law.

E. (1) In addition to any penalties or other remedies provided for or allowed herein, the Town Highway Superintendent shall have the right and authority to issue a stop-work order in order to halt any use of or work on one or more Town Highways that is determined by the Town Highway Superintendent to:

- (a) pose an unreasonable risk to the safety, health, or general welfare of the public, without regard to whether such use of or work on Town Highways has been authorized pursuant to this local law or by a road use agreement; or
- (b) pose a risk of imminent harm to Town Highways, without regard to whether such use of or work on Town Highways has been authorized pursuant to this local law or by a road use agreement; or
- (c) be contrary to any applicable provision of this local law.

(2) All stop-work orders shall be in writing, be dated and signed by the Town Highway Superintendent, state the reason or reasons for issuance, state with specificity the particular use of and/or work on Town Highways that must cease and the particular Town Highways for which the stop-work order is effective, and, where applicable, state the conditions which must be satisfied before the use of or work on such Town Highways shall be permitted to resume.

(3) The Town Highway Superintendent shall cause the stop-work order, or a copy thereof, to be served personally or by certified mail on the following Persons, where applicable:

- (a) the Person who has submitted a haul route declaration to the Town and whose use of or work on Town Highways is the subject of the stop-work order; and

(b) the Person who is a party to a road use agreement with the Town and whose use of or work on Town Highways is the subject of the stop-work order; and

(c) any identifiable contractor, subcontractor, construction superintendent, hauler, or any of their agents, or any other Person taking part or assisting in the use of or work on Town Highways that is the subject of the stop-work order.

(4) Upon the issuance of a stop-work order, all Persons performing, taking part, or assisting in the use of or work on Town Highways that is the subject of the stop-work order shall immediately cease all such use of or work on such Town Highways. The failure to comply with the terms and conditions of a stop-work order issued hereunder shall constitute a violation of this local law.

(5) A stop-work order may be rescinded only by the Town Highway Superintendent upon receipt of evidence that the conditions or actions that led to the issuance of the stop-work order have been abated or adequately addressed.

Notwithstanding the foregoing, the failure to serve any Person mentioned above shall not affect the validity or effectiveness of the stop-work order.

F. The remedies set forth in this Section 13 shall not be the exclusive remedies available to the Town, and the pursuit of any particular remedy shall be in addition to, and not in substitution, or limitation of, the right and authority to pursue any other remedy or other penalty. In addition to the remedies prescribed herein, if any use of Town Highways is made or threatened in violation of the New York Highway Law, the New York Vehicle & Traffic Law, or other local law or ordinance of the Town, the Town Highway Superintendent may, in the name of and on behalf of the Town seek all remedies allowed pursuant to such laws or ordinances.

Section 14: Time to Act.

The time periods prescribed herein in which the Town Board, the Town Highway Superintendent, other Town official, or the Town's engineering consultant shall act are not of the essence and shall not be construed as imposing a limitation on the time to act.

Section 15: Inconsistent Provisions and Repealer.

In the event of any inconsistency between the provisions of this local law and the provisions of the Program Manual and the Technical Manual, the provisions of this local law shall control. All ordinances, local laws, and parts thereof inconsistent with this local law are hereby repealed.

[Note: It is advisable to specifically list any local laws that the Town Board intends to be superseded by this local law.]

Section 16: Severability.

If any part or provision of this local law or the application thereto to any Person or circumstance shall be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the

validity of the remainder of this local law or the application thereof to other Persons or circumstances.

Section 17: Effective Date.

This local law shall take effect upon filing with the New York Secretary of State.

APPENDIX ONE

Road Use Agreement