

SHELBY COUNTY ORDINANCE NO. 1999-7
PERTAINING TO THE USE OF THE ROAD RIGHT-OF-WAY

SECTION 1.: Purpose. The purpose of this ordinance is to establish a policy, procedure, and penalty for the improper use of County Road Right-of-Way.

SECTION 2: Definitions. For use in this ordinance, certain terms or words used herein shall be interpreted or defined as follows:

1. "Road right-of-way" shall mean the area in which the County holds an easement for roadway purposes on secondary roads within Shelby County.
2. "Improper use of road right-of-way" shall mean those activities specified in Section 5 of this ordinance or any other use of the road Right-of-Way not specifically provided for by law.
3. "Board" shall mean the Board of Supervisors of Shelby County.
4. "Engineer" shall mean the County Engineer of Shelby County.
5. "County" shall be Shelby County or its authorized representative.

SECTION 3: Powers of the Board. All jurisdiction and control of the items provided for in this ordinance shall rest with the Board.

SECTION 4: Authority. The Board is empowered under the authority of Chapter 319, Section 13 of the 1997 Code of Iowa to remove obstructions from the right-of-way, and this ordinance shall in no way limit the County's rights, powers, and responsibilities as set forth in said chapter. This ordinance shall not prevent the landowner from harvesting, from July 15 to September 1, the grass grown on the road right-of-way along the landowners land as provided for in chapter 317, Section 11, of the 1997 Code of Iowa except for vegetation maintained for highway purposes as part of an integrated roadside management plan which is consistent with the objectives in Section 314.22.

SECTION 5: Improper Uses of Right-of-Ways. It shall be unlawful for any person to use County right-of-ways for:

1. Grazing of animals
2. Row crop farming
3. Storage of hay
4. Spraying or mowing of posted areas
5. Disposal of trash or waste and/or burning of same
6. Soil borrow area
7. Storage/disposal of equipment

SECTION 6: Notice to Cease. The County shall provide a written Notice to Cease sent by certified mail to landowners and tenants found to be using the right-of-way in violation of this ordinance.

SECTION 7: Correction and Removal. The County shall allow 48 hours from the date of receipt of the Notice to Cease for removal of the objects from or the termination of the improper use of the road right-of-way. Objects shall be removed in a suitable manner as to not cause damage to the right-of-way.

SECTION 8: Penalty. It shall be considered a simple misdemeanor should the landowner or tenant fail to stop the use or remove the crops or other objects within the time specified. Each and every day after the notice has been give, in accordance with the ordinance, shall constitute a separate offense.

SECTION 9: Notice of Public Hearing. The Board shall fix a time and place for a hearing on this ordinance and cause notice to be published as provided by law. The notice shall state that all persons interested may appear and be heard at such hearing.

SECTION 10: Hearing and Adoption. On the day fixed for the hearing or any day to which the hearing has been adjourned, upon proof to its satisfaction made by Affidavit of Due Publication and posting of the Notice of Hearing, the Board shall consider any and all relevant evidence and if the Board finds this proposed ordinance practicable, it may establish it by proper resolution.

SECTION 11: Repealer. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 12: 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 ordinances as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 13: Effective Date. The effective date of this ordinance shall be January 1, 2000.

PASSED AND ADOPTED THIS 2ND DAY OF NOVEMBER 1999, BY THE SHELBY COUNTY BOARD OF SUPERVISORS.

SHELBY COUNTY BOARD OF SUPERVISORS

/s/ MERLYN KNUDSEN, Chairman

/s/ ALLEN W. BURCHETT

/s/ LAVON A. CHRISTENSEN

ATTEST: /s/ MARSHA J. CARTER, SHELBY COUNTY AUDITOR