

## ISSUE PAPER SERIES

# The Roads Less Traveled: Minimum Maintenance Roads

April 2017



## NEW YORK STATE TUG HILL COMMISSION

DULLES STATE OFFICE BUILDING · 317 WASHINGTON STREET · WATERTOWN, NY 13601 · (315) 785-2380 · [WWW.TUGHILL.ORG](http://WWW.TUGHILL.ORG)

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.



# The Roads Less Traveled: Minimum Maintenance Roads

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## Introduction

Town roads make up the majority of the transportation network in many rural areas of New York State. Towns are challenged to balance road maintenance that meets access requirements for residents and landowners, with keeping costs low, and therefore property taxes low, for those same residents and landowners. Minimum maintenance road designations, based on recommendations of the NYS Local Roads Research and Coordination Council, are an important tool used to strike that balance. Laws designating minimum maintenance roads have been adopted using home rule provisions. Recent legal challenges have prioritized the need for such designations to be authorized in state law.

## What are minimum maintenance roads?

Minimum maintenance roads are a subset of low volume roads. The **Local Road Classification Task Force**, formed in 1986 by statewide legislation, defined low volume roads as roads with fewer than 400 vehicles per day. In rural NYS, these roads comprise more than 75% of the combined town and county mileage. Rural is defined as any county of less than 200,000 in population, or any town of less than 150 persons per square mile.

There are six types of Low Volume Roads:

1. **Low Volume Collector** – collects traffic from any other classification and channels it to higher level roads.
2. **Residential Access** – all year access for fire trucks, ambulances and school buses must be provided.
3. **Farm Access** – access to farm's center of operations including the residence.
4. **Resource/Industrial Access** – access to industrial or mining operations.
5. **Agricultural Land Access** – access to farm land. Traffic volumes are low and vary seasonally. These roads should accommodate farm equipment that can be up to 20 feet wide.
6. **Recreation Land Access** – provides access to recreational land including seasonal dwellings and parks. Volumes of traffic can vary with the type of recreation facility and season of the year

### **Local Road Classification Task Force**

- Formed in 1986 by statewide legislation
- NYS Department of Transportation Commissioner or designee (chair)
- NYS Department of Agriculture and Markets Commissioner or designee
- Dean of the College of Agriculture and Life Sciences of Cornell University
- Three rural town highway superintendents
- Three rural county highway superintendents
- Three rural business people
- Issued "Manual: Guidelines For Rural Town and County Roads"



The minimum maintenance designation can ONLY be applied to “Agricultural Land Access” and “Recreation Land Access roads.” The average traffic volume is limited to 50 vehicles per day.

Building on the outcomes of the task force, Article 16-B of the Executive Law created the Local Roads Research and Coordination Council, which was in effect for five years (August 17, 1990 to August 17, 1995), modified the original manual slightly, and reissued it in 1992.

The most recent version of the complete **Manual: Guidelines for Rural Town and County Roads, 2012**, can be found online at <https://cornell.app.box.com/v/clrp-pb-mgrtcr>.



NYW4-16

Minimum maintenance roads are signed using the NYS Department of Transportation's **New York State Supplement to the Manual on Uniform Traffic Control Devices**, <https://www.dot.ny.gov/divisions/operating/oom/transportation-systems/repository/B-2011Supplement-adopted.pdf>.

## What is the legal status of minimum maintenance road designations?

There are approximately 158 miles of minimum maintenance roads on Tug Hill. To date, towns have adopted minimum maintenance laws using their home rule authority and powers under Highway and Vehicle & Traffic Law. However, based on several legal challenges from landowners on minimum maintenance roads that want year-round access, it has been apparent that state law authority is needed to provide additional authority for town designations. A recent Lewis County Supreme Court decision has created more pressure to get state legislation passed.



*Dodge Road in the town of Lorraine.*

For many years, various bills have been introduced in both the NYS Senate and Assembly. In the current 2017-18 legislative session, A00418/S02537 (see Appendix A) has been introduced and sent to each houses' transportation committees.

## What does the proposed legislation do?

If passed by both houses and signed by the Governor, A00418/S02537 as it currently reads would:

- Section 1 would add a new section 205-c to the highway law.
  - Subdivision 1 defines low-volume roads and several classifications of low-volume roads.
  - Subdivision 2 authorizes towns to adopt the low-volume road classifications and establishes the procedure to adopt such classifications.
  - Subdivision 3 authorizes towns to designate certain low-volume roads as minimum maintenance roads and establishes the procedure to adopt such designation.
  - Subdivision 4 sets out maintenance standards for minimum maintenance roads.
  - Subdivision 5 authorizes the process for petitioning to discontinue the minimum maintenance designation.
  - Subdivision 6 authorizes road improvement financing for discontinued minimum maintenance roads under section 200 of the town law.
- Section 2 would add a new section 124 to the vehicle and traffic law defining minimum maintenance road as designated by a town under section 205-c of the highway law.
- Section 3 would add a new paragraph 18 to subdivision (a) of section 1683 of the vehicle and traffic law designating a road as minimum maintenance.

