



Recording Town Roads Through Maps

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I. INTRODUCTION

This information is provided to assist towns that have either recorded their roads using the map recording procedure in Minn. Stat. § 164.35, or who are interested in recording their roads. The goal is to explain methods town boards can use to evaluate their situation and reach a decision that will best meet the needs of their community. This discussion will not cover every option and townships should consult professionals to evaluate and implement whatever option the board does decide upon.

There are essentially three steps a board interested in addressing this issue should go through:

1. conduct an inventory of what the town has;
2. review the options; and
3. decide upon and implement an option.

Remember this information is intended to serve only as an overview to assist towns in deciding upon a course of action with respect to its roads. To implement any of these options, the town board must hire the appropriate professionals to ensure the required procedures are carried out.

II. INVENTORY THE STATUS OF THE INDIVIDUAL ROADS

Inventorying your roads simply refers to the process of determining the status of your roads (i.e., determine if a road ever was, or remains, a town road). This step is particularly important since it will determine what you have, what you may no longer have, and what you will need to do to properly record your roads.

A. How Town Roads Are Established

The following summarizes of the primary means through which town roads are created. For a more detailed discussion of this issue, refer to the paper on creating and extinguishing town roads. This is not an exhaustive live, for more detail *See Document TR4000*.

1. **Road Orders & Easements:** Identify roads that are independently supported by road orders or easements that were properly recorded with the county recorder's office. Road orders are typically the result of the formal town road establishment procedure contained in Minn. Stat. § 164.07. The board may have obtained the public road easements in any number of ways including direct negotiation, gift, or dedication. Road orders and easements will include a description of the road and its width.

Many of the old road orders were filed with the county auditor's office when they were created and can still be found there. However, such filings have little effect on interests in property unlike recordings made with the county recorder. A town may only attempt to rely on a road order that is recorded in the county recorder's office. Also, when tracking the legal basis for a road be sure to look at the deeds of the affected properties to see if they have been made subject to a public road easement.

2. **Platted Roads:** Identify roads that were created by developers through a recorded subdivision plat that lays out the roads and dedicates them to the public. Do not assume that all roads laid out in a plat are public - some were intentionally made private to benefit only those living in the plat. The plat will indicate the width of right-of-way (ROW) dedicated.
3. **Use & Maintenance Roads:** For those roads that are not independently supported by properly recorded documents other than the previously recorded town road map (i.e., easements, road orders, subdivision plats), the town's claim to the road is likely based on use and maintenance under Minn. Stat. § 160.05. As mentioned, a town's claim to roads created in this way is limited to the width of actual use.

Helpful Information for Finding Roads:

- old town road books;
- maintenance records;
- town minutes;
- old plat books;
- aerial photographs; and
- records on file at the county engineer's office.

B. How Town Roads May Be Lost

An important aspect of determining the status of roads is identifying the situations in which the town may have lost its interest in a road or when the board's authority over a road has been limited. However, this is only a brief summary of these procedures. For more information on extinguishing a town's interest in a road, *See* document **TR4000**.

1. **Formal Road Vacation Procedure:**¹ A town may vacate a road in a formal procedure that's very similar to both establishing a road and altering a road. Towns that have

¹ Minn. Stat. § 164.07.

adopted urban powers may use an alternate procedure, that is more streamlined when formally vacating a town road.²

2. **No Maintenance for 25 Years:**³ If a town has not maintained a road or cartway for 25 years or more—be it recorded or unrecorded—a town cannot spend town funds on the road without elector authorization and a yearly or special town meeting. These roads and cartways are not subject to the impassible road complaint procedure contained in Minn. Stat. § 163.16.
3. **No Maintenance for 40 Years:**⁴ Under the Marketable Title Act⁵ road easements, unrecorded with county recorder’s office, is presumed abandoned if it has not been “in possession” (i.e., maintained and otherwise treated as a public road) during the last 40 years. Courts have prohibited towns from reopening roads that have not been maintained for 40 years based on the Act.⁶
4. **Abandonment:** Under limited circumstances, a municipality may be found to have abandoned its interest in a road. Typically, there must be long-continued nonuser and an affirmative act indicating an intent to abandon the road that is relied upon by the owner in good faith.⁷

