

66.0425 Privileges in streets. (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.

(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.

(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.

(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.

(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.

(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.

(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.

(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.

(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.

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

History: 1985 a. 297; 1991 a. 316; 1993 a. 184, 246; 1997 a. 27; 1999 a. 150 ss. 111, 114; Stats. 1999 s. 66.0425; 2005 a. 441.

When the plaintiff fell due to a depression in a street enclosed as a temporary sidewalk, the city, not the indemnitor contractor, was primarily liable since the contractor did no excavation in the street and its enclosing of the street did not cause the defect. *Webster v. Klug & Smith*, 81 Wis. 2d 334, 260 N.W.2d 686 (1978).