

ARTICLE 7. PERMITS FOR HIGHWAYS

NOTE: Department of Highways was transferred to Indiana Department of Transportation. Whenever in any promulgated rule text there appears a reference to Department of Highways, substitute Indiana Department of Transportation.

Rule 1. Applications; Standards; Designs

105 IAC 7-1-1 Purpose of rule

Authority: IC 9-21-19-2

Affected: IC 8-9.5-4

Sec. 1. The Indiana department of highways is authorized to determine and establish such requirements and restrictions for driveway approaches as may be necessary to provide for the drainage of the highway, preservation of the highway and the safety and convenience of traffic on the highway. A written permit application shall be considered by the department and, if in accordance with properly established regulations and requirements, a permit shall be granted subject to appropriate conditions and provisions contained therein. All work on the permit shall be performed to the satisfaction of the department. (*Indiana Department of Transportation; Rule 1; filed Nov 16, 1971, 9:45 a.m.: Rules and Regs. 1972, p. 140; filed Aug 2, 1985, 3:39 p.m.: 8 IR 1703; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; readopted filed Jun 14, 2007, 2:45 p.m.: 20070627-IR-105070237RFA; readopted filed Oct 2, 2013, 11:39 a.m.: 20131030-IR-105130295RFA*) *NOTE: Transferred from Department of Highways (120 IAC 2-1-1) to Indiana Department of Transportation (105 IAC 7-1-1) by P.L.112-1989, SECTION 5, effective July 1, 1989.*

105 IAC 7-1-2 Definitions

Authority: IC 8-23-2-6; IC 9-21-19-2

Affected: IC 8-23-1-14.3; IC 8-23-1-38; IC 8-23-20

Sec. 2. The following definitions apply throughout this article:

(1) "Access" means a location that:

- (A) allows vehicular or pedestrian traffic to cross the highway right-of-way line; and
- (B) is positioned at the connection of a driveway with the approach at the right-of-way line.

(2) "Applicant" means:

- (A) a person;
- (B) a partnership;
- (C) a company;
- (D) a corporation;
- (E) an association; or
- (F) an agency;

making application for a permit to perform work on an approach.

(3) "Application" means a formally prepared request for a permit that is presented by an applicant on a permit form to the department seeking permission to perform work on a highway right-of-way.

(4) "Approach" means a way or place improved for vehicular or pedestrian traffic on the highway right-of-way that joins the pavement edge of the highway with a driveway or pedestrian walkway.

(5) "Auxiliary lane" means a portion of the roadway adjoining the traveled way for:

- (A) parking;
- (B) speed change;
- (C) turning;
- (D) storage for turning;
- (E) weaving;
- (F) truck climbing; or
- (G) other purposes.

(6) "Changeable message sign" has the meaning set forth in IC 8-23-1-14.3.

(7) "Commercial approach" means an approach that joins the highway with a driveway to private property used for commercial purposes and to public property.

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- (8) "Conforming sign" means a sign that meets the current criteria of 23 U.S.C. 131, 23 CFR 750.708, and IC 8-23-20.
- (9) "Crossover" means a paved or graded crossing in the highway median that allows vehicles to cross or to turn across the highway.
- (10) "Department" means the Indiana department of transportation acting directly or through its duly authorized officers and agents.
- (11) "Driveway" means a way or place not on the department right-of-way that is used for vehicles.
- (12) "Expiration date" means the last calendar day that the:
- (A) valid permit is in effect; and
 - (B) approach must be in compliance with all conditions of the permit.
- (13) "Field approach" means an approach that joins the highway with a driveway to private property that is:
- (A) vacant;
 - (B) in an unimproved condition; or
 - (C) a farm field.
- (14) "Highway" means any roadway under the jurisdiction of the department that is designated as:
- (A) a state route;
 - (B) a U.S. route; or
 - (C) an interstate.
- (15) "Issue date" means a calendar day that the permit is granted to the applicant.
- (16) "Level-of-service C" has the meaning as defined by the current edition of the Highway Capacity Manual*.
- (17) "Level-of-service D" has the meaning as defined by the current edition of the Highway Capacity Manual*.
- (18) "Limited access facility" means a highway especially designed for through traffic and over, from, or to which owners or occupants of abutting land or other persons have no right or easement or only a limited right or easement of direct access, light, air, or view by reason of fact that their property abuts such limited access facility or for any other reason.
- (19) "Median" means the portion of a divided highway separating the traveled way for traffic proceeding in opposite directions.
- (20) "Nonconforming sign" means a sign which was lawfully erected but does not comply with the provisions of state law or state regulations passed at a later date or later fails to comply with state law or state regulations due to changed conditions.
- (21) "Notice" means a certified letter from the department addressed to the owner of the real estate stating that the approach for a driveway emanating from the real estate is unauthorized and providing:
- (A) the approximate location of the approach;
 - (B) a statement of any substandard elements of the approach;
 - (C) the action to be taken by the owner; and
 - (D) the deadline for completing the prescribed action.
- (22) "Peak direction" means the principal direction of traffic flow during a selected period of time.
- (23) "Permit" means a legal document in which the department gives written permission to an applicant to perform work on the highway right-of-way.
- (24) "Permittee" means the applicant following the issuance of a permit by the department.
- (25) "Private approach" means an approach that:
- (A) joins the highway with a driveway to private property having:
 - (i) a residence;
 - (ii) a barn;
 - (iii) a private garage; or
 - (iv) other improvements; and
 - (B) is ordinarily used only by:
 - (i) the owner or occupant of the premises;
 - (ii) guests; and
 - (iii) necessary service vehicles.
- (26) "Purchased limited access" means rights-of-way:
- (A) along any highway designated by the department to be limited access facility; and

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- (B) whose access rights have been acquired by the department.
- (27) "Right-of-way" means all land:
- (A) under the jurisdiction of; and
 - (B) whose use is controlled by;
- the department.
- (28) "Shoulder" means that portion of the highway right-of-way contiguous with the traveled way for:
- (A) accommodation of stopped vehicles;
 - (B) emergency use; and
 - (C) lateral support of roadway base and surface courses.
- It is measured from the edge of pavement for traveled way or, if present, auxiliary lane to the intersection of the shoulder and fill or ditch slopes.
- (29) "Sign":
- (A) has the meaning set forth in IC 8-23-1-38; and
 - (B) includes a changeable message sign.
- (30) "Street peak hour" means the hour within a selected period of time, such as the "AM street peak (weekday)", in which there is a maximum flow of traffic on the roadway system adjacent to a development or proposed development.
- (31) "Title evidence" means documentation in the form of a certified search covering a period of twenty (20) years, current title insurance or certified letter from abstractor or title insurance agent certifying fee simple ownership of property.
- (32) "Traffic" means:
- (A) pedestrians;
 - (B) ridden or herded animals;
 - (C) vehicles; and
 - (D) other conveyances;
- either singly or together, while using any highway for purposes of travel.
- (33) "Traffic control" means devices, such as:
- (A) signs;
 - (B) barricades;
 - (C) pavement markings; and
 - (D) signalization;
- used to direct traffic in safe orderly use of the highway.
- (34) "Traffic impact analysis study" means a specialized study of the impact a given type and size of new land use has or will have on a nearby public transportation system, that is prepared by or under the supervision of a registered professional engineer with experience in traffic engineering operations.
- (35) "Traffic operations analysis study" means a specialized study of the possible traffic safety and operational problems a proposed development may have in the immediate vicinity of the development site due to a compromise in existing design standards caused by the development, that is prepared by or under the supervision of a registered professional engineer with experience in traffic engineering operations.
- (36) "Transportation improvement program" means identified projects in the program of future projects for Indiana or political subdivisions throughout the state.
- (37) "Traveled way" means the portion of roadway used for the movement of traffic, excluding shoulders and auxiliary lanes.
- (38) "Unauthorized approach" means an approach that:
- (A) has been constructed, reconstructed, altered, or modified;
 - (B) remains incomplete or has become substandard for any reason, such as a change in land use; and
 - (C) is not approved nor authorized to exist in its present condition, under present traffic pattern, by the department.
- (39) "Vehicle trip generation rate" means the actual or estimated number of vehicle trips that a specific land use or development generates or is anticipated to generate.

*Highway Capacity Manual Special Report 209, Third Edition (1994) is hereby incorporated by reference. Copies of the Highway Capacity Manual may be obtained by writing to the Transportation Research Board, National Research Council, 2101 Constitution Avenue, NW, Washington D.C. 20418. Copies may also be obtained from the Indiana Department of Transportation,

100 North Senate Avenue, Room N730, Indianapolis, Indiana 46204. (*Indiana Department of Transportation; 105 IAC 7-1-2; filed Aug 2, 1985, 3:39 p.m.: 8 IR 1703; filed Jul 1, 1999, 11:00 a.m.: 22 IR 3358; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; readopted filed Jun 14, 2007, 2:45 p.m.: 20070627-IR-105070237RFA; filed Mar 18, 2008, 2:24 p.m.: 20080416-IR-105070471FRA; readopted filed Oct 2, 2013, 11:39 a.m.: 20131030-IR-105130295RFA*) NOTE: Transferred from Department of Highways (120 IAC 2-1-2.1) to Indiana Department of Transportation (105 IAC 7-1-2) by P.L.112-1989, SECTION 5, effective July 1, 1989.

105 IAC 7-1-3 Classification of approaches

Authority: IC 9-21-19-2
Affected: IC 8-9.5-4

Sec. 3. All approaches shall be divided into five (5) classes as follows:

- CLASS I. Private Approach—Raised curb used.
- CLASS II. Private Approach—Flush shoulder only, no raised curb.
- CLASS III. Commercial Approach—Raised curb used.
- CLASS IV. Commercial Approach—Flush shoulder only, no raised curb.
- CLASS V. Field Approach—Either raised curb or flush shoulder.

(*Indiana Department of Transportation; Rule 3; filed Nov 16, 1971, 9:45 a.m.: Rules and Regs. 1972, p. 141; filed Aug 2, 1985, 3:39 p.m.: 8 IR 1704; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; readopted filed Jun 14, 2007, 2:45 p.m.: 20070627-IR-105070237RFA; readopted filed Oct 2, 2013, 11:39 a.m.: 20131030-IR-105130295RFA*) NOTE: Transferred from Department of Highways (120 IAC 2-1-3) to Indiana Department of Transportation (105 IAC 7-1-3) by P.L.112-1989, SECTION 5, effective July 1, 1989.

105 IAC 7-1-4 Types of permits; limited access, commercial and private driveways

Authority: IC 9-21-19-2
Affected: IC 8-9.5-4

- Sec. 4. The driveway approach applications shall be designated and defined as being one of the following types of permits:
- Limited access driveway—Any change to an existing access, approach, and/or crossover or the construction of a new access, approach and/or crossover along a purchased or declared limited access highway.
 - Commercial major driveway—Any change to an existing access, approach and/or crossover or the construction of a new access, approach and/or crossover which connects the highway to private property used for commercial purposes or to a public property and which attracts enough traffic to require auxiliary lanes as determined by the department.
 - Commercial minor driveway—Any change to an existing access, approach and/or crossover or the construction of a new access, approach and/or crossover which connects the highway to private property used for commercial purposes or to a public property and which does not attract enough traffic to require auxiliary lanes as determined by the department.
 - Private driveway—Any change to an existing access, approach and/or crossover or the construction of a new access, approach and/or crossover that connects the highway to private property having a residence, barn, private garage, and improved or unimproved condition and ordinarily used only by the owner or occupant of the premises, guests and necessary service vehicles.