III. EVALUATE THE OPTIONS

Following are two lists of options town boards can consider when dealing with the issue of recording their roads. The first list provides some options for towns that have not recorded their roads. The second list provides options for towns that have recorded their roads through the map procedure under Minn. Stat. § 164.35. Each option provides a summary of the procedure involved, possible advantages, possible disadvantages, and effects of the option.

The purpose of this information is simply to highlight possible options, but there may be other options. The decision on how the town will proceed on this issue is properly left to the discretion of the board.

² Minn. Stat. § 368.01, subd. 25.

³ Minn. Stat. § 365.10, subd. 11.

⁴ Minn. Stat. § 541.023.

⁵ *Id.*

⁶ *Township of Sterling v. Griffen*, 244 N.W.2d 129 (Minn. 1976)

⁷ *Village of Newport v. Taylor*, 30 N.W.2d 588 (Minn. 1948) and *Wolfson v. City of St. Paul*, 535 N.W.2d 384, 387 (Minn. Ct. App. 1995)

A. Options for Towns Whose Roads Are Not Recorded

There are four paths to take when recording a not-already-recorded town road. The town can follow the current recording procedure, record the actual width, establish and record the roads, or do nothing. When choosing which procedure to apply, be sure to discuss with a town attorney to follow the best course of action for the town.

1. Record Using the Amended Map Recording Procedure

Summary of Procedure: Develop a map of the town roads and record the map according to the procedure in Minn. Stat. § 164.35. The additional step that must be considered in this amended procedure is the determination and award of damages for land taken outside the previously established ROW. *See APPENDIX A.*

Advantages: The board will have a means of determining the widths of its roads. This information will assist in maintenance and enforcement activities by allowing the board to determine the boundaries of its jurisdiction. The rights, obligations, and authority as a road authority are based, in large part, upon this boundary. Examples include:

- The board will know how far from the road surface it may remove brush, weeds, trees, and grass;
- conduct road improvements;
- permit private ditch work;
- permit the placement of utilities; and
- restrict the activities prohibited by the statutes from occurring in the ROW.

Disadvantages: This method involves fees for professional services like surveying and lawyers, and the town may need to pay damage costs to people from whom right of way is taken. These costs may be substantial and vary depending on the location, the road miles to be surveyed, the amount of right of way to be taken, and the degree to which owners are willing to gift the additional footage to the town.

Effect: The board will be in a much better position regarding its road authority activities. Having a definable and determinable road ROW will remove the guess work and constant threat of a trespass action that exists on use and maintenance roads that are not recorded. A defined row will also serve as a basis for excluding those activities that are prohibited from occurring within a ROW.

2. Record the roads at “Actual Width”

Summary of Procedure: Develop road orders for the use and maintenance roads based on what the board determines it has. A description of the road is developed using the centerline

as the reference. Record the road orders with the county recorder. A variation of this option is to describe the roads as containing a width of “sixty-six feet, or the width of actual use and maintenance, whichever is less” rather than a fixed width.

Advantages: Since the board is only claiming the land that has already been acquired for the road under Minn. Stat. § 160.05, the unconstitutional takings problem raised in *Wabedo* should be avoided. Furthermore, having the roads recorded will likely help secure the town’s interest in the roads and will provide some degree of certainty when performing maintenance (i.e., you will at least know the claimed widths of your ROW). The description in the road order could help in supporting a town’s claim that the owners were placed on notice regarding the public’s claim to their property, particularly if the board also begins to keep detailed records of its maintenance activities in the recorded ROW.

