

State of Wisconsin  
County of Dunn

**ORDINANCE NO.: 2018-6**

**TOWN OF RED CEDAR  
ROADSIDE MAINTENANCE ORDINANCE**

It is hereby ordained by the Town Board of the Town of Red Cedar, Dunn County, Wisconsin, as follows:

**Section 1- Purpose and Intent**

The purpose and intent of this Ordinance is to provide criteria regarding procedures for the trimming of and/or removal of woody plant materials and other hazards in Town road right of ways.

**Section 2- Authority**

The Town Board of the Town of Red Cedar has the general authority under its Village Powers, s. 60.22, Wis. Stats., to adopt this ordinance. Wis. Stats. 60.50(2) requires the Town to maintain road right of ways for public purposes.

**Section 3 – Adoption of Ordinance**

The Town Board, by this Ordinance, adopted on proper vote with a quorum by a majority of the Town Board present and voting, provides the authority to regulate or permit in the Town.

**Section 4 – Definitions**

- A. "Back slope" means the sloped area between the ditch bottom and the closest right-of-way line. The back slope lies on the opposite side of the ditch from the road.
- B. "Clear zone" means the area within the Town road right of way that shall be cleared of any obstructions to provide a safe corridor in which to travel.
- C. "Cut slope" means the slope condition where the elevation at the right-of-way line is higher than the ditch bottom.
- D. "Fill slope" means the condition where the slope falls continually away from the road between the shoulder and the right-of-way line, and no ditch bottom occurs within the right-of-way.
- E. "Fore slope" means the sloped area located between the road shoulder and the ditch bottom.
- F. "High yard grade" means the yard (dirt, grass, and/or roots) level is above the shoulder and/or road.
- G. "Right of way" means the entire width of land located between the boundary lines which are open to the use of the public as a matter of right for purposes of vehicular travel. The right of way is 33" on both sides of the road centerline, unless otherwise designated.
- H. "Root zone" means the soil volume surrounding a plant containing the roots.
- I. "Vision triangle" means an unoccupied triangular space at the intersection of a road or driveway with another road. Such vision clearance triangles shall be counted by the intersecting road or driveway and a setback line connecting points located on such right-of-way lines by measurement from the intersection as specified in the attached Exhibit A.

**Section 5 – Landowner Rights and Restrictions**

- A. Landowners may mow the right of way adjacent to their land at their discretion. They may trim or cut vegetation in the right of way, but all cut branches and logs must be removed from the right of way.
- B. If trees, brush or shrubbery within the right of way are to be cut by the Town, the landowner shall be notified. The wood is the property of the landowner. If the wood is not wanted by the landowner, the Town will remove it. Wood to be retained by the landowner shall be left on the landowner's property

- outside of the right of way. Where wood is retained by the landowner, it shall be cut in lengths as determined by the Town. All other limbs and debris shall be removed from the right of way by the Town.
- C. The Town is not responsible for trimming branches that protrude into fields or yards from trees growing in the right of way.
  - D. Landowners or their agents may not till or plow within the right of way, nor shall shoulders or ditches (both slopes) be disturbed. Town roads shall not be used as end-of-field turnarounds for tillage or harvesting equipment. The conditions of Sec. 86.02, Wis. Stats., shall apply.

#### **Section 6 – Method of Controlling Vegetation**

- A. The Town shall maintain the right of way by mowing, beginning in June of each year, and by selective cutting and limbing of other vegetation.
- B. Herbicides may be used by trained personnel along Town roadsides to control invasive species. Woody vegetation and noxious weeds may be selectively spot sprayed. Herbicides may also be used at bridges, box culverts, and other structures to control vegetation.

#### **Section 7 – Aesthetic Values of Right of Way**

- A. It is the policy of the Town to encourage and maintain aesthetic areas along the right of way beyond the clear zone. However, the Town may selectively remove trees, boulders or other hazards beyond the clear zone if deemed a threat to public safety. A tree may be judged hazardous based on death, disease, serious decay or poor tensile strength.

#### **Section 8 – Standards for Removal of Woody Vegetation**

- A. The Town will attempt to inform the land owner well in advance of removal or pruning operations. However, emergency situations may require a deviation from customary practice.
- B. All trees and brush that may create a safety hazard such as growth under bridge structures, vision obstructions, those which interfere with water flow in ditches or could cause undesirable snow drifting or inhibit snow removal, and growth around culvert ends, right-of-way posts, signs and guardrails, shall be removed.
- C. Vegetation at bridges, box culverts, pipe culverts, posts, poles, guard rails, and other structures shall be removed to allow good visibility around the structure, as well as to allow inspection and maintenance of the structure. Herbicides may be used within several feet of the structure to control the vegetation as necessary.

