

Introductory Local Law No. 1 of 2014  
Town of Austerlitz Driveway Law

A Local Law of the Town of Austerlitz Regulating Driveways

Be it enacted by the Town Board of the Town of Austerlitz as follows:

SECTION 1. Policy and Purpose

It is the policy of the Town of Austerlitz to further the safe access to properties and roads within the Town of Austerlitz and to ensure that private driveways facilitate the proper drainage of surface waters and storm water run off so as to not be detrimental to the Town's drainage ways and systems and to further the public health, safety and general welfare. The purpose of this local law is to provide a process for review of new and existing driveways and to provide minimum requirements and standards for driveway construction and maintenance in furtherance of the aforesaid policy.

SECTION 2. Application.

The requirements of this local law shall apply to all new and existing driveways accessing public and approved private roads in the Town of Austerlitz. Driveways proposed onto State highways also require approval from the State Department of Transportation (DOT) and driveways proposed onto County Highways also require approval from the Columbia County Department of Public Works (DPW).

SECTION 3. Design Standards.

A. For access onto any public road:

1. General Standards. A driveway servicing one residence or parcel of real property shall have a minimum width of travel surface of 12 feet and be configured and situated so that vehicles are able to turn around and exit the premises without backing onto a main road. A turnoff or passing zone must be built into the driveway for every 400 feet of length, which turnoff or passing zone shall be at least 30 feet in length and shall provide an additional eight feet of width. A driveway servicing more than one residence or parcel of real property shall have a minimum width of 18 feet. All driveways in excess of 150 feet in length shall have an area (such as a loop or hammerhead design so that vehicles (including emergency vehicles) can turn around and exit the driveway without backing down the driveway.
2. Finished Grade: All access grades within thirty (30) feet of the road's driving surface should be no more than 2% and in no case more than 3%. Any grade beyond this thirty (30) foot point shall not exceed 15%.
3. Access grades shall be constructed to slope downward from the edge of the road surface to the existing drainage ditch line at a rate of three-quarter (3/4) inch per foot.
4. Ditching and drainage facilities shall be adequate along length of driveway to accommodate runoff and not affect adjoining properties or roads.

B. For access onto Town roads:

1. The angle of all new driveways accessing Town roads shall be between eighty (80) and ninety (90) degrees for a minimum distance of twenty (20) feet from the edge of the Town roads driving surface.
2. The return radius between the edge of the driveway and the edge of the existing Town road's driving surface shall be a minimum of fifteen (15) feet on each side of the driveway.
3. Driveways shall have an adequate sight distance in each direction meeting the requirements of the Manual of Uniform Traffic Control devices measured twenty (20) feet back from the edge of the Town road's pavement at a forty two (42) - inch eye a height.
4. Sight easements shall be provided across all driveway corners. No obstructions to vision such as shrubbery, brush, trees, earth, fencing or structure shall be permitted at the road intersections within the-triangle- formed-by the intersection- of the road-center lines and a-line drawn between points along such lines thirty (30) feet distance from their point of intersection and ten (10) feet back from the edge of the pavement of the road. This restriction does not apply to U.S. Postal Service mailboxes.

C. For access onto State or County roads:

The curb cut and driveway requirements of the State or County shall be adhered to in addition to the general standards set forth in this Section. If there is a conflict between jurisdictional requirements or standards, the stricter requirements or standards shall apply.

#### SECTION 4. Construction Specifications.

A. For driveways accessing existing Town Roads:

1. Driveways for accessing single residential parcel or lot: Culvert pipe(s) shall be new and supplied by the property owner. Prior to construction, applicants shall contact the Town Highway Superintendent for specifications of the size of pipe and materials. Once the culvert pipe has been delivered and is available at the property for installation, the Highway Department shall be responsible for its proper installation. Such installation shall occur within a reasonable time after the culvert pipe is available at the property for installation. The Town will bear the cost of installing the culvert pipe to the extent that the installation does not involve stream crossings or specialized equipment and does not require more than one day of work by the Highway Department. The property owner will be responsible for reimbursing the Town for such additional costs if such are necessary.