Disadvantages: The roads widths will not be uniform since the width of maintenance was likely different on each road and even on the same road. This process only records the board’s opinion as to its claimed ROW. The recording is subject to challenge by an owner claiming that the board had determined the right of way incorrectly (example: the road is only 34 feet wide, not the 50 feet claimed by the board). Ultimately, the board remains subject to the inherent uncertainty of roads created by use and maintenance. Only a court can make the findings and conclusions necessary to finally establish the existence and width a use and maintenance road.

3. Establish and Record the Roads

Summary of Procedure: The board uses the traditional establishment procedure contained in Minn. Stat. § 164.07 to establish its use and maintenance roads. The board determines what it has acquired by use and maintenance, or otherwise, then obtains whatever additional footage that is needed by gift, purchase, or eminent domain. Once the process is completed, the roads are recorded by road orders and are usually not developed into a map.

Advantages: The Minn. Stat. § 164.07 procedure has a long history and has been upheld as an appropriate method for towns to establish roads. This is one of the most certain methods available for establishing town roads.

Disadvantages: Professional, procedural, and condemnation costs are involved. Because this procedure is more complicated than the map recording procedure, the necessary attention to detail will likely result in higher professional fees.

Use and Maintenance Roads:

A town road is created when it has been:

1. Used;
2. Maintained;
3. For at least six consecutive years.
4. After August 1st, 2020, the landowner was properly notified of the work and repair.

4. Do Nothing

Advantages: An obvious benefit is that the town avoids the expense of going through a recording procedure. If the town adopts the policies and procedures associated with keeping very detailed road maintenance records, the roads will likely be better maintained and exposure to liability in some cases will decrease.

Disadvantages: The town will not know the widths of its roads. As such, a town will not know the extent to which it can prohibit activities that encroach on the ROW or how far out the town can perform maintenance activities.

Effect: The legal status and widths of roads dedicated to the public by a subdivision plat, or those supported by properly recorded easements or road orders will not be affected. Because the basis for the claim in the roads is not the map, *Wabedo* would not apply. However, the legal status and widths of roads created by use and maintenance will remain unclear. Without clear indicators of maintenance (i.e., physical features built into the road or detailed maintenance records), the board will have no reliable means of determining the outside edges of its road rights-of-way.

B. Towns That Have Previously Recorded their Roads by Map

Because of the changes due to *Wabedo* decision, towns that recorded their roads through the original map recording procedure can opt-into re-recording their roads. We will look at the advantages and disadvantages of doing so with the previously discussed procedures.

1. Re-record Using the Amended Map Recording Procedure

Summary of Procedure: The map recording procedure would be utilized as before. The primary differences would be that the survey and map are already developed, but the board is now required to consider the damages that may result and award these damages as needed. *See APPENDIX A*

Advantages: As with the original recording, the goal is to create a basis for determining and enforcing the existence and widths of the town's roads. Without such a corrective measure, the recorded widths of use and maintenance roads are no longer valid and cannot be relied upon.

Disadvantages: Professional, procedural, and damage costs are involved. Damages will likely be the most significant cost since much of the professional services were already completed as part of the first process. There is also an understandable degree of frustration on the part of the town with having to repeat a procedure that originally took a great deal of effort.

2. Re-record at Actual Width Using Map Procedure

Summary of Procedure: Road orders would be developed that describe the roads as used and maintained for six continuous years. These descriptions would be recorded as amendments to the map to replace the original descriptions of the use and maintenance roads.

Advantages: It creates at least some record of the widths of the roads. The newly recorded widths may help the board to support its claim to the road over time.

Disadvantages: The recording is subjective (i.e., based on the board's determination of what it has acquired) and so is subject to challenge. The challenge would assert that the board's findings were not correct regarding the status of the ROW under Minn. Stat. § 160.05. This procedure would not fully meet the original goals of the map recording procedure as perceived before *Wabedo*. Furthermore, the map procedure does not specifically provide for recording a previously unrecorded road at a width of less than 66 feet. However, the idea behind this method is that these roads have been established, they simply have not been previously recorded.

