

761—112.4(17A,306A,318) Permitting process. An access permit is required for an encroachment onto a public right-of-way for the construction, reconstruction or modification of an access connection or any of its related appurtenances.

112.4(1) Application for an access permit.

a. To obtain an access permit, applicants will use the web-based system found at eps.iowadot.gov. If the applicant cannot use or connect to this electronic system, the applicant may contact the appropriate district office that is responsible for the area in which the proposed access is located. An applicant may be the property owner or the owner's authorized agent.

b. A separate access application and permit are required for each access connection.

c. Intentional misrepresentation of existing or future conditions or providing false information is considered sufficient grounds for denial or revocation of a permit.

d. The applicant is responsible for providing any location and design plans that describe the access.

e. The applicant is responsible for providing an estimate of the traffic volume of the access and the property as a whole. The estimate will include the anticipated average daily or hourly use and the anticipated access use upon the full development of the property.

f. For access types A and B as defined in subrule 112.5(2) and public intersections, the department requires a traffic impact analysis from the applicant during the processing of a permit request, except when the appropriate district engineer determines an analysis is not necessary. Such traffic impact analysis must be prepared by a professional engineer licensed in Iowa and at the cost of the applicant. The analysis will address a current and 20-year projection of traffic activity and impacts at and near the proposed access connection, including the full-development traffic volumes of the access connection.

g. It is the responsibility of the applicant to comply with all local ordinances and any other regulations.

112.4(2) Processing an access application.

a. Upon receipt of an application, the department will begin processing the application using the electronic permitting system. The department will apply the criteria as required by this chapter, including access type, access category, location, design, public safety and traffic operations.

b. The department may issue an access permit with terms and conditions or deny the application if it fails to meet this chapter's requirements. The department representative will notify the applicant of the determination.

c. The department will not act on an application it deems incomplete and will notify the applicant of additional information needed to complete the request.

d. Upon mutual agreement by the department and applicant, the department may suspend or extend the process period.

e. The applicant may withdraw the application.

112.4(3) Permit terms and conditions.

a. An access permit will include terms and conditions necessary to meet the requirements of this chapter and include consideration of the following:

- (1) Safety of the traveling public.
- (2) The access category pursuant to rule 761—112.5(306A).
- (3) The access location and design pursuant to rule 761—112.6(306A).
- (4) The traffic-carrying capacity of the highway.
- (5) Protection of the public investment in the highway.
- (6) Topography and geometric limitations and constraints.

b. The department may restrict turning movements as necessary to reduce adverse impacts. The department will consider the 20-year projection of traffic volumes on the roadway and the full-development traffic volumes of the access connection.

c. Access permits expire after one year if construction of the access is not initiated and no extension of time has been requested and granted by the department.

d. The property owner and the owner's authorized agent agree by accepting the permit to indemnify, defend and hold harmless the state of Iowa and its employees from all claims arising out of construction or use of the access.

e. The property owner and applicant assume liability for the construction and ongoing use of the access.

f. The permittee shall maintain the access in good repair at all times.

g. If the department has not received the signed copy of the permit within 60 days of the date of transmittal to the applicant, the permit is deemed withdrawn.

112.4(4) *Permits where department owns access rights.*

a. This subrule applies only where the department has determined there is no longer the necessity for the controlled access line at the proposed location. The department may issue an access permit if all design and location criteria are met.

b. If it becomes necessary to close the access, the property owner will be notified in advance and any permit will be revoked. The access application and permitting process do not include any rights of appeal where the department is the owner of the access rights.

112.4(5) *Appeals.*

a. An applicant or permittee who objects to any terms or conditions placed on an access permit, the denial of a permit, or the closure or revocation of an access may appeal the department's decision. If the department owns the access rights, this subrule does not apply.

(1) The appeal shall be submitted to the appropriate district engineer at the department.

(2) An appeal concerning the closure or revocation of an access or the denial of a permit must be submitted within 60 days of receipt of the department's notification.

(3) An appeal concerning the terms or conditions placed on an access permit must be submitted within 60 days of when the department sends the applicant the signed copy of the permit with terms or conditions for signature.

(4) The appeal must include reasons for the request and may include changes, revisions or conditions that would be acceptable to the applicant or permittee.

b. The district engineer will issue a written decision to the applicant or permittee within 60 days of receipt of the appeal or within 60 days after receipt of requested additional information.

c. Upon receipt of the written decision, the applicant or permittee may appeal the district engineer's decision by submitting the appeal along with background information to the director of transportation. The director will issue a written decision within 60 days of receipt of the appeal. The director's decision is final agency action.

112.4(6) *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, either by mail to Rules Administrator, Government and Community Relations, 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.

112.4(7) *Waivers involving interstate highways.* The director of transportation shall not waive these rules in access situations involving the interstate highway system, including its ramps, without the approval of the Federal Highway Administration.

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