

## 23 §754. TOWN MAINTENANCE IN COMPACT AREAS

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**1. Jurisdiction.** Except as otherwise provided, all state and state aid highways within compact areas of urban compact municipalities, as defined in subsection 2, as determined by the department must be maintained in good repair by the town in which the highways are located at the expense of the town. Municipalities must be notified one year in advance of changes in compact or built-up sections that place additional maintenance responsibilities on the municipalities. Municipalities may waive the requirement of the one-year notice. When any town neglects to maintain the highways within 14 days after notice given its municipal officers by the department, the department may proceed to make necessary repairs to that way, which must be paid for by the State and the cost for the repairs must be withheld from funds due the town under the Urban-Rural Initiative Program, established in chapter 19, subchapter VI. The amounts collected from these towns must be added to the fund for maintenance of state and state aid highways.

[ 1999, c. 473, Pt. C, §3 (NEW) . ]

**2. Urban compact municipalities and compact areas; opt-out provision.** Urban compact municipalities and compact areas are defined as follows and may opt out in accordance with this subsection.

A. Compact areas are compact or built-up sections as defined in section 2 and include intermittent compact sections separated by short intervals that are not compact. The department may exclude from the compact area controlled access highways within compact sections. Compact areas may be designated only in urban compact municipalities. Compact areas on local roads, for the purposes of calculation of distributions pursuant to chapter 19, subchapter VI, are those road segments in urban compact municipalities lying within compact areas as documented by the department as of January 1, 1999.

[ 1999, c. 473, Pt. C, §3 (NEW) . ]

B. Urban compact municipalities are those in which the population according to the last United States census exceeds 7,500 inhabitants. Urban compact municipalities are also those in which the population according to the last United States census is less than 7,500 inhabitants but more than 2,499 inhabitants, and in which the ratio of people whose place of employment is in a given municipality to employed people residing in that same municipality according to the last United States census is 1.0 or greater, and when the municipality has not exercised the opt-out provision of this section. [ 1999, c. 473, Pt. C, §3 (NEW) . ]

C. Municipalities may opt out as provided in this paragraph.

(1) Any municipality with a population less than 7,500 according to the most recent United States census and otherwise eligible to be an urban compact municipality, and with no compact area summer maintenance responsibilities as of January 1, 1999, may opt not to be an urban compact municipality and not to have a compact area, within one year of the effective date of this subparagraph, or within 6 months of notification under this section. A municipality that has made a decision to opt out may at a later date opt to become an urban compact municipality. A municipality that does not opt out may not at a later date do so, until or unless an intervening United States census makes the municipality ineligible under paragraph B. A municipality may not opt out of maintenance jurisdiction over roads upon an expansion of an established compact area. A municipality that is an urban compact municipality during one census period but does not meet the criteria of this section according to the subsequent United States census may continue to be an urban compact municipality.

(2) Any municipality eligible to be an urban compact municipality, that has compact area state highway winter maintenance responsibilities on January 1, 1999, and that has opted out of summer maintenance responsibilities shall continue winter maintenance responsibilities on compact areas of state highways. Any municipality eligible to be an urban compact municipality and that has no compact area state highway winter maintenance responsibilities on January 1, 1999, and that has opted out of summer maintenance responsibilities, may choose to undertake winter

maintenance responsibilities on compact areas of state highways. In any case, the department and the municipality may negotiate winter maintenance responsibilities based on the most cost-effective routes and schedules for winter maintenance activities. These municipalities may not be urban compact municipalities, but must be reimbursed for winter maintenance on state highways pursuant to section 1803-B, subsection 1, paragraph B, subparagraph (1). Municipalities reimbursed for winter maintenance under this paragraph are not also eligible for reimbursement for those same highway segments based on any other provision of law. [1999, c. 473, Pt. C, §3 (NEW) .]

[ 1999, c. 473, Pt. C, §3 (NEW) .]

**3. Good condition upon transfer.** When the responsibility for maintenance of a section of state or state aid highway is to be transferred to a municipality as a result of population growth, as determined using the decennial United States census, or the municipality meets the definition of a compact or built-up section under section 2, and when the municipality is not eligible to opt out of summer maintenance pursuant to subsection 2, paragraph C, the department shall prepare a capital and maintenance plan to ensure that the section of state or state aid highway is in good repair at the time of transfer. The plan must be developed in consultation with the affected municipality. For the purpose of this subsection, "good repair" means actions intended to reasonably avoid nonroutine maintenance activities for a minimum of 10 years and includes consideration of ditching, culverts, major structural defects and pavement condition ratings of 3.3 or higher as determined by the department.

[ 2007, c. 417, §1 (AMD) .]

SECTION HISTORY

1971, c. 593, §22 (AMD). 1975, c. 133, (AMD). 1981, c. 492, §C6 (AMD). 1981, c. 588, §1 (AMD). 1989, c. 46, §2 (AMD). 1997, c. 539, §1 (AMD). 1997, c. 539, §2 (AFF). 1999, c. 473, §C3 (RPR). 2007, c. 417, §1 (AMD) .

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