

JOHNSON COUNTY ORDINANCE _____

AREA SERVICE SYSTEM B ROAD MAINTENANCE ORDINANCE

AN ORDINANCE ESTABLISHING THE AREA SERVICE SYSTEM B ROAD CLASSIFICATION AND MAINTENANCE POLICIES IN JOHNSON COUNTY, IOWA.

BE IT ORDAINED BY THE JOHNSON COUNTY BOARD OF SUPERVISORS:

SECTION 1. Purpose: The purpose of this Ordinance is to classify certain roads as Level "B" on the Area Service System in Johnson County to provide for a reduced level of maintenance.

Additionally, this Ordinance provides for re-instatement of Level B Roads to Level A maintenance. Typically, a Level B Road has minimal traffic and often serves only as field access. However, given changing land use, it may become necessary to upgrade the roadway and restore full service thereby requiring reclassification as a "Area Service System A Road".

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

Area Service System: Those public roads outside of municipalities not otherwise classified on the Secondary Road System.

Area Service System A Roads: Roads that are maintained in conformance with applicable state statutes. Such roads may also be referred to herein as "Level A Roads".

Area Service System B Roads: Roads that do not require standards of maintenance equal to Area Service System A roads. Area Service System B roads shall not mean what is construed in the normal sense as a driveway or private lane to a farm building or dwelling. Such roads may also be referred to herein as "Level B Roads".

Board: The Board of Supervisors of Johnson County.

Engineer: The County Engineer of Johnson County.

County: Johnson County.

SECTION 3. Powers of The Board: All jurisdiction and control over Area Service System B roads as provided by this Ordinance shall rest with the Board of Supervisors of Johnson County.

SECTION 4. Authority to Establish: The Board is empowered under authority of Iowa Code Section 309.57 (as may be amended hereafter) to classify secondary roads on the area system to provide for a reduced level of maintenance on roads so designated. The Board may, upon consultation with the Engineer, declare its intention to establish a road as an Area Service System B Road in Johnson County, and/or declare its intention to re-establish an Area Service System B Road in Johnson County, or portion thereof, to an Area Service System A Road. Accordingly:

1. The Board may, on its own motion, or upon recommendation of the Engineer, determine to establish a roadway or roadways, or portion thereof, as a Level B Road(s).

2. The Board may, on its own motion, or upon recommendation of the Engineer, determine to re-establish a roadway or portion thereof as an Area Service System A Road upon a finding that the proposed upgrade in service level is in the interests of the general public welfare.

3. The Board may, upon receiving a petition from at least 50% of the landowners owning property adjacent to an applicable Level B Road or segment, in consultation with the Engineer, determine to re-establish a roadway or portion thereof as a Level A Road. Such landowner(s) shall make their petition to the Engineer upon forms or format determined by the Engineer. Upon receipt of such application, the Engineer shall prepare an estimate of the costs to upgrade the road to Level A standards (e.g.: IDOT I.M. 3.210). The Engineer shall request a public hearing and provide such cost estimate, together with a recommendation either in support of or against such application to the Board, and a copy to the applicant. Upon hearing, the Board, in its sole discretion, may determine to grant the application or deny the application based on the feasibility, economic benefits, cost sharing proposed by the landowners, and other relevant factors associated with upgrading the Level B Road. Should the Board determine to grant the application, the Board may require as a condition of approving such upgrade from Level B to Level A Road, that the applicant(s) perform or assume the costs of performing all of the following:

a. Adjacent landowners must provide a minimum of 33 feet right-of-way, or as determined by Engineer to meet current design standards, to the County on each side of the centerline of the roadway and remove any fencing remaining within the new right-of-way area. Additional right-of-way may be required to meet the referenced design standards. Acquisition of such right-of-way shall be at no cost to the County, nor shall the County bear any responsibility for expenses or damages incurred.

b. No less than one half (1/2) of the costs of upgrading the road to a Level A Road, including, but not limited to granular surfacing, and culvert and/or bridge repair or replacement, as determined on a case-by-case basis by the Engineer in their estimate of costs to upgrade the road. The applicant shall provide said funds to the County prior to the commencement of work. Said funds shall be held in escrow, and shall be disbursed on not less than a monthly basis upon percentage completion of the work or restoring the road. The Engineer shall, together with the County Auditor, account for such funds and the disbursement thereof to the Board and to the applicant. Should the actual cost of upgrading the road to current Area Service System A standards be less than estimated, the County, upon completion of the work and accounting thereof, shall refund the pro-rata share to the applicant(s). Should the actual cost of restoring the road to current Level A Road system standards be more than estimated, the applicant shall not be required to further contribute, and the County shall bear the additional cost.

