

Highlighted text is included for guidance purposes.

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CHAPTER 8 MISCELLANEOUS ACCESS GUIDELINES

8.1 PURPOSE

This chapter contains regulations for access to State-maintained roadways for conditions and occurrences not described thus far. These include temporary/seasonal entrances, temporary construction entrances, mobile/movable businesses, special use sites, and access to extremely low volume generators such as utility sites. Controlling access to these sites enhances safety and increases capacity on the State-maintained roadway network.

Furthermore, policies associated with conversion of private streets to public roads, connector streets, and paper streets are discussed in this chapter.

8.2 IMPROPER ENTRANCES

Should DelDOT find that an access or an entrance is in violation of this *Development Coordination Manual*, the property owner will be contacted and required to immediately cease and desist from the use of this access or entrance as long as such action does not violate relevant law. The following actions shall be taken in order to gain compliance:

- A. The Public Works Engineer shall notify the property owner by registered mail of the nature of the violation. The property owner shall be given 20 business days from the date of the receipt of the notification to submit to DelDOT a schedule to correct the violation.
- B. In the event that the property owner fails to correct the violation within the time specified or to comply with DelDOT's request, the Public Works Engineer shall notify the Property owner by registered mail that the violation is to be corrected within ten days. Failure to comply with the second notification shall cause DelDOT to seek compliance in accordance with the remedies permitted by the Delaware Code, including closing and/or removing the entrance.
- C. All costs incurred by DelDOT incidental to obtaining compliance with these entrance requirements, including closing and/or removing the entrance, shall be borne by the property owner.
- D. In the event that there are no physical entrance improvements that must be removed or corrected, steps A through C shall be deferred provided that the property owner complies with the requirement to immediately cease and desist from the use of this access or entrance. Situations such as vehicles

crossing unpaved or grassy areas to take secondary access and other similar cases will be resolved in this way when possible.

8.3 TEMPORARY CONSTRUCTION ENTRANCE

If a property owner seeks to gain access to property for construction purposes prior to receiving final entrance plan approval, the Public Works Engineer may issue a temporary construction entrance permit if the project is nearing approval as determined by DelDOT. The temporary entrance permit shall state specific allowable construction activities which may be performed and the number of days it is active. Unapproved work activities performed may result in DelDOT closing or removing the temporary construction entrance. Warning signage on the frontage road shall be approved by the Traffic Safety Section prior to installation.

A temporary construction entrance permit does not relieve the applicant of the responsibility of obtaining a permit to construct a permanent entrance facility.

8.4 TEMPORARY / SEASONAL ENTRANCE

When a site is to be occupied for business purposes operating less than 180 days in any consecutive 12-month period, a temporary roadside/entrance permit may be issued in lieu of a permanent permit.

In order to secure a temporary permit, the following steps are to be performed as directed by DelDOT:

- A. The applicant must show that sufficient off-street parking exists on the site as determined by local land use regulations.
- B. The applicant must provide a plan listing/showing the following:
 1. Road name
 2. Street address
 3. Tax parcel number
 4. Parking area
 5. Entrance material
 6. Proposed channelization
 7. Access point to the roadway
- C. DelDOT will review the plan and the site conditions to assess the appropriate type of permit for the site with respect to the following:
 1. Functional classification of the frontage road
 2. AADT of the frontage road
 3. Estimated traffic generated by the site
 4. Proposed size of the operation – number of employees, square footage of sales/display area, frequency and size of delivery vehicles
 5. Existing and proposed structures
 6. Site access conditions – proposed and existing

7. Sight distance for exiting vehicles
 8. Traffic studies or statistics
 9. Entrance materials/paving
- D. At DelDOT's direction, the applicant shall install channelization to delineate the entrance which may consist of the following: plastic drums, cones, prefabricated temporary curbing or other temporary means approved by DelDOT.

