

**ORDINANCE # UCC 2006-001**

**AN ORDINANCE PURSUANT TO SDCL §§ 7-8-20 (5) & (10) & (14) AND SDCL §7-18A-2 TO REGULATE CERTAIN ACTIVITIES WITHIN THE HIGHWAY RIGHT-OF-WAY IN UNION COUNTY, SOUTH DAKOTA.**

BE IT ORDAINED by the Board of Commissioners of Union 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. For purposes of this Ordinance, public right-of-way shall include all county highways, roads, and ditches owned or controlled by easements by Union County.

**SECTION 1.** The following are hereby declared to constitute public nuisance:

- a. Disposal or Dumping. Placement of rocks, garbage, waste, rubbish building materials or animal waste within the public right-of-way.
- b. Drainage. Diverting or permitting the diversion of water upon any public right-of-way without a valid written permit obtained from the Union County Public Works Administrator. Nothing in this section shall be construed to prohibit drainage which is otherwise permissible under SDCL 46A-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 right-of-ways is permitted, provided, however, hay bales shall be removed as expeditiously as possible in order to avoid a hazard in the right-of-way and to prevent snow buildup. Grazing of livestock in the public right-of-way is prohibited.
- d. Fences. Erecting of fences upon or within public right-of-way without a valid written permit which has been obtained from the Union County Public Works Administrator.
- e. Driveways. Building a driveway or road upon any public right-of-way accessing a Union County Highway without a valid written permit which has been obtained from the Union County Public Works Administrator.
- f. Snow Removal. Depositing or permitting the deposition of snow from private property upon a 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 provisions 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: January 17, 2006  
Second Reading & Adoption: January 31, 2006  
Publication: February 23, 2006  
Effective Date: March 15, 2006

  
**RICHARD SPAANS - CHAIRMAN**  
**UNION COUNTY COMMISSION**

  
AUDITOR  
ATTEST:  
**SEAL**  
  
CAROL KLUMPER  
COUNTY AUDITOR