

**Local Law No. 001 of 2019**  
**Town of Delhi County of Delaware**

**A LOCAL LAW FOR ROAD PRESERVATION**

**SECTION I: PURPOSE**

The purpose of this law is to maintain the safety and general welfare of Town residents by regulating specific commercial activities that have the potential to adversely affect road right-of-ways. Well maintained roads are important to the economic well being and public safety of the Town residents. The Intent is to protect the public right-of-ways from damage and, to the extent that damage occurs, to ensure that the party that caused the damage returns the road to the condition that existed prior to the damage. The Town Board of the Town of Delhi hereby enacts the following Road preservation Local Law pursuant to the provisions of the Municipal Home Rule Law.

**SECTION II: APPLICABILITY**

The Delhi Town Board delegates to the Delhi Highway Superintendent the oversight of assuring Specific Contracted Activities do not have an adverse impact on public right-of-ways.

**SECTION III: DEFINITIONS**

1. Specific Contracted Activity: Commercially contracted activities as delineated in Section IV of this Local Law between Town landowners and commercial contractors that have the potential to significantly impact Town road right-of-ways due to the weight of the vehicle, the truck trips and the potential route.
2. Bond: A commercial bond to ensure that the condition of the town roads impacted by the job is left in as good or better condition at the completion of the job as they were at the start of the job.
3. Road Preservation Local Law Worksheet (Attachment A): Worksheet is to be completed by the owner or contractor, summarizing the job, site location, start and completion dates, expected max gross vehicle weight used for the project, truck routes, truck description, truck volume, inspection procedure, mitigation commitment and any other items that the Town Highway Superintendent deems necessary.
4. Bond Release: A bond release given by the Town Highway Superintendent based on satisfactory job site status at job completion.
5. Significant Impact on Town Right-of-Way means that the activity could result in additional damage to the right-of-way due to truck and/or heavy equipment activity beyond normal wear and tear associated with commercial traffic.

## **SECTION IV: DESIGNATION CRITERIA**

1. The Town Board has determined that the following activities constitute Specific Contracted Activities that will have the potential to have a Significant Impact on Town Right-of-Way:

A. Roads used during the construction and significant reconstruction of an Industrial Wind Tower Farm;

B. Roads used during the development and significant redevelopment of a natural gas mine; and

C. Roads used during the construction and significant reconstruction of major utility transmission lines.

## **SECTION V: GENERAL PROVISIONS**

1. Prior to the start of any Specific Contracted Activity that could have a Significant Impact on Town right-of-ways; a road permit must be obtained. A completed Road Preservation Local Law (RPLL) Worksheet (the "Application") (Attachment A), available from the Town Clerk or Town Highway Superintendent, must be submitted to the Highway Superintendent.

2. The Highway Superintendent reserves the right to have the Application reviewed by an independent civil or transportation engineer. The Applicant will be responsible for any out-of-pocket expenses the Town incurs in order to retain professionals to review the Application, conduct inspections and to prepare a final report that are not otherwise addressed by the application fee set forth in Section VI.

3. The Highway Superintendent will decide if the scope of work as set forth in the Application is such that a Bond is required. The amount of the Bond shall be no greater than the anticipated potential cost of the necessary repairs upon completion of the Specific Contracted Activity. The Highway Superintendent will calculate the amount of the Bond based upon the information contained in the Application and his or her experience. If no Bond is needed, the Application, as modified by the Highway Superintendent is approved by the Superintendent and becomes the Work Permit.

4. If the Highway Superintendent determines that a Bond is required, the Bond must be submitted to the Town of Delhi. The Application will then be approved by the Highway Superintendent and becomes the Work Permit.

5. If as part of the engineering design of the Specific Contracted Activity and/or the permitting of the Specific Contracted Activity, a road maintenance plan is developed and otherwise accepted or approved by other involved agencies, the Applicant may submit the road maintenance plan as its Application. The Highway Superintendent shall, to the extent practical, accept the approved road maintenance plan as the Application, provided that it is as least as protective of the Town roads as an Application set forth in Section V.1 above.

6. If during the course of the Specific Contracted Activity the road is damaged in a manner that significantly impacts its drivability and/or creates a safety hazard, the Highway Superintendent may direct the applicant to make immediate repairs. If the applicant is not able or fails to make the repairs within the time period identified by the Highway Superintendent, the Town may make the repairs. The applicant must reimburse the Town for its actual costs incurred in the implementation of the necessary repairs and the Town shall have access to the Bond, if any, if the Applicant fails to make prompt payment (no more than 15 days from issuance of the invoice).

7. At the conclusion of the construction activity, the Highway Superintendent will inspect all the potentially impacted Town roads. Based on that inspection, the Highway Superintendent will determine the repairs, if any, which are necessary to restore any damage to the Town roads from the construction activity beyond normal wear and tear. In lieu of the Highway Superintendent conducting this inspection, the applicant may fund an independent professional engineer selected by the Town to conduct the inspection and evaluation.