3. Establish and Record the Roads

Summary of Procedure: The board would establish all use and maintenance roads using the traditional establishment procedure contained in Minn. Stat. § 164.07. This procedure involves obtaining elector authorization, notice, a hearing, and acquisition of property by gift, purchase, or eminent domain, and opportunity for an appeal.⁸

Advantages: The road map will be supported by properly created and recorded road orders.

Disadvantages: Professional, procedural, and damage costs are involved. The procedure is more complicated than the map procedure and so will likely take greater effort.

4. Do Nothing

Summary of Procedure: The map will not be amended, but the board will not be able to rely on the recorded widths of the use and maintenance roads. Detailed records of maintenance on these roads will help the board demonstrate its interest in the roads, as well as their widths if challenged.

Advantages: Costs are limited to implementing more thorough maintenance activities and documentation procedures.

⁸ Minn. Stat. §§ 164.06 & 164.07

Disadvantages: The board will not have a reliable way of determining the width of its use and maintenance roads. This uncertainty will undermine future maintenance and enforcement actions.

IV. IMPLEMENT THE SELECTED OPTION

When implementing one of the options listed in the previous sections, there are many important factors to consider, professional assistance, anticipating the costs, and whether you want to take the risk of the recording procedure not staying permanently effectual. It's also important for the town to consider how long the process will take, and whether it should consider a "phased approach" or completing the process all at once.

A. Considerations

The first step in implementing an option is to obtain the necessary professional assistance to help the board properly complete the process. Each of the options, except doing nothing, involves a series of procedural steps that must be carefully followed.

Easements obtained from the owners **must** be recorded with the county recorder. Similarly, road orders created by the town board must also be recorded. Failure to properly develop and record the necessary documents could result in the loss of the easement.

Part of deciding which option to choose is considering the anticipated costs and benefits of each option under the facts of the situation. Some towns may determine recording all their roads would place too great a burden on their limited funds. While others will decide the degree of certainty associated with recording roads is worth the investment.

Another important point to consider when deciding to record roads is that there are no guaranteed results. *Wabedo* exemplifies the point that even when a statutory procedure is properly followed, there is still a chance it could be challenged. Raising this point is not intended to deter towns from recording their roads. In fact, there is little to nothing a town can do to avoid the problems that result from cases such as *Wabedo*. Simply realize the possibility exists and proceed with what the town board determines is the best option.

B. Phased Approach

Depending on the option chosen by the board, recording the roads may take a considerable amount of time. Because of these inherent delays, a board may consider breaking its recording

efforts into stages or phases. The board would designate regions of the town and start by focusing its efforts in one of the regions. Once the region is completed, the board would record the relevant documents it collected on the roads (e.g., easement) and then move to the next region.

This approach will work better when exercising options such as using the road establishment procedure than with options such as the map procedure.

V. HISTORY OF RECORDING STATUTES

Throughout this document *Wabedo* has been referred to quite often. *Wabedo* refers to the court case *Alton v. Wabedo Twp.*, this section will discuss the court case and the key legal precedent arising from the case.

A. The Wabedo Decision

Alton v. Wabedo Twp., 524 N.W.2d 278 (Minn. Ct. App. 1994), decided in 1994, has caused confusion and frustration for towns that had previously recorded their roads by the map recording procedure. Because maintaining the over 55,000 miles of town roads⁹ in this state is one of the primary duties of town boards, it is very important for town officers to understand the impact of the *Wabedo* decision on their town.

