



Highway Maintenance Manual

Bureau of Highway Maintenance

Chapter 07 Roadside Management

July 2015

Section 25 Use of Highway Right of Way By Others

Subject 01 Planting Permits

1.0 Authority

[s. 86.03\(3\) Wis. Stats.](#), Planting trees and shrubs in highway, provides that “Any person owning or occupying land adjoining any highway may, with the approval of the public authority maintaining the highway, 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.”

[s. 86.07\(2\) Wis. Stats.](#), Digging in highways or using bridges for advertising, states, “No person shall...make any excavation ...or make any other alteration in any highway...without a permit.”

[s. 346.16\(2\)\(a\) Wis. Stats.](#), Use of controlled-access highways, expressways and freeways, states that “...no pedestrian...may go upon any expressway or freeway when official signs have been erected prohibiting such person from using the expressway or freeway.”

2.0 General

From time to time the department receives requests from adjacent landowners, businesses, communities or civic organizations to be allowed to plant ornamental trees, shrubs and flowers on state trunk highway right of way. These plantings enhance their homes, businesses and communities. Except for controlled-access highways, planting permits have traditionally been issued for these purposes if the planting and care can be accomplished safely, if the planting will not negatively affect the safe use of the highway and if it will not interfere with normal highway operations and maintenance activities.

3.0 Permit Application

Anyone seeking permission to plant vegetation on state trunk highway right of way should submit [DT1812, Application/Permit to Work on Highway Right of way](#) to the appropriate Wisconsin Department of Transportation Regional Office. Along with the form, a planting plan showing the specific location in relation to the highway and the right of way line, a list of the species proposed to be planted and a maintenance plan or schedule should be submitted. The applicant must agree to perform all work necessary for the construction and on-going maintenance of the project at no cost to the department.

4.0 Regional Office Responsibilities

Regional office personnel should review the submittal to assure that the safe use of the highway is not compromised. Consider the following:

- Do not issue permits for planting unless the permit is issued to or sponsored by a municipality and proper traffic control is required to be in place at the time the work is being done. Sponsorship for this purpose means that the municipality agrees, in writing, to assume responsibility for the permit requirements if the original permittee fails to perform those requirements.
- Be sure a safe field of vision is maintained. Be aware of the mature size of the proposed plants.
- Do not allow plants capable of attaining a trunk diameter greater than 4 inches to encroach into the clear zone.
- Do not allow plantings in areas where drainage would be impeded.
- Do not allow invasive species to be planted. See HMM 07-05-05, Control of Noxious, Invasive and Hazardous Plants.

Consult [Chapter 27](#) of the Facilities Development Manual (FDM) for planting design guidance and suggested plants selected for tolerance of the highway environment.

In rural areas, do not allow plantings that would violate the department's Natural Roadsides philosophy. See HMM 07-01-05, Roadside Guidelines Summary.

- Plantings in rural areas should be species that are native to the area. Cultivars of native species may be considered native if they were selected because of some feature other than abnormal leaf coloration (e.g. red, yellow or variegated leaf coloration during the summer months, etc.).
- In more urban areas, non-native plants may be more tolerant of harsh conditions and pollution. While native species are preferred, non-native species that do not tend to be invasive may be allowed.

Check all appropriate boxes on the Special Permit Provisions of form DT1812.