

CHAPTER 164

TOWN ROADS

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164.01 MS 1957 [Repealed, 1959 c 500 art 6 s 13]

164.01 DEFINITIONS.

For the purposes of this chapter, the terms defined in section 160.02 shall have the same meanings.

History: 1959 c 500 art 5 s 1

164.02 MS 1957 [Repealed, 1959 c 500 art 6 s 13]

164.02 TOWN ROADS.

Subdivision 1. **Establishment and supervision.** Town roads shall be established, located, relocated, constructed, reconstructed, improved and maintained, or vacated by the several towns. The town boards shall have supervision over town roads, and they may employ such persons as they deem necessary to carry out their duties. They may appropriate and expend such sums of money from their respective town road and bridge funds as they deem necessary for the establishment, location, relocation, construction, reconstruction, improvement and maintenance, or vacation of such roads. Subject to sections 88.16; 88.17, and 88.22, maintenance may include town ordinances to regulate the burning of vegetation on town road rights-of-way. The ordinance shall set forth limits and conditions on burning to minimize the danger of fire escaping. A town adopting an ordinance pursuant to this section shall submit a copy of the ordinance to the department of natural resources.

Subd. 2. **Acquisition.** They may acquire by purchase, gift, or eminent domain proceedings, as provided by law, all necessary right-of-way for such roads, purchase all necessary road material, purchase or rent machinery, tools, and supplies needed therefor, and may construct buildings, or rent or acquire by purchase, gift, or condemnation grounds and buildings necessary for the storing and housing of the material, machinery, tools, and supplies.

History: 1959 c 500 art 5 s 2; 1974 c 161 s 9; 1989 c 180 s 1

164.03 MS 1953 [Repealed, 1957 c 300 s 1]

164.03 EXPENDITURES FOR ROADS.

Subdivision 1. **Aid for county highway or county state-aid highway.** When authorized by a vote of the electors at any annual meeting or at any special meeting called for that purpose, the town board of any town may appropriate money from the town road and bridge fund to aid in the construction, improvement, or maintenance of any county highway or county state-aid highway located within the town.

Subd. 2. **Appropriation to county for use on town roads.** When authorized by the electors, and with the consent of the county board, the town board may appropriate money to the county from the town road and bridge fund for the construction, improvement, and maintenance of town roads designated by the town board.

Subd. 3. **Specific uses of money appropriated.** Any money so appropriated shall be paid into the county road and bridge fund and shall be used only for the purposes designated by the town board at the time it made such appropriation.

Subd. 4. **Report.** The town board shall render to the annual town meeting a written report containing:

(1) the amount of road taxes levied and the amount collected during the preceding year and all money paid into the road and bridge fund from all other sources;

(2) a statement of the improvements needed on roads, cartways, and bridges for the ensuing year, with an estimate of their probable expense;

(3) a statement of all expenses and damages occasioned by establishing, altering, or vacating roads and of all sums expended for machinery, implements, tools, stone, gravel, and other material during the year, with an estimate of the amount required for ensuing year; and

(4) a statement of the improvements made on roads, cartways, and bridges during the preceding year, with a statement of expenditures therefor.

History: 1959 c 500 art 5 s 3; 1993 c 25 s 1

164.04 MS 1957 [Repealed, 1959 c 500 art 6 s 13]

164.04 TAXATION FOR ROADS.

Subdivision 1. **Road taxes; payment.** All real and personal property in each town liable to taxation shall be taxed for road purposes, and all road taxes hereafter levied shall be paid in cash.

Subd. 2. **Fixed at annual town meeting.** The electors of each town shall have power at their annual town meeting to determine the amount of money which shall be raised by taxation for road and bridge purposes. The tax so voted shall be extended, collected, and payment thereof enforced in the same manner and at the same time as is provided by law for the extension, collection, and enforcement of other town taxes.

Subd. 3. **Emergency.** In case of emergency after the town meeting, but not later than October 1 in the same year, the town board may levy a tax on the property in the town for road and bridge purposes, in addition to any tax voted at the annual town meeting for road and bridge purposes. Any tax so levied shall be certified to the county auditor for extension and collection. The town board may thereafter pledge the credit of the town by issuing town orders, not exceeding the amount of the additional tax so levied for road and bridge purposes, in payment for the emergency work done or material used on the roads within the town.

