

TOWN OF PRINCETON
Green Lake County, Wisconsin
ORDINANCE NO. 2025-1

HIGHWAY RIGHT OF WAY REGULATIONS

The Town Board of the Town of Princeton do ordain as follows:

Section 1: The following Ordinance entitled “Highway Right of Way Regulations” is hereby created to provide as follows:

§ 1 Authority.

- (A) This Ordinance is adopted pursuant to the authority of Wis. Stat. §§ 60.22, 66.0425, 86.02, 86.021, 86.022, 86.03, 86.04, 86.07, 86.16, 86.19, 86.191, 86.192, & 349.13. These statutes are hereby adopted by reference and incorporated herein and as from time to time they are amended.

§ 2 Definitions.

- (A) Town means the Town of Princeton, Green Lake County, Wisconsin.
- (B) Highway means all public ways and thoroughfares and bridges on the same but does not include private roads or driveways. It includes the entire width between the boundary lines of every way open to the use of the public as a matter of right for the purposes of vehicular travel, including those roads or driveways in Town parks and forests (i.e., the right of way).

§ 3 General guidance affecting the whole public.

- (A) Any person who shall injure any highway by obstructing or diverting any creek or watercourse or sluiceway, or by dragging logs or timber thereon, or by any other act, shall be liable in treble damages, to be recovered by the Town, and the amount recovered shall be credited to the highway maintenance fund.
- (B) No person shall, within the limits of any public highway, plow, cultivate or otherwise work any lands in such manner as to interfere with or obstruct the drainage in any public highway ditch, nor shall any person operate any farm or other machinery on, over, along or across any public highway in such manner as to materially damage the said highway.
- (C) No person shall willfully or maliciously make any ditch, depression or embankment or place any obstruction in any public highway intended or calculated to impede or incommode the use of such highway, or who shall place any obstruction in any ditch constructed to drain any highway.
- (D) Trees on and adjacent to highways.

- (1) Removal of fallen trees.
 - (a) If any tree falls from adjacent land into any highway, the owner or occupant of the land shall immediately remove the tree from the highway.
 - (b) It shall be the duty of every Town official in charge of the maintenance of highways, to remove from any highway any fallen tree or trees therein.
- (2) Ownership. All trees on land over which any highway is laid out shall be for the use of the owner of the land or person otherwise entitled thereto, except trees that have been acquired by and for the public in the acquisition of the highway right of way and except such trees within the highway as may be requisite to make or repair the highways on the land or within one mile of the same; but no trees reserved for shade or ornament, unless acquired by the public, shall be used for such purpose.
- (3) Planting trees and shrubs in a highway.
 - (a) Any person owning or occupying land adjoining any highway may, with the approval of the Town Board, plant, cultivate and maintain trees, shrubs or hedges on the side of the highway contiguous to and within 10 feet of that person's land. Such trees, shrubs or hedges shall be cut or removed only by the owner or occupant of the abutting land or by the Town.
 - (b) Notwithstanding par. (a), if the Town owns or occupies the land that adjoins a highway, the Town Board may authorize another person to plant trees, shrubs, or hedges on the land.
- (4) Cutting or injuring trees on highway. No person shall cut down, break, girdle, bruise the bark, or in any other manner injure, or allow any animal under that person's control to injure, any public or private trees, shrubs, or hedges growing within the highway, except as the owner thereof or the Town may cut down, trim and remove trees, shrubs, and hedges for the purpose of and conducing to the benefit and improvement of the owner's land or the highway facility.

(E) Highway encroachments.

- (1) Order for removal. If any highway right of way shall be encroached upon, under or over by any fence, stand, building or any other structure or object, and including encroachments caused by acquisition by the public of new or increased widths of highway right of way, the Town Board may order the occupant or owner of the land through or by which the highway runs, and to which the encroachment shall be appurtenant, to remove the encroachment beyond the limits of the highway within 30 days. The order shall specify the extent and location of the encroachment with reasonable certainty, and shall be served upon the occupant or owner of the land

through or by which the highway runs, and to which the encroachment shall be appurtenant.

