



**CURB TRANSITION**  
(NOT TO SCALE)

**FIGURE 5**

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).  
 Inserted metric references throughout.

### 16:47-3.10 Sidewalk area

(a) The sidewalk area shall be graded to comply with the requirements of N.J.A.C. 16:47-3.9(d), which is either four or six inches (100 or 150 millimeters) above the shoulder grade of the highway and have a minimum of four inches (100 millimeters) of topsoil, which shall either be fertilized, seeded, and mulched or sodded in accordance with "Standard Specifications for Road and Bridge Construction." Planting may be done with the approval of the Department; however, clear zones and sight distance standards shall be met. The Department favors the construction of sidewalk; however, sidewalks are not required unless specified by the Department, the applicant, or local ordinance. Curb ramps for the physically handicapped shall be provided when required by Section 5-07.2 of the "New Jersey Department of Transportation Design Manual—Roadway." The Department is not responsible for maintaining sidewalk.

(b) Concrete sidewalk shall be as follows:

1. Concrete sidewalk to be constructed within State highway right-of-way shall be Class B air-entrained concrete, and shall conform to the requirements set forth in "Standard Specifications for Road and Bridge Construction" unless specifically otherwise allowed in the permit. The subgrade shall also be prepared in accordance with these specifications.

2. The concrete proportion shall consist of one part Portland cement, two parts sand, and four parts crushed stone or washed gravel as provided in "Standard Specifications for Road and Bridge Construction," Section 914, and be constructed no less than four inches (100 millimeters) thick.

3. Alignment and grade shall be as shown on the plans.

4. Transverse expansion joints shall be one-half inch (13 millimeters) wide, provided at intervals of not more than 20 feet (six meters), and filled with prefabricated bituminous cellular type joint filler.

5. Longitudinal joints shall be one-quarter inch (six millimeters) wide, provided between curbs and abutting sidewalks, and filled with bituminous type joint filler.

6. Transverse surface grooves shall be cut in sidewalk between expansion joints at intervals equal to the sidewalk width.

7. Slope shall be one-quarter inch per foot (two percent) rising from the top of the adjacent curb.

8. The top of the sidewalk shall be finished with a wood float, followed by brushing with a wet soft-hair brush to a neat and workmanlike surface. All edges shall be neatly rounded to one-quarter inch.

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).  
 Inserted metric references throughout.

### 16:47-3.11 Installation of drainage pipes

(a) The Department has jurisdiction over ditches and construction of drainage facilities that fall within the limits of its right-of-way or easement. Maintenance of drainage facilities within the Department's right-of-way or easement shall be the responsibility of the Department, unless a permit specifies otherwise.

(b) Where ditches exist, drainage pipes of size and material approved by the Department are to be installed beneath driveways.

(c) Where ditches exist and conditions are favorable, installation of a continuous drainage pipe of proper size may be permitted.

1. Where installation of drainage pipe exceeds 350 feet (107 meters) in length, a manhole must be constructed midway between the ends. Installation of drainage pipe longer than 350 feet (107 meters) will not be permitted without intermittent manholes.

2. All runs of drainage pipe must be terminated at manholes, inlets, flared end sections, or headwalls.

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 (a), added second sentence; and in (c), inserted metric references.

### 16:47-3.12 General restrictions

(a) The Department will not assume any cost involved in the installation of drainage facilities required as part of an access permit.

(b) No part of highway right-of-way shall be used for any private purpose or uses associated with private purposes. The sidewalk area shall be kept clear of buildings, sales exhibits, signs, parking areas, service equipment, and appurtenances.

(c) Trimming or removal of trees or shrubbery within highway right-of-way is not authorized, except as indicated in N.J.A.C. 16:47-3.15(b).

(d) No advertising signs or devices shall be erected on or overhanging State highway right-of-way, nor shall any portion thereof be used for the display of merchandise. The Department can only authorize the erection and maintenance of signs on public property that are regulatory, directional, and warning signs allowed by State laws or authorized by the Department in conjunction with alternative access as set forth in N.J.A.C. 16:47-4.3(n)5.

