

761—112.3(306A) General provisions. The following provisions govern access encroachments onto a primary highway:

112.3(1) No access connection construction activity on a highway shall begin until an access permit has been issued by the department.

112.3(2) A new access permit is required when there is a change in use of the access connection. A change in access use includes a change in predominant vehicle types or an increase in traffic volumes or a situation when the use exceeds the design and engineering limitations of the existing access design. If the property owner desires to change from the historical access use or to a use not authorized by the terms and conditions of the existing access permit, a new permit is required.

112.3(3) No person shall excavate, fill or make any physical change to any part of the right-of-way without a permit issued by the department.

112.3(4) No person shall drive a motor vehicle to or from a highway at a location that is not an authorized access connection.

112.3(5) No new access rights shall accrue from, and no additional access shall be provided upon, the splitting or dividing of existing parcels of land or contiguous parcels under the same ownership or controlling interest unless the proposed access complies with access category and design requirements and is permitted. Adjacent properties under common ownership or control, consolidated for development, or part of a phased development plan shall be considered one unit, and a unified access and circulation plan shall be established for the site.

112.3(6) No rights of access are conveyed when the department provides a new access connection or modifies an existing access connection.

112.3(7) The terms and conditions of any permit are binding upon the applicant, the property owner and all assigns, successors-in-interest, heirs and occupants. Should an assign, successor-in-interest, heir or occupant not accept the terms and conditions of an existing permit, the assign, successor-in-interest, heir or occupant shall apply for a new access permit or a permit to close the access.

112.3(8) A property owner not wanting to assume responsibility for an access or its requirements may apply for access removal. Such removal shall be at the property owner's expense unless agreement is made for removal during a highway project.

112.3(9) A permit grants no property rights or interests in state right-of-way.

112.3(10) Where there are multiple accesses to the same parcel, the department may consolidate existing access connections during a highway project.

112.3(11) The department has the authority regarding operational modifications to the highway and all access connections.

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