- (2) Nonremoval. If the occupant or owner upon whom the order is served shall not deny such encroachment, under sub. (3), and the encroachment is not removed within 30 days after the service of such order, the occupant or owner shall forfeit \$1 for every day after the expiration of that time during which the encroachment continues. An action to recover such penalty may be brought in any court of record in the county. In all cases where a judgment is rendered, the judgment shall order that the occupant or owner remove the encroachment within the time fixed by the judgment, and upon failure to obey the order, the Town Board may remove the encroachment and recover from the occupant or owner the cost thereof.
- (3) Denial of encroachment, procedure. If, within 30 days after being served with the order issued under sub. (1), the owner or occupant delivers a denial in writing of the alleged encroachment to the Town Board, or fails to make a denial, the Town Board may commence an action to remove the encroachment in a court of record in the county where the property is located.
- (F) The provisions of Wis. Stat. §§ 86.07, 86.16, 86.19, 86.191, 86.192 shall be applied and enforced as written.

§ 4 Privileges.

- (A) In this section, “privilege” means the authority to place an obstruction or excavation beyond a lot line, or within a town highway right of way, other than by the general ordinance affecting the whole public in § 3.
- (B) A person may apply to the Town Board for a permit for a privilege.
 - (1) A permit may only be granted if the applicant assumes primary liability for damages to person or property by reason of the granting of the privilege.
 - (2) A permittee is obligated to remove an obstruction or excavation upon 10 days’ notice by the Town and waives the right to contest in any manner the validity of this section or the amount of compensation charged.
 - (3) The Town may require the applicant to file a bond that does not exceed \$10,000; that runs to the Town and to 3rd parties that may be injured; and that secures the performance of the conditions specified in this subsection.
 - (4) If there is no established lot line and the application is accompanied by a blue print, the Town Board may impose any conditions on the privilege that it considers advisable.
- (C) Compensation for a privilege shall be paid into the Town’s general fund and shall be fixed by the Town Board.

- (D) The holder of a privilege is not entitled to damages for removal of an obstruction or excavation, and if the holder does not remove the obstruction or excavation upon due notice, it shall be removed at the holder's expense.
- (E) Third parties whose rights are interfered with by the granting of a privilege have a right of action against the holder of the privilege only.
- (F) Subsections (A) to (E) do not apply to telecommunications carriers, as defined in Wis. Stat. § 196.01(8m), telecommunications utilities, as defined in Wis. Stat. § 196.01 (10), alternative telecommunications utilities, as defined in Wis. Stat. § 196.01(1d), public service corporations, or cooperatives organized under Wis. Stat. ch. 185 to render or furnish gas, light, heat, or power, or to cooperatives organized under Wis. Stat. ch. 185 or 193 to render or furnish telecommunications service, but the carriers, utilities, corporations and associations shall secure a permit from the proper official for temporary obstructions or excavations in a highway and are liable for all injuries to person or property caused by the obstructions or excavations.
- (G) This section does not apply to an obstruction or excavation that is in place for less than 90 days, and for which a permit has been granted by the proper official. This section does not apply if a permit has been issued under Wis. Stat. § 86.07(2) with respect to a manure hose, or written consent has been given under Wis. Stat. 86.16(1) with respect to a pipe or pipeline, transmitting liquid manure within or across the right of way of a highway.
- (H) This section applies to an obstruction or excavation within the Town belonging to any other town, city or Village.
- (I) A privilege may be granted only as provided in this section.

§ 5 Penalties.

- (A) Failure to obtain a permit or failure to comply with the terms of a permit issued hereunder is a violation of this Ordinance. Each day of violation is a separate offense. Any violator of this Ordinance is subject to any one or any combination of the following penalties:
 - (1) A forfeiture in the amount of not less than \$50 and not more than \$500;
 - (2) As otherwise noted within this Ordinance (e.g., cost of removal);
 - (3) The withholding of future permits;
 - (4) The revocation of existing permits; and
 - (5) Court-imposed injunctive relief.

Section 2: If any provision of this Ordinance is invalid or unconstitutional or if the application of this Ordinance to any person or circumstance is found invalid or unconstitutional by a court of

competent jurisdiction, such invalidity or unconstitutionality shall not affect the provision(s) or application(s) of this Ordinance that can be given effect without the invalid or unconstitutional provision(s) or application(s).

Section 3: All ordinances and/or parts of ordinances in conflict herewith are hereby repealed.

Section 4: This Ordinance shall be in full force and effect from and after its date of adoption and notice to the public as required by law.

Section 5: Town personnel are hereby authorized and directed to take all necessary steps to notice this Ordinance to the public.

Adopted this ____ day of August 2025.

TOWN OF PRINCETON

By: _____
Allan Weckwerth, Chairperson

ATTEST:

By: _____
Jill Bartol, Clerk

Noticed to the public on: _____