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	<u>TRAILS</u>
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.

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19 V.S.A. § 301.

1	Sec. 2. 24 V.S.A. § 4412 is amended to read:
2	§ 4412. REQUIRED PROVISIONS AND PROHIBITED EFFECTS
3	Notwithstanding any existing bylaw, the following land development
4	provisions shall apply in every municipality:
5	* * *
6	(3)(A) Required frontage on, or access to, public roads, class 4 town
7	highways, or public waters. Land development may be permitted on lots that
8	do not have frontage either on a public road, class 4 town highway, or public
9	waters, provided that access through a permanent easement or right-of-way has
10	been approved in accordance with standards and process specified in the
11	bylaws. This approval shall be pursuant to subdivision bylaws adopted in
12	accordance with section 4418 of this title, or where subdivision bylaws have
13	not been adopted or do not apply, through a process and pursuant to standards
14	defined in bylaws adopted for the purpose of assuring safe and adequate
15	access. Any permanent easement or right-of-way providing access to such a
16	road or waters shall be at least 20 feet in width.
17	(B) Class 4 town highway and public trail maintenance costs.
18	(i) As used in this subdivision (3)(B), "maintenance" has the

meaning provided in 19 V.S.A. § 1001, and "trail" has the meaning provided in

1	(ii) A municipality shall not issue a municipal land use permit in
2	connection with a property benefited by a class 4 town highway or a trail
3	unless the responsibility for maintenance costs of the highway or trail not
4	borne by the municipality is defined in a covenant or an agreement that the
5	property owner records in the land records. The covenant or agreement shall
6	account for any preexisting covenant or agreement governing maintenance of
7	the highway or trail, but a person seeking a municipal land use permit shall not
8	be required to bear more than his or her proportionate share of maintenance
9	costs in relation to other properties benefited by the highway or trail.
10	* * *
11	Sec. 3. EFFECTIVE DATE
12	This act shall take effect on July 1, 2015.