

ISSUE PAPER SERIES

Municipal Tools for Local Roads Management

October 2026

NEW YORK STATE TUG HILL COMMISSION



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Cover page photos from top left, clockwise:

- *A photo of a dirt road in Redfield, facing north on Route 17, at the intersection of County Route 2, “Callaghan’s Corners.” Photo courtesy of the Halfshire Historical Society. Date estimated to being between 1910 and 1915.*
- *U.S. DOT Department of Transportation Federal Highway Administration historic plank road photo, 1920s.*
- *Jerusalem Road, Worth, Tug Hill Commission, 2026.*
- *Town road with Metrocounter in operation, Tug Hill Commission, 2025.*

This paper relies heavily on legal memorandums between The Ayers Law Firm and the Tug Hill Commission during 2025 and 2026, while The Ayers Law Firm was under contract with the Tug Hill Commission. No commission staff are attorneys, and municipalities should confer with legal counsel on specific road issues in their town or village.

Introduction

Town roads are the backbone of the local transportation network in many rural areas of New York. These roads provide access for residents, landowners and businesses in many “off the beaten path” places where forestry, farming, and recreation occur. Maintaining these local roads is often the largest portion of a town’s budget. Balancing costs with access needs is a never-ending challenge, as rural towns like those on Tug Hill have a small tax base and landowners who want property taxes kept low.

This document is the layperson’s guide to tools towns can use to manage their local roads. It consolidates several other papers the Tug Hill Commission has published in response to technical assistance requests over the years.

Two Key Legal Principles

To understand local roads, it is helpful to understand the legal principle of “home rule,” and the permanence of roads once established, also known as, “once a road, always a road.” New York is a “home rule” state, which means that local governments are given certain power and authority in Article IV of the state constitution. It gives local authorities the right to manage much of their own property, affairs, and government, as long as enacted laws are consistent with the state constitution.

“Once a road, always a road” refers to the legal principle that a public right-of-way does not cease to exist even if not actively used. If a road, at any point in time, has been used for a significant period, accessed by the public and maintained by the municipality, it is presumed to still exist and must be acknowledged and maintained by the governing body.

Local personal knowledge and paper records related to rural roads decrease over time. With the principle of “once a road, always a road,” firmly established in state law, these “lost” roads may nonetheless still be considered a public right-of-way and require record-keeping and maintenance. This presents a challenge to municipalities both legally and logistically.

Early Days of Road Construction

Roads of the past looked quite different than today in width and materials. The earliest roads in colonial New York were improvements of indigenous foot trails. Widths of roads varied based on their establishment by individual charters or later state standards. Materials were often dirt with basic ditching, corduroy with logs laid perpendicular to the road to improve the base, or planks (also known as puncheon) with split logs or heavy-saw wood planks laid perpendicular to make the roadbed flatter.

Many rural roads that towns manage today were constructed in the 19th century as described above. Width and roadbed construction are two of the primary factors that make maintaining low-volume roads a challenge and have created the need for a variety of highway management tools.

Tug Hill's Road Evolution

Tug Hill had a booming population in the 1800s, with dairy farms, cheese factories, canning factories and more supporting industry and infrastructure throughout the region. As times changed and industrial jobs left the region, more people moved away from the center of Tug Hill, but the roads that once supported the larger population and workforce remained behind. These roads were never intended to be used by modern motor vehicles or plowed in the winter.

Tug Hill's infamous weather was part of the reason for the depopulation of the core of Tug Hill. Due to proximity to Lake Ontario and elevations ranging from approximately 500 feet to 2,100 feet, Tug Hill winters usually result in excess of 200 inches of snow, giving Tug Hill the reputation as the snowiest place east of the Rocky Mountains.

How Roads are Established in New York

Roads in New York are established in one of three ways: 1) by **statutory** procedure, 2) by **dedication**, also referred to as **by deed**, or 3) by **prescription**, also referred to as **by use**. Statutory roads are authorized by NYS Highway Law § 170-173 and Eminent Domain Procedure Law. Very few town roads on Tug Hill are statutory roads. Roads by deed are most commonly established by transfer of fee title from a private landowner to the town. Few town roads on Tug Hill are roads by deed. Most town roads on Tug Hill are roads by use, where the public acquires an easement of use over the road and land, and not ownership of the land itself. For a more detailed discussion on how roads are established, see the commission's companion paper, *Road Abandonment*.

Transfer of Roads Between Various Levels of Governments

In rare instances, roads become town roads following abandonment to the town from the state. Highway Law § 10 (32) gives the power to the state commissioner of transportation, upon request from a county, city, town or village, to enter into an agreement with said municipality to abandon a highway that is no longer needed or useful to the state to that local municipality.ⁱ Highway Law § 345aⁱⁱ provides the legal framework to transfer "all right, title and interest" from the state to the local municipality.

Regarding county to town transfer of roads, Highway Law § 115aⁱⁱⁱ deals with the transfer of maintenance, only, of a county highway to a town or village following certain specific procedures, including a written agreement with the town or village board and amendment of the county highway map. Highway Law § 115a does not involve the transfer of right, title and interest of a county road to a town. Highway Law § 131b^{iv} offers further legal backing for the discontinuance (among other things) of county highways.

Regarding town to county transfer of roads, Highway Law § 115 sets forth the procedure for transfer of supervision and control of roads from a town or village, but not does not transfer

the title of such roads from the town or village to the county. State Attorney General Informal Opinions 2003-2 and 1991-2 support this.

Official Road Maps

Towns may establish an official road map under Town Law Chapter 62, Article 16, § 270. The purpose of an official road map is to create and adopt by resolution a map considered to be final, factual, and conclusive respective to its roads at the time of adoption.

Town Law § 270 identifies what information may be shown on an official road map:

*... that part of the town outside the limits of any incorporated city or village showing the **streets, highways and parks** theretofore laid out, adopted and established by law and **drainage systems** may also be shown on such map. Such map shall be final and conclusive with respect to the location and width of streets and highways, drainage systems and the location of parks shown thereon. (Emphasis added.)*

The procedure to adopt official road map is a two-step process, with no required public hearing:

1. The town highway superintendent submits the official map draft to the town board with a letter of transmittal, to be approved by resolution.
2. Once the town board passes the resolution, the town clerk is required to file a certificate with the county clerk attesting to the existence of the official map.

As outlined in Civil Practice Law and Rules (CPLR) § 4522, the formal filing of the official town map is *prima facie* (that is, accepted as correct until proven otherwise) of evidence of the facts stated. Any “ancient filed maps, surveys and records affecting real property... [and other] records affecting real property,” once they have been on file in the state in the office of any registrar of any county, any county clerk, or any court of record for more than ten years are also considered *prima facie* of its contents, according to CPLR § 4520.

An official road map may be updated if the town experiences topographical changes due to natural or manmade causes. Town Law § 273 further empowers the town board “as often as it may deem it for the public interest” to change or add to the official road map with respect to new streets, highways, drainage, parks, or so forth, outside of the limit of any incorporated city or village.

In the Tug Hill region, official road maps are often generated by local request by commission staff using NYS DOT geospatial data, GPS confirmation of dead-end roads as requested by the town highway superintendent, a review of the local highway inventory records, and feedback between the highway superintendent and commission staff through the map drafting process. Town Law § 270 specifies that the map “*shall be final and conclusive with respect to location and **width** of streets, highways, **drainage systems** and the location of **parks** shown thereon,*” (emphasis added). The commission cannot conduct the survey work needed to provide definitive road widths, so a disclaimer is added to all maps. The final map is otherwise “final and definitive” regarding the length and location of

streets and highways, with each road segment's jurisdictional ownership (state agency, county, or town) clearly styled.

While an official road map is considered “final and definitive” regarding the displayed roads, it cannot satisfy the procedural, notice, and filing requirements necessary to abandon a town highway or portion thereof under Highway Law § 205 (1). An official road map may serve as a supporting document, but itself is not a certificate of abandonment. For an example of an official road map, see Appendix A.