## What does minimum maintenance mean?

Minimum maintenance does not mean no maintenance. Minimum maintenance road standards are established after extensive study by the highway superintendent. The highway superintendent determines what portions of what roads are appropriate for minimum

maintenance and what degree of minimum maintenance is required on those sections. There could be several categories of minimum maintenance roads depending on the different level of activity anticipated. Once the study is done, a local law must be drafted and a public hearing process must take place in typical local law fashion.

On Tug Hill, it most often means no plowing in the winter.



*A town snow plow on a minimum maintenance road in the town of Martinsburg demonstrates the difficulty of winter plowing.*

## What is the difference between a minimum maintenance road and a seasonal road?

“Seasonal use” is an annual designation by the town highway superintendent, primarily to notify the public that a road will not be plowed. However, such roads must be plowed upon the request of anyone living or operating a business on the road, even if they have located on the road following the designation. A camp is generally not considered a residential use, as telephone and mail service are usually not available at camps, children do not attend school from a camp, and it is not used for purposes of voter registration or as an address on motor vehicle records. One problem with seasonal roads, especially on Tug Hill with high annual snowfall totals, is that the “seasonal use” designation extends from December 1<sup>st</sup> to April 1<sup>st</sup>. Many times significant snow remains on these roads after April 1, and snow removal can be difficult and cause significant damage to the underlying road structure, increasing costs for equipment, personnel, and potential road repairs.

“Minimum maintenance” roads are designated by local law with maintenance standards adopted by the town, which may include limitations on snowplowing. Maintenance standards also detail planned surface maintenance, roadside maintenance, bridges and signage on the designated roads. The designation is continued until the highway superintendent deems that maintenance standards should be changed, or the town board removes the minimum maintenance designation by local law.



*McKibben Road in the town of Boylston, an example of the type of road which could be designated minimum maintenance.*

## Highway costs to towns

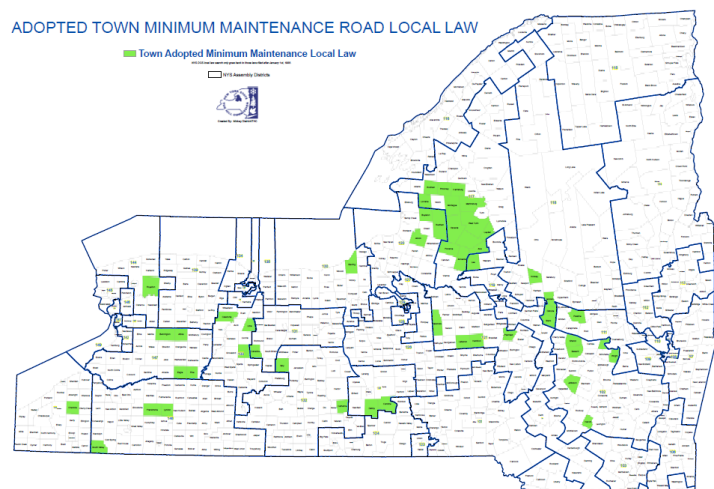
On average, the estimated cost to improve one mile of minimum maintenance road to allow for winter plowing is **\$100,000/mile**. Roads may need to be widened to be brought to standard and may include tree removal, grading, paving and drainage ditching to achieve. Equipment costs of a snowplow could add over \$300,000 in capital expenses, as well as increased insurance, operator hours, and fuel cost increases because of longer plowing routes.

In 1996, the Cornell Local Roads Program analyzed the cost of maintaining low volume local roads, and estimated summer maintenance cost \$2,500/mile, and winter maintenance cost \$5,000/mile. Adjusting these numbers for inflation, in today's dollars summer maintenance would cost **\$3,900/mile**, and winter maintenance would cost almost **\$8,000/mile**.

In many rural towns, the highway maintenance costs already consume a majority of the town's total budget. For example, the Tug Hill region's 16-town core, average highway expenditures in 2016 represented over 62% of total town expenditures. With steadily increasing costs for equipment and materials, the amount of road that the towns can afford to provide regular maintenance to each year continues to decrease. This leaves the towns in the unenviable position of either reducing the amount of maintenance or decreasing expenditures by delaying the purchase of necessary equipment or supplies; or raising local property taxes in an effort to continue the current level of maintenance. The loss of minimum maintenance road designations could force towns to spend more scarce funds on the roads least used, with maintenance of other more traveled town roads delayed.

## Towns in NY with minimum maintenance road laws

Using the NYS Department of State's local law search function (<https://locallaws.dos.ny.gov/>), which can search laws filed since 1998, 51 of the state's 932 towns (5.5%) currently have some minimum maintenance law on the books and filed with Department of State. They are widely distributed across the state, in rural areas north of the Hudson Valley.



