

ROAD LICENSE TO CROSS POLICY

ITASCA COUNTY LAND DEPARTMENT

Effective date: September 22, 1992

PURPOSE:

There are many incidental roads on tax-forfeited lands; including those roads constructed, acquired, maintained, or administered by the County for the purpose of managing tax-forfeited lands; that are not public roads, but exist to facilitate management of tax-forfeited lands for timber and wildlife, and to provide incidental public benefit. Itasca County does not maintain these incidental roads beyond what is necessary for land management, and does not guarantee that any such road will remain open for public vehicle use. The public is allowed to drive vehicles on these incidental roads as they exist, when such use does not conflict with management for public use of that land. Some private landowners use these incidental roads across tax-forfeited lands to access their property with motorized vehicles on a regular basis. These landowners differ from other road users because they tend to mistakenly expect that:

1. These incidental roads should remain permanently open to the landowner for access to their land.
2. These incidental roads should not be damaged by loggers and land management contractors, especially in cases where the landowner has invested money in maintaining the road.
3. The County should do the necessary maintenance on these incidental roads to keep them passable for the landowner's use.

Therefore, the Itasca County Board has created this road license to cross policy. The purpose of this policy is to:

1. Identify those incidental roads across tax-forfeited lands that will be managed as accesses to private lands.
2. Inform landowners of the terms for using these incidental roads to access their lands.
3. Minimize additional costs to taxpayers by recovering the costs incurred by Itasca County for management of such road use on tax-forfeited lands.

APPLICABLE- STATUTES:

H.S. 282.04, Subdivision 1, 4, and 5.

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POLICY:

1. A road license to cross may be issued to access private lands across tax-forfeited lands when:
 - a) No other reasonable route is available.
 - b) Such a license does not significantly reduce public benefits from that land.

A road license to cross will not be issued on Land Department gated "system" roads.

2. A road license to cross tax-forfeited lands shall be required when:
 - a) New road construction is done on tax-forfeited lands to gain recurrent access to private land.
 - b) Road maintenance is done on tax-forfeited lands to provide suitable recurrent access to private land.
 - c) The landowner desires a written agreement with the County for access across tax-forfeited land to the landowner's land.
 - d) The landowner desires that road damage caused by the County, its agents or contractors (the general public does not constitute an agent of the County), be the responsibility of the County.

When more than one ownership of land is accessed by the same road or portion of road, a separate license shall be granted for each ownership of land.

3. Road construction and maintenance activities under such license shall not exceed 33 feet in width without written approval by the Land Commissioner.
4. Road must be constructed and maintained in a manner that prevents erosion and minimizes the loss of public benefits, as is required on logging and other forest management roads of similar standard. Road location must be approved by the Land Commissioner.
5. License must cover the entire length of roadway over all tax forfeited lands crossed to gain access from an established public road (e.g. County or township road), unless the Land Commissioner approves otherwise. Public water access roads, lease lot access roads, Land Department "system" roads,

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timber access roads, primitive roads and forest roads upon tax-forfeited land, and similar roads shall not be considered "established public roads" under this policy.

6. The roads licensed under this policy cannot be gated on tax-forfeited land without written approval by the Land Commissioner. Such approval may be given only on new roads, or when it is in the public's best interest (e.g. when tax forfeited land provides a safer gating location). Such gating must meet the requirements of the "Road Closure Policy" passed by the County Board on February 23, 1988.
7. Fees for road licenses across tax-forfeited lands shall be as follows:
 - a. Requests for a road license must be accompanied by a non-refundable application fee of \$100 plus \$50 per 1/4 mile.
 - b. If the license is approved, licensee must pay:
 - (1) An additional \$100 administrative fee plus \$50 per 1/4 mile.
 - (2) Market value for land under license.*
 - (3) Site damages (timber, forest regeneration, etc.)
 - (4) Recording fee.
 - (5) Other costs (if any).
 - * Land value must be paid only for new roads and roads previously not open to public highway vehicle traffic. On existing roads open to public highway traffic, land value must be paid only when the licensed width is increased to exceed thirty (33) feet in width. In such cases, the land value must be paid only for the additional width.
 - c. The transfer fee for road licenses shall be as follows:
 - (1) Application Fee = \$25
 - (2) Processing Fee = \$25
 - (3) Recording Fee = current rate
8. This right and privilege shall expire upon the termination of the period of ten (10) years unless earlier terminated as herein provided. The right and privilege may be renewed for another ten (10) years at the request of the Grantee at the time of expiration and shall be in compliance with Chapter 282.04, Subd. 4, Minnesota Statutes. The 10-year renewal fee shall be the same as the fee for existing roads.

