

ISSUE PAPER SERIES

Town Roads and Tug Hill's Working Landscapes

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NEW YORK STATE TUG HILL COMMISSION

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This paper was prepared in cooperation with Marc Gebo, Attorney-at-law.

The Tug Hill Commission Technical and Issue Paper Series are designed to help local officials and citizens in the Tug Hill region and other rural parts of New York State. The Technical Paper Series provides guidance on procedures based on questions frequently received by the Commission. The Issue Paper Series provides background on key issues facing the region without taking advocacy positions. Other papers in each series are available from the Tug Hill Commission. Please call us or visit our website for more information.



Town Roads and Tug Hill’s Working Landscape

Table of Contents

Town Roads and Tug Hill’s Working Landscape	1
Logging	1
Access to Public Lands	2
Snowmobile Trails	3
All-terrain Vehicle (ATV) Trails	3
References to Law	3
Appendix A: Model Road Weight Exemption Permit Law	5
Appendix B: Model Snowmobile Management Law	9
Appendix C: Model ATV Law	16

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Town Roads and Tug Hill's Working Landscape

Town Roads and Tug Hill's Working Landscape

Roads under town jurisdiction constitute much of the transportation infrastructure on Tug Hill, particularly the more remote and forested areas. Besides providing access for residents and businesses, town roads also provide critical access to logging operations, farming operations, and recreational areas. Towns work hard to manage these roads for the variety of uses they serve, and it can be complicated to juggle the requirements of multiple uses. This paper provides some guidance to frequently asked questions regarding the multiple use of town roads.

For a detailed discussion of minimum maintenance and seasonal roads, please see the commission's issue paper entitled *The Roads Less Traveled: Minimum Maintenance Roads*. The commission also has two technical papers on low-volume road designation, entitled *Procedure for Implementation of Low-Volume Roads Designation* and *Questions and Answers about Low-Volume Road Designation*.

Logging

Logging is an activity that happens on a specific piece of property perhaps once every twenty years. It is often done during the winter, when equipment can access remote areas more easily on frozen ground.

Weight limit concerns:

Many seasonal and minimum maintenance roads have weight limits on vehicles with a gross weight of four tons or more. 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 were to grant the petition, it would issue a permit with terms and conditions. Terms and conditions may include: 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. (See Appendix A for an example of such a permit.)

Snow plowing concerns:

A logging operation may require a road not typically plowed to be plowed for a certain amount of time, to allow logging equipment access to specific parcels.

Many remote, little used roads are seasonally designated by the highway superintendent as unplowed. Such a designated road must be opened and plowed should a residence or business be established on the road. A logging operation does not constitute a business on a seasonally-designated road, based on a review of agency and court decisions. The spirit of the seasonal designation law seems to address the need for fire protection services to have access to structures that have people residing or working in them. However, a town may wish to temporarily open a seasonally designated road to accommodate a logging operation.

Town Roads and Tug Hill's Working Landscape

Many towns have designated minimum maintenance roads which do not include snow plowing in their maintenance regimes. Minimum maintenance roads can be upgraded to allow for plowing, to assist in winter logging operations. If the current maintenance regime does not call for plowing, the town would need to amend the maintenance standards. The other option 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 roadway and adjacent properties. Often, roadways 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, 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 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.

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. The town would take on great liability by allow 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.

Access to Public Lands

It is not mandatory that road access be provided to public lands. However, public lands provide resources for logging, hunting, fishing, and other recreation which may provide economic and quality of life benefits to municipalities. In an emergency, good access to public lands helps emergency vehicles reach injured persons. Public lands provide for many traditional uses of the land that communities may want to foster. And, as these lands are for public use, it is helpful for that public to have ready access to them.

The NYS Department of Environmental Conservation (NYSDEC) would like to see roads that access their property maintained to a standard that tandem axle and semi-tractor log trucks can get in and out of state forest lands from between mid-May and mid-December of each year. Additionally, NYSDEC would like to have adequate access for administrative and recreational usage by two-wheel drive vehicles during the same time period.

