TOWN OF COBLESKILL ROAD PRESERVATION LAW

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Be it hereby enacted by the Town Board of the Town of Cobleskill, Schoharie County, New York, as follows:

SECTION I: TITLE

This local law may be cited as the "Town of Cobleskill Road Preservation Law."

SECTION II: PURPOSE

The purpose of this local law is to maintain the safety and general welfare of Town residents by regulating high impact commercial activities that have the potential to adversely impact roads and property. Well maintained roads are important to the economic well being of the Town. Construction, maintenance, and operation of high impact commercial endeavors (e.g. timber harvesting, mining, natural gas drilling, wind energy facilities and telecommunication facilities) can be economically beneficial. This Law is not intended to regulate such endeavors, but the intent is to protect the Town roads and property from damage from such endeavors that typically require use of heavy equipment with heavy loads.

SECTION III: AUTHORITY

The Town Board of the Town of Cobleskill enacts this local law under the authority granted by Section 10 of the New York State Municipal Home Rule law and the New York State Town law and the New York State Vehicle and Traffic Law 1660.

Adopted:

SECTION IV: APPLICABILITY

The Cobleskill Town Board delegates to the Cobleskill Highway Superintendent and the Schoharie County Commissioner of Public Works (herein called "Highway Superintendent") the oversight of assuring commercial activities do not have an adverse impact on public roads and property.

SECTION V: DEFINITIONS

1. ***Bond:*** A commercial bond to ensure that the condition of the town roads and/or property impacted by high frequency, high impact truck traffic is left in a good or better condition at the completion of the project as they were at the start of the project.

2. ***Escrow:*** Money put into the custody of the Town Attorney of the Town of Cobleskill for delivery to a grantee only after the fulfillment of the conditions specified.

3. ***Final Bond Release:*** Final release of the Bond by the Cobleskill Town Board.

4. ***High Frequency Truck Traffic:*** Traffic to and from a project site that generates more than ten truck trips per day for more than three consecutive days, involving trucks that exceed 20 tons (truck and load combined) that could impact Town roads and/or property. (Not including the operation of year round, permanent facilities such as commercial quarries)

5. ***High Impact Truck Traffic:*** Other truck traffic of considerable weight (e.g. total weight exceeding 30 tons) and/or size (e.g. trucks requiring escort vehicles) as determined by the Highway Superintendent that could impact Town roads and/or property. Any seismic testing by vibroseis trucks (aka "thumper trucks") is considered high impact truck traffic.

6. ***Permittee***: Shall mean and include the holder of a "Road Preservation Vehicle Permit", its contractors, sub contractors, employees and agents, issued pursuant to this Local Law.

7. ***Preliminary Bond Release:*** A bond release given by the Highway Superintendent based on satisfactory road conditions at project completion.

8. ***Project Site:*** An area where construction work is performed on a short term basis (i.e. not including year round, permanent business such as commercial quarries). Construction work includes, but is not limited to, any of the following:

(a) excavation, including the removal of soil or gravel for off-site use or excavation or filling of trenches, ditches, shafts, wells, tunnels and pier holes, and the use of caissons and cofferdams,

(b) building, including the construction (including the manufacturing of prefabricated elements of a building at the place of work concerned), alteration, renovation, repair, maintenance and demolition of all types of buildings,

(c) civil engineering, including the construction, structural alteration, repair, maintenance and demolition of, for example, airports, dams, river and landslide defense works, roads and highways, railways, bridges and tunnels, viaducts, and works related to the provision of services such as communications, drainage, sewerage, water and energy supplies.

9. ***Property:*** Shall mean and include any real property (including any improvements therein, thereon or thereunder) or personal property owned by, or leased to, in the Town of Cobleskill.

10. ***Road:*** Shall mean and include any highway, road, street, avenue, boulevard, parkway, shoulder, guard rail, concourse, driveway, easement, right-of-way, bridge, culvert, sluice pipe, ditch, dock, tunnel, sidewalk or any utilizes or improvements therein, thereon, or thereunder maintained by Town of Cobleskill.

11. ***Road Preservation Local Law Worksheet*** *(Appendix A):* Worksheet to be completed by potential Permittee, summarizing the project, project location, start and completion dates, expected maximum gross vehicle weight used for the project, proposed truck routes, and any other items that the Highway Superintendent deems necessary.

