

**' ABANDONMENT
REQUEST PROCEDURES
DICKINSON COUNTY ROAD COMMISSION**

1. Until the Dickinson County Road Commission Board approves the Resolution for Abandonment and the document is recorded at the Dickinson County Register of Deeds office, the requesting party, and any agents, contractors or other persons representing the requesting party, shall not engage in any activities in the area to be abandoned; including, but not limited to: construction of structures; construction of roads/driveways or any other earthwork; installation of fences and/or any other barricades; tree/shrub removal; or deny access to the public.
2. To start the process, the petitioner must submit Part I, along with any required payment payable to the Dickinson County Road Commission. Petitioner must insert a preliminary legal description in Part I which may need to be revised in the future. The initial request for abandonment should first be presented to the Township Board in the area to be abandoned to determine the Township Board's position on the proposed abandonment, as the Township has first priority to retain the property or a portion of it. If the Township does not want to retain the property, the petitioner has next priority should the Dickinson County Road Commission Board decide to abandon the roadway.
3. Upon action of the Township Board, the Township will provide the Dickinson County Road Commission with correspondence indicating the Township's proposed decision on the requested abandonment. If the Township Board does not approve the request, the requesting party may still request the abandonment through the Dickinson County Road Commission, since it is the Road Commission Board who has sole authority to abandon a public road or street under its jurisdiction. However, note paragraphs two (2) and five (5), as the petitioner may not wish to pay for and continue with the process if it is the Township or the Department of Natural Resources that will then retain the roadway.
4. The petitioner shall provide the legal description of the property proposed for abandonment. The legal description used shall be approved by the Highway Engineer or his designated representative before signatures are obtained. The County Highway Engineer or his designated representative will assist the petitioner in preparing the legal description when possible, but a survey by a licensed Michigan Land Surveyor may be necessary in the discretion of the County Highway Engineer. The petitioner shall be responsible for making the arrangements for the survey and for paying all the costs for the survey.
5. If the property to be abandoned or a portion of the property borders on, crosses, is adjacent to, or ends at a lake or the general course of a stream and the proposed action would result in the loss of public access, the Road Commission must also notify the municipal township where the property is situated, the State Transportation Department, and the Department of Natural Resources as additional requirements are imposed by statute.

The Department of Natural Resources and the Township have thirty (30) days to review the petition in order to decide whether the property should be retained as an ingress and egress point. If the road is within a Township, the Township shall have first right to retain the property, and the DNR has secondary priority to retain the property as an ingress and egress point if the Township declines. If the road is not situated in a Township, the Department of Natural Resources shall have first priority to retain the property as an ingress and egress point.

If the County Road Commissioners determine to relinquish control, discontinue, or abandon any county road or portion of a county road that borders on, crosses, is adjacent to, or ends at a lake or the general course of a stream and the Township, if applicable, or the Department of Natural Resources decides to maintain the road as a public access site, it shall convey by Quit Claim Deed or relinquish jurisdiction over the property if the interest is non-transferable to the Township or the State.

If the Township or DNR decline to take the road over, the right-of-way shall pass to the surrounding property owners. See MCL 224.18.

In a platted area, the Road Commission cannot abandon the right-of-way; however it can relinquish jurisdiction of the right-of-way.

6. When the legal description has been approved by the county highway engineer, the petitioner must then complete Parts II - IV of the petition documents, supply all requested documents, a "last owners" title search and, possibly, a survey, as follows:
 - a. Name(s) of requesting petitioner – individual, husband and wife (marital status), address and telephone number.
 - b. The petitioner shall pay a deposit of **Seven Hundred Fifty and 00/100 Dollars (\$750.00)** to the Dickinson County Road Commission which shall be a minimum payment. Depending on the complexity of the matter and the amount of Dickinson County Road Commission's attorney time, fees will, in all likelihood, be higher. Any additional fees owing must be paid before documents will be released by the Dickinson County Road Commission. Any additional fees will be billed to the petitioner. If the Board determines that a special public hearing on the petition is necessary, the petitioner will be billed accordingly.
 - c. The petitioner must describe the road in general terms or by any name by which it is known and must specifically describe that portion of the road which the petitioner seeks to have abandoned. The petitioner shall state why the described portion of the property should be abandoned and how the public will benefit from the abandonment. The petitioner may also provide a drawing.