Seasonal Limited-Use Roads

Seasonal limited-use road designation is outlined in Highway Law § 205-a, which empowers a town's highway superintendent to designate a town road as a seasonal, limited-use highway, commonly called a “seasonal use” road. Seasonal use is an annual designation to limit snow plowing on roads without occupied residences or commercial buildings dependent upon snow plowing for access from December 1 to April 1. According to the Office of the State of Comptroller Opinion 2002-6, the term “occupied residences” includes both residences occupied year-round or with intermittent occupation, e.g. seasonal camps^v. Therefore, where residences on a town highway are occupied for a part of the year and are dependent upon the highway for access, the highway may not be designated as a seasonal limited-use highway. The 2002 opinion's inclusion of residences with intermittent occupation as meeting the requirement of “occupied residence” creates a more limited set of circumstances to allow the use of the seasonal limited-use road designation. An earlier, 1990-38 comptroller's opinion did not define occupied residences, and simply stated that if one or more residences or commercial buildings on a seasonal use road becomes occupied after the highway has been so designated, and the residences or building are dependent upon the highway for access, the town then becomes responsible for removal of snow and ice from, and maintenance of, the highway for the period of December 1 through April 1.

To designate a seasonal use road, the highway superintendent provides a list of recommended seasonal use roads to the town board during a board meeting. While not required, many town boards will formally approve this so that the matter appears in the board meeting minutes. This step must be completed prior to, or on, November 1. The list is then posted, usually in the town clerk's office, and seasonal use highway signs are installed.

However, during the winter, a seasonal use road must be plowed upon the request of a landowner or businessowner who owns property on the road, even if the request falls between December 1 and April 1. Depending on the timing and the snow conditions, this can be difficult to complete, especially on Tug Hill where snow reliably falls anywhere between October 15 and May 1.

Low Volume Roads

Decades ago, it was recognized that existing tools in state law – official road maps and seasonal limited-use roads as described above – did not provide enough options for local municipalities in managing their road system. In 1985, the NYS Legislative Commission on Rural Resources hosted symposiums during which rural municipalities raised concerns about a mismatch between the guidelines for design and maintenance of rural highways and actual traffic volumes. A year later, the state legislature responded by creating the Local Road Classification Task Force, charged with developing "alternative guidelines for classifying town or county roads in rural areas according to principal uses and traffic volume; for each class of road, the width of the driving surface and guidelines necessary to construct such roads and bridges; for each class of road the guidelines for maintenance and operation that may be required; and signs that may be needed to designate each class of road along with designated speed limits and other applicable guidelines." It is important to emphasize that state law empowered a state task force to produce materials and recommendations balancing the construction and design of road infrastructure with cost, maintenance, and purpose of operation.

As a result of the task force's work, the "Guidelines for Rural Town and County Roads" manual was developed which outlined the proposed classification system, rehabilitation design guidelines, local road maintenance guidelines and various tools for analyzing and classifying road systems. The guidelines were used in conjunction with "Highway Standards for Low Volume Roads in New York State" produced by the Cornell Local Roads Program, which provided sample road standards for new roads and maintenance of existing roads and included a template local law. In rural NYS, low-volume roads comprise more than 75 percent of the combined town and county mileage^{vi} utilized by vehicles^{vii} today. "Rural," for the purposes of the classifications, is defined by the following criteria: 1) any county with a population of less than 200,000, or 2) any town of less than 150 persons per square mile^{viii}.

From the late 1980s on, these documents were used by rural towns to enact low volume and minimum maintenance road standards and local laws using home rule authority. These local laws, while effective for their intended purpose, were subject to several legal challenges. The Tug Hill Commission and many partners statewide, at the request of local towns, worked for decades to get the principles outlined by the task force adopted into state law to make the process more legally defensible. In 2024, Highway Law § 205-c took effect outlining and allowing this process for the town of Lorraine, in Jefferson County (see case study later in this document). The hope is that the success of the process in Lorraine will encourage the state legislature to include more towns in this new section of law in the future.

In Highway Law § 205-c, low-volume roads are defined and subclassified as the following:

1. **"Low-volume road"** shall mean a town highway or portion thereof located in a designated town, when such highway has an average daily traffic count of less than

four hundred motor vehicles per day. Such term shall not apply to any highway or road or portion thereof which has previously been abandoned pursuant to subdivision one of § 205 (highways abandoned) because it shall not have been used or traveled as a highway for six years.

2. **“Agricultural land access road”** shall mean a low-volume road that provides access to farm land. Traffic volumes are low and vary seasonally.
3. **“Farm access road”** shall mean a low-volume road that provides principal motor vehicle access for the transport of goods and services necessary for effective support of a farm’s daily operations to and from the primary location or center of such operations. Traffic volume is generally low, significantly less than four hundred motor vehicles per day, and may include occasional heavy vehicles and farm equipment as well as other motor vehicles.
4. **“Recreation land access road”** shall mean a low-volume road that provides access to recreational land including seasonal dwellings, parks and recreational lands. Volumes can vary with the type of recreation facility, activity and season of the year.

Unlike seasonal road designations, these designations are considered permanent unless legislated otherwise. In light of the language in Highway Law § 205-c, the Tug Hill Commission, with some assistance from legal counsel, has created a new template local law for towns other than Lorraine, who are not currently included in this section of state law to use, to implement a low volume and minimum maintenance road law under their home rule powers. See Appendix B. It should be noted that most local town roads on Tug Hill are by definition low volume roads.

Minimum Maintenance Roads

Minimum maintenance roads are a particular type of very low-volume road (under fifty average daily motor vehicle trips per day) and must be created through the procedure outlined in the adopted local law for low volume roads. Only two categories of low-volume roads (agricultural land access and recreational land access) may be further designated as “minimum maintenance”, if they meet the criteria outlined in the approved local law. Put simply: all minimum maintenance roads are low-volume roads, but not all low-volume roads can become minimum maintenance roads.

The definition of a minimum maintenance road can be found in Highway Law § 205-c (e):

5. **“Minimum maintenance road”** shall mean a low-volume agricultural or recreational access road or portion thereof with an average daily traffic count of less than fifty motor vehicles per day designated by the designated town as minimum maintenance pursuant to this section, except for a farm access road or a road which provides access to an individual year-round residence at the time it is proposed to be designated minimum maintenance^{ix}.

Highway Law § 205-c also states, “... A road or road segment located within a designated town, which has been designated minimum maintenance, shall be maintained at the same

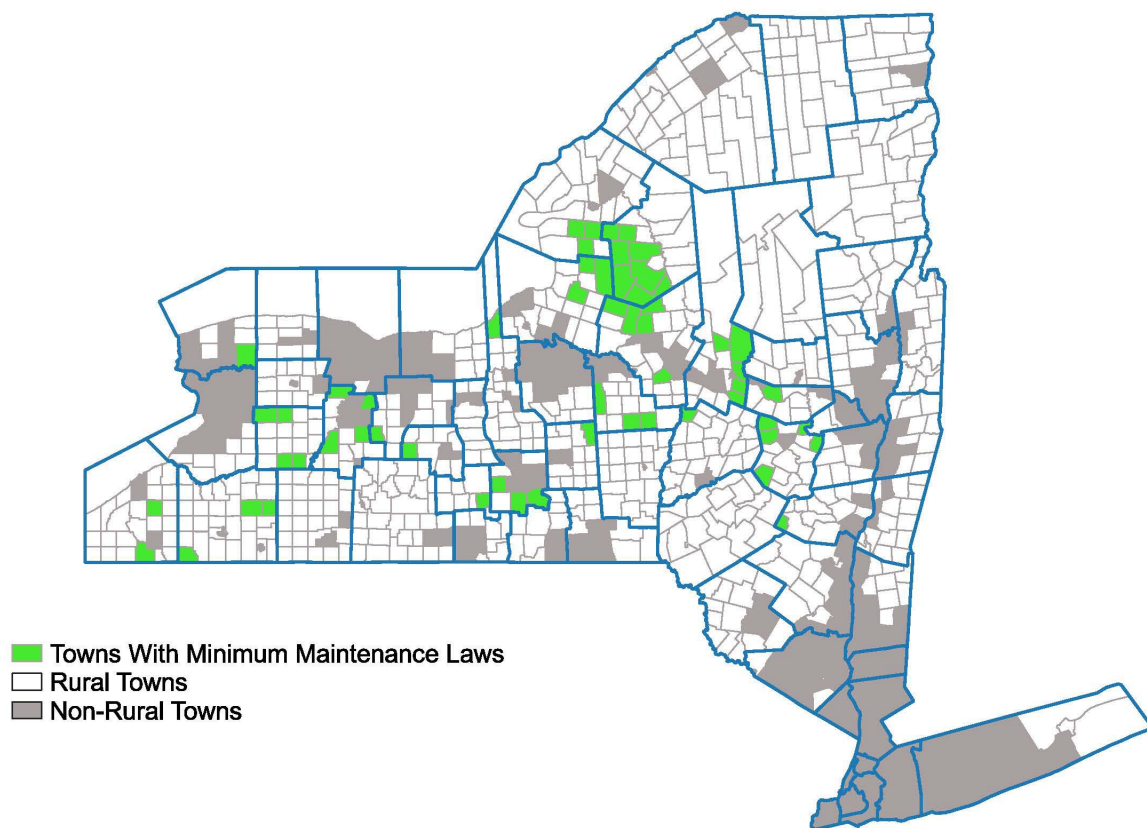
level as other roads within the town but shall not require snow and ice removal and maintenance.” In the case of this bill, the “designated town” refers to the town of Lorraine in Jefferson County.

