

CHAPTER 166

ROADS OR CARTWAYS JOINTLY CONSTRUCTED OR IMPROVED

Sec.		Sec.	
166.01	Petition for cartways	166.09	Towns, villages and adjoining counties may jointly build or improve roads or streets
166.02	Petition	166.10	Limitation on certificates of indebtedness or bonds
166.03	Appraisers appointed	166.11	Certificates of indebtedness or bonds sold
166.04	Service of notice of order appointing appraisers	166.12	Tax levy
166.05	Appraisal	166.13	Indebtedness to be additional
166.06	Establishing cartway; certified copy filed	166.14	Other laws not affected
166.07	Jury trial upon demand	166.15	Apportionment of funds
166.08	Cost deposited with clerk of district court		

59C500
ab 213

166.01 PETITION FOR CARTWAYS. When a petition praying that a cartway two rods wide is signed and presented to one of the judges of the district court of the county in which the land of the petitioner or petitioners is situated, praying for the establishment of a cartway from the land of such petitioner or petitioners over the land of another or others so as to connect with a public highway, where such cartway commences in one town and terminates in another town, such judge is hereby authorized to appoint three appraisers to examine the route of such proposed cartway, determine the cost of the construction thereof on and over lands other than that belonging to the petitioner or petitioners, and assess the damages, including the cost of the right of way, that may be caused to the lands of others on and over which said cartway is proposed to be established and laid out.

[1939 c. 347 s. 1] (2585-12)

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213

166.02 PETITION. Such petition shall be signed by the owner or owners of any tract of land not less than ten acres in area, which is improved, actually used, and occupied as the exclusive place of residence by the owner or owners thereof for farming or agricultural purposes, and which has no access to a public highway excepting on or over the lands of others, and the right to travel over which has not been lawfully acquired. Such petition shall describe the course of such cartway, commencing from some designated point on the land of the petitioner or petitioners, and the point of intersection with the public highway; it shall also describe the lands of others over which such cartway is to be established, the names of the owners and occupants thereof; it shall also set forth the area in the tract of land owned by the petitioner or petitioners, that it is used exclusively for farming or agricultural purposes, its improvements, and that it is the exclusive place of residence of such petitioner or petitioners with his or their family or families, if any; and that such tract is without any access to the public highway excepting on or over the lands of others, and over which the petitioner or petitioners have not acquired the right to travel; together with a statement of the reasonable value of the tract of land owned by such petitioner or petitioners and which is so sought to be connected by the cartway.

[1939 c. 347 s. 2] (2585-13)

59C500
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166.03 APPRAISERS APPOINTED. Upon the filing of such petition in the office of the clerk of the district court of the county, the same shall be immediately presented to one of the district court judges thereof, who shall thereupon make and file an order appointing three disinterested freeholders who are not residents of any of the towns in or through which such proposed cartway is to be established and laid out; he shall in such order fix the time and place of the meeting of such appraisers, require that they shall take and subscribe an oath for the faithful performance of their duties and cause the same to be filed in the office of the clerk of such court; require that they examine the route of such proposed cartway; determine and assess the damages on account of the establishment and opening of such cartway, including the value of the land taken for right of way, separately in each town, and determine the cost of the construction of such cartway on and over the lands of others than that of the petitioners, separately as to each town; and require that such appraisers make a full and complete report of their findings and assessments or awards to the judge of such court at a time and place specified in the order of their appointment and, in the addition thereto, that they find and determine whether

the route of such proposed cartway is practical and feasible and the least expensive of any route that may furnish an outlet from the tract of the owner to a public highway.

[1939 c. 347 s. 3] (2585-14)

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a 13 **166.04 SERVICE OF NOTICE OF ORDER APPOINTING APPRAISERS.** The petitioners shall cause personal service of such order to be made upon each occupant of the land on or over which such cartway is proposed to be located and established at least ten days before the meeting of the appraisers and cause ten days' posted notice thereof to be given in each of the towns in which the proposed cartway is sought to be located and established, and file one copy thereof in the office of the town clerk of each of the towns in which any part of such cartway is proposed to be located, and furnish due proof of such service, posting, and filing.

