

LOCAL LAW FILING

NEW YORK DEPARTMENT OF STATE
21 State Street, Albany, NY 12231

Town of New Lisbon

LOCAL LAW NO. 1 OF THE YEAR 2009

A Local Law entitled “ Town of New Lisbon Road Preservation Local Law”

Be it enacted by the Town Board of the Town of New Lisbon as follows:

Section 1. Title:

This law shall be known as the “Town of New Lisbon Road Preservation Local Law”

Section 2. Legislative Findings, Purpose and Intent:

The Town Board of the Town of New Lisbon finds that a well maintained and good and passable road system within the Town is vital to the Town’s economic well being and the well being of its residents. It is the purpose and intent of this law to insure that the Town’s roads are not damaged or harmed to the overall detriment of the Town by a few individual users who utilize the roads in a manner that causes extraordinary deterioration and/or wear and tear to said roads.

Section 3. Authority:

This local law is enacted by the Town Board of the Town of New Lisbon pursuant to its authority to adopt local laws under the New York State Constitution, the Municipal Home Rule Law and the New York State Town Law. More specifically and in large part, this local law is enacted pursuant to the authority granted under the New York State Vehicle and Traffic Law sections 1660 and 1603.

Section 4. Temporary Weight Restrictions:

A). Delegation of Authority and Temporary Weight Restriction.

The New Lisbon Town Highway Superintendent is hereby delegated the authority to exclude from any portion of the Town of New Lisbon's highways and roadways any and all vehicles having a gross weight of four or more tons when, in the opinion of said Town of New Lisbon Highway Superintendent, such highway or roadway would be materially injured or damaged by the operation of any such vehicle thereon. Such exclusion shall take effect upon the happening of the following two events: the erection of one or more signs on the section or sections of said town highway from which said vehicles are excluded and the publication of a notice detailing such exclusion in the newspaper legally designated by the town for legal publications. Said exclusion shall remain in effect until the removal of said signs as directed by the Town of New Lisbon Highway Superintendent.

B). Permits to Exempt Vehicles from Weight Restrictions.

Upon written application by any operator of a vehicle subject to the weight restrictions of Section 4 A). of this law, the Town of New Lisbon Highway Superintendent may issue a permit providing appropriate exemption to such vehicle if the Highway Superintendent determines that said vehicle is performing essential local pickup or delivery service and that the failure to grant said permit would create a undue hardship to any or all of the parties.

1). Such permit shall designate the route to be traversed and contain such other reasonable restrictions or conditions the Highway Superintendent deems necessary.

2). Every such granted exemption permit shall be carried in the vehicle to which it refers and shall be available to inspection by any peace officer, acting pursuant to his special duties, or police officer.

3). Such exemption permits shall remain effective for the duration of the restrictions imposed under this local law.

Section 5. Designation of Truck Routes / Permanent Weight Restrictions on Town Highways and Roads:

A) Trucks, tractors, tractor-trailer combinations or other motor vehicles or equipment having total gross weight in excess of ten (10) tons operated in the Town of New Lisbon shall be restricted (except as expressly hereinafter permitted) to the following designated "truck route system":

1) The designated "Town of New Lisbon Truck Route" shall be limited to and consist of routes on, over and along any and all State and County owned and maintained roadways lying within the boundaries of the Town of New Lisbon. No vehicles weighing in excess of ten (10) tons (other than those owned by the Town) shall use town highways or roadways, except as hereinafter permitted.

B). Notwithstanding the foregoing prohibition, the foregoing exclusion shall not be construed to prohibit occasional and/or residential deliveries and pickups.

C). The provisions of the forgoing restrictions on commercial use (Section 5. A) may be waived by the Town of New Lisbon Highway Superintendent in accordance with the following provisions.

