



Chapter Eight

ACCESS MANAGEMENT

MONTANA RIGHT-OF-WAY
OPERATIONS MANUAL

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Chapter Eight

ACCESS MANAGEMENT

8-1 ACCESS MANAGEMENT POLICY

8-1.1 Policy – General

8-1.1.1 Purpose

It is the policy of the Montana Department of Transportation (MDT) to manage access to highway facilities on the State highway system. The purpose of access management is to maintain the flow of traffic and the functional integrity of the highway, enhance public safety, preserve the public's investment in the highway, reduce future maintenance costs and permit highway expansion on existing locations.

8-1.1.2 Control of Access

An owner of property adjacent to a public road has the right to access that road from the property. This right is not an absolute right, rather a property right that is subject to the state's police power. As such, so long as the exercise of that power leaves the landowner with reasonable access, there is no taking of a property right and no compensation is due.

Access control may also be acquired by eminent domain. If it is determined that the police power does not apply to any parcel involved, or that the remaining access is not determined as reasonable, compensation may be due. Access control may also be acquired including such means as donation or acquisition from a willing buyer to a willing seller.

8-1.1.3 Access Control Resolution

The Montana Transportation Commission may designate a portion of any highway to be a "controlled access highway" by adopting an Access Control Resolution. Development of an Access Control Resolution is a 3-step process. First, the project is nominated for consideration as a limited access facility. Then, after a public involvement process has been completed, the Transportation Commission may adopt a resolution declaring the project, or portions thereof, to be a controlled access highway or facility. This will be done later in the development of a project, after an access control plan is developed

and the public has had a chance to review and comment. As the final step, the Access Control Resolution will be amended following completion of the right-of-way acquisition for the highway project. Access control details will be added to the resolution concerning the number and location of allowable access points as reflected in the access control plan.

8-1.1.4 Modification of Resolution

Requests to modify existing access control will be made by the District to the Rail, Transit and Planning Division. The Rail, Transit and Planning Division will enter the request to the Systems Impact Action Process, at which time the Access Management Section will evaluate the request along with any other MDT review. A staff recommendation will be prepared based on whether the proposed access affects the safety and/or function of the facility, as well as other factors applicable to the request. If MDT recommends modification, it will submit the proposed modification of the resolution to the Transportation Commission for action. MDT may require the owner of the property to mitigate traffic impacts through improvements such as lane modifications or the installation of traffic control devices as part of the approach permitting process after the resolution has been modified.

8-1.2 Access Control on Highway Systems

Access control measures will be undertaken for the major highway systems as indicated below:

1. Interstate System (National Highway System [NHS]). Full access control is mandatory on all Interstate highways. Access is allowed only at grade-separated interchanges. Locked gates in the right-of-way fence are allowed within the parameters defined within the MDT's Locked Gate Policy (See Section 8-4 for additional guidance).
2. Non-Interstate NHS System. Limited access control may be implemented based on MDT recommendation and Transportation Commission action.
3. Primary Highway System. Limited access control may be implemented based on MDT recommendation and Transportation Commission action.
4. Secondary Highway System. Limited access control may be implemented based on MDT recommendation, corresponding County consent and Transportation Commission action.

5. Urban Highway System. Limited access control may be implemented based on MDT recommendation, corresponding City Council consent and Transportation Commission action.

8-2 ACCESS CONTROL PROCESS CRITERIA

8-2.1 Access Classification Categories

Access density and spacing criteria apply to highway classifications based on their current and future traffic and land use patterns, as indicated below. Divided and undivided roadways are treated differently for each classification as well. These highway classifications are as follows:

1. Rural Very Low Volume. All non-Interstate rural highways with forecasted traffic volumes of less than 2,000 average annual daily traffic (AADT) in 10 years.
2. Rural. Those areas having an AADT greater than 2,000 in 10 years, with adjacent land use being agricultural or natural resource-based.
3. Intermediate. Key areas that benefit from strong access management. Areas that are adjacent to fully developed areas, including urban areas adjacent to city limits, and where MDT is concerned that development without attention to access management will significantly affect the performance and safety of the system.
4. Developed. Areas where access has already reached the tolerable limits. Very little, or no, vacant land is available for development. Access densities typically will be reduced only through a reconstruction project or a long-term access management plan.