Town Roads and Tug Hill's Working Landscape

Snowmobile Trails

The NYS Department of Transportation has the authority to designate a state highway as a snowmobile trail. A town or village may designate a county road as a snowmobile trail, but must have the prior written approval of the county superintendent of highways or public works department. A town or village may designate town roads or village streets as snowmobile trails without any additional approvals. Town or village designation of snowmobile trails must be done by local law. The local law may include rules and impose restrictions and conditions for the regulation and safe operation of snowmobile trails on the designated roads or streets. See Appendix B for an example of such a local law..

All-terrain Vehicle (ATV) Trails

Designation of an ATV trail is similar to designation of a snowmobile trail. The NYS Department of Transportation has the authority to designate a state highway as an ATV trail, and the county has the authority to designate a county highway an ATV trail. Towns and villages may designate roads and streets under their jurisdiction as ATV trails by local law. However, a town or village cannot designate a county highway within their town or village as an ATV trail without prior written approval of the county superintendent of highways or public works department. The local law may include rules and impose restrictions and conditions for the regulation and safe operation of ATV trails on the designated roads or streets. See Appendix C for an example of such a local law.

The state statute authorizing the designation of ATV trails allow towns to designate portions of town roads as ATV trails for the purpose of connecting portions of trails that cannot be connected in other ways. Many towns have designated some or all of their roads such as to create an ATV trail network largely comprised of roads – year-round, seasonal, and otherwise.

References to Law

Seasonal use highways: NYS Highway Law, Section 205-a.

Weight limits on town roads: NYS Vehicle & Traffic Law, Section 1660.

Snowmobile trails: NYS Parks, Recreation, and Historic Preservation Law, Section 25.09.

ATV trails: NYS Vehicle and Traffic Law, Section 2405.

Minimum maintenance road: There is no clear statutory authority. However, Article 16-B of the state Executive Law, Chapters 565 and 652 of the Laws of New York, established the NYS Local Roads Research and Coordination Council to continue the work of the Local Road Classification Task Force, which was charged with developing alternative road guidelines for town and county roads and procedures for implementation.

Town Roads and Tug Hill's Working Landscape

Information on closing a seasonal road to snowmobiling was provided by Kevin Crawford, counsel for the Association of Towns. It references Section 25.05 of the Parks, Recreation and Historic Preservation Law.

Town Roads and Tug Hill's Working Landscape

Appendix A: Model Road Weight Exemption Permit Law

Provided by Mark Gebo, this draft permit is provided as an example for a town to use when weight limitations on town roads are an issue with a logging operation. This model is prepared as a guide. Communities should consult their municipal attorney before adopting.

AGREEMENT

AGREEMENT MADE THIS ___ day of _____, 20___, by and between the Town of Anywhere, (*insert address here*) (the "Town") and ABC Lumber, (*insert address here*) ("ABC Lumber").

RECITALS

1. ABC Lumber has entered into and intends to enter into timber contracts with land owners bordering XYZ road in the Town;
2. The Town has posted XYZ Road to exclude any vehicle with a gross weight of over four or more tons;
3. The posting of XYZ Road effectively prohibits ABC Lumber's logging contractor from using said road to complete its logging operations;
4. ABC Lumber has petitioned the Town for a permit to sue XYZ Road; and
5. The Town is willing to issue a permit pursuant to authority granted the Town Board under New York State Vehicle and Traffic Law Section 1660(a) (11), to ABC Lumber upon the terms and conditions hereinafter provided.

NOW, THEREFORE, it is agreed as follows:

1. The Town hereby grants ABC Lumber a permit ("Permit") to allow ABC Lumber, its employees, agents, representatives and its logging contractors to use XYZ Road in the Town solely for its logging operations. This Permit is expressly conditioned upon the following:
 - a. ABC Lumber or its representatives shall contact the highway superintendent for the Town to obtain permission to use the road.
 - b. The highway superintendent of the Town will take into account all appropriate weather conditions and the condition of the road in making his determination to grant permission to use the road.
 - c. No logging operations shall be conducted prior to _____.