- d. The petitioner shall indicate whether the property to be abandoned is:
- Roadway
 - Alley way
 - Right-of-way
 - Platted
 - Unplatted
- e. The petitioner shall obtain the signatures of the owners (freeholders) of seven (7) parcels of property within the township in which the proposed abandonment is located together with their correct mailing address, a copy of each of the **OWNER'S** deed and parcel information sheet of the property they own in the township. If property is held by a husband and wife or jointly among others, the husband and wife and/or all joint owners together represent one freeholder and all must sign to constitute one parcel. Moreover, if property is held in the name of a husband or wife solely, the other spouse must still join in signing. If the property is in a recorded subdivision, use the name of the subdivision and lot number(s). You should acquire copies of all deeds and parcel information sheets for each freeholder along with the required signatures before ordering a last owners policy. Copies of deeds are available for a cost from the Dickinson County Register of Deeds. Note: An abutting landowner may also serve as a freeholder.
- f. A "last owners" title search prepared by a Title Insurance Company, addressed to the Board of County Road Commissioners of the County of Dickinson, listing the names and addresses of all the title holders of record of all parcels **ABUTTING** the area/roadway sought to be abandoned, and the search shall be effective not more than twenty (20) days prior to the date the completed petition and all required documentation is submitted to the Board of County Road Commissioners.
- g. The petitioner shall also provide a true and correct list of the names and mailing addresses of the owners and occupants of each parcel of the land **abutting** the proposed abandonment, together with a copy of each **abutting** owner's deed and the parcel information sheet of each **abutting** parcel. Occupants shall include those persons acquiring title to the abutting parcel under terms of a land contract or a lease and includes tenants and renters. Occupants shall be identified with the description of the abutting parcel they occupy. The title company may be able to provide you with a copy of the abutting landowner's deed as part of the "last owners" title search
- h. The petitioner shall attempt to obtain the signatures of the owners of record and occupants of the land abutting the proposed property to be abandoned. All owners must be asked to sign even if they do not reside upon the land abutting the property to be abandoned. Occupants shall include those persons acquiring title to the abutting parcel under terms of a land contract or a lease and includes tenants and renters. If property is held by a husband and wife or jointly among others, the husband and wife and/or all joint owners together represent one landowner and all must sign to constitute one abutting parcel. Moreover, if

property is held in the name of a husband or wife solely, the other spouse must still join in signing. If there should be objection to signing the document by any landowner or occupant, indicate “refused to sign” on that line on the form and attempt to obtain the other required signatures. Please note that all signatures should be obtained in a timely fashion, remembering that the “last owners” title search on abutting owners must be dated within twenty (20) days of the return of your petition and all required documentation. Therefore, do not order your “last owners” title search until you have completed all of the above steps.

- i. If the petitioner obtains all the signatures of the abutting landowners and occupants, the petition for abandonment may be considered at a regular board meeting and a special public hearing on the petition may not be necessary.
 - j. If the petitioner is unable to obtain the signature of one or more abutting landowners or occupants, then a notice of a special public hearing on this petition will be sent to all the abutting owners of record and abutting occupants by the Dickinson County Road Commission and a public hearing shall be held by the Board.
 - k. Note: If an abutting property owner of record is deceased, an abandonment request may or may not proceed depending on the circumstances. In these instances, the petitioner shall consult with the Road Commission and a determination will be made after consultation with its attorney.
 - l. Lastly, the petitioner(s) shall acknowledge that the completed application package is truthful and accurate by signing an Oath & Affirmation before a notary public prior to its submission to the Road Commission.
7. Upon the Dickinson County Road Commission’s receipt of the legal fee deposit, the completed application package from the petitioner and the “last owners” title search, the Road Commission will present the documentation to its attorney. The attorney for the Dickinson County Road Commission will review the documentation and information provided by the petitioner in a timely manner. However, depending on schedules, the review by the attorney may take a month to complete. A need for further documentation or information from the petitioner will add additional time to this process. As stated above, if the signatures of all the abutting landowners and occupants have been obtained as verified by the “last owners” title search, the County Board may determine, at one of its regularly scheduled board meetings, without a public hearing, the advisability of such abandonment after its attorney has approved the completed application package and presented it to the Board at the first available regular monthly board meeting. However, be advised that the Board can require a public hearing, if deemed in the best interest of the public, even if all of the abutting landowners and occupants have signed the document consenting to the abandonment.

8. If the Board grants the abandonment as requested at one of its regularly scheduled board meetings, a Resolution will be drafted by the Dickinson County Road Commission attorney and presented to the Dickinson County Road Commission Board for adoption at the next regular monthly meeting. After movement for adoption, the document will be signed by the Road Commission Board and recorded with the Dickinson County Register of Deeds. Once recorded, a recorded copy shall be submitted to the State Transportation Commissioner of the Michigan Department of Transportation in Lansing, Michigan, within thirty (30) days which will finalize the abandonment. The total costs of the abandonment proceedings including miscellaneous costs, including but not limited to, recording and publications, will be tabulated and, if required, a final invoice will be generated to the requesting party. Documents will not be provided to the petitioner until the invoice is paid in full.

