

**17-229 DEPARTMENT OF TRANSPORTATION**

**TRAFFIC ENGINEERING DIVISION**

**Chapter 305: RULES AND REGULATIONS PERTAINING  
TO TRAFFIC MOVEMENT PERMITS**

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## Part 1. INTRODUCTION

This chapter contains Rules relating to the traffic movement permit provisions covered in 23 M.R.S. §704-A. It addresses standards, submissions and terms and conditions.

The Maine Department of Transportation (“MaineDOT” or the “Department”) has a responsibility to ensure that Projects that may result in increases in Vehicle Trips do not cause unacceptable decreases in the safety, access, or Level of Service for other motorists, pedestrians or bicycle riders. MaineDOT Traffic Movement Permit (TMP) Rule is intended to emphasize transportation-efficient Development and ensure that transit, bicycle, and pedestrian facilities are accommodated, as well as foster implementation of on-going, effective Transportation Demand Management (TDM) programs.

## Part 2. DEFINITIONS

As used in this chapter unless the context indicates otherwise, the following terms have the following meanings.

**Abutters.** Any property that shares a property line with the Development Area or is directly across any roadway from the Development Area.

**Alternative Design Proposal.** A substitute development design offered by the Applicant in cases where the application of standard design requirements is unworkable due to distinct conditions of the development or will clearly work against the intent of these Rules. Such proposals may be considered and approved with or without conditions by the Department as a Variance.

**Applicant.** The person or entity filing the application for a TMP. The terms “Applicant” and “Developer” may be used interchangeably, only if the Developer has filed the application.

**Application.** The information filed by the Applicant in a form provided by the Department requesting the issuance of a TMP.

**Automatic Permit Expiration.** A permit will be considered automatically expired if construction of the project has not begun within a 5-year period or completed within a 7-year period of the date of issuance. The Applicant must reapply for and receive approval prior to continuing construction or opening a facility.

**Business District.** The portion of a municipality in which the dominant land use is for intense business activity. A municipality may have more than one business district or none at all.

**Business Partnering Initiative (BPI).** The BPI is a MaineDOT construction funding program as defined in the MaineDOT's Business Partnering Initiative Municipal Guide.

**Capacity Analysis.** A determination of the Level of Service of an intersection or roadway segment using acceptable methodologies approved by MaineDOT as referenced in the MaineDOT Traffic Analysis Guidelines.

**Common Scheme of Development.** Common Scheme of Development means a plan or process which:

1. Takes place on contiguous or non-contiguous parcels or lots in the same immediate Vicinity; and
2. Exhibits characteristics of a unified approach, method or effect such as:
  - a. Unified Ownership, management, or supervision; and/or
  - b. Sharing of common equipment or labor; and/or
  - c. Common financing.

**Consolidated Review.** The type of review of combined permits when a Development requires both a Traffic Movement Permit from MaineDOT and a site law permit from the Maine Department of Environmental Protection (M.D.E.P.) M.D.E.P. shall be the lead agency for a consolidated review of combined permits and, therefore, will issue the joint permit. The Applicant is required to meet the criteria of both Departments' application processes. The appeals process is more complicated under Consolidated Review and is governed by M.D.E.P. Rules.

**Critical Intersection.** An intersection that, if impacted by increased traffic, could have a negative effect on the traveling public, the municipality and/or the business community.

**Critical Rate Factor.** The ratio of the actual crash rate at an intersection or road to the statistically calculated critical rate.

**Delegated Review.** The authority given to a municipality to issue Traffic Movement Permits. See Part 3 for process and criteria.

**Delay.** The time lost, measured in average seconds per vehicle, while Traffic is slowed or impeded by congestion or roadway elements.

**Department.** Maine Department of Transportation (MaineDOT). The terms Department and MaineDOT may be used interchangeably.

**Designated Growth Area.** An area designated as a growth area in a locally adopted growth management plan that is consistent with M.R.S. Title 30-A, Chapter 187.

**Developer Agreements.** If a proposed Project abuts the State's highway system and the Department requires improvements to the highway system as a condition of the issuance of a TMP, the Applicant and MaineDOT will enter into a Developer Agreement setting out the process by which the Applicant will obtain approval of the design plans and coordinate the construction of the improvements through MaineDOT's Region Engineer with jurisdiction over the municipality in which the improvements are taking place. The Applicant must demonstrate through a Developer Agreement the financial, legal and technical ability to develop such improvements.

**Development Area.** The site proposed for Development, excluding all off-site roadway segments and intersections beyond the entrance or entrances.

**Development.** Any single or mixed-use construction, alteration or conversion of a site on a piece of property. The terms "Development" and "Project" may be used interchangeably.

**Entrance(s) and Exit(s).** Access ways used by any and all modes of transportation to or from a property abutting a highway or public way. As used herein, the terms include all driveways (e.g., private residential, commercial and other nonresidential driveways), sidewalks, and pathways. The terms do not include a street entirely within a subdivision. (As used herein, the terms Entrances and Exits include the approaches to them and the intersections created by them even if these areas include parts of the state or local right of way.)

**Estimated Annual Average Daily Traffic.** An estimate of the total daily volume on a roadway segment for an average day of the year.

**Event.** A recurring activity or series of attractions expected to generate 100 or more passenger car equivalent (PCE) trips for more than 30 peak hours in a 12 month period.

**Exception.** A waiver from a standard or requirement due to circumstances outside of the Applicant's control and/or unworkable or unsafe in a given circumstance. Exceptions will require the substitution of Department-approved mitigation strategies, and/or fee payments that meet or exceed default standards and are specifically authorized within sections of this Rule.

**Expedited Review.** A review process that an Applicant may request regarding Projects that have known or negligible new impacts to the roadway or Traffic conditions, including multimodal Traffic. See Part 3 for process and criteria.

**Grandfathered Trips.** Previously permitted or unpermitted Trips that have been generated by the Development on a certain parcel for more than 10 years. MaineDOT has determined that the Trip credits will be given for the highest permitted/actual use of the Development that has occurred over the past 10 years.

**Horizon Year.** The anticipated opening year of the proposed Development, assuming build-out and full occupancy.

**Impact Fee.** A fee charged to an Applicant as compensation for impact on a Critical Intersection or roadway section.

**Interested Person.** This includes an Applicant, a person who submits written comments concerning an Application or who requests, in writing, receipt of materials related to an Application. The Department shall maintain a list of Interested Persons for each Permit Application.

**Level of Service (LOS).** A measure of the quality of the operating conditions for any mode of transportation within a Traffic stream as determined from a Capacity Analysis using methodology outlined in the MaineDOT Traffic Analysis Guidelines.

**MaineDOT Traffic Analysis Guidelines.** A set of guidelines developed by MaineDOT to provide the traffic engineering community with standards with which to administer the requirements of M.R.S. Title 23 §704-A and this Rule.

**Major Intersection.** An intersection controlled by a traffic signal or the intersection of a state or state aid highway with the road on which the entrance(s) for the Development is/are located. A commercial entrance is not considered a Major Intersection.

**Mode Split.** The proposed Project's anticipated/estimated split among major transportation modes: walking, bicycling, public transit, single-occupant motor vehicle, and multi-occupant motor vehicle (e.g. vanpool, rideshare, taxi, Uber/Lyft, Ride Sharing Venues).

**Multi-Modal Study Area.** The Multi-Modal Study Area (MMSA) focuses on the multi-modal transportation system that serves the Study Area and provides access to the Project site. The Multi-Modal Study Area includes major highways and roadways, intersections and interchanges, pedestrian facilities, bicycle facilities and access, and public transit network. Geographic requirements are provided in Part 5.

**Multi-Modal Trip.** A Person Trip that is either a walk, bicycle, or transit Trip.

1. A walk Trip is an inbound or outbound Person Trip for which the greatest distance between the Trip origin and Trip destination is traveled on foot or on any type of assistive device (e.g., wheelchair, walker, skates, scooter, Segway, skateboard).
2. A bicycle Trip is an inbound or outbound Person Trip for which the greatest distance between the Trip origin and Trip destination is traveled by a bicycle (or any pedal-powered vehicle).

3. A transit Trip is an inbound or outbound Person Trip that crosses the Site Cordon Line in a transit vehicle or for which the greatest distance between the Trip origin and Trip destination is traveled in a transit vehicle (e.g., public bus, private bus or shuttle, rail car, ferry boat). A Person Trip made in a carpool, vanpool, taxi or micro transit (e.g. Uber, and Lyft) is considered a Vehicle Trip.

**Municipal Partnering Initiative (MPI).** The MPI is a MaineDOT construction funding program as defined in the MaineDOT's Municipal Partnership Initiative Municipal Guide.

