

CHAPTER 3: TOWN ROADS AND RIGHT-OF-WAY

3.01 HIGHWAY EXCAVATION

A. EXCAVATION PROHIBITED. No person or corporation, either individually or by its agents, shall make any excavation or fill or install or otherwise make any alteration in any Town road, or in any manner disturb any Town road without first obtaining a permit therefore from the Town Chair.

B. APPLICATION.

- (1) Application for said permit shall be in writing and shall contain therein the statement that the work shall be performed subject to such rules and regulations as may be prescribed by the Town Board, and that the same shall be performed and completed to the Town Board's satisfaction.
- (2) The Town Chair (or his/her designee) shall analyze the information submitted in the permit application and shall make whatever further inquiry he/she deems to be in the Town's best interests before issuance of the permit, and if said application on its face contains the information above required and the applicant gives reasonable assurance of complying with the restoration and liability provisions, then in that event, the Chair shall issue said permit.

C. RESTORATION. In the case of a temporary alteration or installation requiring only temporary work within the said Town road, the said Town road shall be restored to its former condition, and the permittee shall be liable to the Town for any and all damage which may occur during the progress of said work, or as a result thereof, and a statement to that effect shall be contained in the application and any permit issued for said work.

D. BOND. Before a permit is issued, the Town Chair or the Chair's designee, may require the party applying therefore to give bond to the Town in a sum to be fixed by said issuing officer, which shall not be less than One thousand (\$1,000.00) dollars; said bond to be executed by a corporate surety or two personal sureties to be approved by the issuing officer or his designated agent, conditioned upon, among other things, the indemnification to the Town for costs or expenses that may be incurred by it in connection with said excavation.

E. INSURANCE. The issuing agent may before said permit is issued, require the party applying therefore to give a bond or liability insurance policy in the sum to be fixed by the issuing agent to indemnify the Town for any liability in connection with said excavation, including claims for damages to other persons or property, and the payment of any judgment together with costs and expenses incurred by the Town connected therewith, arising out of said excavation for which a permit is issued.

F. APPEAL. Any applicant who has been denied a permit or has incurred unreasonable delay in the issuance of a permit may appeal to the Town Board for final determination of his/her application.

G. PENALTY: The penalty for violation of this section shall be a penalty as provided in Subsection 11.04 A. (1) of this code.

3.02 WEIGHT LIMITATION

A. ROADS RESTRICTED AND LIMITATIONS. The gross weight imposed on the highway know as Garton Road from Lakeshore Road to County Road DL by any group of two or more consecutive axles of a vehicle or combination of vehicles may not exceed a maximum gross weight of 14, 000 pounds.

B. NOTICE. Imposition of this special weight limitation shall be done by erecting signs on or along Garton Road sufficient to give reasonable notice of the herein seven (7) ton limitation, which signs shall comply with the standard signage rules of the State Department of Transportation.

C. PENALTY. The penalty for violation of this section shall be as follows:

- (1) If the weight exceeds by 1,000 pounds or less the maximum permitted, a forfeiture of not less than \$50 nor more than \$100 upon the first conviction, and upon the second and each subsequent conviction within a twelve (12) month period, a forfeiture of not less than \$100 nor more than \$200.
- (2) If the weight exceeds by more than 1,000 pounds the maximum permitted, a forfeiture of not less than \$100 nor more than \$200 upon the first conviction, and upon the second and each subsequent conviction within a twelve (12) month period, a forfeiture of not less than \$200 nor more than \$400.

3.03 BUILDING OF ROADS

A. PURPOSE. The purpose of this Section is to set forth the rules and regulations for the construction of roads in the Town.

B. APPLICATION. Application for the construction of roads shall be set forth in writing to the Town Board setting forth all necessary information required by the Town Board.

- (1) No approval shall be given unless said application shows compliance with all town and state regulations and sections including the Town's subdivision and planning sections.

C. DEFINITIONS.

- (1) **Road Bed.** All materials laid in place and ready for travel.
- (2) **Right-of-Way.** The total land area dedicated for road purposes.

- (3) **Roadway.** The traveled part of a highway not less than twenty-two (22) feet in width.
- (4) **Highway.** A road or way over which the public generally has a right to pass.
- (5) **Grade.** The rate of ascent or descent established by the Town Board.
- (6) **Surface Course.** The top of the roadway or traffic course consisting of asphalt or concrete.
- (7) **Subgrade Level.** The native material underneath a constructed pavement.
- (8) **Base Course.** The lowest course or first course of a road.

D. RIGHT-OF-WAY.

- (1) Right-of-way shall be provided and dedicated to the Town by deed without cost to the Town.
- (2) The Town Board shall determine the amount of right-of-way to be conveyed and its location, but at no time shall the right-of-way of any road be less than sixty-six (66) feet.
- (3) If said right-of-way consists of a dead end road, said applicant shall grant an easement or dedicate, as the Town Board shall direct, a turnabout of not less than one hundred (100) feet in diameter wide.

E. APPLICANT'S DUTY. After approval of the Town Board, said applicant shall, at his/her own expense:

- (1) **Grading, Cutting and Fill.** Cut, fill and grade to subgrade level of the street to its full width.
- (2) **Ditching.** Shall ditch so as to have proper elevation to provide for the removal of water in conformance with the current drainage in the area. If lateral trenches leading from main ditch are necessary, any additional land necessary for said removal of accumulated water shall be provided and deeded to the Town in addition to the lands specified above. Nothing in this section shall restrict the ditching of any roadway upon private property by its owner unless construction interferes with the natural drainage of the area.
- (3) **Gravel.** Shall construct base course of said road with gravel of a quantity and composition suitable for the location and as required by the Town. Soft areas shall be removed and filled with proper material to provide a solid base.
- (4) **Culvert Pipe.**
 - (a) Shall furnish all culvert pipes for intersections and drainage ditches and private driveways.
 - (b) No culvert pipe except corrugated aluminum, corrugated steel, concrete or equivalent thereto, shall be used along and across roadways of the Town. The minimum length of any culvert installed across the Town road shall be twenty-six (26) feet in length.
- (5) **Surface Course.** Shall consist of concrete or asphalt of a quality and thickness determined by the Town based on the intended use of the road. It shall be installed by the Town or by the owner if the Town Board so elects at the applicant's cost.

- (a) Bond or cash deposit. The applicant shall guarantee the completion of the work described above by one of the following methods:
 - (i) By depositing in escrow a sum equal to the estimated cost of construction with a financial institution or escrow agent as the Town may direct.
 - (ii) Provide to the Town a performance bond and payment bond in surety form, each in the amount at least equal to the estimated cost of construction as security for the faithful performance and payment of said road.
- (b) If said deposit has not been made within 30 days upon demand by the Town to complete said roadway and make said deposit or if the deposit or surety filed is not adequate to cover the estimated cost of completion of said road and the applicant fails to make payment of said additional sum, the said sum may be placed on the next tax roll as a special charge against the land owned by the applicant.

F. DRAINAGE DITCHES. It shall be unlawful for any person or corporation to close or cause to be closed, obstruct or cause to obstruct, any drainage ditch or to connect any drain with said ditch without Town Board approval.

G. INSPECTION AND APPROVAL. The applicant or his agent shall notify the Town upon completion of each phase of construction. Inspections are required after completion of:

- (1) Grading, cutting and filling.
- (2) Ditching and graveling.
- (3) Base Course.
- (4) Surface course.

Upon final inspection and approval by the Town and/or its agent and full payment of work (including any and all inspection fees), the owner shall turn over the required deed as required under this section.

H. PENALTY. Any person or corporation violating this section shall, upon failing immediately to remove said obstruction or unapproved culvert pipe or open said ditch, pay the cost of repairing, removing and opening, and shall be further subject to a fine pursuant to Subsection 11.04 A (1) of this code. In addition to the correction of any violation of this section, including the removal of any obstruction or unapproved culvert, ditch or roadbed or paying for the cost thereof, said person or corporation shall further be subject to a fine pursuant to Subsection 11.04 A (2) of this code.

3.04 DRIVEWAYS AND CULVERTS

A. PURPOSE. This chapter is enacted to protect the health, safety and general welfare of the Town of Mosel, Sheboygan County, Wisconsin, by providing for the establishment, repair, construction, improvement, modification, and reconstruction of

private driveways, to assure that the methods of repair, construction, improvement, modification, and reconstruction used in any driveway will protect properly the public health, safety, and general welfare of persons in the Town, and to limit and regulate highway access by motor vehicles to any Town road.

B. AUTHORITY. This section is adopted as authorized under §. 66.0425 and §. 86.07, Wis. Stats., and under the Town of Mosel Municipal Code, Section 1.01 granting village powers.

