

**ORDINANCE NUMBER 542**

**AN ORDINANCE TO REGULATE THE OPERATION OF OFF-ROAD VEHICLES IN DITCHES ADJACENT TO COUNTY HIGHWAYS.**

**BE IT HEREBY ORDAINED BY THE PENNINGTON COUNTY BOARD OF COMMISSIONERS PURSUANT TO ITS AUTHORITY UNDER SDCL § 32-20-12.1 THAT THE OPERATION OF OFF-ROAD VEHICLES IN DITCHES ALONG PENNINGTON COUNTY HIGHWAYS SHALL BE REGULATED AS FOLLOWS:**

**SECTION 1 – DEFINITIONS**

**OFF-ROAD VEHICLE:** means any self-propelled, two or more wheeled vehicle designed primarily to be operated on land other than a highway and includes, but is not limited to, all-terrain vehicles, dune buggies, and any vehicle whose Manufacturer's Statement of Origin (MSO) or Manufacturer's Certificate of Origin (MCO) states that the vehicle is not for highway use. Off-road vehicle does not include a farm vehicle as defined in SDCL § 32-3-2.4. (Definition provided by SDCL § 32-20-1(4)).

**COUNTY HIGHWAYS:** means all highways that fall within the definition of the County Highway System and County Secondary Highways. (Definitions provided by SDCL § 31-1-5).

**County Highway System** means: highways that are designated by the Board of County Commissioners in an organized county, are under the supervision of the county, and have been approved by the State Department of Transportation;

**County Secondary Highways** means: rural local highways in organized counties, excluding the approved County Highway System, that are under the supervision of a Board of County Commissioners.

**HIGHWAY DITCH:** means any drainage ditch and/or utility access ditch located within the public right-of-way and adjacent to a county highway as defined in this ordinance. The term "highway ditch" includes any shoulder or berm within the public right-of-way.

**INTERSECTION:** means the area embraced within the lateral boundary lines of two or more public right-of-ways which join one another at an angle, whether or not one such highway crosses the other.

**UTILITY:** means any provider of electric, gas, water, sewer, pipeline, or telecommunications service.

**SERVICE VEHICLE:** means any vehicle designed for and customarily used by a utility provider while actively engaged in the line of duty for the utility.

**NORMAL AGRICULTURAL OPERATION:** means operation of an off-road vehicle by a person engaged in a reasonably necessary agricultural related activity.

## SECTION 2 – REGULATIONS

### **PROHIBITION**

- A. Off-road vehicles shall not be operated in any restricted highway ditch along any section of highway under the jurisdiction of Pennington County where notice of the restriction is provided by regulatory signs as required in this ordinance.

### **DESIGNATION OF RESTRICTED AREA**

- A. The Pennington County Board of Commissioners may, by resolution after public hearing, prohibit the operation of off-road vehicles in all or any portion of the highway ditches under the jurisdiction of the County. The resolution shall clearly identify the area where the restriction applies and the prohibition shall take effect upon the posting of regulatory signs as required in this ordinance.

#### Exceptions:

1. An off-road vehicle may, without violating this ordinance, cross from one side of the county highway to the other;
2. This ordinance does not prohibit off-road vehicles from being operated in a restricted highway ditch while actively engaged in normal agricultural operations;
3. This ordinance does not prohibit service vehicles from being operated in a restricted highway ditch while actively engaged in official business for the utility.

### **SIGNAGE**

- A. The Pennington County Highway Superintendent or his designee is responsible for posting and maintaining regulatory signs giving notice to the public of any restriction authorized by this ordinance. Regulatory signs shall be posted at each end of the section of highway ditch where the restriction applies and at each point of intersection located within the restricted area.
- B. Each regulatory sign shall be constructed according to the Manual on Uniform Traffic Control Devices and be posted in such a manner as to indicate to the public the nature and location of the restriction.

**SECTION 3 – ENFORCEMENT**

**VIOLATIONS**

- A. In addition to any other penalty authorized by State law or County ordinance, each violation of this ordinance subjects the individual to a fine of two hundred (\$200.00) dollars and/or imprisonment for a period not to exceed thirty (30) days.
- B. A violation of any resolution passed by the Pennington County Board of Commissioners under the authority of this ordinance is deemed to be a violation of this ordinance and punishable as provided above.

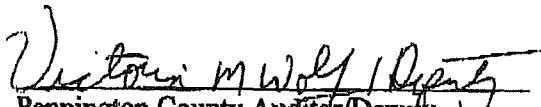
Dated this 5th day of September, 2006.

**PENNINGTON COUNTY COMMISSION**



**Ken Davis, Chairman**

**ATTEST:**



**Pennington County Auditor/Deputy**

First Reading: August 22, 2006  
Second Reading: September 5, 2006  
Published: September 20, 2006  
Effective: October 11, 2006