**Pass-By Trip.** A Vehicle Trip made as an intermediate stop on the way from an origin to a primary Trip destination without a route diversion. A Pass-By Trip is created by Traffic passing the site on an adjacent street or roadway that offers direct access to the Traffic generator. A Pass-By Trip is not diverted from another roadway that is not adjacent to the site.

**Passenger Car Equivalents (PCE's).** The number of passenger cars or, in the case of non-passenger vehicles, the number of passenger cars that would be displaced by non-passenger car vehicles. See MaineDOT Traffic Analysis Guidelines for conversion factors.

**Passenger Car Equivalents at Peak Hour.** The number of passenger cars or, in the case of non-passenger vehicles, the number of passenger cars that would be displaced by non-passenger vehicles, at that hour of the day during which the Traffic volume generated by the Development is higher than the volume during any other hour of the day. See 23 M.R.S. §704–A.

**Peak-Hour.** The hour of the day during which the Traffic volume at an intersection or on a roadway segment is higher than the volume during any other hour of the day.

**Person Trip.** A Trip made by any mode of travel by an individual person from an origin to a destination. Every Trip made anywhere by a person is a Person Trip. For instance, if three people leave a Development site in a single vehicle, this is counted as three Person Trips.

**Project.** Any single or mixed-use construction, alteration or conversion of a site on a piece of property. The terms “Project” and “Development” may be used interchangeably.

**Scoping Meeting.** A meeting to evaluate the nature and extent of impacts of a proposed Project and the level of information and study warranted.

**Shared Trip.** A “Shared Trip” is a Person Trip made between two distinct on-site land-uses at a mixed-use site without using an off-site road system. Such as an internal trip can be made by personal passenger vehicle, truck, walking, bicycling, or transit. A Shared Trip is a tool for reducing Trips on the roadway for mitigation purposes only. A Shared Trip cannot be a factor in whether a Development meets the Trip threshold for requiring a Traffic Movement Permit.

**Site Cordon Line.** A real or imaginary boundary around a designated site or specific area that, when crossed by a vehicle or person, captures every Trip that enters or exits the site.

**Study Area.** The area defined in Specific Submission Requirements Part 6, Section C. The scope of the Study Area may be further refined by MaineDOT at the Scoping Meeting. *Note: See also Multi-Modal Study Area.*

**Title, Right or Interest.** This term refers to Applicant's ownership of or enforceable right to acquire the property rights necessary for the Development. Specific ways to effectively demonstrate this legal authority are outlined in Part 6.

**Traffic.** Vehicles, pedestrians, bicycles and multimodal conveyances moving along a road or public highway.

**Traffic Crash.** A motor vehicle crash that results in property damage exceeding \$1,000 or physical injury of any type.

**Traffic Attributable to a Development.** Net new Traffic volumes and associated Traffic patterns generated as a result of a proposed Development.

**Traffic Movement of All Types.** Any mode of travel, including pedestrian, bicycle, bus, ferry, aviation, rail, or automobile.

**Traffic Movement Permit.** The permit issued by the Department under 23 M.R.S. §704-A and this Rule, at times referred to as the "TMP".

**Traffic Movement Permit (or TMP) Modification.** A review and approval process used to address changes in facts presented within the original approved Application either prior to or following the development being constructed.

**Traffic Movement Permit (or TMP) Rule.** Chapter 305 of the General Rules of the Department of Transportation (this rule).

**Traffic Signal.** A power-operated control device by which Traffic is regulated, warned, or alternately directed to take specific actions. See 29-A M.R.S. §2057.

**Traffic Study.** A quantitative analysis by qualified traffic engineers to determine whether the existing roads and intersections in the Vicinity of the proposed Development have the capacity to handle Traffic attributable to the Development.

**Transportation Demand Management Techniques.** Measures taken to reduce or spread peak hour Traffic over a longer period of time. Such measures include, but are not limited to, micro transit, ridesharing, carpooling, vanpooling, mass transit, telecommuting policies and modified work schedules.

**Trip.** A single or one direction person or vehicle movement with either the origin or destination inside the Development Area.

**Urban Compact.** A built-up portion of a town/city as described in 23 M.R.S. §754.

**Vehicle Trip.** The movement of an inbound or outbound personal passenger vehicle or truck, carrying one or more passengers, across the Site Cordon Line. A person crossing the Site Cordon Line as a pedestrian in conjunction with an overall Trip made primarily in a personal passenger vehicle or truck will be counted as a Vehicle Trip. If, for example, a person drives a personal passenger vehicle from home, parks off-site, and walks from the parking facility to an office building, the trip (at both ends) is considered a Vehicle Trip.

**Vicinity.** The area defined by the limits of the threshold volumes traced along the highway network. This can be limited to the next major intersection or driveway/entrance depending on the nature of the development in the Development Area. The Vicinity is used to help define the study area.

### **Part 3. PERMIT TYPES AND THRESHOLDS**

The determination of all PCE Trips for the purpose of establishing application requirements shall be calculated with an approved methodology detailed in the MaineDOT Traffic Analysis Guidelines. Assistance in determining the Trip levels can be obtained by contracting with a traffic engineer licensed to do engineering work in the State of Maine. Staff at the nearest MaineDOT Region Office or the Augusta Headquarters - Division of Traffic Engineering (see chart in Part 4) can assist with identifying a qualified traffic engineer.

#### **A. New Permits**

A Traffic Movement Permit Application shall be obtained by:

1. The responsible party for any Project that is projected to generate 100 or more passenger car equivalents (PCE) trips during peak hour of Traffic generation; and
2. The responsible party for an occasional event that generates 100 or more PCE Trips during peak hours of Traffic generation for more than 30 peak hours a year.

#### **B. Exempt Projects**

The following types of Projects are exempt from MaineDOT review under these Rules because they are subject to review by the Maine Department of Environmental Protection:



1. Any type of Solid Waste Facility. (38 M.R.S. §1310-N)
2. Any type of Hazardous Waste Transfer or Storage Facility. (38 M.R.S. §1319-R)
3. Any Waste Oil Storage Facility and Biomedical Waste Facility. (38 M.R.S. §1319-X)

### **C. Modifications to Existing Permits**

A Traffic Movement Permit Modification is a process used to reflect modifications in permit conditions, changes in ownership, changes in the Project description/scope, or changes in a Project's timeline. Traffic Movement Permit Modification is required if any of the following occurs:

1. Change in Applicant's/Owner's name prior to the Development being constructed.
2. Change in the Project description before the Development is constructed (this includes a change in the ITE Trip Generation Manual Land Use Code, changes in size of individual uses, increase in Trips, etc.).
3. Change in Project timeline if the new timeline extends more than 5 years past the original signed date of the TMP permit.
4. In connection with a Traffic Movement Permit Modification for a Project whose timeline is over the five-year time limit, MaineDOT reserves the right to require the Developer to re-submit information pertaining to Sections 1 thru 6 of the General Submission Requirements and a Notice of Intent to File. Additionally, the Developer may be required to attend a Scoping Meeting (unless MaineDOT waives this requirement as a part of the Expedited Review process).
5. Change in Passenger Car Equivalent Trips resulting in a total sum of generated Trips exceeding 100 Trips above permitted Trips after the original Development has been constructed or changes in any peak hour.

Modifications involving 100 or more additional passenger car equivalent Trips also must include updated information as set forth in Sections 1-6 of the General Submission Requirements and a Notice of Intent to File. This shall be submitted to MaineDOT with the application for permit modification. The Applicant will also be required to attend a MaineDOT Scoping Meeting (unless MaineDOT waives this requirement as part of the Expedited Review process). The need for an updated Section 7 Traffic Study will be determined at the Scoping Meeting. Modifications of TMPs for any reason will require payment of a modification fee

of \$500 to MaineDOT. If an updated Section 7 Traffic Study is required, the Applicant will be required to pay an additional \$1,500.

**D. Delegated Review**

23 M.R.S. §704-A allows municipalities to apply for Delegated Review. “Delegated Review” gives the municipality the authority to issue a Traffic Movement Permit if it has enacted an ordinance or regulation for reviewing Traffic Movement Permits that is consistent with the Chapter 305 Rules and Regulations Pertaining to Maine DOT’s Traffic Movement Permit. To be approved, the municipality must demonstrate, to the satisfaction of MaineDOT, that it has the ability to administer and enforce its ordinance and regulations. Applicants should contact the Region Traffic Engineer at the numbers listed in the table in Part 4 to determine if the municipality where the Project is located has Delegated Review.

