

ORDINANCE

WHEREAS, it has come to the attention of the county commissioners that in some instances there are farming activities being conducted within the highway rights-of-way in Hanson County; and

WHEREAS, it has been recommended to the county commissioners by the planning commission that the county take such steps as are feasible to alleviate this process and protect the public's right to use the roadways; and

WHEREAS, it would be in the best interest of the taxpayers and residents of Hanson County to adopt regulations for the purpose of protecting the highways, highway grades and ditches, and the safety of the users of said highways, now, therefore,

It was moved by McManus, and seconded by Bell, that the following Ordinance be adopted:

ORDINANCE # 19

AN ORDINANCE TO REGULATE CERTAIN ACTIVITIES WITH THE HIGHWAY RIGHTS-OF-WAY IN HANSON COUNTY, SOUTH DAKOTA

BE IT ORDAINED by the Board of Commissioners of Hanson County, SD, that:

1. Violation. It shall be unlawful for any person to farm, plant, plow, or cultivate in any way within the thirty-three feet (33') on either side of the center of the right-of-way of any township highway or minimum maintenance road, or within the fifty feet (50') on either side of the center of the right-of-way of any county highway located in Hanson County, SD, or to permit any lessee, agent, operator, or employee to do so, except for raising perennial grasses.

2. Time Period. Each 24 hour time period or part thereof, commencing at midnight of each day, that such activity occurs shall be considered a separate violation.

3. Penalty. A violation of this ordinance is a class 2 misdemeanor. Any person violating the provisions of this ordinance may be punished by being fined in an amount not to exceed Two Hundred (\$200.00) Dollars or incarcerated in jail for a period not to exceed thirty (30) days, or by both such fine and imprisonment.

4. Civil Liability. Any person violating any provision of this ordinance shall be liable to Hanson County, or to the township with maintenance responsibility for the road, for any damages to the slope, road, or any other part of the right of way and for any other damages caused by the violation.

5. Remedies Not Exclusive. The provisions and remedies provided in this ordinance shall be cumulative, and not exclusive. Nothing in this ordinance shall abrogate any other prohibition against activities affecting the right of way or case of action arising from such violation.

6. Severability Provision. If any provision of this ordinance is declare unconstitutional or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the ordinance and applicability thereof to others persons and circumstances shall not be affected thereby.

First reading: August 7, 2001  
Second reading: August 21, 2001

Votes for: 3; votes against: 0.  
Motion carried.

Published: August 30, 2001

Effective date: September 20, 2001 (20 days after publication)