(*Indiana Department of Transportation; 105 IAC 7-1-4; filed Aug 2, 1985, 3:39 p.m.: 8 IR 1705; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; readopted filed Jun 14, 2007, 2:45 p.m.: 20070627-IR-105070237RFA; readopted filed Oct 2, 2013, 11:39 a.m.: 20131030-IR-105130295RFA*) NOTE: Transferred from Department of Highways (120 IAC 2-1-3.1) to Indiana Department of Transportation (105 IAC 7-1-4) by P.L.112-1989, SECTION 5, effective July 1, 1989.

105 IAC 7-1-5 Application for permit; form; fees

Authority: IC 9-21-19-2

Affected: IC 8-9.5-4

Sec. 5. Application to the department for a permit to construct any approach connecting a driveway with any department highway or highway right-of-way, to cut any curb along a highway or to construct a crossover on a highway shall be made on the form as prescribed by the department. The form and accompanying documentation shall be submitted containing as many copies as may be prescribed by the department. Reasonable fees for processing driveway permits may be established by appropriate department action. (*Indiana Department of Transportation; Rule 4; filed Nov 16, 1971, 9:45 a.m.: Rules and Regs. 1972, p. 141; filed Aug 2, 1985, 3:39 p.m.: 8 IR 1705; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; readopted filed Jun 14, 2007, 2:45 p.m.: 20070627-IR-105070237RFA; readopted filed Oct 2, 2013, 11:39 a.m.: 20131030-IR-105130295RFA*) NOTE: Transferred from Department of Highways (120 IAC 2-1-4) to Indiana Department of Transportation (105 IAC 7-1-5) by P.L.112-1989, SECTION 5, effective July 1, 1989.

105 IAC 7-1-6 New application; when required

Authority: IC 9-21-19-2

Affected: IC 8-9.5-4

Sec. 6. Relocation, alteration, or remodeling of an access, approach and/or crossover, or any change in the character of the use of the access, approach and/or crossover shall be considered the construction of a new access, approach or crossover and an application for a permit shall be required. The granting or denial of such application shall be governed by the same regulations and judged by the same standards as an application for a permit for a wholly new access, approach and/or crossover.

The application shall include immediately proposed and future work affecting all locations of access to the applicant's property and adjacent parcels in which an interest is held by the applicant. (*Indiana Department of Transportation; Rule 5; filed Nov 16, 1971, 9:45 a.m.: Rules and Regs. 1972, p. 141; filed Aug 2, 1985, 3:39 p.m.: 8 IR 1706; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; readopted filed Jun 14, 2007, 2:45 p.m.: 20070627-IR-105070237RFA; readopted filed Oct 2, 2013, 11:39 a.m.: 20131030-IR-105130295RFA*) NOTE: Transferred from Department of Highways (120 IAC 2-1-5) to Indiana Department of Transportation (105 IAC 7-1-6) by P.L.112-1989, SECTION 5, effective July 1, 1989.

105 IAC 7-1-7 Parties to application; evidence of title

Authority: IC 9-21-19-2

Affected: IC 8-9.5-4

Sec. 7. All applications for permits under 120 IAC 2-1 [*this rule*] shall be made in the name of the owner of the fee simple title. All persons having any interest in the land, including but not limited to mortgagees, lessees, optionors, lien holders, and holders of other encumbrances shall join with the fee simple holder in the application. All such persons shall join in the application, shall sign and consent to the conditions of the application, and shall be bound equally thereafter by the conditions of the permit which may be issued to the permittee.

Title evidence, shall be furnished to support the signatures for driveway permit applications in the following areas:

(A) All commercial driveway permit applications except those applications involving an existing access with no proposed change in access, use, or character.

(B) Private driveway permit applications including field access approaches in areas along highways covered by limited access resolutions or on sections of state routes in the biennial highway improvement program.

All other allowable evidence will be at the discretion of the department.

If the applicant submits an application in which the title evidence does not include the signatures of all interest holders and if the application is evaluated in favor of granting the permit, the applicant must submit subsequent title evidence showing that all omitted interest holders have ceased to be interest holders or have by an addendum to the application joined the original applicant on the original application, and such subsequent title evidence or addendum must be submitted before the permit is issued. (*Indiana Department of Transportation; Rule 6; filed Nov 16, 1971, 9:45 a.m.: Rules and Regs. 1972, p. 142; filed Aug*

2, 1985, 3:39 p.m.: 8 IR 1706; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; readopted filed Jun 14, 2007, 2:45 p.m.: 20070627-IR-105070237RFA; readopted filed Oct 2, 2013, 11:39 a.m.: 20131030-IR-105130295RFA) NOTE: Transferred from Department of Highways (120 IAC 2-1-6) to Indiana Department of Transportation (105 IAC 7-1-7) by P.L.112-1989, SECTION 5, effective July 1, 1989.

105 IAC 7-1-8 Statement of purpose and adjacent parcels

Authority: IC 8-9.5-4-8; IC 8-13-1-6; IC 8-13-2-9
Affected: IC 9-21-19

Sec. 8. APPLICATION-PURPOSE OF ACCESS DISCLOSURE OF INTENDED USE FOR OR WITH ADJACENT PARCELS. All applications for permits shall disclose the present and proposed use of the parcel for which access is requested. Any intended use of the access in conjunction with any adjacent parcel, whether owned by applicants or by others, or to be purchased or sold by the applicant or others, shall be disclosed in the application. All adjacent parcels owned or controlled by the applicants, whether intended to be used in conjunction with the requested access or nor shall be disclosed in the application. These disclosures are required to ensure the public a safe and convenient means of travel consistent with the right of the adjoining landowner to have access as provided by law. (*Indiana Department of Transportation; Rule 7; filed Nov 16, 1971, 9:45 a.m.: Rules and Regs. 1972, p. 142; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; readopted filed Jun 14, 2007, 2:45 p.m.: 20070627-IR-105070237RFA; readopted filed Oct 2, 2013, 11:39 a.m.: 20131030-IR-105130295RFA*) NOTE: Transferred from Department of Highways (120 IAC 2-1-7) to Indiana Department of Transportation (105 IAC 7-1-8) by P.L.112-1989, SECTION 5, effective July 1, 1989.

105 IAC 7-1-9 Drawings and information required

Authority: IC 9-21-19-2
Affected: IC 8-9.5-4

Sec. 9. All applications for permits under these regulations shall be accompanied by clear drawings. One (1) set of drawings shall accompany all copies of the application form. Information to be shown on drawings shall include the following as applicable:

- (1) Driveway(s) and approach(es), including dimensions for width, length, angle of intersection, radii, and any other measurement necessary to show the geometrics of the driveway(s) and approach(es) drawn to an engineers 20 or 30 scale.
- (2) Rate of slope or grade of pavement for approach(es) and driveway(s).
- (3) Type of approach and driveway pavement material (stone, concrete, or bituminous pavement including depths of lifts).
- (4) Existing drainage patterns and structures, including size and kind.
- (5) New drainage patterns, including the effect on downstream department facilities and private property, and structures including size, kind, invert pipe elevations, and inlet elevations.
- (6) Width dimension of highway right-of-way.
- (7) Width and type of highway pavement.
- (8) Highway right-of-way and applicants property lines.
- (9) Development site plan showing parking, interior drives, buildings, and other improvements, including distance from right-of-way line to gasoline pumps.
- (10) Distance to intersecting roads, streets, railways, or crossovers within five hundred (500) feet in each direction on both sides of the highway from the applicants property lines drawn to an engineers 50 scale.
- (11) The distance to and the design of all drives on both sides of highways and in each direction that are within five hundred (500) feet of applicants property lines drawn to an engineers 50 scale.
- (12) The posted speed limit on highway and all traffic control equipment serving the highway, including but not limited to signalization devices, lighting, pavement markings, guardrail, and sign structures.
- (13) Proposed treatment of right-of-way area adjacent to and between approaches.
- (14) Appropriate symbols such as north arrow, direction of lane travel and direction of drainage flow, and a legend defining abbreviations and graphic representations of existing and new conditions, objects, materials, etc.
- (15) A legal description of the property to be served by the permit together with a legal description of the adjoining land owned or controlled by the applicant.

(16) Traffic control needed during work activity displaying necessary signs, barricades, detour signs, and warning devices shall be provided whenever work is to interfere with normal traffic. Traffic control must be in accordance with the Construction and Maintenance Section of the Indiana Manual on Uniform Traffic Control Devices.

(Indiana Department of Transportation; Rule 8; filed Nov 16, 1971, 9:45 a.m.: Rules and Regs. 1972, p. 142; filed Aug 2, 1985, 3:39 p.m.: 8 IR 1706; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; readopted filed Jun 14, 2007, 2:45 p.m.: 20070627-IR-105070237RFA; readopted filed Oct 2, 2013, 11:39 a.m.: 20131030-IR-105130295RFA) NOTE: Transferred from Department of Highways (120 IAC 2-1-8) to Indiana Department of Transportation (105 IAC 7-1-9) by P.L.112-1989, SECTION 5, effective July 1, 1989.

105 IAC 7-1-9.1 Developments; preliminary notification; when required

Authority: IC 8-23-2-6; IC 9-21-19-2

Affected: IC 8-23-2-6

Sec. 9.1. An application for a permit for a development must be accompanied by a preliminary notification as provided under 105 IAC 7-1.5-2 if:

(1) the development meets the preliminary warrants for a traffic impact analysis study as provided under 105 IAC 7-1.5-1(a) unless the requirement is waived in writing by the department; or

(2) preliminary notification is required by the department under 105 IAC 7-1.5-1(b).

(Indiana Department of Transportation; 105 IAC 7-1-9.1; filed Jul 1, 1999, 11:00 a.m.: 22 IR 3359; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; readopted filed Jun 14, 2007, 2:45 p.m.: 20070627-IR-105070237RFA; readopted filed Oct 2, 2013, 11:39 a.m.: 20131030-IR-105130295RFA)

105 IAC 7-1-9.2 Developments; traffic studies; when required

Authority: IC 8-23-2-6; IC 9-21-19-2

Affected: IC 8-23-2-6

Sec. 9.2. Permits for developments for which a preliminary notification is required under 105 IAC 7-1.5-1 will not be approved unless the requirements of 105 IAC 7-1.5 relating to traffic impact analysis and traffic operations analysis studies are met. *(Indiana Department of Transportation; 105 IAC 7-1-9.2; filed Jul 1, 1999, 11:00 a.m.: 22 IR 3359; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; readopted filed Jun 14, 2007, 2:45 p.m.: 20070627-IR-105070237RFA; readopted filed Oct 2, 2013, 11:39 a.m.: 20131030-IR-105130295RFA)*

105 IAC 7-1-10 Construction and materials standards

Authority: IC 9-21-19-2

Affected: IC 8-9.5-4

Sec. 10. All construction and materials used within the highway right-of-way must conform to the current Indiana state highway "standard specifications" which shall be kept on file at the offices of the department. *(Indiana Department of Transportation; Rule 9; filed Nov 16, 1971, 9:45 a.m.: Rules and Regs. 1972, p. 143; filed Aug 2, 1985, 3:39 p.m.: 8 IR 1707; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; readopted filed Jun 14, 2007, 2:45 p.m.: 20070627-IR-105070237RFA; readopted filed Oct 2, 2013, 11:39 a.m.: 20131030-IR-105130295RFA) NOTE: Transferred from Department of Highways (120 IAC 2-1-9) to Indiana Department of Transportation (105 IAC 7-1-10) by P.L.112-1989, SECTION 5, effective July 1, 1989.*

105 IAC 7-1-11 Standards and design requirements

Authority: IC 9-21-19-2

Affected: IC 8-9.5-4

Sec. 11. All applications shall be filed in accordance with the standards and design requirements of the department. The permittee shall agree to perform all work on the right-of-way in accordance with such standards and design requirements of the

department. (*Indiana Department of Transportation; Rule 10; filed Nov 16, 1971, 9:45 a.m.: Rules and Regs. 1972, p. 143; filed Aug 2, 1985, 3:39 p.m.: 8 IR 1707; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; readopted filed Jun 14, 2007, 2:45 p.m.: 20070627-IR-105070237RFA; readopted filed Oct 2, 2013, 11:39 a.m.: 20131030-IR-105130295RFA*) NOTE: Transferred from Department of Highways (120 IAC 2-1-10) to Indiana Department of Transportation (105 IAC 7-1-11) by P.L.112-1989, SECTION 5, effective July 1, 1989.