History: 1959 c 500 art 5 s 4; 1973 c 773 s 1; 1975 c 268 s 1; 1988 c 719 art 5 s 84; 1989 c 277 art 4 s 15; 1994 c 505 art 5 s 1

164.041 REMOVAL OF LEVY LIMIT; ROAD PURPOSES.

It is the intent of this legislation to remove all limitations relating specifically to the authority of a town to levy taxes for road and bridge purposes and any act for a single town or for a group of towns relating specifically to a limitation on the authority of a town to levy taxes for road and bridge purposes, however stated in mills, dollars, or a per capita amount is hereby superseded.

History: 1975 c 268 s 2; 1979 c 153 s 1; 1987 c 384 art 2 s 1; 1Sp1989 c 1 art 5 s 7

164.05 MS 1957 [Repealed, 1959 c 500 art 6 s 13]

164.05 TOWN ROAD DRAINAGE TAX.

Subdivision 1. **Powers.** In any town in which the voters authorize the town board to do so as provided in this section, the town board may levy a town road drainage tax.

Subd. 2. **Collection; expenditure for specified purpose.** Such tax shall be certified to the county auditor, extended and collected and paid over to the town treasurer in the same manner as other town taxes and payment thereof shall be enforced in the

same manner and with like penalties and interest as other town taxes. The proceeds of such tax shall constitute the town road drainage fund, which shall be expended by the town board in paying the cost and expenses of draining the public roads within the town.

Subd. 3. Petition; notice; vote at town meeting. When a petition signed by ten or more freeholders and voters of a town shall be presented to the town clerk at least 20 days before the time of holding the annual town meeting, praying that the question of authorizing the town board to levy and assess a town road drainage tax be submitted to the voters of such town, the town clerk shall include in the notice of such annual town meeting a notice that such question will be voted on at such meeting. Such question shall be voted on by ballot and it shall be the duty of the clerk to provide at the expense of the town a suitable number of ballots, which may be printed or written or partly printed and partly written, in substantially the following form:

“Shall the town board be authorized to levy and assess a Town Road Drainage Tax?

(Yes ..) (No ..)”

Subd. 4. Authorization by majority vote; recorded. If a majority of the votes cast on the proposition be in the affirmative, the town board shall have authority to levy annually a tax as hereinbefore provided until such time as the electors, at an annual town meeting upon like procedure, shall have voted, by a majority vote of those voting on the question, to withdraw from the town board authority to levy such town road drainage tax. The votes on such question shall be canvassed and the result declared and recorded in the manner provided by law with reference to the election of town officers.

History: 1959 c 500 art 5 s 5; 1973 c 773 s 1; 1986 c 444; 1988 c 719 art 5 s 84; 1989 c 277 art 4 s 16; 1994 c 505 art 5 s 2

164.06 MS 1957 [Repealed, 1959 c 500 art 6 s 13]

164.06 POWERS REGARDING TOWN ROADS.

Subdivision 1. Authorization. A town board, when authorized by a vote of the electors at the annual meeting, or at a special meeting called for that purpose, may establish, alter, or vacate a town road, including those dedicated to the public by plat, in accordance with section 164.07, subdivisions 2 to 12, and may acquire the right-of-way as may be necessary for the road by gift, purchase or as provided in section 164.07.

Subd. 2. Extinguishing interest in abandoned road. (a) After providing notice under section 366.01, subdivision 8, the town board may by resolution disclaim and extinguish a town interest in a town road without action under subdivision 1 if:

- (1) the extinguishment is found by the town board to be in the public interest;
- (2) the interest is not a fee interest;
- (3) the interest was established more than 25 years earlier;
- (4) the interest is not recorded or filed with the county recorder;
- (5) no road improvement has been constructed on a right-of-way affected by the interest within the last 25 years; and
- (6) no road maintenance on a right-of-way affected by the interest has occurred within the last 25 years.

(b) The resolution shall be filed and recorded with the county auditor and recorder.