## Historical perspective

Tug Hill had a booming population in the 1800's, with dairy farms, cheese factories, canning factories and more supporting families and infrastructure across the region. For example, the town of Turin, which was established in 1800, had a population of 2,338 in 1825, the highest of any town in Lewis County. Road building was a top priority for the town's settlers:

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*'The roads multiplied. By 1808 there were 15 road districts in the town, with an overseer of highways, sometimes called "pathmaster," assigned to each. Within a few years the number of road districts doubled. The Turin town meeting of 1820 records 32 highway overseers.'* – from *A History of Turin, Lewis County, New York, 1974.*

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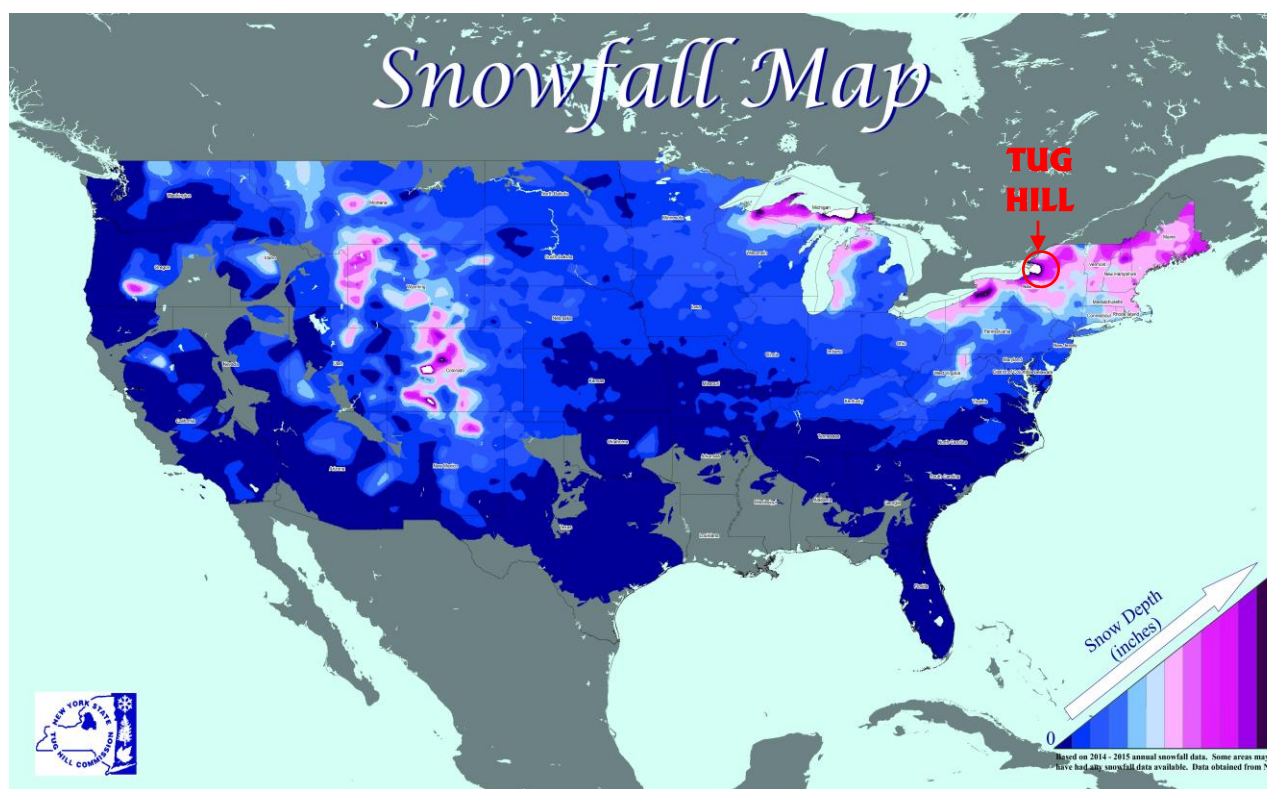
In 2000, the town's population declined to 793 people, and a short ten years later the population was 761.



This is indicative of Tug Hill as a whole, and as times changed and people moved from the center of Tug Hill, the road network that had been built to support them was no longer needed. Towns have been working to manage the road legacy they have been left with, and the modern expectation of road standards that can accommodate passenger vehicles year-round. Core road infrastructure, when established, was never intended to be used by modern motor vehicles or plowed in winter.

## Snow and Tug Hill

One of Tug Hill's claims to fame is receiving the most snow east of the Rockies. The map below, based on National Ocean and Atmospheric Administration (NOAA) data from the 2014-15



winter season, demonstrates it well. In 2014-15, Tug Hill received over 20 feet of snow. For the 2016-17 winter season, some parts of Tug Hill are on track to see over 30 feet of snow. This exacerbates the issue of winter plowing on Tug Hill as compared to other areas of the state.

Approximately 100 miles of existing minimum maintenance roads on Tug Hill also serve as snowmobile trails. Total mileage of snowmobile trails on Tug Hill is approximately 925 miles. In a worst-case scenario, if towns lost the ability to designate minimum maintenance roads and had to convert all those roads to year-round vehicle accessibility, 15% of the snowmobile trails on Tug Hill would be closed. This would require significant rerouting to connect off-road trails.