105 IAC 7-1-12 Commercial applications; attestation

Authority: IC 9-21-19-2

Affected: IC 8-9.5-4

Sec. 12. All applications for commercial purposes shall be signed by a registered professional engineer, a registered architect, and/or registered land surveyor, attesting that the applications as proposed, conform with all department regulations, specifications and standards, except as shall be noted in such attestation. (*Indiana Department of Transportation; Rule 11; filed Nov 16, 1971, 9:45 a.m.: Rules and Regs. 1972, p. 143; filed Aug 2, 1985, 3:39 p.m.: 8 IR 1708; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; readopted filed Jun 14, 2007, 2:45 p.m.: 20070627-IR-105070237RFA; readopted filed Oct 2, 2013, 11:39 a.m.: 20131030-IR-105130295RFA*) NOTE: Transferred from Department of Highways (120 IAC 2-1-11) to Indiana Department of Transportation (105 IAC 7-1-12) by P.L.112-1989, SECTION 5, effective July 1, 1989.

105 IAC 7-1-13 Land use and zoning approval

Authority: IC 9-21-19-2

Affected: IC 8-9.5-4

Sec. 13. Approval of a permit application shall be subject to the permittee obtaining all necessary approvals involving land use from the zoning board plan commission, and/or local governmental authorities, and shall comply with all applicable laws. The issuance of any permit shall in no way imply department approval of, or be intended to influence any action pending before any local board, commission or agency. (*Indiana Department of Transportation; Rule 12; filed Nov 16, 1971, 9:45 a.m.: Rules and Regs. 1972, p. 143; filed Aug 2, 1985, 3:39 p.m.: 8 IR 1708; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; readopted filed Jun 14, 2007, 2:45 p.m.: 20070627-IR-105070237RFA; readopted filed Oct 2, 2013, 11:39 a.m.: 20131030-IR-105130295RFA*) NOTE: Transferred from Department of Highways (120 IAC 2-1-12) to Indiana Department of Transportation (105 IAC 7-1-13) by P.L.112-1989, SECTION 5, effective July 1, 1989.

105 IAC 7-1-14 Performance bonds

Authority: IC 9-21-19-2

Affected: IC 8-9.5-4

Sec. 14. The department shall require a performance bond to be filed with each application for a commercial driveway showing the applicant as principal in a minimum amount of five thousand (\$5,000) dollars or in an amount as specifically set by appropriate department action. Such amount shall be increased in any application to equal the estimated cost of that part of the project on the department's right-of-way. The department may also require an adequate bond to be filed in any noncommercial application. Such bonds are required to insure compliance with all terms of the permit and shall in case of noncompliance, provide in addition to any damages suffered thereby, all witness and court costs in collecting the same, together with any attorney's fee reasonably due, and shall be released only when the work described on the permit has been completed to the satisfaction of the department. (*Indiana Department of Transportation; Rule 13; filed Nov 16, 1971, 9:45 a.m.: Rules and Regs. 1972, p. 144; filed Aug 2, 1985, 3:39 p.m.: 8 IR 1708; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; readopted filed Jun 14, 2007, 2:45 p.m.: 20070627-IR-105070237RFA; readopted filed Oct 2, 2013, 11:39 a.m.: 20131030-IR-105130295RFA*) NOTE: Transferred from Department of Highways (120 IAC 2-1-13) to Indiana Department of Transportation (105 IAC 7-1-14) by P.L.112-1989, SECTION 5, effective July 1, 1989.

105 IAC 7-1-15 Crossovers

Authority: IC 9-21-19-2
Affected: IC 8-9.5-4

Sec. 15. Permits for private or commercial crossovers will not be approved unless the applicant can prove to the satisfaction of the department that the location of the crossover will not be detrimental to the safety of the travelling public. The minimum recommended distance between crossovers is four hundred (400) feet. (*Indiana Department of Transportation; Rule 14; filed Nov 16, 1971, 9:45 a.m.: Rules and Regs. 1972, p. 144; filed Aug 2, 1985, 3:39 p.m.: 8 IR 1708; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; readopted filed Jun 14, 2007, 2:45 p.m.: 20070627-IR-105070237RFA; readopted filed Oct 2, 2013, 11:39 a.m.: 20131030-IR-105130295RFA*) NOTE: Transferred from Department of Highways (120 IAC 2-1-14) to Indiana Department of Transportation (105 IAC 7-1-15) by P.L.112-1989, SECTION 5, effective July 1, 1989.

105 IAC 7-1-16 Adjacent tapers

Authority: IC 9-21-19-2
Affected: IC 8-9.5-4

Sec. 16. Where the taper of a proposed driveway will create hazardous and erratic traffic movements because of its proximity to an adjacent similar taper, the entire area between said tapers must be paved thus forming a continuous full lane between the approaches of which said tapers are a part. (*Indiana Department of Transportation; Rule 15; filed Nov 16, 1971, 9:45 a.m.: Rules and Regs. 1972, p. 144; filed Aug 2, 1985, 3:39 p.m.: 8 IR 1709; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; readopted filed Jun 14, 2007, 2:45 p.m.: 20070627-IR-105070237RFA; readopted filed Oct 2, 2013, 11:39 a.m.: 20131030-IR-105130295RFA*) NOTE: Transferred from Department of Highways (120 IAC 2-1-15) to Indiana Department of Transportation (105 IAC 7-1-16) by P.L.112-1989, SECTION 5, effective July 1, 1989.

105 IAC 7-1-17 Sight distances

Authority: IC 9-21-19-2
Affected: IC 8-9.5-4

Sec. 17. All approaches shall be located so as to provide adequate sight distance in both directions along the highway for safe access to the highway without interfering with traffic. Under substandard visibility conditions as determined and set by the department, access may be granted for an alternate location that offers the least hazard and interference with traffic. (*Indiana Department of Transportation; Rule 16; filed Nov 16, 1971, 9:45 a.m.: Rules and Regs. 1972, p. 144; filed Aug 2, 1985, 3:39 p.m.: 8 IR 1709; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; readopted filed Jun 14, 2007, 2:45 p.m.: 20070627-IR-105070237RFA; readopted filed Oct 2, 2013, 11:39 a.m.: 20131030-IR-105130295RFA*) NOTE: Transferred from Department of Highways (120 IAC 2-1-16) to Indiana Department of Transportation (105 IAC 7-1-17) by P.L.112-1989, SECTION 5, effective July 1, 1989.

105 IAC 7-1-18 Interference with traffic control devices

Authority: IC 8-9.5-4-8; IC 8-13-1-6; IC 8-13-2-9
Affected: IC 9-21-19

Sec. 18. LOCATION-TRAFFIC DEVICES. No entrance or approach shall be located or constructed so as to interfere with or prevent the proper location of necessary highway signs or other traffic control devices. (*Indiana Department of Transportation; Rule 17; filed Nov 16, 1971, 9:45 a.m.: Rules and Regs. 1972, p. 144; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; readopted filed Jun 14, 2007, 2:45 p.m.: 20070627-IR-105070237RFA; readopted filed Oct 2, 2013, 11:39 a.m.: 20131030-IR-105130295RFA*) NOTE: Transferred from Department of Highways (120 IAC 2-1-17) to Indiana Department of Transportation (105 IAC 7-1-18) by P.L.112-1989, SECTION 5, effective July 1, 1989.

105 IAC 7-1-19 Drainage requirements

Authority: IC 9-21-19-2

Affected: IC 8-9.5-4

Sec. 19. All improvements authorized by the permit shall not interfere with drainage of the street or highway, nor cause additional area to drain onto the right-of-way unless specifically acknowledged and allowed by the permit, nor shall such improvements be constructed so as to cause drainage onto the roadway. (*Indiana Department of Transportation; Rule 19; filed Nov 16, 1971, 9:45 a.m.: Rules and Regs. 1972, p. 145; filed Aug 2, 1985, 3:39 p.m.: 8 IR 1709; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; readopted filed Jun 14, 2007, 2:45 p.m.: 20070627-IR-105070237RFA; readopted filed Oct 2, 2013, 11:39 a.m.: 20131030-IR-105130295RFA*) NOTE: Transferred from Department of Highways (120 IAC 2-1-19) to Indiana Department of Transportation (105 IAC 7-1-19) by P.L.112-1989, SECTION 5, effective July 1, 1989.

105 IAC 7-1-20 Authorization to proceed; objections

Authority: IC 9-21-19-2

Affected: IC 4-21.5

Sec. 20. Upon receipt of a permit issued by the department, the permittee is authorized to proceed with the work covered by the permit, subject to the conditions imposed by the department.

In accordance with the notice requirements of IC 4-22-1-25 [*Repealed by P.L.18-1986, SECTION 2. See IC 4-21.5.*], any objection to the conditions and provisions of an approved permit must be submitted in writing to the department within fifteen (15) days from the issue date of the permit.

The permit does not apply to any highway right-of-way that is closed for construction [*sic.*] purposes, except as allowed by provision in the permit, nor to any county roads or city streets. (*Indiana Department of Transportation; Rule 20; filed Nov 16, 1971, 9:45 a.m.: Rules and Regs. 1972, p. 145; filed Aug 2, 1985, 3:39 p.m.: 8 IR 1709; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; readopted filed Jun 14, 2007, 2:45 p.m.: 20070627-IR-105070237RFA; readopted filed Oct 2, 2013, 11:39 a.m.: 20131030-IR-105130295RFA*) NOTE: Transferred from Department of Highways (120 IAC 2-1-20) to Indiana Department of Transportation (105 IAC 7-1-20) by P.L.112-1989, SECTION 5, effective July 1, 1989.

105 IAC 7-1-21 Inspections; revocation of permit

Authority: IC 9-21-19-2

Affected: IC 8-9.5-4

Sec. 21. An inspection may be conducted at any time by the department and a final inspection of the permit shall be conducted upon completion of construction. The work covered by the permit does not comply until found to be in accordance with the plans and specifications filed in the application as amended by the department, together with any special conditions noted therein, and approved by the department. The permittee shall adjust or stop operations upon direction of any police officer or authorized department employee. The permit may be revoked at any time by the department for non-compliance with any and/or all provisions and conditions of said permit.

