



1.0 Authority

The following statutes provide the legal authority for WisDOT to manage encroachments and other activities on state highway right-of-way (ROW).

[Wis. Stat. s. 84.25\(11\)](#) **COMMERCIAL ENTERPRISES.** 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 [Wis. Stat. s. 84.01\(30\(g\)\)](#), shall be authorized or conducted within or on property acquired for or designated as a controlled-access highway.

[Wis. Stat. s. 86.04](#) **HIGHWAY ENCROACHMENTS.** WisDOT may order the removal of encroachments that are under or over by any fence, stand, building or any other structure or object from highway ROW within 30 days of the order.

[Wis. Stat. s. 86.19](#) **HIGHWAY SIGNS, REGULATION, PROHIBITION.** With certain exceptions, "...no sign shall be placed within the limits of any street or highway except such as are necessary for the guidance or warning of traffic..." "The authorities charged with the maintenance of streets or highways shall cause the removal there from and the disposal of all other signs."

[Wis. Stat. s. 346.55](#) **OTHER RESTRICTIONS ON PARKING AND STOPPING.** Under [1995 ACT 422](#), s. 346.55(2) was repealed: "No person shall stop or leave standing upon any highway any vehicle displayed for sale." This repeal allows vehicles for sale to occupy the ROW. It does not apply to car dealerships, however.

1.1 Encroachment Definition and Website

An encroachment is any unauthorized object located partially or wholly within state highway ROW. WisDOT's encroachment [website](#) gives the public many details regarding encroachments including general policy, how highway ROW is typically defined, encroachment risks, hazardous mailboxes, and revocable occupancy permits.

2.0 General

WisDOT is responsible for maintaining the state highway ROW to provide motorists and other users with a safe traveling environment. To accomplish this, certain objects and activities listed in other HMM guidelines below are not allowed in the ROW unless specifically permitted by WisDOT:

- [07-01-30](#) Hazardous Mailboxes
- [07-01-40](#) Junkyards
- [07-25-01](#) Planting Permits
- [07-25-05](#) Plant Rescue
- [07-25-10](#) Harvesting Products of Nature
- [07-25-20](#) Farming
- [07-25-25](#) Grading
- [07-25-30](#) Memorials
- [09-10-00](#) Utility Accommodation
- [Improperly placed signs](#)

In the HMM, [08-05-01](#) section 2.0, Restricted and Permitted Uses in Roadside Facilities, and [08-05-05](#) sections 2.0 and 3.0, 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 ROW as appropriate.

[Outdoor advertising \(OA\) signs](#) are located on private land adjacent to WisDOT ROW. Sometimes these signs can be found as an encroachment on WisDOT ROW. If a sign is found on ROW, regions should contact their assigned BHM's outdoor advertising field coordinator for further guidance. [Wisconsin Department of Transportation Outdoor advertising signing contacts](#)

[Improperly placed signs](#) include political and campaign signs, for sale signs, garage sale signs, event signs, commercial ads, banners, fall under the rules under s. 84.30, Wis. Stats. and Trans 201. No signs unless authorized under these provisions are permitted at any time and can be removed by the department's regional

maintenance staff or the county highway department acting on behalf of the state, without notice. Junkyards are also located on private land adjacent to WisDOT ROW. Sometimes vehicles and other items from the junkyard are found encroaching on WisDOT ROW. WisDOT has authority to enforce screening of junkyards. Follow guidance in 07-01-40 Junkyards to enforce establishment of screening.

Roadside memorials [website](#) and HMM policy 07-25-30 have specific guidance when a memorial should be removed. Generally, When the WisDOT becomes aware of a memorial, WisDOT will investigate to determine whether immediate removal is necessary, or if it can reasonably be allowed to remain for a temporary period not to exceed one year

2.1 Items for Sale

Items placed in the ROW for sale, such as farm implements, farm stands, s and other agricultural sales (example: eggs or firewood), should be treated as encroachments and removed in accordance with this policy. See also Roadside Facilities, Restricted and Permitted Uses in HMM 08-05-01. If the item is a traffic safety hazard, such as a vehicle parked within a vision corner that blocks a motorist's view of oncoming 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 a county highway department working under contract for WisDOT maintenance and the owner notified where and when they can retrieve it. As noted in 1.0, [Wis. Stat. s. 346.55](#) allows individuals, but not car lots, to park vehicles for sale on state highway ROW in a safe manner.

2.2 Geo-caching

Geo-caching is an adventure game using GPS coordinates and other clues for people to locate a "cache," which is often a hidden small metallic or plastic box. Game ethics require that the person hiding the cache obtain landowner permission on whose land it is being hidden. WisDOT does not permit activities to occur on the ROW that may cause hazardous conditions. In addition, any unusual or unexpected item occupying the ROW or highway appurtenances, e.g. bridges, can create a safety concern for the traveling public. Deny permission to hide a "cache" on WisDOT-owned property.

