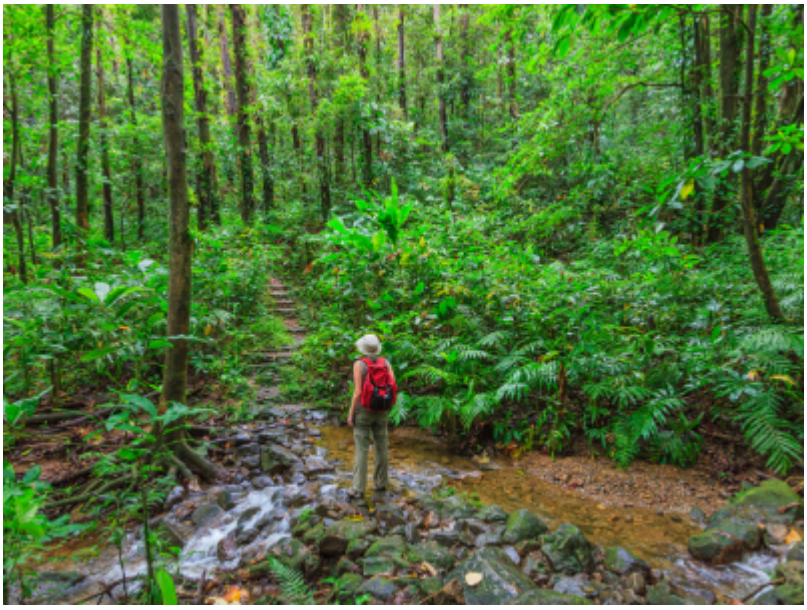
February 27, 2026

Supreme Court Rules in Favor of Tunbridge in Trails Case

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Last October, in a case of widespread municipal importance (Echeverria et al v. Town of Tunbridge, 2026 VT 5, No. 25-AP-244(opens in a new tab)), two owners of a property in Tunbridge appealed an Orange County Superior Court ruling that the town has the sole legal authority to determine whether and how to maintain and repair the legal municipal trails located on their property. In concert with the town's legal counsel, VLCT submitted an Amicus Curae brief (Amicus) supporting Tunbridge and a municipality's authority to maintain its legal trails. On appeal, the Vermont Supreme Court recently agreed and **decisively reaffirmed a municipality's authority to maintain its public rights-of-way such as its legal trails**.

A legal trail is defined in statute as a "public right-of-way that is not a highway and that (A) previously was a designated town highway having the same width as the designated town highway, or a lesser width if so designated; or (B) a new public right-of-way laid out as a trail by the select[board] for the purpose of providing access to abutting properties or for recreational use." 19 V.S.A. § 301(8)(opens in a new tab).

Although the plaintiff landowners didn't challenge the town's authority to regulate and control the legal trails, they claimed that the legislature removed a municipality's authority to maintain its legal trails with its 1986 amendments to the road classification statutes, and therefore only the landowners can determine maintenance of legal trails

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that pass through their property. Until this point, the uncontested conventional legal wisdom had been that selectboards have the exclusive authority to maintain their municipality's legal trails. The Superior Court affirmed that understanding, and the landowners appealed to the Vermont Supreme Court (Court).

In its decision, released on February 20, 2026, the Court disregarded this argument of the plaintiffs, explaining that "those amendments were intended to clean up Title 19 and not to alter the substance of its provisions." The Court went on to explain that because a legal trail is a "public right-of-way," defined as "'[t]he right of passage held by the public in general to travel on roads, freeways, and other thoroughfares,'" the plaintiffs' reading would make the statutory scheme "ineffective and superfluous" because it would defeat the purpose of a public right-of-way.

The Court further explained that the other provisions concerning trails support the conclusion that municipalities retain the authority to maintain their legal trails. First, they discussed the statutory authority to "make regulations governing the use of pent roads and trails" (19 V.S.A. § 304(a)(5)), concluding that"[i]t would not make sense for a town to be able to regulate the use of a trail but not have the power to conduct the maintenance and repair required to support those uses." The Court next discussed the statutory release from liability related to legal trail maintenance, repair, or lack thereof. 19 V.S.A. § 310(c). They likewise reiterated our Amicus explaining that if towns could not maintain their trails, there would "be no purpose in releasing towns from liability for failure to do so."

Finally, they addressed the plaintiffs' argument concerning Dillon's rule, which provides that "a municipality only has those powers and functions specifically authorized by legislature, and such additional functions as may be incident, subordinate, or necessary to the exercise thereof." The plaintiffs argued that the legislature's removal of any explicit authority for maintenance with the 1986 amendments means that Dillon's rule prevents towns from maintaining trails. The Court, though, remained unconvinced. It again reiterated one of the primary

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arguments in our Amicus, explaining that "Dillon's Rule supports the conclusion that towns have authority to maintain trails because maintenance is incident to and implied by their statutory authority to define the uses for these public rights-of-way."

In addition to supporting the Town of Tunbridge with an Amicus in this case, VLCT, along with a coalition of outdoor recreation and trails groups, advocated for legislative action last session to protect municipal authority to maintain trails. In the miscellaneous Department of Motor Vehicles bill, Act 66 of 2024, the legislature included the language "It is the intent of the General Assembly to clarify municipalities' authority to exclusively or cooperatively maintain legal trails under the provisions of 19 V.S.A. chapter 3", which is effective April 1, 2026. Act 66 clarifies that legal trails "lie along public rights-of-way that were once town highways and are governed by the provisions of 19 V.S.A. chapter 3".

This is a great decision for towns because it affirms a town's authority related to its legal trails, which is further supported by Act 66. This case also caused VLCT to rethink its Amicus policy. We have expanded the scope of our policy to allow for the Municipal Assistance Center attorneys to support not only our municipal members, but also non-members, in cases that present an issue of widespread municipal importance. For more information on our Amicus policy or to inquire whether the Municipal Assistance Center can support your municipality with an Amicus email info@vlct.org(opens in a new tab).

We sincerely thank the town of Tunbridge for fighting this case to the end in support of all Vermont municipalities' authority to maintain their legal trails.

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