

PUBLIC HIGHWAYS AND PRIVATE ROADS (EXCERPT)

Act 283 of 1909

CHAPTER I

LAYING OUT, ALTERING AND DISCONTINUING HIGHWAYS

221.1-221.19 Repealed. 1958, Act 77, Eff. Sept. 13, 1958.

Compiler's note: The repealed sections regulated width, laying out, altering or discontinuing highways.

221.20 Public highway; definition, width.

Sec. 20. All highways regularly established in pursuance of existing laws, all roads that shall have been used as such for 10 years or more, whether any record or other proof exists that they were ever established as highways or not, and all roads which have been or which may hereafter be laid out and not recorded, and which shall have been used 8 years or more, shall be deemed public highways, subject to be altered or discontinued according to the provisions of this act. All highways that are or that may become such by time and use, shall be 4 rods in width, and where they are situated on section or quarter section lines, such lines shall be the center of such roads, and the land belonging to such roads shall be 2 rods in width on each side of such lines.

History: 1909, Act 283, Eff. Sept. 1, 1909;—CL 1915, 4307;—CL 1929, 3936;—CL 1948, 221.20.

221.20a Declaration of road as public highway; consent; petition; action in circuit court; order; purchase or condemnation.

Sec. 20a. A township with the prior written consent of the board of county road commissioners and upon petition to the township board by 51% of the property owners whose frontage abuts a road may commence an action in circuit court to have the road determined to be a public highway and to determine the length and boundaries of the road. If the court finds that there has been public use of the road for at least 10 years and that public authorities have expended public money on the road, it shall enter an order that the road has become a public highway setting forth the length and boundaries of that public highway. If the court finds that the road has not become a public highway, the township may in the same action acquire by purchase or condemnation in accordance with section 20h of this chapter the property rights of those owners who in the action claim that the road is not a public highway and the court shall enter its order that the road is a public highway and set forth the length and boundaries of that public highway.

History: Add. 1974, Act 336, Imd. Eff. Dec. 17, 1974;—Am. 1978, Act 233, Eff. Mar. 30, 1979.

221.20b Declaration of road as public highway; complaint; deposit.

Sec. 20b. (1) A township proceeding under section 20a shall file a complaint for declaration of the road as a public highway in the circuit court of the county in which the road is located. The complaint shall contain or have annexed thereto (a) a copy of the petition from abutting property owners, (b) a description of the length and boundaries of the road, and (c) the names of persons having claims to the road as a private road, including any public utility having facilities located on the road.

(2) Before proceeding under section 20a the township board may require a deposit from the petitioners of an amount estimated by the township board to be sufficient to pay the cost of all legal proceedings.

History: Add. 1974, Act 336, Imd. Eff. Dec. 17, 1974.

221.20c Order fixing date for hearing; contents of order; service of complaint and order; notice of hearing; service and publication of complaint.

Sec. 20c. (1) Upon the filing of a complaint, the court shall enter an order fixing a date for hearing, which shall be not less than 3 weeks thereafter. The order shall recite the names of persons mentioned in the complaint as parties in interest, reasonably describe the road alleged to be a public highway, state the purpose of the complaint, and order the persons recited to appear before the court at the time fixed in the order for the hearing. A copy of the complaint and order shall be served upon the board of county road commissioners of that county not less than 20 days before the hearing.

(2) Notice of the hearing and service and publication of the complaint shall be made and proved in the same manner as provided for hearing upon a petition for condemnation under Act No. 295 of the Public Acts of 1966, as amended, being sections 213.361 to 213.391 of the Michigan Compiled Laws.

History: Add. 1974, Act 336, Imd. Eff. Dec. 17, 1974.

221.20d Determining sufficiency of petition; trial date; order.

Sec. 20d. On the date of the hearing the court shall determine the sufficiency of the petition required by

section 20a and set a date certain for trial as to the question of whether the road has become a public highway in fact or if persons do not appear to contest the action, may, upon hearing of such proofs as the court deems necessary, enter its order determining the road to be a public highway and determining the length and boundaries thereof.

History: Add. 1974, Act 336, Imd. Eff. Dec. 17, 1974.