History: 1959 c 500 art 5 s 6; 1984 c 562 s 8; 1985 c 169 s 5; 1Sp1985 c 16 art 2 s 10; 1992 c 578 s 1; 1993 c 117 s 2; 1995 c 25 s 1

164.07 MS 1957 [Repealed, 1959 c 500 art 6 s 13]

164.07 ESTABLISHMENT, ALTERATION, OR VACATION OF TOWN ROAD.

Subdivision 1. Authorization; petition. Any town board may alter or vacate a town road, including those dedicated to the public by plat, or establish a new road in its town

upon a petition of not less than eight voters of the town, who own real estate, or occupy real estate under the homestead or preemption laws or under contract with the state, within three miles of the road proposed to be established, altered, or vacated; provided, that in any town not having eight voters who own real estate or occupy real estate under the homestead or preemption laws or under contract with the state, within three miles of any proposed road, the town board of such town may alter or vacate a town road, or establish a new road in the town upon a petition signed by a less number of voters of such town, who own real estate or occupy real estate under the homestead or preemption laws or under contract with the state, in such town. Such petition shall contain a description of the road, and what part thereof is to be altered or vacated, and, if a new road, the names of the owners of the land, if known, over which such road is to pass, its point of beginning, general course, and termination. If the petition is to establish or alter a road, the petition must also contain a statement of the purpose and necessity for establishing or altering the road.

Subd. 2. Hearing; notice. (a) The petition shall be filed with the town clerk, who shall forthwith present it to the town board. The town board within 30 days thereafter shall make an order describing as nearly as practicable the road proposed to be established, altered, or vacated and the several tracts of land through which it passes, and fixing a time and place when and where it will meet and act upon the petition. The order must also contain a notice to affected landowners that a landowner is entitled to judicial review of damages, need, and purpose under subdivision 7 following a determination to establish or alter a road. The petitioners shall cause personal service of such order and a copy of the petition to be made upon each occupant of such land at least ten days before such meeting and cause ten days' posted notice thereof to be given.

(b) In addition, the petitioners shall serve notice of the order by certified mail upon the commissioner of natural resources at least 30 days before such meeting if the road to be vacated terminates at or abuts upon any public water. The notice under this paragraph is for notification purposes only and does not create a right of intervention by the commissioner of natural resources.

Subd. 3. Examination of proposed road. At the time and place designated, the town board shall meet and, on proof by affidavit of the giving of such notice, it shall examine the road proposed to be established, altered, or vacated, hear all parties interested, and determine whether it will grant or refuse the petition. If it be refused, the fact shall be noted on the back thereof.

Subd. 3a. Drainage facility. On consideration of a petition for vacation of a road, the town board shall determine whether the lateral ditches of said road are essential for surface drainage of adjacent lands, or for drainage of public highways, in the area. If the board finds that preservation of such drainage facilities is for the general health and welfare of the public, then the board may cause the road to be vacated with a provision that the town shall retain the right of access for the purpose of maintaining such drainage facilities. An owner of land adjacent to the vacated portion of the road shall not interfere with the functioning of such drainage facilities.

Subd. 4. Survey. If the petition be granted, the town board, if it deem it necessary, shall cause a survey to be made. When the center of such road does not follow a section line, or some subdivisional line of a section, the surveyor shall note the distance to the point on any course at which such course will intersect a section line, and the distance of such point of intersection from the most convenient section, quarter-section, or meander corner, as established by the government survey; and the notes of such intersections, and a description of the road so established, altered, or vacated shall be incorporated in an order to be signed by the town board.

Subd. 5. Damages. The damages sustained by reason of establishing, altering, or vacating any road may be ascertained by the agreement of the owners and the town board; and unless such agreement is made, or the owners release in writing all claims to damages, the same shall be assessed and awarded before such road is opened, worked, or used. Every agreement and release shall be filed with the town clerk and be final as

to the matters therein contained. The town board shall assess the damages of each claimant with whom it cannot agree, or who is unknown, specifying the amount awarded to each and briefly describing each parcel of land. In ascertaining the damages which will be sustained by any owner the town board shall determine the money value of the benefits which the establishment, alteration, or vacation, as the case may be, will confer, and deduct the benefits, if any, from the damages, if any, and award the difference, if any as damages.

Subd. 6. Filing of award; notification. The award of damages shall be filed with the town clerk. Within seven days after filing the town clerk shall notify, in writing, each known owner and occupant of each tract of the filing of the award of damages. The notification shall set forth the date of the award, the amount of the award of damages and any terms or conditions of the award. The notification must include a clear and coherent explanation, written in language using words with common and everyday meanings, of the requirements for appealing the award of damages under subdivision 7.

