



# Highway Maintenance Manual

Bureau of Highway Maintenance

Chapter 09 Right-of-Way Use & Permits

August 2022

Section 15 Utility Accommodation

Subject 01 Purpose & General Policy

## 1.0 Originator of the Utility Accommodation Policy

The State Maintenance Engineer in the Bureau of Highway Maintenance for the Wisconsin Department of Transportation (WisDOT) is the originator of chapter 9, section 15. Direct questions and comments on its content to Bob Fasick, Statewide Right-of-Way Permits Engineer, 608-266-3438, or [robert.fasick@dot.wi.gov](mailto:robert.fasick@dot.wi.gov).

## 2.0 Introduction to Utility Accommodation

WisDOT operates the state trunk highway (STH) system to provide a safe and convenient means for the transportation of people and goods, and utility companies provide essential services to the public. Both WisDOT and utility companies typically provide facilities that consider present as well as future needs. Cooperation between the two entities is essential if the public is to be served at the lowest possible cost consistent with their respective public service needs, obligations, and interests. Although WisDOT strives to accommodate utility facilities whenever possible, the permitted use and occupancy of highway right-of-way (ROW) for non-highway purposes is **subordinate** to the primary interests and safety of the traveling public.

## 3.0 Utility Accommodation Policy – General Information

WisDOT's *Utility Accommodation Policy (UAP)* prescribes the policies and procedures that shall be met by any utility whose facility currently occupies, or will occupy in the future, any highway or bridge over which WisDOT has maintenance jurisdiction. HMM<sup>1</sup> [09-15-00](#) and the *UAP* are synonymous.

The *UAP* applies to all public and private utilities as defined in [HMM 09-15-05, 2.0](#). It also applies to all existing utility facilities retained, relocated, replaced, or altered, and to new utility facilities installed on STH ROW. WisDOT operated highway facilities (e.g., lighting, traffic signals, changeable message boards, etc.) for the purposes of motorist safety are not bound by the *UAP*. Typically, WisDOT utilizes 3.1 – [3.5](#) when handling requests for utility accommodation or managing facilities that are already located on the ROW.

The *UAP* is structured with integrated sections – meaning that two or more sections may need to be read together to fully understand a utility accommodation issue. The reader is cautioned that by only reading one section, and not the other related section(s), it may lead to *UAP* misinterpretation.

For new subjects and subject revisions, the *UAP* is being written with sentences in the active voice-imperative mood. These are direct commands to a utility that eliminate the need to use "shall." For example, "Restore the ROW..." would be written instead of, "A utility shall restore the ROW..." While both are requirements, the first sentence and those similar mean that a utility is the actor, which agrees with the *UAP*'s intent as being written for utility use. Requirements to be performed by others are written in the active voice, which identify the party responsible for performing the action. For example, "WisDOT is responsible for utility permit issuance."

### 3.1 Permits

WisDOT permits utility facilities on STHs when:

- 1) Such use and occupancy do not adversely affect the primary functions of the highways or materially impair their safety, operational, or visual qualities,
- 2) There would be no conflict with the provisions of federal, state, or local laws or regulations or the accommodation provisions stated herein, and
- 3) The occupancies would not significantly increase the difficulty or future cost of highway construction or maintenance.

Abide by the current version of the *UAP* each time a permit is authorized for utility work. When future changes are made to the *UAP*, an existing utility facility is not required to meet the new version unless proposed changes to that facility require a new permit from WisDOT.

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### **3.2 Design Responsibility**

Utilities are responsible for the design of their facilities to be installed or adjusted within the ROW. WisDOT is responsible for review of the utility's proposal and for permit approval.

### **3.3 Additions**

Nothing in the *UAP* shall be construed as limiting WisDOT's rights to impose restrictions or requirements in addition to and/or deviations from those stated herein in any permit when WisDOT deems it appropriate. An explanation for such action should be provided to the utility.

### **3.4 Adjustments/Relocations**

If necessary, adjust and/or relocate any affected portion of a permitted or unpermitted utility facility that occupies WisDOT ROW to facilitate the alteration, improvement, safety enhancement or maintenance of a highway as may be directed by WisDOT. The adjustment or relocation may affect facilities off the ROW as well. A utility is responsible for all costs associated with the adjustment or relocation unless a specific WisDOT executed utility parcel or agreement otherwise provides. See [FDM 18-01-10](#).

### **3.5 FHWA Review**

Under [23 CFR 645 subpart B](#), each state department of transportation must have a policy that addresses the accommodation of utilities within the ROW of Federal-aid or direct Federal-aid highway projects. The Federal Highway Administration (FHWA) approves WisDOT's *UAP* under the terms of the [Federal-Aid Oversight Agreement](#)<sup>2</sup> (section VI) between FHWA and WisDOT, which WisDOT must apply to utilities pursuant to [23 U.S.C. 106\(c\)](#) and [Wis. Stat. s. 84.015\(1\)](#). Consequently, each utility permit issued by WisDOT must require a utility to comply by the terms and conditions of the *UAP* ([3.0](#) and [3.1](#)) consistent with [Wis. Stat. s. 227.10\(2m\)](#).

