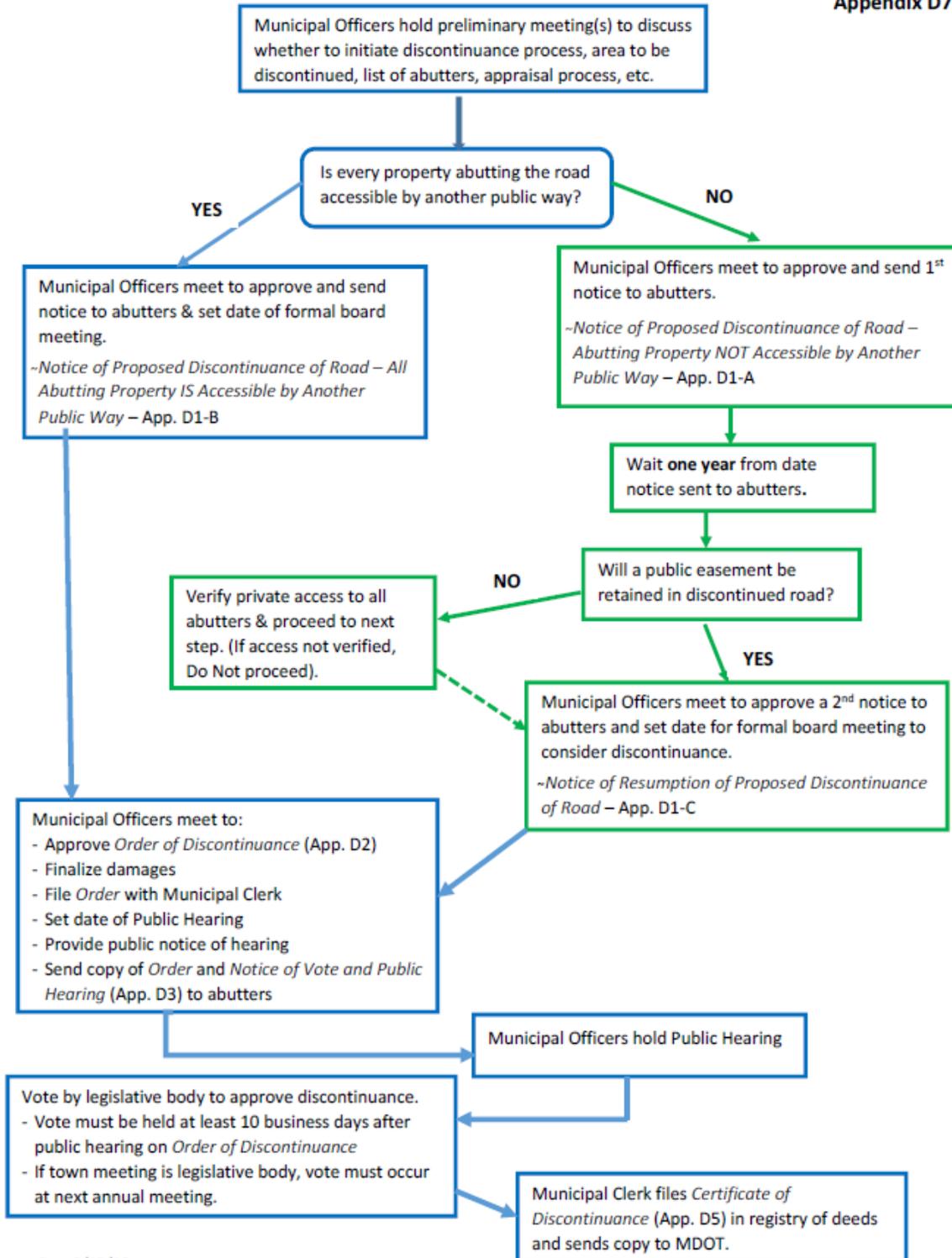


# Statutory Discontinuance

23 M.R.S. § 3026-A

Appendix D7



Rev. 8/15/18

## Appendix D1-A

(For use when any property abutting the road to be discontinued IS NOT otherwise accessible by another public way)

### Notice of Proposed Discontinuance of a Road -- Abutting Property Is Not Otherwise Accessible by Another Public Way

TO: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

FROM: The Municipal Officers of the Town/City of \_\_\_\_\_

Dear Property Owner:

Our records show that you own property abutting the \_\_\_\_\_ road/street. This is to notify you that the Municipal Officers propose to initiate the process to consider whether to issue an order to discontinue the \_\_\_\_\_ road/street [for its entire length] [for a distance of \_\_\_\_\_ beginning at \_\_\_\_\_] (*choose one*), and will determine damages, if any, to be paid to abutting property owners.

