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The Vermont Statutes Online

Title 19: Highways  
Chapter 3: Town Highways  
§ 301. Definitions

As used in this chapter:

**(1) "Discontinued highway" means a previously designated class 1, 2, 3, or 4 town highway as to which, through the process of discontinuance, all rights have been reconveyed to the adjoining landowners.**

(2) "Legislative body" includes board of selectmen, aldermen, and village trustees.

(3) "Selectmen" includes village trustees and aldermen.

**(4) "Pent road" is any town highway which, by written allowance of the selectmen, is enclosed and occupied by the adjoining landowner with unlocked stiles, gates, and bars in such places as the selectmen designate.**

(5) "Throughway" means a highway specially designated giving traffic traveling on the throughway the right-of-way at all intersections.

(6) "Town" includes incorporated villages and cities.

**(7) "Town highways" are class 1, 2, 3, and 4 highways:**

**(A) that the towns have authority to exclusively or cooperatively maintain; or**

**(B) that are maintained by the towns except for scheduled surface maintenance performed by the Agency pursuant to section 306a of this title.**

**(8) "Trail" means a public right-of-way which is not a highway and which:**

**(A) previously was a designated town highway having the same width as the designated town highway, or a lesser width if so designated; or**

**(B) a new public right-of-way laid out as a trail by the selectmen for the purpose of providing access to abutting properties or for recreational use. Nothing in this section shall**

**be deemed to independently authorize the condemnation of land for recreational purposes or to affect the authority of selectmen to reasonably regulate the uses of recreational trails. (Added 1985, No. 269 (Adj. Sess.), § 1; amended 1991, No. 47, § 1; 2009, No. 50, § 89.)**

### **§ 302. Classification of town highways**

**(a) For the purposes of this section and receiving State aid, all town highways shall be categorized into one or another of the following classes:**

(1) Class 1 town highways are those town highways which form the extension of a state highway route and which carry a State highway route number. The Agency shall determine which highways are to be class 1 highways.

(2) Class 2 town highways are those town highways selected as the most important highways in each town. As far as practicable they shall be selected with the purposes of securing trunk lines of improved highways from town to town and to places which by their nature have more than normal amount of traffic. The selectmen, with the approval of the Agency, shall determine which highways are to be class 2 highways.

(3) Class 3 town highways:

(A) Class 3 town highways are all traveled town highways other than class 1 or 2 highways. The selectmen, after conference with a representative of the Agency shall determine which highways are class 3 town highways.

(B) 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, except that based on safety considerations for the traveling public and municipal employees, the selectboard shall, by rule adopted under 24 V.S.A. chapter 59, and after following the process for providing notice and hearing in section 709 of this title, have authority to determine whether a class 3 highway, or section of highway, should be plowed and made negotiable during the winter. However, a property owner aggrieved by a decision of the selectboard may appeal to the transportation board pursuant to subdivision 5(d)(9) of this title.

(C) A highway not meeting these standards may be reclassified as a provisional class 3 highway if within five years of the determination, it will meet all class 3 highway standards.

**(4) Class 4 town highways are all town highways that are not class 1, 2, or 3 town highways or unidentified corridors. The selectboard shall determine which highways are class 4 town highways.**

**(5) Trails shall not be considered highways and the town shall not be responsible for any maintenance including culverts and bridges.**

**(6) Unidentified corridors.**

**(A) Unidentified corridors are town highways that:**

**(i) have been laid out as highways by proper authority through the process provided by law at the time they were created or by dedication and acceptance; and**

**(ii) do not, as of July 1, 2010, appear on the town highway map prepared pursuant to section 305 of this title; and**

**(iii) are not otherwise clearly observable by physical evidence of their use as a highway or trail; and**

**(iv) are not legal trails.**

**(B) If the conditions in subdivisions (A)(i) and (A)(ii) of this subdivision (6) are met, the legislative body of a municipality or its appointee may, after providing 14 days' advance written notice to the owners of the land upon which the unidentified corridor is located, enter private property to determine whether clearly observable physical evidence exists.**

**(C) Unidentified corridors shall be open to use by the public, but only in the same manner as they were used during the 10 years prior to January 1, 2006.**

**(D) A municipality shall not be responsible for maintenance of an unidentified corridor.**

**(E) Neither the municipality nor any person owning a legal interest in land through which an unidentified corridor may pass or abut shall have a duty of care to persons using the corridor.**