8-2.2 Access Density Thresholds

The following access density criteria apply to the classification categories:

1. Rural. No more than 3 “non-farm” access points per km (5 access points per mile).
2. Intermediate. Greater than 3 and less than or equal to 15 access points per km (5 to 25 access points per mile).
3. Developed. Greater than 15 access points per km (25 access points per mile).

8-2.3 Spacing Criteria

Figure 8-2A may be used to determine ideal minimum access spacing for each highway classification. The Department makes every reasonable effort to adhere to the spacing and density criteria when designing a limited access facility. The critical control variables are signal spacing bandwidth, median opening spacing and minimum unsignalized access spacing.

Category	Cross Section	Area	Signal Spacing Bandwidth	Median Opening Spacing ¹	Minimum ² Unsignalized Access Spacing	Denial of Direct Access When Other Available
NHS	Undivided	Rural – Very Low Volume	N/A	N/A	N/A ³	no ³
		Rural	800 m – 45%	N/A	200 m	yes ⁴
		Intermediate	800 m – 45%	N/A	200 m	yes ⁴
		Developed	400 m – 40%	N/A	75m/90 m ⁵ – 100 m/115 m ⁵	yes ⁴
		Intermediate	800 m – 45%	800 m F – 400 m D	165 m	yes ⁴
	Divided	Developed	400 m – 40%	400 m F – 200 m D	75 m	yes ⁴
		Rural – Very Low Volume	N/A	N/A	N/A ²	no
		Rural	800 m – 45%	N/A	200 m	yes ⁴
		Intermediate	800 m – 45%	N/A	130 m, 165 m, 200 m ⁶	yes ⁴
		Developed	800 m – 45%	N/A	75m/90 m ⁵ – 100 m/115 m ⁵	no
Primary	Undivided	Intermediate	800 m – 45%	800 m F – 400 m D	105 m, 130 m, 165 ⁷	yes ⁴
		Developed	400 m – 35%	400 m F – 200 m D	45 m	no
		Rural – Very Low Volume	N/A	N/A	N/A ³	no ³
		Rural	½ mile – 45%	N/A	660 ft	yes ⁴
		Intermediate	½ mile – 45%	N/A	660 ft	yes ⁴
	Divided	Developed	¼ mile – 40%	N/A	250 ft/300 ft ⁵ – 325 ft/375 ft ⁵	yes ⁴
		Intermediate	½ mile – 45%	½ mile F – ¼ mile D	550 ft	yes ⁴
		Developed	¼ mile – 40%	¼ mile F – ¼ mile D	250 ft	yes ⁴
		Rural – Very Low Volume	N/A	N/A	N/A ²	no
		Rural	½ mile – 45%	N/A	660 ft	yes ⁴
NHS	Undivided	Intermediate	½ mile – 45%	N/A	440 ft, 550 ft, 660 ft ⁶	yes ⁴
		Developed	½ mile – 45%	N/A	250 ft/300 ft ⁵ – 325 ft/375 ft ⁵	no
		Intermediate	½ mile – 45%	½ mile F – ¼ mile D	350 ft, 440 ft, 550 ft ⁷	yes ⁴
		Developed	¼ mile – 35%	¼ mile F – ¼ mile D	150 ft	no
		Rural – Very Low Volume	N/A	N/A	N/A ³	no ³
	Divided	Rural	½ mile – 45%	N/A	660 ft	yes ⁴
		Intermediate	½ mile – 45%	N/A	660 ft	yes ⁴
		Developed	¼ mile – 40%	N/A	250 ft/300 ft ⁵ – 325 ft/375 ft ⁵	yes ⁴
		Intermediate	½ mile – 45%	½ mile F – ¼ mile D	550 ft	yes ⁴
		Developed	¼ mile – 40%	¼ mile F – ¼ mile D	250 ft	yes ⁴