The issue in *Wabedo* was the validity of the town road map recording procedure contained in Minn. Stat. § 164.35 (1992). The issue arose when the Wabedo town board started clearing brush along a road it had recorded over six years earlier using the map recording statute. A property owner along one of these roads went to court to stop the brushing. He claimed the town had no legal right to the portions of the land it was intending to clear. Even though the owner acknowledged the town properly followed the procedures contained in the road recording statute to record its roads, he claimed the statute took away his constitutional right to be compensated when his property is taken by the government. To understand his claim that the government (i.e., the town) took his property, one must keep in mind the legal basis on which many town roads in this state were created.

For a variety of reasons, a town's legal claim to a road is often based on a town's maintenance and the public's use on a stretch of land, which was used as a public road for at least six

⁹ <https://www.dot.state.mn.us/roadway/data/fun-facts.html>

consecutive years. When such use and maintenance occur, Minn. Stat. § 160.05, indicates that a town road is created to the actual width that was in use and maintained over the six-year period. For example, if the public uses and the town maintains a road to the width of 30 feet for at least six consecutive years, the road becomes a town road with 30 feet or right of way.¹⁰ However, before *Wabedo*, when a town board used the map recording procedure to record such use and maintenance roads, the statute indicated they be recorded at a width of 66 feet (33 feet on either side of the existing center line).

Consistent with the record by map statute at that time, Wabedo Township recorded its use and maintenance roads as 66 feet wide. The owner claimed a taking occurred to the extent that the town expanded its ROW from the width of actual use to the 66-foot width. According to both the U.S. and Minnesota constitutions, when property is taken by the government, compensation must be paid. Because the map recording statute did not contain a mechanism for paying damages to owners as needed to compensate them for any land taken, the Minnesota Court of Appeals held that the statute was unconstitutional because it lacked the damage component.

In finding the statute unconstitutional, the court did not completely invalidate all the maps developed according to its procedures. Instead, the problem was limited to automatically recording a road to the width of 66 feet without paying damages for land that may have been taken beyond the width of actual use. As such, while the maps themselves remain a valid representation of the town's claim to the road, the recorded widths are likely not as firm as once believed. Because the widths recorded on a town road map may not accurately reflect the town's ROW, they should not automatically be relied upon.

B. Recording Statute Amended

In 1995, the Minnesota legislature amended the road recording procedure Minn. Stat. § 164.35 to correct the constitutional defect the court found to exist in *Wabedo*. The amendment inserted a language indicating that “To the extent this section requires recording or dedicating a town

¹⁰ This issue was ruled on in *Barfnecht v. Town Bd. of Hollywood Tp.*, 232 N.W.2d 420 (Minn. 1975). Minn. Stat. § 160.05 originally stated that maintenance and use roads were the full 66-foot right-of-way when established. However, that was challenged as an unconstitutional taking in *Barfnecht*. The legislature responded by changing the language of Minn. Stat. § 160.05 to “to the width of the actual use . . .” *Barfnecht* helped further define “actual use by recognizing that the width of the right-of-way “is not limited to that portion of the road actually traveled; it may include the shoulders and ditches that are needed and have actually been used to support and maintain the traveled portion.” *Id.* So, boards are not required to show that people have been regularly driving in the ditches over six years, but the court did not explain what qualifies a portion of roadside as having been used to support and maintain the traveled portion of the road.

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.”

The amendment both acknowledges acquisition of the ROW to the width of actual use and addresses the need highlighted in *Wabedo* to consider damages for any additional land that is taken.

While this amendment was important to correct the statute for towns interested in relying on the procedure, for the towns that had previously recorded their roads there remains the question of the status of the roads that were recorded. It seems the answer to the question is that the maps remain valid representations of the roads claimed as town roads, but the widths of the roads are once again uncertain. Rather than automatically relying on widths recorded with the map, the board will need to go deeper by examining how each road was established and how it has been used. As will be discussed, identifying the method used to establish a road and its subsequent use will assist in determining its width.

