

AMENDMENT TO ORDINANCE #18

An ordinance establishing the Area Service "C" road classification in Appanoose County, Iowa.

BE IT ENACTED by the Board of Supervisors of Appanoose 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).

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 Appanoose County
- B. County: Shall mean Appanoose County
- C. County Engineer: Shall mean the County Engineer of Appanoose County.

Section 3: HOW ESTABLISHED

- A. RESOLUTION: Roads may be classified as Area Service "C" by resolution of the Board upon request by an adjoining landowner(s). 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 of 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: Upon a request, the County Engineer will prepare a petition, listing all property owners adjacent to the road segment, for the person requesting the change to get signatures. Upon return of the petition, the Board of Supervisors will evaluate the merits of the request and may decide to proceed. If all landowners did not sign the petition requesting the change, letters shall be sent by regular mail to all landowners adjacent to the road segment, requesting comments regarding the possible action. After fourteen (14) days the board may take action on a petition to establish and 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). This notice shall also be given to all adjacent landowners by certified mail, return receipt requested.
- 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, corner post, brace, and brace post, shall be purchased and installed by the county, and maintained by the adjoining landowners. If not maintained, the county may remove the gate. If locked, keys shall be provided to each adjacent landowner and the County Engineer.

Section 5. SIGNS

Area Service "C" road 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 the 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 (2003).

Section 7. RECLASSIFICATION

A road with and 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 the 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 (2003).

Section 9. EXEMPTION FROM LIABILITY

As provided in Iowa Code Section 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 the 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 1st day of March, 2008


Robert Pontious, Chairman, Board of Supervisors

Attest:

