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LIMITED ACCESS RIGHT-OF-WAY (LARW) BREAK GUIDANCE

This guidance is current as of the date below, and is subject to further revision or update. To confirm current policy as it will apply to specific projects, please consult with local district Permit staff.

Summary: This document provides guidance on necessary steps to request new or modified access points to Indiana limited access roadways. It includes requirements for the justification of the request, and what documentation necessary to substantiate the request**.** *Also attached to the document is a flow chart outlining the process to provide a visual outline of INDOT's step by step review and approval process.*

LARW protects the traffic and safety operational integrity of the State's roadway network and the significant financial investment of that network. Changes to limited access control will be considered only for a compelling reason and when no viable alternatives exist.

This LARW Break Guidance complements the agency's Driveway Permit Manual.

Background: The surface transportation system plays a key role in shaping the economic health, quality of life and sustainability of the State. LARWs are an integral part of the surface transportation system, enabling the distribution of goods and services across Indiana. Procedures that protect that limited access are essential to preserve and enhance Indiana's State roadway system to comport with the surface transportation system.

This guidance document outlines the requirements for the justification and documentation necessary to substantiate any proposed changes in access to a LARW. This document also sets out steps to evaluate proposed access changes in a manner consistent with the vision, goals, and long-range transportation plans of the State.

Indiana Code 8-23-8-4(d) states: ***"A municipal street, a county or state highway, or other public way may not be opened into or connected with a limited access facility without prior consent of the authority having jurisdiction over the facility. Consent under this subsection may be given only if the PUBLIC INTEREST is served."*** *[Emphasis added]*

REQUIREMENTS FOR INDOT REVIEW OF LARW REQUEST

1. Commitments from INDOT relative to LARW break requests shall not be made before final approval is reached following the process outlined below.

2. The request for access must provide a detailed written explanation as to how and why the existing access points to State roadways and adjacent local roadways in the corridor do not provide the desired access, or how those roadways require improvement to satisfactorily accommodate traffic demands.

   a. Each break in the control of access to State right-of-way is an access point and must be identified in the request.

   b. For the purpose of these procedures, each entrance or exit point (including "locked gate" access) is also considered an access point and must be identified in the request.

3. Review of the acquisition documents to verify that the impacted road is LARW should be done by the INDOT Central Office (CO) Records Manager.

4. The proposed break must not negatively modify roadway drainage or storm water features. An analysis of present and future drainage is required if the project modifies or crosses a drainage feature or storm water management feature. All proposed drainage features must meet requirements of the Indiana Design Manual (IDM). Hydraulic calculations must be reviewed and approved by the CO Hydraulics Director.

5. Traffic operational analysis (TOA, referenced as "traffic operations analysis study" in the Indiana Administrative Code) or a full traffic impact study analysis (TIS) must be completed and conclude that the proposed access change does not have an adverse impact on the safety and operation of State roadways now or in the future. It must also conclude that the request is reasonable, and that no feasible alternative options exist. The District Permit Manager, in consultation with the District Traffic Engineer and CO Traffic Engineering Director, will determine what level of study is required.

6. Each proposed access point for a drive must only connect to a public road and provide for specific traffic movements.

7. Each proposed access point must be consistent with local and regional land use and transportation plans and meet local zoning requirements. When a new or revised access point is proposed to respond to a new, expanded, or substantial change in current or planned future development or land use, the request must include documentation of approval from all approvers identified in the LARW Break Approval Form.

8. In corridors where potential exists for *future multiple* access breaks, a comprehensive corridor or network study must accompany the request. The request must include recommendations addressing the proposed access changes within the context of a long-range plan.

9. **Non-Interstate LARW breaks vs. Interstate LARW breaks**

   a. **Non-Interstate LARW break** requests for a new or revised access point must include a State Environmental Policy Act (SEPA) document addressing impacts to environmental resources. The SEPA document must be reviewed by the Environmental Services Director, and then approved by INDOT as the agency granting the break. Breaks that do not receive regulatory approval will not be approved by INDOT.

b. **Interstate LARW breaks, including LARW not along the trunk line:**

1. **INDOT is required to submit Interstate LARW break requests to the Indiana FHWA Division Office for review and approval.** As part of the FHWA-INDOT Stewardship and Oversight Agreement, FHWA maintains approval authority of LARW breaks on the Interstate System.

2. FHWA approval constitutes a Federal action. As such, requires compliance with the National Environmental Policy Act (NEPA); that is, it requires an environmental study.

3. For select types of Interstate access changes, instead of these procedures, the applicable authority is the State of Indiana Interstate Access Request Procedures. The latter document applies principally to significant modifications in the form of adding or deleting on- or off-ramps at interchanges. INDOT is the sponsor of the requested action, appealing to FHWA for permission to alter access. In most cases, actions of this type are within the agency's capital construction program (for instance, adding a loop ramp at an existing diamond interchange, or constructing an interchange at an entirely new location).

