

## **CHAPTER 24-10 CATTLE GUARDS AND GATEWAYS**

### **24-10-01. Cattle guards - How permitted.**

Whenever the erection of cattle guards is necessary to complete an enclosure which includes land on both sides of any highway in the state, except a highway which has been designated as part of the state highway system, or to cross a section line pursuant to section 24-06-28, the board of county commissioners, if the cattle guard is to be erected across a county road or a section line subject to jurisdiction of the board of county commissioners, or the board of township supervisors, if the cattle guard is to be erected across a township road or a section line subject to jurisdiction of the board of township supervisors, may issue permission to any person, firm, or corporation to erect a cattle guard and gateway across the highway or section line upon the conditions hereinafter prescribed.

### **24-10-02. Cattle guards - Construction - Maintenance - Effect.**

Before any cattle guard and gateway may be erected across any highway or section line as authorized in section 24-10-01, the board of county commissioners or board of township supervisors, as the case may be, shall approve written specifications of the cattle guard and gateway. Specifications approved by the board of county commissioners must be filed with the county auditor and specifications approved by the board of township supervisors must be filed with the township clerk. The specifications must include requirements for warning signs to be placed approximately three hundred feet [91.44 meters] from and plainly visible to persons approaching the cattle guard upon the highway or section line. A cattle guard must be so constructed as to permit the passage of motor vehicles through and over the same. No cattle guard may be erected upon any highway or section line unless there also is provided adjacent thereto an ample gateway in which must be erected a gate which may be opened easily and closed by the public. The person who applied for permission to erect the cattle guard shall maintain the cattle guard and gateway, unless application is otherwise assigned. Within the limits of an enclosure so completed by authorized cattle guards erected in accordance with such specifications, livestock must be permitted to run at large without liability for being upon the highway or section line.

### **24-10-03. Leaving gates open - Penalty.**

Any person who opens and fails to close promptly any gate provided for in this chapter is guilty of an infraction.

### **24-10-04. Cattle guards may be ordered removed.**

The board having authority to permit the erection of a cattle guard and gateway across any highway or section line also has authority to cause the same to be removed, if the same is not kept in repair, or if in the judgment of said board, it becomes necessary to remove the cattle guard and gateway for the purpose of improving the highway or section line. If the board determines any cattle guard and gateway should be removed under this section, written notice by registered or certified mail must be sent to the occupant of the enclosure, notifying the occupant to effect such removal within thirty days from the date of mailing. If the notice is not complied with, the board, upon expiration of the period, is authorized to remove or destroy the cattle guard and gateway.

### **24-10-05. County and townships exercise joint authority.**

If the cattle guard and gateway provided for in section 24-10-01 are sought to be erected upon any township or county line, the governing boards of the adjacent territory shall exercise joint authority and jurisdiction and the proceedings required in section 24-10-02 must be taken in both jurisdictions.

**24-10-06. Cattle ways under highways.**

Upon application to the board of county commissioners of any county or the board of township supervisors of any organized township, by any person, for permission to construct a cattle way under any public road, such board may grant the same upon condition that the cattle way may not interfere with the public travel, that the grade of the road over the cattle way may not exceed one foot [.30 meter] in ten feet [3.05 meters], and that it may not obstruct watering at any running stream. The applicant shall construct the same at the applicant's own expense and is responsible for all damages that may arise from its construction or from failure to keep the same in repair.

**24-10-07. Failure to keep cattle way in repair.**

If the person on whose land a cattle way is constructed fails to keep the cattle way in repair, the overseer of highways shall make all necessary repairs and shall charge the expenses to the person who requested the way be constructed or to that person's assignee. Upon refusal by that person to pay, the county or township board in which the cattle way is situated shall recover the expenses in an action brought in the name of the county or township and the state's attorney shall prosecute the action. The money, when collected, must be expended in improving or repairing the public roads in the road district where the cattle way is constructed.

**24-10-08. Board may prescribe regulations.**

The board granting an application to construct a cattle way may prescribe such further regulations and specifications in the construction of such way as it may deem proper, not inconsistent with the provisions of sections 24-10-06 and 24-10-07.