

**SULTAN CITY COUNCIL  
AGENDA ITEM COVER SHEET**

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ITEM NO: A-8

DATE: December 11, 2008

SUBJECT: First Reading Ordinance No. 1008-09 Adopting Access Permitting Standards for State Management Access Highways within the City

CONTACT PERSON: Deborah Knight, City Administrator

**ISSUE:**

The issue before the City Council is to have First Reading of Ordinance No. 1008-09 (Attachment A) adopting access permitting standards for state management access highways within the City in accordance with RCW 47.50.030(3).

Second Reading is scheduled for January 8, 2009.

**STAFF RECOMMENDATION:**

Have First Reading of Ordinance No. 1008-09 amending Sultan Municipal Code Chapter 12.20 Right of Way Maintenance and Connections, adding a new subsection to provide for highway access management, access permits and administrative process pursuant to Revised Code of Washington Chapter 47.50.

**SUMMARY:**

The proposed amendment to Chapter 12.20 would formally adopt the Washington State Department of Transportation required access permitting standards for state management access highways to implement Chapter 47.50 RCW.

This is a housekeeping item to adopt, by Council action, the WSDOT required standards currently used by the City.

State law requires cities and towns to adopt access permitting standards for state managed access highways that meet or exceed Washington State Department of Transportation (WSDOT) standards. The initial deadline for adoption was July 1, 1993. If cities fail to adopt the required standards, WSDOT standards may be used as a default.

By December 1, 2008, the WSDOT shall require confirmation from jurisdictions that plan under the growth management act, Chapter 36.70A RCW and that receive state transportation funding under this act, that the jurisdictions have adopted standards for

access permitting on state highways that meet or exceed department standards in accordance with RCW 47.50.030.

The objective of this subsection is to encourage local governments, **through the receipt of state transportation funding**, to adhere to best practices in access control applicable to development activity significantly impacting state transportation facilities.

By January 1, 2009, the WSDOT shall submit a report to the appropriate committees of the legislature detailing the progress of the local jurisdictions in adopting the highway access permitting standards.

#### **BACKGROUND:**

The City Council discussed three options for meeting (or exceeding) the statutory requirements of Chapter 47.50 RCW at its meeting on August 28, 2008:

1. Adopt by reference the access permitting standards detailed in the Washington State Administrative Code WAC 468-51 and 468-52 (Attachment D) currently used by the City.
2. Adopt the administrative code by reference with additional clarifying provisions.
3. Adopt ordinances that repeat in full many of the provisions of the Washington Administrative Code while modifying some of the provisions based on local preference.

Following the discussion, the City Council directed staff to notify affected property of the access requirement standards.

All known property owners adjacent to US 2 were sent a direct mail letter (Attachment C) and were invited to attend a meeting to discuss alternatives for meeting the standards.

A meeting was held on October 21, 2008 at 5:30PM. Approximately a half-dozen property owners attending the meeting including Chief Merlin Halverson representing Snohomish County Fire District 5, Dr. Brian Copple and former Mayor CH Rowe.

After a discussion of the alternatives and the pros and cons of each approach, the property owners recommended adopting by reference the access permitting standards detailed in the Washington State Administrative Code WAC 468-51 and 468-52 (Attachment D) currently used by the City.

#### **DISCUSSION:**

What is Access Management? Access management regulates traffic movements onto and off of roadways to improve system performance, minimize traffic conflicts, and increase traffic flow. Typical access management techniques include minimum spacing between intersections and driveways, dedicated turn lanes, and median treatments.

Access management preserves a roadway's safety and capacity, reducing accidents by as much as 55 percent and increasing road capacity by as much as 30 percent.

How are Limited and Managed Access Highways Different? In Washington, state highways are classified as either limited or managed access. The policy for limited access highways was established in 1951 and is based on the purchase of access rights from the owners of property abutting the highway. Managed access legislation was enacted in 1991 to address the portion of the state transportation system not established as limited access.

State law declares two policies that form the basis for managing access. First, the access rights of a property owner are subordinate to the public's right and interest in a safe and efficient highway system. Second, a property owner's direct access to a state highway may be restricted if reasonable access can be provided to another public road.

Who is Responsible for Managed Access Permitting? In unincorporated areas, access permitting is the responsibility of the WSDOT region offices. Within municipal boundaries, access permitting is the responsibility of the city or town.

The Legislative Request. The Legislature's 2007 transportation budget included a proviso directing the Washington State Department of Transportation (WSDOT) to require local jurisdictions to confirm they have adopted access permitting standards for state managed access highways that meet or exceed WSDOT standards. The proviso also directed WSDOT to submit a final report to the Legislature in 2009 detailing local jurisdictions' progress toward adopting the standards.

#### **FISCAL IMPACT:**

There is no known fiscal impact to the City to implement the proposed changes to Sultan Municipal Code Chapter 12.20.

There is a potential loss of federal and state transportation funding if the Washington State Department of Transportation and/or the State Legislature require city's to adopt access management standards as a condition to receive funding.

#### **RECOMMENDED MOTION:**

Have First Reading of Ordinance No. 1009-08 amending Sultan Municipal Code Chapter 12.20 Right of Way Maintenance and Connections, to provide for highway access management, access permits and administrative process pursuant to Revised Code of Washington Chapter 47.50.

#### **ATTACHMENTS**

- A – Ordinance 1008-09 Highway Access Management
- B – Proposed revisions to Sultan Municipal Code Chapter 12.20
- C – Property Owner Notification Letter
- D – RCW 47.50.030(3) and WAC 468-51

**Attachment A**

CITY OF SULTAN  
Sultan, Washington

ORDINANCE NO. 1008-09

AN ORDINANCE OF THE CITY OF SULTAN, WASHINGTON AMENDING CHAPTER 12.20 RIGHT OF WAY MAINTENANCE AND CONNECTIONS BY ADDING A NEW SUBSECTION TO PROVIDE FOR HIGHWAY ACCESS MANAGEMENT, ACCESS PERMITS AND ADMINISTRATIVE PROCESS PURSUANT TO RCW 47.50.

WHEREAS, the City Council finds it necessary to provide regulation and control of vehicular access and connection points of ingress to, and egress from, the state highway system within the incorporated areas of the City of Sultan; and

WHEREAS, the Sultan City Council finds that this ordinance is in the interest of the public health, safety, and welfare;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SULTAN, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. New Subsection. Chapter 12.20, Right of Way Maintenance and Connection is hereby amended by adding a new subsection 12.20.037, to read as follows:

Vehicular Access and Connection Points To and From the State Highway System must comply with the following requirements:

- a. RCW Chapter 47.50 including any future additions to, and amendments and repeals thereof, is hereby adopted by reference to provide for the regulation and control of vehicular access and connection points of ingress to, and egress from, the state highway system within the incorporated areas of the City of Sultan.
- b. Pursuant to the requirements and authority of RCW 47.50, there is adopted by reference the provisions of Chapter 468-51 and Chapter 468-52 of the Washington Administrative Code, together with all future amendments thereto, in order to implement the requirements of Chapter 47.50 RCW.

Section 3 Effective Date. This ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

This Ordinance shall take effect on \_\_\_\_\_, 2009 at 5:00 p.m.