Subd. 7. Appeal. Within 40 days after the filing of the award of damages any owner or occupant may appeal from the award by filing a notice of appeal with the court administrator of the district court of the county where the lands lie. However, the owner or occupant must file the notice of appeal within ten days in order to delay the opening, construction, alteration, change, or other improvement in or to the road pursuant to subdivision 10. The notice of appeal shall be accompanied by a bond of not less than \$250, with sufficient surety approved by the judge or the county auditor conditioned to pay all costs arising from the appeal in case the award is sustained. A copy of the notice shall be mailed by registered or certified mail to the town clerk or any member of the town board. The notice of appeal shall specify the award or failure to award appealed from, the land to which it relates, the nature and amount of the claim of appellant, and the grounds of the appeal, which may include a challenge to the public purpose or necessity of the proposed road or condemnation.

Subd. 8. Trial. The appeal shall be entered upon the calendar for trial at the next general term of the court occurring more than 20 days after the appeal is perfected. It shall be tried in the same manner as an appeal in eminent domain proceedings under chapter 117. The prevailing party shall recover costs and disbursements as in other civil cases and judgment shall be entered upon the verdict.

Subd. 9. Payment. If no appeal is taken within the appeal period, the award shall be considered the same as a judgment. The provisions of sections 365.41 and 365.42 shall apply as to payment of all awards and judgments; and such award or judgment shall draw interest at the rate of six percent per annum to date of payment. The duty of the town board to pay the award or final judgment shall be held and construed to be just compensation or the securing of just compensation within the meaning of the constitution.

Subd. 10. Appeal not to delay improvement. After the award of damages has been filed, the board may proceed to open, construct, alter, or change the highway; provided it does not receive notice of appeal within ten days pursuant to subdivision 7. If the board receives a notice of appeal within ten days that challenges the public purpose or necessity of the proposed road or condemnation, it shall suspend any proposed work on the road until a final judicial determination supporting the condemnation is made. If the notice of appeal does not challenge the public purpose or necessity, the appeal shall not delay the prosecution of the proposed improvement, and the town board may proceed as if no appeal had been taken.

Subd. 11. Order. The order establishing, altering or vacating any road shall be recorded by the town clerk, and a copy thereof certified as true and correct by the town clerk shall be forthwith filed for record with the county recorder or registrar of titles of the county within which the land and premises are located. The certified copy of the order shall be first presented to the county auditor who shall enter the same in the transfer records and note upon the certified copy over the auditor's official signature, the words "entered in the transfer record." The order or a certified copy shall be received in all courts as competent evidence of the facts therein contained and be

prima facie evidence of the regularity of the proceedings prior to the making thereof, except upon the hearing of an appeal.

Subd. 12. **Refusal to establish.** The determination of a town board refusing to establish, alter or vacate any road shall be final, unless appealed from, for one year from the filing of its order; and no petition for establishing, altering, or vacating such road shall be acted upon within that time. In case its determination granting a petition is appealed from and reversed, it shall not within one year from date of such determination entertain a petition having the same or a similar object.

Subd. 13. **Entry for property examination or survey.** For the purposes of this section and section 164.08, the town board, its employees or agents, may enter upon any property, public or private, to conduct property examinations and surveys. This subdivision does not grant immunity to the town board, its employees, or agents for damage caused to public or private property as the result of an entry onto the property.

History: 1959 c 500 art 5 s 7; 1967 c 723 s 1; 1973 c 24 s 1; 1976 c 181 s 2; 1986 c 444; 1Sp1986 c 3 art 1 s 82; 1989 c 183 s 3; 1994 c 451 s 1; 1995 c 25 s 2; 2000 c 334 s 1; 2001 c 139 s 4-7

164.08 MS 1957 [Repealed, 1959 c 500 art 6 s 13]

164.08 CARTWAYS.

Subdivision 1. **Permitted establishment; conditions.** The town board by resolution may establish a cartway two rods wide and not more than one-half mile in length upon petition presented to the town board signed by at least five voters, freeholders of the town, requesting the cartway on a section line to serve a tract or tracts of land consisting of at least 150 acres of which at least 100 acres are tillable. If the petition is granted the proceedings of the town board shall be in accordance with section 164.07.

Subd. 2. **Mandatory establishment; conditions.** (a) Upon petition presented to the town board by the owner of a tract of land containing at least five acres, who has no access thereto except over the lands of others, or whose access thereto is less than two rods in width, the town board by resolution shall establish a cartway at least two rods wide connecting the petitioner's land with a public road. A town board shall establish a cartway upon a petition of an owner of a tract of land that, as of January 1, 1998, was on record as a separate parcel, contained at least two but less than five acres, and has no access thereto except over the lands of others. The town board may select an alternative route other than that petitioned for if the alternative is deemed by the town board to be less disruptive and damaging to the affected landowners and in the public's best interest.

(b) In an unorganized territory, the board of county commissioners of the county in which the tract is located shall act as the town board. The proceedings of the town board shall be in accordance with section 164.07.

(c) The amount of damages shall be paid by the petitioner to the town before such cartway is opened. For the purposes of this subdivision damages shall mean the compensation, if any, awarded to the owner of the land upon which the cartway is established together with the cost of professional and other services, hearing costs, administrative costs, recording costs, and other costs and expenses which the town may incur in connection with the proceedings for the establishment of the cartway. The town board may by resolution require the petitioner to post a bond or other security acceptable to the board for the total estimated damages before the board takes action on the petition.

(d) Town road and bridge funds shall not be expended on the cartway unless the town board, or the county board acting as the town board in the case of a cartway established in an unorganized territory, by resolution determines that an expenditure is in the public interest. If no resolution is adopted to that effect, the grading or other construction work and the maintenance of the cartway is the responsibility of the petitioner, subject to the provisions of section 164.10.

(e) After the cartway has been constructed the town board, or the county board in the case of unorganized territory, may by resolution designate the cartway as a private driveway with the written consent of the affected landowner in which case from the effective date of the resolution no town road and bridge funds shall be expended for maintenance of the driveway; provided that the cartway shall not be vacated without following the vacation proceedings established under section 164.07.

Subd. 3. Maintenance costs. When a cartway is not maintained by the town, one or more of the private property owners who own land adjacent to a cartway or one or more of the private property owners who has no access to the owner's land except by way of the cartway may maintain the cartway. The cost of maintenance shall be equitably divided among all of the private property owners who own land adjacent to the cartway and all of the private property owners who have no access to their land except by way of the cartway. The following factors may be taken into consideration when determining an equitable share of maintenance expenses: the frequency of use, the type and weight of the vehicles or equipment, and the distance traveled on the cartway to the individual's property. The town board may determine the maintenance costs to be apportioned to each private property owner if the private property owners cannot agree on the division of the costs. The town board's decision may be appealed within 30 days to the district court of the county in which the cartway is located. Private property owners who pay the cost of maintenance shall have a civil cause of action against any of the private property owners who refuse to pay their share of the maintenance cost.

History: 1959 c 500 art 5 s 8; 1978 c 551 s 1; 1979 c 83 s 1; 1980 c 435 s 2; 1981 c 77 s 1; 1985 c 163 s 1; 1986 c 444; 1989 c 16 s 1; 1993 c 275 s 1; 1998 c 254 art 2 s 12; 1998 c 296 s 1; 2000 c 334 s 2

164.09 MS 1957 [Repealed, 1959 c 500 art 6 s 13]

164.09 JOINT CARTWAYS.

Subdivision 1. Joint resolution. The town boards of adjoining towns by joint resolution may establish a cartway commencing in one such town and terminating in another such town when the cartway will provide access to a tract or tracts of land of not less than five acres which have no access to a public road except over the lands of others.

Subd. 2. Agreements. The town boards, in behalf of their respective towns, may enter into agreements with each other providing for the equitable division of the costs and responsibilities to be borne by each for the right-of-way, construction, and maintenance of the cartway. The agreement may also provide for the letting of a joint construction contract covering all or part of the work to be performed on the cartway.

Subd. 3. Procedure. After entering into the agreement the town boards shall proceed in accordance with the agreement to construct and maintain the joint cartway.