2.3 Security

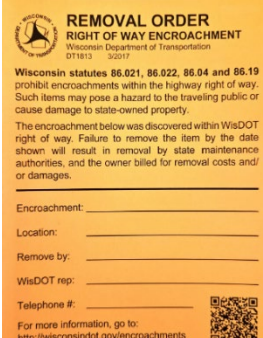
If a cache or other suspicious item is found in the ROW, do not assume the item is harmless. Call local law enforcement authorities non-emergency numbers to secure and remove such items from the site.

3.0 Handling Encroachments (See related flowchart on page 7)

Region maintenance staff should take action to remove encroachments shortly after discovery, which may occur during surveillance, various routine maintenance operations, or when brought to WisDOT's attention by a crash, occurrence, or complaint. Encroachments that are movable objects may be removed by county maintenance staff or region maintenance staff from the ROW onto the abutting property owner's land.¹ Encroaching vehicles, if not for sale, may be ticketed and/or towed. For roadside memorials follow guidance in the HMM 07-25-30 memorials.

WisDOT region maintenance staff Issue a **REMOVAL ORDER** for fixed objects, pavements and portable items that are more difficult to move. The **REMOVAL ORDER** is an orange sticker (DT1813) that is attached to the object and includes the name and telephone number of the WisDOT representative, the encroachment description, its location, and the "remove by" date, which by Wis. Stat. s. 86.04 is within 30 days of the **ORDER** date. For additional stickers, contact BHM's Highway Maintenance and Roadside Management Section.

There are times when WisDOT does not always need to remove an encroachment. For example, it may be that WisDOT is unaware of the encroachment or has determined that it does not interfere enough with the safety, maintenance, and operation of the highway. This lack of action should not infer that the encroachment is harmless.



REMOVAL ORDER
RIGHT OF WAY ENCROACHMENT
Wisconsin Department of Transportation
DT1813 2207

Wisconsin statutes 86.021, 86.022, 86.04 and 86.19 prohibit encroachments within the highway right of way. Such items may pose a hazard to the traveling public or cause damage to state-owned property.

The encroachment below was discovered within WisDOT right of way. Failure to remove the item by the date shown will result in removal by state maintenance authorities, and the owner billed for removal costs and/or damages.

Encroachment: _____

Location: _____

Remove by: _____

WisDOT rep: _____

Telephone #: _____

For more information, go to:
<http://wisconsindot.gov/encroachments>



¹ Assumes the encroachment is owned by the abutting property owner. If in doubt, move the object to an alternative location such as the county highway shop.

BHM staff shall be consulted to determine if the type of encroachment or unpermitted use of the highway right of way warrants the utilization of the removal policy under HMM 07-25-46. Depending on the severity and tenuous nature of the situation, the region may need to consult the Office of General Counsel to confirm process steps.

3.1 Revocable Occupancy Permits

For unusual circumstances typically in urban areas, a Revocable Occupancy (RO) permit, form [RE1551](#), may be issued for an **existing** encroachment, which will allow it to remain. An RO may be revoked at any time and without cause. Issuance of an RO does not convey any interest or vested right in the right of way or obligate the department to ensure that the right of way is available for an applicant or permit holder's encroachment.

All permit applicants are required to agree to [limiting conditions](#) of the RO, which include, among other things, responsibility for all liability and indemnification on behalf of the department in the event of damage or injury.

Maintenance does not issue ROs. This is a real estate function. Coordinate between Region Maintenance and the region Real Estate section to determine if a revocable occupancy permit should be pursued. The region Real Estate section would require sufficient information to fill out form RE1551 if the revocable occupancy permit is to proceed.

The issuance of an RO is treated as an exceptional case and not the rule or policy. An encroachment is allowed to remain by department permit if all of the following criteria are met, i.e., the encroachment:

- Will not impair highway function or maintenance, or interfere with the safe and free flow of traffic,
- Is of a permanent nature or is actively used and properly maintained, and
- Does not conflict with the broader public interest.

Notwithstanding the above criteria, an RO may not be issued for any free-standing temporary banners, on premise business signs or off-premise "billboard" outdoor advertising structure located within state highway ROW. Within an urban area where the highway extends to the edge of a building, WisDOT may issue an RO for a small on-premise business sign attached to a building that overhangs the ROW (typically over a sidewalk). This sign would advertise the business(es) housed in the building, however, is a rare occurrence. No outdoor advertising signs are allowed on ROW and must not be issued an RO or lease agreement under any circumstances by the department. If a sign is found on ROW, regions should contact their assigned BHM's outdoor advertising field coordinator for further guidance. [Wisconsin Department of Transportation Outdoor advertising signing contacts](#)

One of the main advantages of an RO is that it runs with the property(i.e., listed on a title search). If the property is sold, the next owner(s) will see the RO on their title and are bound by its requirements. The RO also gives WisDOT broad authority to require the removal of the encroachment at any time.

In a legal opinion issued by the Office of General Counsel on December 18, 2025, ROs shall not be issued for **new facilities** that will be installed on state highway ROW. For example, an empty conduit that is placed under a highway to insert a temporary manure or water line would be permitted using a Work on Highway ROW permit (DT1812) in combination with a ROW Occupation Agreement. This is done through [SHAPES](#). This opinion is based on FDM 12-1-20 which states, "Encroachments should not be created by the purchase of new ROW for a project" and on the language in form RE1551.