

603 KAR 5:120. Access control of highways.

RELATES TO: KRS 175.450(7), (9), 176.050(1)(i), 177.106, 177.230, 177.240(1), 177.315, 177.410(8), 177.440

STATUTORY AUTHORITY: KRS 174.080(2), 175.450(7), (9), 176.050(1)(i), 177.230, 177.240(1), 177.410(6), (8)

NECESSITY, FUNCTION, AND CONFORMITY: KRS Chapter 177 provides the authority to define, design, construct, and maintain highways whereby the access is controlled. This administrative regulation sets forth procedures to designate or modify the type of control to be utilized.

Section 1. Definitions.

- (1) "Access by permit" means all highways designated as access by permit on the department's plans.
- (2) "Access control" means the condition where the privilege to access a highway by abutting owners, occupants, or other persons is controlled by public authority. Types of access control include access by permit, fully-controlled access, and partially-controlled access.
- (3) "Commissioner" means the Commissioner of Highways.
- (4) "Department" is defined by KRS 176.010(1).
- (5) "Department's plans" means the department's current plans which are based upon plans made at the time of contract letting together with any subsequent changes in access control made in conformance with applicable laws and administrative regulations.
- (6) "Fully-controlled access" means all highways which give preference to through traffic and which shall have access only at selected public roads or streets and which shall have no highway at grade crossings or intersections. The termini for control of access shall be as shown on the department's plans.
- (7) "Partially-controlled access" means all highways which give preference to through traffic. However, access to selected public roads and streets may be provided and there may be some highway at grade intersections and private driveway connections as shown on the department's plans. The termini for control of access shall be as shown on the department's plans.
- (8) "Railroad access" means an approved access point to a highway which is used for railroad maintenance purposes only and which is specifically shown on the department's plans.
- (9) "Rural" means all areas other than urban.
- (10) "Urban" means areas of residential, commercial or industrial developments of sufficient concentration that they constitute or are characteristic of a city which necessitates, for safety reasons, reduced highway speed limits to forty-five (45) MPH or less, excluding speed limits on interstate systems.

Section 2. Title Block. One (1) of the three (3) boxes shown below shall be placed on the title sheet and summary sheet of the plans for all state and federal-aid projects. Applicable notes may be inserted in the box.

THIS PROJECT IS A FULLY
CONTROLLED ACCESS HIGHWAY
THE CONTROL OF ACCESS ON THIS PROJECT
SHALL BE BY PERMIT

THIS PROJECT IS A PARTIALLY CONTROLLED
ACCESS HIGHWAY. ACCESS SHALL BE ALLOWED
ONLY WHERE SPECIFICALLY SHOWN ON PLANS

Section 3. Access: Additions and Alterations.

(1) On all highways where access control is by permit, the department has established criteria for modifying existing access or allowing additional access points that considers the safety and the interest of the highway users. Permits may be issued by the department for additional access provided they are in conformance with the department criteria in 603 KAR 5:150.

(2) On all highways where access is "fully controlled," additional accesses shall be granted only by constructing new interchanges, with grade separations where applicable. Design of these new interchanges shall be in conformance with the department's current design standards.

(3) On all highways where access is "partially controlled," the department may permit relocation or shifting of existing access points, addition of new access points, elimination of existing access points, or modification of access points under the following circumstances:

(a) An access point may be relocated, eliminated or shifted by the Transportation Cabinet. The access shall remain on the same side of the highway, cannot go beyond another existing entrance and shall meet minimum spacing as established by KRS 177.315 and shall be an improvement based on standard engineering practices and safety criteria. The offset distance between access points located on opposite sides of the highway shall not be less than the minimum spacing distance established in KRS 177.315.

(b) Additional access points may be permitted provided the criteria established by KRS 177.315 are followed and a permit request is processed as set forth in Section 4 of this administrative regulation in accordance with the procedures set forth in Section 5 of this administrative regulation. The offset distance between access points located on opposite sides of the highway shall not be less than the minimum spacing distance established in KRS 177.315.

(4) When a previous decision specifying access control is no longer necessary, as determined by the department, the department may change the access control designation to the extent justified in accordance with procedures outlined in Section 5 of this administrative regulation.

(5) If the railroad tracks which justify railroad access to a highway are no longer usable or the property on which the tracks lie has been sold for nonrail purposes, railroad access shall no longer be allowed at that point. In such instances the department shall not be required to alter its plans. If the property owner wishes to apply for access, he may do so in accordance with the provisions of this administrative regulation and 603 KAR 5:150.

Section 4. Processing Requests for Changes in Access by Permit Applicants.

(1) Any firm, individual or governmental agency which owns property adjacent to a state-maintained highway may apply for a permit from the Department of Highways for access to that highway. Application shall be made on Transportation Cabinet Form TC 99-1, Encroachment Permit revised 3/99.

(2) All permit applications involving access shall be filed with the department's district office for the county in which the requested access point is located.

