

# ORDINANCE # 2002-01

## AN ORDINANCE TO REGULATE CERTAIN ACTIVITIES WITHIN THE HIGHWAY RIGHT-OF-WAY IN McCOOK COUNTY, SOUTH DAKOTA.

BE IT ORDAINED by the Board of Commissioners of McCook County, South Dakota, that:

Whoever shall create, commit, maintain, or permit to be created, committed, or maintained (1) any of the enumerated conditions, specific acts, things, and situations or (2) otherwise violates the general provisions of this ordinance is guilty of a public nuisance and the place, contents, area, thing, or all of the foregoing, are declared public nuisance and shall be enjoined and abated as provided by state law and/or county ordinance.

Section 1. The following are hereby declared to constitute public nuisances:

a. Disposal or dumping. Placement of rocks, garbage, waste, rubbish or building materials within public right-of-ways.

b. Drainage. Diverting or permitting the diversion of water upon any county road, county highway or public right-of-way without a valid permit obtained from the McCook County Highway Superintendent. Nothing in this section shall be construed to prohibit drainage which is otherwise permissible under SDCL46A-10A-20...

c. Encroachment. Farming, planting, plowing, cultivating or performing any other detrimental operation within the public right-of-way except the planting of permanent vegetative cover. Haying of the public road right-of-ways is permitted.

d. Fences. Erecting of fences upon or within public right-of-way without a valid permit which has been obtained from the McCook County Highway Superintendent.

e. Driveways. Building a driveway or road upon any county road, county highway or public right-of-way without a valid permit which has been obtained from the McCook County Highway Superintendent.

f. Snow Removal. Depositing or permitting the deposition of snow from private property upon a county road, county highway or public right-of-way.

Section 2. Public Nuisance Penalty and Remedy

a. Any person who maintains, commits, or fails to abate a public nuisance as required under the provisions of this ordinance shall be subject to a maximum penalty of thirty (30) days in jail, or a two hundred dollar (\$200) fine, or both.

b. 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.

c. In addition, the County may also use the remedies of a civil action and abatement as set forth in SDCL 21-10-5 through SDCL 21-10-9.

Section 3. Severability. If any provision of this ordinance shall be held invalid, it shall not affect any other provisions of this ordinance that can be given effect without the invalid provision, and for this purpose, the provisions of this ordinance are hereby declared; to be severable.

**EFFECTIVE DATE.** This ordinance shall become effective according to state law.

First Reading: March 19, 2002

Second Reading & Adoption: April 02, 2002

Publication: April 04, 2002

Effective Date: April 24, 2002

ATTEST: McCook County Commission, McCook County Auditor