

## **Roscommon County Road Commission Procedure for Abandonment of Public Right-of-Way**

1. The Roscommon County Board of Road Commissioners (Board) has authority, pursuant to MCL S224, MSA S9.118 to abandon all or part of a county road. The Roscommon County Road Commission's (RCRC) procedure to abandon a road right-of-way is hereby outlined.
2. A request is made to the RCRC for an Abandonment Petition Package. Staff will review requirements with petitioner upon receipt. Staff will prepare a legal description for use in the petition.
3. The petition must be signed by seven freeholders (land title holders) in the Township in which the abandonment is being sought. The petition must also be accompanied by a true and correct list of the names and mailing addresses of the occupants of each parcel of land abutting the portion of right-of-way which they seek to have abandoned. The RCRC will request a "last owners" tax search by the township to verify abutting title holders.
4. If the petition for abandonment contains the signatures of all abutting landowners, the County Board of Road Commissioners may determine without a public hearing the advisability of such abandonment within 20 days after receiving the petition. However, the Board can require a public hearing if deemed in the best interest of the public.
5. If a Public Hearing is deemed necessary, or the petition for abandonment does not contain the names of all abutting occupants, or the right-of-way has a building upon it, the Board and/or RCRC will:
  - a) Appoint a time and place for a public hearing within 20 days of receiving the petition.
  - b) Serve notice by first class mail on all abutting landowners and the township office at least 30 days prior to the hearing, post a notice of said hearing in three public places within the township, and post a notice at the RCRC office.
  - c) Serve notice on the state transportation department and the MI Department of Natural Resources if any portion of the right-of-way is adjacent to, borders on, crosses, is adjacent to, or ends at a lake or the general course of a stream.
  - d) Publish notice of the hearing in a local newspaper on two occasions prior to said hearing.
6. The petitioner will pay a fee of \$600.00 at the time of petition submission to the RCRC.
7. Prior to abandoning the right-of-way, the Board of County Road Commissioners, or their representative, must view the right-of-way described in the petition.
8. The Board must determine at the time of passage of any Resolution abandoning a right-of-way that the abandonment is in the best interest of the public. The Board may hold claims to active or future utility easements, and may require a drainage easement be recorded.
9. The vote of the Board in respect to such determination shall be taken by a roll call vote and entered into the RCRC minutes.

10. The RCRC must cause a true copy of the resolution, which shall contain an accurate description of the right-of-way so abandoned, to be recorded in the office of the Register of Deeds.
11. Notice of the Board's determination must be given to the township supervisor(s) and the highway authorities for each city or village in which the right-of-way, or any part thereof, is situated.
12. Within 30 days of making their decision, the RCRC must file a record with the State Department of Transportation. Also notify the MI Department of Natural Resources if previously served with a hearing notice as described in Item #5(c).
13. Notice of the Board's determination will be published in a newspaper printed and circulated in the county. An affidavit of publication shall be received by the RCRC Clerk.

**Notes on ownership:**

1. When the public right-of-way consisted of Statutory Easement (unplatted) only, and the land is held privately in fee, the title will remain with the property owner to the title line (usually the centerline) of the road involved. Only the public right to the use of the land will be eliminated. This will be the usual condition on County Roads where property ownership goes to the centerline of the road.
2. In recorded subdivisions or platted areas, the road commission can only relinquish jurisdiction of the right-of-way to the township. The Road Commission does not hold title, it only holds the right-of-way in "the public trust". Once relinquished by the Road Commission, jurisdiction of the right-of-way returns to the township who can then pass a resolution to abandon its interest. It then becomes a private road. In order to terminate the private road right-of-way and claim ownership of the property in the right-of-way, the abutting property owners must go through Circuit Court to amend the plat. This is done at the owner's expense. Persons interested in pursuing this action should consult an attorney.
3. Public right-of-way which was acquired in fee title by the Road Commission by purchase or condemnation, should be dealt with on an individual basis, and both the Road Commission and the prospective recipients should act under the guidance of their respective attorneys.

ADOPTED BY THE ROSCOMMON COUNTY BOARD OF ROAD COMMISSIONERS

12/11/08