A road’s minimum maintenance classification does not mean no maintenance. While minimum maintenance roads are often associated with no plowing, it is more accurate to consider them as roads maintained according to the appropriate standards for the road’s specific low-volume classification as adopted by the town board. The town must specify what maintenance activities will be conducted prior to the designation taking effect. These activities will be based on the minimum that is necessary to keep the road in service as consistent with its classification. In most circumstances, it may mean reducing or removing snow removal entirely.

Minimum maintenance also does not mean abandonment, nor is it a step in the road abandonment process. Minimum maintenance road designation (Highway Law § 205-c) and road abandonment (Highway Law § 205) follow two separate and distinct procedural steps. Were a minimum maintenance road to be abandoned, six full years would need to elapse following the termination of its minimum maintenance designation in addition to complying with all required abandonment criteria. Minimum maintenance road designation, therefore, can be seen as a cost-effective alternative to abandonment.

A minimum maintenance road designation is not necessarily permanent. The town board may terminate a designation at any time by amending the local law if such a change is in the public interest. Also, any landowner abutting the road may petition the town for a change in classification, and the town board must hold a public hearing within 30 days of receipt of the petition. The town board may deny or approve the petition. If the petition is denied, the landowner must wait a minimum of two years to re-petition. Unlike limited seasonal-use roads, highway departments are not obligated to plow minimum maintenance roads upon landowner request without the landowner following the petition and approval process outlined in the local law.

According to a search of local laws on the NYS Department of State’s Local Law search function^x, 57 of the state’s 995 towns or six percent of towns statewide, have minimum maintenance road laws filed with the Department of State at the time of publication. These towns are distributed widely across the state, in rural areas north of the Hudson Valley.



Towns have been classed as “rural” or “non-rural” as defined in NYS Executive Law Article 19F § 481 and enumerated in the appendix of “Local Roads Research and Coordination Council Manual: Guidelines for Rural Town and County Roads”. Based on 2010 decennial census data.

Case Study: The Town of Lorraine

Governor Kathy Hochul signed bill A6412/S6249, sponsored by Senator Mark Walczyk and Minority Leader Will Barclay, into law on December 8, 2023, with a chapter amendment signed on April 6, 2024. The law amends both highway and vehicle and traffic law, in relation to establishing minimum maintenance roads in designated towns, in this case Lorraine, Jefferson County. It codifies into state law the same basic process that towns across NYS have been following, under their home rule authority for decades, to designate low volume and minimum maintenance roads. The law went into effect on April 6, 2024, and expires on December 8, 2031. This new law was the result of decades of efforts by towns, councils of governments, partner organizations, and state legislators.

The Governor’s support memo states “This bill will authorize a process by which the Town of Lorraine, in Jefferson County, may designate roads with low volumes of traffic as “minimum maintenance roads,” not requiring snow and ice removal or other maintenance. I support the goals of this legislation, which would allow the Town of Lorraine to grant this

designation to certain roads, helping farmland and forestland, encourage outdoor winter recreation, and help localities manage road maintenance budgets.”

Lorraine is 39 square miles in size with a 2020 population of 924. Total town road mileage is approximately 36.4 miles, with about 15 miles designated minimum maintenance. Twenty percent of the land in Lorraine is state forest, and of the town’s minimum maintenance road mileage, 6.5 miles has state land on one or both sides. In 2020, the town’s budget was approximately \$1.4 million, and 75% of that was spent on highway management. Several minimum maintenance town roads in Lorraine provide critical access to the 9,233-acre Winona State Forest. These roads are unpaved, providing access to the area by motor vehicles in the summer, and access to the area via skis, snowmobiles, dog sleds, snowshoes and fat bikes in the winter.

Since the state legislation went into effect, Lorraine has taken several steps to redesignate their roads in light of the new state statute. The town reviewed and updated their official road map, filed the same with their town clerk, and filed a certificate of this new map adoption with the county clerk, in accordance with NYS Town Law § 270. The Jefferson County Highway Superintendent was also apprised of the new map to make sure that the town and county highway maps are consistent. As the town continues through the re-designation process, maps showing the roads designated as low volume and as minimum maintenance will also be approved clearly delineating the town’s road system.

The town's pre-existing low volume and minimum maintenance road local laws adopted under their home rule authority have been repealed and a new local law approved under the authority of Highway Law 205-c. Lorraine adopted their new local law following the process outlined in Highway Law 205-c. To support the process, new traffic counts were needed on the town’s roads, for inclusion in the findings required in the adoption process for the new local law. Once traffic counts were completed, the town moved through the rest of the process for the adoption of the new local law, which included approval of the findings by the town board; transmission of the adopted findings to the school board, town planning board and NYS Department of Environmental Conservation for review and comment; written notice of the public hearing on the law mailed to property owners on any designated minimum maintenance road of the public hearing on the law; a public hearing on the law; and finally adoption of the new local law. Once the newly adopted local law is filed with the Secretary of State and proper road signage installed, the classifications and maintenance regimes on the roads will be officially re-established with the backing of state statute, making them much more defensible.

Low-Volume and Minimum Maintenance Road Designation Process

For all other towns in NYS, the new recommended low-volume road and minimum maintenance road designation process, as described below, follows the process Lorraine is authorized to do via Highway Law § 205-c:

1. The highway superintendent must establish low-volume road classifications and findings for each road or road segment based on the definitions found in Highway Law 205-c and enumerated in the local law.
2. It is strongly encouraged that a proposed maintenance regime for each road or road segment be established at this time. These findings and maintenance regime are then filed with the town clerk. The findings include the volume and type of traffic on the road and any other pertinent information about the different classes of roads.
3. Within ten days of the filing by the highway superintendent, the town clerk confers the information to the town board, apprising them and the public of the highway superintendent's intentions.
4. At the next town board meeting, the town board adopts a resolution accepting or rejecting in whole or in part, the classifications. Upon adoption of the resolution, the roads are considered classified as presented, except minimum maintenance road classifications are not final until the local law is enacted after following the steps outlined in the law (see 5-12 below).

The procedure for minimum road designation (e.g. the further designation of roads classified as either agricultural land access or recreational land access) is done via public hearing and local law. Once a town has established a low-volume road system, it must follow these additional steps to designate minimum maintenance roads:

5. After low-volume road classifications are enacted, the highway superintendent must submit recommendations to the town board on which roads or road segments should be further designated as minimum maintenance, along with a proposed maintenance regime. These recommendations can only be made for roads which **at the time of designation:**
 - (a) have a vehicle traffic volume of less than 50 motor vehicles per day
 - (b) have an agricultural land access or recreational land access road designation
 - (c) do not restrict farm operations in an agricultural district as defined in Article 25-AA of Agriculture and Markets law
 - (d) do not prevent the state from maintaining such roads if the road passes over or provides access to state land, and
 - (e) do not provide farm centers of operation and/or year-round residences with principal motor vehicle access to goods and services necessary for the effective support of such farms and/or year-round residences.
6. The town board adopts a resolution accepting or rejecting in whole or in part, the minimum maintenance classifications if they differ at all from step 4 above.

7. The town board prepares findings on the proposed subset of minimum maintenance roads or road segments and presents the draft local law. The town board's findings must include:
 - (a) the volume and type of traffic on the road
 - (b) a determination that property owners of land abutting the road will have continued access to their property
 - (c) a determination that users traveling a "reasonable and prudent" speed shall not be placed in a hazardous situation
 - (d) a determination that the road is not a farm access road, as defined in the law
 - (e) a determination that the road does not provide access to a year-round residence at the time it is proposed to be designated as minimum maintenance
 - (f) the effect of the designation on any farm operations and that designation does not restrict farm operations in ag districts
 - (g) that the classification does not prevent the state from maintaining the road if the road passes over or provides access to state land.
8. At least 45 days prior to the public hearing, these findings must be filed with the town clerk and posted on the town website, if available, for review by the public. The findings must also be issued to the board of education of the school district(s) in which the roads are located, and to the town planning board to give them an opportunity to comment. A copy of the findings (see below) also must be sent to DEC or any other state agency that has jurisdiction over the land a road proposed to be designated as minimum maintenance crosses over. These entities have 45 days to file with the town clerk their recommendations and findings of the proposed classifications of the roads. If there is no response within the 45-day period, the town board can proceed without the recommendations/findings. The school and planning board review can be waived, shortened, or extended by mutual consent of the entity board in question and the town board.
9. At least 30 days prior to the public hearing, written notice of the hearing and a summary of the findings shall be served by certified mail on every owner of real property abutting the road or portion of the road proposed to be designated as minimum maintenance.
10. At least five days prior to the public hearing, notice shall be given in the official newspaper of the public hearing and posting shall be done on the town website (if such is available) specifying the time and place of the hearing and a general description of the resolution.

