

**A Local Law for Regulation of Private Driveways and Private Roads in the
Town of Middlesex
LOCAL LAW # 3 of the Year 2008**

Section 1 – Purpose

The purpose of this Law is to regulate the location and construction of private driveways and private roads in the Town of Middlesex, in order to address safety at points of intersection with public roads, to establish criteria to control storm water runoff and land erosion during and after construction, to address the requirements of emergency vehicle access, and to provide for site plan review.

Section 2 – Definitions

2.1 ALTERED ROAD – An existing private driveway or private road to be modified in length and/or width, or reconstructed with new sub base and base material, or to modify any drainage features.

2.2 BASE MATERIAL – The lowest layer of batched, cohesive materials used in the construction of a roadbed, usually consisting of coarse asphalt concrete.

2.3 CODE ENFORCEMENT OFFICER - The Code Enforcement Officer of the Town of Middlesex.

2.4 DEC – New York State Department of Environmental Conservation.

2.5 EGRESS – The location at which a driveway or private road connects to a public road.

2.6 PARCEL – A portion of land with defined boundaries; a lot.

2.7 PLANNING BOARD – The Planning Board of the Town of Middlesex.

2.8 PRELIMINARY SITE PLAN REVIEW – An informal meeting between the Town Planning Board and the owner or developer to exchange information related to a proposed land improvement. The meeting includes a presentation of a preliminary drawing or sketch, and a discussion of project scope, location, schedule and other general information, following which, the Planning Board provides direction to the owner / developer as to subsequent steps necessary to obtain permit approval.

2.9 PRIVATE DRIVEWAY – A private vehicular way used to provide access to one lot or parcel of land, and adjoins a public road. A private driveway includes a temporary entrance for access to a lot for construction purposes.

2.10 PRIVATE ROAD – A private vehicular way used to provide access to two or more lots, pursuant to the provisions of Sec. 703 of the Middlesex Zoning Law, adjoining a public road.

2.11 PROPERTY SURVEY MAP – A map of a property, prepared and sealed by a licensed land surveyor.

2.12 SEQRA – State Environmental Quality Review Act - NYS Environmental Conservation Law, Article 8 and regulations at 6 NYCRR Part 617 providing for review of actions which may have a significant effect on the environment.

2.13 SET BACK – The minimum allowed horizontal distance measured from a property boundary to a structure, permanent feature or nearest edge of road surface on that property.

2.14 SITE PLAN – Map(s) or drawn representation of a proposed project or development, sometimes accompanied by written description and/or specifications, containing sufficient information and detail for municipal review and approval.

2.15 SITE PLAN REVIEW – The process by which an applicant / owner / developer presents a map(s), drawings and other supporting documentation of a proposed development or project, submitted to the municipal approval authority for consideration and approval, in advance of issuing a permit, and pursuant to the provisions of Section 700 of the Middlesex Zoning Law.

2.16 STEEP SLOPE – Any geographical area having a gradient of 15% or greater (ratio of vertical distance to horizontal distance), using a minimum horizontal distance of ten (10) feet, whether man-made or natural, and whether created by a retaining structure or not.

2.17 STRUCTURAL FILL – Native or imported soil suitable to achieve minimum compaction requirements for the project.

2.18 SUBBASE MATERIAL – The lowest layer of imported material used in the construction of a roadbed, usually consisting of granular material with good compaction properties. Material applied on top of a finished subgrade.

2.19 SUBGRADE – The finished surface elevation achieved after removing organic surface material, and subsequent cut or fill activity using approved native or imported soil.

2.20 SURFACE TREATMENT – The finish material applied to the surface of a road, such as asphalt concrete, compacted granular material, etc.

2.21 TOPOGRAPHICAL CONTOURS – Continuous lines drafted on a map, at defined increments, depicting the changes in elevation and outlining the shapes of hills, valleys, gullies and surface irregularities.

2.22 TOWN – The Town of Middlesex in Yates County, New York

2.23 TOWN ENGINEER – A professional engineer, registered in the state of New York, used by the Town of Middlesex to perform the appropriate review of technical documents and site conditions, and to provide best practice recommendations and

governing code requirements.

