

CULVERT ORDINANCE

9-20-12

- 1.0 Purpose:** The purpose of this ordinance is to assure a uniform and proper type, size, installation method and fill material for culvert installations within the Town of Poygan.
- 2.0 Abrogation and Greater Restrictions:** It is not intended by this ordinance to repeal, abrogate, annul, impair or interfere with any existing rules, regulations, ordinances or permits previously adopted or issued pursuant to law. However, whenever this ordinance imposes greater restrictions, the provisions of this ordinance shall apply.
- 3.0 Interpretation:** In their interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes. Where any terms or requirements of this ordinance may be inconsistent or conflicting, the more restrictive requirements or interpretation shall apply. Where a provision of this ordinance is required by Wisconsin Statutes, or by a standard in Chapter NR 544, Wis. Administrative Code, and where the ordinance provision is unclear, the provision shall be interpreted in light of the Wisconsin Statutes and the Chapter NR 544 standards in effect on the date of adoption of this ordinance, or in effect on the date of the most recent text amendment to this ordinance.
- 4.0 Severability:** Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.
- 5.0 Applicability:** The requirements of this ordinance apply to all persons living and or owning property within the Town of Poygan.
- 6.0 Administration:** The provisions of this ordinance shall be administered by Poygan Town Board unless a committee is appointed by said Board, to administer the provisions herein.
- 7.0 Effective Date:** The provisions of this ordinance shall take effect upon publication. This ordinance shall apply to all new installations after August 20, 1998 and shall also apply to all replacement installations after that date. Section 9.04 was amended in July of 2019 and shall apply after the effective of the amendment.
- 8.0 Culvert Permit Required:** Sale or conversion of any land wherein road access connecting to any public roadway is or may be required; said access shall require installation and maintenance of a culvert of proper type, size, and installation method and fill material.
- 8.01** No person shall construct or maintain any driveway across any ditch, sidewalk or curb or enter any road without first obtaining a culvert permit from the Town of Poygan.
- 8.02** There shall be a fee for any culvert permit issued pursuant to the terms of this ordinance and set by resolution.

8.03 No building permit shall be issued nor excavation begun, where a culvert will be installed, unless prior thereto a permit for proper size and type of culvert first be obtained from the proper Town authorities.

9.0 Type and Size of Culvert: The Town of Poygan, in an effort to make uniform the size and type of culvert to be installed, hereby restricts culverts to the following:

9.01 Only new galvanized steel culverts shall be allowed for installation in the Town of Poygan.

9.02 Only one-piece, factory manufactured culverts of proper size be allowed for installation in the Town of Poygan.

9.03 The minimum diameter of any culvert, regardless of placement location, shall be 15-inches or arched (oval) equivalent unless the need for a culvert has been waived or an alternate size has been approved by the Town Board or Town Board designated representative.

9.04 The minimum length of any culvert, excluding endwalls and regardless of placement location, shall be as follows: (a) 30-feet for driveways for agriculturally zoned properties and for driveways for residentially zoned properties that are over 200 feet in length, and (b) 24-feet for residentially zoned properties where the driveway is 200 feet or less in length.

10.0 Method of Installation and Procedure: Culvert installation must be performed in the Town of Poygan road right-of-way and designated easements, and therefore, in all cases and regardless of who is paying for the installation of the culvert, the installation of the culvert must be inspected and approved by the Town of Poygan Board of Supervisors or duly appointed Representative to assure proper and uniform installation.

The property owner may elect to have his/her culvert installed by a contractor of their choice or he/she may contact a member of the Town Board for suggestions and referrals. All contractors performing culvert installations within the Town of Poygan must provide proof of Workman's Compensation insurance and liability insurance prior to beginning any form of excavation or culvert installation.

10.1 Upon proper application and securement of a culvert permit, the property owner must notify the authorized Town of Poygan representative that the installation of a culvert is requested.

10.2 The property owner shall place two markers, 30-feet apart and within the ditchline, at the location where he/she wishes the culvert to be installed.

10.3 The Town authorized representative shall visit the site in order to determine the proper size culvert required and to determine if excavation of material is required for installation.

10.4 The owner selected contractor shall purchase and install the proper size culvert to include at least one load of stone. Additional stone required to bring the entrance up to grade may be furnished by the owner or a different contractor, however, the type of cover must be ¾-inch crusher run stone.

10.5 All culverts and endwalls (if required) must be set at the time of culvert installation by the selected contractor. If excavation of the ditch is necessary to ensure proper installation, the cost of the ditching is the responsibility of the property owner.

10.6 The culvert must be at least ten (10) feet from the property line and only ¾-inch crusher run stone may be used to cover the culvert or driveway within the road right-of-way.

10.7 A minimum of eight (8) inches of stone shall be placed on top of the culvert. In the event that eight (8) inches of cover makes the grade level too high, the installation of an arch (oval) culvert may be required by the Town Board or approving authority representing the Town.

10.8 Proper bedding and filling must be placed around and beneath the culvert. The Town Board may approve alternate types of gravel or stone but in no event shall dirt, clay or material other than gravel be used.

10.9 Installation of any culvert without first obtaining a permit therefore as required herein, private installation or replacement of a culvert in any manner inconsistent with the methods listed herein or if the property owner does not follow the guidelines set forth in the Ordinance and has the culvert set by persons not authorized by the Town Board shall constitute a violation of this ordinance. The Town Board may order that the culvert be removed at the expense of the property owner.

11.0 Construction and Maintenance of Driveway in Road Right-of-Way: No driveway constructed within any road right-of-way shall be surfaced with any material other than blacktop or gravel. At Town Board discretion, blacktopped driveways may be required to end before merging with the existing Town road. It shall be the obligation of the owner of abutting and property benefitted by such driveway so installation to maintain the same in a safe manner so as not to interfere with safe travel upon the roadway. The Town shall not be liable for any damage or for restoration of any driveway damaged during operations to maintain the roadway, culvert, or ditch.

When ever concrete exists over a culvert in the Town road right-of-way, that services the adjacent property owner, that property owner shall bear all expenses to remove the concrete and resurface. This shall apply to all existing and future concrete installations.

In addition to penalties otherwise provided by this Ordinance, any driveway installed or maintained contrary to the provisions hereof may be removed pursuant to Wis. Stats. Sec. 86.04 as constituting an unauthorized structure or object encroaching upon a highway.

12.0 Penalty: Except where a penalty is provided elsewhere in this Ordinance, any person who violates any of the provisions of this Ordinance shall, upon conviction of such violation, be subject to a penalty, which shall be as follows:

12.1 First Offense – Penalty, Any person who violates any provision of this Ordinance shall, upon conviction thereof, forfeit not less than Fifty Dollars (\$50.00) nor more than One Thousand Dollars (\$1,000.00), together with the cost of prosecution and, in default of payment of such forfeiture and cost of prosecution, shall be imprisoned in the County Jail until such forfeiture and costs are paid, but not to exceeding ninety (90) days.

12.2 Second Offence – Penalty, Any person found guilty of violating any part of this Ordinance who shall previously have been convicted of a violation of the same Ordinance within one (1) year shall, upon conviction thereof, forfeit not less than One Hundred Dollars (\$100.00) nor more than Two Thousand Dollars (\$2,000.00) for each such offense, together with the cost of prosecution and, in default of payment of such forfeiture and cost of prosecution, shall be imprisoned in the County Jail until such forfeiture and costs are paid, but not to exceed six (6) months.

12.3 Continued Violations, Each violation and each day a violation continues or occurs shall constitute a separate offense. 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.

This ordinance shall be effective upon publication or posting by the town clerk as required, pursuant to s. 60.80, Wis. Stat.

Original ordinance was adopted this 20th day of September 2012 and sections 7.0 and 9.04 were amended on this 17th day of July, 2019.

By the Town Board of the Town of Poygan, Winnebago County, Wisconsin:

Town Chairperson, Martin Johnson

Attest:

Town Clerk, Julia Reinert