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Memo RE: Neighboring Municipal ROW Policies

ROW Over the months of December and January I had reached out to multiple Waukesha County municipalities (whom are members of the Waukesha County Public Works Association) inquiring about their municipal rules and ordinances regarding allowance of structures, plantings, etc. in the ROW.

The responses reflected an overall theme of “nothing should be placed in the ROW” other than the allowable mailbox as long as it adheres to the USPS standards of installation. Many of the municipalities have been working at enforcement in general over the last decade as there has been a lot of new and additional activity in the ROW due to the increase in communication providers (fiber, etc.) and utility upgrades. Stormwater management has also been a priority in regards to keeping easements, ditches, and stormwater paths clear to avoid the problematic surface flooding that was experienced in the late 90’s, 2008-2010 and the sporadic 100 year storm events since then. All of the municipalities I have spoken with are consistently dealing with trying to correct the errors and practices of the past.

The **Village of Sussex** as one example, updated their ordinance to better explain this fact as of August 2016 stating, “No person shall encroach upon or obstruct or encumber any street, alley, sidewalk, public grounds or land dedicated to public use, or any part thereof, or permit such encroachment or encumbrance to be placed to remain on any public way adjoining the premises of which they are owner or occupant,” with exceptions noted for mailboxes, temporary delivery for a jobsite, official Village signage, utilities, etc.

The **Village of Hartland** has similar language but also notes that “Inaction on the Village’s behalf does not constitute consent” and the Village of Hartland “does reserve the right to pursue legal action.” Furthermore there is no assumption of liability by the Village for structures or plantings placed there by a homeowner.

The **City of Brookfield** will only allow under certain circumstances, installation of underground sprinkler systems and electric dog fences with an Encroachment Agreement/Release and Hold Harmless document.

The **Town of Lisbon** prohibits the placement of obstruction and encroachments within the public right-of-way. The public right-of-way is the land containing street pavement and the grass ditch line from the shoulder to the front of the property line.

Obstructions are described as trees, landscape plantings, fences, posts, poles, temporary signs, bagged yard waste or rocks.

Encroachments include fixed items such as buildings, structures, pedestal signs or hanging signs.

The **City of Waukesha** shares a “nothing shall be placed in the ROW” stance but does address certain permitting for shop owners in urban cross sections for certain events that may encumber the sidewalks, etc.

After receiving e-mail responses or speaking via phone, it appears the Village of Elm Grove has one of the most (if not most) liberal programs to allow residents an option to request a ROW Indemnification Agreement to allow certain actions.

The subject of enforcement tends to be a point of frustration for a majority of municipalities that I spoke with during this fact finding activity. Most of the education and outreach is underway via websites, social media and newsletters, though it doesn't typically get priority billing.