

Ordinance No. 04/110

An Ordinance Establishing the Area Service "C" Road Classification
In Winneshiek County, Iowa [Amending Ordinance 99/72].

BE IT ENACTED by the Board of Supervisors of Winneshiek 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 (2003), as amended.

Section 2. **DEFINITIONS:**

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

- A. BOARD: shall mean the Board of Supervisors of Winneshiek County.
- B. COUNTY: shall mean Winneshiek County
- C. COUNTY ENGINEER: shall mean the County Engineer of Winneshiek County.

Section 3. **HOW ESTABLISHED:**

A. RESOLUTION: Roads may only be classified as Area Service "C" by resolution or ordinance of the Board. The resolution or ordinance shall specify the level of maintenance effort and the persons who will have access rights to the road. The resolution or ordinance shall only allow access to the road to the owner, lessee, or person in lawful possession of any adjoining land, or the agent or employee of the owner, lessee, or person in lawful possession, to the agent or employee of any public utility, or to any peace officer, magistrate, or public employee whose duty it 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 as 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 (2003).

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" road shall be restricted by means of a gate or other barrier, as determined by the County Engineer. The gate shall be purchased and installed by the County, and maintained by the adjoining landowners. If not so maintained, the County may remove the gate.

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 are 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 Code of Iowa § 716.7 (2003).

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. 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 Iowa Code § 309.67 (1997).

Section 9. EXEMPTION FROM LIABILITY:

As provided in Iowa Code § 309.57 (2003), 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 a 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:

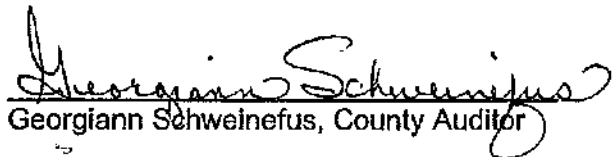
If any section, provision or part of this Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

Section 12. WHEN EFFECTIVE: The Ordinance shall be in effect after its final passage, approval and publication as provided by law.

Passed this 6 day of October, 2003.


Les Askelson, Chairman
Winneshiek County Board of Supervisors

ATTEST:


Georgiann Schweinefus, County Auditor



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