The permittee shall pay the department for any inspection costs, including labor, vehicular mileage [*sic.*], and equipment expenses when it is necessary to assign a department employee to inspect the work. The permittee shall immediately reimburse the department upon receipt of an itemized statement. (*Indiana Department of Transportation; Rule 21; filed Nov 16, 1971, 9:45 a.m.: Rules and Regs. 1972, p. 145; filed Aug 2, 1985, 3:39 p.m.: 8 IR 1710; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; readopted filed Jun 14, 2007, 2:45 p.m.: 20070627-IR-105070237RFA; readopted filed Oct 2, 2013, 11:39 a.m.: 20131030-IR-105130295RFA*) NOTE: Transferred from Department of Highways (120 IAC 2-1-21) to Indiana Department of Transportation (105 IAC 7-1-21) by P.L.112-1989, SECTION 5, effective July 1, 1989.

105 IAC 7-1-22 Noncompliance of permits without bonds

Authority: IC 9-21-19-2

Affected: IC 8-9.5-4

Sec. 22. On permits not covered by a bond, work performed that is incomplete, improperly performed or otherwise does not follow the conditions or provisions of the permit shall be designated as "Does Not Comply". The department shall follow procedures for corrective action, beginning with the notice action stated in 120 IAC 2-2-4(2) [105 IAC 7-2-4(2)]. Permit applications for existing approaches that are denied by the department shall be corrected by entering the same procedure in 120 IAC 2-2-4(2) [105 IAC 7-2-4(2)]. (*Indiana Department of Transportation; 105 IAC 7-1-22; filed Aug 2, 1985, 3:39 p.m.: 8 IR 1710; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; readopted filed Jun 14, 2007, 2:45 p.m.: 20070627-IR-105070237RFA; readopted filed Oct 2, 2013, 11:39 a.m.: 20131030-IR-105130295RFA*) NOTE: Transferred from Department of Highways (120 IAC 2-1-21.5) to Indiana Department of Transportation (105 IAC 7-1-22) by P.L.112-1989, SECTION 5, effective July 1, 1989.

105 IAC 7-1-23 "Limitation of access" instrument

Authority: IC 9-21-19-2

Affected: IC 8-9.5-4

Sec. 23. The permittee shall sign a copy of a "limitation of access" instrument, if so required by the department as a condition of the permit. The department shall immediately cause said limitation of access instrument to be recorded in the appropriate county. (*Indiana Department of Transportation; Rule 22; filed Nov 16, 1971, 9:45 a.m.: Rules and Regs. 1972, p. 145; filed Aug 2, 1985, 3:39 p.m.: 8 IR 1710; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; readopted filed Jun 14, 2007, 2:45 p.m.: 20070627-IR-105070237RFA; readopted filed Oct 2, 2013, 11:39 a.m.: 20131030-IR-105130295RFA*) NOTE: Transferred from Department of Highways (120 IAC 2-1-22) to Indiana Department of Transportation (105 IAC 7-1-23) by P.L.112-1989, SECTION 5, effective July 1, 1989.

105 IAC 7-1-24 Notice of start of construction

Authority: IC 9-21-19-2

Affected: IC 8-9.5-4

Sec. 24. The permittee shall notify the department's sub-district office five (5) working days prior to the start of any work activity on the highway right-of-way, of the date such work will commence. The permittee shall notify the department's sub-district office prior to completion of all work on the highway right-of-way of the anticipated date such work will be complete. (*Indiana Department of Transportation; Rule 23; filed Nov 16, 1971, 9:45 a.m.: Rules and Regs. 1972, p. 145; filed Aug 2, 1985, 3:39 p.m.: 8 IR 1710; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; readopted filed Jun 14, 2007, 2:45 p.m.: 20070627-IR-105070237RFA; readopted filed Oct 2, 2013, 11:39 a.m.: 20131030-IR-105130295RFA*) NOTE: Transferred from Department of Highways (120 IAC 2-1-23) to Indiana Department of Transportation (105 IAC 7-1-24) by P.L.112-1989, SECTION 5, effective July 1, 1989.

105 IAC 7-1-25 Traffic control

Authority: IC 9-21-19-2

Affected: IC 8-9.5-4

Sec. 25. The permittee shall erect and maintain all necessary traffic control signs, barricades, detour signs, and other traffic control devices required to safely direct traffic over or around the part of the highway where permitted operations are to be done in accordance with the construction and maintenance section of the Indiana manual on uniform traffic control devices. Disruption to traffic shall be kept to a minimum and shall require approval of the department prior to beginning other work activities on the right-of-way. (*Indiana Department of Transportation; 105 IAC 7-1-25; filed Aug 2, 1985, 3:39 p.m.: 8 IR 1711; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; readopted filed Jun 14, 2007, 2:45 p.m.: 20070627-IR-105070237RFA; readopted filed Oct 2, 2013, 11:39 a.m.: 20131030-IR-105130295RFA*) NOTE: Transferred from Department of Highways (120 IAC 2-1-23.5) to Indiana Department of Transportation (105 IAC 7-1-25) by P.L.112-1989, SECTION 5, effective July 1, 1989.

105 IAC 7-1-26 Prohibited hours of work

Authority: IC 9-21-19-2
 Affected: IC 8-9.5-4

Sec. 26. The permitted work shall not be performed on the highway right-of-way between sunset and sunrise, unless specifically allowed by special provision to the permit. The permitted work shall not be performed on the highway right-of-way during the period beginning at 12:00 noon on the last weekday preceding and continuing until sunrise on the following: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving and Christmas. (*Indiana Department of Transportation; 105 IAC 7-1-26; filed Aug 2, 1985, 3:39 p.m.: 8 IR 1711; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; readopted filed Jun 14, 2007, 2:45 p.m.: 20070627-IR-105070237RFA; readopted filed Oct 2, 2013, 11:39 a.m.: 20131030-IR-105130295RFA*) NOTE: Transferred from Department of Highways (120 IAC 2-1-23.6) to Indiana Department of Transportation (105 IAC 7-1-26) by P.L.112-1989, SECTION 5, effective July 1, 1989.

105 IAC 7-1-27 Display of permit

Authority: IC 9-21-19-2
 Affected: IC 8-9.5-4

Sec. 27. The permittee shall have the permit complete with drawings and special provisions on the job site at all times and will show said permit, on demand, to any police officer or department employee. (*Indiana Department of Transportation; Rule 24; filed Nov 16, 1971, 9:45 a.m.: Rules and Regs. 1972, p. 145; filed Aug 2, 1985, 3:39 p.m.: 8 IR 1711; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; readopted filed Jun 14, 2007, 2:45 p.m.: 20070627-IR-105070237RFA; readopted filed Oct 2, 2013, 11:39 a.m.: 20131030-IR-105130295RFA*) NOTE: Transferred from Department of Highways (120 IAC 2-1-24) to Indiana Department of Transportation (105 IAC 7-1-27) by P.L.112-1989, SECTION 5, effective July 1, 1989.

105 IAC 7-1-28 Term of permit; extension; cancellation

Authority: IC 9-21-19-2
 Affected: IC 8-9.5-4

Sec. 28. All work on highway right-of-way authorized by a permit must be completed within one (1) year after the permit is issued; otherwise, the permit will be cancelled unless an extension is requested, in writing, by the permittee, and is approved by the department. The time extension shall not exceed more than one (1) year beyond the original expiration date unless approved otherwise by the department. If a permit is cancelled, a new application must be submitted and approved before the proposed work can begin. Once construction authorized by the permit is initiated it must be completed within thirty (30) days, unless otherwise expressly approved as a special condition. (*Indiana Department of Transportation; Rule 25; filed Nov 16, 1971, 9:45 a.m.: Rules and Regs. 1972, p. 145; filed Aug 2, 1985, 3:39 p.m.: 8 IR 1711; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; readopted filed Jun 14, 2007, 2:45 p.m.: 20070627-IR-105070237RFA; readopted filed Oct 2, 2013, 11:39 a.m.: 20131030-IR-105130295RFA*) NOTE: Transferred from Department of Highways (120 IAC 2-1-25) to Indiana Department of Transportation (105 IAC 7-1-28) by P.L.112-1989, SECTION 5, effective July 1, 1989.

105 IAC 7-1-29 Liability during construction

Authority: IC 9-21-19-2
 Affected: IC 8-9.5-4

Sec. 29. The permittee shall assume all responsibility (during the time from the beginning of the work covered by any permit until final approval for the work) and shall furthermore be obligated to save harmless the state for any and all injury, loss or damage occasioned to or by persons or property resulting directly or indirectly from such work; the department shall, in its discretion, require the permittee to provide liability and indemnity insurance for the use and benefit of the state of Indiana. (*Indiana Department of Transportation; Rule 26; filed Nov 16, 1971, 9:45 a.m.: Rules and Regs. 1972, p. 146; filed Aug 2, 1985, 3:39 p.m.: 8 IR 1711; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; readopted filed Jun 14, 2007, 2:45 p.m.: 20070627-IR-*

105070237RFA; readopted filed Oct 2, 2013, 11:39 a.m.: 20131030-IR-105130295RFA) NOTE: Transferred from Department of Highways (120 IAC 2-1-26) to Indiana Department of Transportation (105 IAC 7-1-29) by P.L.112-1989, SECTION 5, effective July 1, 1989.

105 IAC 7-1-30 Interference with structures on right-of-way

Authority: IC 9-21-19-2

Affected: IC 8-9.5-4

Sec. 30. The work authorized by the permit shall not interfere with any existing structure on any department right-of-way without specific permission in writing from the department or other owner thereof. Any structure or traffic control device affected by the proposed construction shall be relocated at the permittee's expense as directed. In the event that any buildings, railings, traffic control devices, or other structures are damaged, said cost of the removal and/or of repair due to damage shall be at the permittee's expense as directed. (*Indiana Department of Transportation; Rule 27; filed Nov 16, 1971, 9:45 a.m.: Rules and Regs. 1972, p. 146; filed Aug 2, 1985, 3:39 p.m.: 8 IR 1712; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; readopted filed Jun 14, 2007, 2:45 p.m.: 20070627-IR-105070237RFA; readopted filed Oct 2, 2013, 11:39 a.m.: 20131030-IR-105130295RFA*) NOTE: Transferred from Department of Highways (120 IAC 2-1-27) to Indiana Department of Transportation (105 IAC 7-1-30) by P.L.112-1989, SECTION 5, effective July 1, 1989.

105 IAC 7-1-31 Encroachment by advertising signs

Authority: IC 8-9.5-4-8; IC 8-13-1-6; IC 8-13-2-9

Affected: IC 9-21-19

Sec. 31. PERMIT-ENCROACHMENT OF UNLAWFUL SIGNS. The permittee shall not erect or maintain any advertising sign on or over the right-of-way or any portion thereof in violation of any law. (*Indiana Department of Transportation; Rule 28; filed Nov 16, 1971, 9:45 a.m.: Rules and Regs. 1972, p. 146; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; readopted filed Jun 14, 2007, 2:45 p.m.: 20070627-IR-105070237RFA; readopted filed Oct 2, 2013, 11:39 a.m.: 20131030-IR-105130295RFA*) NOTE: Transferred from Department of Highways (120 IAC 2-1-28) to Indiana Department of Transportation (105 IAC 7-1-31) by P.L.112-1989, SECTION 5, effective July 1, 1989.