2.24 TURN-AROUND – A widened or modified section of a driveway or road, providing minimum clearances for allowed vehicles to exit without having to back up.

Section 3 – Permit Application Requirements

- 3.1 No private driveway or private road shall be constructed, or altered by length, width, or means of drainage control, without a permit. The Code Enforcement Officer, **or** in conjunction with the NYS Department of Transportation when intersecting a state highway, shall issue all permits.
- 3.2 The permit application shall be accompanied by a site plan of the proposed driveway or roadway to be constructed or altered. Site plan information shall include, but not be limited to, the following:
- Overall property boundaries being served by driveway / private road
 - Lot lines of any parcels within the overall property
 - Adjoining public road location w/ travel lane width and shoulder width
 - Any existing sidewalks, guardrails and/or drainage to be crossed
 - Length, width, side setback dimensions of driveway / private road
 - Maximum slope of driveway / private road
 - Location of proposed drainage culverts, with type and diameter
 - Location of any structures to be served by driveway / private road
 - Location and dimensions of any proposed turnaround features
 - Location and type of any utilities on property that will be crossed over / under
 - Location of any existing natural drainage creeks / gullies
 - Written description or section view through new driveway / private road that provides information about construction, i.e., depth / type of base material, surface treatment, side drainage, etc.
 - Tax map numbers
 - Name, address and phone number of applicant
- 3.3 All permit applications shall be referred to the Planning Board for preliminary site plan review and **final** site plan review. The Planning Board, **in conjunction with the Town Highway Superintendent**, shall approve all permit applications prior to issuance of the permit by the Code Enforcement Officer.
- 3.4 All actions by the Planning Board are subject to the requirements of SEQRA.
- 3.5 The Planning Board shall make its written determination within 30 days after the final site plan review meeting.
- 3.6 If the private road **or private driveway** is part of **either a major or minor** subdivision development, **or involves steep slope conditions**, the applicant must submit a site plan that has been approved and stamped by a licensed engineer.

- 3.7 To insure compliance with all the requirements of any permit issued hereunder, and with this local law, the Planning Board may require the applicant to provide a performance guaranty or surety prior to the start of construction in the form of a performance bond or other acceptable instrument.

Section 4 – Standards For Approval

- 4.1 All private driveway and private road design and construction shall conform to Town Zoning Law regulations Sec. 700.12 and Sec. 703, respectively.
- 4.2 Private driveways and private roads shall follow the natural topography of the lot(s) identified in the permit application to the greatest extent possible to minimize the potential for erosion. All work to be permitted shall abide by the requirements of the STORM WATER MANAGEMENT AND EROSION CONTROL LOCAL LAW for the Town of Middlesex, as it pertains.
- 4.3 For disturbances of (1) acre or more, a Stormwater Pollution Prevention Plan (SWPPP), consistent with the requirements and standards of the DEC, must be developed and approved by the DE C.
- 4.4 Public road egress, and design of private driveways and private roads shall conform to requirements set forth in the following documents:
- A.) MANUAL: GUIDELINES FOR RURAL TOWN AND COUNTY ROADS, NYS GUIDELINES
 - B.) HIGHWAY DESIGN MANUAL, NYS DOT
 - C.) STANDARD SPECIFICATIONS FOR CONSTRUCTION AND MATERIALS, NYS DOT
 - D.) GUIDELINES FOR GEOMETRIC DESIGN OF VERY LOW-VOLUME LOCAL ROADS, AASHTO LVR GUIDELINES
- 4.5 The Middlesex Local Law entitled STANDARDS FOR NEW ROADS shall be used as a design guide for emergency vehicle access and turnaround requirements.
- 4.6 Any private driveway or private road over 150 feet in length requires an approved turn-around provision for emergency response equipment. In addition, road widths, clearances and load capacity shall be sufficient for access by emergency equipment.
- 4.7 Private driveways **and private roads** shall be setback at least 15 feet from **any property line, edge of cliff, drainage gully, creek or stream. Setbacks shall be measured as perpendicular distances from the property line, or these features, to the nearest edge of driveway / private roadway pavement or**

gravel surface.