2. Driveways for accessing multiple residences or residential parcels or nonresidential parcel. Driveway culverts shall be of such size and made of such material with the appropriate wheel load rating standards as approved by the Town Highway Superintendent. The culvert pipe shall be installed at the owner's expense and shall be inspected and approved by the Town Highway Superintendent after installation. The Highway Superintendent may require the owner to supply engineering plans or reports to

adequately assess the amount of drainage flow in order to adequately size the culvert and drainage system in which it is placed.

B. For driveways accessing new roads. All driveway culverts and drainage systems shall be supplied and installed by the property owner at the property owner's expense. The new road and driveways accessing said new road shall comply with the requirements of Section 160-3 of the Town of Austerlitz Code.

C. For driveways accessing State or County roads. The requirements of the State or County, whichever applies shall be adhered to. Cost of construction or installation shall not be borne by the Town.

D. For all Driveways.

1. For any driveway, the Town Highway Superintendent reserves the right to review the site and advise Best Management Practices that shall be set in place before and during construction.

2. Driveways shall be constructed so that the entrance onto any state, county, Town or private road is consistent with the Highway Superintendent's requirements for safety and proper drainage.

3. Where any driveway that predates the adoption of this local law and subsequently requires a culvert to be installed in order to rectify a drainage issue affecting a Town road, the driveway culvert shall be ordered and installed by the Highway Department and the property owner shall reimburse the Town for 50% of the Town's costs for the culvert pipe and installation.

#### SECTION 5. Maintenance.

A. All driveways within the Town of Austerlitz must be kept in good driving condition, free and clear of surface water, debris or obstacles that prevent or hinder access by vehicles including, but not limited to, emergency vehicles.

B. Surface water from driveways or onto driveways within the Town of Austerlitz shall be diverted away from roads and road drainage systems to the maximum extent practicable to avoid flooding or the ponding of surface water on any road and any surface water that flows along or down a driveway shall be diverted into the appropriate culvert or drainage ditch or facility.

C. All driveways within the Town of Austerlitz shall be maintained in such a way as not to cause any erosion or drainage to adjacent roads or property. Privately owned ditches must be maintained in a manner that prevents storm runoff from private drives from entering onto a Town Road. The Town will hold individual property owner(s) financially responsible for any damage to Town roads relating from private drive runoff (i.e. washouts, debris, failure of proper ditch maintenance, drainage of surface water onto surface of driveway, etc.).

SECTION 6. Approval of Driveways/Application for Driveway Permits.

Prior to the construction of a driveway that enters a Town, County, State or private road, approval must be obtained from the appropriate governing authority or agency, and a copy of such approval forwarded to the Code Enforcement Officer. Where a driveway enters a County or State road, a Driveway Permit from the Town of Austerlitz is still required and an inspection will be conducted in order to ensure that the design standards of Section 3 of this local law have been met.

A. Application for a driveway permit shall be filed with the Town Code Enforcement Officer. A Driveway Permit Application fee of \$25 for residential properties and \$100 for non-residential properties will be required if the applicant has not secured a building permit.

B. Prior to construction, applicants shall arrange a time for the Town Highway Superintendent to conduct an initial inspection to review the location of the proposed driveway.

C. Before a Driveway Permit can be approved, a final inspection will be necessary to verify that the requirements and standards of this regulation have been met to the satisfaction of the Highway Superintendent.

D. The Code Enforcement Officer shall not consider a Driveway Permit application for on-site construction until an initial driveway inspection has been performed and an acceptable location has been sited. In order for the Code Enforcement Officer to perform necessary inspections, a passable driveway also must be constructed in the sited location prior to the issuance of any Building Permit Application for additional on-site construction.

E. The Code Enforcement Officer shall not issue a Certificate of Occupancy until the driveway is completed, inspected and approved by the Highway Superintendent.

F. The person to whom such permit is issued shall be responsible for all damages caused to the road itself, any public utilities in the road, any cracked or damaged sewer and water pipe shall be replaced with new pipe, under the supervision of the Highway Superintendent. Before the Certificate of Occupancy can be issued any damaged ditches, curbs, sidewalks, or other improvements shall be repaired or replaced in as good condition as before the construction commenced.