**(F) An unidentified corridor shall not be deemed to be a subdivision with respect to zoning, tax, and septic issues.**

**(G) After July 1, 2015, an unidentified corridor shall be discontinued, and the right-of-way shall belong to the owner of the adjoining land. If the right-of-way is located between the lands of two different owners, it shall be returned to the lots to which it originally belonged, if they can be determined; if not, it shall be equally divided between the owners of the lands on each side.**

**(H) An unidentified corridor shall not create a subdivision with respect to zoning, tax, and septic issues. If the unidentified corridor is reclassified as a class 1, 2, 3, or 4 highway or as a trail, the then- highway or trail shall be recognized as any other highway or trail for the purpose of creating a subdivision with respect to zoning, tax, and septic issues.**

**(7) Reclassification of unidentified corridors. On or by July 1, 2015 and pursuant to subchapter 2 of chapter 7 of this title, an unidentified corridor may be reclassified as a**

**class 1, 2, 3, or 4 highway or as a trail.**

(b) The Agency may require any municipality which fails to comply with the class 3 provisional commitments to return all state aid generated by the section or sections of highways involved. (Added 1985, No. 269 (Adj. Sess.), § 1; amended 1989, No. 246 (Adj. Sess.), § 10; 1993, No. 172 (Adj. Sess.), § 19; 1999, No. 156 (Adj. Sess.), § 27, eff. May 29, 2000; 2005, No. 178 (Adj. Sess.), § 1; 2007, No. 158 (Adj. Sess.), § 2.)

§ 303. Town highway control

Town highways shall be under the general supervision and control of the selectmen of the town where the roads are located. Selectmen shall supervise all expenditures. (Added 1985, No. 269 (Adj. Sess.), § 1.)

§ 304. Duties of selectmen

**(a) It shall be the duty and responsibility of the selectboard of the town to, or acting as a Board, it shall have the authority to:**

(1) see that town highways and bridges are properly laid out, constructed, maintained, altered, widened, vacated, discontinued, and operated, when the safety of the public requires, in accordance with the provisions of this title;

(2) take any action consistent with the provisions of law, including determinations made pursuant to subdivision 302(a)(3)(B) or subsection 310(a) of this title, which are necessary for or incidental to the proper management and administration of town highways;

(3) purchase tools, equipment, and materials necessary for the construction, maintenance, or repair of highways and bridges, and to incur indebtedness from the municipal equipment loan fund as established in 29 V.S.A. § 1601 for these purchases. It may contract with governmental or private agencies for the use of tools, equipment, road building material, and services;

(4) order hills graded, surfaces graveled, or treated with a dust layer, or surface treated with bituminous material, upon any town highway either laid out by them or already existing;

**(5) grant permission to enclose pent roads and trails by the owner of the land during any part of the year, by erecting stiles, unlocked gates, and bars in the places designated and to make regulations governing the use of pent roads and trails and to establish penalties not to exceed \$50.00, for noncompliance. Permission shall be in writing and recorded in the town Clerk's office;**

(6) make special regulations as to the operation, use, and parking of motor vehicles on highways under their jurisdiction, as provided in Title 23;

(7) make special regulations as to the speed of motor vehicles using the highways under their

jurisdiction, as provided in Title 23;

(8) lay out winter roads and lumber roads pursuant to chapter 9 of this title;

(9) change the course of a stream, pursuant to chapter 9 of this title;

(10) erect embankment on stream, pursuant to chapter 9 of this title;

(11) construct a watercourse, drain, or ditch from a highway across lands of any person, pursuant to chapter 9 of this title;

**(12) lay out, alter, classify, and discontinue town highways, pursuant to chapter 7 of this title;**

(13) forward the town's annual plan for the construction and maintenance of town highways to the agency of transportation;

(14) keep accurate accounts, showing in detail all moneys received by them including from whom and when received and all moneys paid out by them, to whom and for what purpose, and settle the accounts with auditors not less than 25 days before the annual meeting;

(15) receive grant funds and gifts from public and private sources;

(16) unless the town electorate votes otherwise, under the provisions of 17 V.S.A. § 2646, appoint a Road Commissioner, or remove him or her from office, pursuant to 17 V.S.A. § 2651. Road Commissioners, elected or appointed, shall have only the powers and authority regarding highways granted to them by the selectmen;

(17) number houses and name highways if desired;

(18) participate in cooperative purchasing arrangements with the state or other municipalities;

(19) prepare a transportation plan and capital budget for transportation for voter approval;

(20) retain staff and consultant assistance if needed in carrying out duties and powers;

(21) issue permits for work in highway rights-of-way pursuant to 19 V.S.A. chapter 11;

(22) regulate the location and relocation of utility wires and poles pursuant to 30 V.S.A. chapter 71; and

(23) publish and adopt after public hearing(s) road specifications for highways to be built or rebuilt within the town in compliance with applicable statutes.

