

**TRANSPORTATION DEPARTMENT[761]**

**Notice of Intended Action**

**Proposing rule making related to rights-of-way and primary road extensions  
and providing an opportunity for public comment**

The Department of Transportation hereby proposes to amend Chapter 150, “Improvements and Maintenance on Primary Road Extensions,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 307.12.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 306.4 and 306.42.

*Purpose and Summary*

This proposed rule making amends subrules 150.2(1) and 150.3(1) to continue the requirement that a city shall still be responsible for providing, without cost to the Department, all necessary rights-of-way that involve dedicated streets or alleys. However, the proposed amendments to the subrules modify the requirement that a city provide all necessary rights-of-way that involve other city-owned lands, except parklands, by stating that a city “may” (rather than “shall”) be responsible for providing them. This will enable a city to negotiate the transfer of parcels of land, instead of donating them outright to the Department.

Other proposed amendments to Chapter 150 update two implementation sentences to add a reference to Iowa Code section 306.42, clarify terminology regarding road type, reflect the current version of an American Association of State Highway and Transportation Officials (AASHTO) publication, and correct a bureau name.

*Fiscal Impact*

The fiscal impact cannot be determined. The proposed amendments that may incur some fiscal impact to the Department and cities are subrules 150.2(1) and 150.3(1). The level of fiscal impact will depend on three highly variable factors: the number of projects that would be likely to have an impact on city land in any given period, the size and value of the parcels in question, and the decision of the affected city as to whether the city would choose to donate the parcels to the Department or negotiate a sale with the Department instead. The potentially negative fiscal impact to the Department and potentially positive impact to cities depend on how those three variables interact.

*Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

*Waivers*

Any person who believes that the person’s circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making or may submit a written request to make an oral presentation at a public hearing. Written comments or requests

to present oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on November 24, 2020. Comments should be directed to:

Tracy George  
Department of Transportation  
DOT Rules Administrator, Strategic Communications and Policy Bureau  
800 Lincoln Way  
Ames, Iowa 50010  
Email: [tracy.george@iowadot.us](mailto:tracy.george@iowadot.us)

### *Public Hearing*

If requested, a public hearing to hear oral presentations will be held on November 30, 2020, via conference call from 10:30 to 11:30 a.m. Persons who wish to participate in the conference call should contact Tracy George before 4:30 p.m. on November 24, 2020, to facilitate an orderly hearing. A conference call number will be provided to participants prior to the hearing.

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact Tracy George, the Department's administrator, and advise of specific needs.

The public hearing will be canceled without further notice if no oral presentation is requested.

### *Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend subrule 150.2(1) as follows:

**150.2(1) Construction.** Except as otherwise provided, the department shall be responsible for all right-of-way and construction costs associated with the construction of ~~freeways and their~~ freeway extensions.

*a.* ~~The city shall be responsible for providing, without cost to the department, all necessary right-of-way which involves:~~

~~(1) Dedicated rights-of-way that involve dedicated streets or alleys, and~~

~~(2) *b.* Other~~ The city may be responsible for providing, without cost to the department, all necessary rights-of-way that involve other city-owned lands, except parklands, subject to the condition that the department may reimburse the city for the functional replacement value of improved property and advanced purchases negotiated by the city for project purposes.

~~*b. c.* Outside the access control limits, the department shall be responsible for the costs of construction of longitudinal and outlet storm sewers made necessary by highway construction in the proportion that the street right-of-way of the primary road extension bears to the total drainage area to be served by the proposed sewers. The city shall be responsible for the remaining portion of storm sewer~~ storm-sewer costs not paid for by the department.

~~*e. d.* The department shall be responsible for all storm-sewer related costs within the access control limits.~~

ITEM 2. Amend subrule 150.2(2), introductory paragraph, as follows:

**150.2(2) Maintenance.** The department shall enter into an agreement with a city regarding the maintenance of primary roads within the corporate city limits. This is intended to include corporate

line roads, when appropriate. Unless otherwise mutually agreed to and specified in the agreement, the maintenance responsibilities of freeway extensions within the corporate city limits, including corporate line roads, shall be as follows:

ITEM 3. Amend rule ~~761—150.2(306)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 306.4, 306.42, 313.4, 313.5, 313.21 to 313.24, 313.27, 313.36, 314.5 and 314.6 and chapter 306A.

ITEM 4. Amend subrule 150.3(1) as follows:

**150.3(1) Construction.**

a. The department shall be responsible for all right-of-way and construction costs to construct nonfreeway primary ~~highways and their~~ highway extensions to the minimum design criteria as established by the department. Construction improvement costs beyond minimum design criteria shall be the responsibility of the city, as specified in the project agreement. Minimum design criteria shall be in accordance with “A Policy on Geometric Design of Highways and Streets, ~~2011~~ 2018” (~~Sixth~~ Seventh Edition AASHTO Green Book).

b. The city shall be responsible for providing, without cost to the department, all necessary ~~right-of-way which involves:~~

(1) ~~Dedicated rights-of-way that involve dedicated streets or alleys, and~~

(2) ~~c. Other~~ The city may be responsible for providing, without cost to the department, all necessary rights-of-way that involve other city-owned lands, except parklands, subject to the condition that the department may reimburse the city for the functional replacement value of improved property and advanced purchases negotiated by the city for project purposes.

~~e. d.~~ The city shall take all necessary legal action to discontinue and prohibit any past or present use of project ~~right-of-way~~ rights-of-way for private purposes. The city shall prevent any future encroachment or obstruction within the limits of project ~~right-of-way~~ rights-of-way.

~~d. e.~~ The department shall be responsible for the costs of construction of longitudinal and outlet storm sewers made necessary by highway construction and construction of local service roads developed as a part of the construction or reconstruction of the through traffic lanes in the proportion that the right-of-way of the primary road extension bears to the total drainage area to be served by the proposed sewers. The city shall be responsible for the remaining portion of ~~storm-sewer~~ storm-sewer costs not paid for by the department.

~~e. f.~~ Unless otherwise mutually agreed to and specified in the project agreement, the department shall be responsible for the cost of ~~right-of-way~~ acquiring rights-of-way and construction of local service roads developed as a part of the construction or reconstruction of the through traffic lanes.

ITEM 5. Amend subrule 150.3(2), introductory paragraph, as follows:

**150.3(2) Maintenance.** The department shall enter into an agreement with a city regarding the maintenance of primary roads within the corporate city limits. This is intended to include corporate line roads, when appropriate. Unless otherwise mutually agreed to and specified in the agreement, the maintenance responsibilities of nonfreeway primary highway extensions within the corporate city limits, including corporate line roads, shall be as follows:

ITEM 6. Amend rule ~~761—150.3(306)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 306.4, 306.42, 313.5, 313.21 to 313.24, 313.27, 313.36, 314.5, 314.6 and 321E.3 and chapter 306A.

ITEM 7. Amend subrule 150.5(1) as follows:

**150.5(1) Waivers.** The director of transportation may, in response to a written petition, waive provisions of this chapter in accordance with 761—Chapter 11. The written petition must contain the information as required in 761—subrule 11.5(2) and shall be submitted to the Rules Administrator, Strategic Communications and Policy Bureau, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; or by email to the rules administrator’s email address listed on the department’s website at iowadot.gov/administrativerules.