WisDOT is not required to send FHWA utility permit applications or preliminary occupation requests for their approval. However, WisDOT shall submit to FHWA all applications or requests on the National Highway System that propose: (1) Installations not in accordance with the *UAP*, and (2) Longitudinal installations of private utility facilities (See [6.0](#)).

### **3.6 Electric Transmission Line Facilities**

Nothing in the *UAP* affects the priorities for siting electric transmission facilities under Wis. Stat. ss. [1.12\(6\)](#) and [196.491](#). In addition, Public Service Commission review and approval may be required prior to the relocation of any electric transmission line.

### **4.0 One-Call System Membership**

Become a member of Wisconsin's one-call system [Diggers Hotline](#)<sup>3</sup> to construct, operate and maintain utility facilities on a STH. If an applicant lacks membership in the one-call system when applying for a WisDOT utility permit, WisDOT shall withhold permit approval until the applicant submits proof of membership or some other type of evidence indicating that membership is immediately forthcoming.

### **5.0 Discontinued Utility Facilities**

A discontinued utility facility is one that a utility has permanently placed out of service. The discontinued utility facility may be aboveground, underground or on a structure. In the past, the term "abandoned" was used to describe these facilities. However, the term "discontinued" provides clearer meaning since the utility still owns these facilities. Discontinued utilities may be restored into service through a new WisDOT permit or sold, traded, or transferred to a different utility, which must also obtain a new WisDOT permit. For example, a discontinued gas line may be used by a communications company for the installation of a new fiber optic cable.

### **5.1 Discontinued Aboveground Facilities**

If a utility discontinues use of an aboveground facility, entirely remove the facility from the ROW within one year after its out-of-service date unless WisDOT grants written approval for a time extension.

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<sup>2</sup> The Oversight Agreement was incorporated as Appendix A of the FHWA – WisDOT Stewardship Agreement on September 28, 2010.

<sup>3</sup> Required under [Wis. Stat. s. 182.0175\(1m\)\(a\)](#)

## **5.2 Discontinued Underground Facilities**

Maintain a permanent record in utility files of all underground facilities that are discontinued in the ROW. Discontinued underground facilities should be able to be located in the field. A utility is not required to physically remove any discontinued underground facility so long as a permanent record of it is maintained, and it does not prevent construction or modification of any highway improvement and/or structure.

Discontinued appurtenances such as manholes and pull boxes shall be filled in or removed in accordance with the [Wisconsin Standard Specifications for Road and Bridge Construction](#), current edition.

## **5.3 Discontinued Facilities Attached to Structures**

Remove discontinued utility facilities on a structure within 60 days of the out-of-service date unless otherwise approved by WisDOT. A utility is responsible for all removal costs.

## **6.0 Private Utility Facilities**

Private utility facilities may cross state highways and are not subject to approval by the Federal Highway Administration (FHWA). Longitudinal installations of private facilities are not be allowed on state highways under Title 23, CFR 1.23. However, exceptions may be allowed by FHWA if it determines that the proposed occupancy or use of ROW is in the public interest and will not impair the highway or interfere with the free and safe flow of traffic. WisDOT shall make a similar public interest finding recommendation before submitting the permit application to FHWA for approval. Sewer and water laterals, although privately owned and maintained, are not regarded as private utilities within STH ROW under the *UAP*. See [HMM 09-15-05, 2.0 #8](#).

Follow the requirements of the *UAP* when designing, constructing, operating, and maintaining private utility facilities as described in the specific policies for communications, electric, fluid, or gas lines, whichever more closely resembles the facility.

Privately owned pipelines or drain tiles located on or emptying onto the ROW for draining wetlands is prohibited. Pipelines crossing under a STH that do not adversely affect its safety, operation, maintenance, and future construction may be allowed in certain circumstances. See [HMM 09-15-65, 3.4](#).

## **6.1 Occupation Requirements**

WisDOT may assess a fee for private utility installations that cross or longitudinally occupy STH ROW. The fee for each installation shall be determined on a case-by-case basis and may be based upon, but not limited to:

- 1) The value of the facility
- 2) Complexity of the installation
- 3) WisDOT review time
- 4) Comparison with the value of private easements adjacent to the proposed location
- 5) Comparison with fee schedules for other similar utility installations in Wisconsin and across the nation

Based on the proposed private utility installation's potential for damage to the highway, adjacent ROW, or the environment, WisDOT may require the following to be submitted with a permit application:

- 6) Evidence of commercial general liability, workers compensation and employer's liability, and commercial motor vehicle liability insurance
- 7) A certificate of insurance, which names WisDOT as an additional insured
- 8) Department of Natural Resources approval that the project will have no significant environmental impact