Town Roads and Tug Hill's Working Landscape

- d. Prior to the commencement of logging operations, the highway superintendent for the Town and an ABC Lumber representative will take photographs of the roads to show the condition of the road prior to the commencement of the logging operations. Copies of the photographs shall be furnished to the road superintendent and ABC Lumber.
 - e. Once the logging operations commence, the highway superintendent of the Town may, at any time, stop ABC Lumber, its employees, agents, representatives and/or its logging contractor from using the road when, due to weather conditions, use of the roads for logging operations could result in damage to the road, or where damage from logging operations is interfering in the use of the road by others.
 - f. In the event that ABC Lumber's logging contractor damages the road during the logging operations, ABC Lumber agrees to restore the road to the condition depicted in the photographs taken prior to the commencement of logging operations. The Town represents and acknowledges that its sole goal is to assure that the road is returned to the same condition that it was in prior to the logging operations and not to require ABC Lumber to upgrade, strengthen, widen or otherwise improve the road.
 - g. Any restoration required to be made to the road by ABC Lumber must be performed within a reasonable period of time from the conclusion of logging operations to the satisfactions of the highway superintendent of the Town. If ABC Lumber believes that the highway superintendent of the Town is arbitrary or capricious in requiring restoration of the road, the Town acknowledges that ABC Lumber has the right to bring an Article 78 proceeding or other appropriate proceeding to review the superintendent's determination.
 - h. ABC Lumber agrees to post cash security in the sum of five thousand dollars (\$5,000.00) with the Town Clerk for the benefit of the Town to insure that it will restore the road, if damaged by ABC Lumber or its logging contractor, to the condition it was in as shown in the photographs taken before the commencement of logging operations. This cash security shall be held by the Town Clerk in a separate account until road restorations are certified to be complete. The five thousand dollars (\$5,000.00) sum is not intended to limit in any way the obligation of ABC Lumber to perform and complete restoration of XYZ Road.
 - i. ABC Lumber agrees to hold the Town harmless for any injuries to ABC Lumber's employees and/or property or employees and/or property of its logging contractors or subcontractors arising out of the use of XYZ Road.
2. Upon the completion of logging operations, ABC Lumber shall notify the highway superintendent of the Town, in writing, that the road is ready for inspection and, within ten days after notice is given, the highway superintendent shall inspect the road with an ABC Lumber representative to ascertain whether the road has been damaged. If the highway superintendent determines that the road has been damaged as a result of the logging

Town Roads and Tug Hill's Working Landscape

operations based upon the photographs taken prior to the commencement of the logging operation, the highway superintendent shall direct ABC Lumber to restore the road to the condition shown in the photographs. Upon completion of the restoration work, ABC Lumber shall notify the highway superintendent, in writing, that the road has been restored to the condition it was in as shown in the photographs. The highway superintendent shall inspect the road with an ABC Lumber representative within ten days after notice is given. If the highway superintendent determines that additional restoration work is required, he shall so advise ABC Lumber, in writing, setting forth the additional work required to be performed. If ABC Lumber agrees with the highway superintendent's determination, it will proceed with the restoration work and notify the highway superintendent upon completion of the work. The same inspection procedure as set forth above will apply. If ABC Lumber disagrees with the highway superintendent's determination, at any time, and the matter cannot be resolved by negotiation, ABC Lumber may commence an Article 78 or other proceeding to determine whether the highway superintendent is acting in an arbitrary and/or capricious manner. Upon the completion of the restoration work to the reasonable satisfaction of the highway superintendent, or, if the highway superintendent determines on the initial inspection of the road after completion of the logging operations that no damage has occurred, or, if there was damage, it has been restored to the condition of the road shown in the photographs, the highway superintendent shall notify ABC Lumber, in writing, that the road is accepted "as is" or "as restored". At such time the cash security shall be returned to ABC Lumber by the Town Clerk.

3. Any notice hereunder shall be in writing and sent to the party at its address indicated below. Such notice shall be deemed given if delivered in person or, if mailed by first class mail, post prepaid.

Town of Anywhere
Main Street
Anywhere, NY 01234

ABC Lumber
Main Street
Anyplace, NY 98765

4. This Agreement shall inure to the benefit of the parties hereto and their legal representatives, successors and assigns.
5. ABC Lumber agrees that prior to the commencement of logging operations it shall reimburse the Town for all costs including attorney's fees incurred in the issuance of this permit in a sum not to exceed two hundred fifty dollars (\$250.00).
6. In the event that the Town has to take any action to enforcement this agreement or otherwise obtain compliance with its terms, ABC Lumber agrees to reimburse the Town for all such costs so incurred including reasonable attorney's fees and further agrees that such sums may be deducted from the cash security posted under this agreement.