Based upon DelDOT's review of the above information, either a temporary entrance permit with conditions will be issued or a formal engineered plan will need to be submitted for full review.

The permit holder shall be responsible for maintenance of the entire entrance, the limits being defined on the temporary permit. The limits shall include the entrance up to the edge of the traveled way. The entrance, including the shoulder of the roadway, may be stone or dirt at DelDOT's discretion but are subject to be re-evaluated annually. Any ruts, potholes, etc. in the shoulder of the roadway in the vicinity of the entrance shall be the responsibility of the permit holder to repair. If stone or dirt is used for the entrance, the permit holder shall be responsible for cleaning the roadway of any materials that are tracked onto adjacent paving by exiting vehicles. The roadway and shoulder should be cleaned at least once per week, or more depending upon weather and traffic conditions. Failure to maintain the entrance area as defined shall cause DelDOT to revoke the permit and the entrance shall be closed. A permit shall not be issued to any individual, partnership, corporation, or other entity until all previous obligations created with DelDOT are fully satisfied.

DelDOT reserves the right to review the entrance materials, site access and traffic operations of sites using a temporary permit and require additional improvements if there are observed operational or safety concerns.

8.5 MISCELLANEOUS ENTRANCE

Entrance permits are required for low traffic volume entrances and special uses such as temporary used car sales, access to farm fields, and access to utilities. The process for obtaining the permit will follow the same process as a residential entrance permit outlined in Chapter 7.

8.5.1 Mobile / Movable Business

Entrance Permits will NOT be required or issued when a site is to be occupied for business purposes operating less than 3 days in any consecutive 14 day period, for: lemonade stands, movable tables, temporary structures, wheeled displays, yard sales, BBQ stands, merchandise tents, outdoor auctions, etc. DelDOT may require improvements to the property or the roadway if safety issues arise during business operation.

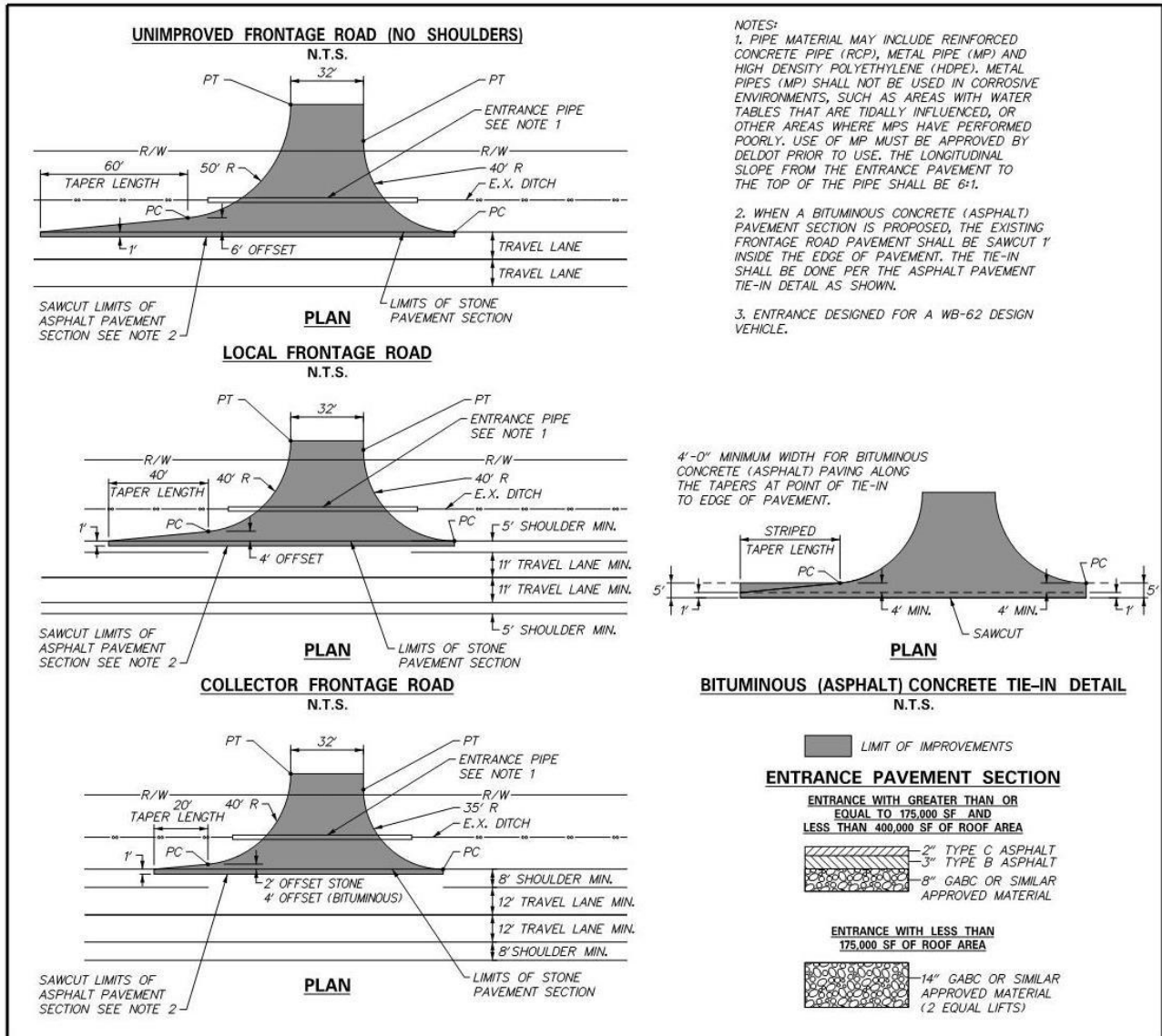
8.5.2 Agricultural Production Operations (Within Structures)

