

## Chapter 22 Regulations on Use of Highway Rights-of-Way

### 22.01 Definitions.

- A. "Highway" means all streets, roads, highways, alleys, and bridges located within the Town of Mitchell and over which this Town has jurisdictions. This includes all lands within the right-of-way, whether paved or unpaved.
- B. "Obstruction" means all materials placed within a right-of-way that may impede the flow of drainage water, obstruct visibility of highway users, or increase the risk of injury to a highway user who collides with the material. As illustrations, obstructions include stones or rocks; garbage, rubbish, refuse, or other discarded materials; all agricultural crops regardless of height; and decorative landscaping that changes the natural or established grade by more than six (6) inches above or below grade.
- C. "Roadway" means the paved portion of a highway. If a highway is not paved, the roadway includes the traveled portion.
- D. "Right-of-Way" means the full extent of the lands acquired for highway purposes, whether by deed, easement, statute, patent, court order, or adverse possession.

### 22.02 Cultivation and Landscaping.

- A. No person may cultivate, plant, harvest, or maintain agricultural crops, trees, or shrubs within a right-of-way.
- B. No person may cultivate plant, or maintain grasses, flowers, or other vegetative plants in any manner that obstructs the visibility of the highway by highway users.

### 22.03 Alteration of Grade. No person may alter or change the depth or contour of any portion of any ditch or embankment in a right-of-way.

### 22.04 Mailboxes, Signs, and Newspaper Boxes.

- A. No sign of any nature may be placed or allowed to remain in any right-of-way except an official traffic sign placed by a governmental authority.
- B. Mailboxes and newspaper boxes are permitted within a right-of-way if the installation complies with all requirements of the U.S. Postal Service.

### 22.05 Other Obstructions. No person may place, maintain, or allow any obstruction in a right-of-way other than those specifically permitted in this Chapter (for example, flowers and mailboxes) or by other laws (for example, utility poles and culverts).

### 22.06 Driveway and Culvert Requirements. For the safety of the general public, the Town of Mitchell shall determine the minimum requirements and technical standards for driveways, culverts, and drainage structures constructed within the Town.

- A. *Permit Required.* No person or business entity shall, within a public road right-of-way, construct, reconstruct, alter, or enlarge any private driveway; or install, re-install, or move a culvert without first obtaining a driveway permit as required in this Chapter or in Chapter 74, *Mitchell Code of Ordinances*. Where a new driveway is to be constructed in conjunction with the construction of a new structure, a driveway and culvert permit shall be obtained as well as the building permit required in Chapter 74. No person shall commence work on any driveway or culvert before the driveway and culvert permit has been issued.

Section 22.06, Driveways and Culvert Requirements (cont).

B. *Application Procedures.*

1. Application for a driveway permit shall be made in accordance with the regulations in this and Chapter 74 and in writing upon forms issued by the Town Clerk and shall be accompanied by the fees prescribed in Section 52.22 B. [or 52.74 A.7.], *Mitchell Code of Ordinances.*
2. The Town shall refer the application to its Town Highway Commissioner to confirm compliance with the requirements of this Chapter and Chapter 74, *Mitchell Code of Ordinances.*
3. Upon installation of any said culvert and prior to placing the final surface on said driveway, the applicant shall notify the Town Highway Commissioner to recheck and confirm that the installation satisfies the requirements of this Chapter and Chapter 74, *Mitchell Code of Ordinances.* In the event installation is found not to be in compliance, the applicant shall reinstall the driveway or culvert.
4. The Town shall not be responsible for any construction and / or reconstruction costs incurred by applicant in order to properly install said driveway or culvert according to this Chapter and Chapter 74, *Mitchell Code of Ordinances.*