PASSED by the City Council and APPROVED by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

By \_\_\_\_\_  
CAROLYN ESLICK, Mayor

ATTEST:

By \_\_\_\_\_  
LAURA KOENIG, City Clerk

Approved as to form:

By \_\_\_\_\_  
MARGARET KING, City Attorney

Published: \_\_\_\_\_, 2009

## Attachment B

### Chapter 12.20 RIGHT-OF-WAY MAINTENANCE AND CONNECTIONS

Sections:

[12.20.010](#) Duty to maintain clean right-of-way or easement.

[12.20.020](#) Removal of debris from rights-of-way and other municipally owned improvements.

[12.20.030](#) Removal of construction debris.

[12.20.035](#) Right-of-way connections.

[12.20.037](#) Vehicular Access and Connection Points To and From the State Highway System

[12.20.040](#) Stop work order.

[12.20.050](#) Violation – Penalty.

#### **12.20.010 Duty to maintain clean right-of-way or easement.**

No person, firm or corporation shall willfully or negligently cause or allow any dirt, mud, rocks, vegetation, grease, oil or other foreign material or substance to be deposited, stored, abandoned, discharged or spread on any public street, alley, sidewalk or other public right-of-way or easement in the city. (Ord. 597, 1993)

#### **12.20.020 Removal of debris from rights-of-way and other municipally owned improvements.**

Any person, firm or corporation making any deposits of dirt, mud, rock, debris or other material of any nature on the public rights-of-way and any other municipally owned improvements shall clean up said deposits during the course of each day's operation. Adequate equipment shall be available during each day of operation to ensure quick and timely removal of any such deposits. The right-of-way surfaces and all catch basins, culverts, or other municipally owned improvements affected by the deposits shall be cleaned. (Ord. 597, 1993)

#### **12.20.030 Removal of construction debris.**

Any person, firm or corporation engaged in building construction, remodel or repair shall be required to have a dumpster on site for disposal of construction debris which shall be serviced by a licensed commercial hauler. (Ord. 597, 1993)

#### **12.20.035 Right-of-way connections.**

Any person, firm or corporation providing access to private property by connection to the public right-of-way within the city of Sultan shall be responsible for the following:

A. Obtaining a permit to connect to the right-of-way by completing an application and paying such fees as established by resolution (said permit commonly known as a driveway permit);

B. Constructing such connection or driveway to the design standards of the city as adopted from time to time;

C. Constructing and maintaining the access connection and appurtenances between the shoulder of the public street or highway and right-of-way line inclusive of surfacing and drainage. The city has the right to inspect all installations at the time of construction and at any time afterwards and to require that necessary changes and repairs be made. Unsatisfactory work will be corrected by the person, firm or corporation providing the access; provided, that if the correction is not done in either a timely or proper manner, the city may make the correction at the person, firm or corporation's expense or may remove the access connection at the expense of the person, firm or corporation;

D. Continuous maintenance of the access connection between the right-of-way line and the shoulder of the public street or highway. (Ord. 847-04 § 2)

**12.20.037 Vehicular Access and Connection Points To and From the State Highway System**

a. RCW Chapter 47.50 including any future additions to, and amendments and repeals thereof, is hereby adopted by reference to provide for the regulation and control of vehicular access and connection points of ingress to, and egress from, the state highway system within the incorporated areas of the City of Sultan.

b. Pursuant to the requirements and authority of RCW 47.50, there is adopted by reference the provisions of Chapter 468-51 and Chapter 468-52 of the Washington Administrative Code, together with all future amendments thereto, in order to implement the requirements of Chapter 47.50 RCW.

**12.20.040 Stop work order.**

In the event any person, firm or corporation fails to comply with the provisions of this chapter, the building official or their designee may cause a notice of violation to be delivered to a person of suitable age at the job site and may order all work to cease until authorized by the building official or their designee to proceed. Work shall not resume until so authorized by the building official or their designee. (Ord. 597, 1993)

**12.20.050 Violation – Penalty.**

Any person, firm or corporation who shall fail to comply with the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be subject to a fine of \$100.00 per day for each day the violation occurs. (Ord. 597, 1993)

## Attachment C

October 3, 2008

Business Address

RE: Highway Access to your property

Dear :

The City is hosting an informational meeting on Tuesday, October 21, 2008 from 5:30pm to 7:00pm with property owners whose properties use US 2 as primary access. The purpose of the meeting is to discuss the alternatives for adopting standards for access on to US 2.

State law requires cities and towns to adopt access permitting standards for state managed access highways that meet or exceed Washington State Department of Transportation (WSDOT) standards. The initial deadline for adoption was July 1, 1993.

The City of Sultan has not adopted the required standards.

The City Council discussed this issue at its August 28, 2008 meeting and directed City staff to arrange a meeting with potentially affected property owners. The City Council's preferred alternative is to adopt the State Standards in WAC 468-51 and 468-52. This is the most common approach taken by affected cities.

By December 1, 2008, the WSDOT will require confirmation from Sultan that the City has adopted at least the State Standard for access permitting on US 2 in accordance with RCW 47.50.030. The State's objective is to encourage local governments by potentially withholding state transportation funding, to adhere to best practices in access control.

Please contact Public Works Director, Connie Dunn at 360-793-2231 if you have any questions regarding the proposed meeting or WSDOT standards.

Sincerely,

Mayor Carolyn Eslick

Enclosure: Managed Access in Washington

November 14, 2008

Name  
Address  
City

RE: Highway Access to your Property

Dear

The City of Sultan hosted an informational meeting on Tuesday, October 21, 2008 with property owners whose properties front US 2. The purpose of the meeting was to discuss the alternatives for adopting standards for access permitting on state highways. Approximately a half dozen property owners attended the meeting.

The consensus of the group was to recommend the Council take the following course of action:

1. Adopt by reference the access permitting standards detailed in the Washington State Administrative Code WAC 468-51 and 468-52.
2. Work with the Association of Washington Cities to encourage state legislators to not withhold state funding for jurisdictions who choose not to adopt the access standards.
3. Write a letter to Sultan's state legislative representatives expressing the City's concerns regarding the proposal to connect adopting the access standards to future transportation funding.

The City Council is tentatively scheduled to discuss the property owner's recommendations at the Council meeting on December 11, 2008.

Please contact Public Works Director Connie Dunn at 360.793.2231 if you have any questions regarding the recommendations developed at the meeting or WSDOT standards.

Sincerely,

Mayor Carolyn Eslick

## **Attachment D**

### **RCW 47.50.030**

#### **Regulating connections.**

(1) Vehicular access and connections to or from the state highway system shall be regulated by the permitting authority in accordance with the provisions of this chapter in order to protect the public health, safety, and welfare.

(2) The department shall by July 1, 1992, adopt administrative procedures pursuant to chapter 34.05 RCW which establish state highway access standards and rules for its issuance and modification of access permits, closing of unpermitted connections, revocation of permits, and waiver provisions in accordance with this chapter. The department shall consult with the association of Washington cities and obtain concurrence of the city design standards committee as established by RCW 35.78.030 in the development and adoption of rules for access standards for city streets designated as state highways under chapter 47.24 RCW.

(3) Cities and towns shall, no later than July 1, 1993, adopt standards for access permitting on streets designated as state highways which meet or exceed the department's standards, provided that such standards may not be inconsistent with standards adopted by the department.

[1991 c 202 § 3.]

