

(c) Municipalities are encouraged not to grant a zoning variance for a lot abutting a State highway when the traffic volume from the use would not be in conformance with the traffic volume allowed pursuant to the Access Code. The Department will not issue a permit for traffic volumes which exceed those allowed under the Access Code.

(d) The Department shall issue a Certificate of Acceptance to permittees for major access permits with a planning review and send a copy to the municipal building inspector and the municipal engineer. Municipalities shall not issue certificates of occupancy until they have received a copy of the Certificate of Acceptance.

(e) Any municipality or county may build new roads or acquire access easements, by purchase or condemnation, to provide alternative access to existing developed lots which have no other means of access except to a State highway.

(f) Any municipality or county may acquire, by purchase or condemnation, any right of access to any highway upon a determination that the public health, safety and welfare require it.

(g) Municipalities and counties are encouraged to seek appropriate mitigation from applicants when the Department requires alternative access under N.J.A.C. 16:47-3.2(a) or 4.3(p). See Appendix H, incorporated herein by reference, Cases 2 and 3.

(h) Municipalities and counties may submit comments on major access applications to the Bureau of Major Access Permits within 30 days of receipt of a duplicate copy of the application from the applicant as required in N.J.A.C. 16:47-4.3(n).

Administrative change to (h).

See: 25 N.J.R. 1005(b).

Amended by R.1993 d.210, effective May 17, 1993.

See: 25 N.J.R. 903(a), 25 N.J.R. 1990(a).

Revised (a).

Amended by R.1995 d.107, effective February 21, 1995.

See: 26 N.J.R. 2549(a), 27 N.J.R. 736(c).

Amended by R.1997 d.165, effective April 7, 1997.

See: 28 N.J.R. 3731(a), 28 N.J.R. 4383(a), 29 N.J.R. 1353(a).

In (b), inserted "or issues an access permit allowing direct access and requiring alternative access"; in (d), substituted "permits" for "points"; in (g), corrected N.J.A.C. references; and in (h), changed "Bureau of Major Permits" to "Office of Major Permits", and corrected N.J.A.C. references.

Amended by R.2002 d.22, effective January 22, 2002.

See: 33 N.J.R. 2043(a), 34 N.J.R. 507(a).

16:47-3.17 Department actions

(a) For access levels 2 through 6 along a State highway, paragraphs (a)1 and 2 below apply.

1. The Commissioner may modify a proposed access or deny an access permit application otherwise in conformance with this Access Code if site-specific highway efficiency and safety considerations so warrant.

2. Nothing set forth in this Access Code shall be interpreted as requiring the Department at its own expense to signalize, construct or improve access points on the State highway system or make other improvements related thereto.

(b) The Department may build new roads or acquire access easements, by purchase or condemnation, to provide alternative access to existing developed lots which have no other means of access except to a State highway.

(c) The Department may acquire, by purchase or condemnation, any right of access to any highway upon a determination that the public health, safety and welfare require it.

(d) Traffic control features and devices in the Department's right-of-way, including, but not limited to, traffic signals, channelizing islands, medians, and median openings, are operational and safety characteristics of the State highway and are not means of access. At any access point, the Department may install, remove, or modify any present or future traffic control feature or device in the Department's right-of-way to promote efficient traffic operations on the State highway or traffic safety in the Department's right-of-way.

Amended by R.1997 d.165, effective April 7, 1997.

See: 28 N.J.R. 3731(a), 28 N.J.R. 4383(a), 29 N.J.R. 1353(a).

Added (d).

SUBCHAPTER 4. PERMITS

16:47-4.1 Applications for staged development

Applications for staged development will be approved if the access plan at each stage of development satisfies minimum design standards. If the development is staged, the applicant shall indicate the maximum development potential, under zoning, for the undeveloped portion of the lot.

Amended by R.1993 d.524, effective November 1, 1993.

See: 25 N.J.R. 3129(a), 25 N.J.R. 4915(b).

