

ORIGINAL

ORDINANCE NO. 2008 - 2

**TOWN OF KINNICKINNIC  
ROADSIDE MAINTENANCE ORDINANCE**

**WHEREAS**, Sec. 60.50(2), Stats., requires the Town Board to maintain road right-of-way for public purpose; and

**WHEREAS**, public safety, maintenance of Town roads and the right-of-way is performed by Town employees and private contractors; and

**WHEREAS**, the Town Board desires to provide criteria regarding procedures for the trimming of and/or removal of woody plant materials and other hazards in Town road right-of-way;

**NOW THEREFORE** be it resolved by the Town Board of the Town of Kinnickinnic as follows:

Section 1. EXECUTIVE SUMMARY. Maintenance and rehabilitation decisions concerning Town roads and rights of way shall be guided by the following principles:

1.1 Legal control of a town's right of way is vested with the Town Board (WI Statute 82.03). Therefore, the determination of what natural or man-made objects are permitted in the rights of way is the exclusive responsibility of the Town Board.

1.2 Although safety of the traveling public will be the Town's first priority, the desire of each landowner adjacent to the right of way will be given consideration during the maintenance or rehabilitation process as to vegetation and objects permitted in the right of way adjacent to their property.

Section 2. DEFINITIONS

2.1 "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.

2.2 "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.

ORIGINAL

2.3 "Cut slope" means the slope condition where the elevation at the right of way line is higher than the ditch bottom.

2.4 "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.

2.5 "Fore slope" means the sloped area located between the road shoulder and the ditch bottom.

2.6 "Right of way" means the entire width of land located between the boundary lines which is 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.

2.7 "Root zone" means the soil volume surrounding a plant containing the roots.

2.8 "Vision triangle" means an unoccupied triangular space at the intersection of a road or driveway with another road. Such vision clearance triangles shall be bounded 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 B.

### Section 3. LANDOWNER RIGHTS AND RESTRICTIONS

3.1 Landowners may mow 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.

3.2 If trees, brush or shrubbery within the right of way are to be cut by agents of the Town, other than normal mowing, the adjacent landowner shall be notified. The wood is the property of the landowner and shall be disposed of according to his/her wishes. If the wood is not wanted by the landowner the Town will contract for removal. 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's contractor. All other limbs and debris shall be removed from the right of way by the Town.

3.3 The Town is not responsible for trimming branches that protrude into fields or yards from trees growing in the right of way.

3.4 Landowners or their agents may not till or plow within the right of way. Under no condition 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, Stats., shall apply.

#### Section 4. CLEAR ZONE

4.1 The Town will maintain a clear zone at ground level to a point 23' from the center of the road on a cut slope and 25' from the center of the road on a fill slope. A vertical clear zone of 15 feet shall be maintained above the road and the gravel shoulder surfaces. A vertical clear zone of 13 feet shall be maintained above the fore slope, ditch and back slope areas. See Exhibit A.

4.2 At intersections, the Town will maintain a widened clear zone, also referred to as an intersection clear zone. This intersection clear zone shall begin 60' back from the center of the intersection, at which point the normal clear zone shall apply. Proceeding toward the intersection, the clear zone shall be widened gradually so that at a point 33' back from the center of the intersection, the entire 33' wide right of way shall be cleared of obstructions. This widened clear zone at intersections shall apply for all legs of the intersection, and for all directions of travel. See Exhibit B.

4.3 Vision triangles shall be maintained by property owners at driveways and intersections in accordance with the Town Road and Driveway Ordinance and the St. Croix County Ordinance, Subchapter VI, Section 17.60, Subsection 6 and as they may from time-to-time be amended.

4.4 Emergency situations involving imminent safety concerns may require a deviation from the customary practices. Then the Town may cut trees outside the clear zone.

#### Section 5. METHOD OF CONTROLLING VEGETATION

5.1 The Town shall maintain right of way by mowing (generally approximately 6 feet from the shoulder) beginning in mid June of each year and by selective cutting and limbing of other vegetation.

5.2 Oak trees will normally not be trimmed from April 1 to October 1 due to Oak Wilt disease, unless the trees are storm damaged. Elm trees with Dutch Elm disease will be removed.

ORIGINAL

5.3 Mechanical brush cutters that flail or shred the limbs and branches will not be permitted on town roads. Horizontal brush cutters with rotary blades or sickle bar mowers will be used.