#### **Section 9 – Plantings/Landscape Features Permitted in the Right of Way**

- A. Plantings or installation of landscape features by landowners within the right of way shall require approval by the Town Board.
- B. Prior thereto, the landowner shall submit a letter of intent and planting/landscape plan showing species, description and locations of plantings, and/or landscape features.
- C. No plantings or landscape features shall be allowed in the right of way which could impair vision and safety.
- D. Allowable plantings in the right of way include natural prairie grasses, wildflowers and native low-height ground cover.
- E. If approved by the Town, plantings and/or landscape features shall be maintained by the landowner.
- F. Sprinkler systems, etc., owned by landowners are not allowed in the right of way.

#### **Section 10 – Plow Damage within the Right of Way**

Damage on black top driveways will be repaired by the town. Damage or debris on yards or on a high yard grade will not be repaired by the town.

**Section 11 – Appeals Process**

- A. Upon receiving notice by the Town, the landowner may appeal a decision by the Town prohibiting the landowner from planting or installing trees, vegetation, rocks, and other obstructions within the right of way.
- B. Written appeal must be received by the Town Clerk within ten (10) days of date of notice.
- C. The following criteria must be met in order for the Town to reconsider its decision:
  - 1. Trees, limbs, or obstructions must be outside the clear zone.
  - 2. Trees, limbs, or obstructions cannot prohibit installation or maintenance of public utilities within the right of way.
  - 3. Trees, limbs, or obstructions cannot create a known vision or safety hazard.
  - 4. Trees, limbs, or obstructions cannot be damaged, blighted, overgrown or likely to become a safety hazard that will require remedial action by the Town.
  - 5. Trees, limbs, or obstructions cannot restrict the flow of water in the ditch.
  - 6. The Town Board will review written appeals, visit the site, and may request additional information from the landowner. The Town Board will make the final decision on the appeal.

**Section 12 – Penalty Provision**

Any person who fails to comply with the provisions of this ordinance shall be liable for a forfeiture in the amount of \$25.00 or as outlined in the current Town of Red Cedar Schedule of Fees and Forfeitures. Each day a violation exists, or continues to exist, constitutes a separate offense under this ordinance. In addition, the Town Board may seek injunctive relief from a court of record to prevent further violations.

In the event the town is forced to remove the obstruction then, in that case the owner will be billed for the actual cost of labor and equipment.

**Section 13 – Severability**

If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

**Section 14 – Effective Date**

This ordinance shall be in full force and effect upon its passage and publication as provided by law.

The foregoing Town of Red Cedar Roadside Maintenance Ordinance was enacted by a majority vote of the Town Board of the Town of Red Cedar on the 9<sup>th</sup> day of July, 2018.

[Signature]

Town Board Chairperson

[Signature]

Supervisor 1

[Signature]

Supervisor 2

[Signature]

Supervisor 3

[Signature]

