FDM 12-5-1 Determining Permanent Right-of-Way Needs

February 18, 2020

A determination of the right-of-way widths required for a project is to be based on physical needs as determined by highway design, construction, maintenance policies and practices, and may include consideration for the accommodation of public utilities. In general, a proposed right-of-way line should roughly parallel the construction limits with sufficient allowance for construction operations. A width of 5 feet beyond the slope intercept is adequate in most instances and the width can be reduced to a practical minimum of one foot in restrictive situations to avoid extensive damage to existing improvements. Retaining walls and other construction methods can be employed, when cost effective, to reduce right-of-way width requirements to avoid or mitigate damage to adjoining property.

Engineering analyses of safety considerations such as vision corners at intersections may require interests in additional land areas.

Because slope intercept locations vary throughout the length of a project, considerable judgment must be exercised to avoid abrupt changes in right-of-way widths or the taking of excessive areas. Angular changes in right-of-way line direction are generally preferable to right-angle changes because they simplify paralleling utility installations.

Some other influences on the determination of a proposed right-of-way line for a project include but are not limited to: buildings, septic systems, zoning requirements, wells, wetland mitigation, hazardous waste contamination, and historical properties.

Best Practices

Cross sections, drainage needs, driveway profiles and slope intercepts should all be identified before determining right-of-way needs.

In rural areas, ensure to purchase five feet of right-of-way beyond the slope intercept. Purchase enough right-of-way to accommodate temporary and final drainage as well as storm water management and potential utility relocates. Minimize right-of-way jogs.

In urban areas, ensure to purchase enough right-of-way to provide for construction, accommodate drainage facilities as well as storm water management and potential utility relocates.

Use Temporary Limited Easements (TLE) for minor changes in construction to avoid damage to improvements and vegetation. TLEs are sometimes useful to minimize irregular right-of-way lines, if the interest secured is compatible with both the immediate and long-term needs of the improvement project. Refer to FDM 12-1-15.5 for TLE guidance.

FDM 12-5-3 Acquisition Restrictions

August 15, 2025

3.1 General

When determining right-of-way needs, s. 86.255 stats. mandates that the department or local public agencies may not acquire land or any interest in land using appropriations under s. 20.395(3) stats unless both the following conditions are met.

- The land or interest in land is acquired in association with a state trunk or connecting highway project, and
- The land or interest in land is located within ¼ mile of the highway.

3.2 Exceptions

Section 86.255 stats does not apply to the following situations.

- The purchase of any land that is acquired as compensatory mitigation for another wetland that will suffer an adverse impact as part of a highway project.
- The purchase of any land or interest in land under an agreement executed before October 29, 1999, or under a relocation order filed before October 29, 1999.

3.3 Application

To apply s. 86.255 stats uniformly, and still comply with other federal and state laws, the department has established the following guidelines:

- Compensation paid to certain individuals, businesses, and farm operations for the purchase of comparable housing, businesses, or farm property as replacement for such property taken in association with a highway project will not be considered to be contrary to s. 86.255 stats.
- Purchasing land as compensatory mitigation for replacement of Section 6(f) park or recreation land that will suffer adverse impact as part of a highway project and purchased in association with a highway project, will not be considered contrary to s. 86.255 stats.
- The department interprets the phrase “within ¼ mile of the highway” to mean the purchase of land or interest in land located on a single parcel may be completely or partially within ¼ mile of the highway or proposed highway, including frontage and service roads, park & ride facilities, scenic easements, and uneconomic remnants. A highway is defined to include “all public ways and thoroughfares and all bridges upon the same” [s. 990.01(12) stats]. For purposes of s. 86.255 stats, a highway may include a state or connecting highway, including, but not necessarily limited to, frontage and service roads, and park & ride facilities.
- Any purchase of land or interest in land must be for highway purposes. In case of special situations, regions will confer with the Real Estate Technical Services Chief who will seek input from the Office of General Counsel.

FDM 12-5-5 Access Control

August 15, 2025

Access control is the right to control the entrance upon and departure from a public highway (see FDM Chapter 7, Access Control)

5.1 Research/Investigate Previous Access Control

In order to make a determination if there is previous access control on a project, perform the following:

- Check previous right-of-way plats.
- Check the Highway Access Management System (HAMS) for existing access controls. For consultant projects, WisDOT staff will provide this information. If you do not have access to HAMS, contact the regional access management staff.
- Check complete title report for deed restrictions, subdivision plats, access, covenants, certified survey maps, purchased access control, etc.
- Check with planning section for access control plans, and findings, determinations and declarations (s. 84.25 and s. 84.295 stats.).
- Check with local governing body (city, town, county, etc.) for any local ordinances, laws, or access policies.

5.2 Determine Access Control Requirements for a Project

Define areas of existing access control and meet with appropriate region section to determine if current access control is adequate to meet the scope of the project, or, if additional access control is required.

5.3 Indicate Access Control on Right-of-Way Plat

- Show any previous access control with appropriate reference to the plat and/or document(s) that established the restrictions.
- Show access control required for the project using the standard symbols. Access control symbols are the same on both transportation project plats and traditional right-of-way plats.