

1 H.443

2 Introduced by Representatives Bancroft of Westford, Lefebvre of Newark,

3 Viens of Newport City, and Woodward of Johnson

4 Referred to Committee on

5 Date:

6 Subject: Highways; Class 4 town highway; trail; maintenance

7 Statement of purpose of bill as introduced: This bill proposes to:

8 (1) codify the obligations of persons who enjoy a common benefit from  
9 a class 4 town highway or public trail to contribute to maintenance costs of the  
10 highway or trail not borne by a municipality, in the absence of an agreement or  
11 requirement governing such maintenance obligations; and

12 (2) specify that a municipality shall not issue a municipal land use  
13 permit in connection with a property benefited by a class 4 town highway or a  
14 public trail unless the responsibility for maintenance costs not borne by the  
15 municipality is defined in a covenant or an agreement recorded in the  
16 municipal land records.

17 An act relating to maintenance of class 4 town highways and public trails

18 It is hereby enacted by the General Assembly of the State of Vermont:

1 Sec. 1. 19 V.S.A. chapter 9, subchapter 9 is added to read:

2 Subchapter 9. Maintenance of Class 4 Town Highways  
3 and Public Trails

4 § 1001. DEFINITIONS

5 As used in this subchapter:

6 (1) “Class 4 town highway” has the meaning provided in section 302 of  
7 this title.

8 (2) “Maintenance” means activities related to the upkeep of a class 4  
9 town highway or public trail in its usual condition or that are necessary to  
10 allow safe passage, and may include capital improvements.

11 (3) “Public trail” means a trail as defined in section 301 of this title.

12 § 1002. MAINTENANCE OF CLASS 4 TOWN HIGHWAYS AND PUBLIC  
13 TRAILS

14 (a) In the absence of an express agreement or requirement governing  
15 maintenance of a class 4 town highway or a public trail, when more than one  
16 person enjoys a common benefit from such highway or trail, each person shall  
17 contribute proportionately to the cost of maintenance not borne by a  
18 municipality, and shall have the right to bring a civil action to enforce the  
19 requirement of this subsection. The following nonexhaustive list of factors  
20 shall be considered in determining the proportionate share owed by each  
21 person benefited:

1           (1) the frequency and seasonality of use;

2           (2) the type and intensity of use;

3           (3) the total distance of typical usage of the highway or trail, as  
4 compared to the total distance of typical usage of other persons benefited by  
5 the highway or trail;

6           (4) any in-kind contributions made by the person to the maintenance of  
7 the highway or trail; and

8           (5) the terms of any agreement or obligation governing the allocation of  
9 maintenance costs among a subset of the persons benefited.

10          (b) When the responsibility for maintenance of a class 4 town highway or  
11 public trail is governed by an agreement or requirement that does not extend to  
12 all persons benefited by the highway or trail, each person to whom the  
13 agreement or requirement does not extend shall be responsible for maintenance  
14 costs in accordance with this subchapter, and the terms of the agreement or  
15 requirement shall govern the maintenance obligations of the persons to whom  
16 it extends.

17          (c) In the absence of an express agreement or requirement to the contrary,  
18 each person who enjoys a common benefit from a class 4 town highway or  
19 public trail shall be solely responsible for maintenance costs arising from  
20 damage to the highway or trail attributable to the person's negligence or  
21 intentional acts or omissions.



