

CARROLL COUNTY ORDINANCE #9
ON USING THE ROAD RIGHT-OF-WAY

Title. An ordinance establishing a policy concerning private use of County Road Right-of-Way.

SECTION 1: Purpose.

The purpose of this ordinance is to establish a policy, procedure and penalty 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 Carroll County.
2. "Improper Use of road Right-of-Way" shall mean the farming 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 Carroll County.
4. "Engineer" shall mean the County Engineer of Carroll County.
5. "County" shall be Carroll County 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 319, Section 13 of the 1988 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, in proper season, the grass grown on the road along the landowners land as provided for in Chapter 317, Section 11 of the 1988 Code of Iowa.

SECTION 5. Notice to Cease. The County shall provide a written Notice to Cease sent by certified mail to landowners and tenants found to be using the Right-of-Way.

SECTION 6. Correction and Removal. The County shall allow 20 days from the date of receipt of the Notice to Cease for removal of the objects from or the termination of the improper use of the road Right-of-Way. Objects shall be removed in a suitable manner as to not cause damage to the Right-of-Way.

SECTION 7. Penalty. It shall be considered a simple misdemeanor should the landowner or tenant fail to stop the use or remove the crops or other objects within the time specified. Upon conviction a landlord or tenant shall be subject to a fine of not more than \$100.00 per each quarter mile of road Right-of-Way improperly uses.

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 January 1, 1990.

PASSED AND ADOPTED THIS 25th DAY OF SEPTEMBER 1989, BY THE CARROLL COUNTY BOARD OF SUPERVISORS.

s/ Arden Hinners, Chairman

Board of Supervisors

s/ Leonard Sporrer

s/ Margaret Schwabe

s/ Michael Hall

s/ Lewis Rich

Attest: Paul S. Fricke

Carroll County Auditor