

Land Use Update

April 2009

Recent changes to Virginia Department of Transportation (VDOT) regulations will affect many ongoing and future developments. This Update briefly summarizes the changes, but, of course, application of the new regulations will vary from project to project. In an already challenging market, new regulations seem like yet another hurdle, but they are also a reminder of the many opportunities during slow times to position your project for improved market conditions. As always, we are happy to discuss with you how these changes may affect planned or developing projects.

NEW ACCESS MANAGEMENT REGULATIONS

Access Management is an attempt to improve the safety and performance of the existing road network by managing the location, number, spacing, and design of access points (including driveways, median openings, traffic signals, turn lanes, intersections, and interchanges). Virginia's new Access Management standards for Principal Arterials took effect on July 1, 2008; standards for Minor Arterials, Collectors, and Local Streets will take effect on October 1, 2009.

These new standards require significantly greater spacing between intersections and access points to state roads. For certain projects the new standards will require alternate access such as inter-parcel access (between separate shopping strips, for example) or access roads to serve properties along the state road (but without direct access due to new standards). Access near interchange ramps on Principal Arterials is also significantly limited.

The tables below outline some of the new spacing standards for general access to commercial properties and for access near freeway interchanges (VDOT in Appendix F, Access Management Design Standards for Entrances and Intersections: Principal Arterials). Note that VDOT provides separate specifications and design guidelines for various roads and access elements.

| Spacing Standards for Commercial Entrances, Intersections, and Crossovers | | | | |
|--|--------------------------------|---|---|---|
| Highway Functional Classification | Legal Speed Limit (mph) | Centerline to Centerline Spacing in Feet | | |
| | | Signalized Intersections | Unsignalized Intersections & Full Access Entrances | Partial Access One or Two Way Entrance |
| Urban Principal Arterial | ≤ 30 mph | 1,760 | 1,050 | 270 |
| | 35 to 45 mph | 2,640 | 1,320 | 325 |
| | ≥ 50 mph | 2,640 | 1,320 | 510 |
| Rural Principal Arterial | ≤ 30 mph | 2,640 | 1,320 | 270 |
| | 35 to 45 mph | 2,640 | 1,320 | 440 |
| | ≥ 50 mph | 2,640 | 1,760 | 585 |

| Minimum Spacing for Freeway Interchange Areas with Multilane Crossroads | | | | |
|---|-------------------|-------|-------|-------|
| Type of Area | Spacing Dimension | | | |
| | X | Y | Z | M |
| Urban | 750' | 2640' | 900' | 990' |
| Rural | 1320' | 2640' | 1320' | 1320' |

TABLE 2-2 MINIMUM SPACING FOR FREEWAY INTERCHANGE AREAS WITH MULTILANE CROSSROADS

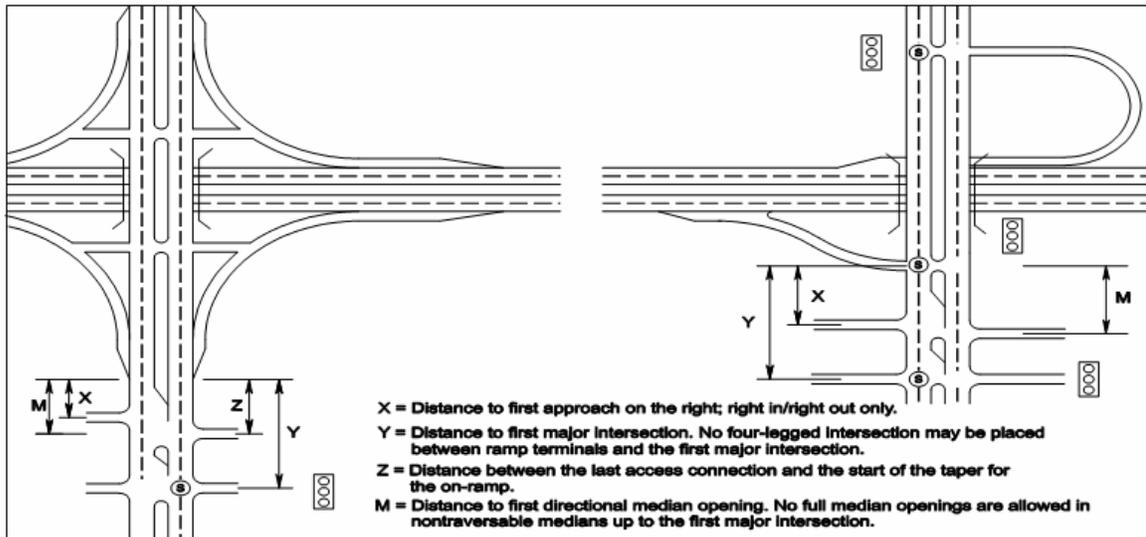


FIGURE 2-9 ACCESS CONTROL AT INTERCHANGES MULTILANE CROSSROADS

Source: Virginia Department of Transportation, "Access Management Design Standards for Entrances and Intersections: Principal Arterials," Road Design Manual, Appendix F (2008).