(e) No person shall place, maintain, or display upon or in view of any highway, any unauthorized traffic sign, device, or other contrivance which purports to be or is an imitation of, or of such a nature as to be mistaken for, an official traffic sign or which attempts to direct the movement of traffic or which hides from view or interferes with the effectiveness of any official sign and no person shall place or maintain, nor shall any public authority permit upon any highway, any traffic sign, or any traffic signal bearing thereon or on its support, any commercial advertising.

(f) The permittee shall properly safeguard all work performed under the permit and maintain sufficient warning lights, Department approved signs, and safety devices for the protection of the traveling public until the work has been completed.

(g) New access points, if approved by the Department through the permit process, shall be constructed by the lot owner at the lot owner's expense. If there is a concurrent highway improvement project, the Department may provide for construction of the approved access points, at the lot owner's expense.

(h) All work authorized by a permit and performed by a lot owner shall be so conducted that there shall be no interference with any Department structure or facility, on, over, or under the highway, unless permitted by the Department, and shall not interfere with any concurrent work being done as part of a highway improvement project.

(i) Unless curb or curb returns are installed, the Department will not approve construction of driveways closer than five feet (1.5 meters) to inlets or catch basins.

(j) Where a lot adjacent to the highway is to be filled to the highway grade, the permittee may be required to make provision, at his own expense, for disposition of highway drainage by installing pipes of adequate size and material, inlets, catch basins, manholes, headwalls, and ditches as may be necessary to protect the State's drainage rights. Interference with drainage installations must be avoided. The existing cross-section and drainage of highways shall not be disturbed. The longitudinal flow of water along the curb-line shall not be interrupted, and it shall be the responsibility of the permittee to make adequate provision for all transverse, lateral, and longitudinal drainage affecting his construction.

(k) No openings shall be permitted in newly constructed or resurfaced highways for a period of five years, without the consent of the Commissioner. This restriction does not apply to the construction of access points.

(l) The Department will not authorize construction work within the limits of its right-of-way which will adversely affect the stability, appearance, or designed function of the highway itself, or any of its component or auxiliary structures.

(m) All lighting, sprinklers, heaters, landscape ties, and other equipment for roadside establishments must be located off highway right-of-way. The Department shall not be responsible for maintenance or replacement of any such appurtenances within its right-of-way, whether authorized by permit or not.

(n) The Department will not approve any access plan that routes site traffic to or through another lot unless the applicant provides adequate documentation of permission from the other lot owner.

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).

Rewrote (g); in (h), substituted "All work authorized by a permit and performed by a lot owner shall" for "Work" and added ", and shall not interfere . . . highway improvement project"; in (i), inserted metric reference; and in (m), inserted reference to sprinklers, heaters, landscape, ties, and other equipment, and added last sentence.

### 16:47-3.13 Relocations or removals within driveway areas

(a) The Department has jurisdiction over all structures within the limits of its right-of-way and easements.

(b) Removal of curb is not authorized, except in accordance with N.J.A.C. 16:47-3.9.

(c) Permission may be obtained for the relocation of an inlet where storm sewers, highway grades, and other conditions are favorable. All work will be at the expense of the permittee and shall be constructed in accordance with Department "Standard Specifications for Road and Bridge Construction".

(d) The permittee shall remove guide rail once the fill behind the guide rail has been completed to the satisfaction of the Department. The guide rail remains the property of the State and shall be delivered, undamaged, to the location specified in the permit.

(e) The permittee shall relocate regulatory, directional and warning signs, at the permittee's expense, providing a satisfactory location can be found.

(f) The Department may allow the relocation of State-owned electrical facilities providing a new location satisfactory to the Department can be found. This also applies to pavement detectors, pullboxes, conduits, and other constituent parts. Relocations shall be at the permittee's expense. Where structures are owned by a county or municipality, the applicant shall obtain written county or municipal permission before access is requested.