Town Roads and Tug Hill's Working Landscape

7. This agreement shall be governed by the laws of the State of New York.

Town of Anywhere

By: _____

ABC Lumber

By: _____

Appendix B: Model Snowmobile Management Law

This draft law is provided as an example for towns to use when designating snowmobile trails, and was prepared by the Tug Hill Commission and Lewis County Planning Department. This model is prepared as a guide. Communities should consult their municipal attorney before adopting.

Section 1. Purpose

The purpose of this local law is to protect the public health, safety, and welfare by regulating the operation of snowmobiles on public highways and on public lands, which includes designated trails open to the public in the Town/Village of _____, so that all snowmobiles are operated in a manner which will be compatible with the use of such highways and public lands for vehicular and pedestrian travel and other uses, and which will promote the safe and proper use of snowmobiles for recreation and commerce and minimize detrimental effects of such use on the environment.

Section 2. Operation Generally Prohibited

It shall be unlawful, except as provided in Section 5 of this law, for any person to drive or operate any snowmobile on, over, or across any public highway or public trail. Further, for purposes of this law, it is hereby determined that outside banks and shoulders of all public roadways and highways are non-existent by reason of the fact that they are impassable due to normally prevailing snow conditions and terrain in the Town/Village of _____. *(Note: In order to close the outside banks the town/village will need documentation, which attests to their "impassability". This information could come from the highway super-intendent. A community does have the option of not restricting travel on outside banks.)*

Section 3. Definitions

- 1.1 "Highway" shall mean the entire width between the boundary or right-of-way lines of any way or place when any part thereof is open to the use of the public as a matter of right for the purpose of vehicular traffic including all highways designated as seasonal limited use highways and minimum maintenance roads.
- 1.2 "Operate" shall mean to ride in or on, other than as a passenger, or use or control the operation of a snowmobile in any manner, whether or not said snowmobile is under way.
- 1.3 "Operator" shall mean every person who operates or is in actual physical control of a snowmobile.
- 1.4 "Owner" shall mean any person having title to a snowmobile. If a snowmobile is sold under a contract of conditional sale whereby the title remains in the vendor, such vendor or his assignee shall not, after delivery of such snowmobile, be deemed an owner within the provisions of this section, but the vendee or his assignee, upon receipt of possession thereof,

Town Roads and Tug Hill's Working Landscape

shall be deemed such owner notwithstanding the terms of such contract, until the vendor or assignee shall retake possession. A person holding only a security interest in a snowmobile shall not be deemed an owner unless such person also has possession of such snowmobile.

- 1.5 "Snowmobile" shall mean a self-propelled vehicle designed for travel on snow or ice, steered by skis or runners and supported in whole or in part by one or more skis, belts or cleats.
- 1.6 "Snowmobile trail" shall mean a way designated as open to the public for snowmobiling.
- 1.7 "Special Event" shall mean an organized rally, race, exhibition or demonstration of limited duration, which is conducted according to a prearranged schedule and in which general public interest is maintained.

Section 4. Operation of Snowmobiles Generally

It shall be unlawful for any person to drive or operate any snowmobile in the following unsafe or harassing ways:

- 4.1 Imprudent speed: At a rate of speed greater than reasonable or proper under the surrounding circumstances. *At no time shall the rate of speed exceed 55 mph.*
- 4.2 Reckless operation: In a careless, reckless or negligent manners so as to unreasonably endanger the person or property of another or to cause injury or damage thereto.
- 4.3 Intoxication and drugs: While in an intoxicated condition or under the influence of narcotics or drugs as defined by Section 114-a of the Vehicle and Traffic Law.
- 4.4 Lights:
 - a. Between sunset and sunrise, or when lights are required for safety, without displaying at least one headlight and taillight.
 - b. Operating other than as an emergency vehicle and displaying one or more lighted red or combination red and white lights which are revolving, rotating, flashing, oscillating, or constantly moving.
- 4.5 Railroad tracks: On the tracks or right-of-way of an operating railroad.
- 4.6 Plantings: In any tree nursery or planting in a manner which damages or destroys growing stock, or creates a substantial risk thereto.
- 4.7 On the lands of another: On private property without the consent of the owner or lessee thereof. Any person operating a snowmobile upon lands of another in violation of this section shall stop and identify himself upon the request of the landowner, his duly authorized representative or lessee, and, if requested to do so by said landowner, representative or lessee, shall promptly remove said snowmobile from the premises.