Delegated Review municipalities are not allowed to perform Expedited Review on any Projects submitted for their review.

**Part 4. GENERAL SUBMISSION REQUIREMENTS**

- A. Organization.** The Applicant is expected to complete and organize the Application as follows:
1. Fill out the TMP Application form and Notice of Intent to File.
  2. Attach both to the front of the completed Application.
  3. Assemble the remainder of the Application into sections as specified in the following the submittal requirements in Part 6 below.
  4. Identify each section with a tab.
  5. If a particular section is not applicable, provide a statement explaining why it is not rather than omitting the section.
  6. Retain a copy of the Application for reference.
- B. Notice.** The Applicant must provide written public notice of the Application to Abutters and municipal officials by completing the "Notice of Intent to File" in the form provided by MaineDOT. The completed Notice of Intent to File must be placed after the first two pages and before Section 1 of the TMP Application. The Notice of Intent to File must be sent to all abutters and to the appropriate officials in the municipality in which the Development is located by certified mail, return receipt requested, and published in local newspapers of general circulation. For

over 200 PCE Developments, the Notice of Intent to File should be accompanied by the information required by Part 6, Sections 1 thru 6 of this Rule.

- C. Plans.** All site plans shall be stamped or sealed by a licensed Maine professional engineer and must be at a scale of 1-inch equals no more than 50 feet, unless variations are approved by the Department prior to submission of the application. Any intersections between the Development with a public roadway shall be shown at a scale of 1-inch equals no more than 50 feet. Survey plans shall be prepared, signed and sealed by a Maine licensed professional land surveyor. Plans must be folded to fit 8 1/2" X 11" folders and must be submitted in triplicate (original and two copies).
- D. Copies and Format.** An original plus two hard copies, as well as an electronic file or set of files on USB media, must be provided to MaineDOT as part of the submittal.
- E. Fees.** The fee for a Scoping Meeting with no further review (100 - 200 PCE Trips) is \$500. If further review is required short of a full Traffic Study as determined at the Scoping Meeting, then an additional \$500 processing fee is required for each further review. The fee for all 200+ PCE Trip applications is \$2,000 (\$500 prior to the Scoping Meeting and \$1500 when the Traffic Study is submitted). The fee for all MaineDOT TMP modifications shall be \$500 (unless additional study is required). All checks to be made payable to "Treasurer State of Maine".
- F. Filing Location.** The Application marked "Attention Region Traffic Engineer" must be filed in the appropriate MaineDOT Region Office (for developments in municipalities with delegated review, the application will go directly to the municipality):

<p><b>MaineDOT Southern Region</b> Region 1 51 Pleasant Hill Road Scarborough, ME 04070-0358 <b>Phone:</b> 207-885-7000</p>	<p><b>MaineDOT Mid-Coast Region</b> Region 2 66 Industrial Drive Augusta, ME 04330 <b>Phone:</b> 207-624-8200</p>	<p><b>MaineDOT Western Region</b> Region 3 932 U.S. Route 2 East Wilton ME 04294 <b>Phone:</b> 207-562-4228</p>
<p><b>MaineDOT Eastern Region</b> Region 4 219 Hogan Road Bangor, ME 04401 <b>Phone:</b> 207-941-4500</p>	<p><b>MaineDOT Northern Region</b> Region 5 41 Rice Street Presque Isle, ME 04769 <b>Phone:</b> 207-764-2200</p>	<p><b>Augusta Headquarters</b> Traffic Engineering 24 Capitol Street 16 State House Station Augusta, ME 04333 <b>Phone:</b> 207-624-3632</p>

## Part 5. SPECIFIC TRAFFIC MOVEMENT PERMIT PROCESS REQUIREMENTS

The TMP transportation impact review process reflects and advances the State of Maine's motorized and multi-modal policy goals, in particular, the objectives outlined in MaineDOT's Complete Streets Policy and in the federal Americans with Disabilities Act. Especially in village, sub-urban and urban contexts, projected impacts on all modes, and appropriate mitigation strategies, including increases in infrastructure capacity and Traffic Demand Management practices, must be included in the Applicant's description of the Project. Discussion of the applicability of TDM or multi-modal considerations shall be included in the application and at the Scoping Meeting.

- A. Pre-Scoping Meeting.** A pre-Scoping Meeting may be requested by either the Applicant or MaineDOT prior to the submittal of the Application. MaineDOT, at its discretion, may grant a pre-Scoping Meeting prior to the Applicant's preparation of the Application. The pre-Scoping Meeting is intended to allow MaineDOT and the Applicant to obtain consensus as to study assumptions, data requirements, analysis periods, analysis methodology, and other key aspects of the process prior to the Applicant preparing the Application. This meeting ensures a common understanding and reduces the potential time and cost of preparing revisions to the TMP Application.
- B. Developments Generating 100 or MORE PCE Trips.** If a proposed Development is estimated to generate 100 or more PCE Trips during its peak hour of Traffic generation, then the information requested in Sections 1-6 below shall be included in the Application submitted to the Department prior to scheduling the Scoping Meeting.
- 1. Review Timeline.** Any person intending to construct or operate a Development that is projected to generate 100 or more PCE Trips during its peak hour of Traffic generation shall, before commencing construction or operation, file an original and two copies of the Application for a "Traffic Movement Permit" identifying the size, nature and location of the Development, together with information required in Sections 1 through 6 of Part 6, below. An electronic copy of the Application shall also be sent to the Regional Traffic Engineer. The Department has 14 calendar days from date of submittal to determine if the Application, including Sections 1 through 6 of Part 6, is complete. If the Department does not make a completeness determination within 14 calendar days, the Application is deemed complete. However, this does not preclude the Department from requesting additional information from the Applicant. If the Application is not deemed complete, the Applicant will be required to resubmit the Application with the requested information, and the Department has 14 calendar days to determine completion upon resubmittal. A Scoping Meeting shall be held within 30 calendar days of the date Sections 1 through 6 of Part 6 are deemed complete.

2. **Scoping Meeting.** Applicants with Developments resulting in 100 or more PCE trips will be required to attend a Scoping Meeting with the Department. The Department will schedule a Scoping Meeting upon receipt of a Traffic Movement Permit Application, from the Applicant, which the Department deems complete. The Scoping Meeting shall be used to discuss the scope of potential Traffic impacts to be studied by the applicant . The Department will invite representatives of the municipality, abutting municipalities, municipal planning organizations and regional councils from the area where the Project is located in addition to the Applicant and/or appropriate representative. The Applicant is required to submit a signed copy of the "Notice of Intent to File" to the municipality(ies) where the proposed Development is located and to submit this form to all abutting property owners. Such notice must be sent by certified mail, return receipt requested, at least 7 (seven) calendar days prior to the Scoping Meeting. The purpose of the Scoping Meeting is to help the Applicant understand the Application review process, identify particular areas of concern, define appropriate Trip generation rates, define Trip distribution, define Trip composition, define the Study Area and determine the need for a Traffic Study. The Applicant has 270 calendar days from the Scoping Meeting to submit the Traffic Study such a study is required by the Department. Failure to submit the required material within 270 calendar days may require the resubmittal of Sections 1 thru 6 of Part 6 of this Rule and a new Scoping Meeting to be held.

**C. Developments generating 100-200 PCE Trips.** For Developments estimated to generate 100-200 PCE Trips during the peak hour of Traffic generation, the Department shall recommend one of the following during the Scoping Meeting:

1. That the Applicant be issued a TMP with no further study and no off-site mitigation because the Development will not have a significant impact on roads or intersections in the Study Area of the proposed Development. As part of the TMP issued by the Department in such a case, conditions including an impact fee may be imposed for off-site mitigation without the need for any additional Traffic Study; or
2. That the Application requires further review and that a Traffic Study including the information requested in Section 7 below is required. This determination may be made if it appears that there are Traffic safety or capacity deficiencies in the Study Area of the proposed Development, such as in the following instances:
  - a. Current Traffic problems have been identified such as a high-crash location, an intersection in need of a Traffic signal, or inadequate storage lane capacity for turning vehicles.

- b. The current or projected Level of Service of the roadway system adjacent to the Development is unsatisfactory for any user group, including but not limited to motorists, bicycle riders, and pedestrians.
- c. Other specific safety or congestion problems or deficiencies have been clearly identified and documented by MaineDOT or the municipality and these may be affected by the proposed Development or affect the ability of the Development to be satisfactorily accommodated. These may include gaps or deficiencies in multi-modal facilities (including but not limited to: breaks in sidewalk or bicycle lane continuity, lack of crosswalks, lack of ADA accessible pedestrian facilities or bus stops, lack of bus stop amenities such as benches or shelters) in the site Vicinity. The Department may address these problems or deficiencies under its other statutory authority as well.
- d. The Study Area of the proposed Development is limited to the area defined by the Development entrance(s) or exit(s), and the Department wishes to extend the Study Area to the first Major Intersection in each direction from the Development entrance or entrances including intervening segments because the Scoping Meeting revealed potential safety, capacity, or other Traffic-related issues affecting the type of review warranted.

