

Local Law 4 – 2019

A Local Law establishing a policy to preserve Town roads and to establish a policy on bonding for excess damage to Town roads in the Town of Allegany

BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF ALLEGANY, NEW YORK AS FOLLOWS:

Section 1. Title

This Law shall be known as the “Town of Allegany Road Preservation Law”.

Section 2. Purpose and Intent

The purpose of this law is to maintain the safety and general welfare of Town of Allegany residents by regulating commercial activities that utilize heavy equipment, over-weight vehicles or over-sized vehicles or vehicles carrying heavy loads or hauling heavy loads that have the potential to adversely impact town roads and town property.

Section 3. Legislative Authority

The Town Board of the Town of Allegany enacts this 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 Sections 385 and 1660.

Section 4. Applicability

The Town Board of the Town of Allegany delegates to the Town of Allegany Highway Superintendent the duty of assuring that commercial activities do not have an adverse impact on town roads and property.

1. The Town of Allegany Highway Superintendent is hereby authorized to promulgate application and permit forms to be utilized to regulate heavy equipment, over-weight vehicles and over-sized vehicles and vehicles carrying heavy loads or engaged in heavy hauling on town roads.
2. An application for and issuance of a permit shall be required prior to use of town roads by heavy equipment, over-weight vehicles or over-sized vehicles or vehicles carrying heavy loads or hauling heavy loads.

Section 5. General Regulations

1. No person, corporation or other entity shall alter or disturb a town road or the area within a town road right of way without a permit issued pursuant to this local law.
2. No person, corporation or other entity shall operate heavy equipment or an over-weight or over-sized vehicle or vehicles carrying heavy loads or hauling heavy loads on a town road without a permit issued pursuant to this local law.

3. The application for a permit pursuant to this Local Law shall specify all town roads and adjacent lands that are proposed to be utilized. An application shall be accompanied by maps that meet with the Highway Superintendent's approval of all proposed routes.
4. A form of surety, through escrow, bond or the equivalent thereof, shall be established prior to the issuance of a permit. The Highway Superintendent, in his or her discretion, shall determine the amount of the required surety.
5. The permittee shall be responsible for the repair to town specifications of any and all damage done to town roads, bridges, driveways, culverts, ditches, curbs, sidewalks or other improvements and to the public utilities in the roadway and easement area
6. The surety shall be used to repair any and all damages, and to cover labor and materials at prevailing rates. Additionally, the surety shall cover the cost for the town road(s) to be restored and maintained for a period of one year from the date of any repairs.
7. The Town of Allegany Highway Superintendent shall have the authority to assess damages and to require the permittee to arrange for and pay for the cost of videotaping or otherwise documenting the condition of the town road(s) before the permittee uses the town road(s).
8. In the event that the surety established does not fully cover all costs to repair the town road(s) to town specifications, the permittee shall pay the difference to the Town of Allegany.

Section 6. Indemnity and hold harmless

The permittee shall be required to agree to fully indemnify, defend and hold harmless the Town of Allegany and all its departments, boards, officers, representatives 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 with, or resulting from any and all activity to be performed by permittee pursuant to the permit issued.

Section 7. Revocation of Permit

Upon violation of any provisions of a permit issued, as determined by the Town of Allegany Highway Superintendent, the Highway Superintendent may suspend the permit for no more than forty-five (45) days. Upon permit suspension, a permittee shall have the right to appear before and be heard at a hearing by the Town Board. The Town Board of the Town of Allegany may permanently revoke any permit for due cause following a hearing.

Section 8. Severability

The invalidity of any word, section, clause, paragraph, sentence, or part or provision of this Local Law shall not affect the validity of any other part of this Local Law.

Section 9. Effective Date Upon filing with Secretary of State.