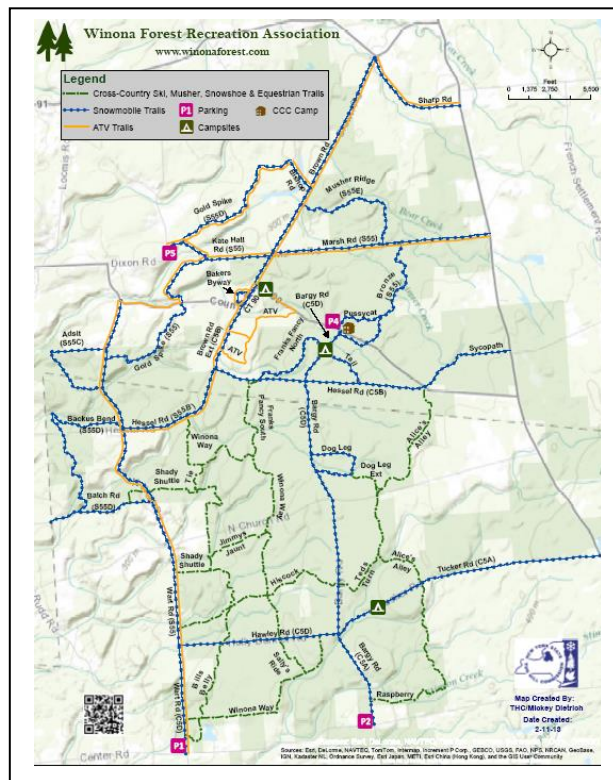


The snowmobile economy is significant on Tug Hill, estimated by a 2011-12 Potsdam Institute for Applied Research study to be \$165 million/year. A reduction of 15% of trails could translate, at least for a period of time until new connections were made, into a loss of \$25 million in economic activity.



## Case Study: Winona Forest

Winona Forest is a 9,233 acre state forest located in the towns of Lorraine (Jefferson County) and Boylston (Oswego County). It is bounded on the north by an additional 1,000 acres of county forest land. The non-profit organization **Winona Forest Recreation Association (WFRA)** maintains approximately 70 miles of trails in both the state and county forests. WFRA



membership consists of skiers, snowmobilers, ATV riders, equestrians, mushers, snowshoers, bikers, hikers and many other outdoor sports enthusiasts. It is home to the Tug Hill Tourathon, a 50 km/25 km cross-country ski race. The trail system is unique, in that it accommodates both motorized and non-motorized recreationists in all seasons. It also falls within two counties and two DEC regions (6&7). WFRA has a Temporary Revocable Permit (TRP) with DEC to perform maintenance on the trails.

Several Winona Forest trails are minimum maintenance roads. Sharp, Marsh, Brown, Kate Hall, Bishop, Wart, Dodge and Hessel roads, which can be seen on the trail map on the north end of the trail system, are all minimum maintenance roads in the town of Lorraine. Bargy, Wart, Hawley and Tucker roads, in the

town of Boylston, are currently designated seasonal roads. If a landowner along one of those roads requested it, the town would be forced to begin plowing the road year-round, which would create significant issues for the recreational trail system that has been successful here for many years.



## Conserving the Tug Hill core forest

Fifty-nine miles of minimum maintenance roads on Tug Hill are located in the sparsely populated, environmentally unique core forest. Limiting year-round access to areas in the core by controlling the infrastructure, in this case roads, reduces land fragmentation and conversion. The layout of minimum maintenance roads also enhances wildlife connectivity with their narrow design, vegetated buffers and increased tree canopy cover.

Tug Hill's core forest is identified in the NYS Open Space Plan as a regional priority in both DEC Regions 6 and 7. It has also been identified as a continental priority **Important Bird Area** by Audubon New York, one of only five in NY. Both the Central & Western NY and Adirondack chapters of The Nature Conservancy have made investments on Tug Hill, to conserve large tracts of land for habitat and climate change adaptation. The core forest is also an **Invasive Species Protection Zone**.

### **TUG HILL CORE FORESTS AND HEADWATER STREAMS {90}**

*"The Tug Hill Plateau is a large, undeveloped forested area that serves as the headwaters for several major water courses. These headwaters make a significant contribution to high-quality drinking water supplies and the Tug Hill Aquifer, as well as wildlife habitat. Major river systems that originate on the Plateau are the Mohawk River, Lansingkill, Deer River, Salmon River, East Branch of Fish Creek, Fish Creek, Sandy Creek, and the Mad River to the north of the Salmon River Reservoir. The integrity of these core forests and headwaters should be protected through a combination of easement and fee acquisition of key parcels. Of particular importance is the maintenance of large private tracts managed for forest products to prevent subdivision and development. These forest tracts support a major regional forest products industry, provide important habitat for wide-ranging and migratory species, and offer a diversity of outdoor recreation opportunities." Source: 2016 NYS Open Space Plan, [www.dec.ny.gov/lands/98720.html](http://www.dec.ny.gov/lands/98720.html).*



