



The Institute of Transportation Engineers
Traffic Engineering Council
presents TIPS on



Right of Way Regulations

What gives a public agency the right to dig up my front yard?

Ask a homeowner where they believe the property line is in front of their house. In general, many will say that their property line ends at the curb or sidewalk.

In fact, a homeowner's property line ends somewhere behind the curb or sidewalk. If there is no sidewalk, then it ends a number of feet behind the edge of the traveled way or shoulder. The line that denotes the private/public property split is known as the right-of-way line.

Although the sidewalk lies on the public property side, most towns charge the maintenance (i.e., shoveling of snow and keeping it free from obstructions) of the sidewalk and grassy area to the homeowner.

The county or municipality has the right to excavate or widen the roadway as required for maintenance or rehabilitation work. (NOTE: Different municipalities or states may have different statutes or

jurisdictional responsibilities. Consult your town or borough engineer for specific responsibilities and ownership issues).

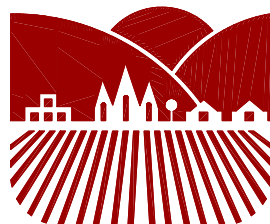


If the road work extends onto private property, then an agreement (known as an easement) is drafted between the public agency and the homeowner. This easement can be a temporary one (for construction, etc.) or a permanent one (for drainage inlets, pipes, etc.). In any event, no public agency (except of course, police and fire) has the right to infringe upon private property. In all cases, the owner must be contacted for permission. The nature of the work or project is explained to the owner along with the anticipated duration.

Sometimes, it is necessary for a public agency to acquire a piece of private property to facilitate a roadway improvement. In this case, the piece of property needed is bought by the public agency. The piece of property in question is assessed for value by the public agency and the appropriate documents are prepared (i.e., property acquisition mapping). The price set is agreed upon by both the public agency and the owner. Legal mechanisms are available to resolve disputes should both parties be unable to agree upon the fair market value of the property in question. Once bought, a new right-of-way line is indicated on appropriate documents (tax maps, etc.) and

the once private property now becomes public property.

In conclusion, a public agency does have the right to “dig up” someone’s front yard, provided the agency remains within its right-of-way. Right-of-way lines are often behind the actual roadway or curb line and facilitate maintenance and rehabilitation efforts, such as future widening of the road, if required. At no time can a public agency excavate or work on private property without first obtaining consent from the owner. Although sidewalks are within the public right-of-way, the owner of the property is usually responsible for sweeping them and removing snow.



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