

§3026-A. Discontinuance of town ways

A municipality may terminate in whole or in part any interests held by it for highway purposes. A municipality discontinuing a town way or public easement in this State must meet the following requirements. [PL 2015, c. 464, §5 (NEW).]

1. Notification of discontinuance to abutting property owners. The municipal officers shall give best practicable notice to all abutting property owners of a proposed discontinuance of a town way or public easement.

A. For a proposed discontinuance of a town way, the notice must include information regarding the potential discontinuance or retention of a public easement, including maintenance obligations for and the right of access to the way under the discontinuance or retention of a public easement, and information regarding the rights of abutting property owners to enter into agreements regarding maintenance of and access to the discontinued way. [PL 2017, c. 345, §1 (NEW).]

B. For a proposed discontinuance of a town way that is abutted by property not otherwise accessible by a public way, the notice must include information, in addition to the information required in paragraph A, regarding the right of abutting property owners to create private easements and the municipal requirements under subsection 1-A. [PL 2017, c. 345, §1 (NEW).]

Paragraphs A and B apply to town ways that are not discontinued as of October 1, 2018.

As used in this subsection, "best practicable notice" means, at minimum, the mailing by the United States Postal Service, postage prepaid, first class, of notice to abutting property owners whose addresses appear in the assessment records of the municipality.

[PL 2017, c. 345, §1 (AMD).]

1-A. Discontinuance after October 1, 2018 of a town way with abutting property not otherwise accessible. A municipality may not discontinue a town way that is not discontinued as of October 1, 2018 pursuant to this section if that town way is abutted by property not otherwise accessible by a public way, unless the municipal officers have complied with this subsection.

A. The municipal officers shall wait one year from the date of notice provided pursuant to subsection 1, paragraph B before proceeding with the discontinuance process, to allow abutting property owners the opportunity to grant private easements that run with the title of the property owners' land for the purpose of allowing travel along the way for all abutting property owners and their lessees and guests. [PL 2017, c. 345, §2 (NEW).]

B. After the one-year waiting period required in paragraph A, the municipal officers may:

(1) Proceed with the discontinuance process pursuant to this section, as long as a public easement is retained; or

(2) If the municipal officers verify that private easements that run with the title of the property owners' land for the purpose of allowing travel along the way for all abutting property owners and their lessees and guests have been filed with the registry of deeds, proceed with the discontinuance process without retaining a public easement. [PL 2017, c. 345, §2 (NEW).]

[PL 2017, c. 345, §2 (NEW).]

2. Municipal officers meet to discuss proposed discontinuance and file order of discontinuance. The municipal officers shall discuss a proposed discontinuance of a town way or public easement at a public meeting and file an order of discontinuance with the municipal clerk that specifies:

A. The location of the town way or public easement; [PL 2015, c. 464, §5 (NEW).]

B. The names of abutting property owners; [PL 2015, c. 464, §5 (NEW).]

B-1. The location of any bridge, as defined in section 562, subsection 2, on the town way or public easement and the status of negotiations with the department with respect to the disposition of the bridge pursuant to section 566, subsection 3-A; [PL 2017, c. 154, §3 (NEW).]

C. The amount of damages, if any, determined by the municipal officers to be paid to each abutting property owner; and [PL 2015, c. 464, §5 (NEW).]

D. Whether or not a public easement is retained. [PL 2015, c. 464, §5 (NEW).]

If a proposal includes the discontinuance of a public easement, that must be stated explicitly in the order of discontinuance; otherwise, the public easement is retained. If a public easement is retained, all other interests of the municipality in the discontinued way, if any, pass to abutting property owners to the center of the way. If a public easement is not retained, all interests of the municipality in the discontinued way pass to abutting property owners to the center of the way.

[PL 2017, c. 154, §3 (AMD).]

3. Public hearing. The municipal officers shall hold a public hearing on the order of discontinuance of a town way or public easement filed pursuant to subsection 2.

[PL 2015, c. 464, §5 (NEW).]

4. Approval of order of discontinuance and damage awards. The municipal legislative body must vote upon the order of discontinuance submitted to it:

A. To approve the order of discontinuance and the damage awards and to appropriate the money to pay the damages; or [PL 2015, c. 464, §5 (NEW).]

B. To disapprove the order of discontinuance. [PL 2015, c. 464, §5 (NEW).]

The vote required by this subsection must be conducted 10 or more business days after the public hearing pursuant to subsection 3, except that, for a town way that is not discontinued as of October 1, 2018, in a municipality in which the municipal legislative body is the town meeting, the vote must be conducted at the next regularly scheduled annual town meeting.

[PL 2017, c. 345, §3 (AMD).]

5. Certificate of discontinuance filed. The municipal clerk shall record an attested certificate of discontinuance after a vote by the municipal legislative body under subsection 4 in the registry of deeds. The certificate must describe the town way or public easement and the final action by the municipal legislative body. The date the certificate is filed is the date the town way or public easement is discontinued. The registry of deeds shall record a certificate of discontinuance under the name of the town way or public easement, the name of the municipality and the names of the abutting property owners. The municipal clerk shall provide a photocopy of the certificate to the Department of Transportation, Bureau of Maintenance and Operations.

[PL 2015, c. 464, §5 (NEW).]

6. Utility easement. An easement for public utility facilities necessary to provide or maintain service remains in a discontinued town way regardless of whether a public easement is retained. Upon approval by a municipal legislative body of an order to discontinue a town way and retain a public easement, unless otherwise stated in the order, all remaining interests of the municipality, if any, pass to the abutting property owners in fee simple to the center of the way.

[PL 2015, c. 464, §5 (NEW).]

SECTION HISTORY

PL 2015, c. 464, §5 (NEW). PL 2017, c. 154, §3 (AMD). PL 2017, c. 345, §§1-3 (AMD).

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