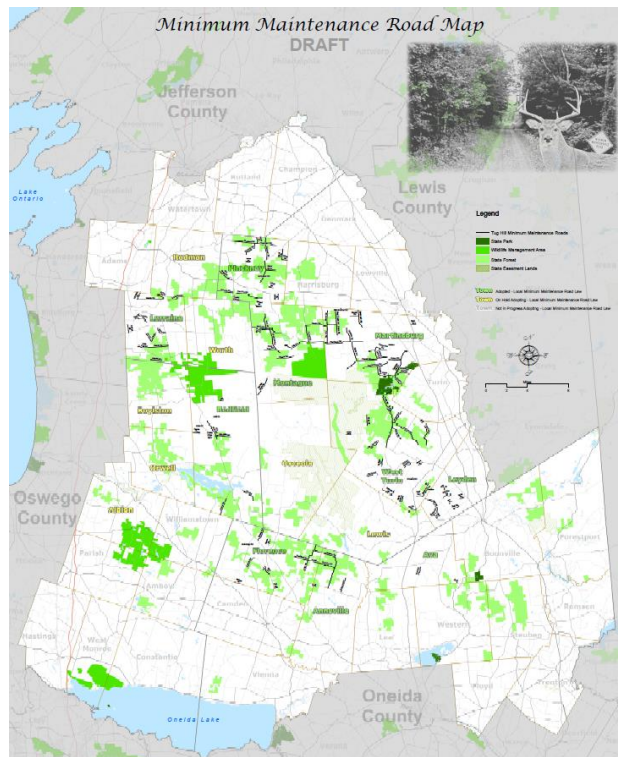
### ***Tug Hill Important Bird Area***

*"Tug Hill is a relatively unfragmented landscape located between the eastern end of Lake Ontario and the Adirondack Mountains. It is ecologically distinct from the Adirondacks and the Catskills. Alkaline shale and sandstone-based soils help buffer the area from acid atmospheric deposition. The land of this gently sloping plateau is owned by a variety of private individuals, non-profit organizations, corporations, and local and state governments. Tug Hill is the source of 11 different rivers and streams, and is a mosaic of diverse and extensive wetlands. A remote core area of wetlands and spruce-northern hardwood forest uninterrupted by paved roads is found at the highest elevations (1,700-2,100'). According to the NY GAP land cover data, approximately 90% of the site is forested." Source: Audubon NY, [www.audubon.org/important-bird-areas/tug-hill-area](http://www.audubon.org/important-bird-areas/tug-hill-area).*

Tug Hill is also the westernmost place included in the ***Staying Connected Initiative***, a partnership working to restore and enhance landscape connections for the benefit of people and wildlife across the Northern Appalachian/Acadian region of the eastern U.S. and Canada. The goal of the initiative is to conserve lands that will allow for genetic exchange between native, wide-ranging wildlife species and to allow species to shift their ranges in response to changing climates and conditions.

## **Minimum maintenance roads and state lands**

On Tug Hill, ten towns currently have minimum maintenance road laws on the books, with seven towns pending. Total existing mileage of minimum maintenance roads on Tug Hill is approximately 158 miles. Almost 50 miles of that has state land on both sides, and an additional 33 miles of road has state land on one side. The amount of state land along these roads makes the necessary upgrades problematic especially in Lewis and Oneida counties, which are forest preserve counties. In order to make roads wide enough in Lewis and Oneida counties where state land is on both sides of the road, it would require an act of two consecutive legislatures and approval on a statewide ballot.



## How do minimum maintenance roads relate to ATV trails?

All-terrain vehicles (ATVs) are governed by NYS Vehicle & Traffic Law. Section 2405 (1) of the Vehicle and Traffic Law speaks to the designation of highways for travel by ATVs, stating that governmental agencies (including towns and villages) “may designate and post any such public highway or portion thereof as open for travel by ATVs when in the determination of the governmental agency concerned, it is otherwise impossible for ATVs to gain access to areas or trails adjacent to the highway.”

ATV trails have expanded in the Tug Hill region over the past decade, and spending related to ATV riding has improved the year-round economy for many support businesses. Some minimum maintenance roads have been opened by municipalities to ATVs. Many more “regular” town and county roads have been opened to ATVs.

## Local actions support State policies

In 2010, New York State passed the Smart Growth Public Infrastructure Policy Act. Included in the act are 10 smart growth principles for use by public agencies who fund infrastructure projects. The use of minimum maintenance roads supports many of these principles, including.

- ***Maintenance and use of existing infrastructure***, by ensuring appropriate long-term maintenance of rural roads can be supported in limited town budgets
- ***Encouraging development in municipal centers***, by not upgrading infrastructure to encourage year-round development in extremely rural areas
- ***Natural resource protection***, by discouraging year-round development of forest and farmlands;
- ***Community-based planning***, by making decisions about local roads through required landowner outreach and public hearing processes
- ***Sustainability development***, by being good stewards of both local finance resources as well as forests and fields for recreation, open space, and natural-resource based economic development.

## Summary

Securing the local ability to designate minimum maintenance roads through state legislation is critical, for both towns seeking to stabilize budgets and shape the future of their municipalities, as well as for the state to support priorities of smart growth and open space. The process has been well vetted through state analysis and guidance, and is transparent and participatory at the local level. The rural towns on Tug Hill continue to work with their state representatives, towards passage of this vital legislation.