C. *Standards and Requirements.*

1. Driveways. The location, design, and construction of driveways within the public right-of-way shall be consistent with the following requirements (see Chapter 74 for standards and requirements for that part of a driveway outside of the public right-of-way):
  - a. The minimum width of the all-weather surface at the public roadway surface shall be 16 (sixteen) feet;
  - b. The centerline of the drive-able surface shall intersect the public road at as near a right angle as possible;
  - c. Within the road right-of-way, no improvements shall be constructed in the proximity of the driveway that would impair drainage or block driver vision, from the driveway or from the roadway;
  - d. All properties accessing public road rights-of-way shall have roadside drainage ditches and drainage structures to ensure positive drainage from surrounding properties;
  - e. At a distance of 6 (six) feet from the edge of the public roadway pavement, the finished grade of the driveway shall be at least 4 (four) inches below the grade of the edge of the adjacent roadway pavement.
2. Culverts. The location, design, and construction of culverts within the public right-of-way shall be consistent with the following requirements:
  - a. All driveways accessing public road rights-of-way shall include a culvert or other drainage structure to ensure positive drainage along the public road right-of-way unless specifically exempted by the Town Highway Commissioner;
  - b. Size and hydraulic capacity.
    - 1) Minimum diameter - 15 (fifteen) inch circular interior diameter or equivalent, unless a larger type, size, and/or grade of culvert is required to hydraulically accommodate the maximum potential flow resulting from a 25-year (twenty-five year), 4.4 inch (four and four-tenths inch), 24 (twenty-four) hour rain event;
    - 2) Minimum length - 16 (sixteen) feet
    - 3) Maximum length - 36 (thirty-six) feet



Section 22.06 C.2., Driveway and Culvert Requirements, Standards and Requirements, Culverts (cont)

- c. **Materials.** All culverts shall be constructed of corrugated steel, reinforced concrete, or corrugated High Density Polyethylene (HDPE) pipe, unless specifically exempted by the Town Highway Commissioner. Driveway culverts serving business, industrial, or commercial property shall be evaluated on a case by case basis. Driveway culverts serving residential and agricultural uses shall met the following standards:
  - 1) Corrugated steel pipe shall conform to AASHTO M 36 M and coupling bands shall conform to AASHTO M 36 7.
  - 2) Reinforced concrete pipe shall be Class II and endwalls shall be Class II, Wall B;
  - 3) HDPE pipe shall conform to AASHTO M294 Type S
- d. **Installation requirements.**
  - 1) The ends of the culvert or drainage structure shall be fitted to the shape of the slope and, unless specifically exempted by the Town Highway Commissioner, shall have endwalls installed;
  - 2) The culvert shall be placed in the ditch-line at an elevation that will assure proper drainage and as approved by the Town Highway Commissioner;
  - 3) Ditch slopes shall have a maximum slope of 2.5 (two and one-half) feet horizontal to 1 (one) foot vertical (2.5:1);
  - 4) The culvert shall be bedded and backfilled with granular materials; native materials shall not be used for bedding and backfilling;
  - 5) The minimum cover, measured from the top of the culvert pipe to the top of the driveway surface course, shall be 12 (twelve) inches;
  - 6) Erosion control measures shall be implemented as necessary to control erosion or as directed by the Town Highway Commissioner;
  - 7) Once installed, culverts shall be cleaned and maintained by the property owner.

**22.07 Enforcement and Penalties.**

- A. **Correction Order.** Upon being informed of a violation of this Code, the Town Board or its designee shall notify the adjoining land owner or tenant of the violation in writing and shall order removal and correction of the violation within a reasonable time to be established by the Town Board or designee. The length of time determined to be reasonable shall be determined on a case-by-case basis after considering the degree of the hazard to the public but shall not be more than twenty-five (25) days. If the Town Board determines that the degree of hazard constitutes an emergency risk to public safety, the Town Board or its designee may immediately correct the violation without notice to the adjoining owner or tenant.
- B. **Failure to Comply.** If compliance with the Town Board's correction order is not made by the deadline set by the Town Board, the violator shall be subject to a forfeiture of not less than Ten Dollars (\$10.00) and not more than Five Hundred Dollars (\$500.00) per day of violation retroactive to the date the violator received the correction order. In addition, the Town Board may then made the necessary arrangements for removal and correction of the violation. All expenses of correction, including reasonable attorneys' fees, shall be billed to the violator.

Section 22.07, Enforcement and Penalties (cont.)

- C. Special Assessment for Recovery of Unpaid Correction Expenses. If the violator does not pay the expenses of correction, the Town Board may elect, pursuant to authority granted by section 66.60, *Wisconsin Statutes*, to levy and assess the adjoining property owner for the unpaid amounts and to add the same to the property tax roll for that property. The Town Board may proceed under either section 66.60 (2) or Section 66.60 (16), *Wisconsin Statutes*.

**22.08 Effective Date.** This Code shall take effect upon passage and publication or posting.