SECTION VI: PERMIT ISSUING AUTHORITY

1. The Highway Superintendent is hereby designated as the authority to receive and approve applications for a Road Preservation Vehicle Permit to use, park, operate, transport, or move High Frequency Truck Traffic and/or High Impact Truck Traffic, as defined above, on, over or across a designated Town Road or other Town property. The Highway Superintendent must submit a copy of the Road Preservation Vehicle Permit to the Cobleskill Town Code Enforcement Officer (herein called "Code Enforcement Officer").

2. The Highway Superintendent is hereby authorized to consult with others (i.e. County Department of Public Works) and/or hire, in compliance with Town Local Laws and procurement policies, any engineer, consultant and/or expert which the Highway Superintendent deems necessary to assist in reviewing and evaluating any application hereunder for a Road Preservation Vehicle Permit.

SECTION VII: APPLICATION AND ROAD PRESERVATION VEHICLE PERMIT REQUIREMENTS

1. The Highway Superintendent is hereby authorized to promulgate: (i) an application form requesting the issuance of a Road Preservation Vehicle Permit, said application shall require the person requesting the permit to provide at time of initial application and continuing thereafter a proposed road map that the High Frequency Truck Traffic and/or

High Impact Truck Traffic will travel on, a video or photographic documentation demonstrating the condition of the proposed road and/or property described in the permit, and any other documents, maps, sketches, and plans which the Highway Superintendent may require; (ii) money in escrow, a highway permit bond, maintenance bond, or comparable blanket bond and the amount shall be determined by the Town Board and will be listed on the fee schedule on file with the Cobleskill Town Clerk. The amount of the bond or money in escrow may be changed by the Town Board by Resolution;(iii) a completed *Road Preservation Local Law (RPLL) Worksheet* (Attachment A), available from the Town Clerk or Highway Superintendent. All materials must be submitted to the Highway Superintendent.

2. The Highway Superintendent will decide if the scope of work is such that a Bond or money in escrow is required. If no Bond or money in escrow is needed, the RPLL worksheet is approved by the Highway Superintendent and becomes the Work Permit.

3. Upon issuance of the Work Permit and prior to commencement of the work an independent 3rd party will document the condition of the road, the Permittee will arrange for video or photographic documentation of condition of the roads, shoulders, and all structures (culverts, bridges, etc.) that will be traversed by the permitted traffic. The video or photographic documentation will also occur monthly and within two weeks of the conclusion of the permitted work. All video or photographic documentation will be submitted to the Highway Superintendent within one week of recording. Failure to submit the required video or photographic documentation will result in immediate revocation of the Work Permit.

SECTION VIII: MULTIPLE PERMITS

In the event more than one permit is in effect at any time for any given road or road section, the Town of Cobleskill Highway Superintendent may, at his discretion, limit the number of trucks allowed under each permit (see Section V: Definitions).

In the event damage results from multiple uses, the Town of Cobleskill Highway Superintendent will make a reasonable allocation of responsibility to and cause repairs to be funded proportionately from each Permittee.

SECTION IX: HIGHWAY PERMIT BOND/MAINTENANCE BOND/ESCROWACCOUNT

1. If the Highway Superintendent determines that a Bond is required, the Bond must be paid to the Town of Cobleskill and remitted to the Town Supervisor. At such time, if ever, that said highway permit bond, maintenance bond, comparable blanket bond is expended, the Permittee shall replace the same within 5 days of the receipt of written notice from the Town, failing which the Road Preservation Vehicle Permit shall be subject to revocation. The Worksheet will then be approved by the Highway Superintendent and becomes the Work Permit.

Adopted:

2. If the Highway Superintendent determines that a source of funds is needed to promptly reimburse the Town for any reasonable costs and expenses incurred by the Town in processing an application for a Road Preservation Vehicle Permit and/or seeking reimbursement for damages, injuries, discharges or spills involving Town Roads or other Town Property, the applicant for a Road Preservation Vehicle Permit may be required by the Highway Superintendent to file with the Town Clerk of the Town of Cobleskill an initial cash deposit as depicted in the Fee Schedule.