8. Upon completion of the contract, the contractor will apply to the Highway Superintendent for a Preliminary Bond Release. The Bond will be released upon the Highway Superintendent issuance of a determination of functional completion of necessary repairs, if any, were required. The applicant, at its expense, may choose to have the functional completion determination made by the independent professional engineer that was selected by the Town to review the Application. 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 Contractor will remedy the specified problem item(s) and then reapply for a Bond Release.

9. If contractor does not comply and operates outside the parameters as specified on the RPLL Worksheet, Code Enforcement Officer has the authority to shut down the operation by submitting a cease and desist Order. Prior to issuing the cease and desist Order, the Code Enforcement Officer must obtain written approval from the Town Supervisor.

10. The contractor will be responsible for the repair of any damages that occur to the Town of Delhi road right-of-ways, when a project proceeds without a proper permit.

## **SECTION VI: FEE**

In order to offset the cost of processing the Application and monitoring the activity under the permit, a non-refundable processing fee as depicted in the Town of Delhi Fee Schedule, payable to the Town of Delhi, must accompany each Application submitted to the Highway Superintendent.

## **SECTION VII: APPEALS**

The applicant may appeal any determination made by the Highway Superintendent and/or Code Enforcement Officer (“CEO”) under this Local Law to the Delhi Town Board. The appeal must be in writing and filed with the Town Clerk within ten (10) days of the date of the Highway Superintendent’s and/or CEO’s determination. A copy of the appeal shall be provided to the Highway Superintendent and/or CEO at the same time it is filed with the Town Clerk. The Highway Superintendent and/or CEO shall provide the Town board with a response no later than three business days from the date of receipt of the appeal, and a copy of the response shall be mailed to the Applicant. The Delhi Town Board will evaluate the appeal as soon as practicable at its next regular scheduled meeting. The Applicant is entitled to attend the aforementioned Delhi Town Board meeting and make a presentation in support of their appeal. The Delhi Town Board reserves the right to request additional information from the Highway Superintendent/CEO and/or the Applicant.

## **SECTION VIII: REQUEST FOR VARIANCE**

Request for a variance from the standards set forth in this Local Law shall be made to the Highway Superintendent in writing and shall contain the grounds on which the applicant relies for requesting the variance, including allegations on any facts on which the applicant will rely.

The Highway Superintendent may elect to waive one or more of the requirements as stated in Section V of this Local Law. In implementation of the law, the Highway Superintendent should consider the satisfaction of the following criteria: (1) protection of the Town roads from damage beyond the wear and tear from normal commercial activity; (2) minimization of the administrative burden on both the Applicant and the Town; (3) the cost effectiveness of the implementation of this Local Law; and (4) the variance is the minimum necessary to

accomplish the purpose. The Highway Superintendent should only waive requirements in Section V of this Local Law if they determine that the waiver is consistent with protection of Town roads from damage beyond normal wear and tear.

#### **SECTION IX: 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 X: EFFECTIVE DATE**

This Local Law shall take effect twenty (20) days after filing a copy of this Law with the Secretary of the State of New York.

#### **Roll Call October 8, 2019**

	<u><b>AYE</b></u>	<u><b>NAY</b></u>	<u><b>ABSENT</b></u>
Mark Tuthill, Town Supervisor	<u>X</u>	_____	_____
Janet Tweed, Councilmember	<u>X</u>	_____	_____
William Cairns, Councilmember	<u>X</u>	_____	_____
Matthew Krzyston, Councilmember	<u>X</u>	_____	_____
W. Allan Perkins, Councilmember	<u>X</u>	_____	_____

## ATTACHMENT A

### ROAD PRESERVATION LOCAL LAW WORKSHEET

1-Landowner: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

2-Work Description (logging, gravel mining, etc.): \_\_\_\_\_

Work Location: \_\_\_\_\_

3-Contractor: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

4-Start Date: \_\_\_\_\_

Completion Date: \_\_\_\_\_

5-Description of Work Trucks (axels, loads, etc...) \_\_\_\_\_

\_\_\_\_\_

Truck Routes: \_\_\_\_\_

\_\_\_\_\_

Truck Volume: \_\_\_\_\_

\_\_\_\_\_

Expected maximum gross vehicle weight: \_\_\_\_\_

\_\_\_\_\_

6-Impact Evaluation: Please attach a separate sheet with the following information: (1) A thorough evaluation of the impact of the truck traffic and other heavy equipment on the Town roads; (2) Plans for the documentation of the pre-existing condition of the potentially impacted Town roads; (3) Any additional project information requested by the Highway Superintendent; and (4) proposed remedial action plan.

7-Bond Amount: \_\_\_\_\_ Date Paid: \_\_\_\_\_

Approval: \_\_\_\_\_ Date: \_\_\_\_\_

Delhi Hwy Superintendent

7-Preliminary Bond Release Application Date: \_\_\_\_\_

8-Deficiencies to be repaired: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

9-Final Bond Release Application Date: \_\_\_\_\_

10-Final Bond Release: \_\_\_\_\_ Date: \_\_\_\_\_

Delhi Town Supervisor