Supervisor 4



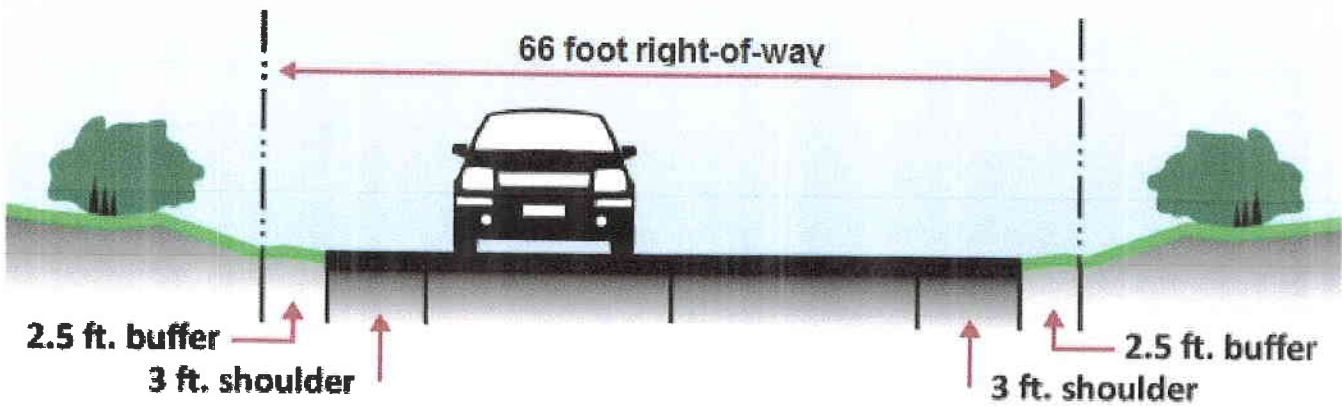
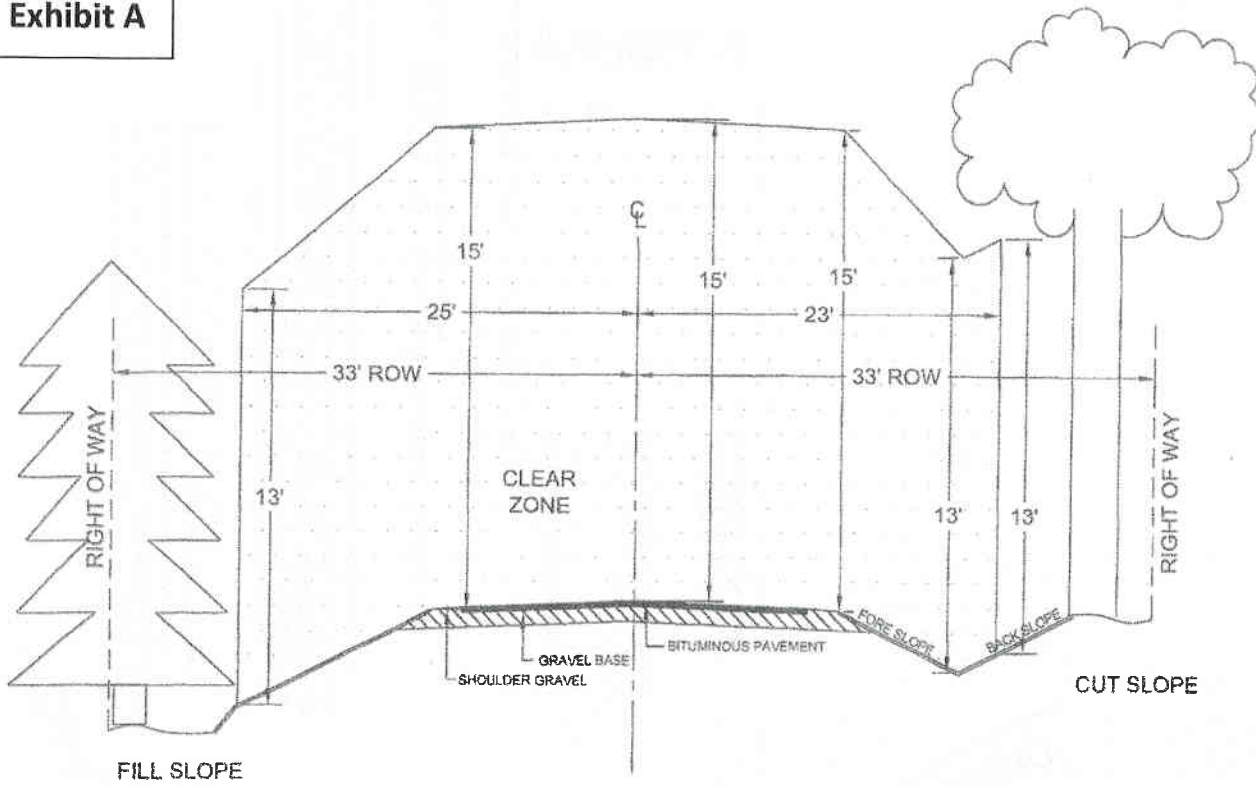
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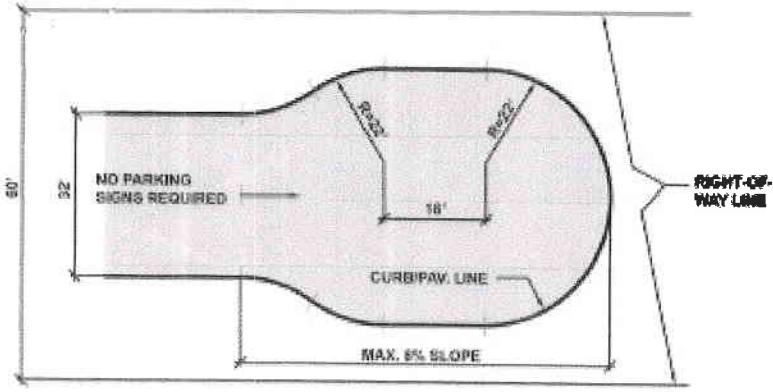
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Town Clerk

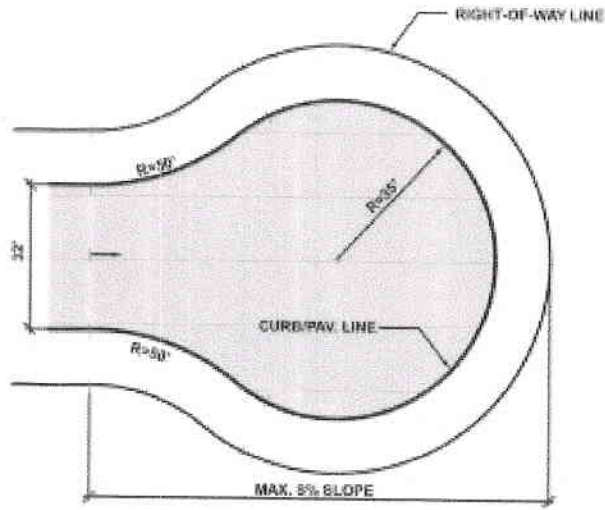
Published: July 18, 2018  
Sun. Co. News

**Exhibit A**





**WITHIN EXISTING 60' RIGHT-OF-WAY**



**NEW PLATTED STREET**