SECONDARY STREET ACCEPTANCE REQUIREMENTS (FORMERLY SUBDIVISION STREET REQUIREMENTS)

On February 19th the Commonwealth Transportation Board approved the new Secondary Street Acceptance Requirements governing the acceptance of secondary streets into the state system for perpetual public maintenance. The regulation took effect on March 9, 2009, but regulators have allowed a transition period until July 1, 2009, during which time developers seeking street acceptance may comply with the new or the old requirements. Also, some projects may be “grandfathered” under the former regulations if they met certain milestones prior to March 9th.

In effect, the new regulations require greater connectivity within and between neighborhoods (e.g. fewer cul de sacs) and improved accommodation for pedestrians. Following is a quick summary of the significant regulatory changes for accepting streets into the state system.

Connectivity. Under the new regulations, network additions must meet a minimum number of connections and comply with a Connectivity Index. A “connection” is a street connection to an adjacent property or a stub (subject to certain limitations) that will allow a future street connection to an adjacent property. The calculation for the Connectivity Index is the number of street segments divided by the number of intersections. For this calculation, “street segments” are sections of road between two intersections or a stub. “Intersections” include typical intersections as well as cul-de-sacs, but not stubs designed to connect to adjacent property in the future. Requirements vary for compact/urban areas, suburban areas, and rural areas.

An automatic reduction in the number of connections is allowed for constraints such as highways, rivers, terrain, or railroads. Additionally, a 45-day exception process is incorporated as part of the VDOT Traffic Impact Analysis review (or Conceptual Sketch Review if no traffic analysis is required) at the start of the development process. Exceptions may be appropriate in the case of incompatible land uses, unique parcel characteristics, or access management requirements.

Pedestrian Accommodation. Any street proposed for acceptance into the network for VDOT maintenance must meet standards for pedestrian and bicycle accommodation in accordance with the regulations and VDOT manuals. The new regulations give particular attention to pedestrian facilities according to specified areas.

| Area | Pedestrian Accommodation |
|--|---------------------------------|
| Dense (Lot size < ½ acre; FAR 0.4 or greater) | Both sides of the street |
| Suburban (Lot size ½ acre to 2 acres) | At least one side of the street |
| Within ½ centerline mile of a public school | At least one side of the street |
| Rural | None |
| <i>Note: Accommodation may be sidewalk, trail, or other facility with equivalent mobility.</i> | |

Street Dimensions

Changes to the Road Design Manual permits narrower streets. Under the former Subdivision Street Requirements, streets commonly reached 36-40 feet in width. Revised geometric standards now allow streets as narrow as 24-29 feet. The goal is to reduce traffic speeds with narrower streets and reduce stormwater runoff with less impervious surface. The narrower dimensions still meet accepted AASHTO standards.

Stormwater Facilities. Previously, stormwater management facilities were not allowed within VDOT right-of-way. New regulations allow approved stormwater facilities (those listed annually by the Virginia Department of Conservation and Recreation). Roads with such stormwater facilities will

only be accepted if VDOT has an agreement with the locality acknowledging that VDOT has no responsibility for operation, maintenance, or liability for associated stormwater facilities located within VDOT right-of-way. The regulations do not specify who will take that liability.

Surety Bonding. For streets inspected by VDOT staff, the period for surety bonding remains one year. The surety bond requirement may be waived if either (i) the locality initiates a local certification process (as already established in Prince William and Fairfax counties) or (ii) the developer hires a third party to inspect the streets for VDOT.

Transition and Grandfathering. Until July 1, 2009 developers may pursue street acceptance requests under either the new or old requirements. Beginning July 1, the new requirements apply. Subject to certain limitations, the former regulations may apply to streets that were part of a:

- Street layout proffered prior to March 9, 2009;
- Recorded plat or final site plan approval prior to March 9, 2009;
- Preliminary subdivision plat approved prior to March 9, 2009;
- Street construction plan approved by VDOT prior to March 9, 2009;
- Conceptual sketch submitted prior to March 9, 2009, and a request by the applicable locality to apply former regulations.

Permits and Financial Obligations. On the heels of VDOT's revised secondary street acceptance requirements, the General Assembly has amended the statute regarding acceptance of streets into the state system so that no street may be accepted into the secondary system of state highways until all related permits are obtained, fees are paid, and financial obligations are satisfied .

