



SHELBY COUNTY ORDINANCE NO. 2016-2  
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 penalties 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, Iowa.
4. "Engineer" shall mean the County Engineer of Shelby County, Iowa.
5. "County" shall mean Shelby County, Iowa 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 318 of the 2015 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 landowner's land as provided for in Chapter 317 of the 2015 Code of Iowa except for vegetation maintained for highway purposes as part of an integrated roadside management plan which is consistent with the objections in Section 314.22 of the 2015 Code of Iowa.

SECTION 5: Improper Uses of Right-of-Ways. It shall be unlawful for any person to use County road 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, litter or waste and/or burning of same;
6. Soil borrow area;
7. Storage/disposal of equipment;
8. Placement/storage or disposal of manure or waste material;
9. Placement/storage or disposal of mud or dirt, crops or crop residue;
10. Placement/storage or disposal of snow or ice;
11. Placement of a fence; and
12. Placement/storage or disposal of any other items.

SECTION 6: Removal and Cost.

1. An obstruction in or use of a right of way which constitutes an immediate and dangerous hazard shall, without notice or liability in damages, be removed by the Board or its designee with the costs thereof assessed to the party responsible for the obstruction.
2. An obstruction in or use of a right of way not constituting an immediate and dangerous hazard shall be removed by the Board or its designee without liability after forty-eight hour notice served in the same manner in which an original notice is served, or in writing by certified mail, or in any other manner reasonably calculated to apprise the person responsible for the obstruction that the obstruction will be removed at the person's expense. The removal costs shall be assessed.
3. Upon removal of the obstruction, the Board or its designee may immediately send a statement of the cost to the person responsible for the obstruction. If within ten days after sending the statement the cost is not paid, the Board or its designee may institute legal proceedings to collect the cost of removal. The removal costs shall be assessed against the following persons, as applicable:
  - a. The vehicle owner in the case of an abandoned vehicle;
  - b. The abutting property owner in the case of a fence, other than right of way fence, or other temporary obstruction placed within the right of way by the owner, tenant or contractor of the abutting property.
  - c. The owner or person responsible for placement of any other obstruction.
4. All removals shall be without liability on the part of any officer ordering or effecting such removal.

SECTION 7: Penalty. Violation of this ordinance shall constitute a simple misdemeanor punishable by a fine of \$100.00 for a first offense and a fine of \$250.00 for second and subsequent offenses. Additionally, if a person is found guilty of violating this ordinance, the Court may, in addition to any fine imposed, or judgment for damages or costs for which a separate execution may issue, order that the obstruction be abated or removed at the expense of the defendant with the costs of abatement or removal entered as a personal judgment against the defendant or assessed against the property where the obstruction occurred, or both.

SECTION 8: 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 9: 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 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: Effective Date. The effective date of this ordinance shall be April 5, 2016.

PASSED AND ADOPTED THIS 5<sup>th</sup> DAY OF APRIL, 2016, BY THE SHELBY COUNTY BOARD OF SUPERVISORS.

Roger Schmitz  
Roger Schmitz, Chairman

Steve Kenkel  
Steve Kenkel

Charles T. Parkhurst  
Charles Parkhurst

Attest: Marsha J. Carter  
Marsha J. Carter  
Shelby County Auditor



STATE OF IOWA  
SS:  
COUNTY OF SHELBY

On this 5th day of April, 2016, before me, the undersigned, a notary public in and for said County and State, personally appeared Roger Schmitz, Steve Kenkel, Charles Parkhurst and Marsha J. Carter, to me personally known, who being duly sworn, did say that they are the Chairman and Members of the Board of Supervisors and the Clerk 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 Roger Schmitz, Steve Kenkel, Charles Parkhurst 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.

Julie A. Goetinger  
NOTARY PUBLIC



1 <sup>st</sup> Publication	<u>2-19-16 2-26-16</u>
2 <sup>nd</sup> Publication	<u>3-8-16 3-11-16</u>
3 <sup>rd</sup> Publication	<u>3-1-2016</u>
1 <sup>st</sup> Reading	<u>3-15-2016</u>
2 <sup>nd</sup> Reading	<u>4-5-2016</u>
3 <sup>rd</sup> Reading	
Final Publication	