Entrance permits are required for ongoing agricultural production operations, (within buildings/structures), which create low to moderate traffic volumes. The process for obtaining an entrance permit shall: follow the same process as a commercial entrance permit outlined in Chapter 6, require that entrance

modification/construction be completed, and require that plans be submitted as outlined in Chapters 3 and 5; when either of the following conditions apply:

- A. Buildings/structures have been or will be erected/used for agricultural production operations and the total combined existing and proposed roof area is greater than or equal to 400,000 sf.
- B. The existing entrance was not designed and approved for the combined traffic of the existing and proposed uses, which total 100 trips (daily traffic entering and exiting is 50 vehicles) or more during periods of peak production or activity.

Figure 8.5.2-a Agricultural Entrance Detail



If the buildings/structures used for ongoing agricultural production operations fall below both thresholds outlined above, the entrance shall be improved as illustrated in Figures 8.5.2-a and the entrance permit will be issued in similar fashion to the process for obtaining a residential entrance permit, which is outlined in Chapter 7. A Maintenance of Traffic (MOT) plan in accordance with Section 4.3.8 or 4.4.4

must be prepared and submitted for approval for any work that will have an impact to an active roadway or occur within the right-of-way. To expedite entrance permitting, the Public Works Office may request a copy of a lines and grades plan similar to what is described in Section 7.2.1.B (if available) to ensure positive drainage of the entrance, entrance pipe and roadside swale.

8.6 PROPERTY CHANGE OF USE / CHANGE OF OWNERSHIP

If an existing business changes ownership or the existing Commercial Entrance Permit is still applicable, no new entrance permit will be required. Change of ownership alone does not warrant a new permit. If an existing property changes use or expands, the existing Commercial Entrance Permit shall be evaluated to determine if entrance improvements will be required. If the existing entrance does not accommodate the traffic for the proposed use, then entrance modifications shall be required and plans shall be submitted as outlined in Chapters 3 and 5.