105 IAC 7-1-32 Change in existing access; subject to new rules

Authority: IC 9-21-19-2

Affected: IC 8-9.5-4

Sec. 32. Any person, who by law, has an existing legal right of access to a state highway shall as a condition of the issuance of any permit and in consideration of the same, agree that such rights of access, then existing or granted thereafter with respect to such real estate are subject to 120 IAC 2-1 [*this rule*] as the same may from time to time be amended by the department. (*Indiana Department of Transportation; Rule 29; filed Nov 16, 1971, 9:45 a.m.: Rules and Regs. 1972, p. 146; filed Aug 2, 1985, 3:39 p.m.: 8 IR 1712; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; readopted filed Jun 14, 2007, 2:45 p.m.: 20070627-IR-105070237RFA; readopted filed Oct 2, 2013, 11:39 a.m.: 20131030-IR-105130295RFA*) NOTE: Transferred from Department of Highways (120 IAC 2-1-29) to Indiana Department of Transportation (105 IAC 7-1-32) by P.L.112-1989, SECTION 5, effective July 1, 1989.

105 IAC 7-1-33 Severability of rule

Authority: IC 9-21-19-2

Affected: IC 8-9.5-4

Sec. 33. If any provision of 120 IAC 2-1 [*this rule*] or the application thereof to any person or circumstances is invalid, such invalidity shall not affect the other provisions or usage of 120 IAC 2-1 [*this rule*], which can be given effect without the invalid provision or usage, and to this end, the provisions of 120 IAC 2-1 [*this rule*] are declared to be severable. (*Indiana Department*

of Transportation; Rule 30; filed Nov 16, 1971, 9:45 a.m.: Rules and Regs. 1972, p. 146; filed Aug 2, 1985, 3:39 p.m.: 8 IR 1712; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; readopted filed Jun 14, 2007, 2:45 p.m.: 20070627-IR-105070237RFA; readopted filed Oct 2, 2013, 11:39 a.m.: 20131030-IR-105130295RFA) NOTE: Transferred from Department of Highways (120 IAC 2-1-30) to Indiana Department of Transportation (105 IAC 7-1-33) by P.L.112-1989, SECTION 5, effective July 1, 1989.

Rule 1.5. Developments; Traffic Studies

105 IAC 7-1.5-1 Preliminary notification; warrants

Authority: IC 8-23-2-6; IC 9-21-19-2
 Affected: IC 8-23-2-6

Sec. 1. (a) Unless waived in writing by the department, a preliminary notification shall be required to be submitted with the application for a permit for all developments that meet the following preliminary warrants for a traffic impact analysis study:

Land Use Type	Preliminary Warrants
Residential	150 dwelling units
Retail	15,000 square feet
Office	35,000 square feet or 3 acres
Industrial	70,000 square feet or 9 acres
Educational	30,000 square feet or 250 students
Lodging	120 occupied rooms
Medical	46,000 square feet

(b) At the discretion of the department, upon notice from the department after submission of the application for a permit, a preliminary notification may be required for the following types of developments:

- (1) Parking garages, banks, fast food restaurants, service stations with convenience stores, or similar developments considered by the department to warrant special consideration due to the pattern and volume of traffic generated and the existence of high vehicle trip generation rates.
- (2) Mixed-use developments that cannot easily be grouped or classified under the land use types provided in subsection (a) and generate more than fifty (50) vehicle trips in the peak direction within one (1) street peak hour.

(Indiana Department of Transportation; 105 IAC 7-1.5-1; filed Jul 1, 1999, 11:00 a.m.: 22 IR 3360; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; readopted filed Jun 14, 2007, 2:45 p.m.: 20070627-IR-105070237RFA; readopted filed Oct 2, 2013, 11:39 a.m.: 20131030-IR-105130295RFA)

105 IAC 7-1.5-2 Preliminary notification; requirements

Authority: IC 8-23-2-6; IC 9-21-19-2
 Affected: IC 8-23-2-6

Sec. 2. In addition to the requirements of 105 IAC 7-1-9, an applicant required to provide preliminary notification under section 1 of this rule must provide an approximate description of existing and anticipated traffic conditions of the proposed development, including the following:

- (1) Type of development.
- (2) Preliminary site plan with site access points and the nearest signalized intersection in each direction.
- (3) A market study, if applicable.
- (4) Trip generation values and methods used to compute such values.
- (5) Any other information the applicant deems necessary or helpful to facilitate the initial meeting as provided under section 3 of this rule.

(Indiana Department of Transportation; 105 IAC 7-1.5-2; filed Jul 1, 1999, 11:00 a.m.: 22 IR 3360; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; readopted filed Jun 14, 2007, 2:45 p.m.: 20070627-IR-105070237RFA; readopted filed Oct 2, 2013, 11:39 a.m.: 20131030-IR-105130295RFA)

105 IAC 7-1.5-3 Initial meeting

Authority: IC 8-23-2-6; IC 9-21-19-2

Affected: IC 8-23-2-6

Sec. 3. (a) Upon submission of the application and preliminary notification, the applicant and the department shall schedule an initial meeting. The initial meeting shall be held no later than thirty (30) days after the submission of the application and preliminary notification that comply with the requirements of 105 IAC 7-1 and this rule.

(b) Participants at the initial meeting shall include the following:

(1) The applicant or its representative.

(2) One (1) or more of the following department personnel within the district in which the proposed development site is located:

(A) Regulations supervisor.

(B) Traffic engineer.

(C) Development engineer.

(3) Any other individual deemed necessary by the applicant or department personnel to facilitate the initial meeting.

(c) The purpose of the initial meeting shall be to determine what further action, if any, is necessary by the applicant before a permit may be granted, including the following:

(1) Whether a traffic impact analysis study is warranted and, if so, the scope and extent of such study.

(2) Whether a traffic operations study is warranted and, if so, the scope and extent of such study.

(3) If the necessity for a traffic impact analysis study or a traffic operations analysis study cannot be determined, the information necessary from the applicant to make this determination.

(4) All other issues and requirements the applicant must address before the department may grant a permit.

(d) Within thirty (30) days of the initial meeting, a memorandum of understanding shall be prepared by the applicant or its representative detailing the actions to be performed by the applicant as determined at the initial meeting. The applicant may not proceed with any action until the department has approved in writing the memorandum of understanding. The memorandum of understanding shall include all pertinent issues discussed at the initial meeting and a description of any study to be conducted, including the following:

(1) Issues to be addressed in the study.

(2) Limits of study area.

(3) Study assumptions.

(4) Data sources.

(5) Contents of any report to be generated.

(Indiana Department of Transportation; 105 IAC 7-1.5-3; filed Jul 1, 1999, 11:00 a.m.: 22 IR 3360; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; readopted filed Jun 14, 2007, 2:45 p.m.: 20070627-IR-105070237RFA; readopted filed Oct 2, 2013, 11:39 a.m.: 20131030-IR-105130295RFA)

105 IAC 7-1.5-4 Traffic impact analysis study; warrants

Authority: IC 8-23-2-6; IC 9-21-19-2

Affected: IC 8-23-2-6

Sec. 4. (a) Unless waived by the department at the initial meeting or subsequent to the initial meeting, in writing, an applicant subject to this rule shall be required to conduct, at the applicant's expense, a traffic impact analysis study if one (1) or more of the following warrants are met:

(1) Warrant 1, land use intensity, the development generates more than one hundred (100) vehicle trips in the peak direction within one (1) street peak hour.

(2) Warrant 2, level-of-service, either:

(A) the traffic generated by the proposed development causes the level-of-service of the adjacent streets and intersections to drop to "C" or lower; or

(B) the nearby intersections currently operate at level-of-service "D" or lower.

(3) Warrant 3, roadway modifications, the proposed development:

(A) is expected to significantly impact a roadway segment identified in the transportation improvement program; or

(B) includes modifications to the roadway system, such as:

(i) the addition of lanes to accommodate site-generated traffic, exclusive turning lanes, acceleration/deceleration lanes, median openings; and

(ii) the installation of traffic signals and other traffic control devices.

(4) Warrant 4, special cases, it is determined at the initial meeting or from a preliminary study that the traffic generated from the proposed development will create safety, operational, or other traffic problems.

(b) This section shall not be construed to limit the conditions by which the department may require a traffic impact analysis study. (*Indiana Department of Transportation; 105 IAC 7-1.5-4; filed Jul 1, 1999, 11:00 a.m.: 22 IR 3361; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; readopted filed Jun 14, 2007, 2:45 p.m.: 20070627-IR-105070237RFA; readopted filed Oct 2, 2013, 11:39 a.m.: 20131030-IR-105130295RFA*)

105 IAC 7-1.5-5 Traffic operations analysis study; conditions requiring study

Authority: IC 8-23-2-6; IC 9-21-19-2

Affected: IC 8-23-2-6

Sec. 5. (a) Unless waived by the department at the initial meeting or subsequent to the initial meeting, in writing, an applicant subject to this rule shall be required to conduct, at the applicant's expense, a traffic operations analysis study if one (1) or more of the following conditions are met:

(1) The development generates enough turning movements into or out of the development that an auxiliary lane, such as an acceleration/deceleration lane, passing blister, or separate turn lane is required.

(2) A request is made for a new or modified driveway near an intersection or interchange.

(3) A request is made for a new or modified driveway near an intersection or interchange.

(4) There exists a sight distance limitation or a high accident location near the site.

(5) A request is made for median openings.

(b) This section shall not be construed to limit the conditions by which the department may require a traffic operations analysis study. (*Indiana Department of Transportation; 105 IAC 7-1.5-5; filed Jul 1, 1999, 11:00 a.m.: 22 IR 3361; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; readopted filed Jun 14, 2007, 2:45 p.m.: 20070627-IR-105070237RFA; readopted filed Oct 2, 2013, 11:39 a.m.: 20131030-IR-105130295RFA*)

105 IAC 7-1.5-6 Traffic impact analysis and traffic operations analysis studies; qualifications of preparer; certification

Authority: IC 8-23-2-6; IC 9-21-19-2

Affected: IC 8-23-2-6

Sec. 6. A traffic impact analysis or traffic operations analysis study required under this rule must be prepared by or under the supervision of a registered professional engineer with experience in traffic engineering operations who shall provide certification in the following or similar form:

"I certify that this Traffic Impact Analysis has been prepared by me or under my immediate supervision and that I have experience and training in the field of traffic and transportation engineering.

(signed)

John O. Smith, P.E.

Indiana Registration 12345".

(*Indiana Department of Transportation; 105 IAC 7-1.5-6; filed Jul 1, 1999, 11:00 a.m.: 22 IR 3361; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; readopted filed Jun 14, 2007, 2:45 p.m.: 20070627-IR-105070237RFA; readopted filed Oct 2, 2013, 11:39 a.m.: 20131030-IR-105130295RFA*)

105 IAC 7-1.5-7 Review of traffic impact analysis and traffic operations analysis

Authority: IC 8-23-2-6; IC 9-21-19-2

Affected: IC 8-23-2-6

Sec. 7. (a) Upon completion and submission of a traffic impact analysis or traffic operations analysis study required under this rule, the study shall be reviewed by the department. The review shall be conducted by department personnel trained and experienced in traffic impact and traffic operations study methodology, land use planning, and traffic engineering, safety, and operations.

