



## TOWNSHIP ROADS: AN OVERVIEW

Minnesota's townships are responsible for maintaining over 55,000 miles of roads, which constitute the greatest expense for townships as a group. Township roads are an essential part of Minnesota's transportation system, providing the connection between farm and marketplace and access to its lakes and natural resources.

This document provides a basic overview of the concept of township roads, including definitions of important terms and references to the statutes related to regulation and maintenance of township roads. It is useful as an introduction, but also as an index of statutes related to maintenance and regulation of town roads. It is not an in-depth analysis of the concepts and powers listed. Other resources in the MAT Information Library provide greater analysis of some of the powers and duties describe here.

### I. Commonly Used Terms

- A. Road** - Generically, the term road includes trunk highways, county state-aid highways, county highways, city streets, and town roads, including all bridges and other structures needed to make up the road. Minn. Stat. § 160.02, subd. 7. In casual conversation, the term "road" is generally intended to refer to the improved portion of a right-of-way that is actually used for travel by vehicles.
- B. Town Road** - Minn. Stat. § 160.02, subd. 5, defines a town road as being any road or cartway which has been established, constructed, or improved under the authority of the town board, or a road established, constructed, or improved by the county which was subsequently maintained by a town for a period of at least one year prior to July 1, 1957. In addition, Minn. Stat. § 163.11, subd. 5 allows a county to force a township to take over a county highway as a town road.
- C. Right-of-way** - While Minn. Stat. § 160.02 does not define the term "right-of-way," the commonly accepted use of the term is generally the same as the definition provided in Minn. Stat. § 84.787, subd. 10 which uses the term to refer to the "...entire right-of-way

of a town road or a county, county state-aid, or trunk highway, including the traveled portions, banks, ditches, shoulders, and medians”. Minn. Stat. § 237.162 defines “Public Right-of-Way” as the area “... on, below, or above a public roadway, highway, street, cartway, bicycle lane...including other dedicated rights-of-way for travel purposes and utility easements of local government units.”

- D. Easement** - Black’s Law Dictionary defines an easement to simply be “the right of use over the property of another.” An easement can either be a public easement, which essentially means that everyone can use the otherwise private property, or a private easement which confers the benefit of use to one person or a limited number of people, but not the public at large. Most township roads lie upon public easements.
- E. Cartway** - While cartways are included in the generic definition of roads, they are a special creation established under Minn. Stat. § 164.08. The term cartway is actually never defined in statute but refers to a means of access to a parcel of land (most commonly at least five acres or more in size) that would otherwise be landlocked. While created by order of the town board, cartways are generally intended for the benefit of the owner(s) of one parcel of land and generally must be paid for and maintained by the benefiting party. When created by the township, a cartway is a public road that is privately maintained. The cartway remains a public road unless its converted into a private driveway under the cartway statute.
- F. Minimum-Maintenance Road** - A minimum maintenance road is one that the governing body has determined, by resolution, to be used only occasionally or intermittently and thus does not need to be maintained to the same level as a regular road in the jurisdiction (see Minn. Stat. § 160.095). Contrary to popular belief, designating a town road minimum-maintenance does not mean that it can be ignored completely as it must still be maintained (i.e. graded, plowed, etc.) to the level necessary to provide safe access for the use normally serviced by the road in question. (Doc. # TR1000 and TR8000)
- G. Rustic Road** - According to Minn. Stat. § 160.83, any road not in the state-aid system can be designated by resolution of the governing body as a rustic road if it has “outstanding natural features or scenic beauty”, and has a volume of traffic less than 150 vehicles per day, is open for year-round use, and has a maximum speed limit of forty-five (45) miles per hour. Like a minimum maintenance road, a rustic road may be maintained to a lesser standard than a regular road in the community, but it must still be maintained to the level needed to provide safe access to the anticipated volume of traffic.

**H. Rod** – The term rod refers to a unit of measurement that is equal to sixteen and one-half (16.5) feet. Thus, two rods equals thirty-three (33) feet and four rods would be sixty-six (66) feet.

