

**CEDAR COUNTY
ORDINANCE NO. 22**

**AN ORDINANCE TO ESTABLISH POLICY IN RESPECT TO CLEANING OF
DITCHES AND MAINTENANCE OF THIS COUNTY'S SECONDARY ROADSIDE
DRAINAGE.**

BE IT ORDAINED

BY THE BOARD OF SUPERVISORS CEDAR COUNTY:

SECTION 1 -- PURPOSE

PURPOSE: The purpose of this policy is to establish the manner in which the county will perform ditch cleaning and road improvement work. This work is deemed important by the County Engineer and the County Board of Supervisors as a means of maintaining proper roadside drainage. This policy will set forth the manner in which the county will implement ditch cleaning projects, the manner in which ditch cleaning can be requested, use of the excavated material, National Resources Conservation Service input into the project/program, complaint handling, and public relations. The program will also address roadside improvements such as ditch fills for landscaping to allow mowing of ditches, prevention of farming within the right of way, and processing of requests for house and tile drain outlets.

Ditch cleaning work is a priority for the Cedar County Secondary Road Department and will be done only within the limits of the county budget. The county will not spend funds in excess of its budget unless additional funds are dispensed by the Cedar County Board of Supervisors.

IMPLEMENTATION

Each year priority sites will be selected by the county engineer and staff for participation in a priority ditch cleaning program with upstream landowners and the NRCS. Planned NRCS conservation project sites and projects where landowners are attempting to stem soil erosion are given additional consideration and a higher priority for ditch cleaning.

Additional ditch cleaning work will still be done based on the needs of the Cedar County Secondary Road Department outside of this program. Ditch cleaning work will be done whether or not work orders or requests by adjacent landowners are present if the site coordinates with the needs of the county for road or driveway fill and ditch cleaning at the site would be appropriate and to the advantage of the roads.

A) Requests for work: Requests for participation in the county ditch cleaning program may come from secondary road

staff, county board members, property owners, tenants, NRCS staff, and other interested parties. The sites will all be reviewed by the County Engineer and Secondary Road staff and prioritized by the County Engineer. The determination by the Engineer and staff of the priority for ditch cleaning will be final.

B) Project site selection: Sites will be selected and placed on the priority list for ditch cleaning as follows:

1) Drainage problems on site are causing road problems adjacent to the filled ditch. The plugged or filled ditch may be failing to drain resulting in water ponding adjacent to the road base. This moisture may contribute to frost boils and soft spots developing in the road during the spring thaw or other rainy periods. Due to road safety concerns, these sites are first priority.

2) Drainage problems on site are damaging tile or adjacent waterways of downstream landowners.

3) Drainage problems on site are causing ponding, damaging waterways or tile on upstream properties.

4) Ditch cleaning requests by property owners which are not contributing to drainage problems on the road.

COOPERATION WITH NRCS

Ditch cleaning location selected for participation in the annual county priority program will be reviewed for compliance for the upstream landowner with NRCS soil plan completion and adherence. If the upstream property owner is not, or will not cooperate with the NRCS and Cedar County in developing soil saving practices, the proposed project will rotate from the top of the priority list for completion of the work to the bottom of the list. Projects with uncooperative property owners will not move back up in priority until compliance with NRCS guidelines is secured.

PRIORITY USES OF CLEANED MATERIAL

Soil removed from ditches in the course of ditch cleaning will be used to best meet the needs of Cedar County. One of the goals of this program is to retain soil on the original property and work with the NRCS and property owners to avoid and prevent erosion. The cost of cleanup is fully born by the taxpayers of Cedar County and the material excavated will be used for the best interest of the county as determined by the County Engineer and Secondary Road Department staff. Consideration for use of the excavated material will be as

follows:

1) Cedar County Secondary Road needs: First priority for use of soil excavated from the ditches will be for secondary road department use for driveway construction and widening, road grade building, and other construction and road related purposes. Requests for excavated soil by all others will only be considered after secondary road needs are met.

