



WORKSHEET FOR EXTINGUISHING TOWN'S INTEREST IN "ABANDONED ROADS"

The following is a guide to work through the procedure found in Minn. Stat. § 164.06, subd. 2, to disclaim and extinguish a town's interest in roads that satisfy the qualifying criteria. This procedure can be used only for roads that meet each of the specific criteria listed in the statute.

1. Each of the following must be true of the road before the extinguishment procedure can be used:

- _____ The board determines that extinguishment of the road is in the public's interest.
- _____ The town's interest in the road is not a fee interest (i.e., the land was not deeded to the township).
- _____ The road was established more than 25 years ago.
- _____ The interest is not recorded or filed the road with the county recorder.
- _____ No improvements have been made to the road within the last 25 years.
- _____ The town has not maintained the road within the last 25 years.

If any of these criteria are not true, the board will need to use the formal vacation procedure in Minn. Stat. § 164.07, to eliminate the town's interest in the road.

2. The board must provide notice as follows:

- a. _____ At least 30 days before the first meeting at which a resolution to disclaim and extinguish the town's interest in the road is discussed, the board must provide notice of the meeting by certified mail to each property owner abutting the road to be extinguished.

- b. _____ At least 30 days before the first meeting at which a resolution to disclaim and extinguish the town's interest in the road is discussed, the board must post notice of the hearing in the places designated by board as public posting places.¹ Or, instead of posting notices, the board may publish the notice of the hearing at least once a week for at least two consecutive weeks before the hearing.
- The notice should include a simple statement of what the board intends to do and the date, time, and place the board will meet to discuss the road, and a description of the road. (*See Attachment 1*)
 - Affidavits for each form of notice provided should be completed.
3. At the hearing, the board accepts public comment and then decides whether to proceed with the extinguishment. If the board decides to proceed, it must adopt a resolution extinguishing the township's interest in the road(s). (*See Attachment 2*)
- The resolution must include a description of the roads. The description can be placed within the resolution or be attached as an appendix.
4. File the resolution with the county auditor.
5. Record the resolution with the county recorder.
- It is advisable to bring a draft of the resolution to the county recorder before it is adopted to confirm the document is in a recordable form.
6. A copy of the resolution should also be filed in the town's records along with the affidavits of published, posted, and mailed notice.

¹ Minn. Stat. § 366.01, subd. 8, requires the town board to designate one or more places in the township where legal notices shall be posted.

NOTICE OF HEARING

_____ **TOWNSHIP**

_____ **COUNTY**

NOTICE IS HEREBY GIVEN that the _____ Town Board will conduct a public hearing on [Tuesday, January ____, 20__, at ____ p.m. at the _____ Town Hall,] to consider disclaiming and extinguishing the town's interest in the following described road(s):

[provide a description of the road(s)]

Interested persons may attend and be heard regarding this matter.

Township Clerk

Dated: _____

RESOLUTION EXTINGUISHING A ROAD

_____ **TOWNSHIP**

_____ **COUNTY, MINNESOTA**

WHEREAS, the town board of _____ Township, _____ County, Minnesota conducted a hearing on the ____ day of _____, 20____, after due notice directed by Minn. Stat. § 164.06, subd. 2, to consider disclaiming and extinguishing the town's interest in the road(s) described in Exhibit A;

WHEREAS, the town board made the following findings regarding said roads:

1. The extinguishment of the Township's interest in the road(s) described in Exhibit A is in the public interest.
2. The Township's interest in the road(s) described in Exhibit A is not a fee interest.
3. The interest of the town in the road(s) described in Exhibit A was established more than 25 years ago.
4. The interest in the road(s) described in Exhibit A is not recorded or filed with the county recorder.
5. The Township has completed no road improvements on the right-of-way affected by the interest of the road(s) described in Exhibit A within the last 25 years.
6. The Township has not completed any road maintenance on the right-of-way affected by the interest for the road(s) described in Exhibit A within the last 25 years.

NOW, THEREFORE, BE IT RESOLVED that pursuant to the authority granted by Minn. Stat. § 164.06, subd. 2, the _____ Town Board does hereby disclaim and extinguish any interest the township may have in the road(s) described in Exhibit A.

Adopted this _____ day of _____, 20__.

By the Town Board,

Town Chair

Town Clerk

Note: Develop an Exhibit A to this resolution that describes the road(s) the board is extinguishing.