

Town of Norwich
Local Law Number 1 of 2019

REGULATION OF ACTIVITIES INVOLVING THE USE OF HEAVY EQUIPMENT ON
TOWN ROADS

SECTION ONE. LEGISLATIVE PURPOSE AND INTENT

1.0 By means of this local law it is the intent of the Town Board of the Town of Norwich to maintain the safety and general welfare of Town of Norwich residents by preventing damage to and the destruction of the surface, roadbed and ditching of town roads by regulating the use of town roads by those persons or entities engaged in commercial or private activities upon lands located within the Town when said projects involve the use of heavy vehicles, equipment and machinery on town roads, or involves such other activities which may damage town roads.

SECTION TWO. LEGISLATIVE AUTHORITY

2.0 This local law is enacted pursuant to the authority vested in the Town Board by Vehicle and Traffic Law Section 1660(21) and Municipal Home Rule Law Section 10(6).

SECTION THREE. DEFINITIONS

3.0 The following words as used herein shall have the following definitions:

- 3.1 Town. The Town of Norwich located in the County of Chenango, State of New York.
- 3.2. Commercial Contract or Commercial Project. An agreement, either oral or in writing, between an owner of lands located within, or fronting upon a Town Road within, the Town of Norwich and another person or entity for a project involving construction and industrial activity, the harvesting, cutting and removal of timber, logs, pulpwood or firewood from such lands, or for a mineral extraction project as herein defined as well as salvage yard projects which involves the use on a Town Road or Roads of regulated vehicles, equipment or machinery as defined in Section Three, 3.5 below. An owner shall include any individual or entity having title to the land and/or the timber or mineral rights to said land.
- 3.3 Mineral Extraction or Mineral Extraction Project. The quarrying, mining, digging, drilling, removal or extraction of stone, shale, slate, dirt, topsoil, gravel, sand, coal, petroleum or natural gas from lands located within the Town of Norwich.
- 3.4 Town Road, Town Highway. All roads and highway including seasonal limited use roads designated as such pursuant to Highway Law Section 205-a, both paved and

unpaved, open to travel by the public pursuant to easement or fee title vested in by the Town of Norwich, which said roads and highways are repaired and maintained by the Town of Norwich and listed upon the town's official inventory of public highways for state aid purposes.

- 3.5 Regulated Vehicles, Equipment, Machinery. Trucks, trailers, tractors and other equipment and machinery, both wheeled and tracked vehicles, machinery and equipment, and whether self-propelled or pulled, having a gross weight of 15,000 pounds or more used for the purposes of cutting, skidding, loading and hauling of logs, timber, pulpwood, firewood or for mineral extraction upon or from lands located within the town or from lands having frontage along a town road or roads which activities utilize a town road or roads as a means of ingress or egress from or for transport of material from such lands or such lesser weight if the activity, such as pulling logs on the road surface through the use of chains, rope, wire or otherwise, as may damage a town road or roads.
- 3.6 Person. Any person, partnership, company, corporation, limited liability company, unincorporated association, society, club or other legal entity.
- 3.7 Private Purposes or Private Project. Any commercial or industrial project, logging, timbering, pulpwood, firewood, other wood cutting activity or mineral extraction project or salvage yard project to be performed by a land owner upon such owner's lands for such landowner's own use which involves the use of regulated vehicles, equipment or machinery on town roads as defined in Section Three, 3.5, above herein.

SECTION FOUR. PROHIBITED CONDUCT.

- 4.0 It shall be unlawful for any person to operate or utilize a regulated vehicle, machinery or equipment as defined in Section Three, 3.5, above herein, upon any town road or town highway as defined in Section Three, 3.4 above herein, in connection with either a commercial contract as defined in Section Three 3.2, above herein or for private purposes, as defined in Section Three, 3.7 above herein without the prior issuance of a written permit therefor by the Town Clerk after consultation with the Town Superintendent of Highways.
- 4.1 It shall be unlawful hereunder for any person at any time to either temporarily or permanently alter, modify, fill or obstruct any ditches, ditching, culvert, sluice or drainage pipe located within the right-of-way of any town road or highway or to install or construct same within the right-of-way of any town road or highway without the prior written consent of the town superintendent of highways. When such work is approved by the town superintendent of highways as a part of the permit process, all such work shall be performed to the superintendents specifications with the cost and expense therefor paid by the applicant or otherwise as shall be determined by the highway superintendent.

- 4.2 It shall be unlawful in a salvage yard project to damage a town road or highway by dragging or towing vehicles, manufactured homes or equipment without proper wheels or a trailer or to damage a town road or highway in conjunction with a crushing operation. Because they are regulated and permitted annually by the Town, junk yards need not apply for permit under this law. However, operators shall notify the Highway Superintendent when regulated vehicles, machinery or equipment as defined in Section Three 3.5, above herein, is to be used. Should the Highway Superintendent find that a town road or highway has been damaged to an extent requiring more than normal maintenance the salvage yard operator will be held responsible for damages at the time of junk yard permit renewal.

SECTION FIVE. APPLICATION FOR PERMIT AND PERMIT REQUIREMENTS.

5.0 Application shall be made to the Town Clerk. Any person wishing to operate or utilize a regulated vehicle, equipment or machinery upon a Town of Norwich road or highway in connection with either a private or commercial project shall make application in writing to the Town Clerk upon a form to be supplied by the Town Clerk. A separate application shall be made for each commercial contract or regulated private project.