## Appendix A: A00418/S02537 Text

### STATE OF NEW YORK

418

2017-2018 Regular Sessions

#### IN ASSEMBLY

January 9, 2017

Introduced by M. of A. GUNTHER, GIGLIO, PALMESANO, BARCLAY, LOPEZ, BLANKENBUSH, DiPIETRO -- Multi-Sponsored by -- M. of A. BRINDISI, HAWLEY, MAGEE, McDONOUGH, PRETLOW, WALTER -- read once and referred to the Committee on Transportation

AN ACT to amend the highway law and the vehicle and traffic law, in relation to the maintenance, improvement and repair of certain town highways

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

- 1 Section 1. The highway law is amended by adding a new section 205-c to  
2 read as follows:  
3 § 205-c. Low volume roads. 1. When used in this section, unless other-  
4 wise expressly stated, or unless the context or subject matter otherwise  
5 requires, the following terms shall have the following meanings:  
6 a. "Low-volume road" shall mean a town highway or portion thereof  
7 located in a town, when such highway has an average daily traffic count  
8 of less than four hundred motor vehicles per day. Such term shall not  
9 apply to any highway or road or portion thereof which has previously  
10 been abandoned pursuant to subdivision one of section two hundred five  
11 of this article because it shall not have been used or traveled as a  
12 highway for six years. Low volume roads may be classified as follows:  
13 (i) "Low-volume collector road" shall mean a low-volume road that  
14 collects traffic from any other classification and channels it to a  
15 higher level road, such as a state highway, arterial or interstate high-  
16 way.  
17 (ii) "Residential access road" shall mean a low-volume road that  
18 provides access to residences. The traffic generated depends on the  
19 number of residences. All year access for emergency vehicles and school  
20 buses must be provided.  
21 (iii) "Resource/industrial access road" shall mean a low-volume road  
22 that provides access to forests or industrial or mining operations.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

LBD03550-01-7

1 Traffic volume can vary and include heavy trucks, extractive machinery  
2 and significant numbers of employees' cars.

3 (iv) "Agricultural land access road" shall mean a low-volume road that  
4 provides access to farm land. Traffic volumes are low and vary  
5 seasonally. Such roads shall accommodate farm equipment.

6 (v) "Farm access road" shall mean a low-volume road that provides  
7 principal motor vehicle access for the transport of goods and services  
8 necessary for effective support of a farm's daily operations to and from  
9 the primary location or center of such operations. Traffic volume is  
10 generally low, significantly less than four hundred motor vehicles per  
11 day, and may include occasional heavy vehicles and farm equipment as  
12 well as other motor vehicles.

13 (vi) "Recreation land access road" shall mean a low-volume road that  
14 provides access to recreational land including seasonal dwellings, parks  
15 and recreational lands. Volumes can vary with the type of recreation  
16 facility, activity and season of the year.

17 b. "Minimum maintenance road" shall mean a low-volume agricultural or  
18 recreational access road or portion thereof with an average daily traf-  
19 fic count of less than fifty motor vehicles per day designated by the  
20 town as minimum maintenance pursuant to this section, except for a farm  
21 access road or a road which provides access to an individual year-round  
22 residence at the time it is proposed to be designated minimum mainte-  
23 nance. In no way shall the term "minimum maintenance" be construed to  
24 mean "no maintenance" or "abandonment", however, such roads may be  
25 closed during certain times of the year subject to standards adopted by  
26 the town board.

27 c. "Motor vehicle" shall mean a motor vehicle as defined by section  
28 one hundred twenty-five of the vehicle and traffic law.

29 2. a. The town board of any town may, by resolution, designate certain  
30 town highways as low-volume roads or portions thereof pursuant to the  
31 classifications defined in this section. In classifying such roads, the  
32 town board shall base the classification on traffic volumes, types of  
33 vehicles using the road or portion thereof, and the current adjacent  
34 land uses. The town board shall refer proposed classifications to the  
35 town highway superintendent and the town planning board, if present in  
36 such town.

37 b. Upon receipt of the proposed resolution, the town highway super-  
38 intendent and, where applicable, town planning board, shall report their  
39 recommendations to the town board, accompanied by a statement of the  
40 reasons for such recommendations within forty-five days of receipt. Upon  
41 receipt of the recommendations from the town highway superintendent and,  
42 where applicable, town planning board, or upon the expiration of forty-  
43 five days from the date the proposed resolution was referred, the town  
44 board may adopt by majority vote, the local classification resolution.

45 3. a. The town board of any town may, after a public hearing, adopt a  
46 local law designating any low-volume road or portion thereof providing  
47 agricultural or recreational land access, except for farm access roads  
48 or roads that provide access to an individual year-round residence at  
49 the time of designation, as a minimum maintenance road. No such law  
50 shall restrict farm operations in an agricultural district. Such local  
51 law shall not prevent the state from maintaining such road if the road  
52 passes over, or provides access to, state land. No such law designating  
53 a minimum maintenance road shall be effective until minimum maintenance  
54 standards are adopted and signs are posted advising the public that such  
55 road is a minimum maintenance road. No road, once designated a minimum  
56 maintenance road, shall be determined to have been abandoned pursuant to

1 the provisions of subdivision one of section two hundred five of this  
2 article solely because it has been designated a minimum maintenance  
3 road.