11. The town board holds a public hearing on the proposed minimum maintenance road designations and the accompanying local law. The town will either accept, accept in part, or reject the recommendations of the school board, planning board, or relevant state agency on proposed minimum maintenance roads prior to a vote on the local law.
12. Following the hearing, the town board approves or denies the local law listing the low volume and minimum maintenance roads. If approved, the highway superintendent posts the appropriate signs on the newly designated minimum maintenance roads and then the law is considered in effect upon filing with the Secretary of State.

See local law template in Appendix B.

There are two ways that a local law may be challenged:

1. Article 78 Proceeding: CPLR § 217(1) establishes a special legal proceeding by which individuals or entities may challenge the actions or inactions of New York State and local government agencies, public bodies, or officers. Petitioners have a four-month statute of limitations to challenge any actual or perceived misconduct or inaction based on Article 78 and CPLR § 217(1) unless a shorter time is provided in another statute. This is a challenge on procedural grounds.
2. Substantive Proceeding: CPLR § 213(1) establishes an actionable period in which the public seeks to have the courts declare a local law invalid. In this case, petitioners have a six-year statute of limitations to seek legal recourse. This is a challenge based on substantive grounds, wherein the contents of the local law itself are contested.

Low-Volume and Minimum Maintenance Road Mapping Process

While Highway Law does not require any formal mapping procedure to coincide with its low-volume road designation, a map reflecting the local legislation may be developed in a similar way to an official road map. Upon request, a low-volume road map and a minimum maintenance road map may be produced with coordination and collaboration between a highway superintendent and commission staff. Map data is furnished and refined through a combination of NYS DOT geospatial data, GPS site work, the local highway inventory, and mapping software editing to produce a product that precisely reflects the language of the town's local law. For an example of a low-volume road classification map and a minimum maintenance road map, see Appendix C and Appendix D, respectively.

Other Tools for Municipalities

The focus of this paper up until this point has been related to the road system. There are several other legal mechanisms that towns can use to support and reaffirm the vision for their community related to the transportation system.

Plowing Laws

Plowing of town roads is the mandatory duty of the town highway superintendent. State law and case law confirm that only the highway superintendent or an employed member of the town highway department, as overseen by the superintendent, are legally allowed to plow town roads. Modification of town roads, including plowing by private persons or other entities, is not supported by law. The cost of maintaining and repairing a town road is solely the responsibility of the town. Pursuant to case law and echoed by the New York Attorney General's Opinion 89-21, road maintenance, including snow and ice removal, is a "non-delegable duty" of the town^{xi}. A town highway superintendent is solely-obligated to ensure its jurisdictional roads are kept in a reasonably safe condition for the public as part of his/her mandatory, ministerial duties^{xii}. The only exception to this is the legal authority in General Municipal Law § 190-O granting municipalities (towns, cities, villages, counties) the ability to enter into an inter-municipal agreement (IMA) with other municipalities to assist in duties like plowing each other's streets and highways.

Any entity other than the town or a municipality affiliated with an IMA may open themselves up to significant legal repercussions by modifying or maintaining a town road in any way, including snow and ice removal^{xiii}. There is no statutory or judicial basis for towns to contract with private individuals for snow or ice removal. Towns deciding to enter into a contract with a private entity for snow removal on their roads, even temporarily, do so at their own risk. Municipalities should use caution and be aware that the ultimate liability for the maintenance of the road remains with the town, regardless of the contract terms.

A local plowing law can protect the health, safety, and welfare of residents by specifically prohibiting the use of private snow removal equipment on local roads. This may seem redundant in the face of state and case law, but the local law may also outline penalties for offenses and may include assigned responsibility for road damage to the offending party. Plowing local laws also generally include language prohibiting grooming the roads for snowmobile use without written consent of the town board. This requires that snowmobile clubs who groom unplowed town roads in winter as part of the trail system have a written agreement with the town for the protection of both entities from liability. While snowmobiles are allowed to travel on unplowed and unused highways during winter months under Parks and Recreation Law § 25.05(5), these roads must be first designated by the municipal board responsible for the road as open for snowmobile travel under Parks and Recreation Law § 25.09. The maintenance or grooming of these roads for use as snowmobile trails is not explicitly covered by these state statutes, only the use of the roads

by snowmobiles, so having a written agreement which outlines the responsibilities of each party is recommended. For a model template of a plowing law, see Appendix E.

Driveway Installation Laws

Driveway installation laws help prevent poor design and construction where private driveways meet town roads. Badly sited or designed driveways can threaten public safety and cause the town extra expense. They can also block town snowplows from clearing ice and snow properly. Driveway installation laws are permitted under Town Law § 130(7)(a) which allows the town to enact ordinances, rules, and regulations regarding the use of streets, highways, sidewalks, and public places, specifically "incumbering thereof by any encroachment of buildings, structures, excavation or otherwise".

These laws often involve a permit application and fee, the improvement of the design of proposed driveways to ensure safety when entering the road and often require the inspection of the installation by the highway superintendent. Driveway installation local laws can also require simultaneous filing for a zoning permit for any related structures. For a model template of a driveway installation law, see Appendix F.

Comprehensive Plans

Highways are also an important part of the entire town's landscape and directly relate to land use. Comprehensive plans, adopted under Town Law § 272-a, can provide rationale and support for the town's management of its highway system, including low-volume road designations, seasonal use designations, and minimum maintenance road designations, as well as guidance to zoning changes, variances, and special use permits that affect both land use along roads and road designations. Highway maintenance and classification must be sensible in the broader context of adjacent land.

Comprehensive plans provide a basis for zoning, which controls land use throughout the town and particularly along the road system. Towns should work with their planning boards to ensure that zoning laws include appropriate, allowable land uses in consideration of the existing infrastructure. For example, if a town has significant minimum maintenance road mileage, it would be logical for a zoning law to identify the parcels in a zone adjacent to the minimum maintenance road mileage to be complementary to the low traffic volume (e.g. seasonal residences like camps). Proper town planning and use of these controls can help a town mitigate issues arising from proposed developments with conflicting land uses around low-traffic rights-of-way.

Seasonal Use Zoning Laws

While a minimum maintenance road law controls the maintenance regime of the road, a zoning law adopted pursuant to Article 16 of Town Law is a tool to control the use of land adjacent to the road. Most rural communities wish to allow uses such as seasonal camps along unplowed roads as long as they do not create a year-round plowing burden. Zoning

laws can be tailored to allow new structures along unplowed roads by defining them as seasonal uses that do not require a plowed road for access.

Uses predating any revised zoning measure are granted constitutionally protected nonconforming status, and may remain, although often with some restrictions. Such nonconforming uses may still remain a snow plowing burden in the future if they have not been approved as a seasonal use.

Subdivision Road Controls

A subdivision law adopted under Article 16 of Town Law may ensure that new roads being laid out in the town are either privately owned and the responsibility of the subdivision's landowners, or are dedicated to the public and designed and constructed in such a way that they may be easily and efficiently plowed by the town. A subdivision law allows the town to review and approve the geometry, width, and construction of subdivision roads, and require a performance guarantee before lots may be sold. Such an approval is important even for roads not immediately being offered for public dedication, as it protects the town in the case of unforeseen future pressures to accept subdivision roads as public highways.