(g) Permission may be granted for construction of a driveway which requires the relocation of a utility pole or fire hydrant. Utility poles and fire hydrants shall not be permitted on channeling islands. Utility poles and fire hydrants should be relocated as close to the right-of-way line as possible. The relocation shall be arranged by the permit-

tee with the utility company or municipality. The Department will not pay for relocation, except as required pursuant to N.J.S.A. 27:7-44.9. Should a utility pole have attached to it service connections for any State-owned facility, the Department will relocate the service at the permittee's expense.

(h) Relocation of utility poles carrying the Department's lighting system usually cannot be permitted. These are placed in accordance with a carefully designed spacing pattern. However, should a new design be appropriate, it shall be at the permittee's expense.

(i) At locations on highways where metal pole lighting exists, electrical conduit or direct buried high voltage cables are located adjacent to the inside of curb, at a depth of approximately 18 inches (460 millimeters) below the top of curb. Extreme care must be exercised not to damage conduit or cables during removal of curb and construction of access points. It will be necessary to protect cables by encasing them in fiber conduit with an envelope of concrete. The permittee shall notify the Department District Electrical Supervisor at least three working days prior to any excavation adjacent to curb.

(j) When applications require movement or relocation of highway facilities by the Department, the applicant shall assume all expenses involved in the movement or relocation of the highway facilities and any expenses for additional facilities necessitated by the move. The Department will have the work completed.

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 (i) inserted metric reference.

#### 16:47-3.14 Materials and workmanship

(a) Construction within highway right-of-way is subject to inspection and approval by the Department.

1. The work, as far as is practicable, must conform in quality and appearance to similar Department construction.
2. Materials shall conform to the Department "Standard Specifications for Road and Bridge Construction", unless otherwise specified in this Access Code or in the permit.
3. The Department may assign an inspector to the job whose time and expenses shall be charged to the permittee.

(b) The cost of construction work and materials shall be entirely at the permittee's expense. The Department will not share in any expense or do any construction work pertaining to driveways.

#### 16:47-3.15 General information

(a) The Department will not expend public funds in assisting abutting lot owners to obtain access to the highway.

(b) Only ground cover which will not exceed 12 inches (300 millimeters) in height at full maturity may be allowed within the sidewalk area, subject to Department approval. Plantings shall not interfere with sight distance.

(c) Dedications or donations of land shall comply with prevailing Federal laws and Federal Highway Administration regulations.

(d) All pavement markings on State highways, including acceleration and deceleration lane markings, and signing installed for the operation of the State highway shall be maintained by the Department. All pavement markings and signing required for the operation of access points, such as stop bars and stop signs for access points, shall be maintained by the permittee, regardless of the owner of the right-of-way.

(e) Nothing contained in this Access Code shall preclude review of an access application by the Department at the same time as the applicant is before a municipality or county for local approvals. An applicant may seek access approval from the Department or local approvals in whichever order the applicant prefers.

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 metric reference; and added (d) and (e).

#### 16:47-3.16 Municipal and county actions

(a) As of September 21, 1992, no lot abutting a State highway shall be subdivided in a manner which would create additional lots abutting that highway unless all the abutting lots created are conforming under the Access Code, restricted from access to the State highway, or established pursuant to N.J.A.C. 16:47-3.5(d)2. Subdivisions are considered to be created on the date of preliminary municipal approval. Direct access from subdivided lots to a State highway shall only be permitted by the Department if the access meets the requirements of conforming lots under this Access Code. Nonconforming lots in existence as of September 21, 1992 shall not be subdivided in a manner which would make them less conforming, except that those nonconforming lots on State highways classified as access level 2 may be subdivided because of the creation of new street intersections.

(b) When the Department either denies an access application or revokes an existing access permit because alternative access is available or issues an access permit allowing direct access and requiring alternative access, the decision of the Department with regard to the appropriate access location shall be final, the action of any municipal or county body to the contrary notwithstanding. Any subsequent municipal or county review shall abide by the Department's decision. The municipality or county may require additions or changes in the design of the development in accordance with any applicable provisions of its development review ordinances provided that such additional requirements do not conflict with the Department's decision.