In the event that an entrance is approved, constructed, and at a later date an additional facility is constructed or the conditions change off the right-of-way in such a manner as to adversely affect the safe or proper use of the entrance, then DelDOT may require a new application or deny use of the entrance until such time as DelDOT is satisfied that the conditions are rectified.

8.7 CONVERSION OF PRIVATE STREETS TO PUBLIC STREETS

Private streets can be converted into public streets with or without being accepted into the State maintenance system.

8.7.1 Conversion of Private Streets to Public Streets - Dedicating Streets to Public Use (State-Maintained)

The following criteria shall be met in order for a street to be accepted into the State maintenance system:

- A. The subdivision where the street is located shall meet the definition of a suburban community as defined in the Definitions of this manual.
- B. The homeowner's association or a majority of the property owners must submit a written request for a roadway investigation, in accordance with State guidelines, to the Public Works Engineer. The letter must give the State all necessary right of entry onto private property to perform the necessary investigations. A copy of the record plan shall accompany the letter.

Following the investigation, DelDOT will notify the homeowner's association or property owners of the required work necessary to bring the streets up to State standards.

- C. The homeowner's association or property owners must have the current subdivision record plan re-recorded, dedicating the streets to public use.

The plan shall include the words "dedicated to the State of Delaware" within the street right-of-way and the following note:

Subdivision streets constructed within the limits of the right-of-way dedicated to the public use, shown on this plan, will not be maintained by the State of Delaware until such time that the existing streets are brought up to current State standards and accepted by the State. The State assumes no

maintenance responsibilities within the dedicated street right-of-way until the streets have been accepted by the State.

- D. The following note must be included concerning the drainage / utility easement:
The front and side ten feet of each lot hereon are reserved as easements for drainage and utilities unless otherwise noted.
- E. A copy of the proposed record plan shall be submitted to the Subdivision Engineer, prior to recordation to ensure that all right-of-way and easements are correct. Once all comments have been addressed, DelDOT will issue a “No Objection to Recordation” letter to the local land use agency.
- F. The homeowner’s association or property owners must submit construction plans as outlined in Chapter 4 for the reconstruction or the rehabilitation of the existing subdivision streets as determined in item B above. Upon approval of the construction plans, the construction will be governed by Chapter 6 of this *Development Coordination Manual*.
- G. Once DelDOT’s Subdivision Engineer has received a copy of the recorded plan showing plot book and page of recordation, and a letter from DelDOT’s Public Works Engineer stating all work has been completed to State requirements, the street will be accepted into the State maintenance system.

8.7.2 Conversion of Private Streets to Public Streets - Dedicating Streets to Public Use (Not State-Maintained)

The following is the process for dedicating private streets that are not State-maintained to public use.

The homeowner’s association or property owners must have the streets dedicated to public use by: re-recording the record plan, executing a Dedication Agreement, or other acceptable method of dedication. Once the roads have been dedicated to public use, they are eligible for improvements funded by the Community Transportation Program, at the request of local legislators. The plan shall include the words “Dedicated To Public Use – Privately Maintained” within the street right-of-way, for each street to be dedicated to public use and the following note:

Subdivision streets constructed within the limits of the right-of-way are hereby dedicated to the public use and are to be maintained by the homeowner’s association or property owners or both. The State assumes no maintenance responsibilities within the dedicated street right-of-way.

8.8 PAPER STREET POLICY

The term “Paper Streets” refers to rights-of-way which have been recorded and dedicated to public use but in which no State-maintained streets have been built. In this way they differ from private street where the rights-of-way have been dedicated and a street has been built but not accepted for State maintenance.

8.8.1 Paper Street Policy - Guidelines for Access

DelDOT shall regulate access to properties fronting on paper streets as follows:

- A. Access for one single-family home may be permitted by the Public Works Engineer as though the paper street was the homeowner's driveway only if it has been determined that there are no other buildable lots fronting the paper street. The minimum required pavement section shall be two inches of Type 'C' Hot Mix over eight inches of stone aggregate base material.
- B. In all other cases, the applicant shall be required to construct a street in accordance with DelDOT standards. The street shall be constructed from the existing State-maintained street to the end of the applicant's property. The end of the applicant's property is hereby defined as the width of their building lot, which fronts the paper street.