The \_\_\_\_\_ road/street is now a [town way] [public easement] (*choose one*) approximately \_\_\_\_\_ feet wide beginning at \_\_\_\_\_ and running for a distance of approximately \_\_\_\_\_ feet/yards/miles in a generally \_\_\_\_\_ direction, as shown more particularly on the Town/City Tax Maps numbers \_\_\_\_\_, on file at \_\_\_\_\_ (*location*). [*Optional: The road/street contains a \_\_\_\_\_ (length/width/description of type) bridge located approximately \_\_\_\_\_, which will also be discontinued.*]

The Municipal Officers [do/do not] (*choose one*) intend to retain a public easement in the road.

If an Order of Discontinuance is issued and subsequently approved by vote of the legislative body of the Town/City of \_\_\_\_\_, the Town/City will have no obligation to maintain, repair or plow the road but the public will still have the right to travel over it unless the public easement is extinguished as well. If the public easement is also extinguished, the Town/City will have no obligation to maintain, repair or plow the road and the public will not have a right to travel over it. Ownership of the road is generally presumed to revert to the abutting landowners to the center line.

As an abutting property owner, you would have the right to maintain a discontinued road and to form a road association or enter private agreements to maintain, plow and repair the road if it is discontinued with or without a public easement. Abutting property owners have the right to establish private easements to provide access to their property if they do not already possess a private right of access over a discontinued road.

Our records show that one or more properties abutting the \_\_\_\_\_ road are not otherwise accessible by a public way. Pursuant to Maine law, 23 MRS 3026-A, the municipal officers must **wait one year** from the date of this notice before proceeding with the discontinuance process.

This waiting period is intended to allow you, as an abutting property owner, to confirm or to secure private access rights over the road in the event that a public easement is not retained in the road. You are advised to consult an attorney for assistance.

After \_\_\_\_\_ (*insert date of one year*), the municipal officers will meet to determine whether to: (1) proceed with the discontinuance process and retain a public easement in the discontinued road; or (2) proceed with discontinuance of the road without retaining a public easement, provided the municipal officers verify that private easements running with the title of abutting property owners' property allowing travel on the way for all abutting property owners, their lessees and guests have been filed in the county registry of deeds.

These matters will be discussed at a future meeting of the municipal officers and at a public hearing to be held at a later date. As an abutter, you or your designated agent are invited to attend the meeting, and to attend and be heard at the public hearing to be scheduled.

Dated: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Municipal Officers

**(Note: Send a copy of this Notice via US Postal Service, first class, postage prepaid to all abutters)**

## Appendix D1-B

*(For use when all property abutting road to be discontinued IS otherwise accessible by another public way)*

### **Notice of Proposed Discontinuance of a Road -- All Abutting Property Is Accessible by Another Public Way**

**TO:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**FROM:** The Municipal Officers of the Town/City of \_\_\_\_\_

Dear Property Owner:

Our records show that you own property abutting the \_\_\_\_\_ road/street. This is to notify you that on \_\_\_\_\_, \_\_\_\_\_, at \_\_\_\_\_ a.m./p.m. the Municipal Officers will meet at \_\_\_\_\_ (*location*) to determine whether they will issue an order to discontinue the \_\_\_\_\_ road/street [for its entire length] [for a distance of \_\_\_\_\_ beginning at \_\_\_\_\_] (*choose one*), and determining damages, if any, to be paid to abutting property owners.

The \_\_\_\_\_ road/street is now a [town way] [public easement] (*choose one*) approximately \_\_\_\_\_ feet wide beginning at \_\_\_\_\_ and running for a distance of approximately \_\_\_\_\_ feet/yards/miles in a generally \_\_\_\_\_ direction, as shown more particularly on the Town/City Tax Maps numbers \_\_\_\_\_, on file at \_\_\_\_\_ (*location*). [*Optional: The road/street contains a \_\_\_\_\_ (length/width/description of type) bridge located approximately \_\_\_\_\_, which will also be discontinued.*]

The Municipal Officers [do/do not](*choose one*) intend to retain a public easement in the road.

If an Order of Discontinuance is issued and subsequently approved by vote of the legislative body of the Town/City of \_\_\_\_\_, the Town/City will have no obligation to maintain, repair or plow the road but the public will still have the right to travel over it unless the public easement is extinguished as well. If the public easement is also extinguished, the Town/City will have no obligation to maintain, repair or plow the road and the public will not have a right to travel over it. Ownership of the road is generally presumed to revert to the abutting landowners to the center line.

As an abutting property owner, you would have the right to maintain a discontinued road and to form a road association or to enter private agreements to maintain, plow and repair the road if it is discontinued with or without a public easement. Abutting property owners have the right to establish private easements to provide access to their property if they do not already possess a private right of access.