(3) Permit applications affecting highways where access control is by permit may be approved or disapproved at the district level or submitted to higher authority in

accordance with procedures established in 603 KAR 5:150. Permit applications affecting highways where access is fully or partially controlled may be disapproved at the district level, or submitted to the State Highway Engineer with or without a recommendation for approval. If the district office disapproves an application for permit, the applicant shall be notified in writing of the reasons for disapproval.

(4) The State Highway Engineer shall review the application for a permit for access to a fully or partially controlled highway and obtain the recommendations of the Directors of the Divisions of Maintenance, Traffic, Construction, Right-of-way and Design of the department in addition to the Federal Highway Administration and Turnpike Engineer Consultant when applicable. The State Highway Engineer shall submit his recommendation, together with the various recommendations received by him, to the commissioner.

(5) Except as provided in Section 3(3)(a) of this administrative regulation, when the State Highway Engineer recommends approval of a permit request where access control is full or partial, the commissioner shall provide an opportunity for a public hearing to be held in accordance with 600 KAR 1:030. After reviewing the results of the hearing, the Commissioner of Highways shall make the final decision and advise the State Highway Engineer to implement the decision. The department shall then notify the applicant of the final decision on the application.

(6) When approval is given, the department may require the applicant to furnish documentation contained in 603 KAR 5:150 prior to issuing a permit for the construction of the additional access. Also, prior to issuance of the permit, the owner of the property shall compensate the Department of Highways for any increase in value to the affected property attributable to the new access based on before and after value appraisals by the Department of Highways. The property owner shall also reimburse the department for administrative expenses incurred in processing the permit, reviews, hearing and appraisals. The cost of construction and maintenance of the new access shall be borne by the property owner(s).

Section 5. Procedures for Changing the Type of Access Control on an Existing Highway Facility.

(1) All requests for changing the type of access control on an existing roadway shall be forwarded to the State Highway Engineer.

(2) Access restrictions may be reduced to a level capable of meeting traffic control needs when no significant detriment to highway safety will occur under the following circumstances:

(a) The existing roadway has been replaced by a parallel route which takes traffic away from the existing roadway and the function of the highway has been officially reduced; for example, arterial to collector; or

(b) An analysis of the original traffic projections are made and it is determined that the entire corridor has been constructed and potential land use developments have been accomplished.

(3) More restrictive control of access may be established when necessary to meet highway safety requirements and traffic control needs.

(4) The State Highway Engineer shall review the request and obtain the recommendations of the Directors of the Divisions of Maintenance, Traffic, Construction, Right-of-Way and Design of the department in addition to the Federal Highway Administration and Turnpike Engineer Consultant when applicable. The State Highway Engineer shall submit his recommendation, together with the various recommendations received by him, to the commissioner who in accordance with 600 KAR 1:030 shall provide an opportunity for a public hearing to be conducted. After reviewing the results of the

hearing, the commissioner shall make the final decision and advise the State Highway Engineer to implement the decision.

(5) The department shall modify the plans and deeds when applicable.

(6) In situations where more restrictive access control is imposed, the department shall provide reasonable access or shall compensate the property owner(s) for loss of reasonable access.

(7) The Commissioner of Highways may make any exceptions to the procedures set forth in this section as are deemed necessary in order to comply with all applicable federal laws and regulations.

Section 6. Revised Deed. Every deed of conveyance of property acquired by the department for purposes of right-of-way for any state or federal project shall, in addition to the official order number, show the designation of the type of access highway involved as defined in Section 1 of this administrative regulation. If new access is allowed, the deed of conveyance shall be modified by filing a deed of correction at the expense of the property owner who applied for the permit if deemed necessary by the department.

Section 7. Record Availability. The department shall maintain records for public inspection at its office in Frankfort, Kentucky, of all completed state and federal projects, together with the designation of the type of access to be allowed on the project as defined in Section 1 of this administrative regulation.

Section 8. Request for Reconsideration. Any firm, individual or governmental agency who has had an application for permit disapproved at the district office may file a request for reconsideration of the decision by the State Highway Engineer. The request shall be submitted to the highway district office. The request shall include a copy of the disapproved application, the letter of disapproval from the district office and a listing of the reasons why the applicant believes the district office's decision should be reconsidered. The district office shall then forward the request to the central office. The State Highway Engineer shall issued the department's final approval or disapproval.

Section 9. Incorporation by Reference.

(1) Transportation Cabinet form TC 99-1, "Encroachment Permit" revised 3/99 is incorporated by reference.

(2) This material may be inspected, copied, or obtained Monday through Friday between 8 a.m. and 4:30 p.m. at:

(a) Office of Policy and Budget, Policy and Procedures Branch, Transportation Cabinet, State Office Building, Frankfort, Kentucky 40622;

(b) Division of Traffic, State Office Building, Frankfort, Kentucky 40622; or

(c) Any of the twelve (12) highway district offices.

(11 Ky.R. 1225; eff. 3-12-1985; 14 Ky.R. 1648; 1917; eff. 4-14-1988; 26 Ky.R. 1032; 1412; eff. 1-13-2000; Crt eff. 4-1-2019.)