(n) At the time of submission of any concept review application or any major access application, the applicant shall send, by certified mail, return receipt requested, or by hand delivery, with signed receipt, duplicate copies of the application to the municipal clerk of the municipality in which the lot is located and to the county planning board and advise that the municipality and county have 30 days to submit any comments to the Office of Major Access Permits. For any concept review application with a traffic impact study and any major access application with a planning review, duplicate copies of the application shall also be sent, by certified mail, return receipt requested, or by hand delivery, with signed receipt, to any other municipality or county within the study area established pursuant to N.J.A.C. 16:47-4.36.

(o) Prior to submitting any access application for development within the Pinelands area, the applicant shall give notice to the Pinelands Commission pursuant to N.J.A.C. 7:50-4.83. The application submitted to the Department shall indicate the applicant's compliance with the requirements of N.J.A.C. 7:50-4.81.

(p) If the Department denies direct access to a State highway because reasonable alternative access is available or if the Department requires alternative access in addition to direct State highway access because the Commissioner determines the alternative access will benefit the safety and efficiency of the State highway, the Department shall not be responsible for addressing impacts on local roads. The applicant may be responsible for addressing local road impacts through the municipal approval process and county approval process. See Appendix H.

(q) A permit expires when the use of the lot served by the permit is expanded or changed and the expansion or change results in a significant increase in traffic.

(r) A permit expires when the lot served by the permit is subdivided or consolidated with another lot.

(s) The Department may issue a permit for access not meeting the standards of this Access Code, if it finds that an access plan in compliance with the Access Code is not reasonably attainable at the time that an application is submitted or that denial of the application would leave the property without reasonable access to the general system of streets and highways. Access approved in such a permit shall be based upon maximum achievement of the goals and purposes of this Access Code.

(t) If the Department issues a permit for a nonconforming lot based on a waiver as set forth in N.J.A.C. 16:47-4.35(f), no further expansion or change in use shall be allowed which would generate additional trips using the State highway access. Provisions of this Access Code relating to a significant increase in traffic shall not apply to any such permit.

Administrative changes to (d), (g), (i) and (o).

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 (n)5.

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

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

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 (a), inserted exception to separate application requirement; in (f), inserted signing requirement; deleted (i), relating to street intersection applications; recodified former (j) as (i) and inserted new (j); deleted (k); recodified former (l) through (r) as (k) through (q), and in (k), amended N.J.S.A. reference; substantially amended (m); in (n), substituted "send, by certified mail . . . with signed receipt" for "submit", inserted reference to "concept review applications", and added the last sentence; rewrote (q); added (r) through (t); and changed "Bureau of Major Access Permits" to "Office of Major Access Permits" throughout the section.

#### 16:47-4.4 Type of permit and review determination

(a) The Department shall determine the types of applications required. Single-family residential permits, residence and business combined permits, and government driveway permits shall be classified based on the definitions in N.J.A.C. 16:47-1.1. The Department shall be guided by Appendix E and Appendix E1, Access Application Thresholds, incorporated herein by reference, in determining the other types of applications and in determining which Department units will review an application.

1. Any use generating less than 500 vehicle trips per day directly accessing a State highway to and from the lot requires a minor application.

2. Any use generating 500 or more vehicle trips directly accessing a State highway per day and less than 200 peak-hour vehicle trips to and from the lot requires a major application.

3. Any use generating 500 or more vehicle trips per day and 200 or more peak-hour vehicle trips directly accessing a State highway to and from the lot requires a major application with a planning review.

(b) The trip generation derived from the Institute of Transportation Engineers publication entitled "5th Edition Trip Generation Report" or any superseding edition or any superseding trip generation rates used by the Department shall be the basis for determining the type of application, traffic analyses for potential traffic signals, and traffic impacts. If the lot is to be served by alternative access as well as direct access to a State highway, the applicant is encouraged to discuss the distribution of vehicles between the direct access and alternative access with the Regional Maintenance Office or the Office of Major Access Permits.

(c) If the applicant either fails to specify a land use or specifies "flexspace," the Department will review the application based on a worst-case traffic scenario.

(d) No deductions shall be allowed for passby or internal trips when determining the type of permit.

