

**SCOTT COUNTY ENGINEER'S OFFICE**

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JON R. BURGSTRUM, P.E.  
County Engineer

ANGIE KERSTEN  
Assistant County Engineer

BECKY WILKISON  
Administrative Assistant

**MEMO**

TO: Dee Bruemmer  
County Administrator

FROM: Jon Burgstrum  
County Engineer

SUBJ: Resolution Approving Policy and procedure for vacating Right of way

DATE: August 4, 2011

Our next step in our analysis of our Class "B" road system is to adopt a policy and establish a procedure for vacating right of way. The policy will comply with the Code of Iowa, Section 306 which describes all requirements regard establishing or vacating public right of way. As we continue with our analysis of this system we will identify which class "B" roads should be vacated and proceed as the new policy requires. We are also working on a policy to establish a procedure to convey the vacated right of way to the appropriate landowner(s).

**SCOTT COUNTY SECONDARY ROAD  
POLICY AND PROCEDURES  
FOR  
VACATION OF  
ROAD RIGHT-OF-WAY**

POLICY NO. I-29

SUBJECT: To establish a policy for vacation of right of way in Scott County.

LEGAL REFERENCES: Iowa Code Chapter 306.10, 306.11, 306.12, and 306.14.

POLICY: It is the policy of the Scott County Board of Supervisors and the Secondary Road Department to comply with the procedures identified in the Code of Iowa, Chapter 306 when it becomes necessary to vacate right of way under the jurisdiction of Scott County. All procedures as designated in the Code of Iowa Chapter 306, including notification and public hearing shall be adhered to.

APPROVED by the Scott County Board of Supervisors,

/s/ \_\_\_\_\_

Dated: \_\_\_\_\_

**SCOTT COUNTY SECONDARY ROAD  
POLICY AND PROCEDURES  
FOR  
VACATION OF  
ROAD RIGHT-OF-WAY**

**PURPOSE:** The County Engineer shall review the status of the county road system on a regular basis. The County Engineer shall when appropriate make a recommendation to the Board of Supervisors on the continued need of specific right of ways for use by the general public for travel purposes. At which time the County Engineer shall present to the Board of Supervisors the cost analysis and continued benefit to the public of the roadway and recommend proposal for vacation or closure of the right of way per this procedure.

**GENERAL:** The Scott County Board of Supervisors realizes the importance of following proper procedures when vacating County right of way to insure that the affected landowners are treated in a fair and consistent manner. The Board further realizes that the State of Iowa has legislation in place that establishes certain procedures regarding the vacation of right of way. It is therefore the policy of Scott County to follow the procedures that are identified in the Code of Iowa. The procedures described in the Scott County Policy for vacation of right of way shall be subject to any change that may be made in the Code of Iowa.

**PROCEDURES:** In proceeding to the vacation of a road or part thereof, the Scott County Board of Supervisors, shall fix a date for a hearing on the vacation of the road. If the road to be vacated or changed is a secondary road located in more than one county, the Boards of Supervisors of the counties, acting jointly, shall fix a date for a hearing on the vacation or change in either or any of the counties where the road, or part thereof, is located. If the proposed vacation is of

part of a road right-of-way held by easement and will not change the existing traveled portion of the road or deny access to the road by adjoining landowners, a hearing is not required. Notice of the hearing shall be published in a newspaper of general circulation in the county or counties where the road is located, not less than four nor more than twenty days prior to the date of hearing. The Secondary Road Department shall notify all adjoining property owners, all utility companies whose facilities adjoin the road right-of-way or are on the road right-of-way of the time and place of the hearing, by certified mail. Said notice shall state the time and place of such hearing, the location of the particular road, or part thereof, the vacation of which is to be considered, and such other data as may be deemed pertinent. After the hearing, the Board of Supervisors shall enter an order either dismissing the proceedings, or vacating the road, or part thereof, in which event it shall determine and state in the order the amount of the damages allowed to each claimant. The order thus entered shall be final except as to the amount of the damages unless the order is rescinded. A copy of the order, along with a property plat of the affected area, shall be filed with the county auditor of the county or counties in which the road or part thereof, is located. Any person owning land abutting on a road proposed to be vacated, shall have the right to file, in writing, a claim for damages at any time on or before the date fixed for hearing. However, for purposes of this chapter, if an occupied homestead is not located on the abutting land and if the vacating and closing of the road will not landlock the abutting land, a person shall not have a right to claim damages.

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(SAMPLE)

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**NOTICE OF HEARING**

The Scott County Board of Supervisors, acting under the authority of Chapter 306, Code of Iowa, proposes to vacate a section of Scott County Secondary road, described as follows:

A section of Right of Way to be vacated in Section IX, Township HH North, Range # in Scott County, Iowa being more particularly described as follows:

[PROPERTY DESCRIPTION]

A HEARING WILL BE HELD BY THE Scott County Board of Supervisors board room, Scott County Administrative Center, 600 W. 4<sup>th</sup> Street, Davenport Iowa 52801 at (time and date). Any interested person may appear to be heard. Any person owning land abutting on the road proposed to be vacated and closed have the right to file, in writing, a claim for damages at any time on or before the date and time set for the hearing. The claim must be submitted to the Scott County Board of Supervisors, 600 W. 4<sup>th</sup> Street, Davenport IA 52801.

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If you have any questions before the board meeting please call.

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Jon Burgstrum, P.E.  
Engineer