All Level B Roads to be re-established as Level A Roads, must be upgraded full length and must connect to a present Level A Road at each end of the road segment to be improved, unless otherwise approved by the Board. It is the policy of the County not to improve dead end roads at the request of a resident, landowner, or tenant. Upon the road improvements

being satisfactorily made to bring the road up to Area Service System A standards, the Board will reclassify the road.

SECTION 5. Notice and Hearing: The Board shall fix a time and place for a hearing for classification of a road(s) or portion(s) thereof as an Area Service System B Road, or for re-establishment of an Area Service System B Road to an Area Service System A Road, and cause notice to be published as provided by law for a normal public meeting of the Board. The notice shall set forth the termini of the affected road or portion thereof, and shall state that all persons interested may appear and be heard at such hearing.

SECTION 6. Hearing - Road Classification Established by Board Motion: On the day fixed for the hearing or any day to which the hearing has been adjourned, the Board shall consider any and all relevant evidence, and if the Board finds that the proposed Area Service System B Road(s) is/are practicable, it may so establish it by resolution. In the case of a proposed re-establishment to an Area Service System A Road, if the Board finds that such re-establishment is practicable, as set forth in this Ordinance, it may so re-establish, or re-establish with certain conditions, by resolution.

SECTION 7. Level B Maintenance Policy: Only the minimum effort, expense, and attention will be provided to keep Area Service System B Roads open to traffic. Bridges might not be maintained to carry legal loads, but will be posted as appropriate to advise of any load limitations and/or closures. For the various maintenance activities, the minimum maintenance on Area Service System B Roads (i.e. Level B Roads) will be as follows:

1. *Blading:* Blading or dragging will not be performed on a regular basis.
2. *Snow and Ice Removal:* Snow and ice will not be removed, nor will the road surface be sanded or salted.
3. *Signing:* Except for load limit posting for bridges, signing will not be continued or provided. NOTE: all Area Service System B Roads will be identified with a sign at all points of access from the Level A Road network to warn the public of the lower level of maintenance.
4. *Weeds, Brush, and Trees:* Mowing or spraying weeds, cutting brush, and tree removal will not be performed, and might not be sufficient to allow vehicular passage. Adequate sight distances will not be maintained.
5. *Structures:* Bridges and culverts might not be maintained to carry legal loads. Upon failure or loss, the structure might not be replaced, or might be replaced with a structure appropriate for the traffic thereon. In addition, the section of roadway involved will be reviewed by the Board to determine if the section of roadway will be vacated.
6. *Road Surfacing:* Surfacing materials might not be applied to Area Service System B Roads.
7. *Shoulders:* Shoulders will not be maintained.
8. *Crown:* A crown might not be maintained.
9. *Repairs:* Road repairs might not be made on a regular or timely basis.

10. *Uniform Width*: Uniform width for the traveled portion of the road might not be maintained.
11. *Inspections*: Regular inspections will not be conducted.
12. *Dust Control*: Dust control will not be provided.

Blading or dragging operations will cease at such time as vegetation growth encroaches over the road right-of-way to the point that it interferes with entry by the equipment necessary to perform this work. Individuals can make application to the County Engineer for a permit allowing these private parties to remove the vegetation. At such time as that work is complete and equipment can once again access the roadway, surface maintenance as previously described, will be resumed.

For purposes of this Section 7, the words “will”, “will not”, and “might not” have the following meanings:

- “Will” describes an activity to occur or be performed.
- “Will not” describes an activity that is not going to occur or be performed.
- “Might not” describes an activity that is possible but unlikely to occur.

SECTION 8. Other Maintenance: Nothing in Section 7 shall be construed to limit such other maintenance that the Engineer and Board may deem appropriate from time to time with respect to a Level B Road. Performing any such maintenance shall not be construed as a modification of the maintenance standards set forth in Section 7.

SECTION 9. Rock Surfacing of Area Service System B Roads; Snow Removal: Adjacent landowners on Level B Roads may apply for the road to be rocked to the driveway of their property at their expense as stated below. Rocking the road will not change the road’s level of service for snow removal, signing, maintenance blading, or otherwise, except as provided for in this Section 9. The landowner must apply to the Engineer’s office and be granted a permit to surface the Level B Road with gravel prior to any rock being placed, subject to any terms the County Engineer may reasonably require. The County may or may not prepare the road surface prior to rocking, and will not bill adjacent landowners for motor grader time used for preparing the road top for rock application (or reapplication). Landowners will notify the County at least 48 hours in advance of rock being hauled to the road or road segment.

