

Hardin County Ordinance # _____

An ordinance relating to the mowing of ditched on Hardin County rights-of-way.

Section 1. Purpose. To provide enforcement of and consequences for mowing of ditches in violation of Iowa Code section 314.17 (2021), as it relates to Hardin County rights-of-way.

Section 2. Prohibited Activities.

- a. Mowing roadside vegetation on the Hardin County rights-of-way or medians on any county highway or secondary road without an annual permit issued by the Hardin County Engineer is prohibited. A valid permit is one that is issued by the Hardin County Engineer upon application and payment of a permit fee. The application form, permit form and any fee shall be established by resolution of the Board of Supervisors.
- b. Mowing roadside vegetation on the Hardin County rights-of-way or medians on any county highway or secondary road prior to July 15 in any year is prohibited, except as follows:
 1. Within two hundred yards of an inhabited dwelling.
 2. On rights-of-way within one mile of the corporate limits of a city.
 3. To promote native species of vegetation or other long-lived and adaptable vegetation.
 4. To establish control of damaging insect populations, noxious weeds, and invasive plant species.
 5. For visibility and safety reasons.
 6. Within rest areas, weigh stations, and wayside parks.
 7. Within fifty feet of a drainage tile or tile intake.
 8. For access to a mailbox or for other accessibility purposes.
 9. On rights-of-way adjacent to agricultural demonstration or research plots.
- c. Exception to Prohibition. For safety, subsections (a) and (b) in this section do not apply to the first six (feet) into the ditch from either edge of the traveled portion of rights-of-way.

Section 3. Penalty Any violation of section 2 shall be a county infraction which is punishable by a civil penalty of not more than \$100.00 for each violation, or if the infraction is a repeat offense, a civil penalty not exceeding \$200.00 for each repeat offense. For purposes of the civil penalty, "each violation" shall mean each ¼ mile of ditch mowed, or fraction thereof; "repeat offense" means a notice of violation sent to the same violator for a subsequent infraction.

Section 4. Enforcement

- a. Enforcement of this ordinance shall be initiated only upon a written complaint, sworn under oath, on a complaint form developed by the Hardin County Engineer. The complainant shall provide details on the form such as, but not limited to: contact information of the reporting party, date and specific location of the violation, the name of the person violating the ordinance, the name of the landowner, and description of the area mowed. A party making a written complaint must be the landowner, adjacent landowner, tenant, or a party with a vested contractual interest in the commodity or right-of-way.
- b. If, in the opinion of the Hardin County Engineer, or designee, it is determined that the complainant has standing and the complaint is valid and that provided information establishes that a violation has occurred, notice of the violation, including a copy of the complaint, shall be given to the violating party and landowner, tenant or other interested party. The notice shall demand the violator cease and desist and pay the civil infraction within 30 days of the date of the notice or it will be assessed to the property taxes of the property adjacent to the right-of-way, with additional fees and interest. This notice shall be given by ordinary mail within 7 business days of receiving a valid complaint.
- c. The violator shall have the right to demand a hearing on the complaint. Demand for hearing shall be made in writing and received by the Hardin County Auditor within 14 days from the date of the notice of violation. Said hearing shall be before the Board of Supervisors and shall be scheduled at the convenience of the Board, but no later than 60 days after the demand is received. Failure to timely demand hearing shall be deemed as waiver and admission of violation. The Board of Supervisors shall notify the violator in writing of its decision within 10 days of the hearing by mailing the decision to the violator. Failure to pay within 30 days of the date of decision any amount due may be assessed as property taxes on the property adjacent to the rights-of-way.
- d. The enforcement provided herein is not an exclusive remedy, and all other civil and criminal remedies, public and private remain inviolate.

Section 5. Repeal. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 6. Severability Clause. 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 7. Effective Date. This ordinance shall be effective upon adoption and publication as provided by law.