**WORKSHEET FOR RECORDING ROADS
UNDER THE REVISED MAP PROCEDURE****Minn. Stat. § 164.35**

This worksheet is intended to assist town boards in understanding the town road map recording procedure contained in Minn. Stat. § 164.35 as amended in 1995. Always seek appropriate legal and other professional assistance when undertaking this procedure.

- (1) Examine the status of each road the town intends to record
 - a) Determine if any of the roads are supported by road orders or easements that were properly recorded with the county recorder's office. The titles to the properties may indicate they are subject to a public road easement.
 - b) Identify those roads that were created by a developer's plat map dedicating the roads to the public. Plat maps are recorded with the county.
 - c) Identify those roads that have been maintained by the town and used by the public for at least six consecutive years. These roads become town roads by virtue of such use and maintenance to the width of actual use.¹¹
 - d) Determine if there are any easements or orders on record with the county recorder establishing cartways.
- (2) Collect the legal descriptions on those roads that are supported by separate recorded road orders or easements. If the town had previously recorded a map, compare descriptions with those previously recorded. Make corrections to the original map as needed.
- (3) Conduct an on-site inspection for those roads that were created by use and maintenance. The purpose of the inspection is to determine the width the town has continuously maintained over the minimum six-year period. Maintenance records may assist in making this determination. Copies of all supporting documentation should be collected and stored in a file which identifies the location of the original documents.
 - a) It is important to realize that merely including or excluding a road from the map does not automatically affect the status of the town's obligation toward a road. For instance, leaving a road off the map is not a substitution for the formal vacation procedure.¹² Similarly, including a road on the map will not instantly make it a town road. Over time, the recording may help support a claim that a road was

¹¹ Minn. Stat. § 160.05, subd. 1

¹² Minn. Stat. § 164.35, subd. 6

created by use and maintenance under Minn. Stat. § 160.05, subd. 1 or by common law dedication. However, a board should not attempt to include a road it determines has not yet been established as a town road. The act of including a road on the map will not, itself, make it a town road.

- (4) The board passes a resolution of its intent to hold a public hearing to consider recording roads by adopting an official map.¹³
 - a) A board may choose to hold informational meetings in the town before it formally undertakes the recording procedure.
- (5) The board decides whether to seek easements or damage waivers for the use and maintenance roads from the adjacent owners.
 - a) Obtaining easements from the owners is the best method of securing the town's interest but recording each of the individual easements can be very costly.
 - b) Having the owners sign a damage waiver is also an option available to a town. Rather than obtaining an outright gift through the direct giving of an easement, a damage waiver is an indirect gift of an easement by the owner agreeing to release his or her potential claim to damages. The board could also expand the form to ask the person to dedicate to the town the necessary right-of-way and to waive damages.
- (6) Contact each of the owners along the use and maintenance roads to ask whether they are willing to sign an easement or waive the payment of damages. *See APPENDIX B.*
- (7) If necessary, update the official map or develop a new map.¹⁴
 - a) Contact the county recorder for an explanation of the standards that the board will need to follow when recording the map.¹⁵
- (8) Set a time, place, and date for a public hearing on adopting a town road map to record roads.¹⁶ 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 center line, 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 66-foot right-of-way may be recorded at its actual width and the width must be duly recorded on the map.¹⁷

¹³ Minn. Stat. § 164.35, subd. 4(a)

¹⁴ Minn. Stat. § 164.35, subd. 4(b).

¹⁵ Minn. Stat. § 164.35, subd. 4(e).

¹⁶ Minn. Stat. § 164.35, subd. 4(b).

¹⁷ Minn. Stat. § 164.35, subd. 4(c).

