

COUNTY BOARD POLICY PERTAINING TO CARTWAY PROCEDURES

It shall be the policy of the St. Louis County Board that the procedures outlined in this Policy will provide for handling cartway petitions from receipt of the petition through completion of payment by the petitioner for damages and costs awarded pursuant to the County Board's final resolution and order:

1. A written cartway petition must be received by the County Board by filing the petition with County Administration.
2. The cartway petition shall be accompanied by a deposit of \$4,000 in cash or bond as security for the estimated costs associated with a cartway petition. Those costs include, but are not limited to, the cost of an appraisal and the cost of Public Works and Auditor's Office employee time. Any funds not expended will be reimbursed to the petitioner.
3. Upon receipt of the cartway petition it will be reviewed by the County Attorney's Office to determine if it is legally sufficient.
4. If the County Attorney's Office determines that the petition is legally insufficient, it will draft a letter to petitioner outlining the necessary information to be included in the petition.
5. If any proposed cartway is over state and/or federal lands, the petition should be immediately rejected unless the government owner consents to the petition in writing, or they provide other appropriate access or evidence of an intent to provide such access.
6. The petition must contain the following:
 - a. A statement that the size of petitioner's tract of land meets statutory requirements and that the petitioner has no access to the land except over the [and of others, or the access of the petitioner is less than two rods (33 feet) in width.
 - b. A description of the proposed cartway in the petition which is sufficiently definite for everyone to understand the proposed general location of the cartway.
 - c. The legal description of the parcel owned by the petitioner.
 - d. The owner or owners' names and legal descriptions of the property affected by the cartway.
 - e. A map and drawing of the proposed cartway.
 - f. Petitioner's request that a cartway two rods in width be established across the property of the owner or owners listed in the petition.

g. A request that the St. Louis County Board of Commissioners pass a resolution fixing the time and place where it will meet and act upon the petition.

h. Petitioner's acknowledgment that petitioner is responsible for damages awarded to the owner or owners of land upon which the cartway is established, together with the cost of professional and other services which the County may incur in connection with the proceedings for the establishment of the cartway.

7. Within 30 days after the filing of a legally and factually sufficient petition, the County Board shall make a resolution describing, as near as practicable, the cartway proposed to be established and the tracts of land through which it passes and fix a time and place when and where it will meet and act upon the petition. A period of 60 days between the resolution and hearing date is generally considered to be the minimum period of time to allow for obtaining an appraisal and providing appropriate notice to the affected landowners.
8. The resolution fixing a time to act upon the petition must also contain a notice to affected landowners that a landowner is entitled to judicial review of damages and need for the cartway pursuant to Minn. Stat. § 164.07, Subd. 7, following a determination to establish the cartway.
9. The petitioner shall cause personal service of such resolution and a copy of the petition to be made upon each occupant of such land at least thirty (30) days before such meeting and cause thirty (30) days posted notice thereof to be given.
10. The Board Letter and Resolution described above shall be presented by Administration.
11. Hearing Process:
 - a. Clerk of the County Board summarizes the hearing process and procedures.
 - b. County Attorney makes initial presentation with testimony from Public Works, Right-of-Way agents, if needed.
 - c. The petitioners or their representative may appear and give testimony.
 - d. The affected land owners or their representatives may appear and give testimony.
 - e. Commissioners may question witnesses at the end of all testimony.
12. Upon conclusion of the hearing, the County Board must determine the following matters:
 - a. The sufficiency of the petition, i.e. a landlocked tract of land at least five acres with no access to the land except over the land of others, or that the access of the petitioner is less than 33 feet in width.
 - b. The exact location of the cartway. (The Board may exercise reasonable discretion in varying the route proposed by the petitioner.)
 - c. The need for a legal survey to establish the exact location of the cartway if petitioner's proposed location is changed or was not sufficiently defined.

- d. Damages and Costs. Damages and costs must be based on evidence submitted by way of testimony and/or documentary evidence. Costs include, but are not limited to, the costs of professional services, surveying costs if done by the County, appraisal fees, and compensation for time spent on the project by the Public Works Department and Auditor's Office. Damages may include any diminished value of the affected landowners' property, the cost of construction of the cartway (if necessary), and/or the value of the right to use an existing road.
13. At the conclusion of the cartway hearing, the Findings of Fact, Conclusions and Order shall be drafted by the County Attorney's Office and signed by the Board Chair.
14. The Clerk of the County Board will send a copy of the signed order to the petitioner.
15. If the County Board grants the cartway petition, the Clerk of the County Board must notify, in writing, each known owner and occupant of land over which the cartway passes that there has been a filing and award of damages. Pursuant to Minn. Stat. § 164.07, Subd. 6, the notice must set forth the date of the award, the amount of damages awarded, and any terms or conditions of the award. The notice must also include an explanation of the requirements for appealing the award of damages under Minn. Stat. § 164.07, Subd. 7.
16. Payments. The County Auditor shall receive payments owed by the petitioner pursuant to the Board's Order. Upon receipt of petitioner's payment in full for costs and damages, the Auditor shall certify the Findings of Fact, Conclusions of Law, and Order establishing the cartway. The Auditor shall then 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."
17. The Auditor shall then provide the certified Findings of fact, Conclusions, and Order to the County Attorney's office and to Public Works. Payments received shall be distributed by the Auditor upon the expiration of the appeal period.
18. Upon payment in full by petitioner and receipt of a certified copy of the Findings of Fact, Conclusions, and Order from the Auditor, the Public Works Department shall file with the County Recorder the Findings of Fact, Conclusions and Order establishing the cartway.