

**TOWN OF SUMNER
ORDINANCE NUMBER P20131111
PRIVILEGES IN STREETS
DIGGING IN HIGHWAYS OR USING BRIDGES FOR ADVERTISING**

STATE OF WISCONSIN
Town of Sumner
Jefferson County

The Town Board of the Town of Sumner, Jefferson County, Wisconsin has specific authority under , Wisconsin Statue 66.0425, 86.07 to adopt this ordinance.

This Ordinance, adopted by a majority of the town board on a roll call vote with a quorum present and voting and proper notice having been given, does ordain as follows:

SECTION 1.01-TITLE This Ordinance shall be known as, referred to, cited as, and entitled Town of Sumner Ordinance PRIVILEGES IN STREETS/DIGGING IN HIGHWAYS OR USING BRIDGES FOR ADVERTISING

SECTION 1.02-PURPOSE AND INTENT The purpose and intent is the promoting of public health and safety and regulate privileges on highways by placing obstructions or excavations within the Town Highways or using bridges for advertising.
This is not a town zoning ordinance.

SECTION 1.03 ADOPTION This ordinance is hereby adopted by reference to State Statues 86.0425 and 86.07.

SECTION 1.04 PRIVILEGES IN STREETS----State Statue 66.0425

(1) In this section, "privilege" means the authority to place an obstruction or excavation beyond a lot line, or within a highway in a town, village, or city, other than by general ordinance affecting the whole public.
66.0425(2)

(2) A person may apply to a town or village board or the common council of a city for a privilege. A privilege may be granted if the applicant assumes primary liability for damages to person or property by reason of the granting of the privilege, is obligated to remove an obstruction or excavation upon 10 days' notice by the state or the municipality and waives the right to contest in any manner the validity of this section or the amount of compensation charged. The grantor of the privilege may require the applicant to file a bond that does not exceed \$10,000; that runs to the town, village, or city and to 3rd parties that may be injured; and that secures the performance of the conditions specified in this subsection. If there is no established lot line and the application is accompanied by a blue print, the town or village board or the common council of the city may impose any conditions on the privilege that it considers advisable.
66.0425(3)

(3) Compensation for a privilege shall be paid into the general fund and shall be fixed by the governing body of a city, village or town or by the designee of the governing body.
66.0425(4)

(4) The holder of a privilege is not entitled to damages for removal of an obstruction or excavation, and if the holder does not remove the obstruction or excavation upon due notice, it shall be removed at the holder's expense.
66.0425(5)

(5) Third parties whose rights are interfered with by the granting of a privilege have a right of action against the holder of the privilege only.
66.0425(6)

(6) Subsections (1) to (5) do not apply to telecommunications carriers, as defined in s. 196.01 (8m), telecommunications utilities, as defined in s. 196.01 (10), alternative telecommunications utilities, as defined in s. 196.01 (1d), public service corporations, or cooperatives organized under ch. 185 to render or furnish gas, light, heat, or power, or to cooperatives organized under ch. 185 or 193 to render or furnish telecommunications service, but the carriers, utilities, corporations and associations shall secure a permit from the proper official for temporary obstructions or excavations in a highway and are liable for all injuries to person or property caused by the obstructions or excavations.
66.0425(7)

(7) This section does not apply to an obstruction or excavation that is in place for less than 90 days, and for which a permit has been granted by the proper official.
66.0425(8)

(8) This section applies to an obstruction or excavation by a city, village or town in any street, alley, or public place belonging to any other municipality.
66.0425(9)

(9) Any person who violates this section may be fined not less than \$25 nor more than \$500 or imprisoned for not less than 10 days nor more than 6 months or both.

66.0425(10)

(10) A privilege may be granted only as provided in this section.

**SECTION 1.05 DIGGING IN HIGHWAYS OR USING BRIDGES FOR ADVERTISING
STATE STAT 86.07**

86.07 Digging in highways or using bridges for advertising.

86.07(1)

(1) Any person who draws, paints, prints or pastes upon any culvert, bridge or guard rail on any highway shall be fined not less than \$10 nor more than \$200 or imprisoned for not more than 30 days or both.

86.07(2)

(2) No person shall make any excavation or fill or install any culvert or make any other alteration in any highway or in any manner disturb any highway or bridge without a permit therefor from the highway authority maintaining the highway. Such permit shall contain the statement and be subject to the condition that the work shall be constructed subject to such rules and regulations as may be prescribed by said authority and be performed and completed to its satisfaction, and in the case of temporary alterations that the highway or bridge shall be restored to its former condition, and that the permittee shall be liable to the town or county or state, as the case may be, for all damages which occur during the progress of said work or as a result thereof. Nothing herein shall abridge the right of the department or the county board or its highway committee to make such additional rules, regulations and conditions not inconsistent herewith as may be deemed necessary and proper for the preservation of highways, or for the safety of the public, and to make the granting of any such permit conditional thereon. If any culvert is installed or any excavation or fill or any other alteration is made in violation of the provisions of this subsection, the highway may be restored to its former condition by the highway authority in charge of the maintenance thereof; and any person who violates this subsection shall be punished by a fine of not less than \$5 nor more than \$100, or by imprisonment not exceeding 6 months, or both.

86.07(2a)

(2a) The restriction or depriving of used access to highways from abutting lands through the use of posts under any program to delineate driveways is prohibited.

86.07(3)

(3) The prohibitions in this section do not apply to highway authorities in the performance of their duties.

PENALTY 1.06 Wisconsin state statute penalties under 66.0425 and 86.07 shall apply.

PERMITTING 1.07 Permitting for privileges in the streets shall be granted by Resolution of the Town Board under State Statute 66.0425, 86.07. The Resolution form for granting privileges on highway is an addendum to this ordinance

FEES 1.08 Plan Commission Hearing fees shall apply in addition to \$50.00 permitting fee. Permitting fees shall double after the fact.

ENFORCEMENT 1.09 The Town Chairman or his designee shall enforce the provisions of this Ordinance. The Town Chairman or his designee is authorized to institute whatever legal proceedings or issue whatever citation they may deem necessary to effect compliance with or penalize persons for violating the provisions of this Ordinance.

SEVERABILITY 1.10 The provisions of this Ordinance shall be deemed severable and it is expressly declared that the Town of Sumner, Jefferson County, Wisconsin Board would have passed the other provisions of this ordinance irrespective of whether or not one or more provisions may be declared invalid. If any provision of this ordinance or the application to any person or circumstances is held invalid, the remainder of the ordinance and the application of such provisions to other persons or circumstances shall not be affected.

EFFECTIVE DATE 1.11 This ordinance will become effective upon passage and the day after publication _____. The town clerk shall properly publish and post this ordinance as required under s. 60.80, Wis. stats. Adopted this ___ day of November, 2013.

_____ John Dohner, Jr. Chairman

_____ Randall Burdick, Supervisor I

_____ Frank Micale, Supervisor II

ATTEST: _____ Barbara McGann Clerk