1. **Rock on Level B Roads with Residential Domicile(s).** For those Level B Roads that are adjacent to property on which a domicile was located and occupied for use as a residence as of January 1, 2017, and remains so occupied continuously thereafter, the Engineer is authorized to approve or deny any such permit application based upon his or her professional judgment exercised in accordance with Iowa Code Chapter 309. A permit applicant under this subsection whose permit application is denied by the Engineer may seek review of the decision by the Board by filing a written request for review with the Engineer within ten (10) days of the date of the Engineer’s decision. A residential landowner granted a permit for rock surfacing must arrange to have the rock hauled. The Engineer will determine the classification and size of rock used. The applicant must pay the full cost of the rock, plus

hauling charges, but may seek reimbursement from the County for 50% of such expenses, except that the County will have no obligation to reimburse for amounts of rock surfacing in excess of that determined by the County Engineer to be sufficient for the length and condition of the road segment to be treated. Private haulers must maintain insurance policies in such amounts and lines of coverage as required in the rock surfacing permit.

2. Rock on Level B Roads without a Residential Domicile. For any Level B Road other than those serving a domicile as described in subsection 1, above, a landowner may apply for rock surfacing for all or part of a Level B Road that meets the conditions set forth below, and such application shall be reviewed and approved or denied by the Board of Supervisors in its sole discretion, upon consultation with the County Engineer. Any such Level B Roads for which a surfacing permit may be granted must meet the following minimum standards:

- a. Minimum right-of-way width shall be determined by the Engineer in order to provide adequate drainage and/or meet appropriate design standards, but shall not be less than 66 feet. If right-of-way is less than the minimum width, the landowner(s) may donate the additional needed right-of-way to the County for widening the road and must remove any fencing remaining within the new right-of-way at no cost to the County. Rights-of-way less than 66 feet in width will not be approved for rock surfacing under this subsection 2.
- b. All ditches must be of adequate size and grade to evacuate runoff from the road, right-of-way, and adjacent properties, without flowing over the road surface or ponding alongside the road to create locally soft areas. Adjacent landowners are to pay all costs for providing and/or restoring drainage to the roadway prior to surfacing. Culverts and bridges must be clear and not impede drainage. The judgment of the County Engineer on the adequacy of the right-of-way and roadbed will be final in this regard.
- c. Minimum road top width is to be 22 feet. If road top is narrower than 22 feet, the adjacent landowner(s) will pay all costs necessary to widen the road top to accommodate the road surfacing.
- d. All crossroad culverts and bridges must meet legal load and width requirements.

Upon approval of the road for initial surfacing by the Board of Supervisors under this subsection 2, or the approval of resurfacing by the County Engineer, the landowner may arrange to have the rock hauled in accordance with the rock surfacing permit. All costs of rock and hauling under this subsection 2 are the responsibility of the landowner.

3. Non-Liability for Rock Surface Repair or Maintenance. The County may, in the course of ditch maintenance, road surface maintenance, or otherwise, damage or cover the road surfacing placed by a landowner. The County shall not be liable for replacing any damaged or covered road surfacing material. Maintenance of the rock surface, that is additional rock being hauled to the road, will be the continuing responsibility of the landowner. The County will not undertake maintenance resurfacing on Level B roads except as set forth in this Section 9 and will not accept these roads into the County Area Service System A unless upgraded in accordance with the procedure established by this Ordinance.

4. Snow and Ice Removal. The Johnson County Snow and Ice Removal Policy, adopted March 31, 2011 and as amended in the future, will be followed unless discontinued by the County, which it may at any time. Snow removal will be provided in accordance with that policy for Level B Roads serving a domicile as defined in subsection 1, above, provided a rock surfacing permit has been approved for an applicable Level B Road segment within the five (5) years preceding a winter storm event necessitating snow removal, and vegetation growth does not encroach to the point that it prohibits entry by equipment necessary to perform this work.

SECTION 10. Exemption From Liability: As provided in said Iowa Code Section 309.57, 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 System B, if the road has been maintained as provided in Section 7 of this Ordinance.

SECTION 11. Additions to Area Service System. It shall be the policy of the Board not to accept any additional roads or streets into the County Highway System.

SECTION 12. Repealer: All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 13. 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 14. When Effective: This ordinance shall be in effect after its final passage, approval, and publication, as provided by law. This Ordinance replaces the existing ORDINANCE PROVIDING AREA SERVICE "B" ROAD CLASSIFICATION, Ordinance 02-08-90-1, approved on final consideration on February 8, 1990. All roads currently classified as Area Service System B Roads, retain their classification under this updated ordinance.

Passed and approved this ____ day of _____, 2017.

First Reading: _____
Second Reading: _____
Approved: _____
Published: _____