History: 1959 c 500 art 5 s 9

164.10 MS 1957 [Repealed, 1959 c 500 art 6 s 13]

164.10 EXPENDITURES ON CARTWAY.

Any town board may expend town road and bridge funds upon a legally established cartway the same as on town roads if, in the judgment of the board the public interests require it; provided, that where any town board has refused to allocate funds for the upkeep of a cartway, then, upon the petition of ten taxpayers of the town, the town board shall present for the approval of the voters, after due notice, at the annual town meeting the petition for allocation of funds, and at the town meeting the electors of the town shall allow or reject the petition. If the majority of those voting approve the petition for allocation of funds, the town board shall expend road and bridge funds on the cartway.

History: 1959 c 500 art 5 s 10

164.11 MS 1957 [Repealed, 1959 c 500 art 6 s 13]

164.11 LAND DEDICATED AS ROAD OR STREET.

Land dedicated to public use as a street, road or cartway, if not less than 30 feet in width, shall be deemed a legal cartway.

History: 1959 c 500 art 5 s 11; 1984 c 562 s 9

164.12 MS 1957 [Repealed, 1959 c 500 art 6 s 13]

164.12 ROAD ON TOWN LINE.

Subdivision 1. **Proposal to establish.** When adjoining towns propose to establish, alter, or vacate a road on or along the line between such towns they shall proceed as hereinafter provided.

Subd. 2. **Division of responsibilities.** The town boards shall divide the length of the road proposed to be established, altered, or vacated into two parts. When it is proposed to establish or alter a road, the division shall be made so as to divide as nearly equal as possible the cost of right-of-way, construction, and maintenance of the entire road. If the proposal is to vacate a road, the division shall be made so as to divide as nearly equal as possible any damages that may be occasioned thereby.

Subd. 3. **Agreement.** After the division the boards shall enter into an agreement specifying which part shall be vacated, or opened, constructed, and maintained by each. Thereafter, each board shall proceed in the manner and subject to the same review as provided in section 164.06 or section 164.07.

Subd. 4. **Joint contract.** When a town line road is established or altered as provided herein, the boards may jointly let a contract covering all or part of the work to be performed on the road. If a joint contract is not let each town board shall open and construct its portion thereof as expeditiously as possible.

Subd. 5. **Portion of road taken by state or county.** If a portion of a town line road is taken over by the state as a trunk highway, or by a county as a county state-aid highway or county highway, the town boards concerned shall divide the portions of the town line road not taken over by the state or county, so that the cost of construction, reconstruction, and maintenance thereof will be apportioned as nearly equal as possible. After such division the boards shall enter into an agreement specifying which part shall be constructed and maintained by each.

Subd. 6. **Failure to agree.** When the town boards cannot agree upon a division as provided in subdivision 2 or subdivision 5, or upon the petition of either town board when a division previously agreed upon has proved to be inequitable, the county board, or where the road is on a county line the county boards of the counties concerned, shall determine the proper division of responsibility. In making such division the county board or boards shall follow the procedure provided for in subdivision 2 or 5. Where deemed necessary the services of the county engineer may be used.

History: 1959 c 500 art 5 s 12

164.13 MS 1957 [Repealed, 1959 c 500 art 6 s 13]

164.13 EXPENSES OF CERTAIN TOWN LINE ROADS.

Subdivision 1. **Bridges.** In all cases where a road other than a county road, a county state-aid highway or trunk highway is on the line between two towns, whether the towns are in the same county or not, it shall be the duty of the towns to bear jointly and in equal shares the expense of constructing and maintaining any bridge on the road as made necessary by the construction of a drainage ditch or by reason of the changing, widening or alteration of any drainage ditch, or by reason of the altering or changing of any watercourse.

Subd. 2. **Ditches.** In any proceeding for the establishment and construction of any drainage ditch or the changing, widening or alteration of any such ditch, or the altering of any watercourse, as specified in this section, each of the towns charged by the

provisions of this section with the obligation of constructing and maintaining any bridge because of any such improvements, shall be awarded and paid one-half of the total damages awarded for the construction of the bridge by reason of the obligation to construct and maintain the bridge.

History: 1959 c 500 art 5 s 13

164.14 MS 1957 [Repealed, 1959 c 500 art 6 s 13]

164.14 ROAD ON LINE BETWEEN TOWN AND CITY.

Subdivision 1. **Proposal to establish.** When a town and an adjoining city propose to establish, alter, or vacate a road on or along the line between the town and the adjoining city, they may proceed as hereinafter provided.

