



Widths of Streets Based on Statutes

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We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with municipal government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other MTAS website material.

Sincerely,

The University of Tennessee
Municipal Technical Advisory Service
1610 University Avenue
Knoxville, TN 37921-6741
865-974-0411 phone
865-974-0423 fax
www.mtas.tennessee.edu

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Reference Number: MTAS-1480

In *Ludwick v. Doe*, 914 S.W.2d 522 (Tenn. Ct. App. 1996), the Court pointed to the definitions of "street" and "highway" in T.C.A. § 55-8-101(60) and (21). The definition of both terms is the same: "the entire width between boundary lines of every way when any part thereof is open to the use of the public for purposes of vehicular traffic." For that reason, concluded the Court:

It is obvious from these definitions that the concept of a 'street' or 'highway' contemplates an area that is wider than the part used for the "purposes of vehicular traffic." It should also be noted that neither definition is tied to a paved area. We believe that when the definitional language is given its 'ordinary and usual meaning' read in the context of the definitions, the conclusion is inescapable that the legislature intended that the words 'street' and 'highway' would be synonymous with the full right of way. Thus a 'street' or 'highway' as those words are used in Tennessee Code Annotated 55-8-118 [which regulates passing on the right], refers to the part designated for vehicular travel by the public, any paved shoulder, any unpaved shoulder, and any remaining part of the right of way [Citing *State v. Mains*, 634 S.W.2d 280, 282 (Tenn. Cr. App.)] [At 525].

In *State v. Mains*, 634 S.W.2d 280 (Tenn. Cr. App. 1982), the Court considered the question of whether a defendant charged with vehicular homicide arising from drunk driving was on the "highway," when the homicide occurred off the paved portion of the roadway. The area in question was described by witnesses as a

'pull-out place' and was described by one officer as being two hundred to three hundred feet long and wide enough for two or three cars to park side by side. This officer also testified the area was part of the 'state highway right of way.'

Pointing to the definition of "highway" in T.C.A. § 55-8-101(20) [now (21)], the Court declared that, "The word 'highway' is defined for the purposes of the drunken driving statute as: 'The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.'" [Note: the term "publicly maintained" was removed from the statute by Public Acts 1988, chapter 555]. Then the Court went on to determine what that width included.

The term 'public highway' has been described by our Supreme Court as 'such a passageway as any and all members of the public have an absolute right to use as distinguished from a permissive privilege of using same.' [Citations omitted.] Other states have held that the "shoulder" of a highway is included in the term 'highway.' [Citations omitted.] Interpreting a legislative definition similar to ours cited above, the North Carolina Supreme Court held that the statutory reference to the 'entire width' includes everything between the right of way lines of the 'highway' for statutory purposes [At 282].

Those definitions included the pull-off, concluded the Court.

T.C.A. § 54-5-202, declares with respect to the width of state highways in municipalities that

The streets so constructed, reconstructed, improved and maintained by the state shall be of such width and type as the department may think proper, but the width so constructed, reconstructed, improved and maintained shall not be less than eighteen feet (18'); and, in the case of resurfacing and maintenance, from curb to curb where curbs exist, or the full width of the roadway where no curbs exist.

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Source URL (retrieved on 07/09/2020 - 5:15am): <http://www.mtas.tennessee.edu/reference/widths-streets-based-statutes>