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9. All roadway construction and maintenance desired by the Grantee or required by the Grantor pursuant to the terms of this agreement, shall be the responsibility of the Grantee without any cost to the County except that road damage caused by the Grantor, its agents or contractors (the general public does not constitute an agent of the Grantor), shall be the responsibility of the Grantor without any cost to the Grantee. Any merchantable timber cut by the Grantee on the abovementioned right-of-way will be paid for by the Grantee at prevailing timber prices.
10. The roadway which is the subject of this license shall be open for public use as long as this license is in force.
11. The Grantee must provide the County with a large scale map showing the road location at an accuracy acceptable to the Land Commissioner. The map attached to the road license agreement is intended to show the approximate location of the road under license. The County does not guarantee the accuracy of this map, and the Grantee relies upon the same at their own peril. In the event that the Grantee desires or needs a survey, such survey shall be at the sole expense of the Grantee.
12. The Grantee shall indemnify and hold the Grantor harmless from any and all liability for injury to or death of the Grantee, its agents, guests, or invitees, or destruction of or damage to the property of the Grantee, its agents, guests, or invitees in any manner arising from or out of the existence, condition, operation, or use of the roadway by the Grantee, its agents, guests or invitees.

The Grantee shall indemnify and hold the Grantor harmless from any and all liability for injury to or death of persons or loss or destruction to or damage to property intentionally caused by the Grantee, its agents, guests, or invitees. Intentionally means the actor either has a purpose to do the thing or cause the result specified or believes the act performed by the actor, if successful, will cause that result.
13. The license may be cancelled prior to the expiration of its term by resolution of the County Board upon ninety (90) days written notice addressed to the record owner of the license at its last known address for any substantial breach of the

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terms of this agreement or if at any time its continuance will conflict with the public use of the land, or any part hereof, on which it is granted.

14. The license shall not be assignable by Grantee without the written consent of the Land Commissioner.
15. The agreement shall inure to the benefit of and be binding upon the heirs and assigns of the parties hereto, if any.
16. The County, at the discretion of the Grantee and subject to approval by the Land Commissioner, may install a sign with wording similar to that shown below at the beginning of the licensed roadway. Installation of this sign will only be permitted on licensed roadways or roads under easement. All costs for purchase, installation, and maintenance of this sign must be paid in advance by the Grantee.

LICENSED ACCESS ROAD TO PRIVATE LAND

Road is maintained by a licensed private landowner. This road is open to public vehicle traffic during good road conditions. Road user is liable for excessive road damage.

DO NOT BLOCK ROAD

17. When a landowner is required to obtain a license, but refuses to do so, the Land Commissioner may block the road with a gate or berm at a location that prevents highway vehicle use by the landowner, but provides minimal inconvenience to the public. Prior to the act of blocking or gating, the Land Commissioner shall notify the party in writing at least 60 days prior to the date of its intended action. The notice shall indicate to the party the right of the party to present its position to the County Board at its next meeting. Should the landowner agree to obtain a license after the road has been bermed, the landowner must also pay for all costs associated with the placement and removal of the berm as part of the license fee.
18. The County shall not manage any road or portion of road covered by this policy as an access road to private land unless that landowner has a road license to cross for that road.

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19. The Land Commissioner will act as the agent of the County Board in regard to approving and issuing road licenses. Additional terms may be added by the Land Commissioner as needed to protect the public's interest and the intent of this policy.

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Rev. June 22, 1993

Rev. June 28, 1994

Rev. January 23, 1996

Rev. September 24, 1996

Rev. February 24, 2004

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