#### **Notes:**

**Captions not law -- Effective date -- Severability -- 1991 c 202:** See notes following RCW 47.50.010.

## Chapter 468-51 WAC

Last Update: 2/25/99

### Highway access management access permits — administrative process

#### Chapter Listing

#### **WAC Sections**

<u>468-51-010</u>	Purpose.
<u>468-51-020</u>	Definitions.
<u>468-51-030</u>	General provisions.
<u>468-51-040</u>	Connection categories.
<u>468-51-050</u>	Conceptual review.
<u>468-51-060</u>	Application requirements and procedures.
<u>468-51-070</u>	Fees and surety bond.
<u>468-51-080</u>	Application submittal, review, conditions.
<u>468-51-090</u>	Construction requirements.
<u>468-51-100</u>	Nonconforming connection permits.
<u>468-51-105</u>	Variance connection permits.
<u>468-51-110</u>	Changes in property site use.
<u>468-51-120</u>	Permit modification, revocation, closure of permitted connections.
<u>468-51-130</u>	Closure of unpermitted connections.
<u>468-51-140</u>	Department construction projects.

### **468-51-010**

#### **Purpose.**

This chapter is adopted for use by the Washington state department of transportation to implement chapter 47.50 RCW for the regulation and control of vehicular access and connection points of ingress to, and egress from, the state highway system within unincorporated areas that are under the jurisdiction of the Washington state department of transportation. However, this chapter and chapter 468-52 WAC may be used, as a default, by cities that are the permitting authorities if they have not adopted an enacting ordinance as required under chapter 47.50 RCW.

This chapter describes the connection permit application process and procedures, including a preapplication conceptual review process, and requirements for closure of unpermitted and nonconforming connections to the state highway system.

[Statutory Authority: Chapter 47.50 RCW. 99-06-034 (Order 187), § 468-51-010, filed 2/25/99, effective 3/28/99. Statutory Authority: RCW 47.01.101 and chapter 47.50 RCW. 92-14-044, § 468-51-010, filed 6/24/92, effective 7/25/92.]

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### **468-51-020**

#### **Definitions.**

For the purposes of this chapter, the following definitions of terms shall apply unless the context clearly indicates otherwise:

(1) "Application" means an application form supplied by the department and completed by the applicant, a certified check or money order for the required application fee, and related property site, driveway, roadway, and traffic information.

(2) "Average daily traffic (ADT)" means the volume of traffic passing a point or segment of a highway, in both directions, during a period of time, divided by the number of days in the period and factored to represent an estimate of traffic volume for an average day of the year.

(3) "Average weekday vehicle trip ends (AWDVTE)" means the estimated total of all trips entering plus all trips leaving the applicant's site based on the final stage of proposed development.

(4) "Conforming connection" means a connection that meets current department location,

spacing, and design criteria.

(5) "Connection" means approaches, driveways, turnouts, or other means of providing for the right of access to or from controlled access facilities on the state highway system.

(6) "Connection category" means a permit category of all state highway connections, in accordance with the type of property served and the estimated traffic generated by the applicant's site based on rates accepted by the department.

(7) "Connection permit" means a written authorization given by the department for a specifically designed connection to the state highway system at a specific location for a specific type and intensity of property use and specific volume of traffic for the proposed connection, based on the final stage of proposed development of the applicant's property. The actual form used for this authorization will be determined by the department.

(8) "Controlled access facility" means a transportation facility (excluding limited access facilities as defined in chapter 47.52 RCW) to which access is regulated by the governmental entity having jurisdiction over the facility. Owners or occupants of abutting lands and other persons have a right of reasonable access to and from such facility at such points only and in such manner as may be determined by the governmental entity.

(9) "Department" means the Washington state department of transportation.

(10) "Development approval" means an official action by a governmental land use planning authority authorizing the developer or land owner to begin construction of any permanent improvements on the property.

(11) "Governmental entity" means, for the purpose of this chapter, a unit of local government or officially designated transportation authority that has the responsibility for planning, construction, operation, maintenance, or jurisdiction over transportation facilities.

(12) "Joint use connection" means a single connection point that serves as a connection to more than one property or development, including those in different ownerships or in which access rights are provided in the legal descriptions.

(13) "Limited access facility" means a highway or street especially designed or designated 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 access, light, view or air by reason of the fact that their property abuts upon such limited access facility, or for any other reason to accomplish the purpose of a limited access facility.

(14) "Median" means the portion of a divided highway or divided connection separating vehicular traffic traveling in opposite directions; not including speed change lanes, storage lanes for left turning or U-turning vehicles, or two way left turn lanes.

(15) "Median opening" means either a full opening in a continuous median for the specific

purpose of allowing vehicles to make a left turn maneuver into or out of a property abutting the highway, to facilitate U-turns, or to allow for a vehicle to totally cross the road, or a directional opening allowing for left turn maneuvers into the property and U-turn maneuvers, but not allowing for left turns or cross movements out of the property.

(16) "Nonconforming connection" means a connection not meeting current department location, spacing, or design criteria.

(17) "Permit" means written approval issued by the department, subject to conditions stated therein, authorizing construction, reconstruction, maintenance, or reclassification of a state highway connection and associated traffic control devices on or to the department's right of way.

(18) "Permitting authority" means the department or any county, municipality, or transportation authority authorized to regulate access to their respective transportation systems.

(19) "Reasonable access" means an access connection that is suitable for the existing and/or proposed property use and does not adversely affect the safety, operations or maintenance of the highway system.

(20) "Right of way (R/W)" means a general term denoting land or interest therein, acquired for or designated for transportation purposes. More specifically, land in which the department, a county, or a municipality owns the fee simple title, has an easement devoted to or required for use as a public road and appurtenant facilities, or has established ownership by prescriptive right, or lands that have been dedicated for public transportation purposes.

(21) "Shoulder" means the portion of the highway contiguous with the traveled lanes for the accommodation of stopped vehicles for emergency use, and for lateral support of base and surface courses and for other uses as allowed by law.

(22) "State highway system" means all roads, streets, and highways designated as state routes in compliance with chapter 47.17 RCW.

(23) "Temporary connection" means a permitted connection for a specific property use, conditioned to be open for a specific purpose and traffic volume for a specific period of time with the right of way to be restored by the permit holder to its original condition upon connection closure.

(24) "Variance permit" means a special nonconforming or additional connection permit, issued for a location not normally permitted by current department standards, after an engineering study demonstrates, to the satisfaction of the department, that the connection will not adversely affect the safety, maintenance or operation of the state highway in accordance with its assigned classification. This permit will remain valid until modified or revoked by the permitting authority.

[Statutory Authority: Chapter 47.50 RCW. 99-06-034 (Order 187), § 468-51-020, filed 2/25/99, effective 3/28/99. Statutory Authority: RCW 47.01.101 and chapter 47.50 RCW. 92-14-044, §

## **468-51-030**

### **General provisions.**

(1) When connection permits required. Every owner of property which abuts a state highway, or has a legal easement to the state highway, where limited access rights have not been acquired has a right to reasonable access, but may not have the right to a particular means of access, to the state highway system. The right of access to the state highway may be restricted if, in compliance with local regulation, reasonable access to the state highway can be provided by way of another public road which abuts the property. These public roads shall be of sufficient width and strength to reasonably handle the traffic type and volumes that would be accessing that road. All new connections including alterations and improvements to existing connections to state highways shall require a connection permit. Such permits, if allowed, shall be issued only after written development approval where such approval is required, unless other interagency coordination procedures are in effect. However, the department can provide a letter of intent to issue a connection permit if that is a requirement of the agency that is responsible for development approval. The alteration or closure of any existing access connection caused by changes to the character, intensity of development, or use of the property served by the connection or the construction of any new access connection shall not begin before a connection permit is obtained from the department. Use of a new connection at the location specified in the permit is not authorized until the permit holder constructs or modifies the connection in accordance with the permit requirements. If a property owner or permit holder who has a valid connection permit wishes to change the character, use, or intensity of the property or development served by the connection, the department must be contacted to determine whether a new connection permit would be required.

(2) Responsibility for other approvals. Connection permits authorize construction improvements to be built by the permit holder on department right of way. It is the responsibility of the applicant or permit holder to obtain any other local permits or other agency approvals that may be required, including satisfaction of all environmental regulations. It is also the responsibility of the applicant to acquire any property rights necessary to provide continuity from the applicant's property to the state highway right of way if the applicant's property does not abut the right of way, except where the connection replaces an existing access as a result of department relocation activity.

(3) Early consultation. In order to expedite the overall permit review process, the applicant is strongly encouraged to consult with the department prior to and during the local government subdivision, rezoning, site plan, or any other applicable predevelopment review process for which a connection permit will be required. The purpose of the consultation shall be to determine the permit category and to obtain a conceptual review of the development site plan and proposed access connections to the state highway system with respect to department connection location, quantity, spacing, and design standards. Such consultation will assist the developer in minimizing problems and delays during the permit application process and could

eliminate the need for costly changes to site plans when unpermittable connection proposals are identified early in the planning phase. The conceptual review process is further detailed in WAC [468-51-050](#).

(4) Cost of construction.

(a) Permit holder. The cost of construction or modification of a connection shall be the responsibility of the permit holder, including the cost of modification of any connection required as a result of changes in property site use in accordance with WAC [468-51-110](#). However, the permit holder is not responsible for alterations made at the request of the department that are not required by law or administrative rule.

(b) Department. Existing permitted connections impacted by the department's work program and which, in the consideration of the department, necessitate modification, relocation, or replacement in order to meet current department connection location, quantity, spacing, and design standards, shall be modified, relocated, or replaced in kind by the department at no cost to the permit holder. The cost of further enhancements or modification to the altered, relocated, or replaced connections requested by the permit holder shall be the responsibility of the permit holder.

(5) Notification. The department shall notify affected property owners, permit holders, business owners and/or emergency services, in writing, where appropriate, whenever the department's work program requires the modification, relocation, or replacement of their access connections. In addition to written notification, the department shall facilitate, where appropriate, a public process which may include, but is not limited to, public notices, meetings or hearings, and/or individual meetings. The department shall provide the interested parties with the standards and principles of access management.

(6) Department responsibility. The department has the responsibility to issue permits and authority to approve, disapprove, and revoke such permits, and to close connections, with cause.

[Statutory Authority: Chapter 47.50 RCW. 99-06-034 (Order 187), § 468-51-030, filed 2/25/99, effective 3/28/99. Statutory Authority: RCW 47.01.101 and chapter 47.50 RCW. 92-14-044, § 468-51-030, filed 6/24/92, effective 7/25/92.]

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## **468-51-040**

### **Connection categories.**

All connections, public or private shall be determined by the department to be in one of the following categories:

(1) "Category I - minimum connection" provides connection to the state highway system for up to ten single family residences, a duplex, or a small multifamily complex of up to ten

dwelling units, which use a common connection. The category shall also apply to permanent connections to agricultural and forest lands, including field entrances; connections for the operation, maintenance, and repair of utilities; and connections serving other low volume traffic generators expected to have an average weekday vehicle trip ends (AWDVTE) of one hundred or less.

(2) "Category II - minor connection" provides connection to the state highway system for medium volume traffic generators expected to have an AWDVTE of one thousand five hundred or less, but not included in Category I.

(3) "Category III - major connection" provides connection to the state highway system for high volume traffic generators expected to have an AWDVTE exceeding one thousand five hundred.

(4) "Category IV - temporary connection" provides a temporary, time limited, connection to the state highway system for a specific property for a specific use with a specific traffic volume. Such uses include, but are not limited to, logging, forest land clearing, temporary agricultural uses, temporary construction, and temporary emergency access. The department reserves the right to remove any temporary connection at its sole discretion and at the expense of the property owner after the expiration of the permit. Further, a temporary connection permit does not bind the department, in any way, to the future issuance of a permanent connection permit at the temporary connection location.

(5) "Nonconforming connection" designation may be issued for Category I through IV permits after an analysis and determination by the department that a conforming connection cannot be made and a finding that the denial of a connection would leave the property without a reasonable means of access to the public road system. In such instances, the permit shall be noted as nonconforming and contain specific restrictions and provisions, including limits on the maximum vehicular use of the connection, the future availability of alternate means of reasonable access for which a conforming connection permit could be obtained, the removal of the nonconforming connection at the time the conforming access is available, and other conditions as necessary to carry out the provisions of chapter 47.50 RCW.

(6) "Variance connection" means a special nonconforming or additional connection permit, issued for a location not normally permitted by current department standards, after an engineering study demonstrates that the connection will not adversely affect the safety, maintenance or operation of the highway in accordance with its assigned classification. This permit will remain valid until modified or revoked by the permitting authority.

(7) "Median opening" includes openings requested for both new connections and for existing connections. New median openings proposed as part of a new driveway connection shall be reviewed as part of the permit application review process. Request for the construction of new median openings to serve existing permitted connections shall require a reevaluation of the location, quantity, design of existing connection, and traffic at the existing connections. The property owner must file a new connection permit application, for the proper connection category, showing the new proposed median opening location and design and its relationship to

the existing or modified driveway connections. Nothing contained herein shall be construed to prohibit the department from closing an existing median opening where operational or safety reasons require the action. The department shall notify affected property owners, permit holders and tenants, in writing, thirty days in advance of the closure of a median opening unless immediate closure is needed for safety or operational reasons.

[Statutory Authority: Chapter 47.50 RCW. 99-06-034 (Order 187), § 468-51-040, filed 2/25/99, effective 3/28/99. Statutory Authority: RCW 47.01.101 and chapter 47.50 RCW. 92-14-044, § 468-51-040, filed 6/24/92, effective 7/25/92.]

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### **468-51-050**

#### **Conceptual review.**

Prior to filing a connection permit application and prior to receipt of development approval, all permit applicants, but in particular those applying for Category II and Category III connections, are strongly encouraged to request, in writing, a conceptual review of the site plan and proposed connection locations with the department and other local governmental agencies as appropriate. The purpose of the conceptual review is to expedite the overall review process by establishing the permit category, number, type, and general location of connections to the property early in the planning stages of a proposed development or a proposed significant change in property site use, or to determine that the connection as requested cannot be permitted. The conceptual review does not constitute final department approval of the location and design of the connection. If deemed appropriate, especially on the more complex proposals, the department shall establish the date for a conceptual review meeting to be held within two weeks of the receipt of the written request unless a later date is requested by the applicant. If a meeting is scheduled, representatives of the local governmental land use planning authority will be invited to attend. Within four weeks following the conceptual review meeting, or receipt of the request if no meeting is scheduled, the department will provide the applicant written notice of the department's conceptual review findings, provided all needed information to complete the review has been received from the applicant. These findings are nonbinding on the department and the developer. Additional detailed information received during the application process, changes in the proposed development, or changes in the existing or planned operational characteristics of the state highway system may necessitate modifications of the connections agreed to in the conceptual approval. The conceptual review findings can be used by the developer in the site plan review/approval process with the local government having jurisdiction over the development as indicating coordination of connection location, quantity, and design with the department and of preliminary department findings on the proposed connections.