16:47-4.2 Concurrent applications

When the Department receives an application which may affect the same section of a State highway as another application for which a permit has not yet been issued, the Department will coordinate the review of both applications and determine the fair share financial contribution or highway improvements for both sites combined. The responsibility will be proportioned between the two applicants based on their respective amounts of site traffic.

16:47-4.3 Permit process

(a) Each lot owner shall obtain a permit from the Department before performing any of the activities listed be-

low. Separate applications and permits are needed for each street or lot having direct access to the State highway, except that the Department shall accept a single application for a street which intersects both sides of a State highway at one intersection:

1. Constructing one or more driveways or streets intersecting a State highway;
2. Changing or modifying any existing driveway or street intersecting a State highway;
3. Constructing sidewalk, curb, drainage, or any other related work within the limits of a State highway right-of-way;
4. Expanding the facilities on a lot, having one or more access points on a State highway, to the extent that a significant increase in traffic results;
5. Changing the use on a lot, having one or more access points on a State highway, to the extent that a significant increase in traffic results;
6. Subdividing a lot having one or more access points on a State highway (any resultant lot which has direct State highway access needs a permit);
7. Consolidating a lot having one or more access points on a State highway; or
8. Initiating any activity which may interfere with the free and safe movement of normal highway traffic on a State highway.

(b) An access permit is not needed to perform maintenance and in-kind replacement.

(c) All driveways and streets in existence prior to July 1, 1976 shall be considered to have been constructed in accordance with an access permit, even if no permit was issued. All driveways and streets constructed after July 1, 1976 must have had permits issued or they are presumed not to have permits. The Department shall administer this provision as shown in Appendix G, incorporated herein by reference.

(d) An applicant shall complete the proper application form and submit it to the appropriate Regional Maintenance Office or the Bureau of Major Access Permits. The Regional Maintenance Office or the Bureau of Major Access Permits will determine if permits are necessary, confirm that the applicant has applied for the proper types of permits, coordinate the review with other Department offices, and issue letters confirming that permits are not needed, when appropriate.

(e) An application shall not be considered to have been submitted and processing of a permit application shall not begin, unless and until the proper fee for the application has been submitted.

(f) Applications pertain to lots, not access points. Applications for driveways can only be signed by the lot owner or a representative holding an appropriate power of attorney. A completed power of attorney form (MT-156) shall be submitted with the application when the lot owner does not sign the application. For shared access between lots, at the time of the development application for each lot, an application, signed by the owner of the lot, and separate fee shall be submitted for each lot. For easements or access through lots adjacent to the highway, the application shall be signed by the owner of the lot adjacent to the highway.

(g) Applications shall reflect conditions that exist at the time the application is submitted to the Department and include all State, county, municipal or private projects that have been advertised for construction or awarded, as appropriate.

(h) All State highways shall be identified by route number. Direction of travel shall be based on the general orientation of the route as designated by the Department. These directions may differ from the orientation of the particular highway segment.

(i) There are three different categories of access applications. They are shown in N.J.A.C. 16:47-4.4(a) and are based on the following factors:

1. Traffic generation, as determined by reference to the Institute of Transportation Engineers publication entitled "Trip Generation, 6th Edition," 1997 or superseding edition, or superseding rates adopted by the Department. For land uses not listed in these sources or when an applicant believes these rates are not representative, the Department may accept alternative evidence of representative rates; and

2. Those vehicle trips which directly access a State highway.

(j) Permits expire when the permittee violates any permit condition. If construction under a permit has been accepted by the Department and a new access permit is issued for the same lot, the use, maintenance and repair provisions of the original permit remain in effect until such time as construction under the new permit has been accepted by the Department. At that time, the original permit expires. Current forms of access permits shall be available upon request from the Bureau of Major Access Permits.

(k) When the Department becomes aware that a permit condition has been violated, it shall notify the permittee, in writing, that the permittee has 30 days within which to remedy the violation. Failure to remedy the violation within the specified time limit will cause expiration of the permit. The Department will provide written notice of the effective date of the expiration and may seek the civil penalties provided for in N.J.S.A. 27:7-92e or other available remedies. The penalties shall commence on the day following the date of expiration.