Once the Traffic Study is submitted, The Department has 14 calendar days from date of submittal to determine if the Traffic Study is complete. If the Department does not make a completeness determination within 14 calendar days, the application is deemed complete. The "Notice of Intent to File" does not need to be resubmitted with Section 7 Traffic Study when the Application is officially submitted. The Department will have 60 calendar days from the date the Application is deemed complete to issue a Traffic Movement Permit.

- D. Developments generating 200 or more PCE Trips.** If a proposed Development is estimated to generate 200 or more PCE Trips during the peak hour of Traffic generation, a Traffic Study including the information requested in Section 7 below will be required after the Scoping Meeting.

The requirement of a Traffic Study may be waived by the Engineer of Traffic or his or her designee when the Engineer of Traffic determines that the development traffic peak is at a different time than the peak hour of the adjacent roadway or the Development has a high number of Pass-By Trips.

Once the Traffic Study is submitted, the Department has 14 calendar days from date of submittal to determine if the Traffic Study is complete. If the Department

does not make a completeness determination within 14 calendar days, the Traffic Study is deemed complete. The Department will have 120 calendar days from the date the Application and Traffic Study are deemed complete to issue a Traffic Movement Permit. The "Notice of Intent to File" does not need to be resubmitted with the Section 7 Traffic Study when the Application is officially submitted.

The outside parameters for the Study Area of the Section 7 Traffic Study are as follows:

1. The Development entrance(s) and exit(s);
2. The first Major Intersection in either direction from the Development entrance(s) and exit(s) unless waived by the Engineer of Traffic or his/her designee at the Scoping Meeting; and
3. All intersections where, during any one-hour period, traffic attributable to the proposed Development equals or exceeds:
  - a. 25 left turn movements per lane; or
  - b. 50 thru and/or right turn movements per lane

Generally, the Study Area, defined by the above criteria, would be limited to a radius of 2 miles measured from each site entrance or exit unless the Department, at the Scoping Meeting, determines that the proposed Development will impair the safe and efficient flow of Traffic beyond a two mile radius due to the Development's scale, location, or nature.

- E. Consideration of Multi-Modal Trips.** The Section 7 Study must include analysis of Multi-Modal Trips based on ambient and potential future Project area conditions and should take special care to identify transportation system features with existing or potential issues that would be exacerbated by Project-generated Trips. The Study Area for multi-modal considerations, or the Multi-Modal Study Area, shall be determined by defining a circle around the Project with a minimum radius of ¼ mile for urban/suburban contexts, and a larger radius of up to a 1 mile for rural contexts. Depending upon specific site and contextual conditions reviewed at the Scoping Meeting, the Department may reduce the required Multi-Modal Study Area from the default radius length and/or reshape the circular area to more appropriately target likely impacted locations for analysis.
- F. Traffic Movement Permit Expedited Review.** For those Projects that have known or negligible new impacts to the roadway or Traffic conditions, including multimodal Traffic, the Applicant shall have the ability to apply for Expedited Review. To request Expedited Review Applicants shall follow the guidelines below.

1. The Applicant needs to state the request for Expedited Review on the Application. The Application shall be accompanied by a letter (in the form provided by MaineDOT) from municipal staff supporting Expedited Review. This letter must detail the arguments supporting the determination that the Project makes only known or negligible impacts to the roadway or Traffic conditions, including multimodal Traffic, and that no Scoping Meeting is needed. Expedited Review will not be allowed within municipalities that have Delegated Review.
2. The Applicant will submit the Application with all of the information required by Sections 1 through 6 of Part 6 (plus associated \$500 Application fee) and, when necessary, the Section 7 Traffic Study. A list of formal recommendations for TMP conditions shall be submitted with the Application. If the Project impacts a coordinated traffic signal system, the Applicant will pay an impact fee to be used to develop a signal timing plan to accommodate the adjustments to the signal system. The impact fee will be a per signal cost determined by consultants approved by MaineDOT for work associated with coordinated signal system retiming.
3. The Applicant must accept responsibility for construction of any and all transportation system improvements, including implementing improvements to serve multimodal needs and/or to the site entrance(s)/exit(s). Those improvements shall be shown on the site plan.

If MaineDOT requires off-site mitigation, it can be in the form of either a to-be-determined impact fee or agreed upon roadway improvements.

MaineDOT may deny the request for Expedited Review and review the Application in the traditional manner. This decision to review the Application traditionally will be made within 14 calendar days of submission. If Expedited Review is granted, MaineDOT will modify the TMP draft as needed and present it to the Applicant and municipality within 30 calendar days of submission.

Expedited Review is generally limited to 100 to 200 PCE permits. MaineDOT may allow Expedited Review for over 200 PCE permits for those Developments with a high percentage (70%) of Pass-By Trips.

## **Part 6. SUBMITTAL REQUIREMENTS**

**Section 1.** Required site and Traffic information that must be included with the Application is as follows:

- A. Site Plan.** Plans and drawings shall be in accordance with General Submission Requirements, supra Part 4. The Site Plan should identify the size of the parcel,



the developable acreage of the parcel, general terrain features, and unique terrain features. The site plan should also identify the proposed “footprint” of the Project relative to existing site conditions, the boundaries of land owned by the Applicant, the abutting land uses, and transportation facilities (including private and access roadways, sidewalks, crosswalks, public right-of-way, public transit stations/stops/routes, and bicycle facilities) within and adjacent to the site. Review of the of the Site Plan will cover existing bicycle, pedestrian and public transportation infrastructure, existing and future multimodal desire lines, and a preliminary connectivity assessment.

- B. Description of Existing and Proposed Site Uses.** A description of the existing and proposed uses of the Development Area will need to include information about the anticipated number and type of parking spaces (to include automobile parking, bicycle parking, and preferential parking for carpoolers and other non-drive-alone modes) and information about potential shared parking, on-street parking, and off-site parking opportunities.
- C. Regional Mapping.** Identification of site and Study Area boundaries in the form of a regional map showing the Development area and each road in the Study Area of the proposed Development. This map must also show other proposed Development sites (all municipally approved Developments under 100 PCE and those Developments 100 PCE and over that have an approved TMP submittal to MaineDOT) in the Study Area of the proposed Development, including the location of their existing and proposed driveways to the extent such information is available. This map shall include pedestrian, bicycle and transit Trip generators, origins and destinations within a radius of ¼ mile for urban/suburban contexts and a radius of up to 1 mile for more rural contexts.
- D. Information Concerning Proposed Uses.** Information concerning proposed uses in the Study Area of the proposed Development and the Traffic increases that are expected from sources other than the proposed Development and that are highly likely to occur in the Vicinity (as defined in MaineDOT's chapter 305 of the General Rules of the Department of Transportation) of the proposed Development during the study period. At a minimum, the Applicant must identify Development or redevelopment proposals which have been approved, either locally or by the Department, provided such approvals have not lapsed, and Development or redevelopment proposals for which complete Applications have been filed with and accepted by a local reviewing authority or the Department, provided the Applicant is actively pursuing the Application. If a local reviewing authority or the Department has requested from an Applicant additional information or submittals necessary to complete the processing of an Application but has not received such information within 270 calendar days of the request, that Applicant shall be deemed to be not actively pursuing the Application and the Department will consider the application withdrawn and will so notify the applicant.

