

Local Law 1-2022

A LOCAL LAW GOVERNING THE PLACEMENT AND LOCATION OF DRIVEWAYS AND OTHER ACCESS ROADS THAT ENTER UPON OR TO HIGHWAYS OWNED OR MAINTAINED BY THE TOWN OF NEW LISBON

Section 1 - Legislative Authority

This local law is enacted pursuant to Section 10 of the New York State Municipal Home Rule Law, including but not limited to Sections 1(ii)a, 1(ii)d, and 4 thereof and is intended to supersede provisions of New York State laws to the extent inconsistent with this local law except to any extent to which the legislature expressly shall have prohibited the adoption of such local law.

Section 2 - Purpose

The purpose of this Local Law is to control and govern the placement and location and/or improvement of private driveways or access roads which enter upon or to highways owned and/or maintained by the Town of New Lisbon so as to make certain that there is adequate "sight distance", "turning radius" and "general visibility" of and from said driveways and access roads as well as of and from town owned and/or maintained highways, so as to provide users of said driveways, access roads and town owned and/or maintained highways with safe, consistent and uniform driving conditions.

For purposes of this Local Law, the term, "improvement", means resurfacing (excluding driveway sealant), rehabilitation and reconstruction, installation or replacement of a culvert or a change the width, grade or location of a driveway and the term, "improve", shall mean the act of making an improvement as defined herein.

Section 3 - Limitation on issuance of permits

No permit or other authorization or approval shall be granted by any board or entity in the Town of New Lisbon whether relative to subdivisions, building construction placement, or for any other purpose which requires the installation or improvement of a driveway or access road which enters upon or to highways owned and/or maintained by the Town of New Lisbon unless the placement and location and/or improvement of said

driveway and/or access road is first reviewed and approved in writing by the Town Superintendent of Highways.

Section 4 - No construction without prior approval

No driveways and/or access roads shall be constructed or improved which enter upon or to any highway owned and/or maintained by the Town of New Lisbon unless the placement and location and/or improvement of said driveway and/or access road (1) is first reviewed and approved in writing by the Town Superintendent of Highways and (2) constructed or improved in accordance with the terms and conditions of said approval and the driveway/access road standards described hereinbelow.

Section 5 - Driveway/access road standards

A. The Town of New Lisbon Highway Superintendent when deciding whether or not to approve the placement and location of a driveway or access road upon or to a highway owned and/or maintained by the Town, shall use and employ the following minimum specifications.

1. Location within Frontage

A driveway should be located entirely within the property owner's frontage, with spacing to intersections and driveways serving adjacent properties. If the driveway extends onto adjoining property or is to be shared with other property owners, the permit applicant may be required to provide written agreement with the adjoining property owner(s).

In the interest of public safety and traffic flow and convenience, the Town Highway Superintendent may restrict the placement of a driveway to a particular location along the owner's frontage, restrict the type of access, or require shifting of an existing driveway. When a property fronting on a town highway also fronts on and has access to any other public street, road, or highway that intersects the town highway, the Department may restrict access to the town highway if it determines that such access would be detrimental to the safety and/or operation of the town highway.

2. Sight distance

Sight Distance values are based on an object height of 3.5 feet and a driver's eye height of 3.5 feet set back from the edge of the travel way at least 10 feet for residential and minor driveway approaches. A minimum of 300 feet each way will be

needed for any new residential drive way. Temporary drive ways, existing driveways, and log landings will be assed on a case-by-case basis.

Number of Driveways Normally only one driveway shall be permitted for each residential property, minor commercial property, and subdivision. An additional driveway may be permitted by the Department if both sufficient frontage exists, and extenuating circumstances justify a second driveway.

The following general design requirements apply to all types of entrances. The design requirements set forth in this section are intended to maintain traffic service and safety on the roadway and convenience for the traveling public and the permittee and are based on the premise that the rights of highway users and abutting property owners can be mutually satisfied:

- The most favorable vision (sight distance), and horizontal and vertical alignment conditions for users of the proposed driveway and the highway.
- No undue interference with nearby driveways or intersections.
- Maximum safety and convenience for vehicles, cyclists, pedestrians, and other users of highway right of way.
- Consistency with any driveway spacing standards.