10. **Final Approval for a LARW Break**

a. **Non-Interstate LARW:** Requests for drive access alterations are approved by the respective District Deputy Commissioner.

b. **Interstate LARW:** Requests for drive access alterations, including LARW breaks not on the mainline Interstate, can only be approved by the Commissioner or the Commissioner's designee, i.e. the INDOT the Managing Director of Engineering, Chief Engineer. While the Chief Engineer is the final approving authority for INDOT, explicit approval is also required from FHWA (Indiana Division Office in Indianapolis).

c. Proposals must complete intermediate steps of review and approval prior to final approval by the District Deputy Commissioner or Chief Engineer.

PERMIT PROCESS PROCEDURE FOR CHANGES IN ACCESS TO LARW

1. An application for a Driveway Permit must be submitted to and reviewed by the respective District's Permit staff and other parties as outlined. The application must include all necessary information along with a brief description of the project. The description should explain the justification as to why access should be altered and details regarding alternatives, including "do nothing." The application must include:

a. TOA or TIS, if warranted, along with reviewer comments. (The TIS requirement may be waived by INDOT but the waiver must be made in writing to the applicant.)

b. Plans prepared and stamped by a Registered Engineer in the State of Indiana, in a suitable format for constructability.

c. A hydraulic analysis, if the project modifies or crosses a drainage feature or storm water management feature.

d. A SEPA or NEPA guidance, as detailed above, describing impacts to the human and natural environments.

e. If additional lanes are proposed (including auxiliary lanes), a separate plan sheet dedicated to maintenance of traffic (MOT) in accordance with the IDM and Indiana Manual for Uniform Traffic Control Devices (IMUTCD). A plan sheet should be dedicated to pavement markings for proposed additional lanes.

*Submitting the required documents in **no way implies that limited access will be changed or a break will be granted**. Each document is a tool to evaluate if the **"public interest is served."** FHWA may be involved in the permitting approval process, and may require additional information or analysis.*

f. If a traffic signal is proposed, plans for the construction of the traffic signal. If a traffic signal is not proposed initially but warranted in the future, the requestor may be required to complete a traffic signal covenant.

g. All ownership/developer documentation, such as a deed, affidavit, title, etc., that provides proprietorship information about the property.

h. All acknowledgement letters (for example, LPA support, zoning permits, remonstration or letters from other governmental agencies).

All documentation and communication should be exchanged through INDOT's EPS messaging system.

2. Once all the necessary information is received, along with all District technical expert reviews and recommendations, then the District's Permit staff will forward its recommendation to the District Permit Manager. The District Permit Manager may elect to deny or move forward with any request to alter access of the highway based on sound professional judgment provided by the recommendations of the aforementioned technical experts.

3. **INDOT will determine the value of the enhancement to the property in order to assure the State will receive adequate compensation for the proposed break.** The Real Estate Division will arrange for a "before and after" valuation analysis to determine if compensation is required due to the property being enhanced by the break.

If the LARW Break request is to change a field entrance to a residential driveway, then the district may approve without CO review as long as there is no change in the location or size of the opening.

4. If the District Permit Manager reviews and determine~~s~~ the information provided by the required areas of INDOT technical expertise and the documentation are sufficient, and

the applicant is prepared to pay the acquisition charges, then the request moves forward to the CO Real Estate Division and other involved INDOT offices.

If the applicant wishes to obtain its own appraisals: Notify the applicant that those appraisals are subject to INDOT's review and consideration. State law requires INDOT's appraisers to determine value.

5. For cases involving Interstate LARW, the Managing Director of Engineering, Chief Engineer will review and make the final determination for INDOT to approve or deny the LARW break, based on the information provided in the application and comments provided by INDOT technical experts. (FHWA retains final approving authority for Interstate break requests.)

6. The District Permit Manager will continue processing the application upon receiving the final decision.

   a. **If approved:** The District Permit Manager will ensure that technical expert comments have been addressed, contact CO Real Estate to begin property disposal efforts, and proceed with the application approval process.

   b. **If denied:** The District Permit Manager will proceed with the application denial process.

POST CONSTRUCTION PROCEDURES

1. If construction of the Driveway Permit has been completed to the satisfaction of the District Permit Inspector's permit completion compliance review, a notification will be sent via EPS to announce project completion.

2. Upon completion of construction and prior to releasing the performance bond or complying the permit:

   a. The Real Estate Operations Supervisor will prepare a quitclaim deed in conjunction with INDOT legal that will quitclaim the right to control ingress/egress along the break.

      The permittee (requestor) must supply all of the following items to INDOT CO Real Estate:

      1. Completed Real Estate W-9 Form (provided by INDOT CO Real Estate).
      2. Legal description of the proposed LARW break.
      3. Plat of a licensed stamped survey accompanied by the description(s).
      4. Proof of ownership of parcel impacted by the break (Title Report, Abstract of Title, Last Deed of Record).
      5. Corporate Authority Affidavit (if title is under corporation) or other affidavits, as applicable.

6. For new right-of-ways, re-acquisition of the existing right-of-way if an adjoining property owner owns fee simple to the centerline of the existing road.

7. Any charges will be based on the fair market value assessed for changes in valuation as required by Indiana Code, as communicated at the outset of the project to the applicant by the District Permit Manager.

b. The Real Estate Operations Supervisor will route the deed for signatures, and then to the Research and Documents Library for recordation in the appropriate county.

c. Once the recorded deed has been returned back from the respective county, the Real Estate Operations Supervisor will upload the recorded deed into EPS and send the original deed to the permittee.