[Statutory Authority: RCW 47.01.101 and chapter 47.50 RCW. 92-14-044, § 468-51-050, filed 6/24/92, effective 7/25/92.]

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## 468-51-060

### Application requirements and procedures.

This rule shall be used where the department is the permitting authority. Where the local governmental entity is the permitting authority, the applicable procedures of the local governmental entity must be followed. If the local governmental entity has no procedures then this rule may apply.

(1) Connection permit application and information. The appropriate application form and the application information are available from the designated local department offices. An application shall consist of the above form; application fee, as specified in WAC [468-51-070](#); plans; traffic data; and connection information specified in this section.

All connection and roadway design documents for Category II and III permits shall bear the seal and signature of a professional engineer, registered in accordance with chapter 18.43 RCW.

(2) Information required - all permits. The following information is required of all applicants for all permit categories, unless the department determines that specific information will not be required on individual applications. Additional information required of Category II, III, and IV permit applications is specified in this chapter. In all cases it would be prudent, prior to submittal of the application, for the applicant to inquire of the department whether the application needs additional information. The department reserves the right to request clarification or additional information during the application review process. Failure to provide the requested information within the time limits specified in the request shall result in withdrawal of the permit application.

(a) Identification and signature of property owner and applicant. The current complete names, mailing addresses, and telephone numbers of the property owner(s), the developer(s), the applicant, the transportation and legal consultants representing the applicant (if any), and the local government representative(s) responsible for processing the development's approval shall be provided as part of the application. If the property owner desires to have a representative sign the application, a notarized letter of authorization from the applicant is to be provided with the application. When the owner or applicant is a company, corporation, or other public agency, the name, address, and telephone number of the responsible officer shall be furnished. The names of all individuals signing the application and their titles shall be typed or printed directly below the signature.

(b) Property uses and traffic information. The ultimate planned property uses shall be indicated in sufficient detail to determine the appropriate permit classification. Estimated average weekday vehicle trip ends to be generated by the development, based on the planned property use, consistent with the latest trip generation information published by the Institute of Transportation Engineers, Washington, D.C., (ITE) shall be included as appropriate. If local or special trip generation rates are used, instead of the ITE rates the latest and best information shall be used and all documentation for the rate development shall be submitted with the application. For residential developments with ten or fewer units, ten trips per day per unit may be assumed.

The requirement for an average weekday vehicle trip ends estimate may be waived for agricultural uses where no retail marketing is proposed.

(c) Site plan. The application shall include a plan to scale, or a schematic drawing showing critical dimensions (allowable on Category I permits only), the location of the property, and existing conditions and the character and extent of work proposed. The location of existing and proposed on-site development with respect to the existing and proposed driveway location(s) and the highway shall be shown. Minimum information on the plan shall include:

(i) Road information.

- State route number.
- County or local road name.
- Highway pavement type.
- Cross section.
- Posted speed limit.
- The existence and location of any existing and/or future proposed public or private road abutting or entering the property; the horizontal and vertical curvature of the road(s) noting the location of existing and proposed connections and any other pertinent information.

(ii) Property information.

- Location of all existing and proposed buildings, and other structures, such as gasoline pumps, lights, trees, etc., with respect to the existing and proposed property and right of way lines.
- Any adjacent properties that are owned or controlled by the applicant, or in which the applicant has a financial interest, and indicate whether these properties will be accessed by means of the proposed connection(s).
- Proof of legal ownership or legal easement.
- The application shall include a boundary survey. The requirement for a boundary survey may be waived for Category I connections, at the discretion of the department.
- Any existing or proposed parcels segregated from the applicant's property for separate development also shall be clearly designated on the plan.

(iii) Connection location information.

- The proposed connection milepost and highway engineer's station, if available.

- Location of the highway centerline with respect to existing and proposed property lines.
- Distance of proposed public or private access connection to intersecting roads, streets, railroads.
- Existing or proposed median openings (crossovers) and connections on all sides of the state highway and other roads within six hundred sixty feet of the proposed connection location in urban areas and one thousand three hundred twenty feet in nonurban (rural) areas.
- Location of existing or proposed public or private retaining walls, fences, poles, sidewalks, bike paths, drainage structures and easements, traffic control devices, fire hydrants, utilities, or other physical features, such as trees, landscaping, green belts, and wetlands, that could affect driveway location.
- It shall be the responsibility of the applicant to physically identify the location of the proposed connection at the proposed site.

(iv) Connection design information.

- Proposed connection and approach improvements including its profile approaching the state highway, width, radii, angle to the highway, auxiliary pavement.
- Existing and proposed grading (or contouring that affects the natural drainage pattern or runoff impacting the state highway and the proposed connection).
- Drainage calculations and other pertinent data.
- Driveway, auxiliary lanes and crossover pavement design, including subgrade, base, surface materials, and thicknesses.
- Specific requirements for design information on individual Category I permit applications may be relaxed, or waived, at the discretion of the department.

(v) Joint driveway use.

- If the driveway is to serve more than one property, the plan shall detail information for all properties using the connection and the application shall include copies of legally enforceable agreements of concurrence for all property owners on joint driveway usage.
- Joint driveway use serving adjoining properties is encouraged on all highways and may be required on some highways, in compliance with rules adopted by the department.

(3) Additional information required, Category II and Category III permits. The following is a list of additional information that may be required for each phase of the development from the applicant. Prior to the submittal of the application, the applicant shall coordinate with the

appropriate designated local office of the department on the level of detail and the analysis techniques to be used.

(a) Circulation plans. All parking, interior drives, and internal traffic circulation plans.

(b) Connection users. All internal and external adjacent parcels which will use the requested connection. All existing and proposed connecting roadways and potential means of alternate access through the final buildout stage of development shall be shown on the plans submitted with the application.

(c) Traffic control devices and illumination. Proposed traffic control devices and lighting locations.

(d) Sight distance. Analysis of horizontal and vertical sight distance on the state highway with respect to the proposed connection.

(e) Traffic data and analysis. Traffic data submitted by the applicant shall be signed and sealed by a qualified professional engineer, registered in accordance with chapter 18.43 RCW. The following traffic study information may be required:

(i) Turning movements. Vehicle turning movements for present and future traffic conditions.

(ii) Volume and type. Amount and type of traffic that will be generated by the proposed development including a breakdown of anticipated peak hour traffic and an analysis of the impact on the level of service on the state highway.

(iii) Parking and circulation. Analysis of off-street parking and traffic circulation, including distances to secondary access points on the connection roadway and their impact on the operation of the state highway.

(iv) Traffic signal data. If a traffic signal is requested, the following studies may be required: Traffic signal warrants; phasing and timing analysis; signal progression analysis; signalization, signing, and lighting plans in compliance with department standards. A separate department traffic signal permit is required.

(v) Off-site improvements. A traffic analysis to determine the need for off-site related roadway and geometric improvements and mitigation requirements.

(vi) Traffic control plan. A traffic control plan conforming to current department standards set forth in the "Manual on Uniform Traffic Control Devices," documenting how the permit holder will provide for safe and efficient movement on the state highway system during the construction of the connection.

(4) Additional information required, Category IV permits. Permit applications must contain the specific dates that the connection is to be open and must contain assurances acceptable to the department that the shoulder, curbing, sidewalks, bikeways, ditch, right of way, and any other

amenities will be restored to their original condition at the permit holder's expense upon closure of the temporary connection.

[Statutory Authority: Chapter 47.50 RCW. 99-06-034 (Order 187), § 468-51-060, filed 2/25/99, effective 3/28/99. Statutory Authority: RCW 47.01.101 and chapter 47.50 RCW. 92-14-044, § 468-51-060, filed 6/24/92, effective 7/25/92.]

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**468-51-070**

**Fees and surety bond.**

(1) Fee structure. The following nonrefundable fee structure is established for department application processing, review, and inspection. Full payment of base fees must accompany the permit application. Due to the potential complexity of Category II and Category III connection proposals, and required mitigation measures that may involve construction on the state highway, the department may require a developer agreement in addition to the connection permit. The developer agreement may include, but is not limited to: Plans; specifications; maintenance requirements; bonding requirements; inspection requirements; division of costs by the parties, where applicable; and provisions for payment by the applicant of actual costs incurred by the department in the review and administration of the applicant's proposal that exceed the required base fees in the following schedule:

- (a) Category I base fees for one connection.
  - (i) Field (agricultural), forest lands, utility operation and maintenance  
..... \$ 50
  - (ii) Residential dwelling units (up to 10) utilizing a single connection point ..... \$ 50  
per dwelling unit
  - (iii) Other, with 100 AWDVTE or less ..... \$ 500
  - (iv) Fee per additional connection  
point ..... \$ 50
- (b) Category II base fees for one connection.
  - (i) Less than 1,000 AWDVTE . . . . . \$ 1,000  
.....

(ii) 1,000 to 1,500 AWDVTE . . . . .	\$ 1,500
. . . . .	
(iii) Fee per additional connection	
point . . . . .	\$ 250
(c) Category III base fees for one connection.	
(i) 1,500 to 2,500 AWDVTE . . . . .	\$ 2,500
. . . . .	
(ii) Over 2,500 AWDVTE . . . . .	\$ 4,000
. . . . .	
(iii) Fee per additional connection	
point . . . . .	\$ 1,000
(d) Category IV base fee per	
connection . . . . .	\$ 100

(2) Surety bond. Prior to the beginning of construction of any connection, the department may require the permit holder to provide a surety bond as specified in WAC 468-34-020(3).

[Statutory Authority: Chapter 47.50 RCW. 99-06-034 (Order 187), § 468-51-070, filed 2/25/99, effective 3/28/99. Statutory Authority: RCW 47.01.101 and chapter 47.50 RCW. 92-14-044, § 468-51-070, filed 6/24/92, effective 7/25/92.]

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**468-51-080**  
**Application submittal, review, conditions.**

(1) Application submittal. The application shall be submitted to the designated local department office serving the area. The application shall be properly prepared, clearly completed, and signed. Information on the specific number of copies to be provided and other submittal information is available from the designated local department office.

(2) Application review, processing, and approval. Upon receipt of the application, the application shall be reviewed consistent with the provisions of this chapter. If the department identifies errors in the application or if additional information is required, the department will notify the applicant. Applicants must provide such information or correct errors within thirty

days of the notification. If the applicant determines that the time to provide additional or corrected information is insufficient, the applicant shall contact the department in writing to request additional time be approved. If the additional or corrected information has not been received by the department within thirty days or the approved time period agreed to, the application will be withdrawn.

(a) Review. Upon timely receipt of all required information, or upon expiration of the time period for receipt of additional or corrected information, the location and design of the connection shall be examined for consistency with current department location, quantity, spacing, classifications, and department design standards. The review shall also include an analysis of the impact of the site's existing and projected traffic on the operation and safety of the state highway.

(b) Concurrence or denial, notice. If the department concurs in the location and design of the proposed connection, written notification of that concurrence will be sent to the applicant and to the local governmental land use planning authority having jurisdiction over the development. If the applicant has gone through the voluntary conceptual review process, the written notice of concurrence will indicate whether or not there have been any changes in the number, location, or design of the connection required by the department. No construction may commence on the department's right of way until all necessary department and local governmental permits are issued in accordance with (c) of this subsection. If the department does not concur in the connection location, quantity, or design, both the applicant and the local governmental land use planning authority having jurisdiction over the development approval shall be notified, in writing, indicating the department's intent to deny the connection as proposed in the application. The written notification shall state the specific reasons for the intent to deny the connection, the process for submitting an amended application, and the appeal rights of the applicant. The applicant may submit a revised application within thirty days based on department comments and concerns as stated in the notification. The submittal of a revised application within thirty days shall not require the payment of any additional application fees. Submittal of a revised permit is not a prerequisite for a request for an adjudicative proceeding in compliance with [WAC 468-51-150](#).

(c) Permit issuance. The department shall issue the connection permit after review and concurrence that the application and the location and design of the connection comply with the requirements of this chapter, and after either:

(i) The applicant has received development approval from the appropriate local governmental land use planning authority; or

(ii) Other interagency coordination procedures in effect are satisfied for development approval by the local governmental land use planning authority.

The department shall provide the applicant with the connection permit for signature, and the applicant shall sign and return the permit to the department within thirty days after the mailing date. If the department does not receive the signed permit back from the applicant within thirty days after the mailing date or within an agreed upon time, the permit will be void and the

application fee will be forfeited. The permit is not valid and construction on the access cannot begin without a completed permit that is signed by both the department and the applicant.

Additionally, the applicant must be in compliance with the surety bond requirements specified in the permit prior to construction, in compliance with WAC [468-51-070](#).

(d) Request for adjudicative proceedings. In the event of a denial of a connection permit as proposed in the application, the applicant may apply for an adjudicative proceeding in compliance with WAC [468-51-150](#).

(3) Permit conditions. Any special requirements or provisions for the connection including off-site mitigation shall be clearly and specifically identified as part of the permit. Failure by the applicant or permit holder to abide by the permit provisions shall be sufficient cause for the department to initiate action to alter the connection or to revoke the permit and close the connection at the expense of the permit holder. The permit requirements shall be binding on the permit holder, the permit holder's successors, heirs and assigns, the permit application signatories, and all future owners and occupants of the property. The applicant may challenge the permit conditions by applying for an adjudicative proceeding in compliance with WAC [468-51-150](#).

[Statutory Authority: Chapter 47.50 RCW. 99-06-034 (Order 187), § 468-51-080, filed 2/25/99, effective 3/28/99. Statutory Authority: RCW 47.01.101 and chapter 47.50 RCW. 92-14-044, § 468-51-080, filed 6/24/92, effective 7/25/92.]

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## **468-51-090**

### **Construction requirements.**

(1) Preconstruction conference. The department may require a preconstruction conference prior to any work being performed on the department's right of way. When required by provisions in the permit, the department will schedule a preconstruction conference. The preconstruction conference should be attended by the necessary personnel to assure compliance with the terms and provisions of the permit.

(2) Time limit. Substantial construction of the connection shall begin within ninety days of the effective date of the permit, unless a longer time is approved by the department or a time extension is requested by the applicant and approved by the department. Construction shall be completed within one hundred twenty days of the date of issuance of the permit, unless a time extension is approved by the department. As a condition of the permit, the department may further limit construction time, if the department determines that such limitation is warranted. Failure to comply with the time limits specified in the permit shall result in an automatic expiration of the permit following written notification to the permit holder. For any permit which

expires for failure to begin construction or to complete construction within the specified time limits, the department may require a new application, including the payment of the required application fee prior to the initiation of any construction.

(3) Posting of permit. The approved connection permit shall be displayed in a prominent location, protected from the weather, within the vicinity of the connection construction.

(4) Disruption of traffic. All construction and/or maintenance within department right of way shall conform to the provisions of the connection permit, the "*Manual on Uniform Traffic Control Devices*" (MUTCD); the department's current "*Design Manual*," and the current "*Standard Specifications for Road, Bridge, and Municipal Construction*." The department may require or restrict hours of construction to minimize disruption of traffic on the state highway system. If construction activity within the department's right of way causes undue disruption of traffic or creates safety hazards on a state highway, or if the construction activity is not in compliance with the traffic control specifications in the permit, the department shall advise the permit holder or the permit holder's contractor of the need for immediate corrective action, and may order immediate suspension of all or part of the work if deemed necessary. Failure to comply with this provision may result in permit modification or revocation.

(5) Traffic signals and other traffic control devices. Traffic signals and other traffic control devices installed by the permit holder shall conform to MUTCD and department design and construction standards. The permit holder is responsible for securing any state and local permits needed for traffic signalization and regulatory signing and marking.

(6) Connection construction inspection. For Category II and Category III connections, the department may require the permit holder, the developer, or landowner to provide inspection of construction and certification that connection construction is in accordance with permit provisions and appropriate department standards by a professional engineer, registered in accordance with chapter 18.43 RCW, or the department may do the inspection at the applicant's expense, as provided in the developer agreement.

[Statutory Authority: Chapter 47.50 RCW. 99-06-034 (Order 187), § 468-51-090, filed 2/25/99, effective 3/28/99. Statutory Authority: RCW 47.01.101 and chapter 47.50 RCW. 92-14-044, § 468-51-090, filed 6/24/92, effective 7/25/92.]

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## **468-51-100**

### **Nonconforming connection permits.**

The department may issue a permit for a connection not meeting department location and spacing criteria standards if it finds that a conforming connection is not attainable at the time of the permit application submittal and that denial would leave the property without a reasonable

access to the public road system. The department may issue a connection permit requiring a legally enforceable joint-use connection when determined to be in the best interest of the state for restoring or maintaining the operational efficiency and safety of the state highway. Nonconforming connection permits shall specify conditions or limits including:

(1) **Traffic volume.** The maximum vehicular usage of the connection shall be specified in the permit.

(2) **Future alternate access.** The permit shall specify that a conforming connection be constructed when future alternate means of access become available, and that the nonconforming connection be removed.

(3) **Users.** The permit shall specify the properties to be served by the connection; and any other conditions as necessary to carry out the provisions of chapter 47.50 RCW.

[Statutory Authority: Chapter 47.50 RCW. 99-06-034 (Order 187), § 468-51-100, filed 2/25/99, effective 3/28/99. Statutory Authority: RCW 47.01.101 and chapter 47.50 RCW. 92-14-044, § 468-51-100, filed 6/24/92, effective 7/25/92.]

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## **468-51-105**

### **Variance connection permits.**

Variance permits may be issued, at the discretion of the department, for certain connections not meeting the access classification location and spacing or that exceed the number of connections allowed by the standards adopted for a particular highway segment. These permits may be allowed if conditions warrant and are demonstrated to the satisfaction of the department by a traffic analysis, signed and sealed by a qualified professional engineer who is registered in accordance with chapter 18.43 RCW, which is included with the connection permit application. The variance permit will remain in effect unless a new permit is required due to changes in property site use in compliance with WAC [468-51-110](#) or unless permit modification, revocation, or closure of the variance permitted connection is required as provided for in WAC [468-51-120](#). The department may issue a connection permit requiring a legally enforceable joint-use connection when it is determined to be in the best interest of the state for restoring or maintaining the operational efficiency and safety of the state highway. Variance connection permits shall specify conditions or limits including, but not limited to:

(1) **Traffic volume.** The maximum vehicular usage of the connection shall be specified in the permit.

(2) **Users.** The permit shall specify the properties to be served by the connection, and any other conditions as necessary to carry out the provisions of chapter 47.50 RCW.

[Statutory Authority: Chapter 47.50 RCW. 99-06-034 (Order 187), § 468-51-105, filed 2/25/99, effective 3/28/99.]

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## **468-51-110**

### **Changes in property site use.**

The connection permit is issued to the permit holder for a particular type of land use generating specific projected traffic volumes at the final stage of proposed development. Any changes made in the use, intensity of development, type of traffic, or traffic flow of the property requires the permit holder, his or her assignee, or property owner to contact the department to determine if further analysis is needed to determine if the change is significant and would require a new permit and modifications to the connection. An engineering study, signed and sealed by a professional engineer registered in accordance with chapter 18.43 RCW, may be required to document the extent of the change. If modification of the existing connection is required, based on a significant change as determined by the department, the permit holder, his or her assignee, or the property owner shall obtain a new permit prior to the initiation of any on-site construction to the connection or to the property.

(1) Significant change. A significant change is one that would cause a change in the category of the connection permit or one that causes an operational, safety, or maintenance problem on the state highway system based on objective engineering criteria or available accident data. Such data shall be provided to the property owner and/or permit holder and tenant upon written request.

(2) Notification. Failure to contact the department to determine the need for connection modifications or to apply for a new permit for such modifications prior to initiation of property improvements, land use changes or traffic flow alteration actions shall result in notification to the property owner and/or permit holder and tenant of intent to revoke the existing permit and closure of the connection to the property.

(3) Costs. The permit holder is responsible for all costs associated with connection removal, relocation, or modification caused by increased or altered traffic flows necessitated by changes to facilities, use, or to the nature of the business on the property.

[Statutory Authority: Chapter 47.50 RCW. 99-06-034 (Order 187), § 468-51-110, filed 2/25/99, effective 3/28/99. Statutory Authority: RCW 47.01.101 and chapter 47.50 RCW. 92-14-044, § 468-51-110, filed 6/24/92, effective 7/25/92.]

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## **468-51-120**

### **Permit modification, revocation, closure of permitted connections.**

(1) Revocation criteria. All connection permits issued by the department prior to the effective date of this chapter remain valid until revoked. The department may initiate an action to revoke any permit if significant changes have occurred in the use, design, or traffic flow of the property or of the state highway, requiring the relocation, alteration, or closure of the connection; if the connection was not constructed at the location or to the design specified in the permit; if the permit provisions were not met; or if the connection causes a safety, maintenance, or operational problem on the state highway system. The process to be followed by the department in the revocation of permits shall be consistent with the requirements of chapter 34.05 RCW and WAC [468-51-150](#). The notification process is as follows:

(a) Notification, correction of deficiencies. The department shall serve notice, in accordance with rules adopted in compliance with chapter 34.05 RCW, to the permit holder, permit holder's successors or assigns, or property owner with a copy to the occupant, for any connection found to be in noncompliance with the conditions of the permit or this chapter. The notice will identify and request that the deficiencies be corrected within thirty days of service of the notice. The notice shall further advise that the department's determination of noncompliance or deficiencies shall become final and conclusive thirty calendar days following service of the notice unless the violations are corrected or an adjudicative proceeding in compliance with chapter 34.05 RCW and WAC [468-51-150](#) is requested by the permit holder, permit holder's successor or assigns, or the property owner.