5.4 Herbicides may be used by trained personnel along town roadsides to selectively paint stumps of box elder, tag alder, black locust or other undesirable or invasive species. Woody vegetation and noxious weeds such as poison ivy may be selectively spot sprayed with adjacent landowner's permission. Herbicides may also be used by trained personnel at bridges, box culverts, and other structures to control vegetation.

5.5 Utility companies will be required to follow the same procedure, unless they have written easements that states otherwise.

## Section 6 AESTHETIC VALUES OF RIGHT OF WAY

6.1 Pursuant to its Comprehensive Plan and the importance of a rural environment to its citizens, it is the policy of the Town to encourage and maintain aesthetic areas along the rights 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.

6.2 To further enhance the attractiveness of the Town, the Town Board shall periodically and as opportunities arise encourage power companies serving the Town to bury lines.

## Section 7.0 NEW ROAD CONSTRUCTIONS OR MAJOR REHABILITATION

7.1 Safety and aesthetics are primary concerns when making decisions about the right of way. The construction of ditches and shoulders during rehabilitation will require the clearing of more vegetation than normal maintenance. However, in some instances individual landmark trees may be saved by using sensitive construction techniques of the root zone of those trees are located on the right of way line.

7.2 It is policy of the Town, after consideration of safety and the desires of the adjacent landowners, to retain certain aesthetic and historic features that do not directly interfere with road construction activities. General adherence to the goals and policies of this statement will ensure that the Town will have an aesthetically pleasing road system.

ORIGINAL

## Section 8. STANDARDS FOR REMOVAL OF WOODY VEGETATION

8.1 The process of performing trimming and/or removal of woody plant materials will follow the American National Standard for Tree Care Operations (ANSI A300-1995), and/or the advice of the local Arborist/County Forester. The intent of this policy is to prevent the spread of diseases such as oak wilt, Dutch elm disease and insect pests such as the emerald ash borer, Asian long horned beetle, gypsy moth and other diseases.

8.2 To avoid conflict with adjacent property owners, the Town will attempt to inform them well in advance of removal or pruning operations. However, emergency situations may require a deviation from customary practice.

8.3 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.

8.4 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 by trained personnel, at the direction of the Town within several feet of the structure to control the vegetation as necessary.

8.5 This Roadside Maintenance Ordinance shall be provided to private contractors hired by the Town Board to perform trimming and brushing services and removal of other hazards on Town road right of ways.

8.6 This Roadside Maintenance Ordinance shall be provided to all Town public works personnel performing road right of way maintenance on Town roads.

## Section 9. PLANTINGS / LANDSCAPE FEATURES PERMITTED IN RIGHT OF WAY

9.1 Plantings or installation of landscape features by landowners within the right of way shall require approval by the Town Board. The Board may delegate this approval authority to the Road Committee.

ORIGINAL

9.2 The Landowner shall submit letter of intent and a planting / landscape plan showing species, description and locations of plantings and/or landscape features.

9.3 No plantings or landscape features shall be allowed in the right of way which could impair vision and safety.

9.4 Allowable plantings in the right of way include natural prairies, wildflowers and native low height ground cover.

9.5 Plantings and/or landscape features approved by the Town and installed by the landowner shall be maintained to the Town's satisfaction by the landowner.

9.6 Private utilities owned by homeowners (e.g., sprinkler systems, etc.) are not allowed in the right of way.

## Section 10. APPEALS PROCESS

10.1 Upon receiving notice by the Town, the adjacent landowner may appeal a decision by the Town prohibiting the landowner's right to remove trees, vegetation, rocks and other obstructions within the right of way.

10.2 Written appeal must be received by the Town Chair within 10 days of date of notice.

10.3 The following criteria must be met in order for the Town to grant an appeal:

10.3.1 Trees, limbs, or obstructions must be outside the clear zone.

10.3.2 Trees, limbs, or obstructions cannot prohibit installation or maintenance of public utilities within the right of way.

10.3.3 Trees, limbs, or obstructions cannot create a known vision or safety hazard.

10.3.4 Trees, limbs, or obstructions cannot be damaged, blighted, overgrown or likely to become a safety hazard that will require remedial action by the Town.

10.3.5 Trees, limbs, or obstructions cannot restrict the flow of water in the ditch.

ORIGINAL


10.4 The Town Road Committee will review written appeals, visit the site, and may request additional information from the applicant. The Town Road Committee will make a recommendation for approval or denial of the appeal to the Town Board. The Town Board will make the final decision on the appeal.

