

**ROAD COMMISSION FOR MONTCALM COUNTY**  
**PROCEDURES TO ABANDON/VACATE PUBLIC RIGHT-OF-WAY**

1. The Road Commission for Montcalm County has authority, pursuant to MCL S224.18, MSA S9.118 to abandon all or part of a county road. The following procedures must be followed in order to abandon a road or a portion of a road right-of-way.
2. If there are buildings along the road in question, seven or more freeholders of the township in which the road, or that portion which is to be abandoned, is located must petition the Road Commission to abandon the road.
3. The petition 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 they seek to have abandoned.
4. 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 the road to be abandoned and must be certified (under oath) by one of the persons making the petition.
5. 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. (Note: The Board's policy in this regard is that if the Board reviews the request and does not feel the road should be abandoned, it will make that determination without a public hearing. However, if the Board feels that it may consider the request, a public hearing will be scheduled regardless of whether or not all abutting land owners have signed the petition).
6. If the petition for abandonment does not contain the names of all of the abutting land owners, the Road Commission must:
  - Issue a written notice stating the object of the petition.
  - Appoint a time and place for a public hearing.
  - Serve notice, by first class mail, on all abutting landowners and township officials at least ten days before the hearing. The Road Commission must also publish a notice of said hearing 10 days prior to the hearing and post a notice of said hearing in 3 public places within the township.
  - Serve notice upon any abutting railroad company.
7. Prior to abandoning the road the Board of County Road Commissioners, or their representative, must view the road described in the petition.
8. The Road Commission must determine, at the time of the passage of any resolution abandoning the road, if the abandonment is in the best interest of the public.
9. The vote of the Road Commissioners in respect to such determination shall be taken by a roll call vote.
10. The vote must be entered at large on the Road Commission's records.
11. The Road Commission must cause a true copy of the resolution, which shall contain an accurate description of the lands so abandoned, to be recorded in the office of the Register of Deeds.

12. Notice of the Road Commission's determination must be given by the Clerk to the Supervisor of each township and the highway authorities for each city or village in which the road, or any part thereof, is situated.
13. Notice of the Road Commission's determination must also be published in a newspaper printed and circulated in the county once in each week for three successive weeks. If there is no established printing office within the county, the Road Commission may advertise in a newspaper published in an adjoining county. An affidavit of publication shall be filed with the Road Commission's Clerk.
14. Within 30 days of making their decision, the Road Commission must file a record with the State Department of Transportation.

**Miscellaneous Notes:**

1. When a road in an unplatted area is abandoned, the right-of-way is automatically returned to the abutting property owners, because in an unplatted area property owners already own and pay taxes to the center of the right-of-way.
2. In a platted area, the road commission cannot abandon the right-of-way; however, it can relinquish jurisdiction of the right-of-way to the township. The township can then determine whether or not the right-of-way should be abandoned. Until such time that the township abandons the right-of-way, it remains public. If the township abandons the right-of-way, 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 property owner's expense. (Note: The person requesting abandonment in a platted area may go directly through Circuit Court without going through the road commission and/or township; however, all abutting property owners, the township, the road commission and utilities must be notified, in writing, by the requestor's attorney prior to the Circuit Court making a determination).
3. If the right-of-way in a platted area falls within 25 meters (82.5 feet) of a body of water, the request to abandon **must** go through Circuit Court—the road commission and/or township **cannot** abandon platted right-of-way within 25 meters of a body of water.

**Fees**

The Road Commission incurs various expenses, e.g. on-site review, research of documents, public hearings, copies, mailings, postage, four newspaper advertisements and filing fees when taking action on a road abandonment request. Based on actual costs, the Board has set a fee of \$450 for road abandonment requests—this fee must be paid at the time the petition for abandonment is presented.

**PETITION TO ABANDON & VACATE PUBLIC ROAD RIGHT-OF-WAY**

**WE, THE UNDERSIGNED**, as freeholders of property in \_\_\_\_\_ Township, Montcalm County, Michigan, hereby request that the Road Commission for Montcalm County abandon and vacate the following:

Name of Road:

Description of Road:

<u>Date</u>	<u>Signature</u>	<u>Address</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

I, \_\_\_\_\_, HEREBY CERTIFY THAT THE ATTACHED CURRENT TAX ROLL WAS ASCERTAINED FROM THE MONTCALM COUNTY EQUALIZATION DEPARTMENT. I ALSO CERTIFY THAT I HAVE HIGHLIGHTED ALL THE LANDOWNERS' NAMES THAT ABUT THE PUBLIC ROAD RIGHT-OF-WAY THAT I AM PROPOSING TO BE ABANDONED. I OBTAINED THIS INFORMATION ON \_\_\_\_\_.  
(Date)

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE