

ORDINANCE NO. 34
CULVERT ORDINANCE
TOWN OF WOLF RIVER

The Town Board of the Town of Wolf River, Winnebago County, Wisconsin, does ordain as follows:

Section 1. APPLICABILITY.

This Ordinance shall apply to all culverts and driveways in Town road rights of way in the Town.

Section 2. APPROVAL REQUIRED.

(1) Except as provided in paragraph (2), no person shall construct or maintain any driveway across any ditch, sidewalk or curb or enter any Town road without first obtaining a temporary or permanent culvert permit from the Town Board.

(2) Nothing in this Ordinance shall prohibit farm operator's from crossing Town ditches to access agriculturally zoned land for agricultural purposes; provided, anyone causing damage to the ditch and the adjoining property owner shall immediately repair any damages to the ditch. In the event of failure to repair damage, the Town may cause such repairs to be made and shall charge the costs of repair to the adjoining property owner as a special charge.

Section 3. BUILDING PERMIT.

No building permit shall be issued nor excavation begun where a culvert will be installed, unless prior to or at time of applying for building permit, a permit for the proper size and type of permanent culvert is applied for and has been obtained from the Town Board.

Section 4. PERMANENT CULVERTS.

(1) Type and Size. The Town Board, upon receipt of a culvert application, will visit the site where the culvert is to be installed and designate the size in diameter and length of the culvert to be installed. In new subdivisions this is designated on the drainage plan. The Town Board shall determine the required size. If the property owner does not follow the requirements and guidelines set forth in this ordinance and the instructions of the Town Board, the Town Board will order the culvert removed at the expense of the property owner.

(2) Specifications. Only galvanized steel culverts and galvanized steel endwalls shall be allowed for installation in the Town. The minimum length of any installation shall be 24' of actual culvert pipe and there shall be a cleanout at not greater than 40' intervals of actual culvert pipe length. Culvert diameters shall be a minimum of #15 arch. All installations shall require

endwalls on both ends of the culvert pipe. The endwalls shall be installed at the time of the original installation of the culvert pipe. If the provisions of this section are in conflict with culvert pipe sizes specified on an approved plat or drainage plan, the Town Board may designate a size conforming to the plat or drainage plan.

(3) Application. This ordinance shall apply to all new and replacement installations.

(4) Installation Procedure.

(a) The property owner must purchase the proper size and type of culvert and endwalls from a supplier of his choice as long as the culvert and endwalls meet Town specifications.

(b) Property owners must get instructions from the Town Board before installing the culvert and endwalls.

(c) Property owner shall be responsible to contract with a contractor experienced in the installation of culverts. If ditching is required to ensure proper installation, the Town Board may determine whether that ditching can be done by the contractor or require that it be done by the Town or its agent. The Town reserves the right to charge the property owner for reimbursement of ditching cost and payment shall be made within 30 days of billing. Failure to pay will result in the charge being placed as a special charge to be collected with the real estate tax.

(d) The culvert must be set at least 3' from the property line and only 3/4" crusher run stone can be used to cover the culvert. A minimum of 8" of stone must be placed on top of the culvert. Bedding and filling must be around and beneath the culvert pipe. The Town Board may approve alternate types and amounts of gravel or stone, but in no event shall dirt, clay or other loose ground be used. The culvert must be placed on an undisturbed bed of soil.

Section 5. TEMPORARY CULVERTS.

(1) When Allowed. Where temporary access to a right-of-way across any ditch, curbing or sidewalk is needed for a period of not more than three months, a permit shall be required for maintaining such access and installing the required culvert. The permit may be renewed once for an additional three months. One purpose of the permit is to maintain listing of all temporary driveways and culverts and the names of those responsible for their maintenance.

(2) Size of Temporary Culvert. Temporary culverts shall be a minimum of 8" in diameter. It is the responsibility of the applicant to maintain the unimpeded flow of water through the culvert throughout the time it is in place. In the event the culvert becomes damaged or the drainageway is otherwise obstructed, it must be restored by the applicant within 24 hours of such obstruction.

(3) Type of Culvert. Temporary culverts shall be constructed of steel corrugated piping, reinforced concrete, cast iron, Schedule 40 PVC or ABS Plastic, or other material approved by the Town Board at the time of application. In any case, the material used for the culvert must be able to support the loads to be imposed upon it.

(4) Installation. Applicant shall be responsible for proper installation of temporary culverts. Only crusher run gravel shall be installed over temporary culverts.

(5) Removal by Town Upon Failure to Maintain. If a temporary culvert is not maintained as required by Town or if the culvert or temporary driveway is causing a disruption to the drainage system, it may be ordered removed prior to the expiration of the permit. In the event it is causing drainage problems, both the culvert and driveway may be removed by the Town without notice. Any costs incurred by the Town in removing a temporary culvert or driveway will be billed to the property owner to be paid within 30 days of billing. Accounts not paid within 30 days will be charged against the property and placed on the tax roll as a special charge to be collected with the real estate taxes.

(6) Restoration of Drainageway. Upon expiration or early termination of the permit, it shall be the applicant's responsibility to remove all material placed in the right of way and restore the drainageway to the condition it was prior to the installation of the temporary culvert and driveway. Any disturbed soil in the drainageway shall be stabilized to prevent erosion. In the event applicant fails to remove the driveway culvert as required, the Town may remove the material placed in the right of way without notice. The costs of such removal will be billed to the property owner to be paid within 30 days of billing. Accounts not paid within 30 days will be charged against the property and placed on the tax roll as a special charge to be collected with the real estate taxes.

Section 6. CULVERT PERMIT FEE.

There shall be a \$50.00 fee for any permanent culvert permit issued pursuant to this Ordinance. The fee for a temporary culvert permit is \$10.00. In addition, when installation of any culvert is begun without first obtaining a permit therefor as required herein, the Town Board shall have the power and authority to stop work until a permit has been procured. If installation is started before application is made, the applicable fee shall be increased to twice what it would have been if timely application has been made.

Section 7. AGRICULTURAL EXCEPTION.

Notwithstanding anything otherwise provided herein, this ordinance shall not be construed to prohibit farmers from crossing a ditch to access a field for agricultural purposes. However, in the event such crossing damages the ditch so as to interfere with or prevent proper flow, the farmer shall forthwith restore the ditch to the condition it was in immediately prior to such crossing and any disturbed soil shall be stabilized to prevent erosion. In the event the farmer fails to restore the ditch and stabilize the soil as required, the town may do so without notice. The costs of such restoration and stabilization shall be billed to the property owner to be paid within 30 days of billing. Accounts not paid within 30 days will be charged against the property and placed on the tax roll as a special charge to be collected with the real estate taxes.

Section 8. VARIANCES.

Any variation from the terms of this Ordinance must be granted by action of the Town Board and upon determination that requiring strict compliance with the terms hereof would owing to special circumstances, result in practical difficulty, unnecessary hardship, or not be in the interests of the Town of Wolf River.

Section 9. PENALTY PROVISIONS.

(1) General Penalty. Except as otherwise provided, any person who shall violate any of the provisions of this Ordinance shall, upon conviction of such violation, be subject to a forfeiture which shall be as follows:

(a) First Offense. Any person who shall violate any provision of this Ordinance shall, upon conviction thereof, forfeit not less than \$50.00 nor more than \$500.00, together with the costs of prosecution, and in default of payment of such forfeiture and costs of prosecution, shall be imprisoned in the County Jail until such forfeiture and costs are paid, but not exceeding 90 days.

(b) Second Offense. Any person found guilty of violating any provisions of this Ordinance, who has previously been convicted of a violation of the same provision within one year shall, upon conviction thereof, forfeit not less than \$75.00 or more than \$500.00 for each such offense, together with the costs of prosecution, and in default of payment of such forfeiture and costs shall be imprisoned in the County Jail until such forfeiture and costs are paid, but not exceeding 6 months.

(2) Continued Violations. Each violation and each day a violation continues or occurs shall constitute a separate offense.

(3) Other Remedies. Nothing in this Ordinance shall preclude the Town from maintaining any appropriate action to prevent or remove a violation of any provision of this Ordinance.

(4) Execution Against Defendant's Property. Whenever any person fails to pay any forfeiture and costs of prosecution upon the order of any court for violation of any ordinance of the Town, the court may, in lieu of ordering imprisonment of the defendant, or after the defendant has been released from custody, issue an execution against the property of the defendant for such forfeiture and costs.

Section 10. REPEAL OF INCONSISTENT ORDINANCES.

All existing Town ordinances, part of ordinances, and amendments thereto in conflict with any of the provisions of this Ordinance are hereby repealed.

Section 11. SEVERABILITY.

If any section, clause, provision or a portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remaining provisions shall not be affected thereby.

Section 12. EFFECTIVE DATE.

This Ordinance shall take effect upon publication in the Weyauwega Chronicle.

Adopted this 24th day of September, 2007.

Randal S. Rutten, Chairperson

Attest:

Susan J. Gilbert, Clerk

09-24-07