

## **TITLE 4 - PUBLIC WORKS**

### **CHAPTER 2 – STREETS**

#### **ARTICLE 9 - RIGHT-OF-WAY ENCROACHMENTS**

##### **4-2.0905 AUTHORITY.**

A. Wisconsin Statutes 82.03 directs that the Town Board shall have the care and supervision of all highways under the Town's jurisdiction. The limits of town highways are defined by the right-of-way. Therefore, the determination of what natural or man-made objects are permitted in the right-of-way is the exclusive responsibility and legal control of the Town Board.

##### **4-2.0915 DEFINITIONS.**

A. Right of way: Right-of-way is a general term denoting acquired interests or rights in land that are necessary to build, maintain, and operate a facility. As outlined in § 82.18 Stats., road rights-of-way are generally 4 rods (66 feet) in width, usually 33 feet on either side of the center of the pavement. There are exceptions arising from the means or manner by which the Town acquired the road, and they must be identified on a case by case basis.

B. Encroachment: An encroachment is any object or obstruction that has been constructed or placed in the right-of-way or any non-governmental use of any part of the right-of-way.

##### **4-2.0920 ENCROACHMENTS.**

A. No person may construct, plant or place any structure or other object upon any right-of-way except a driveway entrance (see 4-2.0710), mailbox and a newspaper receptacle of break-a-way construction. Prohibited items include but are not limited to:

1. Agricultural cultivating or cropping.
2. Fencing and landscaping structures.
3. Filling in, obstructing, diverting the flow within, or by any device or excavation conducting water to any road ditch.
4. Underground sprinkler systems. Such systems currently (as of 08-15-2013) in the right-of-way may remain, but are at the risk of the landowner; the Town assumes no liability for damage.
5. Garbage cans and recycling bins on the roadway. Such receptacles shall be recessed into the driveway and removed from the right-of-way within 24 hours of the scheduled pick up day.
6. Depositing of snow onto or across the roadway and shoulders.

B. The newspaper receptacle shall be of sufficient size but no greater than necessary, to hold a typical newspaper and may only be mounted on nothing larger

than a single steel fence post driven no more than two feet into the ground. It shall be placed within one foot of the mailbox. It may be mounted on the same post as the mailbox as described below unless prohibited by the U.S. Postal Service.

C. Only a U.S. Postal Service approved mailbox may be placed in the right-of-way at the location designated by the U.S. Postal Service. It must be mounted on a wooden 4 x 4 post or two inch steel pipe, neither of which can extend more than two feet into the ground.

#### **4-2.0930 PENALTIES AND ENFORCEMENT.**

A. Violations of this Article shall constitute a Class B offense. Any person violating this Article shall forfeit not less than \$250.00 and no more than \$500, together with the costs of abatement and prosecution, for each offense. Each day during which a continuing offense exists, shall constitute a separate offense.

B. If a landowner fails to remove an encroachment, obstruction, or any other material which is in violation of this ordinance, in addition to prosecution, the Town may serve, or publish as a Class 1 notice if service is not obtained, a written order to do so. If the order has not been complied with for five or more days after said service or publication, the Town may clear the encroachment, obstruction, or any other material. The cost of doing so may be imposed upon the landowner as a special charge pursuant to §66.0627(2)