4 b. At least forty-five days prior to the public hearing on such local  
5 law the town board having jurisdiction over such road shall issue find-  
6 ings that such road or portion thereof should be designated a minimum  
7 maintenance road. Such findings shall include, but not be limited to:

8 (i) the volume and type of motor vehicle traffic on such road;

9 (ii) a determination that the property owners of land abutting the  
10 road shall continue to have access to their property;

11 (iii) a determination that the users of the road traveling at a  
12 reasonable and prudent speed, under the circumstances, shall not be  
13 placed in a hazardous situation;

14 (iv) a determination that such road, or portion thereof, does not  
15 constitute a farm access road as defined in this section;

16 (v) the effect of such designation on any farm operations dependent  
17 upon the road, and that such designation does not restrict farm oper-  
18 ations in agricultural districts; and

19 (vi) the standards of maintenance developed in consultation with the  
20 town highway superintendent to be provided for such road including, but  
21 not limited to, the intention to close such road during certain times of  
22 the year.

23 A copy of the town board's findings shall be made available for public  
24 inspection in the town clerk's office and posted to the town website if  
25 available.

26 A copy of the findings shall be sent to the school board of the school  
27 district in which each road is located and to the town planning board.  
28 Such school board and planning board may review the findings of the town  
29 board and within forty-five days file with the town clerk their recom-  
30 mendation and findings. In the event the school or planning board takes  
31 no action within the forty-five day review period the town board may  
32 proceed without said board's recommendation and findings. School or  
33 planning board review may be waived, shortened or extended upon mutual  
34 consent of said board and the town board. The town board of the town  
35 may, by resolution, accept, accept in part, or reject the recommenda-  
36 tions of either the school or planning board prior to any vote upon the  
37 proposed local law.

38 A copy of the findings shall also be sent to the department of envi-  
39 ronmental conservation or any other relevant state agency that has  
40 jurisdiction over the land that the road proposed to be designated as  
41 minimum maintenance passes over or provides access to.

42 c. At least thirty days prior to the public hearing on such local law,  
43 written notice of such hearing, including a summary of the findings,  
44 shall be served by certified mail upon every owner of real property, as  
45 determined by the latest completed assessment roll, abutting such road  
46 or portion thereof.

47 d. The town clerk shall give notice of such hearing by the publication  
48 of a notice in at least one newspaper of general circulation in the  
49 town, and post such notice on the town website if available, specifying  
50 the time when and the place where such hearing will be held, and in  
51 general terms describing the proposed resolution. Such notice shall be  
52 published once at least five days prior to the day specified for such  
53 hearing.

54 4. A road or road segment, which has been designated minimum mainte-  
55 nance, shall be maintained at a level which allows the road to be made  
56 passable and functional in a manner determined by the town highway

1 superintendent in accordance with the standards developed in consulta-  
2 tion with the town highway superintendent and adopted by the town board  
3 to be consistent with the volume and type of traffic traveling on such  
4 road. Such standards shall not restrict access to farmland by a farm  
5 operation eligible for agricultural assessment pursuant to article twen-  
6 ty-five-AA of the agriculture and markets law. Normal road maintenance  
7 practices including, but not limited to, snow and ice removal, paving,  
8 patching, blading, dragging or mowing may be done less frequently  
9 depending upon the existing conditions and use of the road but shall, at  
10 a minimum, be consistent with other superseding standards or guidelines  
11 developed pursuant to state law. Minimum maintenance roads shall contin-  
12 ue to be part of the town highway system.

13 5. a. Any person or persons owning or occupying real property abutting  
14 a road or portion thereof which has been designated a minimum mainte-  
15 nance road may petition the town having jurisdiction over such road or  
16 portion thereof to discontinue the designation of such road as a minimum  
17 maintenance road or to modify the standards of maintenance for such  
18 road. Such petition shall be filed with the clerk of the town having  
19 jurisdiction over such road. Such petition shall identify the road or  
20 portion thereof to be discontinued as a minimum maintenance road and set  
21 forth the reasons for such discontinuance or modification. The town  
22 board having jurisdiction over such road shall hold a public hearing  
23 upon such petition within thirty days after its receipt. The town clerk  
24 shall give notice of such hearing by the publication of a notice in at  
25 least one newspaper of general circulation in the town, and post such  
26 notice on the town website if available, specifying the time when and  
27 the place where such hearing will be held, and in general terms describ-  
28 ing the proposed resolution. Such notice shall be published once at  
29 least five days prior to the day specified for such hearing.

30 b. In the event the town board, after such public hearing, determines  
31 that such designation or standards shall continue unchanged, no addi-  
32 tional petition may be submitted by a person or persons pursuant to this  
33 section until the lapse of at least twenty-four months from the date of  
34 the filing of the previous petition filed by such person or persons.

35 c. The town board having jurisdiction over a minimum maintenance road  
36 may adopt a local law discontinuing such minimum maintenance road desig-  
37 nation in the event it determines such discontinuance to be in the  
38 public interest.

