

**DELAWARE COUNTY SECONDARY ROAD DEPARTMENT
POLICY AND PROCEDURE MEMORANDUM**

SUBJECT: Road closure and vacation policy

A POLICY TO SET FORTH THE PROCEDURES FOR CLOSING AND VACATING COUNTY ROADS FOR DELAWARE COUNTY.

SECTION 1 -- PURPOSE

The purpose of this policy is to establish procedures for reviewing permanent road closures and vacation of county road right of way. Section 306.4(2) of the Code of Iowa vests jurisdiction over the secondary road system with the Board of Supervisors. Section 306.10 of the Code of Iowa empowers the Board with the authority to establish, alter, or vacate county roads by its own motion.

The permanent closure of roads and the vacation involves considerable expense and effort in staff review, hearing notification and publication, and time for county officials and property owners. Requests for road closures may be suggested by county supervisors or staff or by members of the public at large. Due to this expense and time investment in having a road closure hearing, future proposed road closures will be reviewed prior to scheduling hearings to review the closure. Closures suggested by staff and county officials receive scrutiny and discussion prior to scheduling a hearing. Closure requests generated by the public may not receive the same level of examination prior to these requests being submitted for consideration by the Board. Delaware County procedure for reviewing future potential closures is contained herein.

SECTION 2 -- ROAD CLOSURES RECOMMENDED BY STAFF OR BOARD MEMBERS

Recommendations for consideration of the closure and vacation of any road may be received from Board members or the County Engineer. The Board of Supervisors can, at any time, schedule a hearing to review closure of any county road classified local or area service. Closure of farm to market roads requires the road's reclassification as a local (area service) road prior to a closure and vacation of the road being able to proceed.

Official consideration of road closures recommended by county officials will take place at a scheduled meeting upon following proper notification and publication requirements as set forth in Sections 306.11, 306.12, and 306.13 of the Code of Iowa. The Board will consider all comments from all present at the meeting and will act in the best interests of the county to either close and vacate the road or maintain the road as a county right of way.

This policy does not address vacation of excess right of way where access to property and the traveled portion of the road are not affected by the vacation. New provisions were amended to Section 306.11 and 306.12 during the 2000 legislative session. Excess right of way may be vacated without a hearing when the vacation of said right of way does not change the traveled portion of the roadway and does not cut off access to adjacent landowners. The Board can choose to pursue vacations of this type at any time.

SECTION 3 -- ROAD CLOSURES REQUESTED BY THE PUBLIC

Delaware County citizens may request permanent closure of a county road and vacation of the road right of way. Normally, these requests should involve roads adjacent to the citizen's property and in which the citizen has an interest or a recognized use.

Requests for closure may be placed with the County Engineer's Office, or the County Board of Supervisors. All requests should be accompanied with a written petition describing the road to be

considered for vacation and signed by all adjacent or affected landowners. Adjacent and affected landowners are property owners who own property with frontage on the road proposed for closure or own land at each end of the road segment to be closed. Requests that are not accompanied by a petition signed by all affected and adjacent landowners may not be reviewed.

All qualifying requests will be given to the County Engineer for review. The County Engineer will review the requests and file a report with the Board of Supervisors with his/her recommendation as to whether the road should be further considered for closure and vacation. The County Engineer may recommend the closure be expanded, closed as proposed, or not given further consideration. The Board will consider the petition and the review comments of the County Engineer to determine whether to schedule a hearing. If the Board decides that closure and vacation of the petitioned road is in the best interests of the county, the Board will schedule a hearing, following proper notification and publication requirements as set forth in Sections 306.11, 306.12, and 306.13 of the Code of Iowa. The Board will consider all comments from all present at the meeting and will act in the best interests of the county to either close and vacate the road or maintain the road as a county right of way.

SECTION 4 -- REPEALER

All prior policies and resolutions, or parts thereof, in conflict herewith are hereby repealed.

SECTION 5 -- SEVERABILITY CLAUSE

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

SECTION 6 -- WHEN EFFECTIVE

This policy shall be in effect immediately after its final passage.

Passed and approved this 27th day of January, 2003.

Delaware County Board of Supervisors

William J. Skinner, Chair

Steven L. Koeneke, Supervisor

Shirley E. Helmrichs, Supervisor

RECOMMENDED BY:

ATTEST:

Mark J. Nahra, P.E., Delaware Co. Engineer

Sharon McCrabb, Delaware Co. Auditor