3. Driveway Profile

Within highway right of way, all driveways shall be constructed to slope away from the edge of the travel lane at the same slope as the highway shoulder which normally varies in down-slope from 2% to 6% (0.25 in/ft to 0.75 in/ft)

4. Drainage

A driveway shall not adversely affect the highway drainage or drainage of adjacent properties. Drainage and the stability of the highway subgrade shall not be impaired by driveway construction or roadside development. The drainage design of a construction project shall not be compromised by field adjustments to compensate for altered driveway location. In no case shall the construction of a driveway cause water to flow across the highway pavement, pond on the shoulders, or pond in the ditch.

Where there is a drainage ditch along the frontage, delineation (e.g., pavement markings, delineators, signs, curbing) shall be provided to guide motorists to the driveway and away from the ditch.

Culvert pipe shall:

- Be adequate to carry the anticipated flow in the ditch
- Not be smaller than 15" (375 mm) inside diameter, except in extreme conditions where the Department may approve a pipe with a 12" (300 mm) inside diameter.
- Have structural material and gauge adequate to withstand the load from anticipated vehicular traffic across the driveway.

- Have a length of 30 feet min and 60 feet max unless extenuating circumstances are proven.
- Have minimum design cover over the top of the pipe

5. Profile

Profiling shall be designed to deal with the water before it gets to the road. In no case shall the construction of a driveway cause water to flow across the highway pavement, pond on the shoulders, or pond in the ditch.

Clearances and Use of Town Right of Way

Clearance, normally a minimum of 15 ft. (4.6 m), is required between the right of way line and the near edge of a building, structure, or appurtenance serving vehicular traffic, exclusive of overhead appurtenances such as luminaires or canopies. This offset shall be sufficient to preclude the servicing and parking of vehicles on town right of ways.

For sites where the property owner has been using town owned right of way for parking or other purposes, imposing standard driveway controls may create an economic hardship. In such cases, the property owner may be required to obtain a Permit for Use of Town Right of Way from the highway superintendent or town board.

B. The Town Superintendent of Highways may require conformance with additional specifications that may reasonably be required to assure the safety or integrity of a town highway due to unique or unusual conditions at a given site.

Section 6 - Maintenance

The property owner shall be responsible for the maintenance of ditches, pipes, catch basins, grates, detention ponds, and other drainage structures constructed in connection with providing access to their property, unless other legally binding arrangements, acceptable to the town, are made. All traffic control devices, such as traffic signals, stop and yield signs, one-way or other regulatory signs, pavement markings, delineators, etc., installed by the property owner in the highway right of way with the permission of the Department, shall conform to the National MUTCD, NYS Supplement.

Section 7 - Enforcement and Penalties

A. The Town of New Lisbon Highway Superintendent may issue a written order ordering the removal or remediation of any driveway and/or access road constructed or improved in violation of this law.

B. Any person, firm, or corporation who commits an offense against, disobeys, neglects, or refuses to comply with or resists the enforcement of any of the provisions of this local law, or any order issued pursuant to this law, shall, upon conviction, be deemed guilty of an infraction, which shall be punishable by a civil penalty of not more than \$1,000.00 to be recovered by the Town in a civil action. The Town of New Lisbon Highway Superintendent and the Town of New Lisbon Land Use Enforcement Officer are both authorized to issue an appearance ticket to any person charged thereby with an infraction of this local law.

C. Each failure to comply with an order issued pursuant to this law within thirty (30) days of issuance will be deemed a separate violation of this law.

D. In addition to the penalty provided above, the Land Use Enforcement Officer, or Town Board, may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this Law.

E. In the event any permit is denied, or the Highway Superintendent fails to take action within 30 days of receipt of an application therefor, and the applicant believes that the denial or failure to act was unjust or would cause unnecessary hardship, the applicant can appeal, to the Town Board for the issuance of the permit.

Section 8 - Severability

If any clause, sentence, paragraph, section or article of this Local Law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder hereof, but shall be confined in its operation to the clause, sentence, paragraph, section or article thereof directly involved in the controversy in which such judgment shall have been rendered.

Section 9 - Repeal

Local Law 4-2008 is hereby repealed in its entirety and wholly replaced by this local law as of the effective date hereof.

Section 10 - Effective Date

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