3. One year after the permit has been completed, the permitted work will be inspected by District Permit Staff to conduct an operational and safety analysis of the break and ensure compliance with permit requirements and best management practices to control for and prevent pollutant discharge onto INDOT's right-of-way.

a. If the permit conditions and provisions have been met, the permit is complied/closed out and the performance bond is released by the District Permit Manager.

b. If the inspection uncovers deficiencies, the permittee is required to make necessary repairs. If the permittee refuses to timely complete the repairs, then INDOT will call in the bond and see that the work is completed satisfactorily.

Limited Access of Right-of-Way Break Permitting Process

A request is made to alter the breaks on a limited access INDOT right-of-way.

The request must include detailed written justification and concept drawings. **Permit Mgr.** receives them and provides to **DDC** for review. **Permit Mgr.** notifies applicant upfront that there will be a fair market value charged for breaking INDOT LARW if approved.

Does request pass initial **DDC** review?

No → Request denied.

Yes → **Permit Mgr.** sends request to **CO Real Estate Records Mgr.** to verify this is a LARW.

Is this a verified LARW?

No → Request follows standard permit procedure.

Yes → **Permit Mgr.** sends break request plans for technical review.

Initial technical review

All reviews are to be completed within 10 days.

- ***Hydraulics Engineer** conducts drainage impact review.
- ***Traffic Engineer** determines level of study required, if other access could be utilized.
- ***Mgr. of Corridor Development** assesses feasibility of project.
- **CO Environmental** conducts review for SEPA/NEPA compliance.

Permit Mgr. compiles and reviews feedback.

Are unresolvable issues identified by technical review?

Yes → Request denied.

No → **Permit Mgr.** provides technical review responses from all areas to **DDC** to review.

Does request pass **DDC** initial review?

No → Request denied.

Yes → Is this an Interstate?

Yes → **Permit Mgr.** sends a notification to **FHWA** & **Director of Traffic Engineering** via EPS to alert them of request.

No → **Permit Mgr.** assists applicant with completing application process, receives final plans, and holds scoping meeting with consultant.

Technical review of final plans

All reviews are to be completed within 10 days.

- ***Hydraulics Engineer** reviews drainage design.
- ***Traffic Engineer** reviews Traffic Impact Study and signal design.
- ***Design Engineer** reviews plans for sufficient detail.
- **CO Real Estate** reviews ownership/ developer documentation, legal description of break.
- **CO Environmental** reviews SEPA/ NEPA documentation.

Do all technical experts approve?

No → Are unresolvable issues identified by technical review?

No → Applicant takes actions to resolve issue.

Yes → Request denied.

Yes → *Continued on next page*

***For Interstates:**
Reviews must be completed by Central Office.
For non-Interstates:
Reviews may be completed by District if expertise in these areas is available.

Abbreviations:
CO: INDOT Central Office
DDC: District Deputy Commissioner
FHWA: Federal Highway Administration
LARW: Limited access right-of-way
NEPA: National Environmental Policy Act
SEPA: State Environmental Policy Act

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Permit Mgr. drafts Letter of Recommendation with attached LARW Break Approval Form for final sign-off.

Form must be initialed by:

- **Director of Traffic Engineering**
- **CO Director of Real Estate**
- **Director of Highway Design**
- **Director of Hydraulics**
- **CO Director of Environmental Services**

Additional initials required for INDOT construction projects.
- **Director of Construction & Material Management**
- **Project Manager**

Sign-off by **District TSD**.

Sign-off by DDC.

Final check/ signature by **District Permit Mgr.** to ensure all sign-offs have occurred.

Is this an Interstate?

Yes → **Managing Director of Engineering, Chief Engineer** solicits comments from FHWA.

Does the project receive sign-off from FHWA?

No → Request denied.

Yes → Final review by **Managing Director of Engineering, Chief Engineer**.

No → LARW Break Permit is approved.

CO Real Estate Process

Some steps happening concurrently with permitting processes.

Obtain copy of INDOT deed.

Approve legal description and plat.

Request HAZMAT and Categorical Exclusion (CE) Environmental review from CO Environmental.

Request Valuation Analysis.

Prepare Commissioner's Order with justification documentation.

Any Federal lands?

Yes → Compute payback percentage.

No → Send offer letter with conditions to applicant.

Post Construction

Permit Manager notifications

Inspection one year after completion: If all work is acceptable, notification is sent to appropriate INDOT departments notifying them of project completion. **Permit Mgr.** closes out permit and releases bond.

- **CO Real Estate Operations Supervisor**
- **Managing Director of Engineering, Chief Engineer**
- **State Permit Executive**
- **CO Technical Services Director**

Prior to releasing Performance Bond, **Real Estate Operations Supervisor** prepares Quit Claim Deed, then sends to **Research and Recordings** for recording in appropriate county.

Receive confirmation that Quit Claim Deed is recorded.

Real Estate Operations Supervisor uploads recorded deed to EPS.