

Birchdale Township Street/Road Vacation Guidelines

The following are the guidelines that a property owner must follow when petitioning for the vacation of a township street or road (road) in Birchdale Township. (These Guidelines were adapted from Minnesota Association of Townships Document #TR4000A – Worksheet For Establishing, Altering, or Vacating Roads.) These are strictly guidelines; property owners and the Township Board must carefully follow the statutory requirements contained in Minn. Stat. 164.07 when considering the vacation of any township road. It is recommended the property owner seek appropriate legal assistance when undertaking this procedure at his or her own expense.

1. If a property owner wishes to pursue vacation of a township road, the process may be initiated upon petition signed by at least eight voters of the township who own land within three miles of the road proposed to be vacated. (The petition may be fewer people if there are not eight resident owners within the three miles area; however the Township Board would determine whether to accept the petition as complete.) Upon request, the Township Clerk will provide a sample petition form that should be followed when preparing a petition.
2. The petition must include a description of the road, the portion to be vacated, and the names of the owners of land over which the road passes or in the case of a platted road the names of the owners of land that abuts the road proposed to be vacated.
3. The petition must be filed with the Township Clerk and the Clerk will present it to the Township Board and its next regular meeting.
4. Within 30 days of being presented with the petition, the Township Board must make an order setting a date, time, and place for a road hearing. The order must describe, as nearly as practicable, the road proposed to be vacated, and the tracts of land through which it passes. The order must also contain a notice indicating that the affected landowners are entitled to judicial review of damages, need, and purpose as provided by law if the Board does decide to vacate the road.
5. The petitioners are responsible for personally serving the order and a copy of the petition upon each affected owner occupant of the land affected at least ten (10) days prior to the hearing and for providing ten (10) days posted notice of the hearing. The petitioners shall be responsible for completing the affidavit of service, which will serve as proof that the appropriate owners were served notice. An affidavit of posted notice will also be required. The petitioners shall present the affidavits of personal service and posting at the hearing. The Township Board will provide at least ten (10) days published notice of the hearing in the official newspapers of the Township.
6. If the road to be vacated terminates at, abuts upon, or is adjacent to any public water, the petitioners must also serve notice of the order by certified mail upon the Commissioner of the Department of Natural Resources (DNR) at least sixty (60) days before the hearing. A copy of the notice must also be sent to the Regional DNR Office. It shall be the Township Board's

responsibility to contact the Commissioner of the DNR at least fifteen (15) days before the hearing to review the proposed vacation and the Commissioner's evaluation.

7. The Township Board will hold the road hearing provided the above process has been followed by the petitioners and the Board will follow State Statute in making a decision on a road vacation. The Board must determine the amount of damages, if any, sustained by the road vacation. Damages may be determined by agreement between the Board and the property owner, or waived by the property owner in writing. State Statute must be followed in determining any award of damages.
8. If the Township Board adopts a Resolution vacating a township road, a certified copy of the final town road order (resolution vacating the road) must be presented to the Todd County Auditor, who must enter it in the transfer records and note on it, over the Auditor's official signature, the words "entered in the transfer record".
9. The Township Board must also submit a certified copy of the order (resolution) to be recorded with the Todd County Recorder.
10. The Township Board's decision to deny a petition is final, unless appealed, for one year (a similar petition may not be brought for one year). If appealed, a similar petition may not be brought within one year of the court's decision.