C. DEFINITIONS. In this section, these words or phrases shall have the following meanings:

- (1) **Driveway:** Any private way, private road, or other avenue of private travel that runs through any part of a private parcel of land that connects or will connect with any public road or highway, and will provide service to a residence, business, recreational site, field or other similarly appropriate use.
- (2) **Emergency Vehicle:** Any fire, police, ambulance, or first responder vehicle used in emergency or hazard activities in the Town.
- (3) **Prime or Productive Agricultural or Forestry Land:** Any land within the Town that is currently being farmed or kept in forestry, including cropland and pastureland, or land that is included in a government sponsored agricultural or forestry program.
- (4) **Town:** Any reference to Town shall mean the Town of Mosel, Sheboygan County, Wisconsin, and shall include the Town Board, Town Clerk-Treasurer or any other designated committee or commission.

D. PERMIT REQUIRED. No person or entity shall place, construct or alter any private driveway or culvert or otherwise excavate, fill, or alter the road right-of-way, without first obtaining a permit as required by this chapter, and paying the appropriate fees as set forth in Section 11.05 of the Mosel Municipal Code. The requirements of this section shall apply to all new driveways and to existing driveways that are being altered, modified, or reconstructed within the road right-of-way.

E. AUTHORIZATION LIMITS. Permits obtained under this chapter are valid only on work within the road right-of-way on Town roads adjacent to lands owned by the permittee and identified in the application. Permits for the placement or alteration of driveways or culverts on County or State roads must be obtained from those entities.

F. EXISTING DRIVEWAYS. When erosion, flooding or other conditions created by existing driveways become a potential hazard to a public road, the Town shall notify the owner(s) of the land through which the driveway passes of such conditions. Any property owner failing to correct a hazardous situation within 24 hours of notification shall be subject to the penalties of this section and shall be liable for any costs incurred by the Town to eliminate such hazard, as provided by §. 66.0627, Wis. Stats. If any such hazardous conditions re-occur related to the same driveway, the

property owner will be required to apply for a permit under this section to reconstruct the existing driveway to comply with this section.

G. APPLICATION.

- (1) Application shall be made in writing, on forms available from the Town Clerk-Treasurer, at least 10 days prior to the date the applicant would like to begin work, and shall be accompanied by the required fees and a drawing accurately depicting the proposed driveway to be constructed, reconstructed, altered or enlarged. The drawing shall identify the following:
 - (a) The location of existing and proposed improvements, including driveway length and width;
 - (b) Building setbacks from all lot lines;
 - (c) Road names and road right-of-way widths;
 - (d) The location of any other driveways or access points onto the town road within one-half mile in either direction of the proposed driveway; and
 - (e) Other documents, showing soil analysis, driveway slope, or construction plans, if required.
- (2) The Town designee will approve or deny the application, and may, as a condition of issuance, place specific restrictions or conditions on the permit, which shall require compliance by the applicant/permittee.
- (3) Any permit granted under this section is effective for six (6) months from the date of issuance. A permit may be renewed for an additional six (6) month period by paying an administrative fee as established by the Town in Section 11.05 of the Mosel Municipal Code. If the work authorized by the permit is not complete by the end of the renewal period, a new application and fee must be submitted and approved.
- (4) The applicant shall notify the Town Clerk-Treasurer within thirty (30) days after completion of the work authorized by the permit. Within thirty (30) days of such notification, the Town will inspect the work to ensure full compliance with all permit conditions and provisions of this section.
- (5) No building permit for any construction of buildings or structures will be issued by the Town until the driveway is constructed, reconstructed, rerouted, or altered according to the specifications of the permit issued under this section, and the inspection required by paragraph (4) above is complete.
- (6) Approval of any permit under this section does not establish or commit the Town to future approval of any driveway as a public road or highway in the Town.

H. DENIAL AND APPEAL.

- (1) If a permit application is denied, the Town will recite, in writing, the particular facts upon which it bases its denial. The applicant shall have the opportunity to appeal to the Town Board at a public hearing after a Class 1 notice under §. 985.07, Wis. Stats. Thereafter, the Town may affirm, reverse or modify its

decision. The Town Board shall recite, in writing, findings for any decision to modify or reverse its initial determination.

- (2) Reasons for denying a driveway permit application may include, but are not limited to:
- (a) Inconsistency or nonconformance of the proposed driveway with this section, with any existing town comprehensive plan, master plan, or land use plan, with Town ordinances, rules, regulations, or plans, or any applicable County, State, or Federal laws, ordinances, rules, regulations, or plans.
 - (b) The driveway or culvert, as proposed, would be dangerous or unsafe to use.
 - (c) The application as filed and submitted is incomplete or contains false information as determined by the Town.
 - (d) Alternative driveway or culvert location(s) will be safer for motor vehicle access from and onto Town roads.
 - (e) Alternative driveway location(s) will preserve or better protect more prime or productive agricultural or forestry land in the Town.
 - (f) Alternative driveway location(s) will have less negative land use impact on historical, archaeological, community, public, or culturally significant or environmentally sensitive parcels of land or facilities in the Town, including land adjacent or near the proposed driveway.
 - (g) The driveway will not provide timely and adequate ingress and egress for emergency vehicles.