(b) A formal review of the traffic impact analysis or traffic operations analysis study shall include the following findings:

(1) Those analyses and conclusions that are acceptable.

(2) Those analyses and conclusions that are not acceptable.

(3) The acceptability of recommended site access provisions and roadway improvements.

(4) A list of required improvements that might be considered to mitigate impacts of the development.

(c) Upon completion of the formal review, the department shall submit to the study preparer and the applicant its findings and either:

(1) its acceptance of the study; or

(2) a request for revisions clearly specifying the additional information required before the study may be accepted.

(d) The study preparer shall submit any additional report in response to a request for revisions in the form of an addendum to the original study unless a fully revised report is requested. (*Indiana Department of Transportation; 105 IAC 7-1.5-7; filed Jul 1, 1999, 11:00 a.m.: 22 IR 3361; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; readopted filed Jun 14, 2007, 2:45 p.m.: 20070627-IR-105070237RFA; readopted filed Oct 2, 2013, 11:39 a.m.: 20131030-IR-105130295RFA*)

Rule 2. Unauthorized Approaches to Driveways

105 IAC 7-2-1 Purpose of rule

Authority: IC 9-21-19-2

Affected: IC 8-9.5-4

Sec. 1. The Indiana department of highways shall control access and regulate work performed on approaches to driveways on highway right-of-way. This control and regulation shall provide for the preservation of the highway, and the safety and convenience of traffic on highway. The measure of public benefit shall be the guide in determining the priorities and procedures in correcting any unauthorized approaches to driveways. (*Indiana Department of Transportation; 105 IAC 7-2-1; filed Aug 2, 1985, 3:39 p.m.: 8 IR 1712; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; readopted filed Jun 14, 2007, 2:45 p.m.: 20070627-IR-105070237RFA; readopted filed Oct 2, 2013, 11:39 a.m.: 20131030-IR-105130295RFA*) NOTE: Transferred from Department of Highways (120 IAC 2-2-1) to Indiana Department of Transportation (105 IAC 7-2-1) by P.L.112-1989, SECTION 5, effective July 1, 1989.

105 IAC 7-2-2 Documentation of approaches; corrective action required

Authority: IC 9-21-19-2

Affected: IC 8-9.5-4

Sec. 2. The department shall control access along highways through inspection and by properly documenting planned and existing approaches for driveways and pedestrian walkways. Any construction, reconstruction, alteration, or modification to an approach by person(s) other than the department shall be administered through 120 IAC 2 [this article], Permits. Existing approaches, which may be in either a complete or incomplete condition and that have not been reviewed and authorized by the department, shall be considered unauthorized, undocumented and subject to corrective action. Existing approaches which were originally authorized by the department but which have become substandard for any reason, such as a change in land use that adversely affects traffic patterns, shall also be considered unauthorized, undocumented and subject to corrective action.

The permit process shall be the normal means of taking corrective action. The property owner(s) and/or the person(s)

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responsible for an unauthorized approach shall make application for a written permit. All remedies available through the permit process shall be used to obtain full compliance of work on the approach.

Under circumstances where the department is unable to obtain the cooperation of the property owner(s) and/or the person(s) responsible for an unauthorized approach through the permit process, corrective action will be taken in accordance with procedures contained in 120 IAC 2-2 [this rule]. (*Indiana Department of Transportation; 105 IAC 7-2-2; filed Aug 2, 1985, 3:39 p.m.: 8 IR 1712; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; readopted filed Jun 14, 2007, 2:45 p.m.: 20070627-IR-105070237RFA; readopted filed Oct 2, 2013, 11:39 a.m.: 20131030-IR-105130295RFA*) NOTE: Transferred from Department of Highways (120 IAC 2-2-2) to Indiana Department of Transportation (105 IAC 7-2-2) by P.L.112-1989, SECTION 5, effective July 1, 1989.

105 IAC 7-2-3 Priority of corrective actions

Authority: IC 9-21-19-2

Affected: IC 8-9.5-4

Sec. 3. The department shall assign unauthorized approach work to its staff in accordance with manpower availability and shall first undertake corrective action for the more serious situations as determined by the department. (*Indiana Department of Transportation; 105 IAC 7-2-3; filed Aug 2, 1985, 3:39 p.m.: 8 IR 1713; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; readopted filed Jun 14, 2007, 2:45 p.m.: 20070627-IR-105070237RFA; readopted filed Oct 2, 2013, 11:39 a.m.: 20131030-IR-105130295RFA*) NOTE: Transferred from Department of Highways (120 IAC 2-2-3) to Indiana Department of Transportation (105 IAC 7-2-3) by P.L.112-1989, SECTION 5, effective July 1, 1989.

105 IAC 7-2-4 Procedures for corrective action

Authority: IC 9-21-19-2

Affected: IC 8-9.5-4

Sec. 4. Corrective action will normally be the construction, reconstruction, alteration or modification of the approach to standards acceptable to the department, or the complete removal of the approach and restoration of the highway right-of-way. The decision concerning the choice of a remedy remains with the department. The following procedure will be used by the department to obtain a suitable corrective result.

- (1) The department will contact the responsible person(s) for the unauthorized approach, including the owner of real estate, and advise that they are to begin corrective action by preparing and submitting a permit application. The department shall state a specific date for receipt of the application, but in no case shall the time to submit the application be less than fifteen (15) calendar days from the date of contact. If an application is received within the specified time period, the department shall proceed to the requirements in 120 IAC 2-1 [105 IAC 7-1].
- (2) If the person(s) responsible for the unauthorized approach has not responded within the specified time and if the application for the permit was not received by the department, a notice shall be given to the owner(s) of the real estate from which the unauthorized approach emanates by certified mail and shall be sent to the owner's last known address. A copy of the notice shall be sent to the occupant [sic.] of the real estate and a copy of the notice shall be posted upon said real estate in a conspicuous place. The notice shall specify the time within which the owner(s) of the real estate shall have completed corrective action for the unauthorized approach, but in no case shall the period of time specified be less than thirty (30) calendar days.
- (3) If the owner of the real estate has not completed corrective action on the unauthorized approach within the time specified by the notice, the department may do whatever in its discretion is necessary to correct the situation or may cause the same to be done by other persons, parties, or corporations.
- (4) The cost of the corrective action to the unauthorized approach as provided by subdivision (3) in this section will be borne by the owner of the real estate. After the department has completed the corrective action, it shall bill the owner of the real estate for the cost.

(*Indiana Department of Transportation; 105 IAC 7-2-4; filed Aug 2, 1985, 3:39 p.m.: 8 IR 1713; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; readopted filed Jun 14, 2007, 2:45 p.m.: 20070627-IR-105070237RFA; readopted filed Oct 2, 2013, 11:39 a.m.: 20131030-IR-105130295RFA*) NOTE: Transferred from Department of Highways (120 IAC 2-2-4) to Indiana Department of

Transportation (105 IAC 7-2-4) by P.L.112-1989, SECTION 5, effective July 1, 1989.

105 IAC 7-2-5 Civil prosecution

Authority: IC 9-21-19-2

Affected: IC 8-9.5-4

Sec. 5. It shall be at the discretion of the department to pursue legal action against the person who fails to react to the requirements of 120 IAC 2-2-4(1) and (2) [section 4(1) through 4(2) of this rule]. (*Indiana Department of Transportation; 105 IAC 7-2-5; filed Aug 2, 1985, 3:39 p.m.: 8 IR 1713; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; readopted filed Jun 14, 2007, 2:45 p.m.: 20070627-IR-105070237RFA; readopted filed Oct 2, 2013, 11:39 a.m.: 20131030-IR-105130295RFA*) NOTE: *Transferred from Department of Highways (120 IAC 2-2-5) to Indiana Department of Transportation (105 IAC 7-2-5) by P.L.112-1989, SECTION 5, effective July 1, 1989.*

105 IAC 7-2-6 Waiver of corrective action

Authority: IC 9-21-19-2

Affected: IC 8-9.5-4

Sec. 6. Where unauthorized approaches extending over any highway right-of-way are in place on the effective date of this regulation, it shall be the right of the department to exercise discretion in implementing the procedure stated in 120 IAC 2-2-4 [section 4 of this rule]. (*Indiana Department of Transportation; 105 IAC 7-2-6; filed Aug 2, 1985, 3:39 p.m.: 8 IR 1713; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; readopted filed Jun 14, 2007, 2:45 p.m.: 20070627-IR-105070237RFA; readopted filed Oct 2, 2013, 11:39 a.m.: 20131030-IR-105130295RFA*) NOTE: *Transferred from Department of Highways (120 IAC 2-2-6) to Indiana Department of Transportation (105 IAC 7-2-6) by P.L.112-1989, SECTION 5, effective July 1, 1989.*

Rule 3. Signs and Billboards

105 IAC 7-3-1 Permit required for each sign structure; applications; refusal of permits; change of advertising copy; revocation

Authority: IC 8-23-2-6; IC 8-23-20-25

Affected: IC 4-21.5; IC 8-23-20

Sec. 1. (a) Except as otherwise provided in this rule, no person shall construct, maintain, erect, cause or allow to be constructed or erected any advertising sign, display, or device without first obtaining a permit therefor from the department and paying applicable fees as established in section 3 of this rule.

(b) A separate application for a permit shall be made for each sign structure or proposed sign structure on a form furnished by the department. The application shall be signed by the applicant, or a representative duly authorized in writing to act for the applicant, and shall describe and set forth the size, shape, and the nature of the proposed sign structure and its actual or proposed location with sufficient accuracy to enable the department to locate and identify it. The denial of a permit by the department shall be accompanied by an order served on the applicant by certified mail, return receipt requested. Such order shall include a clear statement of the rationale upon which the denial was based. If the permit is denied, the person applying for the permit shall be afforded the opportunity to request a hearing under to [sic.] IC 4-21.5 and IC 8-23-20. The application shall contain a certification of truthfulness, under penalties of perjury for all information contained therein.

(c) The holder of a permit or its authorized agent shall have the right to change the advertising copy on the structure or sign for which it was issued without payment of any additional fee.

(d) The department shall have authority, after thirty (30) days notice in writing to the permittee, to enter an order revoking any permit issued under this rule in any case where the application for the permit contains false or misleading information or where the permittee has violated any of the provisions of this rule.

(e) The issuance of the permit shall in no way imply department approval of or be intended to influence any action pending before a local board, commission, or agency.

(f) The department may subsequently refuse to issue a permit to an applicant that is found to have intentionally provided false information on a previous permit application within the previous two (2) years. (*Indiana Department of Transportation; 105 IAC 7-3-1; filed Apr 28, 1994, 9:30 a.m.: 17 IR 2042; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; readopted filed Jun 14, 2007, 2:45 p.m.: 20070627-IR-105070237RFA; readopted filed Oct 2, 2013, 11:39 a.m.: 20131030-IR-105130295RFA*)

105 IAC 7-3-1.5 Changeable message signs

Authority: IC 8-23-2-6; IC 9-21-19-2
Affected: IC 8-23-2-6

Sec. 1.5. (a) A permit holder shall not convert a conforming sign to a changeable sign without the approval of the department. Approval may be sought by filing an application under section 7.5 of this rule.

