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Highway Driveway and Entrance Rules, Part A : Driveway Rules, 2002

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PART A: DRIVEWAY RULES

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APPENDICES

(APA Office Note: electronic versions of the appendices are not available at this time. Please contact the Department of Transportation for paper copies.)

(MDOT Note: appendices are available at <http://www.state.me.us/mdot/planning/bureauweb/accesslinks.htm>)

- A. Maine Department of Transportation (MDOT) Contact Information
- B. List of Citations and Associated Text
- C1. List of State and State Aid Highways outside Urban Compact Areas Affected by the Driveway and Entrance Rules, including Major Collectors, Non-Compact Arterials
- C2. List and Description of Mobility Arterial and Retrograde Arterial Corridors
- D. List of Urban Compact and Service Center Communities
- E. Permit By Rule (PBR) Application Form for Forest & Farm Activities
- F. Application Form for Driveways and Entrances
- G. MDOT Standard Design Details

1. GENERAL PROVISIONS

1.1 Definitions

For the purposes of this rule, the following definitions will apply. If not defined below, the definitions contained in companion rules, Part B, Entrances Rules, as well as in 17-229 Maine Administrative Rules, Chapter 305, Rules and Regulations pertaining to Traffic Movement Permits, will apply. If not defined in these rules, words, terms and phrases will have their commonly accepted meaning.

- **Access.** A public or private roadway used to enter or leave a public highway from adjacent land using an on-road motor vehicle. An access may be a driveway or an entrance depending upon the type of land use and volume of traffic generated by that use.
- **Access Point.** The intersection of an existing or proposed access with the public right of way.
- **Alteration.** A change in the grade, width or location of a driveway, including its relocation.
- **Applicant.** The person applying for a driveway permit.
- **Arterial.** **A highway providing long-distance connections as approved by the Federal Highway Administration pursuant to 23 Code of Federal Regulations, Section 470.105(b)(1999) and as so designated by MDOT.**
- **Change in Use.** A change or increase in building floor area or density on the property accessed by the driveway that results in an increase in daily traffic or drainage. Examples include a change from farming or forestry use to a single-family residence or a residential subdivision or a change from residential to commercial use or a change from a single-family residence to a multifamily dwelling. A restaurant expansion adding patron capacity is a change in use. A change in ownership is not a change in use.
- **Corner Clearance.** The minimum distance, measured parallel to a highway, between the nearest curb, pavement or shoulder line of an intersecting public way and the nearest edge of a driveway excluding its radii.
- **Driveway.** An access serving one of the following land uses: residential uses up to five dwelling units, home occupations, forest management activities, farming, low impact industrial uses such as utility substations, or other similar uses, unless the MDOT demonstrates, in accordance with the Trip Generation Manual, 6th Edition, published by the Institute of Traffic Engineers (1997) that the use generates 50 or more vehicle trips per day.
- **Entrance.** An access serving one of the following land uses: residential uses or developments serving six or more dwelling units, retail, office, or service business uses including department stores, strip malls, convenience stores, gas stations, auto repair shops, restaurants, or similar uses unless the applicant demonstrates to the reasonable satisfaction of MDOT, in accordance with the Trip Generation Manual, 6th

Edition, published by the Institute of Traffic Engineers (1997) that the use generates less than 50 vehicle trips per day.

