



Highway Maintenance Manual

Bureau of Highway Maintenance

Chapter 07 Roadside Management

July 2015

Section 25 Use of Highway Right of Way By Others

Subject 45 Encroachments and Restricted Activities

1.0 Authority

[s. 84.25\(11\) Wis. Stats.](#), Commercial enterprises, provides that no commercial enterprise, except a vending facility which is licensed by the Department of Workforce Development and operated by blind or visually impaired persons, or a commercial enterprise exempted from this subsection by an agreement under s.

[s. 84.01\(30\)\(g\) Wis. Stats.](#), shall be authorized or conducted within or on property acquired for or designated as a controlled-access highway.

[s. 86.04 Wis. Stats.](#), Highway encroachments, gives authority to highway departments to remove encroachments from highway rights of way.

[s. 86.19 Wis. Stats.](#), Highway signs, regulation, prohibition, states that, with certain exceptions, "...no sign shall be placed within the limits of any...highway except such as are necessary for the guidance or warning of traffic ...The authorities charged with the maintenance of ...highways shall cause the removal there from and the disposal of all other signs."

[S. 346.50 Wis. Stats.](#), Exceptions to stopping and parking restrictions, allows vehicles for sale to occupy the right of way. If, however, they are parked in such a manner they create a hazardous situation, they should be treated as an encroachment.

2.0 General

The Wisconsin Department of Transportation is responsible for ensuring its highway corridor is maintained in a manner that travelers are assured of a safe traveling environment and the highway facility is protected. To accomplish this, certain objects and activities are recognized as being inappropriate and are not allowed on the right of way unless specifically permitted by the department. Some of these objects and activities are described in other guidelines in this manual, 07-01-40, Junkyards; 07-25-01, Planting Permits; 07-25-05, Plant Rescue; 07-25-10, Harvesting Products of Nature; 07-25-15, Weed Control Requests; 07-25-20, Farming; 07-25-25, Grading; 07-25-30, Memorials; and 07-25-35, Utility Accommodations.

In addition, Section 2.0 of HMM 08-05-01, Restricted and Permitted Uses in Roadside Facilities, and Sections 2.0 and 3.0 of HMM 08-05-05, Commercial Enterprises in Roadside Facilities, discuss snack and newspaper vending machines in roadside facilities such as safety rest areas and seasonal waysides. The same guidelines may be applied to other areas within the right of way as appropriate.

3.0 Items for Sale

Items adjacent landowners or others place on the right of way for sale, e.g. farm implements, or out of which they intend to sell merchandise, e.g. roadside vegetable stands, should be treated as encroachments and should be removed in accordance with the policy. See also HMM 08-05-01, Roadside Facilities, Restricted and Permitted Uses. If the item is a safety hazard, such as a vehicle placed in a vision corner which blocks the motorist's view of on-coming traffic, the owner should be notified to remove it immediately. If the item is not removed expediently by the owner, it should be removed by the county and the owner notified where and when they can retrieve it.

4.0 Geo-caching

Geo-caching is an adventure game popular within a certain segment of the population. It involves using GPS

coordinates and other clues to locate a “cache,” often a hidden small metallic or plastic box. Game ethics require the person hiding the cache obtain permission of the landowner on whose land it is being hidden. The department will not permit activities to occur on the right of way that may cause a hazardous condition. In addition, with the increased awareness of terrorist activities in the U.S., any unusual or unexpected item occupying the right of way or highway appurtenances, e.g. bridges, might be confused with a terrorist appliance. Permission to hide a “cache” on department-owned property should be denied. If a cache or any other suspicious item is found on the right of way, do not assume the item is harmless; call local law enforcement authorities to secure and remove such items from the site.