Town Roads and Tug Hill's Working Landscape

- 4.8 Towing a sleigh, sled, or toboggan: Towing a sleigh, sled, or toboggan, by a snowmobile, unless attached by a rigid support, connection or towbar.
- 4.9 Failure to stop and yield: In any place at any time, failing to stop and yield to an authorized ambulance, civil defense or police snowmobile or police vehicle being operated as an emergency vehicle and approaching from any direction.
- 4.10 Failure and refusal to comply: In any place at any time, failing or refusing to comply with any lawful order or direction of any police officer or other person duly empowered to enforce all laws of the state relating to snowmobiles.
- 4.11 Speeding prohibited: Snowmobiles operating in the Town/Village shall under no circumstance exceed any posted speed limit when operating on any snowmobile trail or highway designated as open to snowmobiling in Section 5.5 of this law. In addition, snowmobiles shall always be operated at a speed, which is reasonable and proper under existing circumstances as determined by any peace or police officer.
- 4.12 Obedience to vehicular traffic controls: Each person operating a snowmobile on any town/village highway shall observe all vehicular traffic signs and signals and all other rules and regulations applicable to vehicular traffic, and shall obey the orders and directions of any state or local police or other law enforcement officer authorized to direct or regulate traffic.
- 4.13 Hours of operation: No person shall operate a snowmobile within one hundred feet of a dwelling between twelve o'clock midnight and six o'clock A.M. at a speed greater than minimum required to maintain forward movement of the snowmobile. (Note: To make this more objective and thus more enforceable a community could add a particular speed limit here provided, that if they do so, they note that this act supersedes NYS Parks, Recreation and Historic Preservation Law Section 25.05.)

Section 5: Conditions of Operation

A snowmobile may be operated on the public highways and public lands in the Town/Village of _____ only under the following conditions:

- 5.1 Snowmobile trails: Snowmobiles may be operated on snowmobile trails open to the public as so designated under the Parks, Recreation and Historic Preservation Law of the State of New York, or as designated by the Town/Village board from time to time in a manner consistent with provisions of this law and all other county or state laws relating to the operation of snowmobiles. *(Note: A Community could require that maps be filed with the Town/Village board for any trails which are to open to the public. To cover those trails open to the public, which is not registered with the State, a community could say in this section that "Snowmobiles may be operated on all snowmobile trails open to the public".)*
- 5.2 Emergencies: Snowmobiles may be operated for the purpose of emergency travel only on all highways in the Town/Village of _____, during the period of time when and at

Town Roads and Tug Hill's Working Landscape

locations where snow upon the highways renders travel by motor vehicles impractical as so declared and permitted by the chief executive officer of the Town/Village of _____, or when the specific travel for a specific purpose is authorized or directed by a peace or police officer or other duly recognized emergency personnel.

- 5.3 Highway crossings: Snowmobiles may be operated so as to take a direct crossing of a highway at any time of the day, provided that the crossing is made at an angle approximately 90 degrees to the direction of the highway, at a place where no obstruction prevents a quick and safe crossing, the snowmobile is brought to a complete stop before crossing the main traveled way of the highway, and the driver yields the right-of-way to all oncoming traffic.
- 5.4 Culverts and bridges: Snowmobiles may be operated on highways when necessary to cross a bridge or a culvert for a distance not to exceed 200 yards.
- 5.5 Highways open for snowmobiling: A snowmobile may be operated on those highways or sections of highways in the Town/Village of _____ as designated by resolution of the board. Such designations will be posted in the village clerk's office and published in the official paper of the Town/Village. Such resolution shall be adopted prior to August 1 each year when necessary to open highways to snowmobiling or to change the status of highways previously opened to snowmobiling. (*Note: publication is not required by statute; however the public should be informed in all possible ways re: changes.*)

(Designate all highways, or sections of highways, which the community wishes to have opened to snowmobiles. Include all seasonal limited use highways that the community wishes to have open in addition to all sections of highways which need to be open for trail head access. If the town/village has decided to take the approach of closing all outside banks, they could designate certain ones as open in the resolution.)