- **Forest Management Activities.** Activities consisting of timber cruising and other forest resource evaluation activities, pesticide or fertilizer application, timber-stand improvement, pruning, timber harvesting and other forest harvesting, regeneration of forest stands and other similar or associated activities.
- **Forest Management Road.** A route or track consisting of a bed of exposed mineral soil, gravel or other surfacing material constructed for or created by the repeated passage of motorized vehicles and used primarily for forest management activities, including associated log yard and winter haul roads.
- **Larger vehicle.** A vehicle that has a larger length, width or turning radius and/or lesser acceleration capability than standard passenger vehicles or pick up trucks including busses, commercial trucks, and recreational vehicles.
- **Lot(s) of Record.** A lot or lots for which the deed was legally recorded on or before the effective date of this rule or which was created by a plan legally recorded in the County Registry of Deeds on or before the effective date of this rule.
- **MDOT or the Department.** The Maine Department of Transportation.
- **Mobility Arterial or Mobility Arterial Corridor.** A Non-Compact Arterial that (1) has a posted speed limit of 40 mph or more and is part of an arterial corridor located between Urban Compact Areas or Service Centers that carries an average annual daily traffic of at least 5,000 vehicles per day for at least 50% of its length or (2) is part of a Retrograde Arterial Corridor located between Mobility Arterials described in (1). Mobility Arterials are listed in Appendix C.
- **Mobility Sight Distance.** The sight distance required to allow a vehicle entering the highway to reach 85 % of the posted speed without being overtaken by a vehicle traveling at the posted speed and approaching the entering vehicle from behind.
- **Non-Compact Arterial.** An Arterial that lies outside Urban Compact Areas of Urban Compact Communities.
- **Permit by Rule.** A simplified procedure for forest management and farming activities by which the applicant may obtain a permit for maintenance or construction of a driveway necessary for the duration of the operation or activity.
- **Posted Speed.** The speed limit set and maintained by MDOT.
- **Retrograde Arterial.** A Mobility Arterial where the access related crash-per-mile rate exceeds the 1999 statewide average for Arterials of the same-posted speed limit. Retrograde Arterials are listed in Appendix C.

- **Service Center.** Communities that serve the surrounding region, drawing workers, shoppers and others into the community for jobs and services. A list of Urban Compact and Service Center Communities is attached as Appendix D.
- **Sight Distance.** The length of unobstructed sight line of motor vehicle drivers in normal daylight conditions. Sight distance is measured from the perspective of a hypothetical person seated in a vehicle from three vantage points: (1) sitting in the access viewing vehicles traveling on the highway (both left and right), (2) traveling on the highway viewing a vehicle sitting in an access and (3) traveling on the highway viewing a vehicle turning into the access (both ahead and behind). In case of discrepancy between these measurements, the lesser measurement will be used to determine whether the sight distance standard is met. Sight distance is measured to and from the point on the centerline of the proposed access that is located 10 feet from the edge of traveled way. The height of the hypothetical person's view is considered to be 3½ feet above the pavement and the height of the object being viewed is considered to be 4¼ feet above the pavement.
- **State or State Aid Highways.** Highways designated by MDOT as a State or State Aid Highway pursuant to 23 M.R.S.A. §53. State and State Aid Highways are listed in Appendix C.
- **Urban Compact Areas.** Areas defined and established pursuant to 23 M.R.S.A. § 754 as of the effective date of this rule. A list of Urban Compact and Service Center Communities is attached as Appendix D.
- **Vehicle trip.** Moving from an origination point to a destination point, one-way. It is not a round trip.

1.2 Purpose and Authority

The purpose of the driveway rules is to manage access to the highway in a manner that protects the safety of access and highway users, protects the highway system from the negative impacts of drainage, preserves mobility and economic productivity related to highway transportation, and avoids the long term cost of constructing new highway capacity. This rule is authorized by 23 M.R.S.A. §52 and §704.

1.3 Applicability

- A. **General.** This rule applies to all public or private accesses onto state and state aid highways located outside urban compact areas, to the design, location, construction, alteration, and closure of such accesses, and to situations in which changes in use serviced by such accesses increases traffic volume.
- B. **Relationship to Municipal or Land Use Regulation Commission (LURC) Requirements.** Nothing in this rule supplants any municipal ordinance or LURC regulation. Where the requirements of this rule differ from a requirement of a municipal ordinance or LURC regulation, the most stringent or restrictive requirement as relates to the purpose of these rules will apply.