I. PERMIT CONDITIONS. In making application for a permit, the applicant agrees to the following conditions:

- (1) That the applicant represents all parties in interest, and that any driveway or approach constructed is for the bona fide purpose of securing access to private property and not for the purpose of parking or servicing vehicles, or for advertising, storage, or merchandising of goods on the road right-of-way.
- (2) That the permittee shall furnish all materials, do all work, and pay all costs in connection with the construction of the driveway and its appurtenances on the right-of-way. Materials used and type and character of work shall be suitable and appropriate for its intended purpose, and the type of construction shall be as designated and subject to approval of the Town or its designee. The permittee shall make the installation without jeopardy to or interference with traffic using the road. Road surfaces, shoulders, ditches and vegetation disturbed shall be restored to equivalent of original condition by the permittee.
- (3) That no revisions or additions shall be made to the driveway or its appurtenances on the right-of-way without the written permission of the Town or its designee.
- (4) The Town reserves the right to make such changes, additions, repairs and relocations within statutory limits to the driveway or its appurtenances on the right-of-way as may at any time be considered necessary to permit the

relocation, reconstruction, widening, and maintaining of the road or to provide proper protection to life and property on or adjacent to the highway.

- (5) That the permittee, and any successors or assigns, agree to indemnify, defend, and hold harmless the Town, its officers, agents and employees against any action for personal injury or property damage sustained by reason of the exercise of the permit.
- (6) The Town does not assume any responsibility for the removal or clearance of snow, ice or sleet, or the opening of windrows of such material, upon any portion of any driveway or entrance along any Town road even though snow, ice or sleet is deposited or windrowed onto said driveway or entrance by its authorized representative engaged in normal winter maintenance operations.
- (7) The Town, or its designee, shall have the right of inspection onto land pursuant to a warrant issued under §. 66.0119, Wis. Stats., for the purpose of inspecting existing or proposed driveways to determine if the driveways are in compliance with this chapter.
- (8) During construction, relocation, or modification, permittee shall allow for safe and timely travel by emergency vehicles or vehicles of the general public.
- (9) Permittee shall keep driveway culvert free of debris and other obstructions to provide proper drainage along the road.
- (10) Maintenance and upkeep of driveways on and over Town road right-of-way shall be the responsibility of the permittee. Permittee shall also maintain the driveway to ensure safe, timely, and proper access and travel by emergency vehicles.
- (11) If restoration of road right-of-way is not accomplished voluntarily and without delay, the Town may issue a notice setting forth a final date by which the restoration shall be completed. If applicant fails to complete the restoration within the allotted time, the Town may arrange for the restoration, and all resulting costs shall be the obligation of the permit applicant. Failure to pay those costs shall result in the amounts being charged to the property owner under §. 66.0627, Wis. Stats.

J. GENERAL LOCATION, DESIGN AND CONSTRUCTION STANDARDS.

The purpose of these design standards is to promote the orderly and safe movement in and out of private properties in such manner as will constitute a minimum of interference to through traffic, and to control the use of drainage structures and appurtenances as may be necessary to preserve the physical structures of the road.

The location, design, and construction of a driveway shall conform to the following:

- (1) The island area on the right-of-way between successive driveways or adjoining a driveway and between the road shoulder and right-of-way line shall remain unimproved for vehicular travel or parking. Such areas shall be considered as restricted and may be filled in or graded down only as provided in subsection (7) below.
- (2) The surface of the driveway connecting with the road surface shall slope down and away from the road shoulder a sufficient amount and distance to preclude ordinary surface water drainage from the driveway area flowing onto the

roadbed wherever possible. Generally, the driveway will be no less than four (4) inches below the edge of the pavement at a point six (6) feet from the edge of the pavement. However, this may vary with shoulder width and ditch depth at a given driveway.