(e) Peak-hour trips from traffic generation rates for applications and permits shall be the highest average rates of the A.M., P.M., and weekend peak hours found in the Institute of Transportation Engineers publication entitled "5th Edition Trip Generation Report," or superseding edition, or superseding rates adopted by the Department. Daily traffic volumes shall be the highest average rates of the weekday and weekend rates found in the same source. 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. The Department will not accept a series of daily, weekly, or monthly traffic counts as a basis for establishing a long-term average rate.

(f) An application for the removal of an existing driveway shall be classified as a minor permit application and minor fees shall apply to the application and permit, provided that no other construction is proposed within State highway right-of-way, the lot is not being subdivided or consolidated with any other lot and there is no significant increase in traffic. The permissible trip generation shown on the new permit shall be the same as that for the existing permit. The new permit shall be of the same type, minor, major or major with planning review, as the existing permit and the application for removal of an existing driveway shall be submitted to the same office that issues the existing type of permit.

(g) An application for the construction of emergency access shall be classified as a minor permit application and minor fees shall apply to the application and permit, provided that no other construction is proposed within State highway right-of-way, the lot is not being subdivided or consolidated with any other lot and there is no significant increase in traffic. The permissible trip generation shown on the new permit shall be the same as that for the existing permit. The new permit shall be of the same type, minor, major or major with planning review, as the existing permit and the application for the construction of an emergency driveway shall be submitted to the same office that issues the existing type of permit.

Administrative change to (c).  
 See: 25 N.J.R. 1005(b).  
 Administrative Correction.  
 See: 25 N.J.R. 3238(b).  
 Amended by R.1993 d.524, effective November 1, 1993.  
 See: 25 N.J.R. 3129(a), 25 N.J.R. 4915(b).  
 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).  
 Deleted existing text of (b) and inserted new first sentence; recodified second sentence of former (c) as second sentence of (b) and deleted remaining text of (c); recodified former (d) through (f) as (c) through (e); in (e), substituted "weekend peak hours" for "Saturday peak hours"; and added (f) and (g).

**16:47-4.5 Access permit applications**

(a) The maximum time frames for the review of various types of applications are summarized below. They are for the Department only and do not include any applicant time or time for Federal Highway Administration reviews of work on interstate highways, interchanges, or ramps. The Department's check of the completeness of an application is included in these timeframes.

**DEPARTMENT TIME FOR APPLICATIONS  
 ACCEPTED FOR REVIEW (IN DAYS)**

	<u>Form</u>	<u>Minor<sup>1</sup></u>	<u>Major</u>	<u>Major With Planning Review</u>
Single Family Residential Driveway	MT-32	35	NA	NA
Residence and Business Driveway	MT-32	35	NA	NA
Minor	MT-32	35	NA	NA
Government Driveway	MT-32	35	90	90
Major Use	MT-32	NA	90	90
Street Intersection	MT-160	35	90	90
Concept Reviews	MT-32	NA	90	90
Street Improvement	MT-158	35	NA	NA
Lot Consolidation or Subdivision	MT-155	NA	50	NA
Temporary Access Permit	No form #	35	NA	NA

Notes: (NA means Not Applicable)  
 1. If a traffic signal is involved, the review may take 45 additional days.

(b) The time for the Department review of an application may be extended with the written consent of the applicant.

(c) When an applicant fails to respond to a Department request for information within 90 days of the request, the application shall be considered withdrawn.

Amended by R.1993 d.524, effective November 1, 1993.  
 See: 25 N.J.R. 3129(a), 25 N.J.R. 4915(b).  
 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 (a), added "Temporary Access Permit", and in the table deleted footnote 1 and recodified footnote 2 as footnote 1; deleted (c) relating to pre-applications conferences; and recodified (d) as (c).

**16:47-4.6 Permits and permit fees**

(a) The non-refundable fees for access applications, permits, and renewals are set forth below. Fees shall be in the form of a check or money order made payable to the Department. Cash will not be accepted. The application fee shall be submitted with the application, but the permit fee should not be submitted until the applicant returns the signed permit. The Department shall not issue a permit until the proper fee for the permit has been collected and the permit has been signed.

