

ROW Encroachments and Enforcements

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Ward County Engineer

**Get your treatment
for \$500,
if not treated get
back \$1,000**



Encroachments Types

Snow pushed across roadway(left)
Included in Snow Policy(below)

SNOW PLACED ON ROADWAY: County residents are to avoid adding to the hazards of wintertime driving by not placing snow from their driveway onto public roads and right of way. Snow dumped, plowed, pushed, or blown onto the roadway can create a serious hazard not only for motorists but also for snowplow equipment. NDCC 24-05-23 and 24-12-02 prohibits obstructing or causing to be obstructed any public highway or right of way. Piles of snow left on or near the road can freeze into a solid mass creating a hazardous situation for vehicles and snowplows. Accidents and damages caused by snow piles placed in the roadway may result in liability to the property owner. Piles of snow increase the chances of drifting snow onto the roadway. Property owners found in violation will be given notice and shall remove the snow. If the snow is not removed within a reasonable time, the county will remove the snow and the property owner will be billed.

Encroachments Types

Mail Box along highway(left)

Mail Box along highway (below)



Safety / Clear Zone



Ward County Highway Department

900 13th St. SE • P.O. Box 5005 • Minot, ND 58702-5005 • (701) 838-2810 • Fax (701) 838-3801

Standards for Installing Mailboxes on County Roads

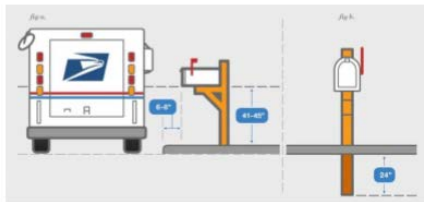
Roadside mailboxes need to be strong to stand up to the elements, convenient for the mail carrier to reach inside, and installed to ensure safety for passersby. Please follow the guidelines below to make sure your mailbox meets these requirements.

Ward County requires that mailboxes and newspaper delivery boxes located within the right-of-way to be constructed and installed in a manner that does not substantially interfere with the safety of the traveling public and the operation and maintenance of the County road system. A mailbox installation that does not conform to the provisions of this policy will be considered a safety hazard. Any violation could result in a written order requiring the owner to remove the safety hazard. If the safety hazard is not removed, Ward County will remove the hazard and bill the owner under North Dakota Century Code 24-06-29

Mailbox Standards

Mailbox: Mailboxes should have a Postmaster General's seal of approval, shall be constructed from sheet metal, plastic, or similar weight materials and shall not exceed 11 lbs.

Height: Mailboxes are typically installed with the bottom of the mailbox located 41 to 45 inches above the roadway surface. Refer to your local post office regulations for specific mailbox height requirements.



Number of Mailboxes on One Post: No more than two mailboxes may be mounted on one support post, unless the support post and mailbox arrangement meets the [American Association of State Highway and Transportation Officials \(AASHTO\) standards](#) or [ND DOT standards](#).

Policies and Standards

Standards for Installing Mailboxes (left) Examples (below)

Examples

Approved: Mailboxes supported by 4"x 4" wood post and/or light gauge pipe that is 2-inches in diameter or less.

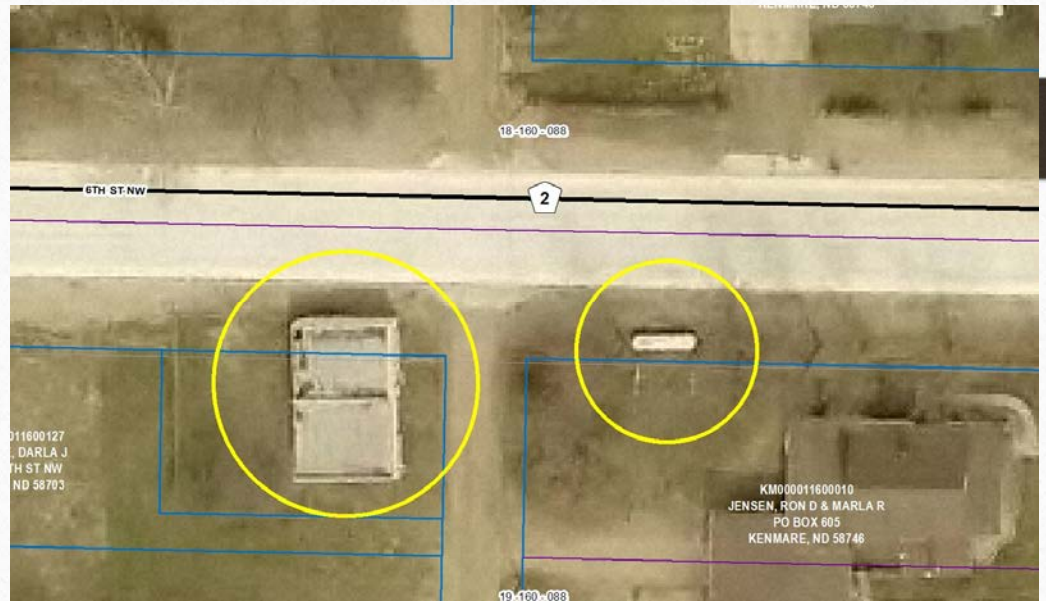


Prohibited: Mailboxes supported by structures such as non-breakaway masonry columns, railroad ties, tractor wheels, plow blades, concrete barrels, and any other non-breakaway style support system.