- E. Information Concerning Vehicle Trip Generation.** Vehicle Trip generation caused by the Development or redevelopment is the determining factor in whether a Developer is required to apply for and obtain an MaineDOT Traffic Movement Permit. The Applicant should identify the expected use or uses of the Development, the amount of space or number of site users (or other suitable indicator of Trip generation), and the resulting Vehicle Trip generation of the proposed Development, including the weekday morning peak hour, the evening peak hour, daily Traffic, and other peak periods as may be appropriate (weekday mid-day peak, weekend mid-day peak, etc.). The Applicant must include appropriate documentation and references and document both Trip rates and Trip types. Trip generation must be calculated using approved methodology referenced in the MaineDOT Traffic Analysis Guidelines. The Trip generation data must be presented in a summary table listing each type of land use, the size involved, the Trip generation rate used (total daily Traffic and a.m./p.m. peak, weekend peak if necessary), and the resultant total Trips generated for the design peak hour of the adjacent street, or the design peak hour of the generator, whichever is the worst case scenario for the network.
- F. Information about Trip Distribution.** Information about Trip distribution, including a description and diagram of the anticipated distribution of Traffic entering and exiting the proposed Development area. For Developments which generate 500 or greater Trips, a gravity model, market study, or other approved methodology referenced in the MaineDOT Traffic Analysis Guidelines is required to determine Trip distribution.
- G. Information about Trip Assignment.** Information about Trip assignment including, at a minimum, a stick diagram showing the network impacted by the Development as well as the first Major Intersection to either side of the Development driveway(s). The Applicant shall also include projections of bicycle and pedestrian uses and information about additional intersections for Developments with over 200 PCE, if threshold volumes are met. Threshold volumes are met at intersections where, during any one-hour period, Traffic attributable to the proposed Development equals or exceeds: (a) 25 vehicles in a left-turn-only lane; (b) 50 vehicles in a through lane, right-turn lane, or a combined through and right-turn lane; or (c) 50 vehicles (multiplying the left-turn volume by 1.5) in a combined left-turn and through lane, or a combined left-turn, through and right-turn lane. The Applicant shall also include a description and diagram of the anticipated utilization of roads and intersections in the Study Area of the proposed Development by Traffic attributable to the Development. Distribution and assignment of Trips must be based on population trends, surrounding land uses, the condition of roadways, market analyses, existing Traffic patterns and other relevant data. The technical analysis steps, basic methods, and assumptions used in this analysis must be clearly stated. The scope of this section must be to and including the first Major Intersection to either side of the Development driveway(s) and for multimodal considerations, bicycle/pedestrian/transit Trip generators, origins and destinations, and facilities

within a radius of ¼ mile for urban/suburban contexts and a radius of up to 1 mile for more rural contexts.

Generally, for an over 200 PCE Application, the Study Area as defined by the above criteria would be limited to a radius of 2 miles from the Development Site unless the Department, at the Scoping Meeting, determines that the proposed Development will impair the safe and efficient flow of Traffic beyond a two mile radius due to the Development's scale, location, or nature.

## **Section 2. Traffic Crashes**

The Application should provide an inventory and analysis of Traffic crashes occurring in the Vicinity of the proposed Development during the most recent 3-year period to identify high crash locations and their associated Critical Rate Factors or excess crash costs. The inventory must include:

- A. An identification of high crash locations including road segments, intersections, or Development entrances and exits that may be deemed as unsafe when Traffic encounters conditions such as inadequate turning radii, poor geometrics, limited sight distance or high crash locations. "High Crash Locations" are road segments or intersections where eight (8) or more crashes have occurred over the most recent three (3) year period, and the "Critical Rate Factor" is greater than one (1.0).;
- B. MaineDOT supplied Collision diagrams for each High Crash Location identified;
- C. Information about excess crash rates and costs in accordance with MaineDOT's Highway Safety Manual (using expected vs predicted crash rates); and,
- D. Data on bicycle and pedestrian crashes identifying any trends, causal factors or relationships with motor vehicle crash data.

**Section 3. Development Entrances and Exits.** The Application must include the following:

- A. A description of entrance and exit locations showing the exact distance (to the nearest hundredth mile) to the nearest intersecting road or town line The description must also include information about the number of entrances/exits and the proposed width and type of surface on the proposed entrances/exits, and sidewalks. Finally, the description must identify bicycle lanes/facilities or other multi-modal features (e.g. crosswalks, bus stop amenities such as benches and shelters, bicycle lanes and parking, etc.).
- B. A plan view of each intersection created by the Development showing the names of the intersecting roads, the posted speed limit on the roads, the left and right sight distances, and the location of all driveways and roads located across from the Development site.

- C.** Information about the measured stopping sight distances in each direction for entrance and exit locations as well as the posted speed for the location of each driveway. Those sight distances shall be in conformance with the sight distance set forth in MaineDOT's Chapter 299 Highway Driveway and Entrance Rules.
- D.** Evidence that the Entrance/Exits meet the following criteria and requirements:
1. Minimum driveway spacing and minimum corner clearance as specified in the MaineDOT's Chapter 299 Highway Driveway and Entrance Rules.
  2. Adequate sight distance must be achieved in both directions for vehicles entering onto or exiting from the highway. The design and location of the driveway should be such that it allows motorized vehicles, including trucks, to maneuver safely and without interference with Traffic. The entrance/exit location should provide adequate sight distance so that vehicles traveling on the highway or street adjacent to the driveway will provide sufficient stopping sight distance for vehicles waiting for a gap to turn left into the driveway entrance. A minimum safe sight distance must be provided for vehicles turning left from a major roadway. A Project that can be anticipated to generate any bicycle and pedestrian Trips shall provide sidewalks, crosswalks, and ADA accessible landings at and along the entrance to the public streets system and pedestrian connection(s) from the entrance(s) to and between the site structure(s).
  3. Driveway width and other details shall be in accordance with the latest version of MaineDOT's Standard Details; an updated version of the Standard Details is available on the MaineDOT Traffic website.
  4. The grade of entrances shall be in conformance with the latest edition of MaineDOT's Highway Design Guide available on the MaineDOT Traffic website. All driveway entrance/exits within 75 feet of a roadway intersection shall not exceed a maximum grade of 3%.
  5. Driveway entrance/exits shall comply with the most current version of MaineDOT's Chapter 299 Highway Driveway and Entrance Rules. The width of drive entrances shall not exceed twenty-six 26 feet for residential use and forty-two 42 feet for commercial use.
  6. Separation islands between entrances and exits where culverts are not required or are continuous between entrances, shall be raised islands, not less than six (6) inches above the surface of the entrance. Island should be either paved or seeded. If an open ditch is used between driveways having separate culverts, the raised section is not necessary and the separation island shall be graded to drain toward the culverts.

7. When sidewalks, curbing, or curb and gutter are to be removed as part of the construction, the Applicant must commit to replacing at its own expense the necessary sidewalks, curbing or curb and gutter at the break points of the entrance. All curbing at the side of the entrance shall form terminal ends as shown in the latest version of MaineDOT's Standard Details; an updated version of the Standard Details is available on the MaineDOT Traffic website. A Project that can be anticipated to generate any bicycle and pedestrian Trips shall provide sidewalks, crosswalks, and ADA accessible landings at and along the entrance and pedestrian connection(s) and from the entrance(s) to and between the site structure(s).
8. Drainage in highway side ditches shall not be altered or impeded, and the Applicant must commit to providing, at its own expense, suitable and approved drainage structures at all entrances. Surface drainage structures shall cause all surface water on the areas adjacent to the highway to be carried away from the highway and shall be built in such a way as to prevent significant increase in the peak flow (50-year storm event) draining towards the roadway.. The drainage opening underneath the entrances or filled areas adjacent to the highway shall be adequate to carry the water in the highway side ditches. Size, type of pipe and adequacy of proposed structures shall be approved by the Department prior to installation. The Applicant shall agree to use Maine Department of Environmental Protection's method for determining and detaining storm water run-off. Drainage issues do not have to be resolved prior to the Scoping Meeting but must be resolved prior to Project construction. The Region Engineer or his designee shall determine whether drainage increases toward the roadway are significant.

#### **Section 4. Title, Right or Interest**

The Department may consider an Application only when an Applicant has demonstrated Title, Right, or Interest in all of the property being proposed for development or use, including Development entrances and exits. The Development's entrances/exits cannot be constructed in an area where MaineDOT has Control of Access rights. The following documentation of Title, Right, or Interest, as applicable must be submitted with the Application and shall be reviewed for adequacy by the Department.

- A. When the Applicant claims ownership of the property, the Applicant will provide copies of the deeds to the property;
- B. When the Applicant has an option to buy the property, the Applicant will provide a copy of the option agreement which must contain terms deemed sufficient by the Department to establish future title;

- C. When a Purchase and Sale agreement has been signed, the Applicant shall provide a copy the Purchase and Sale agreements with terms deemed sufficient by the Department to establish future title;
- D. When the Applicant has a lease on the property, the Applicant will provide a copy of the lease, which must be of sufficient duration, as determined by the Department, to permit construction and reasonable use of the Development;
- E. When the Applicant has eminent domain power over the property, the Applicant must supply evidence of the ability and the intent to use the eminent domain power to acquire sufficient Title, Right or Interest to the satisfaction of the Department.

### **Section 5. Public or private rights-of-way**

The Application must identify the location and width of proposed streets, easements, and other public or private rights of way in the Development. No entrance, approach, or other improvement constructed as a requirement of the TMP shall be relocated or have its dimensions altered without the written permission of the MaineDOT's Bureau of Project Development. The Applicant shall not install structures or pavement in the State's highway right of way that are not related to the installation of the entrance or exit.

### **Section 6. Schedule**

The applicant must provide an estimated completion schedule for the Development Project. If construction of the proposed Development will place in phases, the estimated completion schedule should be proved in phases.

### **Section 7. Traffic Study Requirements**

A Traffic Study of roads in the Study Area of the proposed Development must be completed for those Applications for projects generating 200 or more passenger car equivalent Trips or if a Traffic Study was requested by the Department at the Scoping Meeting. This Traffic Study (the "Section 7 Traffic Study") is expected to include the following information along with updated information for Sections 1 through 6 above if warranted.

- A. **Existing and Projected Traffic Volumes.** The Traffic Study should provide diagrams of the Traffic volume on roads and intersections in the Study Area of the proposed Development for the estimated a.m. and p.m. peak hour Traffic (including turns during the peak hour) unless the Department at the Scoping Meeting determines that another approach or period of time is more appropriate. Traffic diagrams must show the following:
  - 1. Existing vehicle Traffic volume based on actual counts consistent with current MaineDOT Guidelines for Data Collection.

2. Vehicular Traffic attributable to other Development Projects that are proposed or approved but are not operational at the time the Traffic counts are made. An Applicant must consider:
  - a. Approved Projects, provided the permit has not lapsed and has not been extended more than once;
  - b. Department rulings and municipal planning permits, subject to the specific terms of those rulings or permits; and
  - c. Proposed Projects for which complete Applications have been filed and accepted, provided the Applicant is actively pursuing the Application.
3. Projected vehicular Traffic volume and multi-modal Person Trips for the design hour at the time the Development will begin operation, assuming build-out and full occupancy of the proposed Development. This information must include peak hour projections of bicycle and pedestrian Person Trips as shown in MaineDOT Traffic Analysis Guidelines.

Documentation, including all new Traffic counts and analysis worksheets, as to how the various volumes were derived must accompany the diagrams. Computer techniques and the associated printouts can be used as part of the report.

Projected Traffic volumes should be calculated using a methodology approved by the MaineDOT detailed in the MaineDOT Traffic Analysis Guidelines.

- B. Capacity Analysis.** A Capacity Analysis must be performed (for A.M and P.M. peak hours and weekend peak hours when applicable) to determine the Level of Service for each road and intersection in the Study Area of the proposed Development. Analysis shall also be performed for other modes such as pedestrians, bicycle riders, and transit users. The Capacity Analysis shall be completed as directed in the MaineDOT Traffic Analysis Guidelines. When it is shown that the Capacity Analysis methodology will not accurately measure operating conditions at a certain road or intersection, the Department may require an Applicant to analyze operating conditions of the intersection or road using another methodology acceptable to the Department. In the case where an intersection being evaluated is part of an interconnected signal system, the Applicant, at the discretion of the Department, may be required to include the analysis of the interconnected system in the evaluation.

The Department recognizes that the Level of Service of some roads and intersections cannot be accurately determined using only the standard Capacity Analysis method. In such cases, the appropriate analytical technique will be

determined in consultation with the Department. The Department will have final say in deciding which appropriate analytical technique should be applied.

In reviewing the Capacity Analysis in the Traffic Study, the Department will consider the following:

1. **Design and Operation.** In determining whether the Developer has made adequate provision for Traffic movement of all types into and out of the Development and in the Study Area of the proposed Development, the Department shall consider all relevant evidence to that effect to ensure the safe and efficient flow of Traffic. On-site design and operations are subject to review, to the extent deemed necessary by the Department, to ensure that the Development will not cause any delay, interference or safety problems with the operation of adjacent roadways, driveways, and pedestrian, bicycle and transit facilities. The Development must be located and designed so that the roads and intersections in the Study Area of the proposed Development will have the ability to safely and efficiently handle the Traffic increase attributable to the Development at the time the Development becomes fully operational.
2. **Study Horizon.** The Traffic impacts of a proposed Development shall be assessed based on the period from the issuance of the TMP through the projected year of full build-out of the proposed Development. If the proposed Development is a multi-phase Project with a projected build-out date of up to five (5) years after the year of permit issuance, the Department may require a study for each phase of the proposed Development. Phases developed after 5 years will require a TMP modification if the cumulative Trips associated with those phases is between 100 and 200 PCE Trips. Development phases generating more than 200 Trips will require a new TMP Application.
3. **Unreasonable Congestion.** Level of Service D, as determined from a Capacity Analysis, is considered the minimum Level of Service needed to provide safe and convenient Traffic movement. Where a road, intersection, or any approach lane to the specific intersection or intersections being evaluated in the Study Area of the proposed Development is determined to operate at LOS E or LOS F in the build year and improvements cannot be made to raise the LOS to D or above, the Department will conclude that the proposed Development will result in unreasonable congestion, unless one or more of the following conditions justifies an exception from this standard:
  - a. The Level of Service of the road or intersection will be improved to D or better through Transportation Demand Management Techniques;



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- b. The Department finds that it is not reasonably possible to raise the Level of Service of the road or intersection to D or above by road or intersection improvements or by Transportation Demand Management Techniques but is comfortable that proposed improvements and/or Transportation Demand Management Techniques will insure that Traffic from the proposed Development will not increase delay at a signalized or unsignalized intersection or otherwise worsen the operational condition of the road or intersection in the horizon year;
  - c. The Department finds that improvements cannot reasonably be made because the road or intersection is located in a business district or because implementation of the improvements will adversely affect a historic site as defined in 06-096 CMR 375(11) (Preservation of Historic Sites) and that Transportation Demand Management Techniques will be implemented to the fullest extent practical;
  - d. The Development is located in a Designated Growth Area, or in the compact area of an Urban Compact municipality, in which case the Applicant shall be entitled to an exception from the Level of Service mitigation requirements set forth under the General Standards in this Section. This exception applies even if part or all of the Traffic impacts of the proposed Development occur outside the boundaries of the Designated Growth Area. This exception does not exempt the Development from meeting safety standards, and greater mitigation measures may be required than otherwise provided in this subsection if needed to address safety issues. Transportation Demand Management Techniques are also likely to be required. The required improvements are limited only to those necessary to mitigate the impacts of the Project (which means the Applicant is responsible only for returning all approaches to an intersection or piece of a roadway to the current Level of Service);
  - e. In the case of unsignalized intersections, if Traffic with the Development in place would not meet the warrant criteria for signalization or auxiliary turning lanes, evaluated using methodology approved by the MaineDOT detailed in the Traffic Analysis Guidelines, then the Department may reduce the mitigation requirement for those measures so long as the resulting Traffic conditions provide for safe Traffic movement; or
  - f. The Development is located in an area designated as a growth area in a local growth management plan that has been found by the State to be consistent with the growth management program in M.R.S. Title 30-A, Chapter 187, or located within the compact

area of an Urban Compact municipality, or on a former military base pursuant to 38 M.R.S. §488(15). Projects that consist of a conversion of an existing facility without an entrance or exit on a federally classified arterial highway do not have to meet Level of Service D if the required improvements are limited only to the entrances and exits of the Project and Transportation Demand Management Techniques can be used to increase safety.

4. **Consideration of Drive-Through Operations.** For uses with drive-through operations, the Applicant will need to ensure and submit analysis, consistent with methodologies approved by the MaineDOT as detailed in the MaineDOT Traffic Analysis Guidelines, that shows that potential queuing related to the drive-through operations will not spill-back or create unsafe conditions on the adjacent roadway.

- C. Traffic Signals.** The need for new Traffic signals in the Study Area of the proposed Development is determined in the traffic study using the signal warrants found in the latest edition of the Manual on Uniform Traffic Control Devices (MUTCD), U.S. Department of Transportation, Federal Highway Administration. The use of data used to determine whether an intersection trigger a Traffic Signal warrants will be consistent with methodologies approved by the MaineDOT detailed in the MaineDOT Traffic Analysis Guidelines.

Applicants should note that the signal warrants in the MUTCD are not the sole criteria used to determine the need for new traffic signals. Although an intersection may meet the MUTCD warrants, the Department may determine that a signal is not appropriate.

**D. Bicycle, Pedestrian, and Transit Modes**

The Section 7 Traffic Study should include an assessment of the mode split assumptions as well as the Applicant's plan to maximize travel choice, promote non-SOV (Single Occupancy Vehicle) modes, and achieve the assumed mode shares.