(b) Nothing in this chapter shall be construed to affect the rights and powers conferred on

incorporated villages and cities by their charters to appoint street commissioners, collect and disburse highway taxes, and repair and maintain highways under their care. (Added 1985, No. 269 (Adj. Sess.), § 1; amended 1999, No. 156 (Adj. Sess.), § 28, eff. May 29, 2000; 2001, No. 64, § 21, eff. June 16, 2001.)

§ 305. Measurement and inspection

(a) After reasonable notice to the selectboard, a representative of the agency may measure and inspect the class 1, 2, and 3 town highways in each town to verify the accuracy of the records on file with the agency. Upon request, the selectboard or their designee shall be permitted to accompany the representative of the agency during the measurement and inspection. The agency shall notify the town when any highway, or portion of a highway, does not meet the standards for its assigned class. If the town fails, within one year, to restore the highway or portion of the highway to the accepted standard, or to reclassify, or to discontinue, or develop an acceptable schedule for restoring to the accepted standards, the agency for purposes of apportionment under section 306 of this title shall deduct the affected mileage from that assigned to the town for the particular class of the road in question.

**(b) Annually, on or before February 10, the selectboard shall file with the town clerk a sworn statement of the description and measurements of all class 1, 2, 3, and 4 town highways and trails then in existence, including any special designation such as a throughway or scenic highway. When class 1, 2, 3, or 4 town highways, trails, or unidentified corridors are accepted, discontinued, or reclassified, a copy of the proceedings shall be filed in the town clerk's office and a copy shall be forwarded to the agency.**

**(c) All class 1, 2, 3, and 4 town highways and trails shall appear on the town highway maps by July 1, 2015.**

**(d) At least 45 days prior to first including a town highway or trail that is not clearly observable by physical evidence of its use as a highway or trail and that is legally established prior to February 10, 2006 in the sworn statement required under subsection (b) of this section, the legislative body of the municipality shall provide written notice and an opportunity to be heard at a duly warned meeting of the legislative body to persons owning lands through which a highway or trail passes or abuts.**

(e) The agency shall not accept any change in mileage until the records required to be filed in the town clerk's office by this section are received by the agency. A request by a municipality to the agency for a change in mileage shall include a description of the affected highway or trail, a copy of any surveys of the affected highway or trail, minutes of meetings at which the legislative body took action with respect to the changes, and a current town highway map with the requested deletions and additions sketched on it. A survey shall not be required for class 4 town highways that are legally established prior to February 10, 2006. All records filed with the agency are subject to verification in accordance with subsection (a) of this section.

(f) The selectboard of any town who are aggrieved by a finding of the agency concerning the

measurement, description, or classification of a town highway may appeal to the transportation board by filing a notice of appeal with the executive secretary of the transportation board.

(g) The agency shall provide each town with a map of all of the highways in that town together with the mileage of each class 1, 2, 3, and 4 highway, as well as each trail, and such other information as the agency deems appropriate.

**(h) Notwithstanding the provisions of subchapter 7 of chapter 7 of this title, on or before July 1, 2010, a municipality's legislative body may vote to discontinue all town highways that are not otherwise clearly observable by physical evidence of their use as a highway or trail and that are not included as such on the sworn certificate of the description and measurement of town highways filed with the town clerk on February 10 of that year pursuant to subsection (b) of this section.** For the purposes of this section, a town highway shall be deemed to be included on the sworn certificate of the description and measurement of town highways if:

(1) a petition has been filed with the legislative body by persons who are either voters or landowners, and whose number is at least five percent of the voters in a municipality desiring to include that town highway on the sworn certificate of the description and measurement of town highways, prior to the vote taken under this subsection; or

(2) the legislative body has voted at an annual or special meeting duly warned for the purpose to include that town highway on the sworn certificate of the description and measurement of town highways, prior to the vote taken under this subsection.