221.20e Applicability of rules for civil actions.

Sec. 20e. Except as therein otherwise provided, the proceedings taken under sections 20a to 20h, shall be in the same manner and governed by the same rules as for civil actions.

History: Add. 1974, Act 336, Imd. Eff. Dec. 17, 1974.

221.20f Notice of filing of complaint; contents; recordation.

Sec. 20f. For the filing of a complaint in court to be constructive notice to a purchaser of real estate, the township shall file for record with the register of deeds of the county a notice of the filing of the complaint. The notice shall set forth the title of the cause and the general object thereof and a description of the property to be affected thereby. The register of deeds shall then record the notice in a book kept for that purpose upon payment of the fee provided by law for recording deeds. The register of deeds shall enter in an indexed book kept in his office references to the notice which will enable all persons interested to search for the notice without inconvenience.

History: Add. 1974, Act 336, Imd. Eff. Dec. 17, 1974.

221.20g Improvement of road by township; standards; special assessment; petition; acceptance of public highway; maintenance.

Sec. 20g. Any road determined to be a public highway in accordance with this chapter shall be improved by the township to standards determined in writing by the board of county road commissioners of that county. The standards may be less than the standards adopted by that board of county road commissioners for construction of subdivision streets. The township may specially assess all or part of the costs of the improvements against benefited property owners pursuant to Act No. 188 of the Public Acts of 1954, as amended, being sections 41.721 to 41.737 of the Michigan Compiled Laws. The petition required by section 20a may serve as the petition for commencing special assessment proceedings if the petition so states. Upon completion of the improvements to board of county road commissioners standards the public highway shall be accepted by the board of county road commissioners as a county road and made a part of the county road system in accordance with the provisions of section 18 of chapter 4. Between the time that the court enters its order declaring that the road is a public highway and the time that the public highway is accepted by the board of county road commissioners neither the township nor the board of county road commissioners shall be responsible for maintaining the public highway nor be liable for failure to maintain the public highway.

History: Add. 1974, Act 336, Imd. Eff. Dec. 17, 1974.

221.20h Acquisition of property by township by gift, purchase, or condemnation; petition; order of taking.

Sec. 20h. The township may acquire property by gift, purchase, or condemnation as it deems necessary to establish a road as a public highway or for improvement of a road following a court order that the road is a public highway. For purposes of condemnation the township may proceed under Act No. 295 of the Public Acts of 1966, as amended. The complaint filed under this act, or any amendment thereof, may serve as the petition required under that act if it contains all elements required therein. An order of taking shall not be entered until a road has been determined to be a public highway.

History: Add. 1974, Act 336, Imd. Eff. Dec. 17, 1974.

221.21 Repealed. 1958, Act 77, Eff. Sept. 13, 1958.

Compiler's note: The repealed section required that roads be ascertained, described, and entered of record if records of roads were or might be defective.

221.22 Public highway; discontinuance.

Sec. 22. Every public highway already laid out, or hereafter to be laid out, no part of which shall have been opened and worked within 4 years after the time of its being so laid out, shall cease to be a road for any purpose whatever.

History: 1909, Act 283, Eff. Sept. 1, 1909;—CL 1915, 4309;—CL 1929, 3938;—CL 1948, 221.22;—CL 1897, 4063.

Compiler's note: This section re-enacts Sec. 22 of Ch. I of Act 243 of 1881, being How. 1317.

221.23-221.26 Repealed. 1958, Act 77, Eff. Sept. 13, 1958.

Compiler's note: The repealed sections set forth matters to be considered in determination of damages or benefits from laying out, alteration, or discontinuance of a highway, described procedure for paying damages and assessing them, authorized commissioners to lay out and open highways, and provided for care, alteration and discontinuance of state roads.

221.27 Repealed. 1993, Act 354, Imd. Eff. Jan. 14, 1994.

Compiler's note: The repealed section pertained to highways across railroads and powers of the public utilities commission.

221.28-221.30 Repealed. 1958, Act 77, Eff. Sept. 13, 1958.

Compiler's note: The repealed sections authorized laying out of state line highways, provided survey expenses, and permitted highways of less than standard width.