

TOWN OF BROOKLYN, GREEN COUNTY, WI

ORDINANCE # 1.2

Adopted: 08/11/2014

Title: Regulation of activities within Town of Brooklyn road rights-of-way

This ordinance consolidates key components of the below listed existing ordinances and includes newly amended language. New provisions have also been incorporated. Upon the effective date of this ordinance the below-listed ordinances are hereby repealed in their entirety.

- 6-23-93B = Road Right – of - Way Use
 - 6-23-93C = Town of Brooklyn Ordinances - Mailboxes
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Contents (Sections)

1. Authority and responsibility
2. Purpose and scope
3. General provisions
4. Specific provisions
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6. Miscellaneous

Section 1 Authority and responsibility The Town Board has specific statutory authority, powers and duties pursuant to WI Statutes 86.04, 86.07 and 86.022 and other highway related statutes as well as 60.22(3) - duly adopted village powers (1992) all of which grant the Town Board powers to regulate, control, license, prevent or permit certain uses and activities for the good order of the Town and for the health, safety and welfare of the public.

Section 2 Purpose and scope The purpose of this ordinance is to create and maintain a safe, healthy and aesthetically acceptable environment through the regulation of occupancy and use of the land within the town road right – of - way. An unobstructed, properly built and maintained space adjacent to the traveled portion of the road provides a clear zone for vehicle run offs, facilitates mowing for visibility & noxious weed control and helps assure adequate surface water drainage & unimpeded snowplowing.

Section 3 General provisions This ordinance was adopted on a roll call vote by a majority of the Town Board with a quorum present and voting and proper notice having been given.

Section 4 Specific Provisions

4.1 Definitions

4.1.1 Clear zone – A space adjacent to the traveled portion of the road devoid of substantial man-made obstructions or naturally occurring hazardous conditions.

4.1.2 Road right-of-way – The area including the traveled portion of the road plus adjacent land generally measuring 33 feet on each side of the center of the traveled portion of road with a total width of 66 feet (4 rods).

4.2 Permanent encroachments on right-of-way prohibited

4.2.1 Permanent man-made encroachments of any type are prohibited except as noted in Section 4.2.2. Examples of prohibited, permanent encroachments include but are not limited to fences, signs, retaining walls, substantial culvert abutments, extension of field cultivation into the right-of-way and planted trees.

4.2.2 Mailboxes and supporting structures are allowed when they are erected and maintained in compliance with all U.S. Postal Service regulations and the entire mailbox and supporting structure are situated at least eighteen (18) inches off the edge of the traveled (paved) portion of the road.

Any mailbox or supporting structure erected or replaced after the effective date of this ordinance shall be designed and built to minimize injury or damage in the event of a collision with it. Wood posts greater than 4" x 4" or 5" diameter must have relief holes. Steel posts greater than 2" diameter or 2" x 2" must have a breakaway mechanism for the mailbox. Rock, masonry or substantial ornamental iron or wood support structures are prohibited as are mailboxes encased in concrete or an outer heavy steel or wood covering.

4.3 Temporary encroachments on right-of-way prohibited

4.3.1 Temporary encroachments of any type are prohibited except as noted in Sections 4.3.2, 4.3.3 and 4.3.4. Examples of prohibited, temporary encroachments include but are not limited to parking or placement of motor vehicles & trailers, farm machinery & equipment, boats, other personal property of any type or size or farm products.

4.3.2 in an emergency or the event of a vehicle being disabled and then only for so long as it takes to remedy the situation.

4.3.3 while servicing the right-of-way itself or servicing private land adjacent to the right-of-way if not otherwise readily accessible and then only for so long as it takes to complete the work.

4.3.4 while parked for a limited time attending an event or social gathering on adjacent land.

4.4 Other encroachments on right-of-way prohibited

4.4.1 Abandonment, disposal or discarding of rocks, brush, trash, garbage, recyclables, electronics, appliances, yard or animal waste, tires/wheels, water heaters, hazardous waste in any form, vehicles of any type and any other personal property is prohibited regardless of ownership of adjacent property.

4.4.2 Alteration or obstruction of drainage or water ways within the right –of-way is prohibited without prior written authorization of the Town Board or its designee. This includes placement, replacement or alteration of driveway and field accesses including related culverts, if any, all of which is regulated specifically elsewhere in Town of Brooklyn Ordinances.

4.4.3 Accumulation and burning of any type of material within the right-of-way is prohibited except grass and other foliage growing in the right-of-way

4.4.4 Encroachment of soil, vegetation and/or manure onto the right-of-way caused by unchecked runoff from farm fields, construction sites and livestock confinement facilities is prohibited.

4.5 Remedies

4.5 .1 Enforcement

Any person who violates a provision of this ordinance where there is not an applicable Wisconsin Statute may be issued a citation as provided for in Town ordinances and procedures and if found to have failed to comply with this ordinance shall, upon such finding, forfeit no less than \$100 nor more than \$500 , together with the costs of prosecution and any applicable penalty assessment.

Any violation under this ordinance involving violation of specific Wisconsin Statutes or the Green County Code shall be subject to issuance of a citation and penalties applicable to that WI Statute or Green County Code provision.

Issuance of a citation does not preclude the Town from proceeding under Sections 4.5.2 or 4.5.3.

4.5.2 Abatement The Town of Brooklyn shall be entitled to abate the violation of this ordinance by any appropriate legal means including removal of the offending materials, obtaining injunctive relief or a declaratory judgment and/or enlisting the aid of enforcement mechanisms available to other government agencies.

4.5.3 Other remedies Any and all costs incurred by the Town of Brooklyn in effectuating abatement shall be paid by the violator. Non-payment can result in the outstanding amount being placed on the violator's property tax bill as a delinquent charge as provided by Town ordinance. Pursuant to then-current Town ordinance, non-payment could also result in denial by the Town of any application(s) for a license or permit until the outstanding amount is collected.

4.5.4 Recourse Anyone issued a citation alleging violation of specific sections of this ordinance may enter a not guilty plea and avail themselves of the Green County Court system.

Anyone issued a citation alleging violation of a Wisconsin Statute or section of the Green County Code may avail themselves of the recourse available through the citing jurisdiction.

Section 5 Standard provisions

5.1 Severability Provisions of this ordinance shall be deemed severable and it is expressly declared that the Town Board would have passed the other provisions of this ordinance irrespective of whether or not one or more provisions may be declared invalid. If any provision of this ordinance or the applicability thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provisions to other persons or circumstances shall not be affected thereby.

5.2 Headings and Titles Headings, labels, and formatting in this ordinance are for the convenience of the reader only and do not provide independent meaning or substance to this ordinance.

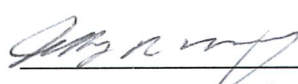
Section 6 Miscellaneous provisions

6.1 Pursuant to WI Statute 60.80 the clerk shall post this ordinance as required.

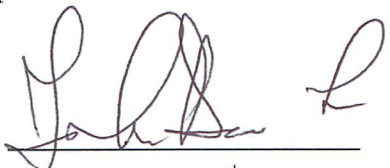
6.2 This ordinance is effective upon being published/posted




James B. Scrivner, Chairman



Jeffrey McNeely, 1st Sup.



John Davis Jr., 2nd Sup.

Attestation: 

Dan Meixelsperger, Clerk

Published/Posted: 8/21/2014