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Shelby County, Iowa

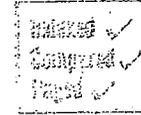
Filed for record October 14 1997

at 12:10 P.m. Instrument No. 2390-97

Linda Jacobsen, Registrar

Linda Jacobsen

SHELBY COUNTY ORDINANCE NO. 5
CLASS "C" ROADS



TITLE:

An Ordinance Establishing the Area Service "C" Road
Classification in Shelby County, Iowa

Section 1. PURPOSE

The purpose of this ordinance is to classify certain roads on the area service system in the county as Area Service "C" roads so as to provide for a reduced level of maintenance effort and restricted access, pursuant to Iowa Code Section 309.57.

Section 2. DEFINITIONS

For the use in this ordinance, certain terms or words used herein shall be defined as follows:

- A. Board: shall mean Board of Supervisors of Shelby County.
- B. County: shall mean Shelby County.
- C. County Engineer: shall mean the County Engineer of Shelby County.

Section 3. HOW ESTABLISHED

- A. RESOLUTION: Roads may only be classified as Area Service "C" by resolution of the Board upon petition signed by all landowners adjoining the road. The resolution shall specify the level of maintenance effort and the persons who will have access rights to the road. The resolution shall only allow access to the road to the owner, lessee, or person in lawful possession, to the agent or employee of the owner, lessee, or person in lawful possession, to public employee whose duty is to supervise the use or perform maintenance of the road.
- B. NOTICE OF ACTION: Before the Board may take action on a petition to establish an Area Service "C" road, a notice of the proposed action including the location of the Area Service "C" road and the time and place of the meeting at which the Board proposes to take action on the petition, shall be published as provided in Iowa Code Section 331.305 (1997).
- C. BOARD ACTION: At the meeting, the Board shall receive oral or written objections from any resident or property owner of the county. After all objections have been received and considered, the Board, at that meeting or a date to which it is adjourned, may take action on the petition after consultation with the County Engineer.

Section 4. ACCESS

Access to any Area Service "C" roads shall be restricted by means of a gate or other barrier, as determined by the County Engineer. The gate shall be purchased by the County, and installed and maintained by the adjoining landowners. If not so maintained, the County may remove the gate and reestablish the roadway as Level "B".

Section 5. SIGNS

Area Service "C" roads shall have signs conforming to the Iowa State Sign Manual installed and maintained by the County at all access points to Area Service "C" roads from other public roads, to warn the public they area entering a section of road which has a lesser level of maintenance effort than other public roads, and to warn the public that access is limited.

Section 6. TRESPASS

Entering an Area Service "C" road without justification after being notified or requested to abstain from entering or to remove or vacate the road by any person lawfully allowed access shall be a trespass as defined in Section 716.7 of the Code of Iowa (1997).

Section 7. RECLASSIFICATION

A road with an Area Service "C" classification shall retain the classification until such time as a petition for reclassification is submitted to the Board or as otherwise noted in this ordinance. The petition shall be signed by one or more adjoining landowners. The Board shall approve or deny the request for reclassification within 60 days of receipt of the petition.

Section 8. POWERS OF THE BOARD

All jurisdiction and control over Area Service "C" roads shall rest with the Board, pursuant to the Iowa Code Section 309.67 (1997).

Section 9. EXEMPTION FROM LIABILITY

As provided in Iowa Code Section 309.57 (1997), the County and officers, agents and employees of the County are not liable for injury to any person or for damage to any vehicle or equipment which occurs proximately as a result of the maintenance of road which is classified as Area Service "C", if the road has been maintained to the level of maintenance effort described in the establishing resolution.

Section 10. REPEALER

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 11. SEVERABILITY CLAUSE

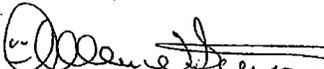
If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

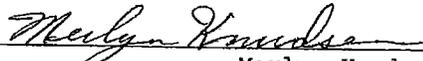
Section 12. WHEN EFFECTIVE

The ordinance shall be in effect after its final passage, approval and publication as provided by law.

Adopted and passed this 26th day of August, 1997.


Norman Mathiasen, Chairman


Allen W. Burchett


Merlyn Knudsen

ATTEST:




Marsha J. Carter

STATE OF IOWA

SS:

COUNTY OF SHELBY

On this 26th day of August, 1997, before me, the undersigned, a notary public in and for said County and State, personally appeared Norman Mathiasen, Allen W. Burchett, Merlyn Knudsen, and Marsha J. Carter, to me personally known, who being by me duly sworn, did say that they are the Chairman and Members of the Board of Supervisors and Secretary to the Board of Supervisors and County Auditor respectively, for said County; that the seal affixed thereto is the seal of said County; that said instrument was signed and sealed on behalf of said County by authority of its Board of Supervisors and that said Norman Mathiasen, Allen W. Burchett, Merlyn Knudsen, and Marsha J. Carter as such officers acknowledged the execution of said instrument to be the voluntary act and deed of said County by it and by them voluntarily executed.



Ann E. Wolken

Notary Public