5.1 Contents of Application. The application for a permit shall contain the following information:

- a. The name, address and telephone number of the applicant.
- b. The name, address, phone number, title or official capacity of the individual who will have overall responsibility and authority for the project or activity for which the permit is sought.
- c. The name of the town road(s) or town highway(s) to be utilized by the application in conducting the activities for which the permit is sought.
- d. The location of and a description of the lands upon which the regulated activities are to be conducted including the land owner's name, address, telephone number and the parcels (Chenango County Tax Map Parcel Identification Number).
- e. A description of the activities to be conducted, the time frame during which the activities will be conducted, together with an itemized description of the regulated vehicles, equipment, machinery which will be utilized.
- f. A description of any special needs or requirements involving alterations, modifications, excavations to the town road or highway such as the need for the installation of, widening or lengthening of culverts, sluices, ditching, snow plowing, etc. All such special needs or requirements shall be subject to the prior approval by the town superintendent of highways and be at the sole costs of applicant, or as otherwise determined by the town superintendent of highways and

be at the sole cost of applicant, or as otherwise determined by the town superintendent of highways.

- 5.2 Time Frame for Decision. No later than thirty (30) days from the date a complete application shall be submitted to the Town Clerk, the Town Superintendent of Highways shall, in writing, grant the application or grant the application with special conditions or deny the application.

SECTION SIX, BOND REQUIRED FOR COMMERCIAL PROJECT.

- 6.0 In the event the Town Superintendent of Highways shall grant the application or grant the application with special conditions in connection with a commercial contract involving and including logging, mineral extraction or salvage yard activity, the Applicant shall be required to furnish a bond equal to 10 percent (10%) of the commercial contract sales price, to a maximum of \$5,000, or in the amount of one thousand dollars (\$1,000), whichever amount is greater.

- 6.1 The bond shall be in the form of:

- a. Cash; or
- b. New York State Bank check payable to the Town of Norwich; or
- c. Certified check payable to the Town of Norwich; or
- d. Performance bond issued by an insurance company authorized to do business in the State of New York.

- 6.2 Bonds in the form of cash, bank or certified check shall be deposited into the Town of Norwich's account held in escrow without interest. The bond proceeds shall be returned to the applicant without interest upon completion of the permitted activities subject to the passing of an inspection of the affected town road(s) or highway(s) by the Town Superintendent of Highways or the Superintendent's designee. In the event such inspection discloses that the roadbed, surface, ditching, or culverts of the affected town road(s) or highway(s) have been damaged during the course of the permitted activities to the extent that such damage is in excess of the ordinary repairs and maintenance the town annually performs on the affected road(s) or highway(s), the town, utilizing the bond funds, shall cause same to be repaired to as good as condition as existed immediately prior to the commencement of the permitted activities. Bond funds in excess of the amount required to pay the cost of repairs shall be returned to the applicant. In the event the cost of repairs exceeds the amount of the bond funds, the applicant shall be liable to pay the excess cost to the town, failing which the town may resort to any legal remedy available to it for its collection. Until such time as said monies are paid the applicant shall be ineligible for a future permit.

SECTION SEVEN. PERMIT SUBJECT TO SUSPENSION OR REVOCATION.

- 7.0 During the course of the permitted activities the Town Superintendent of Highways or his/her designee shall have the right to periodically inspect the affected town road(s), highway(s) including but not limited to the roadbed, road surface, ditching, culvert(s)

and sluices. In the event such inspection reveals excessive damage to, destruction of the roadbed, road surface, culverts, ditching, sluicing or the failure of the applicant to abide by any special terms or conditions of the permit, the Town Superintendent of Highways may suspend the applicant's permit until such time as all noted defects have been cured to the reasonable satisfaction of the superintendent, failing which the superintendent shall have the authority to revoke the applicant's permit.

SECTION EIGHT. PENALTIES.

8.0 Any person violating this local law shall be guilty of a violation punishable by a fine not in excess of two hundred fifty dollars (\$250.00) or by imprisonment not in excess of fifteen (15) days, or by both such fine and imprisonment. Each twenty-four hour period or portion thereof during which a violation occurs shall be deemed a separate offense. In lieu of or in addition to said penalties, the Town may initiate legal proceedings in a court of competent jurisdiction for injunctive relief, money damages or such other and further relief as appropriate.

SECTION NINE. APPEALS.

9.0 Any applicant feeling aggrieved by the Town Superintendent of Highway's decision to deny an application or to grant same with conditions shall have the right to appeal such decision to the Town Board by filing in letter form an appeal with the Town Clerk, either by personal delivery or by regular U.S. Mail, not later than 30 days after receipt by the applicant of the Superintendent of Highway's decision. **An applicant for a permit involving a commercial project of \$5,000 or less for whom the bonding provision is a hardship, may apply to the Town Board for a variance.** The Town Board shall schedule the appeal or request for variance to be heard at the next regularly scheduled Town Board Meeting or as soon thereafter as practical at which time the Town Board shall hear both the applicant and the Town Superintendent of Highways. The Town Board by a majority vote of the members present at such hearing shall decide the appeal.

The Town Board's decision may be appealed to Supreme Court of the State of New York by means of a CPLR Article 78 Proceeding.

SECTION TEN. SEVERABILITY.

10.0 In the event any term, clause or provision hereof shall be deemed by a court of competent jurisdiction to be invalid, illegal, null and void, such ruling shall not affect the validity of the remaining terms and provisions hereof which shall continue in full force and effect.

SECTION ELEVEN. AMENDMENTS.

11.0 This local law may be amended by the adoption by the town board of an amending local law.

SECTION TWELVE. EFFECTIVE DATE.

12.0 This local law shall be effective upon its filing with the Secretary of State.