- 4.8 In the event there are conflicting provisions or requirements between or among the documents or publications listed above in this section, Local Law Standards for New Roads shall take precedence, followed by the documents in the order **each is listed in this Section 4.**
- 4.9 Development of, or improvements to, a private driveway or private road for the primary purpose of agriculture are not exempt from the provisions of this local law.
- 4.10 **Disturbance of existing vegetative groundcover shall not take place more than (15) days prior to the start of grading and construction activity.**
- 4.11 **An approved type of temporary soil stabilization, such as netting or mulching, must be applied to any disturbed areas adjacent private roads or private driveways within (3) days after establishing final grade of these areas. Permanent re-vegetation must be applied no later than (15) days after completing the private road / private driveway project. NOTE: See Section 5.1j) for soil stabilization requirements in steep slope areas.**
- 4.12 **A minimal surface treatment must be applied to any newly established driveway or private road within (15) after completion of subgrade. A minimal surface treatment is considered to be subbase material.**

Section 5. Standards for Approval for private driveways and private roads in steep slope areas.

- 5.1 Land disturbances for the development of private driveways and private roads within steep slopes areas shall conform to the following provisions. **Note that per Section 703 of the Middlesex Zoning Laws, no private road shall be constructed in the LR District.**
- a) Development shall be designed to fit the site; the site shall not be altered to fit the development and/or the desires of the property owner.
 - b) The planning, design and development of private driveways / roads shall include replanting of indigenous vegetation and, at a minimum, replicate the original area of vegetative coverage for all construction disturbances beyond the limits of the actual road surface.
 - c) Under no circumstance shall a natural ridgeline be disturbed for more than 100 ft. along the ridgeline, and to a maximum width of 100 ft. centered on the ridgeline.
 - d) Re-grading of disturbed areas shall blend in with the natural contours of the land when complete.

- e) Cuts and fills shall be rounded off to eliminate abrupt changes at the top, bottom and sides of the affected slopes.
- f) The angle of any cut or fill for any site work shall not exceed a slope of one vertical to **two horizontal (50% grade or 26.5° of angle)** where only new vegetation is proposed to prevent erosion. Retaining walls or other similar structural stabilization must be installed where the **one-on-two** slope limitation is exceeded. **All such structural features must be designed by a Professional Engineer and will be subject to review by the Town Engineer.**
- g) The tops and bottoms of cut and fill slopes, created from new private driveway / road construction shall be set back horizontally from other structures on the lot a minimum distance of six (6) feet plus 1 ½ times the vertical height of the adjacent cut or fill. This distance is to help ensure the safety of the structure in the event of a collapse of the disturbed slope (cut or fill). This restriction will be removed upon engineered documentation indicating that the adjacent structure was, or is to be, designed to withstand the lateral forces imposed by a potential collapse of the cut slope or fill embankment.
- h) Disturbance of steep slopes shall be undertaken in workable limits in which the disturbance can be completed and stabilized in one construction sequence. No disturbed area is to be left exposed without approved erosion control methods in place from December 1st through April 30th.
- i) Clearing and grubbing (removal of existing trees, vegetation and groundcover) and removal of topsoil shall not take place more than (15) days prior to grading and construction.
- j) **Temporary soil stabilization measures such as netting or mulching to secure soil during the grow-in period, must be applied to areas of disturbance adjacent private driveways / roads not longer than (2) days after establishing the final grade for these disturbed area adjacent the driveway / road. Permanent stabilization must be in place within (15) days after establishing final subgrade for the driveway / road. The Code Enforcement Officer must approve both temporary and permanent stabilization techniques.**
- k) Measures for the control of erosion and sedimentation shall be undertaken consistent with the New York State Standards and Specifications For Erosion and Sediment Control, commonly referred to as the “Blue Book” or it’s successor.
- l) Topsoil stripped and stockpiled on the site for re-use shall also be given acceptable temporary stabilization treatment. However, stockpiling shall not be permitted on slopes greater than 10% (one foot vertical in 10 feet horizontal).
- m) **Suitable structural fill material shall be used for establishing a new driveway / private road in a steep slope area where fill material is needed.** No structural fill containing organic material shall be used. **A geo-technical engineer may be employed by the Town** to inspect suitability of any structural fill material being proposed for use, and to approve methods of compaction.