2. TECHNICAL STANDARDS

Driveways onto any state and state aid highway located outside urban compact areas must comply with the basic safety standards in Section 2.1. If the driveway is onto a Mobility Arterial, it must also comply with the additional or increased standards set forth in Section 2.2. If the driveway is onto a Retrograde Arterial, it must also comply with the additional or increased standards set forth in Sections 2.2 and 2.3.

2.1 Basic Safety Standards

- A. **Sight Distance.** The minimum allowable sight distances for all accesses onto all state and state aid highways located outside urban compact areas are set forth in Table 1. MDOT may require up to 50% greater sight distances when at least 30% of the traffic using the driveway will be by larger vehicles.

Table 1 – Sight Distance

Posted Speed (MPH)	Sight Distance (Feet)
20	155
25	200
30	250
35	305
40	360
45	425
50	495
55	570
60	645

- B. **Driveway Width.** Unless a waiver is granted pursuant to Section 3.3(C), driveway width within the highway right of way must be between 12 and 22 feet inclusive. The width of a driveway is the distance across the driveway, excluding radii, measured parallel to the highway.
- C. **Corner Clearance.** Unless a waiver is granted pursuant to Section 3.3(C), the minimum corner clearance for driveways is 75 feet for un-signalized intersections and 125 feet for signalized intersections except that at no time will a driveway be located on the radius of the two intersecting roadways.
- D. **Turnaround Area / Parking.** Driveways will be designed such that all maneuvering and parking of any vehicles will take place outside of the highway right of way and such that vehicles may exit the premises without backing onto the highway traveled way or shoulder. All driveways will have a turnaround area at least 8 feet wide by 15 feet long. MDOT may require a larger turnaround area to accommodate larger vehicles that are expected to use the driveway on a regular basis.
- E. **Drainage Standards.**

- (1) Culvert Size. Pursuant to 23 M.R.S.A. §705, MDOT will determine the diameter of culverts within the highway right of way depending upon local conditions.
 - (2) Construction and Maintenance Standards. Driveways, on-site ditches, swales, pipes and other structures that direct runoff toward MDOT ditches or drainage systems must be constructed, crowned, stabilized and maintained with stable materials and appropriate erosion control measures such as permanent vegetation or stone.
 - (3) Mitigation. If the proposed development poses a significant drainage risk, then the applicant must mitigate the impacts of increases in peak flow from storms into MDOT drainage systems through measures specified by MDOT. Mitigation measures may include on-site controls, off-site improvements, or payment of a fee pursuant to 23 M.R.S.A. §57-A. A “significant drainage risk” exists (a) when the applicant proposes a fixed connection to a closed system drainage structure owned by the MDOT or (b) when MDOT determines, using accepted engineering and hydrologic principles, that: (i) the proposed driveway has a grade of 10% or greater for a length of 150 feet or more draining toward the highway; (ii) the proposed development has more than 10,000 square feet of impervious surface draining toward the highway, or (iii) the proposed development will substantially contribute to the failure of a downstream MDOT facility. “Impervious surfaces” are the footprint of buildings, pavement, gravel, or other low-permeability or compacted surfaces, not including natural or man-made water bodies. “Peak flow” is the greatest rate of flow in a drainage way, measured as volume per unit of time, resulting from storms up to a 50-year event.
- F. Intersection Angle / Radius of Edges. To the maximum extent practical, the driveway will be constructed perpendicular to the highway at the access point. The minimum radius on the edge of a driveway, if any, must be 10 feet. MDOT may require that the edges of the driveway have a radius if larger vehicles are expected to use the driveway on a regular basis.
- G. Double Frontage Lots. When lots have frontage on both a Major Collector or a Non-compact Arterial and another public way, driveways will be restricted to the other public way, unless MDOT determines that queuing of traffic entering a driveway off the other public way would interfere with traffic on the Major Collector or a Non-compact Arterial due to insufficient lot frontage along the other public way. If the other public way is a mobility or retrograde arterial, the driveway must be located on the highway frontage that allows the intent of this rule to be most effectively and efficiently met.

