TOWN OF KINGSTON PLANNING BOARD

Town of Kingston, Ulster County, New York

Five Elements for Private Road Maintenance Agreements

Any Private Road Maintenance Agreement (RMA) submitted as part of a subdivision application in the Town of Kingston should address each of the following five elements.

1. Road Manager Election and Authority

The RMA must identify all parties with access rights to the road and establish a process for designating a Road Manager. The agreement should specify:

- A Road Manager elected by majority vote.
- The Road Manager's authority to solicit bids, authorize repairs, collect payment from all parties in advance.
- A defined meeting schedule or trigger for electing or re-electing the Road Manager.
- Identification of any third parties (e.g., utility companies, commercial lessees) whose vehicles regularly use the road, and whether those parties have any maintenance obligations.

2. Cost-Sharing Formula and Payment Enforcement

The RMA must specify how maintenance costs are divided among all parties and what happens when a party does not pay. The agreement should include:

- A cost-sharing formula. Pro-rata equal apportionment among all lots served by the road is the recommended default.
- A payment enforcement mechanism.

3. Seasonal Maintenance and Emergency Access

The RMA must set a minimum standard for road condition and ensure that emergency services can reach every dwelling served by the road in all seasons. The agreement should require:

- That the road be maintained in good, passable condition under all traffic and weather conditions at all times.
- Specific seasonal obligations including snow plowing, ice removal, grading, and gravel or surface replenishment as needed.
- That emergency service vehicles (fire apparatus, ambulance, police) have unobstructed access year-round.

- That if the parties fail to maintain the road to a passable standard after written notice from the Town, the Town may make necessary repairs and assess all costs proportionally to the parties.

4. Agreement Runs with the Land and Binds Successors

The RMA must survive the sale of any property it covers and bind all future owners. The agreement must provide that:

- The agreement is a covenant running with the land and is binding upon all parties, their heirs, successors, and assigns forever. Language stating that the agreement becomes “null and void upon transfer” of any property is not acceptable.
- The agreement must be signed by all current parties, notarized, and recorded with the Ulster County Clerk prior to or concurrent with the filing of the subdivision plat.
- Amendments require the written consent of at least three-quarters (3/4) of the property owners affected by the agreement, and any amendment must be recorded with the Ulster County Clerk to take effect.

5. Town of Kingston Liability Protection

The RMA must confirm that the Town of Kingston bears no legal responsibility for the private road. The agreement must include:

- A statement that, unless and until the Town of Kingston formally accepts the road as a public highway by action of the Town Board, the Town has no liability or responsibility for the care, maintenance, or condition of the road.
- A hold-harmless clause in favor of the Town of Kingston, its Planning Board, Town Board, officers, employees, staff, and consultants, with respect to the design, construction, maintenance, and condition of the private road.

Procedural Requirements

Every RMA submitted for Planning Board review must also satisfy the following procedural requirements before a subdivision plat will be signed:

- If all conditions cannot be met before the resolution is adopted, the Planning Board may condition its approval on the execution and recording of a satisfactory RMA before the plat is signed or any building permit is issued.
- The Planning Board Attorney must review the RMA for adequacy and content prior to final plat approval.
- The executed, notarized RMA must be recorded with the Ulster County Clerk. Proof of recording must be provided to the Planning Board before the subdivision plat is signed.