9. If the petitioner has not obtained the signatures of all the abutting landowners and occupants, the petitioner should return the documents and all of the required signatures the petitioner has been able to obtain to the Road Commission. The Dickinson County Road Commission staff will:
 - Present this issue to the Road Commission Board at the next scheduled meeting.
 - Issue a written notice of a public hearing appointing a time and place of hearing within twenty (20) days after the Board of County Road Commissioners receives a completed application package from petitioner with required documentation.
 - Serve notice, by first class mail, on all abutting landowners and occupants at least thirty (30) days prior to the hearing.
 - Pursuant to MCL 224.15(5), notice shall also be served upon the township within which the road is situated, the state transportation department, and the Department of Natural Resources if the action concerns any county road or portion of a county road that borders on, crosses, is adjacent to, or ends at a lake or the general course of a stream, and the proposed action would result in the loss of public access.
 - If the owner does not reside upon the land, or the owner of record or occupant cannot be found within the county in which the land is situated, the notice to the owner of record or occupant of the land shall be served by posting in three (3) public places in the Township in which the road is situated and by publication in a newspaper circulated within the county, thirty (30) days before the time of a hearing.
 - Notice shall be served upon railroad companies by leaving a copy with the agent in charge of any ticket or freight office of the company operating the railroad, on the railroad line.
 - The Department of Natural Resources and the township or municipality within which the road is situated shall review the petition and determine within thirty (30) days whether the property should be retained as an ingress and egress point.

10. Upon service of the notice required above, and before any further proceedings are held, the clerk for the Dickinson County Road Commission shall make and attach to the notice, or a copy of the notice, an affidavit stating the time and manner of service, which shall be by first-class mail, and by posting and advertising as necessary. In addition, if service is upon a railroad company, the affidavit shall so state and shall specify the agent upon whom service was made. The notice and affidavit, together with an affidavit of publication if the notice was published, shall be attached to the petition, and the whole shall be present at the time of the hearing upon the petition. The Board of County Road Commissioners may designate, in its sole discretion, an employee as hearing examiner to hold the hearing upon the petition. After the hearing, the examiner shall report all findings of fact to the Board.
11. The Board of County Road Commissioners or the superintendent or engineer employed by the Board shall view the premises described in the petition and notice, and the Board shall ascertain the necessity or advisability of absolutely abandoning and discontinuing the road pursuant to the petition.
12. The public hearing will be for the purpose of providing the involved individuals and other members of the public the opportunity to present their opinions to the Dickinson County Road Commission Board. All written correspondence received prior to or at the hearing by the Dickinson County Road Commission will be read into the record by the clerk. Also, verbal comment is received from the audience in attendance at the hearing.
13. After all public comments have been received and reviewed by the Dickinson County Road Commission Board, it will make the final determination as to the necessity or advisability of absolutely abandoning and discontinuing the road pursuant to the petition.
14. As stated in paragraph 8, if the Dickinson County Road Commission Board grants the abandonment as requested, a Resolution for Abandonment will be drafted and presented to the Road Commission Board for adoption. After movement for adoption, the document will be signed by the Road Commission Board and recorded with the Dickinson County Register of Deeds office, which will finalize the abandonment.
15. Notice of the Dickinson County Road Commission Board's determination must be given by the clerk to the supervisor of each Township and the highway authorities.
16. Within thirty (30) days of adopting a Resolution for Abandonment, the Dickinson County Road Commission must file a record with the state Department of Transportation. Fees over and above the deposit of \$750 are due prior to recording.
17. If the Dickinson County Road Commission Board denies the request for abandonment, there will be no further action required and the roadway will remain under the jurisdiction of the Dickinson County Road Commission. The petitioner remains responsible for all costs associated with the petition request.

Special Notes:

- Any request for refund of the legal deposit will be at the Dickinson County Road Commission Board's discretion and will be dependent on the costs incurred to date.
- The Dickinson County Road Commission reserves the right to discontinue abandonment procedures at any time due to the following situations: failure by the requesting party to provide proper payment, lack of progress on the abandonment procedures by the requesting party, violation of any of the terms or conditions presented in these procedures, or any circumstance beyond the control of the Dickinson County Road Commission.
- The Dickinson County Road Commission reserves the right to change or waive any of the above required procedures with the exception of those that are required by law.
- The Dickinson County Road Commission Board may reserve, and typically does reserve, an easement for public utilities within the right-of-way of any road, street or portion of right-of-way abandonment.
- When the public right-of-way consists 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.
- In a platted area, the Road Commission cannot abandon the right-of-way.

The requesting party is responsible for all costs incurred by the Dickinson County Road Commission in the processing of the requested abandonment.

Adopted by the Board of the Dickinson County Road Commission, Wednesday, February 12, 2003, April 13, 2005, and _____, 2015, as part of Roadway Policy No. 7, Amendments No. 4, No. 5 and No. 6 – Abandonments.