Local Law No. 1 of the Year 2013

A local law in regards to the use and repair of Town roads.

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

Section 1. Findings and Purpose.

The Town Board of the Town of Barrington has determined that it is in the best interest of taxpayers and the general public to assign responsibility for the repair of damage to Town roads attributable to high intensity use, and where necessary, for the improvement of Town roads to a standard appropriate for high intensity use prior to the commencement of any activity, to those responsible for the damage rather that to all Town taxpayers. The purpose of this law is to maintain the safety and general welfare of Town residents by regulating heavy uses of Town roads that have the potential to adversely affect such roads. Well maintained roads are important to the safety and economic well-being of the Town and its residents. Endeavors, such as construction, timber harvesting, mining, natural gas drilling, and wind farms are also of economic interest. This law is not intended to regulate such businesses; the intent is to protect the public roads from damage.

Section 2. Definitions.

A. High frequency, high impact truck traffic: Traffic to and from a project site that generates more than one hundred (100) truck trips. For purposes of this law, a truck trip is a trip to or from the project site involving a truck with a gross weight of twenty (20) or more tons (truck and load combined). A single truck makes two truck trips if it meets the weight limit traveling to the project site and meets the weight limit traveling from the project site.

B. Bond: A commercial bond to ensure that the condition of the Town roads is not adversely impacted by high frequency, high impact truck traffic. The Town may accept an equivalent financial guarantee in lieu of bond.

C. Bond Release: A bond release given by the Town Highway Superintendent based satisfactory road conditions at completion of the high frequency, high impact truck traffic.

D. Permittee: The permittee is the person responsible under this law to obtain a permit regardless of whether the person in fact obtains a permit. The permittee is the person responsible for the project generating the truck traffic. In any instance in which another permit is required, such as a building, drilling, or mining permit, any person who obtained any such permit or was required to obtain such other permit shall be deemed the permittee for purposes of this law. In the event no other permit is required, the owner of

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any property on which the activity is taking place shall be deemed the permittee for purposes of this law.

E. Person: Any individual, public or private corporation, political subdivision, government agency, municipality, industry, co-partnership, association, firm, trust, estate or any other legal entity whatsoever.

F. Temporary Project: Any non-permanent activity that generates high frequency, high impact truck traffic on Town roads whether or not the project itself is located in the Town.

(1) Projects include, but are not limited to, construction projects, mining, drilling activities, and wind farms. With regard to projects that require another permit, such as a building, drilling, or mining permit, all activities covered by that other permit are considered part of the temporary project for purposes of this law.

(2) Agricultural operations as defined by New York State Agricultural District Law and the movement of agricultural products are excluded. Also excluded are school buses, law enforcement vehicles, fire fighting vehicles, military vehicles, and municipal vehicles engaging in road work on behalf of municipalities.

Section 3. General Provisions.

A. The Town determines that high frequency, high impact truck traffic associated with temporary projects would materially injure Town roads.

B. Upon determination by the Town Highway Superintendent that a temporary project may generate high frequency truck traffic, the Town Highway Superintendent shall erect signs on the appropriate sections of Town highways setting forth the notice that such vehicles are excluded, and the notice shall also be published in the official newspaper for the Town of Barrington.

C. Any permittee may apply to the Town Highway Department for a permit providing for an appropriate exemption for the vehicles serving the temporary project. Such permit shall be granted, upon appropriate terms and conditions, if the vehicles are performing essential local puck up or delivery.

D. Any such permit shall designate the route(s) to be traversed and contain other reasonable restrictions or conditions deemed necessary by the Town Highway Superintendent. The conditions may include, but not be limited to, requiring the permittee to make road improvements to ensure that the roads have the strength and capacity to handle the anticipated traffic. The permit shall be carried on all vehicles serving the project and shall be open to inspection by any peace officer acting pursuant to his special duties, or police officer. Such permit shall be for the duration of the temporary project.