Legal Landscape and Local Actions

At present, there is little in the way of legal precedent, judicial authority, or case studies involving the intersection of minimum maintenance road laws and planning. Based on attorney input, the following are examples and practices to keep in mind that may strengthen the validity of local actions:

1. **West Turin Case:** In 2020, after several years of court cases related to Bauer Road, a town-designated minimum maintenance road, and a petition by a landowner on Bauer Road to remove the designation and provide winter plowing, the court ruled in favor of the landowner and agreed that Highway Law 140 was applicable in this instance. The outcome of this decision, in part, was due to the particulars of the Certificate of Occupancy and very specific set of facts around the case. Importantly, the court did not invalidate the minimum maintenance road law itself, nor the town's right to designate its roads as low-volume or minimum maintenance. Based on this outcome, the town of West Turin amended its zoning law later in 2020 to include a seasonal use designation in an effort to limit similar future challenges.
2. **Clarity in Local Laws:** Careful drafting of local laws may help a town withstand future challenges and legal scrutiny. In the case of seasonal limited-use zoning, the local legislation should include the following express language: A) that the local law is being adopted pursuant to Municipal Home Rule Law (MHRL) with the intent of superseding any potentially-inconsistent provisions of State Law, and B) the local municipality's belief that Highway Law has not preempted local authority to adopt this type of legislation pursuant to MHRL.

3. Clarity in the “Seasonal Use” Definition: Careful attention must be paid to exactly how “seasonal” use is defined. In the following example, seasonal limited-use roads and seasonal use as defined in a zoning law are complementary:
 - a. *Seasonal Use: A use that is not conducted year-round or, if a residential structure, is not occupied year-round, and is not dependent upon access from a snow-plowed or winter-maintained public road or the provision of vehicular public services such as but not limited to emergency services, school bussing, fuel delivery, garbage/trash removal, postal/package delivery and home maintenance services during the winter season from the first day of December until the first day of April. No seasonal use property shall be utilized as a primary residence.*
4. Certificate of Occupancy: While Certificate of Occupancy (CO) practice differs among various municipalities in various counties, it is worth considering a closer, clearer coordination of CO issuance between a local municipality and its county (if the county performs code enforcement for the town), especially in situations involving local municipal efforts to limit year-round road maintenance obligations. Better communication and coordination toward mutual goals can sometimes strengthen a town’s legal position, particularly when challenged by a local landowner or prospective developer.

Logging and Town Roads

Logging is frequently done during the winter, when equipment can access remote areas more easily on frozen ground. Winter work can make logging easier for the operator and reduce impacts on the land, but can raise concerns on the roads being used to access property. By temporarily preventing vehicles with a gross weight of four tons or more from using specific town roads using Vehicle and Traffic Law 1660 (11)^{xiv}, road damage can be prevented especially during spring thaw.

The general procedure used when a logger has concerns about weight limitations is for the logging contractor to petition the town for an exemption. If the town grants the petition, it would issue a permit with terms and conditions, which may include: the logger contacting the town highway superintendent on the days it intends to use the road; the superintendent taking into account the weather conditions before granting permission; and documentation of the condition of the road before and after use, with the logger responsible for restoration of the road in a reasonable amount of time if damage is done, per Highway Law Section 320.

Additional concerns can occur in winter when a logging operation may request a road not typically plowed, such as a seasonal road or minimum maintenance road, be plowed for a certain amount of time, to allow logging equipment access to specific parcels. While seasonal roads must be opened and plowed should a residence or business be

established on the road, based on a review of agency and court decisions, a logging operation does not constitute a business on a seasonally designated road. The spirit of the seasonal use designation law seems to address the need for fire protection services to have access to structures that have people residing or working in them.

No case law or agency decisions exist for similar requests on minimum maintenance roads. Since minimum maintenance roads are not required to be plowed upon request, it would be presumed that the request to plow for logging would be declined and the logging operation encouraged to find an alternative way or time of year to access the property to be logged. The other option in this case would be to remove the minimum maintenance designation, which would require amending or repealing the designation law.

An important consideration when considering opening a previously unplowed road is the quality of the road. Usually, significant and extremely expensive improvements must be made to bring these roads to a standard that would allow plows to operate safely on them without causing damage to the road and adjacent properties. Often, roads are too narrow for plows to operate and often cannot be widened even through condemnation due to adjacent state lands.

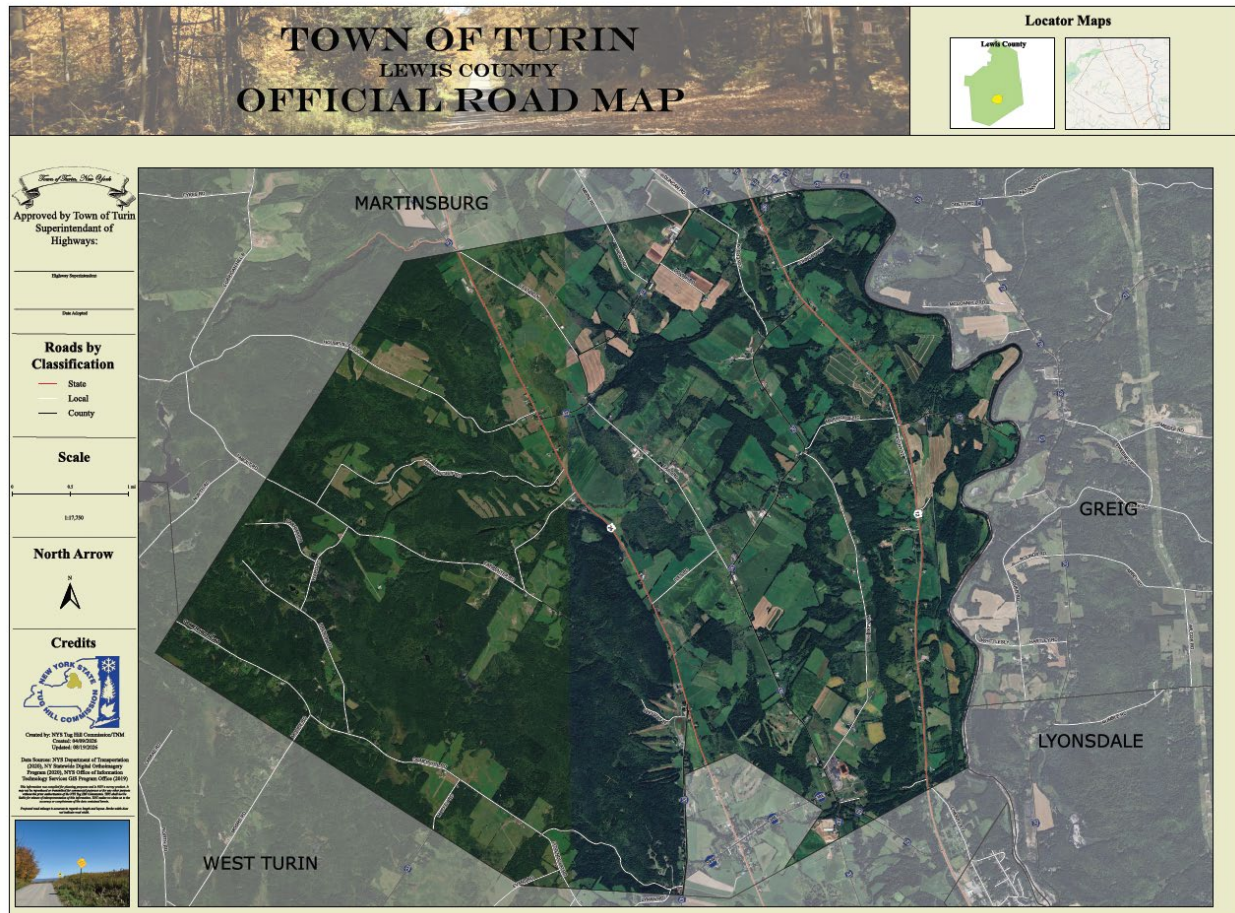
Another consideration is that all unplowed town roads are available for snowmobiling when they have been appropriately opened for snowmobile use by the town (under Parks and Rec (OPRHP) Law 25.05(5)), as discussed above, and often constitute part of the regional snowmobile trail system. If an unplowed road is also a designated snowmobile trail, plowing may create a break in the trail system. Disrupting the snowmobile trail system could have safety implications and/or could have a negative economic impact on businesses in the area that depend on snowmobiling. Overall, plowing a road that is not normally plowed may, in general, cause confusion for both local residents and visiting recreationists, especially mid-season.

Requests are often made by loggers and other private entities to either contract with a town to plow roads or be allowed to plow them without compensation. A town has responsibility for the maintenance of its roads and cannot delegate this responsibility to others based on case law. Municipalities have a legal duty, and potential liability for injured persons^{xv}. As discussed earlier, the town would take on great liability by allowing a third party, such as a logger, to take responsibility for plowing a seasonal or minimum maintenance road. If the town is going to open an unplowed road for a logging operation, it is the town's responsibility to do so and make sure it is done in a safe manner. Certain signage may also be advisable to alert snowmobile and ATV users to the change.

