

CHAPTER 164

TOWN ROADS

164.06 Powers regarding town roads.

164.07 Establishment, alteration, or vacation of town road.

164.06 POWERS REGARDING TOWN ROADS.*[For text of subd 1, see M.S.2004]*

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 with the county auditor and recorded with the county recorder.

History: 2005 c 4 s 30

164.07 ESTABLISHMENT, ALTERATION, OR VACATION OF TOWN ROAD.*[For text of subd 1, see M.S.2004]*

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 the order and a copy of the petition to be made upon each occupant of the land at least ten days before the 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 60 days before the meeting required under paragraph (a), if the road to be vacated terminates at, abuts upon, or is adjacent to any public water.

(c) The notice under this paragraph does not create a right of intervention by the commissioner of natural resources. At least 15 days prior to convening the meeting required under paragraph (a), the town board or its designee must consult with the commissioner of natural resources to review the proposed vacation. The commissioner must evaluate:

- (1) the proposed vacation and the public benefits to do so;
- (2) the present and potential use of the land for access to public waters; and
- (3) how the vacation would impact conservation of natural resources.

The commissioner must advise the town board or its designee accordingly upon the evaluation.

[For text of subds 3 to 10, see M.S.2004]

Subd. 11. **Order; recordation, evidentiary status.** (a) 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 recorded 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."

(b) 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.

[For text of subds 12 and 13, see M.S.2004]

History: 2005 c 4 s 31; 2005 c 117 s 1