- 5.6 Special events: Snowmobiles may be operated at special events in a manner consistent with this local law, or in a manner as defined in Parks, Recreation, and Historic Preservation Law and upon authorization by the New York State Commissioner of Parks, Recreation, and Historic Preservation.

Section 6: Financial Responsibility

No snowmobile shall be operated on a highway or public lands which includes snowmobile trails designated as open to the public in the Town/Village of _____ unless the owner of such snowmobile has secured a policy of insurance affording coverage against liability imposed by law for bodily injury or death, and for property damage, to at least the minimum limits as required by the provisions of Section 25.13 of the Parks, Recreation, and Historic Preservation Law of the State of New York and regulations promulgated thereunder.

The owner of a snowmobile shall maintain proof of financial security by means of a certificate of insurance indicating compliance with the minimum coverage requirements of this section. The failure to produce such certificate of insurance, when required to do so, upon the demand of a magistrate, police officer, or state policeman while such vehicle is being operated on any highway

Town Roads and Tug Hill's Working Landscape

(including trail designated as open to the public) in the Town/Village of _____ shall be presumptive evidence of operating a snowmobile without securing such policy of insurance. Upon the production of such certificate of insurance, the presumption is removed.

This section specifically supersedes those provisions of Section 25.13(1) of New York State Parks, Recreation and Historic Preservation Law by requiring liability insurance for operation on trails and outside banks.

Section 7: Operation by Youthful Operators

7.1 **Age of Operator**: No person under eighteen years of age shall operate a snowmobile except as provided for in this section.

- (a) No person under the age of fourteen years shall operate a snowmobile except upon land owned or leased by his or her parent or guardian. Leased lands as used in this section shall not include lands leased by an organization of which said operator or his or her parent or guardian is a member.
- (b) A person ten years of age or older but less than fourteen years of age who holds a valid snowmobile safety certificate issued by the Commissioner of the New York State Office of Parks, Recreation and Historic Preservation may operate a snowmobile on any lands upon which snowmobiling is allowed if accompanied by a person over eighteen years of age. For the purpose of this section, "accompanied" shall mean within 500 feet of the person over eighteen years of age.
- (c) A person fourteen years of age or older but less than eighteen years of age, who either holds a valid snowmobile safety certificate issued by the Commissioner of the New York State Office of Parks, Recreation and Historic Preservation or is accompanied by a person over eighteen years of age, may operate a snowmobile in the same manner as a person over eighteen years of age.

7.2 **Exhibition of certificate**: The failure of such a youthful operator to exhibit a snowmobile safety certificate upon demand to any magistrate or any other officer having authority to enforce the provisions of this article shall not be an offense, but shall be presumptive evidence that such person is not the holder of such certificate.

7.3 No owner of a snowmobile shall authorize or permit the operation thereof within the state by any person in violation of the provisions of this section.

(This section is taken directly from Section 25.19 of Parks, Recreation and Historic Preservation Law. If a community decides to implement a stricter provision in this regard, they must state that the stricter provisions superseded Section 25.19 of Parks, Recreation and Historic Preservation Law.)

Town Roads and Tug Hill's Working Landscape

Section 8: Violation

In addition to any penalty contained in any other provisions of law, any person who shall violate any provision of this local law shall be guilty of a violation and shall be punished by a fine of not more than Two Hundred and Fifty Dollars (\$250.00) and or fifteen days in jail. *(A community could have an escalating fine for second or third violations committed within a specified period of time.)*

A notice of violation may be issued by any State Police Officer, County Sheriff, Town/Village police officer or constable, conservation officer, parks and recreation officer, or by any other law enforcement official or other person so designated by the Town/Village Board of _____. Such authorized individual may initiate a violation by service of an appearance ticket.

Section 9: Severability

If any clause, sentence, paragraph, section, or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Section 10: Liability for Negligence

Negligence in the use or operation of a snowmobile shall be attributed to the owner. Every owner of a snowmobile used or operated in the Town/Village of _____ or in this state shall be liable and responsible for death or injury to a person or damage to property resulting from negligence in the use or operation of such snowmobile by any person using or operating the same with the permission, express or implied, of such owner, provided, however, that such operator's negligence shall not be attributed to the owner as to any claim or cause of action accruing to the operator or his legal representative for such injuries or death.

