

TOWN LAW §§ 39, 130; VEHICLE AND TRAFFIC LAW §§ 133, 118, 1600, 1604, 1660-a, 1662-a.

The provisions of the Vehicle and Traffic Law do not give a town authority to enact a local law establishing a fifteen mile per hour speed limit within a mobile home park. However, if the private roads within the mobile home park are open to public motor vehicle traffic, the town may establish and enforce a speed limit of not less than twenty-five miles per hour within the mobile home park.

June 24, 1998

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Town Attorney  
Town of Hamburg  
S-6100 South Park Avenue  
Hamburg, NY 14075

Informal Opinion  
No. 98-25

Dear Mr. Sorrentino:

You have requested an opinion regarding whether the Town of Hamburg may enact a local law reducing the speed limit in a mobile home park to fifteen miles per hour and, if so, whether the Town of Hamburg Police Department may enforce that speed limit. In a telephone conversation, you informed us that the roads within the mobile home park are privately owned.

The regulation and use of public highways by motor vehicles is an area that has long been preempted by the State. Vehicle and Traffic Law §§ 1600, 1604; People v Grant, 306 NY 258 (1954). Section 1604, which preempts the regulation of motor vehicle traffic on public highways, does not refer to the regulation of traffic on private property. Section 1600 does, however, prohibit local authorities from enacting, without specific authorization, ordinances or other local laws that are in conflict with any of the provisions of the Vehicle and Traffic Law.

Vehicle and Traffic Law § 118 defines a highway as "[t]he entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel." In contrast, a private road is defined as "[e]very way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons." Vehicle and Traffic Law § 133.

Vehicle and Traffic Law § 1662-a permits certain towns to regulate speed limits on highways including, for purposes of this section, private roads open to public motor vehicle traffic. Pursuant to section 1662-a, towns may enact local laws, ordinances, orders, rules or regulations establishing speed limits of not less than thirty miles per hour throughout such towns or within designated areas of such towns and speed limits of not less than twenty-five miles per hour along designated highways within such towns, including private roads open to public motor vehicle traffic. Therefore, under Vehicle and Traffic Law § 1662-a, if the private roads within the mobile home park in issue are open to public motor vehicle traffic, the Town of Hamburg may enact a local law, ordinance, order, rule or regulation establishing a speed limit of not less than twenty-five miles per hour within the mobile home park. Additionally, the Town of Hamburg Police Department may enforce this reduced speed limit if the town board provides for such enforcement in the local law, ordinance, order, rule or regulation. Town Law §§ 39, 130.

We note that Vehicle and Traffic Law § 1660-a provides a second limited source of authority for towns to regulate traffic on specific private property, but it does not authorize the regulation of traffic within mobile home parks.

Section 1660-a (2-a) provides, in pertinent part, as follows:

The town board of any town, with respect to the parking areas and driveways of a hospital, office building or office building complex or place of public assembly, or parking areas of a shopping center or the parking areas and driveways of facilities owned or leased by a not-for-profit corporation or the parking area and private streets or roadways of a private apartment house complex, or the parking areas and driveways of a fire station, or private condominium complex, or the parking areas, private streets, roadways or driveways of an industrial park or industrial complex, and pursuant to the written request of either the owner or the person in general charge of the operation and control of such area . . . may, by local law or ordinance:

. . .

2-a. Notwithstanding the provisions of section sixteen hundred sixty-two-a to the contrary, establish maximum speed limits in any such area at not less than fifteen miles per hour.

It appears from the list contained in Vehicle and Traffic Law § 1660-a that the legislature only intended to permit local regulation of traffic for limited and specific categories of private properties. Mobile home parks are not included in section 1660-a. Therefore, Vehicle and Traffic Law § 1660-a does not provide the Town of Hamburg with the authority to establish a speed limit within the mobile home park at issue. The Town must rely on section 1662-a as its source of authority for establishing a speed limit.

We conclude that Vehicle and Traffic Law section 1662-a does not provide the Town of Hamburg with the authority to enact a local law establishing a fifteen mile per hour speed limit within the mobile home park in issue. However, if the private roads within the mobile home park are open to public motor vehicle traffic, section 1662-a authorizes the Town of Hamburg to enact a local law, ordinance, order, rule or regulation establishing a speed limit of not less than twenty-five miles per hour within the mobile home park. The Town Board may authorize the Police Department to enforce this speed limit.

The Attorney General renders formal opinions only to officers and departments of State government. This perforce is an informal and unofficial expression of the views of this office.

Very truly yours,

YVONNE M. HOVE  
Assistant Attorney General