Takeaways

Roads are arguably the most important and expensive infrastructure towns, especially rural towns, manage. The highway superintendent, the town board, and the planning board all have key roles to play in making town roads safe, cost-effective, and supportive of the town's visions for their future.

Appendix A: Official Road Map Example



Appendix B: Low Volume/Minimum Maintenance Road Law Template

TOWN OF _____

LOCAL LAW NO. ____ FOR 20__

A LOCAL LAW FOR THE CLASSIFICATION OF LOW VOLUME RURAL TOWN ROADS AND
DESIGNATING MINIMUM MAINTENANCE ROADS.

Section 1. Legislative Purpose. The Town of _____ hereby enacts this local law to reduce the cost of maintaining and rehabilitating low-volume rural town roads while providing that the condition of such roads, when used in a manner consistent with the road classification, will be safe for the users thereof. If the cost to maintain low traffic volume roads were reduced by modifying the design, maintenance, and rehabilitation standards for low traffic volume roads, the cost savings could be applied toward the cost of maintaining those town roads experiencing higher traffic volumes. Applying the town's limited resources for highway maintenance to more heavily travelled town roads would allow the town to more effectively utilize its limited resources and maximize the benefit to and safety of the town and the travelling public.

Section 2. Statement of Authority. The Town of _____ enacts this Local Law pursuant to NYS Constitution Article IX, Municipal Home Rule Law section 10 (1)(i) and Municipal Home Rule Law section 10 (1)(ii)(a)(6), and Town Law sections 64 (3) and 64 (23).

Section 3. Legislative History. In 1986, the New York State Legislature created the Local Road Classification Task Force (Chapter 708 of the Laws of 1986). The task force was charged with developing alternative guidelines for classifying town and county roads in rural areas according to their principal uses and traffic volume. The task force issued "*A Manual: Guidelines for Rural Town and County Roads*" in December 1989 to assist local officials in developing local road classifications, cost cutting procedures, and more efficient maintenance practices for rural roads in their municipalities. In 1990, the New York State Local Roads Research and Coordination Council was established. The Council was empowered to work with the Department of Transportation to, among other things, develop minimum maintenance road classifications to address the design and maintenance standards for low-volume rural roads and procedures for local governments to establish minimum maintenance roads within their communities. The Council revised the 1989 Local Roads Classification Task Force Report and published it for use by rural towns and county governments on December 30, 1992.

Section 4. Classification. If the town superintendent of highways finds it to be in the best interests of the town, the highway superintendent may classify one or more roads or portions thereof as one of the following types of roads: agricultural land access; farm access; low-volume; recreational land access; residential access; or minimum maintenance road as defined in Section 13 of this local law. However, no road or portion thereof classified by the town highway superintendent as a minimum maintenance road shall become a minimum maintenance road until so designated by a local law enacted by the town board.

Upon the town highway superintendent's classification of any road or portion thereof, such classification shall be filed in the office of the town clerk who shall within 10 days of such filing provide a copy to each member of the town board. The highway superintendent's classification filed with the town clerk shall be accompanied by the highway superintendent's findings setting forth the information relied upon by the highway superintendent when classifying each road or portion thereof. At a town board meeting following the filing of such classifications, the town board may adopt a resolution accepting or rejecting, in whole or in part, such classifications. Upon the adoption of such resolution, the roads or portions thereof accepted by the town board shall be classified as determined by the town highway superintendent. However, the classification of any road or portion thereof as a minimum maintenance road shall not be final until such road or portion thereof shall be designated a minimum maintenance road by a local law enacted by the town board as provided in Section 5 of this local law.

Section 5. Minimum Maintenance Road Classification. Notwithstanding the provisions of Section 4 of this local law, no road or portion thereof shall be designated as a minimum maintenance road except after following the procedure set forth in Sections 5-8 of this local law, inclusive.

- a) The town superintendent of highways shall submit to the town board a recommendation that a road or portion thereof classified as a minimum maintenance road should be designated as a minimum maintenance road. No road or portion thereof shall be recommended to be designated a minimum maintenance road by the town superintendent of highways unless at the time of such designation:
 - 1) the traffic volume is less than 50 motor vehicles per day as determined by the town superintendent of highways on such road or portion thereof
 - 2) is an agricultural land access road or a recreational land access road;
 - 3) does not restrict farm operations in an agricultural district as defined in Article 25-AA of the Agriculture and Markets Law;

- 4) does not prevent the state from maintaining such road if the road passes over or provides access to state land; and,
 - 5) such road or portion thereof does not provide farm centers of operation and/or year-round residences with principal motor vehicle access to goods and services necessary for the effective support of such farms and/or year-round residences.
- b) The town board, upon the approval of such recommendations and after following the procedures set forth in this local law, shall designate such roads or portions thereof as minimum maintenance roads by local law. Upon being designated a minimum maintenance road by local law, such roads shall continue to be part of the town highway system.
 - c) No local law designating a road or portion thereof a minimum maintenance road shall be effective until the signs required by Section 9 of this local law are posted advising the public that such road is a minimum maintenance road.
 - d) No road or portion thereof, once designated a minimum maintenance road, shall be deemed or determined to have been abandoned pursuant to the provisions of subdivision one of section two hundred five of the highway law solely because it has been designated a minimum maintenance road.
 - e) At least forty-five days prior to any public hearing relating to the adoption of a local law designating a low-volume road or portion thereof as a minimum maintenance road, the town board having jurisdiction over such road shall issue findings setting forth the grounds that such road or portion thereof should be designated a minimum maintenance road. Such findings shall include but not be limited to:
 - 1) the volume and type of motor vehicle traffic on such road;
 - 2) a determination that the property owners of land abutting the road shall continue to have access to their land;
 - 3) a determination that the road, when used in a manner consistent with its designation as a minimum maintenance road and the condition of the road, will be safe for the users of the road traveling at a reasonable and prudent speed;
 - 4) a determination that such road is not a farm access as defined in Section 13 of this local law;
 - 5) a determination that the road does not provide access to an individual year-round residence at the time it is proposed to be designated a minimum maintenance road, and;
 6. the effect of such designation on any farm operations dependent upon the road, and that such designation does not restrict farm operations in agricultural districts.

Such findings shall be filed in the Town Clerk's office, made available for public inspection, and posted to the town website, if available.

Section 6. School Board and Planning Board Review. A copy of the findings required by Section 5 shall be sent to the school board of the school district(s) and the town planning board in which each road or portion thereof proposed to be designated as a minimum maintenance road is located. Within forty-five days of their receipt of the findings, such school board(s) and planning board may file with the town clerk their findings and recommendations regarding the designation of such roads as a minimum maintenance road. By resolution, the town board may accept or reject, in whole or in part, the recommendations of the school board(s) and the planning board prior to any vote upon the proposed local law. If the school board(s) or town planning board file no findings or recommendations or take other action within forty-five days of their receipt of the town's findings, the town board may proceed with the process of designating the roads as a minimum maintenance roads. The forty-five day time period within which school boards and the town planning board have to provide their findings, recommendations, or take other action may be waived, shortened, or extended upon mutual written consent of the school boards, the planning board, and the town board.

Section 7. Department of Environmental Conservation Review. A copy of the town board's findings shall be sent to the department of environmental conservation or any other state agency or department having jurisdiction of any state land over which the road proposed to be designated as a minimum maintenance road traverses or provides access.

Section 8. Additional Notifications.

- a) At least thirty days prior to the public hearing relating to the proposed enactment of a local law designating a road or portion thereof as a minimum maintenance road, written notice of such hearing, including a summary of the town board's findings, shall be served by certified mail, return receipt requested, upon every owner of real property abutting such road or portion thereof, as determined by the town's latest completed assessment roll and depicted on County tax maps.
- b) The town clerk shall give public notice of such hearing by publication of the notice once in at least one newspaper of general circulation in the town and in the Town's official newspaper, at least five days prior to the day specified for such hearing, and by posting such notice on the town website, if available, at least five days prior to the day specified for such hearing. The Public Notice shall specify the date, the time when, and the place where such hearing will be held, and in general terms describe the purpose of the proposed local law.

Section 9. Posting of Signs. No local law designating a road as a minimum maintenance road shall be effective until signs are posted advising the public that such road is a minimum maintenance road. Such signs shall notify and advise motorists of the need to exercise caution when traveling on such roads and shall conform to the manual of uniform traffic control devices. Properly posted signs shall be prima facie evidence that adequate notice of the road's designation as a minimum maintenance road has been given to the public.