- n) **Installation of an approved surface treatment application over all newly established private driveways and private roads must be completed within (15) days after completion of the project.**

5.2 Additional documentation to be submitted for work proposed in steep slope areas:

- a) A listing of property owners adjacent to, across streets from, and down gradient within 500 ft. from the property
- b) Estimated quantities of cut and fill that reflect the proposed layout of the driveway
- c) Plan drawing(s) locating and detailing retaining walls or similar structural features where allowed slopes will be exceeded
- d) Any driveway / road switchback and turnaround, fully dimensioned with width and radius information
- e) Topographical contours of existing and proposed new site work to a distance of 100 feet beyond the disturbed areas (National Geodetic Vertical Datum at two foot intervals)
- f) Driveway / road cross sections at locations as requested
- g) Detailed written description of how permanent drainage of the disturbed areas will be handled (erosion and sedimentation control plan)
- h) Soils test reports from qualified geotechnical engineers as may be determined necessary

Section 6. Permit Procedures

- 6.1 Permit application forms are available from the Code Enforcement Officer at the Middlesex Town Hall. When requesting new or improved access to a state road within the Town of Middlesex, an applicant must also contact the New York State Department of Transportation for Region 6, located in Hornell, New York, for additional permit requirements.
- 6.2 Permit applications may be rejected due to being incomplete and/or lack of adequate plan attachments. Permit applications **shall** be reviewed with the Code Enforcement Officer prior to referral to the Planning Board for site plan review.
- 6.3 Permit fees shall be set per the Town Fee Schedule. There is no fee for a preliminary site plan review. There is a fee for **final** site plan review subsequent to the preliminary review. If the Planning Board requires technical assistance from the Town Engineer during the review process, all costs incurred shall be charged to the permit applicant. An applicant's failure to consent to pay the Town of Middlesex for Town Engineer services and costs shall constitute a withdrawal of the application (see Town Zoning Law Section 700.4.3d).

Section 7.0 – Enforcement and Penalties

- 7.1 A violation of any part of this local law or order issued in connection with this local law shall constitute a “violation” as defined in the Penal Law of the State of New York, and shall be punishable by a fine **of not less than \$100 nor more**

than \$1000, or by imprisonment for a period not to exceed (60) days, or both. For each day that a violation continues, this shall constitute a separate violation.

- 7.2 The Code Enforcement Officer is authorized to issue stop work orders to halt work conducted in violation of this law. A stop work order shall state the reason for its issuance and the conditions which must be satisfied before work will be permitted to resume.
- 7.3 The Code Enforcement Officer is hereby authorized to issue appearance tickets for any violation of this local law.
- 7.4 An action or proceeding in the name of the Town of Middlesex may be commenced in any court of competent jurisdiction to compel compliance with or restrain violation of this local law or order issued in connection with this local law, and to demand any person or entity violating this local law to return the work site to prior conditions at its expense.

Section 8. Related Zoning Law provisions

- 8.1 Town Zoning Law Section 404, Schedule III, lists pre-existing private roads and related dwellings. Town Zoning Law Section 703.6 requires that any new dwelling(s) to be constructed on a pre-existing private road, or the extension of a pre-existing private road, shall require the road to comply with the criteria stated under Town Zoning Law Section 703, Private Roads. This criteria is in addition to the requirements of the Private Driveway / Private Roads Law stated herein.

Section 9 – Repeal of Local Law No. 1 of 2003

- 9.1 Local Law No. 1 of the Year 2003 is hereby repealed in its entirety.

Section 10 – Effective date

- 10.1 This local law shall be effective upon filing with the NYS Department of State.