Section 11. PENALTY. Any person violating any provision of this Ordinance shall be liable for a forfeiture in the amount of not less than \$100 and not more than \$500, plus costs of prosecution, for each day a violation continues. In addition to any forfeiture imposed for violation of this Ordinance the Town may take action in a Court of competent jurisdiction to enjoin any violation of this Ordinance.

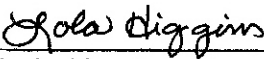
Section 12. This Ordinance shall take affect upon passage and publication/posting as required by law.

Passed and Adopted this 7<sup>th</sup> day of October, 2008.

TOWN OF KINNICKINNIC



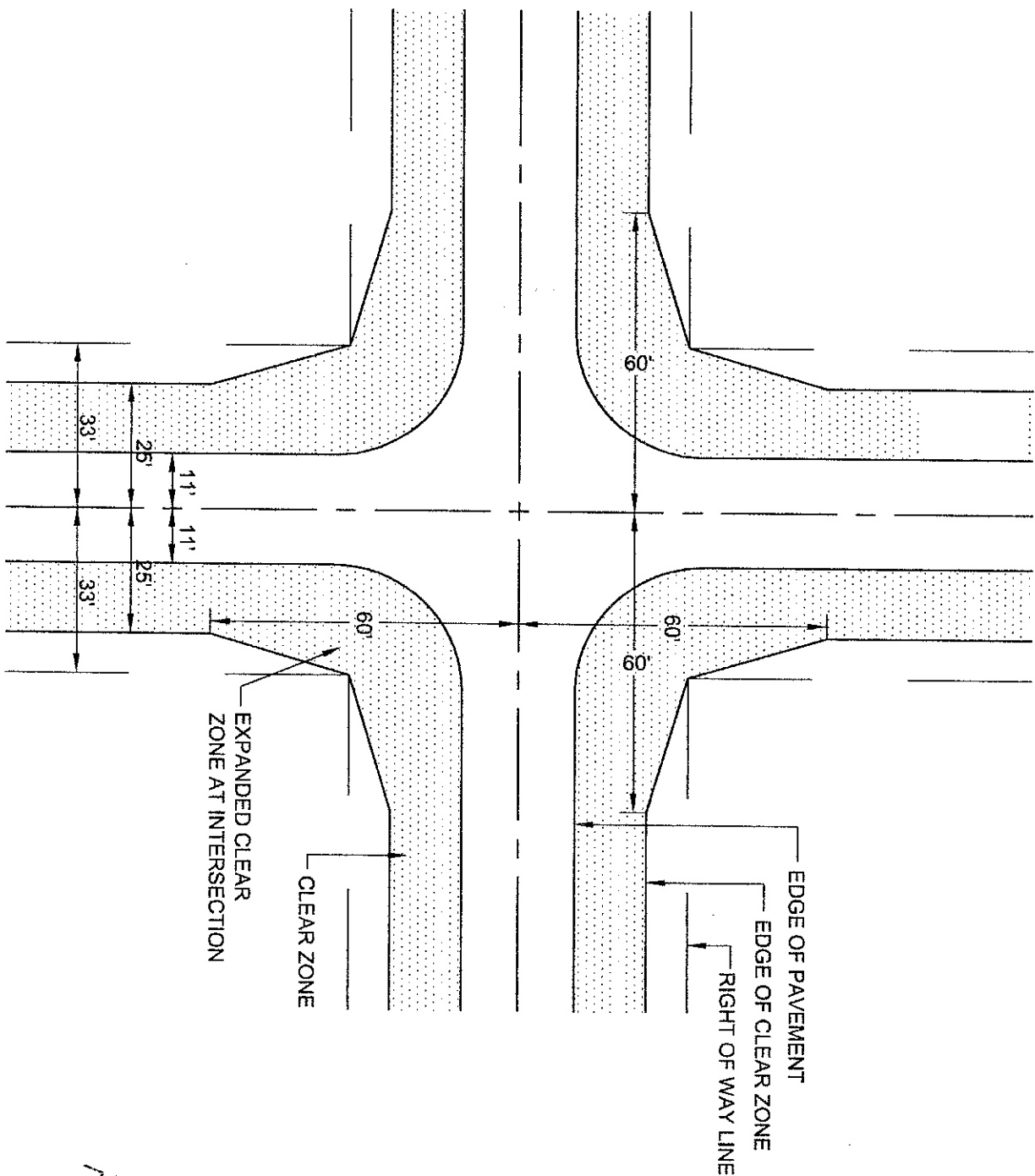
Roger Van Beek, Town Chair



Lola Higgins, Town Clerk



EXHIBIT B



ORIGINAL