Section 10. Minimum Maintenance Practices. The town highway superintendent shall maintain the condition of a road or portion thereof located within the town which has been designated a minimum maintenance road in the same way as other town roads such that, when used in a manner consistent with the road's designation as a minimum maintenance road, will be safe for the users thereof, except that the highway superintendent shall not be required to remove obstructions caused by snow and ice. The condition of a minimum maintenance road as maintained by the highway superintendent shall not restrict access to farmland by a farm operation eligible for an agricultural assessment pursuant to Article 25-AA of the Agriculture and Markets Law.

Section 11. Revocation of Minimum Maintenance Road Designation. Any person or entity owning or occupying real property abutting a road or portion thereof which has been designated a minimum maintenance road may petition the town board to revoke the designation of such road, or portion thereof, as a minimum maintenance road. Such petition shall be filed with the clerk of the town having jurisdiction over such road. Such petition shall specify the designated minimum maintenance road affected by the petition and identify the extent of such designated road or portion thereof which the petitioner requests be revoked and set forth the reasons for requesting that the designation of such road or portion thereof as minimum maintenance road be revoked. The town board having jurisdiction over such road shall hold a public hearing upon such petition within thirty days after its receipt. The town clerk shall give public notice of such hearing by publication of the notice once in at least one newspaper of general circulation in the town and in the Town's official newspaper, at least five days prior to the day specified for such hearing, and by posting such notice on the town website, if available, at least five days prior to the day specified for such hearing. The public notice shall specify the date, the time when, and the place where such hearing will be held, and in general terms describe the purpose of the proposed hearing. At least twenty days prior to the public hearing relating to a petition to revoke the designation of road or a portion thereof as a minimum maintenance road, written notice of such hearing, including a description of the road or portion thereof affected by the petition, shall be served by certified mail, return receipt requested, upon every owner of real property abutting such road or portion thereof, as determined by the town's latest completed assessment roll and depicted on county tax maps.

After the public hearing, the town board may decide, in whole or in part, whether to revoke or not to revoke, the minimum maintenance designation for such road, or portion thereof. If the town board decides not to revoke the roads designation as a minimum maintenance road, no other petition may be filed by the same person or entity bringing the petition and affecting the same minimum maintenance road or portion thereof within twenty-four (24) months of the town board's decision not to revoke the road's designation as a minimum maintenance road.

Section 12. The town board having jurisdiction over a minimum maintenance road may adopt a local law revoking all or part of any road's designation as a minimum maintenance road if it determines such revocation to be in the public's best interest.

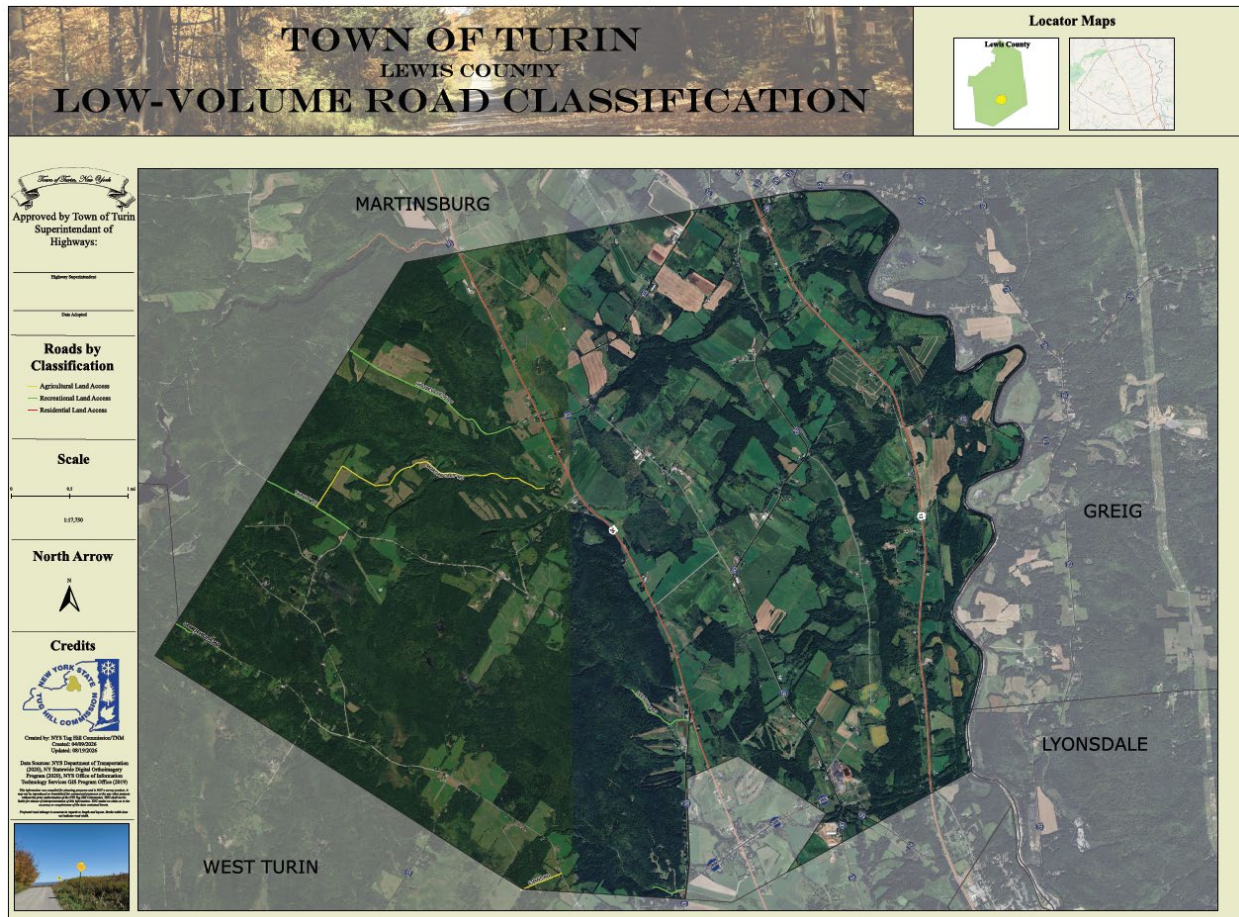
Section 13. Definitions. When used in this section, unless otherwise expressly stated or unless the context or subject matter requires otherwise, the following terms shall have the following meanings:

- a. "Agricultural land access road" shall mean a low-volume road that provides access to farmland. Traffic volumes are low and vary seasonally.
- b. "Farm access road" shall mean a low-volume road that provides principal motor vehicle access for the transport of goods and services necessary for the effective support of a farm's daily operations to and from the primary location or center of such operations. Traffic volume is generally low, and may include occasional heavy vehicles and farm equipment as well as other motor vehicles.
- c. "Low-volume road" shall mean a town highway or portion thereof when such highway has an average daily traffic count of less than four hundred motor vehicles per day. Such term shall not apply to any highway or road or portion thereof which has previously been abandoned pursuant to subdivision one of section two hundred five of the Highway Law because it shall not have been used or traveled as a highway for six years.
- d. "Minimum maintenance road" shall mean a low-volume agricultural land access or recreational land access road or portion thereof with an average daily traffic count of less than fifty motor vehicles per day designated by the town as a minimum maintenance pursuant to this law, except for a farm access road or road which provides access to an individual year-round residence at the time it is to proposed to be designated minimum maintenance.
- e. "Motor vehicle" shall mean a motor vehicle as defined by section one hundred twenty-five of the vehicle and traffic law.
- f. "Recreational land access road" shall mean a low-volume road that provides access to recreational land including seasonal dwellings, parks, and recreational lands. Volumes can vary with the type of recreation facility, activity and season of the year.