2) Adjacent landowner use: Second priority for use of material excavated from ditches will be to return the material to the adjacent property from which the excavated soil originated. The material will be deposited at a location easily accessible to secondary road equipment. Responsibility for placing the material in its final location and any finishing necessary will be to the property owner or tenant. Property owners may use the material to construct driveways and field entrances. The property owner, tenant, or agent of the property owner (contractor, hired hand, etc.) will be responsible to be present to shape and compact the material in a timely manner so that the deposited soil does not become a hazard to traffic or an additional erosion problem. County crews will deposit the material only, they will not shape and/or construct the driveway without the direction of the County Engineer.

3) Other property owners or tenants requesting soil from county crew: After secondary road needs and those of the originating property owner are satisfied, other parties requesting excavated soil will have the material hauled to them by county road crews. Priority will be given to persons requesting material with the minimum haul from the ditch cleaning site. In other words, a person one mile away will get material before someone three miles away from the project site. The county will haul material to the closest disposal site until such time as the nearest site receives all of the excavated soil they want and only then move to other sites. Unless the crew leader determines it to be the most efficient, no consideration will be given to giving equal shares of soil to parties requesting material. The prime consideration will be assuring the efficiency and speed of the ditch cleaning operation.

Property owners may use the material to construct driveways and field entrances. The property owner, tenant, or agent of the property owner (contractor, hired hand, etc.) will be responsible to be present to shape and compact the material in a timely manner so that the deposited soil does not become a hazard to traffic or an additional erosion problem. County crews will deposit the material only, they will not shape and/or construct the driveway without the direction of the County Engineer.

ANIMAL WASTE/FEED LOT RUNOFF INTO COUNTY DITCHES

Animal waste or feed lot runoff accumulating and filling county ditches will not be cleaned by county maintenance personnel. Property owners and tenants responsible for livestock operations shall prevent animal wastes from filling county ditches. Requests for ditch cleaning will be handled as earlier detailed in this ordinance. If it is determined that the ditch is filled by animal wastes, the complaint will be turned over to the county health department. Following the health department's investigation of the complaint, the cleaning of ditch containing animal waste shall be the responsibility of the adjacent landowner and shall be at the landowner's sole expense. The ditch will be cleaned as ordered by the health department based on county and state regulations and meet secondary road grading standards. Steps to prevent further runoff will also be required as recommended by the health department. All material cleaned from the ditches will be removed from the right of way by the landowner, or the landowner's contractor, tenant, or agent.

COMPLAINTS BY LANDOWNERS ON UPSTREAM SOIL LOSS

Complaints of upstream soil loss and deposition on downstream property by private property owners will be directed to the Cedar County Soil and Water Conservation District. The county shall, if soil deposition is excessive within the county right of way, file official written complaint with the Cedar County Soil and Water Conservation District on its own behalf. The site will be reviewed by the County Engineer and, at their option, the Board of Supervisors, prior to filing of an official complaint with the Cedar County Soil and Water Conservation District. The complaint will be filed by the County Engineer and County Board Chair on behalf of Cedar County following resolution of the Board to so file.

DITCH FILLING FOR LANDSCAPING

Cedar County does not require or recommend that property owners mow the right of way area adjacent to their property. Landowners desiring to do so will not be prohibited from mowing the right of way unless the right of way area is a designated prairie planting area. If property owners desire to flatten a backslope to allow mowing, the property owner must request and obtain a ditch cleaning permit from Cedar County and have the site reviewed. The site will be reviewed by secondary road department staff to see if the desired alteration can be permitted. The desired ditch filling project will not be permitted if the construction will restrict the natural flow of water or planned ditch drainage. The final work must meet all design standards for the road

classification.

TILE OUTLETS and HOUSE DRAIN OUTLETS

Placement of field tile outlets on the county right of way will be allowed. Persons desiring to outlet field tiles into county ditches will first obtain a permit from the county engineer's office. Prior to issuance of a permit, county maintenance staff will review the desired outlet location. There is not charge for the permit or review. Following issuance of the permit, the landowner may have the work completed. The county maintenance shop will be contacted at the completion of work to ensure that the work was completed adequately and the ditch, backslope and road embankment have not been damaged by the contractor's work. The contractor will restore and reseed all disturbed areas to avoid erosion damage.