These matters will be discussed at the municipal officers' meeting to be held on \_\_\_\_\_, and at a public hearing to be held at a later date. As an abutter, you or your designated agent are

invited to attend the meeting, and to attend and be heard at the public hearing to be scheduled.

Dated: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Municipal Officers

**(Note: Send a copy of this Notice via US Postal Service, first class, postage prepaid to all abutters)**

## Appendix D1-C

(For use when any property abutting road to be discontinued IS NOT otherwise accessible by another public way)

### Notice of Resumption of Proposed Discontinuance of a Road – Abutting Property Is Not Otherwise Accessible by Another Public Way

TO: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

FROM: The Municipal Officers of the Town/City of \_\_\_\_\_

Dear Property Owner:

Our records show that you own property abutting the \_\_\_\_\_ road/street. On \_\_\_\_\_, \_\_\_\_ [insert date that notice in Appendix D1-A was sent] we notified you that the Municipal Officers were considering a discontinuance of the \_\_\_\_\_ road/street [for its entire length] [for a distance of \_\_\_\_\_ beginning at \_\_\_\_\_] (choose one), and would determine damages, if any, to be paid to abutting property owners. This notice is to notify you that on \_\_\_\_\_, \_\_\_\_\_, at \_\_\_\_ a.m./p.m. the Municipal Officers will meet at \_\_\_\_\_ (location) to determine whether they will issue an order to discontinue said road.

The \_\_\_\_\_ road/street is now a [town way] [public easement] (choose one) approximately \_\_\_\_ feet wide beginning at \_\_\_\_\_ and running for a distance of approximately \_\_\_\_\_ feet/yards/miles in a generally \_\_\_\_\_ direction, as shown more particularly on the Town/City Tax Maps numbers \_\_\_\_\_, on file at \_\_\_\_\_ (location). [Optional: The road/street contains a \_\_\_\_\_ (length/width/description of type) bridge located approximately \_\_\_\_\_, which will also be discontinued.]

The Municipal Officers [do/do not] (choose one) intend to retain a public easement in the road.

If an Order of Discontinuance is issued and subsequently approved by vote of the legislative body of the Town/City of \_\_\_\_\_, the Town/City will have no obligation to maintain, repair or plow the road but the public will still have the right to travel over it unless the public easement is extinguished as well. If the public easement is also extinguished, the Town/City will have no obligation to maintain, repair or plow the road and the public will not have a right to travel over it. Ownership of the road is generally presumed to revert to the abutting landowners to the center line.

As an abutting property owner, you would have the right to form a road association or enter private agreements to maintain, plow and repair the road if it is discontinued with or without a public easement. Abutting property owners have the right to establish private easements providing access to their property if they do not already possess a private right of access.

Our records show that one or more properties abutting the \_\_\_\_\_ road are not otherwise

accessible by a public way. Pursuant to Maine law, 23 MRS 3026-A, the municipal officers have waited one year from the date they provided Notice of Proposed Discontinuance of this road before proceeding with the discontinuance process. This waiting period was intended to allow you, as an abutting property owner, to confirm or to secure private access rights over the road in the event that a public easement is not retained in the road.

At their meeting on \_\_\_\_\_, \_\_\_\_ (*insert date of meeting above*), the Municipal Officers may vote to either: (1) proceed with the discontinuance process and retain a public easement in the discontinued road; or (2) proceed with discontinuance of the road and extinguishment of the public easement, provided the municipal officers verify that private easements running with the title of abutting property owners' property allowing travel on the way for all abutting property owners, their lessees and guests have been filed in the county registry of deeds.

These matters will be discussed at the municipal officers' meeting and at a public hearing to be held at a later date. As an abutter, you or your designated agent are invited to attend the meeting, and to attend and be heard at the public hearing to be scheduled.

Dated: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Municipal Officers

**(Note: Send a copy of this Notice via US Postal Service, first class, postage prepaid to all abutters)**

## Appendix D2

### Order of Discontinuance of a Road

**TO:** Residents of Town/City of \_\_\_\_\_ and other interested persons

**FROM:** Municipal Officers of Town/City of \_\_\_\_\_

Having complied with all applicable requirements of 23 M.R.S. § 3026-A, the Municipal Officers of Town/City of \_\_\_\_\_ hereby order the discontinuance of the \_\_\_\_\_ road/street as a town way, for a distance of approximately \_\_\_\_\_ feet/yards/miles beginning at \_\_\_\_\_. The \_\_\_\_\_ road/street is approximately \_\_\_\_\_ feet wide and begins at \_\_\_\_\_, whence it runs approximately \_\_\_\_\_ feet/yards/miles in a generally \_\_\_\_\_ direction to \_\_\_\_\_, as shown more particularly on the Town/City Tax Map Numbers \_\_\_\_\_, on file at \_\_\_\_\_ (*location of tax maps*).