39 6. Where the minimum maintenance road designation is discontinued, or  
40 a low-volume road classification is changed, road improvements may, in  
41 addition to other financing mechanisms available for road construction  
42 projects, be undertaken in accordance with section two hundred of the  
43 town law.

44 § 2. The vehicle and traffic law is amended by adding a new section  
45 124 to read as follows:

46 § 124. Minimum maintenance road. A low-volume road or portion thereof  
47 which is designated by the town having jurisdiction over such road  
48 pursuant to section two hundred five-c of the highway law.

49 § 3. Subdivision (a) of section 1683 of the vehicle and traffic law is  
50 amended by adding a new paragraph 18 to read as follows:

51 18. Designate a road or portion thereof as a minimum maintenance road.

52 § 4. This act shall take effect on the one hundred twentieth day after  
53 it shall have become a law. Effective immediately, the addition, amend-  
54 ment and/or repeal of any rule or regulation necessary for the implemen-  
55 tation of this act on its effective date is authorized to be made on or  
56 before such date.



## Appendix B: Questions and Answers About Low-Volume Road Designation

### Questions and Answers About Low-Volume Road Designation

Prepared by the NYS Tug Hill Commission.

Information current as of November 2014

#### **What is low-volume road designation?**

A town may officially designate a road as a low-volume road, upon public hearing, and upon the adoption of a local law by the town board, and classify it according to the Local Road Research and Coordination Council *Manual: Guidelines for Rural Town and County Roads*.

#### **What roads may be designated as a low-volume road?**

Any town road in a town where there is less than 150 people per square-mile, and the road carries less than 400 vehicles per day.

#### **Why designate low-volume roads?**

To **REDUCE COSTS** and **REDUCE LIABILITY**. If a motor vehicle accident occurs on an undesignated road, a community may be held to inappropriate or unspecific design, construction and maintenance standard by a court. The American Association of State Highway and Transportation Officials (AASHTO) currently has two published standards, both of which are considered inappropriate for low-volume, rural roads in the New York State context: Chapter 5 of *A Policy on Geometric Design of Highways and Streets*, and *Guidelines for Geometric Design of Very Low-Volume Local Roads (ADT less than or equal to 400)*. These standards are either extremely costly to implement, or lack the specific guidance a local highway department with no professional engineering personnel can manage. It is impractical for rural towns to afford this level of design, construction and maintenance. Low volume road designation provides a more realistic standard both in terms of cost and liability.

#### **What kinds of low volume road designations can be made?**

There are six types of low-volume road designations that can be made, depending on traffic volume and the existing use of the road. These are 1) low volume collector, 2) residential access, 3) farm access, 4) resource/industrial areas, 5) agricultural land access, and 6) recreational land access. These are specific design, construction and maintenance specifications for each type of road.

#### **What is a “minimum maintenance” road?**

“Minimum maintenance roads” are **A PARTICULAR TYPE OF LOW-VOLUME ROAD**, and must be created through a special designation procedure. Two categories of low-volume roads, agricultural land access and recreational land access roads, may be designated “minimum

maintenance.” These roads must be maintained according to the standards deemed appropriate and as adopted by the town board. The road is **NOT ABANDONED**, and still remains in all respects.

**What is the procedure for designating a “minimum maintenance” road?**

There is a special procedure for designating “minimum maintenance” roads that is more complex than the simple procedure used to designate a low-volume road by local law. The “minimum maintenance” procedure is as follows: 1) the town board prepares findings and issues them to the school district, to the town planning board and the general public for comment, 2) the town board notifies adjacent property owners by certified mail, 3) the town board holds a public hearing, 4) the town board accepts in part or rejects recommendations of the school board or planning board prior to their vote, and 5) the designation is effective upon the posting of signs, and the adoption of maintenance standards.

**How will a “minimum maintenance” road be maintained?**

Each town must specify what types of 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, consistent with its classification. In some circumstances it may mean reducing or eliminating snow removal. This is particularly important for protecting roads used as winter recreation trails.

**Isn't designation just a step towards abandonment?**

No. In fact, a road may not be abandoned until six years have elapsed following the termination of “minimum maintenance” designation in addition to complying with all statutory abandonment criteria. Designation is seen as a cost-effective **ALTERNATIVE TO ABANDONMENT**.

**Is “minimum maintenance” designation permanent?**

Not necessarily. The town board may terminate designation at any time upon amending the local law if such a change is in the public interest. Also, any landowner abutting the road may petition the town for removal, and the town board must hold a public hearing on the petition within 45 days of receipt of the petition.

**What is the difference between “minimum maintenance” road designation and “seasonal use” designation?**

“Seasonal use” is an annual designation by the highway superintendent to limit snow plowing, and such roads must be plowed upon the request of anyone living or operating a business on the road, even if they have located on the road following designation. “Minimum maintenance” standards which have been adopted by the town, and which may include limitations on snow plowing, will be continued until such time as the town board deems that maintenance standards should be changed.

**How will “minimum maintenance” road designation affect my assessment?**

In most cases, designation will have no effect. Lands have been assessed based upon the existing condition of the road, which in most cases will remain the same for the foreseeable future. Should “minimum maintenance” roads be improved, then assessments may be increased.