

## **CARROLL COUNTY BOARD OF SUPERVISORS**

### **POLICY REGARDING ABANDONMENT OF PUBLIC ROADS WITHIN THE VIRGINIA SECONDARY HIGHWAY SYSTEM, AND ROADS NOT MAINTAINED BY THE VIRGINIA DEPARTMENT OF TRANSPORTATION**

Any owner of land which is adjacent to or has access from any public road within Carroll County which public road is within the secondary highway system, or which is not maintained by the Virginia Department of Transportation or any person or entity, public or private, may file a written Petition to the Carroll County Board of Supervisors (the "Board"), seeking the abandonment of such road or a portion thereof by complying with the following procedure:

- a. The Petition shall be in the form approved by the Board and shall include the name(s), current addresses and phone numbers of the petitioners, their interest in seeking abandonment of the road and the location of their property in relation to the road or portion of the road requested to be abandoned. The Petition, along with all supporting documentation, certifications, and application fees shall be submitted to the Carroll County Office of Land Use and Planning. No abandonment shall be considered by the Board of Supervisors unless 80% of the adjacent landowners and those utilizing the road or portion thereof for access from a state maintained road to their property joins in the Petition for abandonment. In addition the Petition shall include the following:
  - i. The names, current addresses and phone numbers of all persons or entities owning land adjacent to the roadway sought to be abandoned, or in the case of a request for abandonment of a portion of a roadway, those persons or entities owning land adjacent to the portion of such roadway for which abandonment is sought;
  - ii. The names, current addresses and phone numbers of all persons or entities currently utilizing the roadway in question for access to other public roads via rights of way, driveways, or other recorded or unrecorded easements;
  - iii. A copy of a recorded plat or other document(s) depicting and describing the road or portion thereof for which abandonment is sought;
  - iv. Photographs of the road or portion thereof for which abandonment is sought, depicting the current state of repair, use and environs;
  - v. The identity and location of any and all alternative routes for access to the properties currently served by the road or portion thereof for which abandonment is sought.
  - vi. The factual basis supporting the petitioner's request for abandonment. Specifically, the Petition must demonstrate that no public necessity exists for the continuance of the road or section thereof as a public road, and that the safety and welfare of the public would be served best by abandoning the road or section thereof.
  - vii. The Petition shall be verified by the petitioner under oath.

- b. Upon filing of a petition for abandonment with the County, the matter shall be reviewed by the County staff, and upon completion of such review, placed upon the agenda of a Board meeting for initial consideration by the Board with a staff recommendation. Upon initial consideration, the Board will determine whether to accept the Petition and proceed to public hearing or to reject the petition. Acceptance of the Petition at this stage does not constitute approval of abandonment of the public road or any portion thereof. Upon determination of the Board to accept the Petition and proceed to hearing the Board will set a date for public hearing on the Petition and the petitioner will be notified and shall then pay the application fee and comply with this policy and the applicable provisions of law to conduct the public hearing before the Board. No Petition not accepted by the Board shall be re-filed for a period of one (1) year after rejection.
- c. Application Fee: There is imposed upon a petitioner an application fee of \$100.00 to defray the County's administrative costs and fees incurred in reviewing and evaluating the Petition, which application fee is due and payable within ten (10) days from notification that the Board has accepted for hearing the Petition. Failure to pay such fee within such time will cause the County to cease further consideration of the Petition.
- d. Public Notice: Upon notification that the Petition has been accepted for public hearing petitioner shall give public notice of the Petition for abandonment and the public hearing before the Board in the following manner:
  - i. By posting or causing to be posted a notice of such Petition and the date, time and place of the public hearing thereon at the front door of the Carroll County Courthouse at least three days before the first day of a regular term of the Carroll County Circuit Court; and
  - ii. By posting notice of such Petition and the date, time and place of the public hearing thereon for at least thirty days prior to the date of the public hearing at least three places on and along the road or portion thereof sought to be abandoned; and
  - iii. By providing to the County the public notice required to be published of the date, time and place of the public hearing thereon in two or more issues of a newspaper having general circulation in Carroll County; and
  - iv. By mailing a notice of public hearing via certified United States Mail, return receipt requested, to all persons or entities owning land adjacent to the roadway or portion thereof sought to be abandoned, and to all persons or entities currently utilizing the roadway in question for access to other public roads via rights of way, driveways, or other recorded or unrecorded easements.
  - v. In the event that the road or portion of road to be abandoned is part of the state secondary system of highways, by giving written notice of the Petition and the date, time and place of the public hearing thereon to the Commonwealth Transportation Board or the Commissioner thereof; and,

- vi. By complying with any other applicable requirements imposed by the laws of the Commonwealth of Virginia or ordinances of Carroll County concerning abandonment of public roads

All notices required hereunder shall be upon the form provided by the County and shall state that a petition has been filed with the Board of Supervisors to declare the road or section thereof abandoned altogether as a public road, and shall fully describe the road or portion thereof sought to be abandoned.

- e. Multiple Jurisdictions: In any case in which the road proposed to be abandoned lies partially within Carroll County and partially within another county, the Petitioner shall be required to make a petition to such other county for abandonment of the portion of road lying within such county, and any approval for abandonment given by the Board shall be expressly contingent upon the approval of the governing body of such other county.
- f. Publication: In addition to the Application fee, the petitioner shall be responsible for paying the County's costs incurred for publishing, in at least two issues of a newspaper having general circulation in the County, a notice of public hearing to consider the requested abandonment. The County Administrator or other agent of the county shall advise the Petitioner of the requisite costs, and upon payment by the Petitioner of such costs, shall request publication of the required notice.
- g. Certification and Affidavit: The petitioner shall, prior to any public hearing or vote on the requested abandonment, present to the Board of Supervisors an affidavit signed under oath, certifying that all steps required of the Petitioner under this policy have been complied with. The affidavit shall include as attachments photographs documenting the posting of the notices required under this policy.
- h. Incomplete Compliance or Documentation: Complete documentation and compliance with each and every requirement of this procedure shall be mandatory. In the event that the Petitioner has failed in a timely manner to provide the requisite documentation, fees or has failed to timely provide notice as required herein the Board may, in its discretion, reject the petition or postpone the public hearing and require the Petitioner to cure any deficiencies in documentation and notice. In the event of such postponement, the Petitioner may be required to pay additional fees to offset the County's additional costs in reviewing and verifying compliance with the requirements set forth herein and additional costs of advertising.
- i. Public Hearing: For accepted Petitions the Board will, after receipt the requisite fee(s) and documentation certifying compliance with all of the foregoing requirements, hold a public hearing to consider the requested abandonment. If, after the public hearing, the Board of Supervisors is satisfied that no public necessity exists for the continuance of the section of the secondary road as a

public road, or that the safety and welfare of the public would be served best by abandoning the road, it shall enter, in compliance with Virginia Code § 33.1-151, an order on its minutes abandoning the road or section of road, and thereupon such road or section thereof shall cease to be a public road.