Encroachments Types

New Garage – No Permit (left)
Old Garage & Propane Tank (below)



Building & Structures

Encroachments Types

Dream Land homes (left)

Camping in the ROW (below)



Temporary Structures



Attached are pictures showing the obstruction that your company has placed in the County Right of Way (ROW) on County Road 17, just north of US 2 & 52. Ward County Highway Department has contacted your office numerous times, both in person and by phone requesting your sign, trucks, buildings, and miscellaneous items be removed from the ROW and that the ROW be restored.

As outline in Section 24-05-23 of the North Dakota Century Code, we are sending official notice that all item that are encroaching upon our ROW must be removed within twenty days of receiving this notice. These items include, but are not limited to any equipment, vehicles, modular homes, steel frames, garbage bin, signs and walkways within approximately 75ft of the centerline of County Road 17. Dreamland Homes will also need to restore the ROW back to previous condition, which includes the removal of the aggregate base placed in the ROW, between the property line and road. Once the aggregate base has been removed, topsoil will need to be replaced and grass seeded. Dreamland Homes will need to maintain the reseeded area until 70% of vegetated growth has been established.

Any items remaining in the ROW after twenty days will be removed by Ward County or designee, and any remaining restorations not completed will be completed by Ward County and all cost shall be billed to the landowner. If the landowner fails to pay the county for the damages, the expense of the repairs will be levied against the land. If you have questions, please call our office at 701-838-2810. Ward County appreciates immediate action to this matter.

Encroachments Types

Recycling Company (left)
After notice to remove (below)



Encroachments Types



Rural Water (left)
Trees and Logs (below)

Safety / Clear Zone



Encroachments Types



Retaining Wall (left)
Trees and Retaining Wall (below)



Safety / Clear Zone

Encroachments Types



Temporary Fence

Electric Fence (left)
Electric Fence (below)



Encroachments Types



Silt Fence (left)

Fencing Around Slough (below)



Safety / Clear Zone

Encroachments Types

Home Made Turn Lane (left)
Approach - No Permit(below)



Safety / Clear Zone



Encroachments Types

Farming to edge of road (left) 40' ROW
Corn 17' from Center (below) 33' ROW



Farming



Encroachments Types

Farming around Poles (left) 75' ROW
Farming 40' of ROW (below) 75' ROW



Farming



NORTH DAKOTA DEPARTMENT OF TRANSPORTATION CONSTRUCTION AND MAINTENANCE AGREEMENT

PART III

Post Construction:

After the project is completed the County agrees to:

1. Maintain the signing and marking of the project according to the current edition of the Manual on Uniform Traffic Control Devices for Streets and Highways, as supplemented and amended.
2. Provide maintenance to the completed project, at its own cost and expense.
3. Prohibit encroachments upon the right of way pursuant to 23 CFR Part 1.23, Rights of Way, and Part 710 Subpart D, Right of Way, Real Property Management.

North Dakota Century Code

24-05-23. Encroachment upon county roads, ditches, approaches - Liability for damages.

A landowner who encroaches upon a county road or its ditches or approaches must be given notice by the board of commissioners for that county that the encroachment has been discovered. If the landowner fails to remedy the encroachment within twenty days after receiving the notice, that landowner is liable to the county for damages resulting from the encroachment. The board of commissioners for that county shall issue to the landowner written notice of the amount of damages determined to be a result of the encroachment. If the landowner fails to pay the county for the damages, the expense of the repair must be charged to the land of the landowner. The expenses charged become a part of the taxes to be levied against the land for the ensuing year and must be collected in the same manner as other real estate taxes are collected and placed to the credit of the county that incurred the expense of the repair.

24-05-24. County and township road rights of way - Removal of obstructions.

The governing body having authority over the right of way of a county or township road may develop and implement rules governing the disposal of any stored hay or other obstruction placed on the right of way.

1996 N.D. AG LEXIS 90 - various questions regarding the application of NDCC 24-05-23

North Dakota Century Code

24-06-28. Obstruction of section lines prohibited - Exception - Certain fences not considered obstructions - Obstructions and traffic safety hazards - Penalty.

24-06-29. Removal of permanent obstructions - Removal of obstructions and traffic safety hazards - Cost.

1. Removal notice by registered mail - 30 days – Can be assessed
2. Written order to the person - soon as practical – can be billed to owner

24-06-30. Removal of fences - Notice - Cost.

24-06-31. Obstructions in highway.

24-07-19. Notice to party to remove fences.

Attorney General's Opinions

1976 N.D. AG LEXIS 38

1976 N.D. AG LEXIS 39

1981 N.D. AG LEXIS 93, 1981 Op. Atty Gen. N.D. 207, 1981 Op. Atty Gen. N.D. 207

1985 N.D. AG LEXIS 8, 1985 Op. Atty Gen. N.D. 162, 1985 Op. Atty Gen. N.D. 162

1995 N.D. AG LEXIS 50

1996 N.D. AG LEXIS 18, 1996 Op. Atty Gen. N.D. 89, 1996 Op. Atty Gen. N.D. 89

1996 N.D. AG LEXIS 49

1996 N.D. AG LEXIS 95

1997 N.D. AG LEXIS 38

2000 N.D. AG LEXIS 2

2001 N.D. AG LEXIS 59 (N.D. Att'y Gen. Nov. 9, 2001)

2001 N.D. AG LEXIS 59 (N.D. Att'y Gen. Nov. 9, 2001)

2002 N.D. AG LEXIS 14