3. As used in this section, the term "costs and expenses" shall be determined to include the reasonable fees charged by engineers consultants and/or experts hired in accordance with the provisions of §VI of this law; reasonable administrative costs and expenses incurred by the Town in connection with the permitting process and the repair, restoration and preservation of Town Roads and Other Town Property; and reasonable legal fees, accountants fees, engineers fees, costs, expenses, disbursements, expert witness fees and other sums expended by the Town in pursuing any rights, remedies or claims to which the Town may be entitled under this Local Law or under applicable provisions of law, as against any Permittee, any person who has violated this Local Law, any insurance company, any bonding company, any issuer of a letter of credit, and/ or any United States or State of New York agency, board, department, bureau, commission or official.

4. These funds may be required to accompany the filing of the application, and the Town shall maintain a separate escrow account of all such funds.

5. The Town is hereby authorized to withdraw funds from said escrow account (without prior notice to or consent from the Permittee) in order to promptly reimburse the Town for any costs and expenses (as defined herein)

6. Immediately following any such withdrawals, the Town shall give written notice to the Permittee detailing such withdrawals and the reasons therefore.

7. If, at any time during the period when the Road Preservation Vehicle Permit is in effect, this escrow account has a balance less than amount depicted in the Fee Schedule the Permittee shall immediately, upon notification from the Town Attorney, replenish said escrow account so that it has a balance of at least amount depicted in the Fee Schedule.

8. In the event that there is any balance remaining in the escrow account as of the date that the Highway Superintendent determines the Road Preservation Vehicle Permit has expired and further determines that no damages or injuries have been caused to any Town road or other Town Property for which the Town has not been fully reimbursed, the Town shall pay to the Permittee the balance remaining in the escrow account.

Adopted:

9. Upon completion of the project, the Permittee will apply to the Highway Superintendent for a Preliminary Bond Release. Upon inspection of the work site, as necessary, the Highway Superintendent may approve the release of the Bond. 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 Permittee will remedy the specified problem(s) items and then reapply for a Bond Release. Final Bond release must be approved by the Town Board for repayment of the Bond funds.

SECTION X: STOP WORK ORDERS:

The Highway Superintendent and the Code Enforcement Officer shall each have the right and authority to issue stop work orders to those operating violations of the terms of the Road Preservation Vehicle Permit, in violation of this Local Law, in violation of applicable provisions of law, or in violation of any conditions or requirements set forth in any permit issued by the New York State Department of Environmental Conservation; or contrary to the conditions upon which its Road Preservation Vehicle Permit was issued.

SECTION XI: REVOCATION OF ROAD PRESERVATION VEHICLE PERMIT

Upon violation of any provisions of the Road Preservation Vehicle Permit, or violation of any provisions of this Local Law, the Highway Superintendent may suspend any such permit until there is remedy of the violation in the allocated time period set by the Highway Superintendent. A public hearing may be scheduled by the Town Clerk of Cobleskill at which the Permittee shall have the right to appear and be heard. The Highway Superintendent may permanently revoke any Road Preservation Vehicle Permit on written notice to the Permittee.

SECTION XII: OTHER SPECIAL CONDITIONS

1. In no event shall vehicles or equipment be parked or located outside the roadway boundaries or block access to neighboring landowners.

2. Traffic will be maintained in accordance with the Uniform Traffic Control Manual.

3. The Permittee shall supply proof of insurance co-naming the Town of Cobleskill within a minimum of $3 million liability insurance coverage. The Town shall be notified 30 days prior by the insurance company of determination of such coverage.

4. The Permittee shall be responsible for any and all repairs of damages caused by their operation to any Town property.

Adopted:

5. This Law applies to the entire duration of any project that induces High Frequency Truck traffic and/or High Impact Truck Traffic, as defined above.

6. The Road Preservation Vehicle Permit shall not be assigned, conveyed, pledged or transferred without the express prior written consent of the Highway Superintendent.

7. The Highway Superintendent shall be given one week's written notice in advance by said Permittee of the date when the permittee intends to begin the activity authorized by the Road Preservation Vehicle Permit, and shall be given prompt written notice of its completion.

8. The Road Preservation Vehicle Permit shall not authorize the holder thereof to exceed the maximum gross weight limit authorized for crossing any bridge. The Highway Superintendent shall have the authority to reasonably alter the proposed roads and other property set forth in the application before a permit is issued or after a permit is issued.