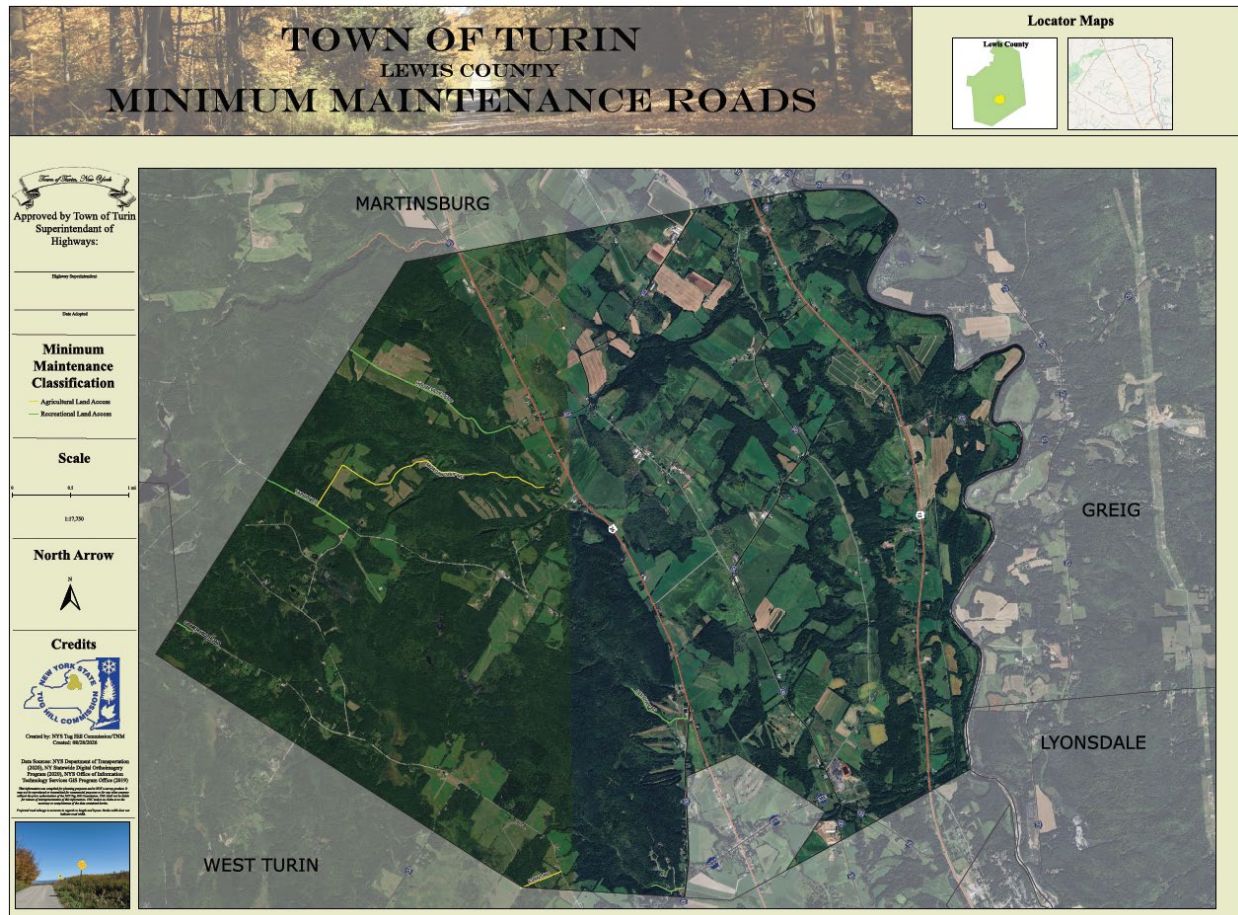
- g. “Residential access” shall mean a low-volume road that provides access to residences. The traffic volume generated depends on the number of residences. Access to year-round residences by fire and life safety vehicles and school buses shall be provided.

Section 14. This local law shall take effect immediately upon filing with the Secretary of State.

Appendix C: Low Volume Road Map Example



Appendix D: Minimum Maintenance Road Map Example



Appendix E: Plowing Law Template

TOWN OF _____

LOCAL LAW NO. ____ for 20__

A LOCAL LAW FOR PLOWING SEASONAL AND MINIMUM MAINTENANCE ROADS

BE IT ENACTED by the Town Board of the Town of _____ as follows:

Section 1. **Findings and Purpose.** The Town Board of the Town of _____ hereby finds that the use of seasonal and minimum maintenance roads in the Town for snowmobile and/or ATV trails has become an important part of the economy of the Town and provides recreational opportunities to many Town residents as well as others from outside the Town. To ensure adequate maintenance of such trails and consistency of maintenance, and to avoid damage to Town Roads, the Town Board finds it necessary to license the grooming of its roads for such trails. It is the purpose of this article to provide a method for doing so.

Section 2. **Use Restrictions.** No person, other than the Highway Department personnel, shall be allowed to plow, groom, or in any manner maintain seasonal and/or minimum maintenance roads in the Town of _____ without specific written permission of the Town Board.

Section 3. **Penalties for Offenses.** Any person plowing, grooming, or in any manner maintaining any seasonal/minimum maintenance roads in the Town of _____ for any purpose without such permission shall be subject to a fine not to exceed \$250 and/or imprisonment not to exceed 15 days or both. Each day of activity shall be considered a separate violation. Such person may be responsible for damages sustained to such roads.

Appendix F: Driveway Installation Law Template

Town of _____
Driveway Installation Law

1. Statement of Authority.

The Town Board of the Town of _____ pursuant to the authority granted under

2. Title

This law shall be entitled the “Driveway Installation Law of the Town of _____”

3. Permit Required

No person, owner, and/or contractor shall hereafter install a driveway opening onto a town road without first obtaining a driveway installation permit from the Town of _____ Highway Superintendent.

4. Application Procedures

- A. An application in writing shall be file with the Town of _____ Highway Superintendent upon application forms which he shall prescribe, which application shall state the nature, location, extent, and purpose of the proposed driveway opening, and the use of the property as identified on any coincident zoning application.
- B. All applications shall include maps and plans which shall indicate the location and boundaries of the subject property for which a permit is requested and shall show the location, elevation, size and type of all existing and proposed driveways and buildings, underground utilities, service facilities, parking layouts and drainage facilities.
- C. It shall be the responsibility of the applicant to arrange a meeting with the highway superintendent at the site of the driveway opening.

5. Requirements and Responsibilities

- A. Any driveway culvert required by the town highway superintendent that is within the town right-of-way shall be designed, installed, and maintained by the Town of _____.
- B. The applicant shall be responsible for the cost of any required culvert, and the cost of any agreed upon stone above one load, as well as the cost of trucking and loading for stone above one load. Such cost shall be as determined by town board resolution.
- C. The entire cost of any additional driveway culverts above one culvert per property shall be the responsibility of the applicant.

- D. The town shall not perform any work on designing, installing, or maintaining any required culvert until all costs have been paid by the applicant.

6. Zoning Permit

- A. A driveway installation permit under law shall be applied for coincidentally with the application for a zoning permit to commence the excavation for or the construction or erection of any structure regulated by the Town of _____ Zoning Law, as amended.
- B. No driveway installation permit shall be issued for any use on a minimum maintenance road as established in Local Law No. __ of 20__, as amended, unless it is classified as a seasonal use pursuant to the Town of _____ Zoning Law.

7. Fees

This application shall be accompanied by such fee or fees as the town board shall prescribe from time to time by resolution not exceeding the approximate reasonable cost of processing and reviewing the application and making any necessary inspections.

8. Violations and Penalties

Any person, firm, or corporation who or which shall violate any provision of this chapter shall, upon conviction thereof, be sentenced to pay a fine of not more than _____.

ⁱ <https://www.nysenate.gov/legislation/laws/HAY/10>

ⁱⁱ <https://www.nysenate.gov/legislation/laws/HAY/345-A>

ⁱⁱⁱ <https://www.nysenate.gov/legislation/laws/HAY/115-A>

^{iv} <https://www.nysenate.gov/legislation/laws/HAY/131-B>

^v Office of the State Comptroller Opinion 2002-6; Office of the State Comptroller Opinion 90-38

^{vi} *Local Roads Research and Coordination Council Manual: Guidelines for Rural Town and County Roads 2012*, p. 1

^{vii} For the purposes of this paper, “motor vehicles” will align with the same definition of motor vehicles pursuant to New York State’s Vehicle and Traffic Law § 125. See “Glossary of Terms” for full legal definition.

^{viii} *Local Roads Research and Coordination Council Manual: Guidelines for Rural Town and County Roads 2012*, p. 33

^{ix} NY Highway Law § 205-c

^x dos.ny.gov/local-laws

^{xi} *Lopes v. Rostad*, 45 NY2d 617, 412 NYS2d 127, 384 NE2d 673 [1978]

^{xii} *Dotsko v. Littlejohn*, 31 AD2d 245 (4th Dept. 1969)

^{xiii} *State of New York v. Misevis*, 1988

^{xiv} <https://www.nysenate.gov/legislation/laws/VAT/1660>

^{xv} [Limiting Legal Exposure](#) by Cornell Local Roads.