Subd. 2. **Agreement.** The town board and the governing body of the adjoining city may enter into agreements providing for the equitable division of the costs and responsibilities to be borne by each for the establishment, alteration, or vacation of the road. If the agreement provides for the establishment or alteration of such a road, the agreement may also provide for the letting of a joint construction contract covering all or part of the work to be performed on the road. The agreement may also provide for a division of the costs of subsequent improvement and maintenance of the road.

Subd. 3. **Joint resolution.** After entering into the agreement the town board and the governing body of the city, by joint resolution shall establish, alter, or vacate the road in accordance with the agreement. The town board shall proceed in the manner and subject to the same review as provided in section 164.06 or section 164.07, and the city shall proceed in the manner provided by law for the establishment, alteration, or vacation, as the case may be, of city streets.

Subd. 4. **Inequitable agreement.** If an agreement for the division, as provided in subdivision 2, has proved to be inequitable, either the town board or the governing body of the city may petition the county board, or where the road is on a county line, the county boards of the counties concerned, to resolve the matter, and the county board or boards shall determine the proper division of responsibility. Where deemed necessary, the services of the county engineer may be used.

History: 1959 c 500 art 5 s 14; 1973 c 123 art 5 s 7; 1984 c 562 s 10

164.15 MS 1957 [Repealed, 1959 c 500 art 6 s 13]

164.15 DEDICATION OF LAND FOR ROAD OR CARTWAY.

Subdivision 1. **Application.** One or more owners may dedicate land for a road or cartway by making application therefor in writing to the town board, describing the land, the purpose of its dedication, and filing the application with the clerk. The clerk shall present the same to the town board which, within ten days after the filing, may pass a resolution declaring the land described to be a public road or cartway. When so declared the land shall be deemed duly dedicated for the purpose expressed in the application and no damages shall be assessed or allowed therefor.

Subd. 2. **Bridge over lake.** Any person owning land to exceed 40 acres constituting part of an island within any meandered lake may at personal expense erect a bridge across such portion of the lake as may separate the person's land from the nearest town road on shore, provided the structure shall not interfere with the use of that part of the lake for the passage of such watercraft as would otherwise pass that point. Before proceeding with the construction of the bridge, proper plans and specifications therefor shall be prepared and submitted to and approved by the town board of the town in which the bridge is to be constructed. If public waters are involved, the plans shall first be approved by the commissioner of natural resources. Upon the completion of the bridge in accordance with the plans and specifications, the town board shall approve the same and endorse its approval upon the plans and specifications therefor; and thereupon the same shall be filed in the office of the clerk of the town in which the

bridge is located and the bridge shall thereupon become a part of the town road and open to the use of the public as such.

History: 1959 c 500 art 5 s 15; 1969 c 1129 art 3 s 1; 1986 c 444

164.151 RECREATIONAL VEHICLE LANES.

In addition to any other authority granted by law, any town board may establish recreational vehicle lanes on the outer rods of town roads which are deemed dedicated to a width of four rods pursuant to section 160.05, subdivision 1.

History: 1973 c 620 s 6

164.152 BARRICADED ROAD; LIABILITY.

When a town board, by resolution, closes and barricades a road under its jurisdiction to motor vehicle use, for seasonal recreation use or other purposes, the town board and its officers and employees are exempt from liability for any claim for injury to person or property arising from any use, whether recreational or otherwise, of the barricaded road.

History: 1985 c 307 s 18

164.155 RESTORATION OF CERTAIN TOWN ROAD.

Subdivision 1. **Liability of political subdivision.** Any political subdivision transporting or causing to be transported any sand, gravel or other road building materials over a town road shall restore that road or reimburse the town for restoration of that road to as good condition as it was prior to that transportation.

Subd. 2. **Contract by political subdivision.** Whenever a political subdivision and a private contractor enter a contract that contemplates the transporting of road building materials by that contractor or a subcontractor over a town road, the political subdivision shall require, as a term of that contract, that the contractor assume the liability of the political subdivision under subdivision 1.