If a facility within the Applicant's Study Area has an access or accommodation deficiency in the mode under review (bicycle, pedestrian, transit), the Section 7 Traffic Study must assess options to facilitate safe, convenient, and functional access via these modes as follows:

1. In locations where pedestrian facilities are not available, the Applicant shall evaluate and document pedestrian needs, desire lines, and opportunities to provide pedestrian infrastructure.
2. In locations where bicycle facilities are not available, the Applicant shall evaluate, and document bicycle needs and opportunities to provide bicycle infrastructure.

3. In locations where transit facilities are not available, the Applicant shall evaluate and document needs, origins and destinations, and opportunities to provide transit service when requested by the municipality, MaineDOT, Regional or Municipal Planning Organization or Transit provider.

When required, the Section 7 Traffic Study should [or must, if you prefer] use Multi Modal Level Of Service (MMLOS) Applications in analyzing signalized/unsignalized intersections, urban arterials facilities, and roadway segments for informational purposes to aid MaineDOT and the Applicant in understanding relative impacts to the modes assessed. When required, MMLOS shall be used in conjunction with the MaineDOT Traffic Analysis Guidelines.

- E. General Safety Issues.** For the identified high crash locations shown in Part 6 - Section 2 and/or other safety items defined in MaineDOT Traffic Analysis Guidelines, the Section 7 Traffic Study must provide an inventory of mitigation strategies for those locations and propose strategies to solve the safety issues identified in subsection D. Bicycle, Pedestrian and Transit Mode above.
- F. Recommendations.** If the Section 7 Traffic Study analyses indicate that unsatisfactory levels of services or unsafe conditions exist or will occur at intersections or on roads in the Study Area of the proposed Development, the recommendations must include a description of the measures proposed to remedy the deficiencies, including the following:
  1. A description and diagram of the location, nature, and extent of recommended improvements to roads and intersections in the Study Area of the proposed Development and a description of recommended Transportation Demand Management Techniques to be utilized on site. Examples of these can be found in the MaineDOT Traffic Analysis Guidelines. Of the recommended improvements, identify those proposed for implementation.
  2. Capacity Analysis after improvement. A description of the anticipated results of making these improvements.
  3. Section 7(B)(3)exceptions. If the proposed Development is entitled to an exception under Section 7(B)(3)(a), (b), (c), (d), (e) or (f) the descriptions provided pursuant to (a) and (b) may be limited to the improvements necessary to provide safe conditions and the Level of Service required under Section 7(B)(3).
- G.** MaineDOT may grant an Exception for mitigation of unreasonable congestion, as defined above, within an Urban Compact area or within a Designated Growth Area if:

1. There is inadequate room to construct widening for extra capacity, or
2. Construction of additional lanes would pose safety issues for bicycle or pedestrians and,
3. The Applicant has proposed or will be participating in Traffic Demand Management techniques and in alternative mitigation (e.g. impact fee, in-lieu-of fees).

For locations where there are physical constraints on the ability to accommodate multi-modal needs due to existing build-out in urban contexts, the TMP Applicant can apply for an Exception to provide mitigation and/or pay a fee in lieu of mitigation. Exceptions shall not be made to avoid ADA compliance.

For locations where Multi-Modal Trips are highly unlikely due to the lack of transit routes or origins for bike and/or pedestrian Trips, the TMP Applicant can apply for an exception to provide mitigation.

- H. Conclusion.** A clear, concise description of the study findings; including all proposed roadway mitigation and any impact/in lieu fees to be assessed to the Applicant.

## **Part 7. ROADWAY DESIGN REQUIREMENTS**

- A. General.** The mitigation proposed by the Applicant that involves construction projects on State or State-aid highways must meet or exceed the minimum design criteria of this section unless:
1. A conflict with municipal standards exists. If specific provisions of the design criteria of this section conflict with specific provisions of duly enacted municipal standards for roads and entrances the Applicant may request that the specific municipal standard be applied. If the Applicant so requests, the Applicant must also demonstrate that the alternative follows generally accepted engineering techniques and will allow safe and efficient Traffic movement and the Municipal standards for multi-modal facilities meet or exceed standards as stated in the MaineDOT Traffic Analysis Guidelines; or,
  2. Alternative Design Criteria will provide the same result and, therefore, the Applicant requests an Alternative Design Exception. In support of the Exception, the Applicant must demonstrate that proposals which vary from the criteria of this section will allow safe, adequate and convenient movement of Traffic of all types into and out of the Development site. Applications for approval of roadway and entrance plans that vary from the requirements of Part 6 - Section 7 must identify the criteria that will

not be met, specify the proposed alternative, and set forth such evidence as is necessary to show that the alternative is in accordance with generally accepted engineering design practices and will allow safe and convenient Traffic movement. Alternative Design Criteria for multi-modal facilities must meet or exceed standards as stated in the MaineDOT Traffic Analysis Guidelines.

**B. Design Criteria for State or State-Aid Roads.** The geometric design standards contained in MaineDOT's latest highway design requirements must be applied to all new construction, reconstruction and major rehabilitation Projects. Corridor/Route continuity must be considered when determining widths for the access points for any particular Project.

**C. Design Criteria for Entrances and Exits**

1. Identification. Entrances and exits must be clearly identified by the use of signs, curb cuts, raised medians, crosswalks, sidewalks, bicycle facilities and landscaping as appropriate.
2. Design Approval. The entrance and exit design must be reviewed and approved by the Department if the entrance will be located on a state or state-aid highway.
3. General Design Considerations. The design of all entrances and exits associated with a proposed Development must include, at a minimum, consideration of the following items as per guidelines set forth in the edition of the MaineDOT publication "Access Management - Improving Efficiency of Maine Arterials" referenced in MaineDOT's fact sheet:
  - a. Safe sight distance;
  - b. Maximum number of driveways per lot; (see 23 M.R.S. §704)
  - c. Minimum distance between driveways and side streets (corner clearance);
  - d. Minimum distance between driveways;
  - e. Turn radius and driveway width;
  - f. Approach grades;
  - g. Auxiliary turning lanes (right-turn lanes, left-turn lanes);
  - h. Driveway throat length; and

- i. Multi-modal needs, including bike lanes, sidewalks, crosswalks, and/or transit facilities.

**D. Miscellaneous Requirements**

1. Lighting. Lighting must highlight the driveways of the Development. Parking areas must be designed to prevent vehicle lights from shining onto adjacent roadways by using parking orientation, buffers, or other effective measures.
2. Interference with adjacent roadways
  - a. Sufficient parking facilities must be provided within and/or adjacent to the Development site to meet the parking needs of the Development. Parking facilities include shared parking facilities within or near the site, on-street parking, access to off-street parking lots, parking lots, loading and unloading space, and circulation aisles and corridors.
  - b. Unless no other practicable alternative is available, parking areas must be designed so that, without resorting to extraordinary movements, vehicles may exit such areas without backing onto a public street. This requirement does not apply to parking areas consisting of driveways that serve single-family detached dwellings provided the driveway entrance is situated on a local road and not on a collector road or arterial road.
  - c. Parking stalls for the Development may not be directly accessible from any public way. Ingress and egress to parking areas must be limited to driveway entrances.
  - d. No loading docks may be located on any street frontage.

**E. Terms and Conditions.** The Department may, as a term or condition of approval of the TMP Application, establish any reasonable requirement to ensure that the Applicant has made adequate provision in its roadway design for Traffic movement for all types of Traffic, including, but not limited to, the following:

1. Limitations on the size, time of operation, manner of operation, number of vehicles operating out of or into the Development area, and size or configuration and operation of the Development as a whole.
2. Appointment of a Traffic control officer.
3. Restrictions concerning the grade or location of driveways and provision for the sharing of a driveway access point by two or more properties.

4. Installation of Traffic warning, speed limit, and directional signs.
5. Clearing of signs, brush or other obstructions near entrance-ways to insure visibility for adequate sight distances.
6. Construction of frontage roads or turning lanes.
7. Improvements (i.e. changes in road access, geometry or operations) to any intersection or road in the Study Area of the proposed Development when any of the following criteria are met:
  - a. The intersection or road has been determined to be unsafe or to operate at Level of Service E or F;
  - b. The warrants are met for signalization;
  - c. There is inadequate storage lane capacity for turning Traffic; or
  - d. There is a need for bicycle and pedestrian facilities to meet acceptable multi-modal level of service.

If the required road and intersection improvements are located on municipally owned roads, the Applicant must demonstrate that the municipality has authorized the improvements.

8. Also, as a condition of approval, the Department may require that the Development schedule include a timeline to construct/finish transportation system improvements.
9. Additionally, the Department may restrict its approval of the TMP Application to those Development phases projected to mature within five years of the date of approval.

