

Ordinance No 19-15-05
Town of Pleasant Valley Town
CHAPTER 7 – PUBLIC WORKS
ARTICLE – ROAD RIGHT OF WAYS

7.1 Purpose

The purpose of this ordinance is to create and maintain a safe and 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 and visibility and helps assure adequate surface water drainage and unimpeded snow removal.

7.2 Authority and Responsibility

The Town Board has specific statutory authority, powers and duties pursuant to Wis. Stat. § 86.04, §86.07 and §86.022 and other highway related statutes as well as §60.22(3) – duly adopted village powers, all of which grant the Town Board powers to regulate, control, license, prevent or permit certain uses and activities for the health, safety and welfare of the public.

Wisconsin Statutes §82.03 directs that the Town Board shall have the care and supervisions 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.

7.3 Definitions

“Road Right-of-way” shall adopt the definition as set forth in per Wis. Stat. § 82.31, being the area including the traveled portion of the road plus adjacent land, which is presumed to be 66 feet (4 rods) wide. Cul-de-sac road right-of-way are determined by the final plat of the subdivision of which the cul-de-sac is located.

7.4 Permanent Encroachments On The Right-Of-Way Prohibited

A. Permanent man-made encroachments of any type are prohibited except as noted in Section 7.4(B). Examples of prohibited, permanent encroachments include, but are not limited to, fences, signs, retaining walls, decorative rocks, substantial culvert abutments, extension of field cultivation in the right-of-way and planted trees and/or shrubs.

B. Mailboxes and supporting structures are allowed in the road right-of-way when they are erected and maintained in compliance with all US Postal Service regulations and the entire mailbox and support structure are situated at least eighteen (18) inches off the edge of the traveled (paved) portion of the road. Any mailbox or supporting structures 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" 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.

7.5 Temporary Encroachments On Right Of Way Prohibited

A. Except as specifically set forth in this Section 7.5, temporary encroachments located in the road right-of-way of any type are prohibited. Examples of prohibited, temporary encroachments include, but are not limited to, parking or placement of motor vehicles and trailers, farm machinery and equipment, boats, dumpsters or any other personal property of any type or size.

B. Exceptions for Temporary Encroachments. A temporary encroachment in the road right-of-way shall be permitted in the following circumstances:

(i) In an emergency or the event of a vehicle being disabled, in which case the temporary injunction shall be allowed only for as long as reasonably necessary to remedy the situation.

(ii) While servicing the right-of-way itself or servicing private land adjacent to the right of way if not otherwise readily accessible, only for as long as reasonably necessary to complete the service work.

(iii) While parked for a limited time, not to exceed 24 consecutive hours, while attending an event or social gathering on adjacent land.

7.6 Other Encroachments on Right of Way Prohibited

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

B. 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.

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

D. Any foliage growing in the road right-of-way is subject to mowing by the Town and must not be of a height which obstructs visibility of the road.

E. Underground sprinkler systems placed in the road right-of-way are allowed, but at the risk of the landowner; the Town assumes no liability for damages that may be caused to such sprinkler systems during the Town's maintenance, improvement, or other Town activities in the road right-of-way.

7.7 Obstruction or Alteration of Drainage and Grade

Altering or changing the depth or contour of the road right-of-way or ditch embankment is prohibited. Diverting, placing or discharging any fluid or substance other than rainwater or snow melt into the road right-of-way is prohibited.

7.8 Driveway Access

A. Field access and private driveways are permitted in the road right-of-way if a valid access permit is obtained through the Town and the access complies with the Town requirements.

B. An adjoining landowner may install a culvert in the road right-of-way if a valid driveway permit has been obtained from the Town and all applicable Local, County and State regulations and policies have been complied with. The access permit shall indicate if a culvert is required to be installed by the adjoining landowner.

7.8 Plowing of Snow from Driveways onto Town Roads

The depositing of snow onto or across the roadway and shoulders is prohibited. Snow removed from private property shall not be stored in any manner which shall obstruct or limit vehicular vision, movement or access. The Town may remove such deposits of snow at the expense of the property owner.

7.9 Damage to Property on Road Right of Way

Without the consent of the owner, no person may intentionally damage, deface or remove any sign, guide board, signal, marker, warning device, mailbox or other object lawfully placed, erected or maintained on any road right-of-way.

7.10 Enforcement

A. Correction order. Upon being informed of a violation of this Ordinance, the Town Board or their designee shall notify the adjoining landowner or violator of the violation in writing and shall order removal and correction of the violation within thirty (30) days. If the Town Board determines that the degree of hazard constitutes an emergency risk to public safety, the Town Board or the designee may immediately correct the violation and assess the cost of such remediation to the adjoining landowner or violator.

B. Abatement. Any violation of this Ordinance may result in the Town clearing and removing an obstruction. Any costs incurred by the Town to clear or remove any snow, ice or other materials located on the roadway or within the road right-of-way in violation of this Ordinance shall be assessed to the offending landowner or violator. The cost of such remediation may be imposed as a special charge pursuant to Wis. Stats. §66.0627(2).

C. Citation. The Town Board may issue a citation for enforcement of violations of this ordinance and issue a forfeiture, as provided below, for such violation.

D. Penalties. Any person who violates any provision of this ordinance, or any order, rule or regulation made or adopted hereunder, shall be subject to forfeiture of not less than \$100.00 and not more than \$500.00, for each offense. Each day that a violation continues shall be considered a separate offense. Further, it is declared as a matter of public policy that any act in violation of this ordinance constitutes a public nuisance that is subject to abatement upon order of the Town Board. The Town Board may, where appropriate, seek injunctive relief action to prevent violations of this ordinance. Furthermore, The Town Board reserves the right to withhold from any person in violation of this ordinance, the issuance of any Town of Pleasant Valley license, authorities, grants or permits until all penalties and costs are satisfied.

7.11 Severability and Interpretation

A. Should any section, clause, provision or portion of this ordinance be adjudged unconstitutional or invalid, unlawful or unenforceable by a final order of a court of competent jurisdiction, including all applicable appeals, the remainder of this ordinance shall remain in full force and effect.

B. The provisions of this ordinance shall be liberally construed in favor of the Town shall not be construed to be a limitation or repeal of any other power now possessed or granted to the Town.

C. All other ordinances or parts of other ordinances in conflict with this ordinance are hereby repealed insofar as they conflict with this ordinance.

7.12 No Liability for Damages. This ordinance shall not be construed as an assumption of liability by the Town of Pleasant Valley for damages because of injuries sustained or property destroyed by any person's failure to comply with the requirements set forth herein.

7.13 Effective date.

This ordinance shall take effect upon passage and publication by law.

Passed this 11th day of March, 2019.

Town Board, Town of Pleasant Valley

Dan Hanson, Town Chairman

Dan Green, Town Supervisor

Douglas Nelson, Town Supervisor

Attest, Town Clerk