History: 1978 c 474 s 1

164.16-164.33. [Repealed, 1959 c 500 art 6 s 13]

164.35 ALTERNATIVE RECORDING FOR TOWN ROAD.

Subdivision 1. **Definition.** "Recorded town road map" means the official map of maintained and minimum-maintenance town roads.

Subd. 2. **Authorization.** A town board may adopt a recorded town road map under this section to record its town road easements.

Subd. 3. **Map requirements.** The recorded town road map must:

- (1) show maintained and minimum-maintenance town roads at the time the map is adopted;
- (2) be prepared at a scale of at least four inches equals one mile;
- (3) include a legend to differentiate between maintained and minimum-maintained roads;
- (4) include section numbers;
- (5) include a north point arrow;
- (6) include the name of the town, county, and state;
- (7) include a blank and a description under the blank for the date of public hearing and date of adoption; and
- (8) include blanks for signatures and dates of signatures for the chair and clerk of the town board.

Subd. 4. **Procedure to adopt map.** (a) The town board shall pass a resolution of its intent to hold a public hearing to consider recording roads by adopting an official map.

(b) The town board must prepare an official map as provided in subdivision 3, and set a time, place, and date for a public hearing on adopting a recorded town road map to record roads.

(c) The hearing notice must state that the roads to be recorded will be as four-rod roads with the official and permanent alignment being 33 feet on either side of the existing centerline, except that (1) town-line roads may be recorded for only the 33 feet located within the town holding that public hearing, and (2) a road previously recorded as less or greater than a 66-foot right-of-way may be recorded at its actual width and the width must be duly recorded on the map. The hearing notice must be published once a week for two successive weeks in a qualified newspaper of general circulation that serves the town, the last publication to be made at least ten days before the date of the public hearing. At least 30 days before the hearing, the hearing notice must be sent by mail to the property owners directly affected in the town at the addresses listed on tax assessment notices. The hearing notice may be sent with the tax assessment but all additional costs incurred may be billed to the town.

(d) After the public hearing is held, the town board may amend and adopt the recorded town road map. The recorded town road map must be adopted by resolution and the map must be dated and signed by the chair and clerk of the town board and must be recorded with the county recorder within 90 days after the map is adopted.

(e) The map of recorded town roads that is recorded with the county recorder must comply with the standards of the county recorder where the town is located.

(f) A recorded town road map that was prepared by using aerial photographs to establish road centerlines and that has been duly recorded with the county recorder, is an adequate description for purposes of recording road easements and the map is the legally constituted description and prevails when a deed for a parcel abutting a road contains no reference to a road easement. Nothing prevents the town board from accepting a more definitive metes and bounds or survey description of a road easement for a road of record in its jurisdiction providing the description of the easement is referenced to equal distance on both sides of the existing road centerline.

(g) To the extent this section requires recording or dedicating a town road to a width greater than that of its previous, actual public use, section 164.07 governs any award or procedures relating to damages sustained, if any, by the affected property owner.

Subd. 5. **Appeal.** A person may appeal a decision to record a road being recorded under this section to the district court within 60 days after the date the town board adopts the recorded town road map.

Subd. 6. **Unrecorded road or cartway not affected.** This section does not affect the legal status or town obligations of roads and cartways not shown on the recorded town road map, except that unrecorded roads must meet minimum town road standards as defined in section 165.04, subdivision 3, for roads approaching bridges and culverts or provisions must be made to meet those standards before the town is required to accept the road as part of its recorded road system.

History: 1987 c 219 s 1; 1995 c 45 s 1

164.36 TOWN AUTHORITY OVER RECORDED ROAD.

The town board has authority within the 66-foot right-of-way to:

- (1) maintain or reconstruct a recorded road used for vehicular travel;
- (2) dispose of snow;
- (3) plant trees and shrubs that it considers appropriate;
- (4) remove trees and other woody vegetation as provided in section 160.22;
- (5) allow the placement of highway directional and informational signs as provided in section 169.06, subdivision 3;
- (6) allow the placement of electrical and telephone poles, pipelines, and electrical, telephone, or television cables, and to require prior notice of the proposed placement and restoration of the right-of-way to its condition immediately prior to the placement;
- (7) control weeds and regulate the cutting or complete removal of nonwoody vegetation; and
- (8) regulate erosion, drainage, public nuisances, and matters of public interest.

History: 1987 c 219 s 2; 1991 c 99 s 1