2.2 Mobility Arterial Standards

In addition to the standards in Section 2.1, driveways onto Mobility Arterials must also comply with the increased or additional standards in this Section 2.2.

- A. **Mobility Sight Distance.** Unless a waiver is granted pursuant to Section 3.3(C), the sight distance for driveways onto Mobility Arterials must meet or exceed the distance listed in Table 2. Sight distance is measured in accordance with its definition.

Table 2 - Mobility Sight Distance

Posted Speed (MPH)	Sight Distance (Feet)
20	225
25	300
30	380
35	480
40	580
45	710
50	840
55	990
60	1,150

- B. **Spacing Between Driveways.** Unless a waiver is granted pursuant to Section 3.3(C), new driveways onto Mobility Arterials must be separated from other existing or proposed driveways or entrances including those located across the highway and those serving the same lot, in accordance with the minimum spacing standards set forth in Table 3. Driveway spacing is measured from edge of proposed driveway/entrance to edge of driveway/entrance, excluding radii. Driveways or entrances located directly across the highway from the proposed driveway are not counted in applying the spacing standard.

Table 3 – Minimum Driveway Spacing Standards

Posted Speed (MPH)	Driveway Separation (Feet)
25 or less	90
30	105
35	130
40	175
45	265
50	350
55 or more	525

- C. **Mobility Arterial Corner Clearance.** The minimum corner clearance for driveways onto Mobility Arterials must be 125 feet, except as provided in Section 2.2(D) and unless a waiver is granted pursuant to Section 3.3(C). The Department of Transportation may require greater corner clearance if the department determines it is necessary to prevent a significant impact on public safety or a reduction in the posted speed limit.

- D. Controlled Access Off-Ramp Setback. The minimum corner clearance for driveways onto Mobility Arterials from a controlled access off-ramp must be 500 feet, unless a waiver is granted pursuant to Section 3.3(C). Minimum corner clearance for driveways onto Mobility Arterials from controlled access on-ramps must meet the requirements of section 2.2 (C).**
- E. Shared Driveways. Whenever possible, property owners will seek opportunities for shared driveways onto Mobility Arterials. Owners that have insufficient frontage to meet the spacing standards of Section 2.2 (B) must negotiate with abutters in good faith for a shared driveway.**

2.3 Retrograde Arterial Standards

In addition to the applicable standards in Sections 2.1 and 2.2, applicants for driveways onto Retrograde Arterials may be required to create or expand paved shoulders for a length not to exceed 75' on either side of the proposed driveway and pave the apron of the proposed driveway if MDOT reasonably determines that, when built, the driveway will significantly impact public safety or will necessitate a reduction in posted speed.

3. ADMINISTRATION

A permit must be issued by MDOT prior to commencement of construction, alteration, or removal of any portion of an access that is within the state or state aid highway.

3.1 Application

The applicant shall complete MDOT's Driveway Permit Application form and submit it to the MDOT Division Office having jurisdiction over the state or state aid highways onto which the driveway is proposed. MDOT may reduce the amount of information required on a case-by-case basis as necessary to assure compliance with the applicable driveway standards. If an applicant seeks a waiver from the driveway standards, the request and the reasons for the requested waiver must be submitted as an attachment to the application form.

3.2 On-Site Meeting

If MDOT determines that a site visit is required to assure compliance with this rule, or if the applicant requests a site visit, MDOT will arrange an on-site meeting with the applicant within one business week of receiving an application.