Section 11: Prior Notice

11.1 With respect to injuries arising from the operation of snowmobiles, no civil action shall be maintained against the Town/Village of _____ or an officer thereof in charge of highway supervision and maintenance, for damages or injuries to person or property sustained by reason of any highway, bridge, street, sidewalk, crosswalk or culvert being defective, out of repair, unsafe, dangerous, or obstructed, unless prior written notice of such defective, unsafe, dangerous, or obstructed condition on such highway, bridge, or culvert was actually given to the municipal agent, officer, or employee authorized by Section 311 of the Civil Practice Law and Rules to receive service or to the chief municipal officer in charge of highway supervision and maintenance, and there was a failure or neglect within a reasonable time thereafter to repair or remove the defect, danger, or obstruction complained of. No such action shall be maintained for damages or injuries to person or property sustained solely due to conditions caused by snow and/or ice removal, or the non-removal

Town Roads and Tug Hill's Working Landscape

thereof, from highways designated as open to snowmobiles in the Town/Village of _____.

11.2 The municipal officer in charge of highway supervision and maintenance and any other municipal agent, officer, or employee designated to receive service of process shall transmit in writing to the clerk of the municipal body involved within twenty-four (24) hours or as soon as practical after the receipt thereof, all written notices received by him pursuant to this section.

11.3 This section is included to clarify the application of section 71-b of General Municipal Law in the Town/Village of _____.

Section 12: Effective Date

This local law shall take effect immediately upon its filing in accordance with the provisions of Section 27 of the Municipal Home Rule Law of the State of New York.

Appendix C: Model ATV Law

Provided by Mark Gebo, this draft law is provided as an example for towns to use when designating ATV trails. This model is prepared as a guide. Communities should consult their municipal attorney before adopting.

Article 1. – Statement of Authority. The Town Board of the Town of Anywhere, pursuant to the authority granted it under Article 48-c of the Vehicle and Traffic Law and Sections 10 and 20 of the Municipal Home Rule Law, hereby enacts as follows:

Article 2. – Statement of Purpose and Findings. The Town Board of the Town of Anywhere has been requested to open certain Town roads in the Town of Anywhere to the use of ATV's. It appears from examination that the roads requested present no safety issues, are needed to allow ATV's access to existing trails, and are otherwise also used by ATV's at the present time. It is the purpose of this local law to provide for the use of certain Town roads by all-terrain vehicles.

Article 3. – Enactment. The Town Board of the Town of Anywhere hereby enacts as follows:

Section 1. – Definitions.

1. All-Terrain Vehicles shall mean vehicles as defined by Article 48-c of the Vehicle and Traffic Law as all-terrain vehicles hereinafter referred to as "ATV's".
2. Highways shall mean Town highways as shown on the inventory of highways of the Town of Anywhere.

Section 2. – ATV Use on Town Highways.

Pursuant to Section 2405 of the Vehicle and Traffic Law, the following Town Highways shall be designated as open for ATV traffic:

(Listing of highways or sections of highways inserted here.)

Section 3. – Rules and Regulations.

1. No ATV shall be operated on any Town highway open for ATV use except in accordance with the provisions of the Vehicle and Traffic Law of the State of New York.
2. No ATV shall be operated on any Town highway unless properly registered and insured as required by the Vehicle and Traffic Law of the State of New York.

Town Roads and Tug Hill's Working Landscape

Section 4. – Signage.

The Superintendent of Highways of the Town of Anywhere shall post all roads open to ATV traffic with appropriate signs or markers in the manner provided by the rules and regulations of the Commissioner of the Department of Motor Vehicles.

Section 5. – Filing.

The Town Clerk of the Town of Anywhere is hereby directed to file a copy of this local law with the Commission of the Department of Motor Vehicles.

Article 4. – Severability.

Should any sections or provisions of this local law be declared invalid, such decision shall not affect the validity of the remaining portions of this local law.

Article 5. – Effective Date.

This local law shall become effective after filing in the office of the Secretary of State of the State of New York.