[1939 c. 347 s. 4] (2585-15)

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a 13 **166.05 APPRAISAL.** It shall thereupon be the duty of the appraisers to proceed with the performance of their duties as required of them in and by the order of their appointment. They shall hear all persons interested both for and against the establishment of such cartway and make report of their findings and assessments within the time and in the manner provided by the order of the court.

[1939 c. 347 s. 5] (2585-16)

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a 13 **166.06 ESTABLISHING CARTWAY; CERTIFIED COPY FILED.** If, upon the hearing of the report of such appraisers, and of all persons interested for or against the establishment of such cartway, the district judge finds therefrom that the report of the appraisers is correct, and if such appraisers have determined by their report that the route of such proposed cartway is practical and feasible and the least expensive of any route that may furnish an outlet from the tract of the owners to the public highway, he shall make an order establishing such cartway and order the same to be constructed by the respective towns in which such cartway is established as to that part of such cartway situated within each respective town, and order the payment of the damages, including the cost of the right of way, to be made by such towns for that part thereof assessed separately to lands in each town, respectively, less one-third of such damages and cost of the right of way, which one-third shall be paid by the petitioners. A certified copy of such order, upon its becoming final, as hereinafter provided, shall be filed in the office of the county auditor of such county, and one in the office of the clerk of each of the towns affected.

[1939 c. 347 s. 6] (2585-17)

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a 13 **166.07 JURY TRIAL UPON DEMAND.** The owner of any land on or over which such cartway is established may demand a jury trial as to the amount of damages, including cost of right of way, awarded by the appraisers for the establishment of such cartway thereon or thereover, by filing in the office of the clerk of such court within ten days after the entry of such order a written demand therefor, specifying therein wherein such owner deems himself aggrieved by the order establishing such cartway, and furnishing to the county in which the proceedings are pending a bond in the sum of \$250, conditioned that the demandant shall prosecute such demand with dispatch, and, in case the amount of the damages is not increased, that he will pay all the costs and disbursements of the petitioner assessed as the result of such trial. If no such demand is filed, the order of the district court establishing the cartway shall become final; and, in the event of a demand for a jury trial, such order shall become final 30 days after the entry of judgment on the verdict of the jury therein, unless the time shall be extended for cause by an order made and filed in the proceedings by the judge of the court.

[1939 c. 347 s. 7] (2585-18)

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a 13 **166.08 COST DEPOSITED WITH CLERK OF DISTRICT COURT.** The town shall not be required to proceed with the construction of such cartway until there shall have been deposited in the office of the clerk of the district court for the benefit of those entitled thereto the amount which such petitioners shall be required to pay as their share of the damages and cost of right of way as finally determined.

[1939 c. 347 s. 8] (2585-19)

C500
a 13 **166.09 TOWNS, VILLAGES, AND ADJOINING COUNTIES MAY JOINTLY BUILD OR IMPROVE ROADS OR STREETS.** Any town or village in this state having an assessed valuation of not more than \$500,000, exclusive of money and credits, and having roads or streets, separate or continuous, leading into adjoining counties having assessed valuations of not less than \$150,000,000, exclusive of money

166.10 JOINT ROADS OR CARTWAYS

1558

and credits, and a bonded indebtedness of not to exceed \$7,000,000, may construct and improve or aid in the construction and improvement jointly or severally with the last mentioned counties, such roads or streets. The cost of constructing or improving such roads or streets may be defrayed in such proportions by such counties, villages, and towns as they may agree upon, and each such village or town may provide its share of such cost by the levying of taxes upon the taxable property in such village or town, or by the issuance of certificates of indebtedness or bonds therefor as hereinafter provided.

