

TOWN OF ALLEGANY
DRIVEWAY PERMIT LAW

Local Law -1- of the year 2010, a local law requiring the permit for the installation of a driveway on Town roads in the Town of Allegany. Enacted by the Town Board of the Town of Allegany as follows:

Section 1: Purpose and Intent

1. **WHEREAS**, real property owners have installed driveway that cross Town installed roadside drainage ditches
2. **WHEREAS**, some driveways have poorly installed culverts or make use of drain pipes that do not fulfill the standards laid down by the New York State Department of Transportation for water loadings and the ability to carry the minimum ten (10) year storm frequency.

Section 2: Highway Superintendent Authority

1. Under the Highway Law, Article 7, Sections 140 (1), (2), (5), and (17) Town Highway Superintendent shall have the authority to require a driveway permit for the installation of driveway on Town roads in the Town of Allegany.

Section 3: Permit Conditions

1. Drain pipes under roads or driveways shall be designed to withstand NYSDOT H-20 loadings and carry minimum ten (10) year storm frequency. Design of structures shall have calculations developed according to generally accepted standards and said design is to be approved by the Town Engineer and/or Highway Superintendent. The pipe shall be Corrugated Polyethylene Pipe (HDPE) with smooth interior meeting AASHTO M294 Type S with a minimum of fifteen (15)" diameter. All culvert ends are to be equipped for slope protection by means of end sections, beveled sections with grouted rip rap or concrete headwalls. The design of structures proposed for use as part of the drainage system shall be approved by the Town Engineer and/or Highway Superintendent.
2. Drain pipe shall be bedded four (4) inches below and to the spring line of the pipe with No. 1 stone.
3. Drain pipe shall be a minimum of twenty (20) feet long or longer if situation warrants.
4. The pipe installation shall be back filled with crusher run gravel (Maximum size particle two (2)"). Gravel shall be subject to approval of Highway Superintendent.

5. The driveway shall grade down from the edge of pavement (or traveled way) to a low point at the centerline of the culvert pipe.
 - a. The Town Building Code Enforcement Officer (BCEO) is to advise In writing the Town Highway Superintendent of any approved project, or construction wherein the BCEO has granted a permit, and where a driveway will need to be installed and/or the project will result in work performed in Town ROW.

Section 4: Permits Required / Acknowledgments Required

1. No driveway culvert shall be installed in a Town of Allegany highway right of way (ROW) without a valid permit signed by the Highway Superintendent.
2. This permit is to be required whether the driveway is temporary or permanent.
3. All applicants for a driveway permit will also be required to sign an acknowledgment that they will be working within the Town right of way and they will assume full responsibility for any damage of a Town Highway caused by negligent abuse of the government property by themselves or the contractors or sub-contractors.
4. All individuals or corporations, who intend to do any work or construction with a Town road ROW must fill out an acknowledgment for work within a Town Highway where the individuals, or corporations acknowledge that proper care must be taken to avoid damage to that Town Highway and that they assume full responsibility and financial liability for any damage to the Town road caused by negligent or careless use of that government property by themselves; then contractors and/or sub-contractors.
5. A copy of the permit and acknowledgment shall be provided to the Town Building Code Enforcement Officer.

Section 5: Duty of Care

1. The property owner is responsible for the proper, safe installation of the culvert. Maintenance of the installation shall be the responsibility of the Property Owner for the first 90 days after approval of the installation by the Highway Superintendent. After 90 days the Town of Allegany will assume maintenance responsibility for the culvert.

Section 6: Penalties

1. Failure to obey this law shall allow the Town Highway Superintendent under Article 7, Section 140 (13) to bring a action against the individual to perform the enforcement of the obligation under this law in any court of competent jurisdiction.
2. Any violation of this law shall be liable to a civil penalty or fine of not more than \$500.00 for each day (and a minimum of \$250) or part thereof during which time such violation continues. The civil penalties provided by this subsection shall be recoverable in an action installed by the Highway Superintendent in the Town of Allegany Court, or any Court of Competent Jurisdiction. Failure to pay a court order shall result in the unpaid fine being relieved on the next annual Town tax bill against any real property the violator may have within the Town or a personal judgment may be sought against the violation for the unpaid fine.
3. Injunctive Relief-an action on proceeding may be instituted in a court of competent jurisdiction to prevent, restrain, enjoin, correct, or abate any violation of this law in the Supreme Court or in any other court having the requisite jurisdiction.

Section 7: Severability Clause

1. If any such section of this local law shall be held unconstitutional, invalid, or ineffective, in while or in past, such determination shall not be deemed to affect, impair, or invalidate the remainder of this local law.

Section 8: Effective Date

1. This local law shall take place effective on file with the New York Department of State.