G. No debris shall be left in the Town Road at the end of each workday.

H. If any excavation is caused in any Town street or highway relating to the driveway construction, it shall be restored within the time granted in the permit, with approved bank run gravel and shall be kept and maintained level with the unexcavated portion thereof, for a period of one year from the date of the permit, so that said excavated portion shall be left in as good, substantial and permanent condition as before the excavation; and if not so restored and maintained, the work shall be done under the

direction of the Superintendent of Highways and the cost thereof shall be a lawful charge against the person to whom the permit was issued. No person, persons, firm or corporation making or having made any such excavation in or upon any street or highway aforesaid, shall permit such excavation to remain open or uncovered either day or night, without having or causing the same to be properly barricaded by day and night and in addition thereto, shall place at such location, flares, red lanterns or other warning devices, by night, so as to properly warn all persons of the danger of such hole or excavation.

#### SECTION 7. Access for Proposed New Lots.

An applicant proposing a subdivision on a Town road shall not receive final approval without first meeting with the Town Highway Superintendent regarding the accessibility of each lot. The applicant shall provide the Code Enforcement Officer with a signed letter from the Highway Superintendent on his letterhead verifying that he has inspected the site and has determined that each new lot can be adequately accessed from a Town road

#### SECTION 8. Certificates of Insurance.

A. The permittee on all non-residential properties shall present to the Town certificates of insurance evidencing the acquisition of liability insurance coverage naming the Town as an additional insured on a non-contributory basis with the minimum limits of coverage for bodily injury equal to \$1,000,000.00 for each person injured, \$2,000,000.00 for aggregate bodily injury resulting from each occurrence, and \$500,000.00 property damage.

B. Said insurance shall be maintained throughout the term of the permit and the aforementioned certificates shall provide for thirty (30) days' notice to the Town prior to cancellation of coverage.

C. All persons performing work under this permit are to be covered by Workmen's Compensation Insurance and Disability Benefits insurances as required by State law.

#### SECTION 9. Maintenance Bond and Letter of Credit.

The permittee on all non-residential properties shall present to the Town a maintenance bond and/or a bank letter of credit in favor of the Town in such amount as the Highway Superintendent with the advice of the Engineer serving the Town and/or the Attorney serving the Town shall recommend to the Code Enforcement Officer dependent upon the number and extent of the driveways being constructed pursuant to such permit. guaranteeing compliance with the provisions of the permit. At such time, if ever, that said bond or letter of credit is expended, the permittee shall replace the same within 5 days written notice of the Town, failing which the permit shall be subject to revocation.

#### SECTION 10. Indemnity and Save Harmless.

The permittee on all non-residential properties shall agree to fully indemnify, defend, save and hold harmless the Town and all of its departments, bureaus, divisions, boards, officers and employees from and against any and all claims, costs, damages, expenses, charges, risks, losses, lawsuits, judgments, executions, penalties, fines, assessments or any other liability of any type arising out of, occurring in connection with, or resulting from any and all activity to be performed by permittee pursuant to said permit.

SECTION 11. Appeals – Variance of Requirements.

Any property owner who demonstrates that the application of the requirements or standards of this local law causes undue hardship, may apply to the Town Board of the Town of Austerlitz for relief and upon such application the Town Board, in its sole discretion, may vary or waive one or more requirements of this local law provided that such variance or waiver is consistent with the policy and purposes of this local law.

SECTION 12. Title.

This local law shall be known and cited as the "Town of Austerlitz Driveway Law".

SECTION 13. Separability.

Should any section, paragraph, sentence, clause or phrase of this Local Law be declared unconstitutional or unjust for any reason by a Court of competent jurisdiction, the remainder of this Local Law shall not be affected thereby.

SECTION 14. Inconsistency.

All Resolutions or Ordinances or Local Laws or portions thereof of the Town of Austerlitz not consistent with this Local Law in whole or in part shall be repealed. This local law is intended to supersede and replace Section 160-4, entitled "Driveways", of the Town of Austerlitz Code as adopted by Local Law No. 2 of 2000.

SECTION 15. Penalties.

A. A violation of this local law is an offense, punishable by a fine not exceeding two hundred fifty dollars (\$250.00) per day of continuing violation.

B. In addition to the above prescribed penalties, the Town Board may in its discretion revoke any permit previously issued after a public hearing at which the applicant shall have an opportunity to be heard, or in the alternative, may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with this local law by injunction, abatement or otherwise compel cessation of each violation, and obtain restitution to the Town for costs incurred by the Town in remedying each violation, including but not limited to reasonable attorney's fees.

SECTION 16. Effective Date.

This local law shall take effective immediately upon filing with the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.