Bonding may not be required if it is determined that the street improvements are minimal and/or do not have any detrimental impact on the surrounding community should the applicant fail to complete its obligation. A security shall be required for performance, and shall be posted in the amount of 10% of the cost to construct the approved street improvements.

Generally, where two or more interconnected paper streets are involved, the Subdivision Section shall determine which paper right-of-way should be improved for access and, if appropriate, shall recommend to the Public Works Engineer what street(s) should be barricaded

Following construction of the streets in accordance with approved construction plans, DelDOT agrees to accept for maintenance the paved portion of these streets including curbing and gutters, and open and closed drainage systems where they exist.

8.9 CONNECTOR STREET

A connector street is a continuous street or streets entirely in the Subdivision Street category beginning and ending on the state numbered road system, and having a high volume of through traffic.

- A. DelDOT may transfer certain connector streets into the state maintenance numbered road system. Transfer of connector streets from subdivision streets to maintenance road number designation changes the responsibility for funding from the legislator's Community Transportation Funds to DelDOT's Paving and Rehabilitation Work Programs. All streets in the subdivision street category are eligible for transfer, provided the minimum Annual Average Daily Traffic (AADT) along the length of the road is above 4,000 vehicles.
- B. Acceptance of resurfacing and reconstruction responsibilities for these roads in no way changes existing acceptance agreements which remain in full force and effect. When it comes to the attention of DelDOT that a subdivision street may meet criteria for transfer, the Division of Planning shall conduct a study to determine whether the criteria are met, and whether it is in the best interest of all concerned to complete the transfer. If the study supports the transfer, the Department shall hold a public meeting in the community to receive comments on the proposal. As a minimum, the following must be notified at least two weeks in advance of the meeting:
 - 1. Secretary of Transportation.
 - 2. DelDOT District Engineer.

3. All legislators in whose districts the street is located.
4. All established civic groups in areas through which the street passes.
5. All residences and/or owners located on the street.

Within 30 calendar days of the public meeting, DeIDOT shall decide which maintenance category the street shall be in and publicly notify the above-listed individuals/groups of that decision.

- C. DeIDOT's Director of Planning is responsible for the administration of these guidelines and the certification of eligibility of roads.

8.10 ABANDONMENT/VACATION AND/OR CLOSURE OF AN EXISTING ROAD

This section provides the guidelines for determining the merits of considering a request for the abandonment/vacation and/or closure of an existing road or an interconnection.

When considering any request for abandonment/vacation and/or closure, an Operational Analysis as outlined in Chapter 2 of this *Development Coordination Manual*, shall be performed by the Applicant and made available to the local land use agency and DeIDOT for review.

The following additional criteria shall be considered:

- A. Safety, in terms of pedestrian, bicycle, motor vehicle and property owners
- B. Traffic volumes on the road in question would exceed the capacity of the roadway and the road cannot be reasonably modified to handle the increased volume of traffic
- C. How the closure/abandonment/vacation will affect access to the area via emergency vehicles, school buses, local service providers
- D. Whether the closure/abandonment/vacation is for the benefit of the health, safety and welfare of the public
- E. Effect of the closure/abandonment/vacation upon the local street and pedestrian network
- F. The Local Area Plan has been amended by the local jurisdiction through a public process to allow the closure, if applicable
- G. Effect of the closure/abandonment/vacation upon the provision of transit, including paratransit,
- H. How the closure/vacation/abandonment will affect pedestrian and vehicular connectivity if it is rejected and if it is approved
- I. How the proposal will affect access to, provision of, and maintenance on public utility systems such as drinking water, stormwater, sewer, electric and gas