## **II. Regulating the Right of Way**

Once a township has a valid interest in a right-of-way, it has authority to regulate use of the right-of-way. Minn. Stat. § 164.02 states that town boards “...shall have supervision over town roads...” This provision appears to give town supervisors broad authority to control the use of township roads. Additional authority can be found in a variety of statutes, and in the absence of other express authority, a town board can always rely on its general authority to adopt ordinances intended to protect the public’s health, safety, and welfare as provided in Minn. Stat. § 365.10, subd. 17, (Minn. Stat. § 368.01, subd. 19 for urban towns). This section will identify some of the most common sources of authority for regulating the use of township roads and rights-of-way.

### **A. General Statutory Restrictions**

1. Prohibited uses within public right-of-way (Minn. Stat. § 160.27, subd. 5)
2. Public nuisance defined within public right-of-way (Minn. Stat. § 609.74)
3. General Authority: (i) Recorded Roads (Minn. Stat. § 164.36); (ii) Traffic Control (parking, one-ways, etc.) (Minn. Stat. Ch. 169, esp. § 169.04)

### **B. Regulating Certain Types of Vehicles**

1. All types of recreational vehicles (Minn. Stat. § 84.90, subd. 6)
2. Off-highway motorcycles (Minn. Stat. § 84.795, subd. 8)
3. Off-road vehicles (Minn. Stat. § 84.804, subd. 6)
4. Snowmobiles (Minn. Stat. § 84.87, subd. 3)
5. All-terrain vehicles (Minn. Stat. § 84.928, subd. 6)
6. Golf Carts (Minn. Stat. § 169.045)

### **C. Speed Limits**

1. Default Statutory Limits (Minn. Stat. § 169.14, subd. 2)
2. Modifying Default Limit (Minn. Stat. § 169.14, subd. 5)

### **D. Weight Limits**

1. Default Statutory Limits (Minn. Stat. §§ 169.80 – 169.872)
2. Setting Additional Limits (Minn. Stat. § 169.87)

### **E. Signs (Minn. Stat. § 169.06)**

### **F. Moving Buildings Over (Minn. Stat. § 160.26)**

### **G. Utilities (Minn. Stat. § 164.36(6), § 222.37, §§ 237.162 -.163); Minn. R. Chap. 7819)**

### **H. Private Use of Right-of-Way**

1. General Landowner’s Rights v. Safe Right-of-Way
2. Mailboxes (Minn. Stat. § 169.072)

3. Drain Tiles (Minn. Stat. § 160.20)

**I. Approaches / Culverts (Minn. Stat. § 160.18) (Doc. # TR9000)**

**J. Special Designations**

1. Bike Lanes (Minn. Stat. § 160.263)
2. Minimum / Rustic Designations
3. Closing a Road (Minn. Stat. § 164.152)

**III. Maintenance**

Town road maintenance is probably the single largest expenditure for township in term of both time and money spent. This section will summarize a town boards' general authority to do maintenance work, the duty to conduct certain types of maintenance, and the restrictions that must be observed. By understanding these issues, a town board can greatly reduce its liability exposure.

**A. General Duty (Liability)**

1. Regular Town Roads
2. Minimum Maintenance (Minn. Stat. § 160.095, subd. 4) (Doc. # TR1000)
3. Rustic (Minn. Stat. § 160.84, subd. 5)
4. Impassible Road (Minn. Stat. § 163.16)
5. Line Roads (Minn. Stat. §§ 164.12 – 164.14)

**B. General Authority and Restrictions**

1. Statutory Authorities
2. Determining Width of Right-of-Way
3. 25-year rule (Minn. Stat. § 365.10, subd. 11)
4. Cartways (Minn. Stat. § 164.08, subd. 2(d), § 164.10)
5. Altering route (widening, straightening, etc.) (Minn. Stat. §§ 164.06 – 164.07)

**C. Grading, Gravelling, Plowing**

**D. Blacktopping**

**E. Trees, Brush, Weeds, etc. (Minn. Stat. §§ 160.22 – 160.232) (Doc. # TR6000 and # TR9000)**

**F. Abutting Property Owner (Minn. Stat. § 366.015)**

**G. Closing by Barricade (Minn. Stat. § 164.152)**

**H. Vehicle Operator Liability for Damage (Minn. Stat. § 169.08)**

**I. Contract Requirements**