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E. In order to obtain a permit the permittee must submit a permit application to the Town Highway Department, which shall include all information required by the Town Highway Superintendent, including but not limited to: vehicle identification and owner/operators, vehicle weights, load weights, materials carried, route(s) to be followed from Town Highway to site, duration of activity (beginning date and end date), frequency of trips and times of operation. The applicant shall pay a permit fee to be established by the Town Board, but in no event shall the fee be less than $50.00.

F. The Town Highway Superintendent may require the permittee to submit documentation (including, but not limited to, photographs and videos) of the condition of the roads, shoulders, and all structures (culverts, bridges, etc.) that will be traversed by the permitted traffic as a condition of the permit.

G. In addition to the restrictions on routes and other reasonable restrictions, the Town Highway Superintendent will decide if the scope of work is such that a bond is required, and the amount of any such bond. The determination of the need and amount of any bond shall be based on a determination of potential damage to Town roads based on the truck route(s), weight of the vehicles, frequency of travel, seasonal conditions and the type category (classification) of the roads on the approved route(s).

H. Permittees and/or all parties thereof will be responsible to follow all Federal, State and Town Laws during the project. All signs must be in place before the project begins. Permittees will clearly mark all access roads with 2 feet by 2 feet green signs with white letters. Permittees will be responsible to provide all employees, contractors, subcontractors and delivery vehicles with a map of the approved roads of travel for construction with the approval of the Highway Superintendent. Permittees and/or all parties thereof will not stop, change or alter the flow of traffic at any time nor close any road without the Highway Superintendent's approval.

I. A permittee aggrieved by a determination of the Town Highway Superintendent regarding the need for or conditions of a permit may, within ten (10) days of the determination, appeal to the Town Board. No action inconsistent with the determination of the Town Highway Superintendent shall take place pending the determination of the Town Board.

J. The permittee shall be responsible for assuring that the high frequency, high impact truck traffic does not prevent any impacted Town road from remaining in safe and useable condition for all legal uses of the road throughout the duration of the temporary project.

K. Upon completion of the high frequency, high impact truck traffic project, the permittee will apply to the Town Highway Superintendent for a bond release. Upon inspection of the traveled roads, as necessary, the Town Highway Superintendent will specifically document the tasks that must be accomplished in order for the bond to be

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released, which may include, but not be limited to, the payment of money for the repair to damaged roads. The permittee must remedy the specified problems before the bond may be released.

L. If the permittee does not comply with this law and all the terms and conditions of the permit and operate within the parameters specified on the permit, the permit may be revoked at the discretion of the Town Highway Superintendent.

M. In the event that high frequency, high impact truck traffic uses any Town roads without the required valid permit, the Town Highway Superintendent, any law enforcement officer or code enforcement officer, has the authority to deny access to the roads, and in cases where the Town permit was required, to shut down the project. This relief is in addition to any and all damages and penalties.

N. The permittee will be responsible for the repair of any damages that occur to any Town road when a project proceeds with or without a proper permit, as well as for all fines and penalties specified in this law.

O. In lieu of obtaining a permit, any person who may be responsible to obtain a permit may enter into a road use agreement with the Town although the Town has no obligation to enter into a road use agreement. In such case, the requirements shall be governed by the agreement, rather that by permit conditions.

Section 4. Enforcement.

The Town Highway Superintendent, in consultation with the Town Attorney, shall enforce the provisions of this law and all rules, regulations, and designations made pursuant thereto. Such enforcement shall include, but not be limited to, legal or equitable proceedings, including without limitation an action for specific performance brought in the name of the Town.

Section 5. Offenses.

A. Any person who violates this law shall be guilty of a violation and subject to a fine of not more than $500.00 and/or imprisonment for not more than fifteen (15) days. Each and every act committed that is prohibited by this law shall constitute a separate violation. Each time a vehicle travels on a Town road without a permit as required by this law shall constitute a separate violation. Violations may be prosecuted by the Town Justice or any other person with authority to prosecute violations within the Town.

B. Upon failure of any permittee to comply with the requirements of this law, the permit shall be subject to suspension, revocation or to the imposition of conditions.

Section 6. Invalid Segment.

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Should any provision or conditions of this law be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the law as a whole or any part thereof other than the part declared to be invalid.

Section 7. Effective Date.

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

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