3.3 Review and Decision

- A. Review Time. MDOT must issue a permit decision within 15 business days of an applicant's filing a complete application unless MDOT reasonably determines additional information or time is needed to make a decision.**

- B. Approvals. MDOT may approve the application subject to any conditions necessary to assure compliance with the applicable driveway standards. Approvals will include a brief statement of the findings and conclusions that support approval. At a minimum, the property owner will be required to meet the following standard permit conditions:
- (1) Provide, erect and maintain all necessary barricades, lights, warning signs and other devices as directed by MDOT to safeguard traffic properly while the construction is in progress.
 - (2) At no time cause the highway to be closed to traffic.
 - (3) Where the driveway is located within a curb, curb and gutter, and/or sidewalk section, completely remove the existing curb, curb and gutter, and/or sidewalk as may be required to create the driveway and restore drainage. All driveways abutting sidewalk sections shall meet the requirements set forth in the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12131 *et seq.*
 - (4) Obtain, have delivered to the site and install any culverts and/or drainage structures which may be necessary for drainage, the size, type and length as called for in the permit pursuant to 23 M.R.S.A. §705.
 - (5) Substantially complete construction of the proposed driveway within twelve months of commencement of construction.
 - (6) Comply with all applicable federal, state and municipal regulations and ordinances.
 - (7) Not alter, without the express written consent of the MDOT, any culverts or drainage swales within the MDOT right of way.
 - (8) File a copy of the approved driveway permit with the affected municipality or LURC, as appropriate within 5 business days of receiving the MDOT approval.
 - (9) Construct and maintain the driveway side slopes to be no steeper than the adjacent roadway side slopes, but in no case to be steeper than 3 horizontal to 1 vertical, unless the side slope is behind existing roadway guardrail, in which case it shall be no steeper than 2 horizontal to 1 vertical.
 - (10) Notify the MDOT of a proposed change of use served by the driveway/entrance when increase in traffic flow is expected to occur.

Applicants that seek an alteration of a driveway that existed on the effective date of this rule and that does not conform to the driveway standards outlined in the rule will be granted a permit as long as the alteration does not increase any such nonconformance and improves the safety and / or drainage of the driveway. If the proposed alteration is for relocation, the permit must require the elimination of the

former driveway such that it can no longer be used to access the highway or adjacent land.

Conditions may include deed restrictions that shall be notarized and recorded at the appropriate Registry of Deeds within 90 days of permit issuance.

- C. Waiver of Standards. Driveway standards may be relaxed or waived only as provided in these rules. Requests for waiver must be in writing and should be submitted as an attachment to the permit application.

The following standards will not be relaxed or waived: the sight distance of Section 2.1(A), the turnaround and parking requirements of Section 2.1(D), the drainage standards of Section 2.1(E), the double frontage lot requirements of Section 2.1(G) and the requirement to negotiate for a shared driveway of Section 2.2(E). Further, waivers will not be granted to a property owner whose property has been granted limited access entrances in accordance with 23 M.R.S.A. §303.

The spacing standards in Table 3 of Section 2.2(B) may be waived only to the extent that existing lots of record as of the effective date of these rules that do not have access to another public way and that do not have sufficient lot frontage to meet these spacing standards may be allowed one driveway if the applicant meets the standards for granting a waiver set forth below. Regarding lots created after said effective date that do not have access to another public way, and that do not have sufficient lot frontage to meet these spacing standards, said spacing standards may be waived only if (1) the driveway permit application is received on or before April 1, 2002 and (2) the applicant meets the standards for granting a waiver set forth below.

MDOT will review the request and determine whether to grant the request, deny the request, or grant the request with any reasonable condition(s). The request will be granted only if the applicant demonstrates, to the reasonable satisfaction of MDOT, that: (1) the waiver will not significantly impact public safety, (2) the proposed driveway meets the standards to the maximum extent practicable, and (3) there is no feasible alternative. In determining practicability and feasibility, MDOT will consider the nature and extent of negotiation for a shared driveway and the availability and cost of alternative driveway locations and designs in relation to the proposed use.

Waiver determinations will be in writing and sent to the applicant. All waivers granted must be notarized and provide that the terms thereof attach to and run with the land and that failure to record the waiver in the appropriate Registry of Deeds within 90 days of the date of the waiver will cause it to be null and void. The applicant will be responsible for such recording.