US Customary

1) N/A = Not Applicable, F = Full Movement, D = Directional Only
 2) Stricter criteria could apply if supported by other jurisdictions and Tribal governments.
 3) Considerations other than unsignalized access spacing should govern (e.g., sight distance).
 4) If alternative access is unavailable, one direct approach may be allowed. For major traffic generators, more than one driveway may be allowed if it is proven to MDT's satisfaction that there will be a significant benefit to the highway network. This will require submission of a traffic impact study by the applicant.
 5) Two-lane/multi-lane undivided with or without TWLTL, 75 m/ 90 m (250 ft/300 ft) applies to posted speeds of 35 mph or lower, 100 m/115 m (325 ft/375 ft) applies to posted speeds greater than 35 mph but less than 45 mph.
 6) The 130 m (440 ft) value applies to a 45 mph posted speed, 165 m (550 ft) applies to a 50 mph posted speed, and 200 m (660 ft) applies to a 55 mph or above posted speed.
 7) The 105 m (350 ft) value applies to a 45 mph posted speed, 130 m (440 ft) applies to a 50 mph posted speed, and 165 m (550 ft) applies to a 55 mph or above posted speed.

Recommended Montana Access Guidelines
 Figure 8-2A

8-3 ACCESS CONTROL STUDY AND PLAN

8-3.1 Access Control Study

8-3.1.1 Purpose

Access to the State highway system may be controlled by resolution of the Transportation Commission to limit public and private at-grade approaches to specific locations. Right-of-way plans developed for this purpose will include the access control symbol and allowable approach locations. Special access studies are needed to plan and develop a limited access control project. The Right-of-Way Access Management Section will request the Right-of-Way Special Programs Section to prepare these studies.

8-3.1.2 Study Preparation

The Special Programs Section performs the following actions when conducting the Access Control Study:

1. Identify, by station, the location of existing public and private approaches, the land use served, and, if private, the landowner's name or, if public, the street name and jurisdiction.
2. Prepare a map showing the boundaries of each ownership parcel contiguous to the highway and the location of each existing access in relation to the parcel boundaries. A recent aerial map or as-built plans will be used for this purpose, if available. A contiguous ownership map or other appropriate means may be used if as-built plans or aerial photos are not available or do not reflect current conditions.
3. Identify any other existing or practical means of alternative reasonable access to each parcel.
4. Identify redundant approaches that could be eliminated or combined. Consider joint use approaches at any common boundary.
5. Identify any additional approaches needed to provide reasonable access to avoid land locking a parcel.
6. Include any recommendations for frontage roads, alternative means of reasonable access or comments pertinent to the access control process.

7. Contact the local planning board authorities and inquire whether:
- there are any special requirements for access,
 - there are any new subdivisions or other future developments are planned in the area,
 - there have been any access limitations imposed in the area,
 - any zoning exists in the area, and
 - there is any other information pertinent to the completion of the access control plan, such as an existing land use plan.

8-3.2 Access Control Plan and Guidelines

The Access Management Section will develop an Access Control Plan based on the access study and a traffic study provided by MDT Traffic Engineering Section's Traffic Investigation Unit. The Plan will include specific recommendations as to the number, location and spacing of both public and private approaches allowed to access the highway directly. It will also include frontage roads, lane treatments, intersection control and other features necessary to address identified traffic issues. A series of guidelines will be developed coincidental to the Plan. The guidelines supplement the Plan, providing guidance during the development of the Plan, as well as details as to the treatment of additional access requests on completion of the construction project.

The Access Management Section transmits the Access Control Plan to the appropriate design staff, which places the approaches on the road design plans. The right-of-way agent takes the road design plans to all negotiations. The agent does not have authority to deviate substantially from what is shown on the plans. Any requested change to the access control must be made through the Access Management Section.

Revocable farm/field approaches may be permitted as needed, determined by negotiation. Farm/field approaches are for agricultural use only and will be revoked if they are used for any other purpose. No property right is created by permitting a farm/field approach.

After negotiations are complete, the final access configuration will be placed on the right-of-way plans, as well as being recorded at the appropriate county courthouse.

8-4 LOCKED GATES ON THE INTERSTATE SYSTEM

8-4.1 Locked Gate Policy – General

8-4.1.1 Purpose

Locked gates in the access control fence may provide the only feasible means of access for the maintenance of utilities, highway maintenance in the vicinity of the highway or other noncommercial purposes. Locked gates require approval of the Federal Highway Administration (FHWA) and may be approved only in instances where the need for access is infrequent and where other means of access cannot be reasonably provided or justified.

8-4.1.2 Applicant Eligibility

Locked gate permit applications will be accepted from agencies responsible for public safety (e.g., police, fire, emergency medical), for utilities with facilities that are on the right-of-way or that must be maintained from the right-of-way, for parties under contract to MDT for highway maintenance, and private individuals on a case-by-case basis.

8-4.2 Criteria for Locked Gates

8-4.2.1 Federal Criteria

Locked gates are considered access points on the Interstate highway system. Federal controls on the use of right-of-way are contained in 23 **CFR** 1.23, *Rights of Way*. That provision requires that any non-highway occupancy or use of right-of-way not impair the highway or interfere with the free and safe flow of traffic. 23 **CFR** 645.213, *Use and Occupancy Agreements*, provides for the State to establish criteria for the safe accommodation of utilities including authority to cross or otherwise occupy right-of-way. MDT's locked gate permit process conforms to the requirements of the Federal regulations.

8-4.2.2 State Criteria

The permittee will construct the locked gate as prescribed in the **MDT Detailed Drawings** as a minimum. Additional construction features may be specified to address circumstances at a particular site. The following criteria for construction, use, maintenance and removal apply to all locked gate permits:

1. Number and Spacing. No more than one locked gate per 0.8 km (2 per mile) will be approved on each side of the highway. The minimum spacing between locked gates will be 800 m (½ mile).
2. Ditch/Canal Crossings and Road Shoulders. Locked gates will be installed to cross a ditch section so that no approach work or back slope work is necessary for access. There will be no approach allowed from the shoulder to the locked gate.
3. Rubbish and Debris. On completion of work performed under permit, all rubbish and debris will be removed and the roadside will be left in a neat and presentable condition that is satisfactory to MDT.
4. Inspection. MDT may inspect the locked gate site at any time. If the installation does not conform to the permit application, MDT will require the permittee to remove or revise the installation at the sole expense of the permittee.
5. Changes in Highway. If changes in the Interstate highway necessitate changes in structures or installations that were installed under this permit, the permittee will make the necessary changes at no cost to the State.
6. Protection of Traffic. The permittee will protect the work area with traffic control devices that comply with the ***Manual of Uniform Traffic Control Devices***. The permittee may be required to submit a traffic control plan to the Maintenance Chief for approval before starting work. During work, the Maintenance Chief or a designee may require the permittee to use additional traffic control devices to protect traffic or the work area. No road closure will be allowed without prior approval of the District Administrator.
7. Highway Drainage. MDT will require the permittee to correct any interference with drainage of the State highway in a manner prescribed by MDT, at the permittee's expense.
8. Maintenance. The permittee will maintain, at its sole expense, the installations and structures for which a permit is granted, in a condition satisfactory to MDT.
9. Removal of Facilities. On permit termination, the permittee will remove installations and facilities that were constructed under permit and restore the fence and the site to prior existing condition. Exception may be made for reasonable and ordinary wear and tear, damage by the elements or conditions over which the permittee has no control.

10. Hazardous Conditions. The permittee will not cause discharge of any hazardous waste on State right-of-way. The permittee will control noxious weeds within the disturbed installation area for a period of 2 years following completion of the installation.
11. Explosives Prohibited. The use of explosives is prohibited in the construction of any installation or facility under the permit.
12. Reimbursement to State. The permittee will, as a condition of permit, agree to promptly reimburse the State for any expense incurred in repairing the roadway due to settlement at installation, or for any other damage to the roadway as a result of work performed under permit or as a result of occasional use.
13. Protection from Liability and Claims. The permittee, its successors and assignees, will agree to protect the State or FHWA from, and save it harmless from, all claims, actions or damage of every kind and description that may accrue to or be suffered by any person(s), corporation or property by reason of the performance of any such work; character of materials used; the manner of installations, maintenance and operation; or the improper occupancy of said right-of-way. In case any suit or action is brought against the State or FHWA arising out of, or by reason of, any of the above causes, the permittee, successor and assignees will, upon notice to them of the commencement of action, defend the same at its sole cost and expense and satisfy any judgment that may be rendered against the State or FHWA in any suit or action.

8-4.3 Use of Locked Gate

The gate will remain locked at all times to avoid illegal use. One set of keys will be provided to the MDT District Maintenance Chief. Unauthorized use of the locked gate will be grounds for revocation of the permit. Combination locks are not be permitted.

The use of the gate is restricted to the purpose, frequency and vehicle type that are set forth in the permit application.

MDT may revoke the permit without notice for significant violation of the terms and conditions of use.

8-4.4 Application

The prospective user will submit a completed Interstate Locked Gate Permit (Form 655) to the appropriate MDT District Office. The following information will be provided in addition to the Locked Gate Permit, and attached to the application:

- size and type of locked gate;
- a sketch of the installation, preferably on highway “as-built” plans, showing the highway project number, location, station and reference points of the proposed gate;
- an explanation of why access cannot be gained from an existing access point;
- photographs of the proposed preferred location of the locked gate; and
- a completed environmental check sheet (Form 656).

8-4.5 Investigation of Application

All requests for a locked gate, or access to a locked gate, are referred to the appropriate District Office. On receipt of the application file, the District performs a review of the application, including the following actions:

1. Study and review possible access alternatives.
2. Determine and verify the necessity for the proposed access.
3. Confirm the number and type of vehicles proposed to use the locked gate.
4. Confirm the probable frequency of use, including an estimate of the approximate number of times (e.g., per month, year) the access point will be used.
5. Confirm ownership and the lessor/lessee of the property contiguous to the locked gate.
6. Confirm that the location is most feasible for the locked gate as compared to other alternative locations.
7. Determine adequate site distance.
8. Review the environmental check sheet to confirm the assigned classification.

The District will recommend approval or denial, or condition a recommendation of approval, on specific proposed modifications. It is critical that the locked gate conform to traffic safety and operational needs of the highway. On completion of the review, the District will transmit 4 copies of all information, with the District's recommendation, to the Helena Right-of-Way Bureau, Access Management Section.

8-4.6 Approval Process

If the District recommends approval, the Access Management Section performs the following actions:

1. Submit the request to the Right-of-Way Design/Plans Section for review of ownership, easements and location.
2. Submit the request and justifying information, including the environmental Document (23 **CFR** 771.117(d)(7)), to the FHWA, with a recommendation for approval.
3. Notify the District Administrator of FHWA's decision when received, and advise of any restrictions or conditions on approval.
4. Return 3 of the 4 copies of the application package to the District Office.
5. Place a copy of the application package in the Right-of-Way files.
6. On approval, revise and reissue the locked gate booklet.
7. Notify the Design/Plans Section to add the locked gate to the approved right-of-way plans.
8. Notify the Real Estate Services Section and provide a copy for the corresponding project permanent file.

The District Administrator notifies the applicant in writing of the decision. The correspondence should state that the permit is subject to a 30-day revocation clause. The permittee will be required to advise the Maintenance Chief of the date that the permittee proposes to commence work.

8-4.7 Construction

The construction will conform to the criteria specified in Section 8-4.2. The District will perform and document inspections to the extent necessary to confirm that the construction of the locked gate conforms to MDT criteria and any special conditions on the permit approval.