(b) Only a conforming sign structure may be converted to a changeable message sign upon approval from the department. A nonconforming sign structure may not be modified to a changeable message sign under any circumstances.

(c) A changeable message sign shall only be constructed as one (1) of the following:

- (1) A single face sign.
- (2) A "V"- shaped structure.
- (3) A back to back structure.

A stacked or side by side sign is not allowed under this section.

(d) The permit holder shall provide the department with a contact person and phone number for every permitted changeable message sign. The contact person must have the ability and authority to make modifications to the display and lighting levels should the need arise. The department may direct the permit holder to disable the changeable message sign:

- (1) in cases of emergency; or
- (2) when the contact is not responsive within a reasonable period of time.

(e) If the department determines that the changeable message sign:

- (1) impairs the vision of the driver of any motor vehicle; or
- (2) otherwise interferes with the operation of a motor vehicle;

then upon request from the department the permit holder of the changeable message sign shall take appropriate corrective action within twelve (12) hours. Failure to remedy the problem within twelve (12) hours may be cause for revocation of the permit under section 8 of this rule.

(f) A changeable message sign shall contain a default design that will freeze the sign in a dark or blank position if a malfunction occurs.

(g) No changeable message sign shall be located within three hundred (300) feet of any building used primarily as a residence, unless the owner of the building consents in writing to the location of the changeable message sign. (*Indiana Department of Transportation; 105 IAC 7-3-1.5; filed Mar 18, 2008, 2:24 p.m.: 20080416-IR-105070471FRA; readopted filed Oct 2, 2013, 11:39 a.m.: 20131030-IR-105130295RFA*)

105 IAC 7-3-2 Preconstruction permit

Authority: IC 8-23-2-6; IC 8-23-20-25
Affected: IC 8-23-20

Sec. 2. (a) A permit must be obtained before the erection of any sign structure.

(b) As soon as practicable and no more than thirty (30) days after the issuance of a permit for a proposed structure, the permit tag shall be displayed upon a post or similar support such that the permit number is plainly visible from the right-of-way. Such tag shall be placed as close as practical at the right-of-way line at the nearest point to the proposed location.

(c) Measurements to determine the compliance of a subsequent sign structure to the spacing criteria shall treat the permit tag display described in subsection (b) as if a sign structure was actually in existence on the date the permit was issued.

(d) The proposed sign structure must be completed within three hundred sixty-five (365) days of issuance of the permit or the permit shall be revoked.

(e) When multiple permit applications are received for proposed sign structures, priority shall be given in the order received.

(f) When a spacing or related conflict exists between a sign structure constructed on or after July 1, 1993, and not holding a valid permit, and a proposed sign structure, the first permit application received shall have priority in the issuance of a permit. *(Indiana Department of Transportation; 105 IAC 7-3-2; filed Apr 28, 1994, 9:30 a.m.: 17 IR 2042; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; readopted filed Jun 14, 2007, 2:45 p.m.: 20070627-IR-105070237RFA; readopted filed Oct 2, 2013, 11:39 a.m.: 20131030-IR-105130295RFA)*

105 IAC 7-3-3 Application and fee

Authority: IC 8-23-2-6; IC 8-23-20-25

Affected: IC 8-23-20-25

Sec. 3. Each application for a permit (for sign structures not subject to registration and permit under IC 8-23-20-25(h)) shall be accompanied by an application fee of twenty-five dollars (\$25) for each sign structure. The fee shall be retained by the department. If the application is approved, the applicant shall be billed for an additional seventy-five dollars (\$75) permit fee. Once the permit fee has been received by the department, the permit tag and approved permit application will be forwarded by U. S. mail. *(Indiana Department of Transportation; 105 IAC 7-3-3; filed Apr 28, 1994, 9:30 a.m.: 17 IR 2042; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; readopted filed Jun 14, 2007, 2:45 p.m.: 20070627-IR-105070237RFA; readopted filed Oct 2, 2013, 11:39 a.m.: 20131030-IR-105130295RFA)*

105 IAC 7-3-4 Permit identification number for signs; fastening to signs

Authority: IC 8-23-2-6; IC 8-23-20-25

Affected: IC 8-23-20

Sec. 4. Each permit issued by the department shall be assigned a separate identification number, and it shall be the duty of each permittee to fasten to each sign structure the permit tag provided by the department in a prominent location with the permit number plainly visible from the right-of-way. The construction, erection, operation, use, or maintenance of an outdoor advertising sign structure without having affixed the proper permit tag shall be prima facie evidence that no permit has been obtained. In the event the provided permit tag is lost or destroyed, a new permit tag shall be obtained from the department upon the submission of a written request and the payment of a ten dollar (\$10) replacement fee. The replacement tag shall be fastened to the structure as provided in this section. *(Indiana Department of Transportation; 105 IAC 7-3-4; filed Apr 28, 1994, 9:30 a.m.: 17 IR 2043; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; readopted filed Jun 14, 2007, 2:45 p.m.: 20070627-IR-105070237RFA; readopted filed Oct 2, 2013, 11:39 a.m.: 20131030-IR-105130295RFA)*

105 IAC 7-3-5 Territory to which article applies; entries for examinations and surveys

Authority: IC 8-23-2-6; IC 8-23-20-25

Affected: IC 8-23-20

Sec. 5. (a) The territory under the jurisdiction of the department for the purposes of this article shall include the following:

- (1) The Interstate Highway System.
- (2) The Federal-Aid Primary System as it existed on June 1, 1991.
- (3) Any other highways that are on the National Highway System.

Where additional roadways become subject to the requirements of 23 U.S.C. 131, as effective on December 18, 1991, such are deemed added to the control areas contained in subsection (c), sixty (60) days after publishing notice of the additions in the Indiana Register. In the event an additional roadway is added, sign owners shall have one hundred eighty (180) days after the date of publication to comply with this rule.

(b) The submission of a permit application is deemed permission to enter into and upon any land which advertising signs are standing or proposed, or upon which displays or devices are exhibited and make such examinations and surveys as may be relevant and reasonable under this rule.

(c) The following is a list of control areas:

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I-64	All
I-65	All
I-69	All
I-70	All
I-74	All
I-80	All
I-90	All
I-94	All
I-164	All
I-265	All
I-275	All
I-465	All
I-469	All
I-865	All
S.R. 1	from I-469 south intersection to S.R. 18
S.R. 1	from U.S. 36 to U.S. 52
S.R. 1	from I-74 to U.S. 50
S.R. 2	from U.S. 41 to U.S. 231
S.R. 2	from U.S. 30 to U.S. 31
S.R. 3	from U.S. 6 to I-69
S.R. 3	from S.R. 18 to S.R. 62
U.S. 6	All
S.R. 7	All
S.R. 8	from S.R. 2 to U.S. 421
S.R. 9	All
S.R. 10	from the Illinois state line to U.S. 421
U.S. 12	from the Michigan state line to S.R. 212
U.S. 12	from Bridge Street to Vermont Street in Hammond
S.R. 14	from U.S. 421 to S.R. 19
S.R. 15	from U.S. 33 to S.R. 15 and S.R. 9 north intersection
S.R. 18	from U.S. 421 and S.R. 39 to S.R. 29 south intersection
S.R. 18	from S.R. 19 to the Ohio state line
S.R. 19	from U.S. 24 to S.R. 18
S.R. 19	from the Michigan state line to U.S. 6
U.S. 20	All
S.R. 22	from S.R. 29 to I-69
S.R. 23	from U.S. 20 and U.S. 31 to U.S. 6
U.S. 24	All
S.R. 25	from S.R. 28 to U.S. 231
S.R. 25	from I-65 to U.S. 24
S.R. 25	from S.R. 17 to S.R. 14
S.R. 26	from the Illinois state line to U.S. 41
S.R. 26	from U.S. 231 to U.S. 31
U.S. 27	from S.R. 3 to the Ohio state line
S.R. 28	from the Illinois state line to S.R. 67
S.R. 29	All
U.S. 30	All
U.S. 31	from the Michigan state line to I-465 on north side of Indianapolis
S.R. 32	from U.S. 231 to the Ohio state line

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U.S. 33	All
U.S. 35	from S.R. 2 to I-70
U.S. 36	from the Illinois state line to I-465 on the west side of Indianapolis
U.S. 36	from U.S. 27 to the Ohio state line
S.R. 37	from I-465 on the south side of Indianapolis to S.R. 66
S.R. 37	from I-69 to S.R. 9
S.R. 39	from the Michigan state line to S.R. 2
S.R. 39	from S.R. 28 to S.R. 32
S.R. 39	between S.R. 67 and S.R. 37
U.S. 40	from I-465 west to Hendricks County line
U.S. 41	All
S.R. 43	from I-65 to U.S. 24
S.R. 44	from S.R. 135 to U.S. 27
S.R. 45	from S.R. 445 to S.R. 37
S.R. 46	from S.R. 59 to S.R. 3 east intersection
S.R. 47	from U.S. 41 to S.R. 32
S.R. 49	from U.S. 12 to U.S. 30
U.S. 50	All
U.S. 52	from the Illinois state line to U.S. 231 north
U.S. 52	from I-465 on the east side of Indianapolis to I-74
S.R. 54	from U.S. 41 to S.R. 43
S.R. 56	from S.R. 61 and S.R. 57 south intersection to U.S. 50 and S.R. 350
S.R. 57	from S.R. 54 to U.S. 41
S.R. 58	from U.S. 231 to S.R. 37
S.R. 59	from U.S. 36 to S.R. 54 east intersection
S.R. 60	from U.S. 50 to I-65
S.R. 61	from U.S. 41 to S.R. 57
S.R. 61	from S.R. 68 to S.R. 66
S.R. 62	from the Illinois state line to U.S. 231
S.R. 62	from S.R. 56 to I-65
S.R. 63	from U.S. 41 Carbondale to U.S. 41 Terre Haute
S.R. 64	from the Illinois state line to U.S. 231
S.R. 66	from the Illinois state line to S.R. 37
S.R. 67	from U.S. 41 to the Ohio state line
S.R. 69	from I-64 to S.R. 62
S.R. 101	from S.R. 44 to U.S. 52
S.R. 101	from I-74 to U.S. 50
S.R. 109	from S.R. 9 to I-70
S.R. 114	from U.S. 41 to U.S. 421
S.R. 114	from S.R. 14 to U.S. 24
U.S. 131	from the Michigan state line to I-80 and I-90
S.R. 135	from S.R. 44 to the Kentucky state line
S.R. 144	from S.R. 42 to S.R. 67
S.R. 145	from S.R. 56 to I-64
U.S. 150	All
U.S. 152	All
S.R. 154	All
S.R. 161	from the Kentucky state line to I-64
S.R. 212	All in Michigan City

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U.S. 224	All
U.S. 231	from S.R. 2 south intersection to U.S. 41
U.S. 231	from the U.S. 52 south intersection to the Kentucky state line
S.R. 237	from S.R. 37 to the Kentucky state line
S.R. 249	All
S.R. 252	from S.R. 37 to S.R. 135
S.R. 265	All
S.R. 267	from I-65 to S.R. 42
S.R. 312	from U.S. 20 to Hohmann Avenue in Hammond
U.S. 421	from U.S. 20 to I-465
U.S. 421	from S.R. 46 to the Kentucky state line
S.R. 441	All in Vincennes
S.R. 443	All in West Lafayette
S.R. 445	All
S.R. 526	All
S.R. 912	All
S.R. 930	from I-69 to I-469