(i)(1) Prior to a vote to discontinue town highways provided in subsection (h) of this section, the legislative body shall hold a public informational hearing on the question by posting warnings at least 30 days prior to the hearing in at least two public places within the municipality and in the town clerk's office. The notice shall include the most recently available map of all town highways prepared by the agency of transportation pursuant to subsection (g) of this section. At least 30 days prior to the hearing, the legislative body shall also deliver the warning and map together with proof of receipt or mail by certified mail, return receipt requested, to each of the following:

(A) The chair of any municipal planning commission in the municipality;

(B) The chair of a conservation commission, established under chapter 118 of Title 24, in the municipality;

(C) The chair of the legislative body of each abutting municipality;

(D) The executive director of the regional planning commission of the area in which the municipality is located;

(E) The commissioner of forests, parks and recreation; and

(F) The secretary of transportation.

(2) The hearing shall be held within the 10 days preceding the meeting at which the legislative body will vote whether to discontinue all town highways as provided in subsection (h) of this section.

(j) The legislative body may designate a specific highway or portion thereof proposed to be discontinued as a trail, in which case the right-of-way shall be continued at the width provided for in section 702 of this title. A designation of a highway or portion thereof as a trail under the provisions of this section shall be in writing, setting forth a complete description of the highway or portion thereof so designated. For all highways not designated as a trail and discontinued pursuant to this section, title to the rights-of-way shall belong to the owners of the abutting lands. If the right-of-way is located between the lands of two different owners, it shall be returned to the lots to which it originally belonged, if they can be determined; if not, it shall be equally divided between the owners of the lands on each side. The legislative body shall return a report of its actions to the town clerk's office and the agency of transportation.

(k) A vote pursuant to subsection (h) of this section may be disapproved by a vote of a majority of the qualified voters of the municipality voting on the question at an annual or special meeting duly warned for the purpose pursuant to a petition that is:

(1) signed by not less than five percent of the qualified voters of the municipality; and

(2) presented to the legislative body or the clerk of the municipality within 44 days following the vote taken pursuant to subsection (h) of this section.

(l) When a petition is submitted in accordance with subsection (k) of this section, the legislative body shall call a special meeting within 60 days from the date of receipt of the petition or include an article in the warning for the next annual meeting of the municipality if the annual meeting falls within the 60-day period to determine whether the voters will disapprove the discontinuance of town highways as provided in subsection (h) of this section.

(m) No fewer than two copies of a notice that the legislative body has voted to discontinue all town highways as provided in subsection (h) of this section shall be posted at each polling place during the hours of voting, and copies thereof shall be made available to voters at the polls upon request.

(n) If a petition for an annual or a special meeting is duly submitted in accordance with this section to determine whether the vote of the legislative body to discontinue all town highways as provided in subsection (h) of this section shall be disapproved by the voters of the municipality, the discontinuance shall take effect on the conclusion of the meeting or at such later date as is specified in the discontinuance unless a majority of the qualified voters voting on the question at the meeting vote to disapprove the discontinuance, in which event it shall not take effect. (Added 1985, No. 269 (Adj. Sess.), § 1; amended 1995, No. 60, § 21a, eff. April 25, 1995; 2005, No. 178 (Adj. Sess.), § 2; 2007, No. 158 (Adj. Sess.), § 3; 2009, No. 50, §§ 69, 70.)



### **§ 310. Highways, bridges and trails**

(a) A town shall keep its class 1, 2, and 3 highways and bridges in good and sufficient repair during all seasons of the year, except that based on safety considerations for the traveling public and municipal employees, the selectboard shall, by rule adopted under 24 V.S.A. chapter 59, and after following the process for providing notice and hearing in section 709 of this title, have authority to determine whether a class 2 or 3 highway, or section of highway, should be plowed and made negotiable during the winter. A property owner aggrieved by a decision of the selectboard may appeal to the transportation board pursuant to subdivision 5(d)(9) of this title.

**(b) 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.**

**(c) A town shall not be liable for construction, maintenance, repair, or safety of trails.**

**(d) For class 2 and 3 highways that have routinely not been plowed and made negotiable prior to July 1, 2000, the process requirements of subdivision 302(a)(3)(B) of this title and subsection (a) of this section shall not be required. A property owner adversely affected by this subsection may request the selectboard to plow and make negotiable a class 2 or 3 town highway. However, a property owner aggrieved by a decision of the selectboard may appeal to the transportation board pursuant to subdivision 5(d)(9) of this title. (Added 1985, No. 269 (Adj. Sess.), § 1; amended 1999, No. 156 (Adj. Sess.), §§ 29, 30, eff. May 29, 2000.)**