NOTE: Where approval is restricted to the initial phase or phases of a multi-phase Development, an updated and revised Section 7 Traffic Study must be submitted to the Department for review and approval prior to commencement of subsequent phases. In these cases, monitoring of Traffic generated by the initial phase or phases could result in adjusted Traffic projections for later phases.

**F. Implementation of Off-Site Traffic Improvements.** Required improvements to roads or intersections in the Study Area of the proposed Development must be constructed and implemented prior to initial occupancy of the Development except as provided below:

1. **A Municipal Impact Fee Is Applied.** For this exception to apply, the applicant must demonstrate the following:

- a. **Impact Fee Ordinance.** The municipality in which improvements are needed has adopted an impact fee ordinance pursuant to 30-A M.R.S. §4354;
  - b. **Impact Fee Payment.** The Applicant has paid or will pay an impact fee pursuant to the ordinance;
  - c. **Impact Fee Use.** The impact fee will be used to make the improvements required by the Department; and
  - d. **Department Approval.** The improvement plan has been reviewed and approved for implementation by the Department.
2. **A Non-municipal Funding Mechanism is Applied.** For this exception to apply the Applicant must demonstrate the following:
- a. **Mechanism established.** A non-municipal funding mechanism has been established to apportion the cost of the needed improvements;
  - b. **Pro-rata Share.** The Applicant has contributed or will contribute a pro-rata share of the cost of the improvements;
  - c. **Fund Sufficient.** The amount of the fee, together with fees reasonably expected from other Developers and government agencies, will be sufficient to fully fund the improvements;
  - d. **Department Approval.** The improvement plan has been reviewed and approved for implementation by the Department;
  - e. **Local Approvals.** The improvement plan has received all necessary local approvals, including funding authorizations; and
  - f. **Schedule.** The improvements are scheduled for implementation within three years of the initial occupancy of the Development.; or
3. **A MaineDOT Imposed Impact Fee or in Lieu fee is Applied.** For this exception to apply, the Department must have done one the following:
- a. **Imposed an Impact Fee on the Applicant in addition to and/or in lieu of mitigation; or**
  - b. **Imposed an Impact Fee on the Applicant for impacts at Critical Intersections; or**



- c. Imposed an Impact Fee to help implement Transportation Demand management strategies, which may include ridesharing, carpooling, vanpooling, mass transit and modified work schedules.
  4. **Department or Municipal Sponsored Projects.** The Department has determined that Mitigation can be accomplished through an already scheduled MaineDOT or municipal Project or through a MaineDOT or MPO sponsored MPI or BPI Project. For this exception to apply the Applicant and the Department must agree that the necessary Traffic improvements will be implemented by the responsible party within three years of the initial occupancy of the Development.
  5. **Transportation Demand Management Techniques.** The Department determines that Transportation Demand Techniques to be implemented by the Applicant, Municipality, or the Department (e.g. ridesharing, carpooling, vanpooling, mass transit and modified work schedules), that will offset the need for off-site Traffic improvements.
- G. Variances.** Whenever an Applicant or licensee seeks to vary from the design requirements of these Rules, the Applicant or licensee must present clear and convincing evidence that the Project's proposed location, design, or construction is distinctive in a way that allows for compliance with the intent of these design requirements, and will not result in unreasonable congestion or unsafe conditions on a road within the Study Area of the proposed Project. Variances, including Alternative Design Exceptions, may be allowed for Section 7 and MaineDOT, in its sole discretion, will make the sole call on whether a variance is allowed. The Department maintains the discretion to accept variances for other sections dealing with design standards.

## Part 8. PERMIT ISSUED

After the conclusion of the appropriate TMP Application review process and a finding by the Department that the Application is complete, the Department will issue a TMP to the Applicant setting out the pertinent conditions (including mitigations and restrictions) needed to fulfill the TMP requirements. The TMP will not be considered valid or effective until such time as all conditions of the TMP have been met and the Applicant has filed a Notification of Issuance of Traffic Movement Permit (“TMP Notification”) in a form provided by the Department. The notification must set out all of the conditions and requirements of the TMP that govern access to the Development which is the subject of the TMP.

The permittee has five (5) years to start construction of the permitted facilities and seven (7) years to complete the Project. A new TMP will be required for any future Development of the site. The existing TMP will be void or without effect if TMP conditions are not met or if the TMP Notification has not been filed.

If a permittee completes all the mitigation required for the Development but does not start the Project within five (5) years or finish the Project within seven (7) years, the additional permitted Trips are lost and do not stay with the property/TMP. A new TMP or TMP Modification would be required. Failure to comply with any requirements of the TMP or the Rule may result in the TMP being voided or rescinded. The permit holder in violation of this Rule will also be in violation, and subject to penalty, under 23 M.R.S. §704-A(10).

## **Part 9. DEVELOPER REVIEW PROCESS**

The Applicant must follow the process below for TMPs that require the Developer to construct or implement mitigation on a state or state-aid highway.

- A.** The Developer must submit plans and seek approval of the design plans in coordination with the applicable Region Engineer.
- B.** The Department will assess a fee for the review of the plans and comment on issues for future resubmittals.
- C.** For all Developer Projects, after the submittal of the plans to the Region Engineer the Developer will be required to meet with the “Developer Right of Way Committee”, which is a standing committee that meets monthly to review submittals. The committee will help guide the Developer through the right of way process.
- D.** The Developer must enter into a Developer Agreement with the Department setting out the required system improvements and the property rights that must be acquired and conveyed to the Department.
- E.** Construction of improvements cannot commence until the Developer Right of Way Committee has approved the plans and the Developer Agreement has been executed.
- F.** The Developer Right of Way process will be deemed complete when the Applicant has acquired all of the property rights required for mitigation, has constructed the improvements to the highway system, has conveyed those rights to the Department as set out in the Developer Agreement, and has submitted a formal Right of Way plan acceptable to the Region Engineer which is capable of being filed at the appropriate Registry of Deeds.
- G.** If the Applicant does not complete the Developer Right of Way process within 6 weeks of the opening of the Development, the Department will rescind the Traffic Movement Permit for the given parcel(s).

## **Part 10. RECONSIDERATION AND APPEALS**

### **A. Reconsideration**

Any interested party with standing (as defined by Maine Law) may request Reconsideration of the permit by the State Traffic Engineer, but must do so in writing within 30 business days after notice of the Department's permit decision.

The request for reconsideration must set forth the findings and conclusions of the Department to which the person objects, the basis of those objections, the nature of the relief requested, and whether a hearing is requested. If requested and if the State Traffic Engineer determines a hearing is warranted, a hearing will be held ordinarily within 15 business days of receiving the reconsideration request.

The State Traffic Engineer will issue a written decision, ordinarily within 15 business days of receiving the reconsideration request or, if a hearing is held, within 15 business days of the close of the hearing. The decision will set forth the State Traffic Engineer's reasons for either affirming or modifying the original permit decision.

The running of the time for appeal pursuant to Part 10 (B) of this rule and the *Administrative Procedure Act* is tolled by a timely request for reconsideration filed under this section. The full time for appeal commences and is computed from the date of the final Department action addressing the request for reconsideration. The filing of a request for reconsideration, however, is not an administrative or judicial prerequisite for the filing of an appeal under Part 10(B).

### **B. Appeals**

Appeal of decisions of the State Traffic Engineer must be made in writing to the Commissioner within 15 business days of notice of the permit or reconsideration decision (whichever is later) of the State Traffic Engineer. The appeal decision of the Commissioner or his or her designee will be considered final agency action.

Judicial review of such final agency action must be in accordance with the Maine Administrative Procedure Act, 5 M.R.S. §11001, *et seq.* and Rule 80C of the *Maine Rules of Civil Procedure*.

## **Part 11. APPLICATION PRIORTIES FOR PROJECTS**

If multiple TMP Applications from different Applicants are filed within the same Maine Region, MaineDOT will establish priority of applications for 100-200 PCE Developments using the date when the Department has found the application complete and has accepted such Application for review. Priority for multiple Applications for over 200 PCE Developments will be established using the date when the Department finds the

Traffic Study (Section 7 of the Specific Submission Requirements) complete and has accepted such application. The Applicant will be notified in writing when the Department has accepted the application.

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**STATUTORY AUTHORITY:**

23 M.R.S. §704-A

**EFFECTIVE DATE:**

May 20, 2000 – filing 2000-147 (*Final adoption, major substantive*)

April 14, 2022 – filing 2022-040 (*Final adoption, major substantive*)