(Indiana Department of Transportation; 105 IAC 7-3-5; filed Apr 28, 1994, 9:30 a.m.: 17 IR 2043; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; readopted filed Jun 14, 2007, 2:45 p.m.: 20070627-IR-105070237RFA; filed Mar 18, 2008, 2:24 p.m.: 20080416-IR-105070471FRA; readopted filed Oct 2, 2013, 11:39 a.m.: 20131030-IR-105130295RFA)

105 IAC 7-3-6 Permit denial criteria

Authority: IC 8-23-2-6; IC 8-23-20-25
Affected: IC 8-23-20

Sec. 6. No permit, except as provided in section 7 of this rule, may be issued for any sign structure:

- (1) Within six hundred sixty (660) feet of the right-of-way of a roadway, erected after January 1, 1968, except in zoned or unzoned commercial or industrial areas.
- (2) Beyond six hundred sixty (660) feet of the right-of-way, outside of urban areas, visible from the right-of-way, and erected with the purpose of a message being read from the traveled portion, and erected after June 30, 1976.
- (3) In an adjacent area where the sign fails to comply with the size and configuration restrictions in section 9 of this rule.
- (4) In an adjacent area where the sign fails to comply with the sign spacing criteria in section 10 of this rule.
- (5) In an adjacent area where the sign fails to comply with the sign lighting criteria in section 11 of this rule.
- (6) That fails to comply with the miscellaneous sign criteria in section 12 of this rule.

(Indiana Department of Transportation; 105 IAC 7-3-6; filed Apr 28, 1994, 9:30 a.m.: 17 IR 2044; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; readopted filed Jun 14, 2007, 2:45 p.m.: 20070627-IR-105070237RFA; readopted filed Oct 2, 2013, 11:39 a.m.: 20131030-IR-105130295RFA)

105 IAC 7-3-7 Conditional permit

Authority: IC 8-23-2-6; IC 8-23-20-25
Affected: IC 8-23-20

Sec. 7. A conditional permit shall be granted to any sign lawfully erected that is not eligible for a permit under section 6 of this rule, provided the following:

- (1) The sign must remain substantially the same as it was on the date that its status initially became nonconforming. Reasonable maintenance and repair shall not be considered to have substantially altered the sign.
- (2) The sign has not been destroyed, abandoned, or discontinued. If reerected in kind, signs destroyed due to vandalism, criminal acts, or tortious acts shall not be considered destroyed.

(Indiana Department of Transportation; 105 IAC 7-3-7; filed Apr 28, 1994, 9:30 a.m.: 17 IR 2044; readopted filed Nov 7, 2001,

3:20 p.m.: 25 IR 899; readopted filed Jun 14, 2007, 2:45 p.m.: 20070627-IR-105070237RFA; readopted filed Oct 2, 2013, 11:39 a.m.: 20131030-IR-105130295RFA)

105 IAC 7-3-7.5 Modification of sign structure; addendum to permit

Authority: IC 8-23-1-14.3; IC 8-23-1-42.5
Affected: IC 8-23-20-25.5

Sec. 7.5. Before modifying a conforming sign, other than changing the advertising copy, the permit holder shall submit a completed application to the department on a form to be provided by the department. The department may then issue an addendum to the permit allowing such change, provided the sign otherwise complies with any state or federal law. (*Indiana Department of Transportation; 105 IAC 7-3-7.5; filed Mar 18, 2008, 2:24 p.m.: 20080416-IR-105070471FRA; readopted filed Oct 2, 2013, 11:39 a.m.: 20131030-IR-105130295RFA*)

105 IAC 7-3-8 Subsequent failure to comply with rule

Authority: IC 8-23-2-6; IC 8-23-20-25
Affected: IC 4-21.5; IC 8-23-20

Sec. 8. (a) A sign structure issued a permit under this rule may have such permit revoked if the department determines the following:

- (1) The sign structure is no longer in compliance with:
 - (A) The size and configuration restrictions in section 9 of this rule.
 - (B) The sign structure spacing criteria in section 10 of this rule.
 - (C) The sign lighting criteria in section 11 of this rule.
 - (D) The miscellaneous sign criteria in section 12 of this rule.
- (2) If permit revocation under subsection (a) [*sic., this subsection*] is appropriate, the department shall issue a written order clearly explaining the rationale to the permit holder. The permit holder shall be allowed thirty (30) days to remedy the noncompliance or appeal the determination under IC 4-21.5.

If the determination under this subsection is not appealed or remedied within the thirty (30) days allowed, the permit shall be revoked.

(b) A sign structure issued a permit under this rule may have such permit modified to a conditional permit if the department determines that changed circumstances would preclude the issuance of a permit under section 6 of this rule. Notice shall be given as provided in subsection (a). If the permit is modified to a conditional permit, the requirements of section 7 of this rule apply. (*Indiana Department of Transportation; 105 IAC 7-3-8; filed Apr 28, 1994, 9:30 a.m.: 17 IR 2044; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; readopted filed Jun 14, 2007, 2:45 p.m.: 20070627-IR-105070237RFA; readopted filed Oct 2, 2013, 11:39 a.m.: 20131030-IR-105130295RFA*)

105 IAC 7-3-9 Size and configuration criteria

Authority: IC 8-23-2-6; IC 8-23-20-25
Affected: IC 8-23-20

Sec. 9. (a) The maximum area for any sign erected after October 4, 1971, shall be one thousand (1,000) square feet and the maximum height of twenty-five (25) feet and maximum length of sixty (60) feet, exclusive of any border, trim, ornamental base, apron, supports, embellishments, and other structural members, if the exclusions do not exceed twenty percent (20%) of the sign area.

(b) The area shall be measured by the smallest square, rectangle, triangle, circle, or combination thereof which will encompass the area affected.

(c) A sign structure may display one (1) or two (2) advertisements per facing, not to exceed the maximum area as defined in subsection (a).

(d) Double-faced structures will be allowed with the maximum area being permissible for each facing. (*Indiana Department*

of Transportation; 105 IAC 7-3-9; filed Apr 28, 1994, 9:30 a.m.: 17 IR 2045; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; readopted filed Jun 14, 2007, 2:45 p.m.: 20070627-IR-105070237RFA; readopted filed Oct 2, 2013, 11:39 a.m.: 20131030-IR-105130295RFA)

105 IAC 7-3-10 Sign structure spacing criteria

Authority: IC 8-23-2-6; IC 8-23-20-25

Affected: IC 8-23-20

Sec. 10. (a) All signs erected after October 4, 1971, in adjacent areas must conform to the following criteria:

(1) On the interstate system and limited access facilities on the Federal-Aid Primary System, the following:

(A) No sign structure shall be erected within five hundred (500) feet of another structure on the same side of the highway.

(B) Outside incorporated municipalities, no structure may be located adjacent to or within five hundred (500) feet of an interchange, intersection at grade, or rest area, said five hundred (500) feet to be measured along the interstate or limited access primary highway from the beginning or ending of pavement widening at the exit from or entrance to the main-traveled way.

(2) On other routes on the Federal-Aid Primary System, the following:

(A) Outside of incorporated municipalities, no sign structure shall be erected within three hundred (300) feet of another sign structure on the same side of the highway.

(B) Inside incorporated municipalities, no sign structure shall be erected within one hundred (100) feet of another sign structure on the same side of the highway.

(b) The spacing-between-sign structure rules in subsection (a)(2) shall not apply to sign structures separated by a building or other obstruction in such a manner that only one (1) sign structure is visible from any point on the highway at any one (1) time.

(c) Official and on premise signs shall not be counted nor shall measurements be made from them for purposes of determining compliance with spacing requirements.

(d) The minimum distance between signs shall be measured along the nearest edge of the pavement between points directly opposite the signs along each side of the highway. *(Indiana Department of Transportation; 105 IAC 7-3-10; filed Apr 28, 1994, 9:30 a.m.: 17 IR 2045; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; readopted filed Jun 14, 2007, 2:45 p.m.: 20070627-IR-105070237RFA; readopted filed Oct 2, 2013, 11:39 a.m.: 20131030-IR-105130295RFA)*

105 IAC 7-3-11 Sign lighting criteria

Authority: IC 8-23-2-6; IC 8-23-20-25

Affected: IC 8-23-20

Sec. 11. This section applies to signs located within adjacent areas. Signs may be illuminated, subject to this rule and the following restrictions:

(1) Signs which contain, include, or are illuminated by any flashing, intermittent, or moving light or lights are prohibited, except those giving public service information such as time, date, temperature, weather, or similar information.

(2) Signs which are not effectively shielded to prevent beams or rays of light from being directed at any portion of the traveled ways of highways in the control areas, and which:

(A) are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle; or

(B) otherwise interfere with any driver's operation of a motor vehicle;

are prohibited.

(3) No sign shall be so illuminated as to obscure or interfere with the effectiveness of an official traffic sign, device, or signal. *(Indiana Department of Transportation; 105 IAC 7-3-11; filed Apr 28, 1994, 9:30 a.m.: 17 IR 2045; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; readopted filed Jun 14, 2007, 2:45 p.m.: 20070627-IR-105070237RFA; readopted filed Oct 2, 2013, 11:39 a.m.: 20131030-IR-105130295RFA)*

105 IAC 7-3-12 Miscellaneous criteria

Authority: IC 8-23-2-6; IC 8-23-20-25

Affected: IC 8-23-20

Sec. 12. The following signs shall not be eligible for a permit:

- (1) Signs which are illegal under state laws or rules.
- (2) Signs not securely affixed to a substantial structure.
- (3) Signs which attempt or appear to attempt to regulate, warn, or direct the movement of traffic or which interfere with, imitate, or resemble any official traffic sign, signal, or device.
- (4) Signs which are erected or maintained upon trees or painted or drawn upon rocks or other natural features.
- (5) Signs otherwise inconsistent with:
 - (A) 23 U.S.C. 131, as effective December 18, 1991;
 - (B) 23 CFR 750;
 - (C) IC 8-23-20; or
 - (D) this rule.

(Indiana Department of Transportation; 105 IAC 7-3-12; filed Apr 28, 1994, 9:30 a.m.: 17 IR 2046; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; readopted filed Jun 14, 2007, 2:45 p.m.: 20070627-IR-105070237RFA; readopted filed Oct 2, 2013, 11:39 a.m.: 20131030-IR-105130295RFA)

105 IAC 7-3-13 Separability

Authority: IC 8-23-2-6; IC 8-23-20-25

Affected: IC 8-23-20

Sec. 13. The terms of this rule are declared to be separable. Should any word, phrase, sentence, or section be declared unconstitutional or otherwise invalid, the remainder of this article shall not thereby be affected, but shall remain in full force and effect. *(Indiana Department of Transportation; 105 IAC 7-3-13; filed Apr 28, 1994, 9:30 a.m.: 17 IR 2046; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; readopted filed Jun 14, 2007, 2:45 p.m.: 20070627-IR-105070237RFA; readopted filed Oct 2, 2013, 11:39 a.m.: 20131030-IR-105130295RFA)*

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