[1925 c 374 s 1; 1957 c 593 s 1] (2641-8)

166.10 LIMITATION ON CERTIFICATES OF INDEBTEDNESS OR BONDS.

When any such village or town shall determine by resolution of its council or board of supervisors, as the case may be, to construct or improve or aid in the construction or improvement of any such street or road, each of them may issue and sell its bonds or certificates of indebtedness to defray its share of the cost thereof in an amount not to exceed \$25,000 for such village, and \$25,000 for such town. All such bonds or certificates of indebtedness may be issued without submission to the vote of the people and the full faith and credit of such village or town, as the case may be, shall be pledged for the payment of the principal and interest of the same.

[1925 c. 374 s. 2] (2641-9)

166.11 CERTIFICATES OF INDEBTEDNESS OR BONDS SOLD. Such cer-

tificates of indebtedness or bonds shall be in the form of serial certificates or bonds, a portion of which shall be payable each year after issue, but none of these bonds or certificates shall run for a longer term than 20 years, and the council of the village and the board of supervisors of the town shall fix the denominations of such bonds or certificates of indebtedness as it shall issue hereunder, respectively, and fix the dates of maturity thereof, respectively, so that the amount necessary each year to pay the principal of the portion of the bonds maturing in such year and the interest of bonds issued shall be approximately the same in each of the years in which the bonds shall run. Such certificates of indebtedness or bonds shall be sold in the manner provided in section 475.60 and the council of such village and the board of supervisors of such town shall determine, respectively, whether such bonds shall be sold to the purchaser who will pay the par value thereof at the lowest rate of interest, or to the purchaser who will pay the highest price for such bonds at an interest rate to be fixed by the issuing village or town. The rate of interest shall in no case exceed five percent per annum.

[1925 c 374 s 3; 1957 c 351 s 1] (2641-10)

166.12 TAX LEVY. The council of such village and the board of supervisors of such town after the issuance of such bonds shall levy a tax upon the taxable property of such village or town, respectively, in addition to all other taxes levied in an amount corresponding to the amounts of principal and interest of such bonds or certificates of indebtedness falling due each year as to such village and town; provided, that where such village or town shall receive aid from the state road and bridge fund, as hereinafter provided, the obligation to levy taxes for the payment of such bonds or certificates of indebtedness shall, to the extent of such aid, be removed.

[1925 c. 374 s. 4] (2641-11)

166.13 INDEBTEDNESS TO BE ADDITIONAL. The amount of indebtedness herein authorized to be incurred by any such village or town shall be in addition to and over and above any limits now fixed by law.

[1925 c. 374 s. 5] (2641-12)

166.14 OTHER LAWS NOT AFFECTED. Sections 166.09 to 166.15 shall not be construed to be in derogation or limitation of any powers heretofore granted to any village or town, but to be supplementary and in addition thereto.

[1925 c. 374 s. 6] (2641-13)

166.15 APPORTIONMENT OF FUNDS. When any such street or road has been designated or shall hereafter be designated as a state road by the board of county commissioners, or by the commissioner of highways, or in any manner provided by law, the commissioner of highways, the state treasurer, and the state auditor may annually apportion and allot to any county in which such villages or towns are located, out of the state road and bridge fund, for the use and benefit of such villages or towns as may issue certificates of indebtedness or bonds to aid in the construc-

MINNESOTA STATUTES 1957

1559

JOINT ROADS OR CARTWAYS 166.15

tion, improvement, or repair of roads and streets provided for herein, such portion of the allotment to such counties in which such villages or towns are located as they may deem advisable, and same shall be paid over by the treasurer of such county to the treasurers, respectively, of such villages or towns, and used by such villages or towns in payment or retirement of the certificates of indebtedness or bonds issued hereunder when and as they become due, respectively, and the provisions for such apportionment out of the state road and bridge fund herein made shall continue annually until the certificates of indebtedness or bonds herein authorized are fully paid.

[1925 c. 374 s. 7] (2641-14)