(2) Costs. The permit holder, permit holder's successor or assignee, or property owner shall be responsible for the costs of closure due to revocation of a connection permit in compliance with WAC [468-51-120](#) except when the closure is required by changes to the state highway.

(3) Emergency action. This chapter shall not restrict the department's right to take immediate remedial action, including the closure of a connection if there is an immediate and serious danger to the public health, safety, and welfare, in compliance with chapter 47.32 RCW. In such event, the department shall conform to the provisions for emergency adjudicative proceedings in RCW 34.05.479 and rules adopted thereunder.

[Statutory Authority: Chapter 47.50 RCW. 99-06-034 (Order 187), § 468-51-120, filed 2/25/99, effective 3/28/99. Statutory Authority: RCW 47.01.101 and chapter 47.50 RCW. 92-14-044, § 468-51-120, filed 6/24/92, effective 7/25/92.]

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## 468-51-130

### Closure of unpermitted connections.

Closure criteria, permit requirements. Any unpermitted connections to the state highway system which were in existence and in active use consistent with the type of connection on July 1, 1990, shall not require the issuance of a permit and may continue to provide connection to the state highway system, unless the property owner had received written notification initiating connection closure from the department prior to July 1, 1990, or unless the department determines that the unpermitted connection does not meet minimum acceptable standards of highway safety and mobility based on accident and/or traffic data or accepted traffic engineering criteria, a copy of which must be provided to the property owner and/or permit holder and tenant upon written request. The department may require that a permit be obtained if a significant change occurs in the use, design, or traffic flow of the connection or of the state highway. If a permit is not obtained, the department may initiate action to close the unpermitted connection point in compliance with RCW 47.50.040. Any unpermitted connection opened subsequent to July 1, 1990, is subject to closure by the department. The process to be followed by the department in the closure of an unpermitted connection shall be consistent with chapter 34.05 RCW and rules adopted thereunder. The notification process is as follows:

(1) Notification. The department shall serve notice, in accordance with rules adopted in compliance with chapter 34.05 RCW, upon the property owner of a connection to a state highway which is found by the department to be unpermitted. This notice shall clearly describe the highway connection violation and shall establish a thirty-day time limit for either applying for a connection permit or requesting an adjudicative proceeding in compliance with chapter 34.05 RCW. The notice will further advise the property owner that failure to act in either of the prescribed ways within the time period will result in department closure of the unpermitted connection.

(2) Permit application. If a permit application is filed within the thirty days, and the application is denied, the department shall notify the property owner of the denial. The property owner may then proceed with the permit application revision process set forth in WAC [468-51-080](#) or request an adjudicative proceeding in compliance with WAC [468-51-150](#) within thirty days. Failure to act in either of those prescribed ways within the time period set forth in the rules will result in department closure of the unpermitted connection. If the location and design of the connection in the permit application are acceptable to the department, the existing connection may continue to be used for a specified period of time or until the connection specified in the permit application is constructed.

(3) Approval conditions. Modifications, relocation, or closure of unpermitted connections may be required by the department as a requirement of permit approval, subject to the adjudicative proceedings provisions of WAC [468-51-150](#).

[Statutory Authority: Chapter 47.50 RCW. 99-06-034 (Order 187), § 468-51-130, filed 2/25/99,

effective 3/28/99. Statutory Authority: RCW 47.01.101 and chapter 47.50 RCW. 92-14-044, § 468-51-130, filed 6/24/92, effective 7/25/92.]

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## **468-51-140**

### **Department construction projects.**

During construction of department projects, connections will be provided as replacements for existing approved permitted connections, that are consistent with all current department spacing, location, and design standards, based on the following conditions:

- (1) Nonconforming connections. All nonconforming connections will be examined to determine if the construction project will require relocation, alteration, or closure of the connection to make it conforming.
- (2) Application of current standards. The number and location of connections shall be modified to the maximum extent possible to meet current department spacing, location, and design standards. Where current department standards cannot be met, the connection shall be classified as nonconforming.
- (3) New connections, modifications. The department shall allow new or require modification of existing connections if a connection permit application is made and approved.
- (4) Replacement of existing connections. When connections are made as part of a department construction project replacing existing connection points without material differences, no additional permit shall be required. Costs shall be borne by the department.
- (5) New connections -- Cost. The construction of new connection points, if approved by the department, shall be done at the owner's expense by either the department's contractor as part of the roadway improvement or by the owner's contractor at the department's option.
- (6) Modifications -- Cost. If the modification of the connection point, that are based on the owner's request, is more extensive than the routine replacement of an existing connection, the owner shall also participate in the differential cost.
- (7) Work by permit holder's contractor. The department shall require that work done by the owner's contractor be accomplished at the completion of the department's contract or be scheduled so as not to interfere with the department's contractor. The department may require a surety bond prior to construction of the connection in accordance with [WAC 468-51-070](#). When the number, location or design of existing access connections to the state highway are being modified by a department construction project, the resulting modified access connections shall provide the same general functionality for the existing property use as they did before the modification, taking into consideration the existing site design, normal vehicle types, and traffic circulation requirements.

Notification. The department shall notify affected property owners, permit holders, business owners and/or emergency services, in writing, where appropriate, whenever the department's work program requires the modification, relocation, or replacement of their access connections. In addition to written notification, the department shall facilitate, where appropriate, a public process which may include, but is not limited to, public notices, meetings or hearings, and/or individual meetings. The department shall provide the interested parties with the standards and principles of access management.

[Statutory Authority: Chapter 47.50 RCW. 99-06-034 (Order 187), § 468-51-140, filed 2/25/99, effective 3/28/99. Statutory Authority: RCW 47.01.101 and chapter 47.50 RCW. 92-14-044, § 468-51-140, filed 6/24/92, effective 7/25/92.]

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#### **468-51-150**

##### **Adjudicative proceedings.**

(1) Application. Any person who has standing to challenge the denial of a permit application in compliance with WAC [468-51-080](#); a permit with conditions in compliance with WAC [468-51-080](#); a notice of permit modification, revocation, or closure of permitted connection in compliance with WAC [468-51-120](#); or notice of closure of an unpermitted connection in compliance with WAC [468-51-130](#) may apply for an adjudicative proceeding on the matter in compliance with chapter 34.05 RCW, rules adopted thereunder, and department rules within thirty days of the date the initial determination of the department is sent by certified mail.

(2) Conduct. Thereafter, and within the times set forth by chapter 34.05 RCW, rules adopted thereunder, and department rules, the department shall convene an adjudicative proceeding. The proceeding shall be conducted in compliance with chapter 34.05 RCW, rules adopted thereunder, and department rules.

(3) Failure to apply. Failure to apply for an adjudicative proceeding within the times set forth in subsection (1) of this section shall result in the adoption of the department's initial determination as its final determination.

(4) Failure to participate. Failure to attend or otherwise participate in an adjudicative proceeding may result in a finding of default.

(5) Reasonableness of access. The department in its regulation of connections in compliance with chapter 47.50 RCW and these regulations shall allow reasonable access. If the department's final order denies reasonable access, the appellant shall be entitled to just compensation in compliance with RCW 47.50.010(5). Access which is not reasonable is not compensable.

[Statutory Authority: Chapter 47.50 RCW. 99-06-034 (Order 187), § 468-51-150, filed 2/25/99, effective 3/28/99. Statutory Authority: RCW 47.01.101 and chapter 47.50 RCW. 92-14-044, § 468-51-150, filed 6/24/92, effective 7/25/92.]