- (3) The driveway shall not obstruct or impair drainage in roadside ditches or other areas. Driveway culverts, where necessary, shall be adequate for surface water drainage along the road and in no case less than the equivalent of a fifteen (15) inch diameter pipe. In general the culvert shall be as large as the largest one nearest it on each side.
- (4) The distance between culverts under successive driveways shall be not less than ten (10) feet except as such restricted area is permitted to be filled in under the provisions of paragraph (7) below.
- (5) Culverts shall be of galvanized steel, corrugated pipe, concrete or equal materials. All concrete culverts shall have male/female joints, no butt joints are allowed.
- (6) The surface of any driveway constructed within the right-of-way of a Town road shall be clear crushed road gravel or asphalt. In no case shall the surface of any such driveway be earth.
- (7) The restricted area between successive driveways may be filled in or graded down only when the following requirements are fully complied with:
 - (a) The filling in or grading down shall be to grades approved by an engineer hired by the Town, at the applicant's expense, and surface water drainage of the area shall be directed away from the roadbed in a suitable manner.
 - (b) Culvert extension within the restricted area shall be of like size and equivalent acceptable material of the driveway culvert, and intermediate manholes adequate for cleanout purposes may be required where the total culvert length exceeds one hundred (100) feet.
 - (c) Where no highway side ditch separates the restricted area from the roadbed, permanent provision may be required to separate the restricted area from the roadbed to prevent its use for driveway or parking purposes, by construction of a border, curb, rail or posts deemed adequate by an engineer, all at applicant's expense.
- (8) The embankment above and adjacent to the culvert ends may be protected and stabilized through the installation of rocks, bricks, landscaping timbers, railroad ties, small vegetation or similar materials, but only under the following conditions:
 - (a) All such material placed in the right-of-way must be immediately adjacent to the driveway;
 - (b) No such material or other objects shall rise above the surface of the driveway or the road, whichever is lower;
 - (c) No such material may extend beyond the end of the culvert;
 - (d) No construction or installation of material in the right-of-way shall impede water flow, harm the surrounding banks and ditching, or be distracting to vehicles; and

- (e) The landowner shall be responsible for bank restoration upon installation or any needed repairs.

K. COMMERCIAL DESIGN STANDARDS. Driveways serving commercial or industrial establishments shall conform to the following:

- (1) **Width of Drive.** No driveway except as hereinafter provided shall have a width less than twenty-four (24) feet nor greater than thirty-six (36) feet measured at right angles to the centerline of the driveway, except as increased by permissible radii.
- (2) **Return Radii.** No return radius projected between the edge of road pavement and the driveway shall be greater than forty (40) feet. Usually, these radii will be determined by the restrictions given in paragraphs (1), (3), and (4).
- (3) **Angular Placement of Drive.** The angle between the centerline of the driveway serving two-way traffic and the edge of the pavement shall be as near to ninety (90) degrees as possible, and in no case less than forty-five (45) degrees.
- (4) **Island Areas.**
 - (a) An island of a minimum length of 10 feet shall be maintained between driveways serving the same premises. The measurement shall be along a line ten (10) feet from and parallel to the edge of the pavement.
 - (b) The area within five (5) feet of a property line shall be a restricted area over which no driveway may be developed. The five (5) foot restriction shall be measured parallel to the pavement edge and shall be effective between the right-of-way line and a line ten (10) feet from and parallel to the pavement edge. This is to serve as an island area should the adjoining property owner request a permit for a driveway.

L. NONCOMMERCIAL DESIGN STANDARDS. Driveways serving farm or residential property shall conform to the following:

- (1) **Width of Drive.** No residential driveway or combination of driveways shall have a width less than sixteen (16) feet nor greater than twenty-four (24) feet, and no agricultural driveway or combination of driveways shall have a width less than twenty-four (24) feet nor greater than thirty-six (36) feet, measured at right angles to the centerline of the driveway except as increased by permissible radii.
- (2) **Return Radii.** No return radius projected between the edge of the road pavement and the driveway shall be greater than forty (40) feet.
- (3) **Angular placement.** The centerline of that part of the driveway lying on the Town right-of-way shall be at approximately right angles to the pavement except as topography may make certain angular placement necessary.
- (4) Culverts under drives serving residential properties shall not be more than thirty feet (30') long.
- (5) Culverts under drives serving agricultural properties shall not be more than forty-two feet (42') long.

M. PENALTY PROVISION. Any person, partnership, corporation, or other legal entity that fails to comply with the provisions of this section shall, upon conviction, pay a forfeiture as set forth in Section 11.04 of the Mosel Municipal Code for each violation. Each day a violation exists or continues shall be considered a separate offense. In addition, the Town may seek injunctive relief from a court of record to enjoin further violations. Any unapproved driveway or culvert may be removed by the Town at the owner's expense, and the cost of such abatement may be charged to the property owner under §. 66.0627, Wis. Stats.