A public easement [will/will not] (*choose one*) be retained upon discontinuance. [optional: This order of discontinuance includes discontinuance of the \_\_\_\_ bridge, a \_\_\_\_ (length/width) bridge located approximately \_\_\_\_\_ feet/miles/yards after the \_\_\_\_\_, as shown more particularly on the Town/City Tax Maps referenced above. Pursuant to 23 M.R.S. § 566, the municipal officers [have/have not] (*choose one*) agreed with MDOT for [removal of the bridge/transfer the bridge to \_\_\_\_] (*choose one*) upon discontinuance.

Having given best practicable notice to all abutting property owners, we further order damages to the abutting property owners as follows:

Name: \_\_\_\_\_ Amount: \$ \_\_\_\_\_

Name: \_\_\_\_\_ Amount: \$ \_\_\_\_\_

Name : \_\_\_\_\_ Amount: \$ \_\_\_\_\_

Name: \_\_\_\_\_ Amount: \$ \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Municipal Officers

**(Note: A copy of this Order must be filed with the Town/City Clerk; also, send a copy to all abutters, along with the Notice of Vote and Public Hearing on Discontinuance.)**

**Appendix D3**

**Notice of Vote and Public Hearing on Order of Road Discontinuance**

**TO:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**FROM:** Municipal Officers of the Town/City of \_\_\_\_\_

Dear Property Owner:

Our records show that your property abuts the \_\_\_\_\_ road/street. This is to notify you that on \_\_\_\_\_, \_\_\_\_\_ (year), the Municipal Officers issued an Order of Discontinuance of a Road that discontinues the \_\_\_\_\_ road/street for [its entire length/a distance of \_\_\_\_\_ feet/yards/miles beginning at \_\_\_\_\_ (*choose one*)], including a bridge located at \_\_\_\_\_. The Order also states the amount of damages to be paid to abutting property owners. A copy of that Order is attached to this Notice and is incorporated herein. The Order of Discontinuance has been filed with the municipal clerk.

Municipal Officers will hold a public hearing on \_\_\_\_\_, \_\_\_\_\_, at \_\_\_\_ a.m./p.m., at \_\_\_\_\_ (*location*) to hear public comments on the Order of Discontinuance.

The Order will take effect upon recording at the registry of deeds when and if it is approved by a vote of the legislative body of the Town/City of \_\_\_\_\_. If the Order is approved, the municipality will have no obligation to maintain, repair or plow the road, and the public will/will not (*choose one*) have the right to continue using the road as a public easement.  
Date: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Municipal Officers

**(Note: Send a copy of this Notice, along with the Order of Discontinuance of a Road, to all abutters on the road in question. Be certain to delete the inapplicable terms in this Notice. Also, post the notice or a separate notice of public hearing in order to notify the public of the date and time of the hearing.)**

## Appendix D5

### Certificate of Discontinuance

I, \_\_\_\_\_, being the Clerk of the Municipality of \_\_\_\_\_, hereby certify and attest that [optional: at its annual meeting ] on \_\_\_\_\_, \_\_\_\_\_ the legislative body of the Municipality took final action by approving an Order of Discontinuance of a Road dated \_\_\_\_\_.

By approving the Order, the Municipality has discontinued a former road/street, [optional: and bridge ] for [  its entire length /  a distance of \_\_\_\_\_ feet/yards/miles beginning at \_\_\_\_\_.]

That road/street was approximately \_\_\_\_\_ feet wide beginning at \_\_\_\_\_ and running in a generally \_\_\_\_\_ direction for approximately \_\_\_\_\_ feet/yards/miles, as more particularly shown on the Municipality's Tax Map numbers \_\_\_\_\_ on file at \_\_\_\_\_.

That road included a bridge of \_\_\_\_\_ (length/width) located approximately \_\_\_\_\_ feet/miles/yards after the \_\_\_\_\_, as shown more particularly on the Town/City Tax Maps referenced above.

Date: \_\_\_\_\_ Municipal Clerk \_\_\_\_\_

### ACKNOWLEDGMENT

STATE OF MAINE

\_\_\_\_\_, ss.

Date: \_\_\_\_\_, \_\_\_\_\_

(County)

Personally appeared the above-named \_\_\_\_\_ and acknowledged the above instrument to be his/her free act and deed.

Before me,

\_\_\_\_\_  
Notary Public/Attorney

\_\_\_\_\_  
(Print Name)

**(Note: This certificate must be recorded in the Registry of Deeds and a copy must be sent to the Maine Department of Transportation, Bureau of Maintenance and Operations. Be sure to delete any inapplicable language in the certificate.)**