8-5 DEFINITIONS

Following are definitions of terms that are used frequently in administering the Department's Access Management Program:

1. Access Right. A legal right to enter the through lanes of a highway facility from abutting property or public streets. The right of access by an abutter (private access) runs with the property and is exclusive and transferable. The right of access from a public street is not exclusive and is non-transferable.
2. Access Control (Control of Access). The condition in which the right of owners or occupants of abutting land, or other persons, to access, light, air and view in connection with a highway is fully or partially controlled by public authority. Can be accomplished with police power or acquisition of access rights.
3. Farm/Field Approach. An approach to be used only for access to agricultural lands (farm fields) and for no other purpose.
4. Full Access Control. Access is allowed only at specified interchanges or at specified public approaches. It is intended to give high priority to the uninterrupted movement of through traffic. At-grade access is inconsistent with full access control.
5. Highway System Alpha Prefixes:
 - I - Interstate
 - N – Non-Interstate National Highway System (NI-NHS)
 - P - Primary
 - U - Urban
 - S - Secondary
 - X – State Highways
 - L – Rural Local (outside a city limit)
 - M – Municipal Local (inside a city)

Note: Other alpha naming conventions are used by other MDT departmental functions.

6. Limited Access Control. Access is allowed at specified public roads or at private driveways as specified in legal agreements and/or deeds. An established street system is given first priority in access to the highway. When it is determined that reasonable private access cannot be provided using existing public access, direct private access may be allowed at specific points. If it is determined that no

reasonable access can be provided, or it is desired that no access be permitted, the access rights may be acquired.

7. Limited Access Highway (or Facility). A portion of roadway with limited access control imposed by the governing public authority.
8. National Highway System (NHS). The system of public highways designated by the Commission and approved by the Secretary of Transportation as provided in 23 **USC** and in **MCA** 60-2-125(2).
9. On-System. Any route of the National Highway System (including Interstate), Primary, Secondary or Urban systems.
10. Primary Highway System. The highways that have been functionally classified by the Department as either principal or minor arterials and that have been selected by the Commission to be placed on the Primary Highway System.
11. Private Approach. An approach that allows access to and/or from a commercial, industrial or residential property.
12. Public Approach. A connection to and/or from a dedicated street, road, alley or other dedicated public roadway to a highway facility.
13. Regulated Access. Access is managed through the granting of revocable permits for private parties to construct and maintain an approach. This level is intended to strike a balance between the through mobility of the highway and accessibility to adjacent land use.
14. Secondary Highway System. The highways that have been functionally classified as either minor arterials or major collectors and that have been selected by the Commission, in cooperation with the Boards of County Commissioners, to be placed on the Secondary Highway System.
15. State Highways. The highways throughout the State that are not located on a defined highway system but that are on the State maintenance system.
16. Urban Highway System. The highways and streets that are in or near incorporated cities with populations greater than 5,000 and within urban boundaries established by the Department that have been functionally classified as either urban arterials or collectors and that have been selected by the Commission, in cooperation with local government authorities, to be placed on the Urban Highway System. (**MCA** 60-2-125(6))

8-6 REFERENCES

1. ***Code of Federal Regulations***, 23 **CFR** 1.23, *Rights-of-way*.
2. ***Code of Federal Regulations***, 23 **CFR** 645.213, *Use and occupancy agreements*.
3. ***Code of Federal Regulations***, 23 **CFR** 771.117(d)(7), *Categorical exclusions*.
4. ***Manual of Uniform Traffic Control Devices***, FHWA, published under 23 **CFR** Part 655, Subpart F.
5. ***Montana Code Annotated***, 60-2-125, *Definitions*.
6. ***Montana Department of Transportation Access Management Plan***, April 1992.
7. ***Montana Department of Transportation Guide to System Impact Action Process***, 2001.
8. ***Montana Department of Transportation Approach Standards for Montana Highways***, 1983.
9. Montana Department of Transportation Access Management Project, Dye Management Group, April 1999.
10. ***Montana Department of Transportation Detailed Drawings***, 1999.
11. FHWA Access Management Web Site,
<http://www.fhwa.dot.gov/realestate/am0817.htm>
12. ***United States Code***, Title 23, Highways.