CHAPTER 527

The Traffic Impact Analysis Regulations, commonly known as Chapter 527, took limited effect in July 2007. After a phased implementation and some changes to the regulations, Chapter 527 now applies across the state. The Chapter 527 requirements are intended to further align local land use planning with state transportation planning by giving VDOT the opportunity to comment on a variety of local land use decisions. For your projects, the requirements may translate into increased costs (for submittal fees and additional analyses) and increased time (typically a matter of weeks for review).

Under Chapter 527, localities must submit comprehensive plans and plan amendments for VDOT comment. In the case of any rezoning, site plan, and/or subdivision plat proposal, the locality must submit the proposal along with a traffic impact analysis (TIA) if the project will significantly impact state-controlled highways—including interstates, primary, and secondary roads. Notably, this applies to by-right developments as well as those needing rezoning. VDOT, within a fixed timeframe, provides advisory comments and recommendations based on traffic impacts. VDOT emphasizes that comments are only advisory and that counties retain control of land use decisions. But, of course, SSAR, Access Management, and other permitting can still affect a development.

As specified in Chapter 527, TIAs must consider the following elements:

- New trips generated
- Existing and proposed land use
- Existing traffic and Level of Service
- Expected traffic and Level of Service (with and without proposed development)
- Recommendations for traffic impact mitigation

The TIA requirements alter prior VDOT practice. Notable changes include higher trip reductions for pass-by and internal capture; higher trip reductions and/or modal split for projects near transit, pedestrian, or bicycle facilities; and additional analyses for bicycle, pedestrian, and transit levels of service. These changes allow greater flexibility, but also involve greater analysis (and cost).

The chart below outlines the Chapter 527 requirements for various projects, as specified in VDOT Guidelines (24 VAC30-155).

| Process | | Threshold | Review Process* | Fee** |
|--|-------------------------|--|--|--|
| Comprehensive Plan and Plan Amendments | | 5,000 VPD on state-controlled highways, or Major change to infrastructure / transportation facilities | Application submitted to VDOT for review and comment VDOT may request a meeting with the locality within 30 days Review to be completed in 90 days or later if mutually agreed | \$1000 covers first and second review No fee if initiated by locality or public agency |
| Rezoning | Residential | 100 VPH on state controlled highways, or 100 VPH on locality maintained streets AND within 3000 feet of a state controlled highway, or <u>Low Volume Road Threshold:</u> 200 VPD AND exceeds the current traffic volume on a state controlled highway | TIA and Application submitted to VDOT for review and comment VDOT may request a meeting with the locality and applicant within 45 days Review to be completed in 120 days if VDOT requests a meeting Otherwise review to be completed in 45 days NOTE: When a related comprehensive plan revision and rezoning proposal are being considered concurrently for the same geographical area, then only a rezoning TIA package is required. | For first and second review: \$250 - Low Volume Road \$500 - Less than 100 VPH \$1000 - 100 VPH or more No fee if initiated by locality or public agency |
| | All Other Land Uses *** | 250 VPH or 2500 VPD on state controlled highways, or 250 VPH or 2500 VPD on locality maintained streets AND within 3000 feet of a state controlled highway | | |
| Subdivision Plat, Site Plan, or Plan of Development | Residential | 100 VPH on state controlled highways, or 100 VPH on locality maintained streets AND within 3000 feet of a state controlled highway, or 200 VPD AND more than doubles current traffic volume on a state controlled highway | TIA and Application and Plans submitted to VDOT for review and comment. VDOT may request a meeting with the locality and applicant within 30 days Review to be completed in 90 days if VDOT requests a meeting Otherwise review to be completed in 30 days NOTES: 1. Not required IF assumptions and conclusions remain valid in the Rezoning TIA submitted to VDOT in accordance with Chapter 527 (must include copy of previous TIS if rezoning approval is more than 2 years old). 2. Required IF a Rezoning TIA was NOT submitted to VDOT in accordance with Chapter 527. 3. Required IF conditions analyzed in Rezoning TIA submitted to VDOT in accordance with Chapter 527 have materially changed such that adverse impacts to state-controlled highways have increased. | For first and second review: \$250 - Low Volume Road \$500 - Less than 100 VPH \$1000 - 100 VPH or more No fee if rezoning TIA is determined to be still valid No fee if initiated by locality or public agency |
| | All Other *** | 250 VPH or 2500 VPD on state controlled highways, or 250 VPH or 2500 VPD on locality maintained streets AND within 3000 feet of a state controlled highway | | |

Source: Virginia Department of Transportation, Revised Traffic Impact Analysis Regulations Administrative Guidelines, 24VAC30-155 (2008).