

Highway Statutes: Class 4 Roads (Title 19)

Class 1, 2 and 3 town highways, with a few exceptions, must be maintained for year-round travel:

- A town shall keep its class 1, 2, and 3 highways and bridges in good and sufficient repair during all seasons of the year... [19 V.S.A. § 310(a)].
- The minimum standards for class 3 highways are a highway negotiable under normal conditions all seasons of the year by a standard manufactured pleasure car. This would include but not be limited to sufficient surface and base, adequate drainage, and sufficient width capable to provide winter maintenance [19 V.S.A. § 302(a)(3)(B)].

This does not apply to Class 4 highways, which aren't maintained for year-round use and do not receive state aid:

- Class 4 highways may be maintained to the extent required by the necessity of the town, the public good and the convenience of the inhabitants of the town, or may be reclassified using the same procedures as for laying out highways and meeting the standards set forth in section 302 of this title [19 V.S.A. § 302(b)].

Planning and Development Statutes: Required Road Frontage or Access (Title 24)

Zoning and subdivision regulations typically require that new lots and new development have frontage on – or, per §4312(3), an approved, permanent access to – a public road. This is to ensure that a newly subdivided lot, or new development on an existing lot, has direct vehicular access – including emergency vehicle access as appropriate – to a public road. *This section of statute also serves as a “grandfathering” provision* allowing for the subdivision and development of existing “landlocked” parcels that lack frontage on a public road – by giving municipalities the authority and discretion to ensure that such lots, for purposes of development, have adequate permanent access to a public road.

“Public road” for this purpose is “a state highway as defined in 19 V.S.A. § 1 or a class 1, 2 or 3 town highway as defined in 19 V.S.A. § 302(a). A municipality may, at its discretion, define a public road to also include a Class 4 town highway as defined in 19 V.S.A. 302(a)” [24 V.S.A. § 4303(33)]. This recognizes that, because Class 4 roads are not typically maintained for year-round travel, they are not generally suitable to provide access to new residential subdivisions or other forms of year-round development – but may be suitable to access other uses (e.g., logging, agriculture, outdoor recreation, seasonal camps) that result in no public safety issues or additional public expense.

Given this discretion, the subdivision or development of a lot with frontage only on a Class 4 road is typically addressed under both local land use regulations and highway ordinances through one or more of the following:

- **Limiting the type of new development allowed to that which does not require year-round vehicular access, especially by emergency vehicles,** given that Class 4 roads are not maintained for year-round use –e.g., allowing its use for forestry, farming, a seasonal camp or outdoor recreation as noted. *The intent is not to prohibit all development or use of the land; but rather to ensure that its use reflects its physical accessibility and does not result in significant additional expense to the community for road upgrades or year-round maintenance.*
- **Requiring the property owner or developer to upgrade and maintain the Class 4 road for year-round access and use** –either to meet town driveway standards (e.g., to serve a single parcel) or “development road” standards to serve more than one lot, under a maintenance agreement with the town. *Such standards also ensure that the Class 4 road, as a public right-of-way, remains open to the public and the other landowners it serves.*
- **Requiring the property owner or developer to upgrade the road to Class 3 town highway standards, if the town intends to take over year-round maintenance of the road.** *This also consistent with recommended practice for road reclassification from a Class 4 to a Class 3 town highway – as referenced under 19 V.S.A. § 310(b).*

The inadvertent inclusion of “Class 4 road” under § 4412(3) in 2011 – by allowing new subdivision and development on parcels simply having “frontage” on an unmaintained Class 4 road, without any determination whether the road is physically suitable to provide necessary access to the proposed development – *effectively negates the discretion given to municipalities provided under the definition, and more importantly longstanding development practices intended to ensure public safety and spare significant public expense, while also protecting the rights of affected property owners.*