Persons desiring to have field tile crossings installed should apply to the county engineer's office for a permit and standards for installation. The county will pay the permittee's contractor the cost of the installation of the tile crossing including material and labor involved in excavating the road embankment and ditch bottom necessary to install the tile. The county will pay the cost from right of way (or fence line) to right of way line. The property owner will pay the cost to hook up the tile to the tile crossing and for all tile installed up to the right of way line. Bills will be monitored for reasonableness and may be questioned if costs are found to be excessive.

NOTE FROM NRCS: *The landowner is responsible for ensuring that all drainage work complies with wetland legislation as determined by the Natural Resources Conservation Service and/or the Corps of Engineers. Landowners prior to placing field tile are recommended to contact NRCS before doing any work for a wetland determination. Cedar County will not review or coordinate these activities on the landowner's behalf. Landowners will have to show the County approval of the tile installation prior to the County participating in the crossing project.*

Schedule 40 PVC pipe or equivalent shall be used for all crossings. Flexible pipe will not be allowed under county roads. The tile may be perforated to pick up ditch moisture at the county's option. The county is to be billed by separate billing by the contractor doing the installation. Private individuals installing the tile will be paid material costs only. The county maintenance shop will be notified 24 hours in advance of tile crossing installation. The county will provide any rock necessary to restore the condition of the road surface. The contractor or landowner is to notify

the county per the permit terms to allow county maintenance staff to inspect the finished crossing for conformance with county standards.

House drain outlets into the road right of way are allowed as long as the drain only carries drainage around the foundation or carried by gutters and downspout and are isolated from any grey or black water source. Laundry machine drains, for instance, tied into a house drain would not be allowed and should be tied into a septic system conforming to standards of the county environmentalist's office. If house drains are found and determined to be a nuisance, due to the outletting of soapy or suspect water, those drains will be turned over to the county environmentalist's office for investigation and upgrading.

SEPTIC SYSTEMS-NUISANCE COMPLAINTS

If a septic system is noted in an area requiring ditch cleaning, and the septic system outlet is determined to be causing a health and safety hazard for personnel attempting to do ditch cleaning, the area will be bypassed for ditch cleaning and the septic tank outlet passed on to the county environmentalist's office for attention and upgrading.

FARMING IN THE COUNTY RIGHT OF WAY

Cultivating farm crops within the right of way leads to possible degradation of the ditch bottom and increased erosion. Farm crops within the right of way are not conducive to soil conservation or proper roadside drainage. Farming of the right of way will not be allowed and is not permitted under the county's permanent easement for road purposes and need not be allowed. This is not intended to prevent haying of the roadside which is expressly allowed by the Code of Iowa, but only prevent the cultivation of the right of way leading to the encroachment of and eventual loss of the county road ditch.

If it is observed that a property owners or their tenants plow and plant crops within the county right of way, the landowner will be sent notice by certified mail upon the observance of tilling of the ditch to cease planting in the right of way. The property owner will be asked to restore and reseed the backslope and ditch following the harvest of crops the following fall. The county will, at the request of the landowner, delineate the right of way line by placing ROW signs on the

right of way line for the reference of the property owner. If the right of way is planted again the year following the aforementioned notice, the county will, without notice, mow the crop, restore the ditch and backslope to the outside of the right of way and bill the landowner for the cost of the restorative work. If the bill is not paid, the cost of restorative work will be placed as a tax lien upon the landowner's property.

In severe cases where crops create sight distance hazards at intersections, driveways, or other road locations and in the professional judgement of the county engineer that the crops create an immediate hazard to public safety, the crops may be mowed at the Engineer's discretion without notice or compensation to the property owner or tenant.

This ordinance is passed and approved this 31st day of August, 1995.

Cedar County Board of Supervisors

Chairman

ATTEST:

Cedar County Auditor
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First Reading: _____

Second Reading: _____

Third Reading: _____

Adopted: _____

Published: _____

Please publish the legal notice and ordinance below in your newspaper the week of September 11, 1995. Please remit bill and proof-of-publication to the Cedar County Engineer, 400 Cedar St., Tipton, IA 52772-1752. Thank you.

LEGAL NOTICE

On September 7, 1995, the Cedar County Board of Supervisors adopted Cedar County Ordinance Number 22, Ditch Cleaning Policy, an Ordinance for the purpose of establishing the manner in which the county will perform ditch cleaning and related road improvement work.

The following ordinance will become effective upon publication.