

ROAD PRESERVATION LAW:

NEW YORK STATE DEPARTMENT OF STATE

41 STATE STREET

ALBANY, NY 12231

Local Law Filing

County of Tompkins

Local Law No. 1 of the year 2011

A local law Amending the County Code in Relation to Road Preservation by

Temporarily Excluding

Certain Traffic that would Materially Injure County Roads

Be it enacted by the Tompkins County Legislature of the County of Tompkins as follows:

The County Code is amended by adding a new Chapter, which shall read as follows:

SECTION I: FINDINGS & PURPOSE

The Tompkins County Legislature has determined the County is facing a variety of impending major development efforts that may result in extraordinary, high-intensity traffic to and from development sites, causing significant and measurable damage to County Roads that jeopardizes the health and safety of residents and others who use those roads. Accordingly, the damage that results from high-intensity traffic must be anticipated, analyzed, and repaired promptly and to appropriate engineering standards. The Legislature has further determined that it is in the best interest of taxpayers and the general public to assign responsibility for the repair of damage to County Roads attributable to such high-intensity use, and, where necessary, for the improvement of County Roads to a standard appropriate for high-intensity use prior to the commencement of the activity, to those responsible for the damage rather than to all County tax-payers. The purpose of this law is to maintain the safety and general welfare of County residents by regulating heavy uses of County Roads that have the potential to adversely affect such roads. Well-maintained roads are important to the safety and economic well-being of the County and its residents. Endeavors, such as construction, timber harvesting, mining, and natural gas drilling 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 II: AUTHORITY

The County is authorized to adopt this local law by Section 1650(4) of the New York State Vehicle and Traffic Law as well as by the Municipal Home Rule Law that authorizes the County to adopt local laws to protect the health and safety of its citizens.

SECTION III: DEFINITIONS

1. High-Frequency, High-Impact Truck Traffic: Traffic to and from a project site that generates more than one thousand (1,000) 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 thirty (30) 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.
2. Bond: A commercial bond to ensure that the condition of the County Roads is not adversely impacted by high-frequency, high-impact truck traffic. The County Legislature may accept an equivalent financial guarantee in lieu of bond.
3. Bond Release: A bond release given by the County Highway Director based on satisfactory road conditions at completion of the high-frequency, high-impact truck traffic.
4. 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 any property on which the activity is taking place shall be deemed the permittee for purposes of this law.
5. 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.
6. Temporary Project: Any non-permanent activity that generates high-frequency, high-impact truck traffic on County Roads whether or not the project itself is located in the County. Projects include, but are not limited to, construction projects, mining, and drilling activities. 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. 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 IV: GENERAL PROVISIONS

1. The County Legislature determines that high-frequency, high-impact truck traffic associated with temporary projects would materially injure County Roads.
2. Upon a determination by the County Highway Director that a temporary project may damage a County Highway as a result of high-impact, high-frequency truck traffic on the County Highway, the Highway Director shall erect signs on the appropriate sections of County Highways, setting forth the notice that such vehicles are excluded, and the notice shall also be published in the official newspaper in Tompkins County.
3. Any permittee may apply to the County Highway Division 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 pick-up or delivery. For purposes of this law, pickup and delivery associated with New York State-permitted mining or gas-drilling operations shall be deemed essential local pickup or delivery.
4. Any such permit shall designate the route(s) to be traversed and contain other reasonable restrictions or conditions deemed necessary by the County Highway Director. 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.
5. In order to obtain a permit the permittee must submit a permit application to the County Highway Division, which shall include all information required by the County Highway Director including, but not limited to: vehicle identification and owners/operators, vehicle weights, load weights, materials carried, route(s) to be followed from State 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 County Legislature, but in no event shall the fee be less than \$50.
6. The County Highway Director 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.

7. In addition to the restrictions on routes and other reasonable restrictions, the County Highway Director 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 County roads based on the truck routes, weight of the vehicles, frequency of travel, seasonal conditions and the type-category (classification) of the roads on the approved routes.
8. A permittee aggrieved by a determination of the Highway Director regarding the need for or conditions of a permit may, within ten (10) days of the determination, appeal to the County Administrator. No action inconsistent with the determination of the County Highway Director shall take place pending the determination of the County Administrator.
9. The permittee shall be responsible for assuring that the high-frequency, high-impact truck traffic does not prevent any impacted County Road from remaining in safe and useable condition for all legal uses of the road throughout the duration of the temporary project.
10. Upon completion of the high-frequency, high-impact truck traffic project, the permittee will apply to the Highway Director for a Bond Release. Upon inspection of the traveled roads, as necessary, the Highway Director may approve the release of the Bond. If the release is not approved, the Highway Director will specifically document the tasks that must be accomplished in order for the Bond to be 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.
11. 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 Highway Director. In the event that high-frequency, high impact truck traffic uses any County Roads without the required valid permit, the Highway Director, any law enforcement officer, or code enforcement officer, has the authority to deny access to the roads and, in cases where a County permit was required, to shut down the project. This relief is in addition to any and all damages and penalties.
12. The permittee will be responsible for the repair of any damages that occur to any County Road when a project proceeds with or without a proper permit, as well as for all fines and penalties specified in this law.
13. 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 County, although the County has no

obligation to enter into a Road Use Agreement. In such case, the requirements shall be governed by the Agreement, rather than by permit conditions.

SECTION V: ENFORCEMENT

The Highway Director, in consultation with the County Attorney, shall enforce the provisions of this article 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 County.

SECTION VI: PENALTIES FOR OFFENSES

- A. Any person who violates this article shall be guilty of a violation and subject to a fine of not more than \$500 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 County Road without a permit as required by this law shall constitute a separate violation. Violations may be prosecuted by the County District Attorney or any other person with authority to prosecute violations within the County.
- B. Upon failure of any permittee to comply with the requirements of this article, the permit shall be subject to suspension, revocation or to the imposition of conditions.

SECTION VII: INVALID SEGMENT

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

SECTION VIII: EFFECTIVE DATE

This Local Law shall take effect on January 1, 2012.