Type	<u>Application Fee Each Lot</u>	<u>Permit Fee Each Lot</u>	<u>Renewal Fee Each Lot</u>
Single Family Residential Driveway	\$ 35.00	\$ 15.00	\$ 15.00
Residence and Business Driveway	75.00	25.00	25.00
Government Driveway	150.00	500.00	250.00

Minor	265.00	85.00	85.00
Major	3,750.00	1,250.00	250.00
Major with Planning Review	9,000.00	3,000.00	250.00
Concept Reviews	500.00	—	—
Street Intersection	150.00	500.00	250.00
Street Improvement	5.00	25.00	25.00
Lot Subdivision or Consolidation	200.00	50.00	—
Temporary Access Permit	200.00	50.00	50.00

(b) Developments containing at least 10 percent of the housing units on the site set-aside for low and moderate income residents, pursuant to the Fair Housing Act, N.J.S.A. 52:27D-301 et seq., or under court settlement, are entitled to a 10 percent reduction in the permit fee. To be eligible for this reduction, the applicant shall submit the full application fee and an affidavit from the municipal approving authority, certifying that the 10 percent requirement has been met. Upon approval of the access, the Department will reduce the permit fee by 10 percent of the total application and permit fees combined. The renewal fees are not subject to reduction.

(c) A permit issued by the Department affords the permittee the right to construct, maintain and repair, and use a driveway or street connecting to a State highway under the terms and conditions of the permit. Approval of an access application does not accord the applicant any of these rights.

(d) A permittee may construct an access point intersecting a State highway except:

1. When the construction work under the permit, including those permits issued under N.J.A.C. 16:41, is not started within two years of the date the permit was issued, the permit expires, unless stated otherwise in the permit. The permittee shall submit a new application, with supporting documentation as set forth in the checklists in N.J.A.C. 16:47-4.9(b), 4.10(b), 4.12(b) or 4.14(b), which reflects changes and the fee appropriate at the time of the new application.

2. A permit expires if all construction work under the permit, including those permits issued under N.J.A.C. 16:41, is not completed within two years of the date the permit was issued, unless stated otherwise in the permit or extended by renewal. Upon expiration, the Department may use the remedies described in (g) below to restore any disturbed area.

(e) When the construction work under the permit, including those permits issued under N.J.A.C. 16:41, is started within two years of the date of permit issuance but cannot be completed in the indicated time, the permittee shall request an extension of time in writing from the appropriate Regional Maintenance Office and submit the required renewal fee in the form of a check or money order. The Department may approve one one-year extension.

(f) The Department may impose those site-specific terms and conditions it deems necessary and convenient when issuing permits. Every permit will include the daily and peak-hour traffic volumes permitted for the lot. The baseline traffic for determining a significant increase in traffic shall be the allowable traffic generation shown on the permit. If such figures are not shown on the permit, then the baseline traffic shall be based on the ITE trip generation rates for the use, based on the ITE edition in effect at the time the permit was issued. If there is a grandfathered permit or ITE trip generation rates did not exist for the use at the time that the permit was issued, then the trip generation rates shown in the current edition of the ITE manual shall be used to compute the baseline traffic.

(g) As a condition of any permit the Department may require a bond or certified check in an amount sufficient to guarantee or insure proper maintenance or restoration of the area disturbed by the permittee. If it becomes necessary for Department forces or contractors to make repairs, for any reason, the cost of such work shall be borne by the permittee.

(h) The permittee shall notify the Regional Maintenance Office at least 72 hours prior to starting work, in order that the Department may have a representative at the site. The access shall be completed in an expeditious and safe manner. It is the responsibility of the permittee to complete the construction of the access according to the terms and conditions of the permit.

(i) The Department will have each permit recorded in the county in which the subject lot is located. Access permits are associated with the property and not with the applicant.