- (9) At least 30 days before the hearing the notice must be sent by mail to the property owners directly affected at the addresses listed on the tax assessment notices.¹⁸
- a) The notice may be sent with the tax assessment, but all additional costs incurred may be billed to the town
- (10) The hearing notice must also be published once a week for two successive weeks in a qualified newspaper of general circulation that serves the town. The last publication must be made at least ten days before the date of the public hearing.¹⁹
- (11) Conduct the hearing at the assigned time.
- a) Allow for public comment and questions.
 - b) The board will need to determine which owners along the use and maintenance roads did not sign easements to the town or agreed to waive damages. On those segments of road, the board will need to decide whether it is still interested in recording the full 66-foot right-of-way or whether it will only record the width of actual use. Be aware that the method may result in meandering road widths.
 - c) In most cases, the board will decide to proceed with recording the full 66-foot right-of-way. Again, in such cases, a determination and payment of damages, if any, must occur.
- (12) The board will need to determine the amount of damages it will award the owners that did not sign an easement or a release of damages. Refer to the paper on the creation and extinguishments of town roads for information on setting damages and the forms associated with that procedure.²⁰
- a) The damages must be filed with the town clerk.
- (13) Within seven days of when the damages are filed with the town clerk, he or she must notify the owners in writing of the filing of the award of damages. The notice must set forth the date of the award, the amount of the award of damages, and any terms or conditions of the award.²¹ The award must also contain a clear and coherent explanation of the requirements for appealing the award of damages.
- a) It appears an owner interested in appealing an award of damages would do so under the provisions of Minn. Stat. § 164.07, subd. 7 & 8. This appeal is of a potentially different type than one challenging the decision to record a road (see below).

¹⁸ *Id.*

¹⁹ Minn. Stat. § 164.35, subd. 4c.

²⁰ Minn. Stat. § 164.35, subd. 4(g); Minn. Stat. § 164.07, subd. 5.

²¹ Minn. Stat. § 164.07, subd. 6

APPENDIX A

- (14) It is recommended that the board develop road orders for those roads that are not supported by an easement or road order, or that were not created by plat (i.e., the use and maintenance roads). These road orders lend support to the map. Also, the resolution used to authorize the road orders provides the board an opportunity to detail its interaction with each of the owners (e.g., those that signed waivers, those that were awarded damages, etc.).
- (15) The board may amend the map after the hearing.²²
 - a) Do not amend the map by expanding the roads to encompass more land unless the owners sign an easement.
- (16) The board passes a resolution adopting the town road map. The map must be recorded with the county recorder within **90 days** after the map is adopted.²³
 - a) The map must be dated and signed by the chair and clerk.
 - b) The map must comply with the standards of the county recorder.²⁴
 - c) A map prepared by using aerial photographs to establish center lines and that is recorded with the county recorder is an adequate description for recording and prevails even though the deed of the abutting parcel contains no reference to a road easement.
 - d) The road orders, if developed, should be recorded at the same time.
- (17) The decision of the board to record a road may be appealed to district court within 60 days after the date the map was adopted.²⁵

²² Minn. Stat. § 164.35, subd. 4(d)

²³ Minn. Stat. § 164.35, subd. 4(d)

²⁴ Minn. Stat. § 164.35, subd. 4(e)

²⁵ Minn. Stat. § 164.35, subd. 5

Release of Damages

WHEREAS, the town board of _____ Township, _____ County, Minnesota is undertaking the procedure in Minn. Stat. § 164.35 to record its roads by map;

WHEREAS, the map includes the following described road to be recorded at a total right-of-way width of 66 feet with the official and permanent alignment being 33 feet on either side of the existing center line:

[Describe the particular road]

WHEREAS, _____ and _____ are owners of the following described property in _____ County, Minnesota:

[Provide description of the property]

WHEREAS, said road passes over a portion of said property;

NOW, THEREFORE, we do hereby dedicate to the public the portion of our land covered by the above described 66 foot right-of-way and do hereby release all claims to damages sustained by us by reason of _____ Township recording the above described 66 foot road right-of-way through our property.

Dated this _____ day of _____, 20____

Owner Signature

Owner Signature

Signed before me by named owner(s) on date stated.

Town Clerk or other Notary