

Public Road Acceptance Ordinance

The Citizens of the Town of Mount Desert do ordain a Public Road Acceptance Ordinance be adopted as follows:

WHEREAS, the Town has identified several private roads where maintenance including: plowing, sanding, grading and bituminous repairs have been requested of the Town by the private owners, and

WHEREAS, the Board of Selectmen have requested that private/public roads be identified and listed along with an assessment of their condition, size, use, benefit to the public and future need, and

WHEREAS, it is the intention of this ordinance to identify those private roads which by the nature of their condition, use and location would be more appropriate with a "Public" designation.

NOW, THEREFORE BE IT RESOLVED, that to become "public", a road or road section must meet the following conditions:

1. The road must meet the "Street/Road Design and Construction Standards" of the Mount Desert Land Use Zoning Ordinance ("LUZO"), which standards are currently listed in LUZO s. 6B.18.
2. The current private owner(s) are willing to sign over all title, rights and responsibilities without reservations to the 50' wide, right of way. Legal costs of the deed to the Town shall be borne by the private owner(s).
3. The current private owner(s) shall ask the Public Works Director to certify in writing to the Board of Selectmen that the above-stated conditions have been met.
4. The current private owner(s) shall provide to the Town Manager evidence of good and marketable title in and to the proposed road in the form of an attorney's title opinion letter or a commitment for title insurance.
5. The Town Manager shall request from an attorney a letter certifying that said attorney's title opinion letter or said title insurance commitment sufficiently protects the Town's interests.
6. Upon receipt of the afore-mentioned two letters, the Selectmen will recommend the request for "Public" Designation as an article in the next succeeding regular Town Warrant. Following Town Meeting approval, the Town of Mount Desert will accept title and all future rights and responsibilities, including maintenance, repair and replacement as necessary and the road shall be deemed "Public". The Selectmen may, at their option, agree to placing potential acceptance of a road on the warrant, contingent on its reconditioning by the private owner(s) after approval by Town Meeting and before becoming "Public".

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7. When a road is accepted by the Town Meeting as a “public” road, and after the deed for the land beneath said road has been duly recorded at the Hancock County Registry of Deeds, the road shall be placed on any “Road Inventory” regularly kept by the Town.

NOW THEREFORE BE IT FURTHER RESOLVED should the current owner(s) fail, or be unwilling, to meet the above-stated conditions, then:

1. The road shall remain private;
2. All repairs and maintenance of the road and its appurtenances shall be the responsibility of the owner(s) at the sole cost of the owner(s);

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

The effective date of this Ordinance is: May 5, 2009.

This Ordinance shall expire and be of no force or effect on May 7, 2024.