(j) If, after issuance of a permit by the Department, a permittee is barred or prevented, directly or indirectly, from proceeding with the development by a legal action instituted by any State agency, political subdivision, or any other individual or party or by a directive or order issued by any State agency, political subdivision, or court of competent jurisdiction, the period of time prescribed by this Code for construction of an access point intersecting a State highway shall be tolled during the pendency of said legal action, directive, or order. The permittee shall notify the Regional Maintenance Office in writing and include its supporting documentation within 30 days of any action that may invoke this provision. If construction has already commenced, the permittee shall immediately contact the Regional Maintenance Office to ensure that the cessation of work does not create a hazard. The permittee shall restore any disturbed area at a time and in a manner prescribed by the Department or the Department may do so at the permittee's expense. The remaining access construction time shall begin to run from the date on which the legal directive or order is removed. The permittee shall notify the Regional Maintenance Office or the Office of Major Access Permits, whichever issued the permit, in writing within 30 days of the date of such resolution or removal. The Department re-

serves the right to reevaluate the access permit conditions if the tolling time extends beyond five years from the date of the permit.

(k) If the Department denies a permit, the denial letter shall set forth the reasons for the denial and include references to published policies and standards which support the denial.

(l) In order to obtain a permit, the applicant shall include a title block on the permit plans. The title block shall be located in the lower right corner of the plans and should be three inches (75 millimeters) high and seven inches (175 millimeters) wide and shall include the block, lot, municipality, county, date, and name of the lot owner.

(m) As a condition of any major with planning review permit, the Department will require that the permit expire if any expansion or change in use results in a LOS F at any site access point on a State highway. The Department will not require that the permit expire if the drop in level of service is caused by traffic attributable to other developments.

(n) All permits and developer agreements shall contain provisions for indemnification of the State, and its agents, servants, and employees. Current forms of these provisions shall be available upon request from the Office of Major Access Permits.

Administrative change to (l).

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 (l).

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

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

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 (a), added "Temporary Access Permit" to the table; in (c), inserted reference to repair; deleted (i) and (j); recodified (k) and (l) as (i) and (j); in (i), added second sentence; deleted (m); recodified (n) and (o) as (k) and (l); and added new (m) and (n).

#### 16:47-4.7 Companion Department permits

Access permits do not cover all types of occupancy of the Department's right-of-way. Other permit applications may be required in conjunction with the access application. These applications will become companion applications to the access application. They will be reviewed together. All of the required permits may be issued at the same time. The Department may accept one access application for combining activities for access, drainage, curb, sidewalk, left-turn slots, lot consolidation or subdivision and landscape and issue a single access permit to authorize all of these activities.

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

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

Revised text.

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).

Substituted "may" for "will", regarding issuance of all required permits at the same time.

#### 16:47-4.8 Minor access permits process

(a) The Regional Maintenance Office will determine whether an application meets the criteria for the type of application applied for and whether the application is acceptable for review, and send a written notice of these determinations to the applicant within 10 days of receipt. If the application is unacceptable, the notification will contain a request for specific additional information.

(b) A minor application will be reviewed and either approved or denied within a maximum of 30 calendar days of receipt of a complete application, unless a traffic signal is involved. If the application is approved, the Regional Maintenance Office shall request that the applicant submit the permit documents and the permit fee. Permits will be issued within a maximum of 35 calendar days of receipt of a complete application if the application is approved, unless a traffic signal is involved.

(c) The applicant shall submit the completed and signed permit documents and permit fee to the Regional Maintenance Office within 180 days of the Regional Maintenance Office notice of approval. Applicants failing to respond on time will have their applications rejected.

(d) When the Department requests information from the applicant, the step in the process and its associated time frame will restart once the Department receives the information. If the applicant does not provide the Department with the requested information within 90 days of the request, the application shall be considered withdrawn.

(e) Minor applications that require modification of traffic signals must be reviewed by the Office of Traffic Signal and Safety Engineering. Minor permits may be issued conditionally, subject to approval of traffic signal work. The final approval may extend the minor application review time by 45 days.

(f) If the Regional Maintenance Office finds either the same form deficiency or the same technical content deficiency three times in an applicant's submissions, then the application will be rejected and the applicant must reapply and submit a new application and fee.

(g) If the applicant changes the proposed development or access plan in response to Department comments, a new application and fee will not be required unless the applicant fails to eliminate all deficiencies within three submissions. If the applicant unilaterally changes the proposed development or access plan, however, a new application and fee shall always be submitted.