1). At least thirty (30) days prior to the commencement of any commercial/industrial or business activity that will involve the use of Town of New Lisbon highways and roadways by vehicles having a gross weight in excess of ten (10) tons the owner of the lands to be served by said vehicles, or the operator of said vehicle(s), or the owner or operator of a fleet of vehicles, shall obtain a permit authorizing the proposed use, which permit shall be granted only in accordance with the following terms and conditions.

a). The applicant shall submit a detailed plan to the Town of New Lisbon Highway Superintendent evidencing the exact route to be used, the direction of travel, the nature, type and number of vehicles, the weight of each vehicle, the number and frequency of the proposed use(s), dust and noise control and mitigation measures to be employed, and the specific hours and duration of use. A processing fee designed to cover the cost incurred by the town and/or the Highway Superintendent, in reviewing and approving said plan, as established and contained on the Town's Schedule of Fees, shall accompany the plan.

b). The Town of New Lisbon Highway Superintendent shall determine if the described proposed terms of use (ie frequency, weight, duration, nature of cargo, etc.) have the potential to damage the town highways. If the Town Highway Superintendent determines that no or very minimal damage is likely to occur by virtue of the described proposed use, a permit may be granted by the Highway Superintendent authorizing the specific use, frequency and duration proposed in the waiver application. If it is determined by the Town Highway Superintendent that damage to the town's highways may occur as a result of the described proposed use, said Highway Superintendent may impose such conditions and restrictions on the use, frequency and duration as are reasonable and as are designed to minimize damage to town highways (ie use of a specific route or routes, dust and noise control measures, periodic {including daily} restoration of the roadway(s) to "pre-use" condition, use only when roads are not compromised by weather or moisture conditions, number of trips, reduced weight of

vehicles, etc.). Such conditions may also include the requirement that a indemnity bond be provided, indeed, if the Highway Superintendent determines that damage to the Town's highways could, by reason of the proposed use, exceed \$5,000 in value, a bond shall be required in an amount sufficient to cover the full cost of the repair of the possible damage. If a bond is required the original bond shall be filed in the New Lisbon Town Clerk's Office. Upon completion of the activity requiring the use of the town's highways, the operator or owner shall apply to the Town Highway Superintendent for the release of the bond. Upon inspection of the town's roadways, as necessary the Town Highway Superintendent may authorize the release of the bond. If, after inspection, the release is not approved, the Town Highway Superintendent shall document the work to be performed to restore the town's highways to their "pre-use" condition, which work must be performed before the bond is released.

(c) If the Town Highway Superintendent determines that a "pre-use" inspection or analysis by a qualified engineer is needed prior to the issuance of a permit to use the town's highways, the Town Highway Superintendent is hereby authorized to hire such engineer and to require that the applicant pay the cost of obtaining such engineering analysis in advance.

(d) The Town Highway Superintendent shall have thirty (30) days from the date the application to use the town's highways is filed or from the receipt of the engineer's "pre-use" inspection report, whichever occurs later, to grant or deny the permit. Should the permit not be acted upon by the Town Highway Superintendent within the foregoing period(s) it shall be deemed granted without condition.

Section 6. Liability:

Any landowner who is shown to have prior knowledge of this law and who benefits from the use of the town's highways without insuring compliance with the aforesaid provisions shall be responsible for any and all damages occasioned to the town's highways by said un-permitted or unauthorized use.

Section 7. Remedies:

The Town of New Lisbon, through it's agents or employees may, in addition to any other remedy authorized under law, issue a "stop work order" or obtain such other necessary form of injunction should an operator or owner fail to comply with the terms of this law.

Section 8. Penalties:

In addition to injunctive and other relief, violators may be fined up to \$500 for each and every separate violation of the provisions of this law.

Section 9. Appeals:

An applicant, owner or operator, or town resident who is dissatisfied with any decision of the New Lisbon Town Highway Superintendent under any section of this law shall have the right to appeal such unfavorable decision or any of its terms to the Town Board of the Town of New Lisbon within twenty (20) days of the decision being complained of.

Section 10. Definitions:

The following words shall, as used in this local law, be defined as follows:

(a) "Occasional" – No more than five (5) uses of any Town of New Lisbon highway, by a vehicle or vehicles weighing more than ten (10) tons, owned by a single person or entity, to any one property on any one (1) day.

(b) "Residential" – A property used primarily for residential living purposes and not for commercial, business or industrial purposes.

Section 11. Severability of Provisions:

Should any section or provision of this local law be declared null, void, voidable, or invalid, such finding shall not affect the validity of the remaining portions of this law.

Section 12. Effective Date:

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