Reconsideration and appeal of waiver decisions must be made pursuant to Section 3.5 and 3.7.

- D. Denials. When denying an application, MDOT will send the applicant a notice setting forth a brief statement of the reason for the denial (example -“the

proposed driveway does not meet the sight distance standard) and the process for reconsideration.

- E. **Permit Expiration.** A permit will expire within 24 months of the date of issuance if the driveway construction is not commenced. If waivers or conditions are not recorded at the appropriate Registry of Deeds within 90 days of permit issuance, the permit will expire.

3.4 Permit By Rule for Forest Management and Farming Driveways

- A. **Filing the Permit by Rule (PBR).** Applications for driveways for forest management and farming activities shall be made pursuant to the Section 3.1 or by the Permit-by-Rule (PBR) process. To use the PBR process, the applicant must file a completed PBR application form with MDOT. The applicant may request approval of more than one driveway on one PBR form. The PBR application form will require sufficient information to allow the MDOT to assure compliance with the following minimum construction and maintenance standards.
- B. **Applicable Standards.** Each driveway must meet the minimum sight distance standards set forth in Section 2.1, Table 1. The applicant must provide the available sight distance at the proposed driveway(s) on the PBR application form.
- C. **Change of Use.** Property owners, or their agents, with driveways developed for forest management and farming activities on state or state aid highways who propose to convert the property use to a use other than for forest management or farming activities, must file for and obtain a permit for the proposed use.
- D. **PBR Approval.** The PBR is approved once it is filed provided all applicable standards are met. If the PBR is found to be in non-compliance at any time after the filing date, the MDOT will notify the applicant who must remedy the non-compliance. In such instances, the MDOT may require conditions of approval as outlined in Section 3.3. (B) and may limit the life of the driveway(s). If the applicant does not adhere to the conditions or correct the deficiencies, the MDOT may revoke the permit in accordance with the denial provisions of Section 3.3. (D) and may commence enforcement action against the applicant in accordance with Section 3.6.

3.5 Reconsideration

An applicant who is aggrieved by the MDOT permit decision, may request reconsideration by the Division Engineer, but must do so in writing within 30 business days after receipt of MDOT's permit decision.

The request for reconsideration must set forth the findings and conclusions of MDOT to which the person objects, the basis of those objections, the nature of the relief requested, and whether a hearing is requested. If requested by the applicant, or if MDOT determines a hearing is warranted, a hearing will be held in the community where the subject

property is located, ordinarily within 15 business days of receiving the reconsideration request.

The MDOT Division Engineer will issue a written decision, ordinarily within 15 business days of receiving the reconsideration request or, if a hearing is held, within 15 business days of the close of the hearing. The decision will set forth the Division Engineer's reasons for either affirming or modifying the original permit decision.

Appeal of a reconsideration decision must be made pursuant to section 3.7.

3.6 Violation & Penalty

Any violation of this rule is subject to a fine of \$50 per day per violation. Such fine begins to accrue 30 calendar days after the MDOT sends notice of the violation to the landowner by regular and certified mail, unless within said 30 day period corrective action has been taken, or a written plan outlining corrective action to be taken is submitted and approved by MDOT. If the landowner fails to take timely corrective action in accordance with such approved plan as reasonably determined by MDOT, the fine will accrue from the date of such failure.

Reconsideration of a notice of violation may be requested in accordance with Section 3.5. Appeal of a reconsidered violation must be made pursuant to Section 3.7.

3.7 Appeals

Appeal of final decisions of the Division Engineer must be made in writing to the Commissioner within 15 business days of receipt of the reconsideration decision of the Division Engineer. The appeal decision of the Commissioner or his or her designee will be considered final agency action.

Judicial review of such final agency action must be in accordance with the Maine Administrative Procedure Act, 5 M.R.S.A. §11001, *et seq.* and Rule 80C of the Maine Rules of Civil Procedure.