9. The Town of Cobleskill makes no warranties or representations as to the conditions or fitness of any Road or other Property; or their fitness for any intended use; or the Town's rights, titles or interests therein or thereto.

10. If any of these conditions are not met, the permit is automatically voided and all work shall cease.

SECTION XIII: EXCULSIONS

1. All rubber-wheeled vehicles, equipment and machinery, whether self-propelled or towed, utilized in the production of or transportation of agricultural products as defined in Section 301 of Article 25-aa of the NY AML), school buses, law enforcement vehicles, firefighting and emergency rescue type vehicles, ambulances, military vehicles, equipment operated by the National Guard, and municipal owned and operated vehicles, are exempted from requiring a Road Preservation Vehicle Permit.

2. This local law shall not be construed to apply to, or prevent, the regular delivery or pickup of merchandise or other items common for residences, local business construction sites, and farms from property along Town roads.

SECTION XIV: REQUEST FOR A WAIVER

Request for a waiver from the standards set forth in this Local Law shall be made to the Cobleskill Town Board in writing and shall; contain the grounds on which the appellant relies for requesting the waiver, including all allegations on any facts on which the appellant will rely. After review of said request for waiver the Cobleskill Town Board finds that due to special circumstances of the particular case a waiver of certain

Adopted:

requirements as stated in Section IV is justified, then a waiver may be granted. No waiver shall be granted, however, unless the Town Board finds and records in its minutes that: (a) granting the waiver would be keeping the intent and spirit of this Local Law and is in the best interests of the community, (b) there are special circumstances involved in the particular case; (c) denying the waiver would result in undue hardship to the applicant, provided that such hardship has not been self-imposed; (d) the waiver is the minimum necessary to accomplish the purpose.

SECTION XV: FEE

A receipt from the Town Clerk showing a non-refundable processing fee as depicted in the Town of Cobleskill Fee Schedule, payable to the Town of Cobleskill, must accompany each Worksheet submitted to the Highway Superintendent.

SECTION XVI: INVALID SEGMENT

In any part or provision of this Local Law or the application thereof to any person or circumstances 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, and the Town of Cobleskill hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision.

SECTION XVII: EFFECTIVE DATE

This Local Law shall take effect immediately upon filing in the office of the New York State Secretary of the State in accordance with the provisions of Section 27 of the Municipal Home Rule Law of the State of New York.

Adopted:

ATTACHMENT A
ROAD PRESERVATION LAW WORKSHEET

1. Hauler/Project Sponsor: _____
   Address: _____
   Phone: _____ Email: _____

2. Work description (i.e. logging, telecommunications facility construction, gravel mining, natural gas drilling, wind energy facility construction, etc.):
   _____
   _____
   _____

3. Work Location: _____
   A: SBL# 's : _____
   (If additional space is needed please use another sheet.)

4. Proposed Truck Routes (includes miles to be traveled on each road):
   _____
   _____
   _____
   _____

5. Landowner: _____
   Address: _____
   Phone: _____
   Email: _____

6: Start Date: _____
   Completion Date: _____
   Expect maximum gross vehicle weight: _____
   Maximum truck trips per day: _____

7. Bond Amount _____ Date Paid: _____
   Approval Date: _____

8. Preliminary Bond Release Application Date: _____

9. Deficiencies to be repaired: _____
   _____
   _____
   _____

10. Final Bond Release Application Date: _____

11. Final Bond Release: _____ Date: _____
    _____ Town Supervisor Signature

Adopted:

ATTACHMENT B

BOND CALCULATION WORKSHEET

Road Type	Dirt and/or Gravel		Surface Treated	
Bond per mile traveled	$25,000.00		$100,000.00	
Multiply by Number of miles				
Multiply by Number of vehicles on the peak travel day of the project				
ROAD TOTALS:				

Structures (bridges and/or culverts by diameter)	60" up to 19'-11"	20' and greater*
Bond per structure	$ 1,000,000	$2,000,000
Multiply by number of structures		
STRUCTURE TOTALS:		

Bond/Fees assigned and/or paid to:

Town of Cobleskill (518-234-1719)
PO Box 327
Cobleskill, NY 12043