

761—112.13 (306A) Policy on special access connections where access rights have been previously acquired.

112.13(1) General. An additional entrance to a property from which access rights have been previously acquired may be permitted only as a special access connection.

a. An applicant for a special access connection should be aware the state of Iowa has previously acquired the rights of direct access to the primary highway from the applicant's highway frontage and, therefore, the applicant has no remaining right of additional direct access to the highway.

This acquisition of access rights is recorded in the local county courthouse and is a restriction placed upon the property.

b. The department realizes there may be locations where granting an entrance within an area where access rights were previously acquired may be consistent with the department's current rules.

In these special cases, the department may authorize a special access connection upon such terms and conditions as may be determined by the department.

c. In an area where access rights were acquired after July 1, 1966, an applicant may be required to reimburse the state for the increase in land value resulting from the new connection, as determined by a department appraisal.

112.13(2) Application.

a. A request for the establishment of a special access connection shall be submitted by the property owner to the appropriate district representative upon the prescribed application form furnished by the department.

b. The application shall be approved or denied by the department's access policy administrator.

c. If the access policy administrator denies the application, the applicant may appeal the decision by submitting to the appropriate district engineer the application along with background information and an explanation of the need for access.

d. If the district engineer denies the application, the applicant may appeal the decision by submitting to the director of transportation the application along with background information and an explanation of the need for access. The director's decision is final agency action.

112.13(3) Requirements.

a. Whenever possible, a special access connection should be established as a joint access location to serve more than one property ownership.

b. A special access connection is a special permit for access and is not a permanent right of access to the highway.

c. The property owner is responsible for all costs incurred for the construction of the approved connection, including any required drainage structure.

d. A special access connection shall be recorded by the department in the county recorder's office and will be a restriction placed upon the property. All provisions of the special access connection shall be binding on successors or assigns of the applicant property owner.

e. Special access connections shall be constructed in compliance with rules 761—112.4(306A), 761—112.5(306A) and 761—112.6(306A).

f. The department shall approve spacing for special access connections in accordance with subrules 112.12(2) and 112.12(3).

112.13(4) Temporary access.

a. The department realizes temporary access may be needed in emergency situations or for highway construction or maintenance purposes. In these cases, a temporary connection may be allowed, but is subject to special stipulations as may be determined by the department.

b. Temporary access shall be authorized for a determinable period of time. The access need not comply with paragraph 112.13(3) "a" (joint access) or 112.13(3) "f" (spacing). The applicant is responsible for all costs incurred, including removal of the access and restoration of the right-of-way.

c. The granting of temporary access to the interstate highway system requires the concurrence of the Federal Highway Administration.

d. A separate application for temporary access is not needed if the temporary access is for a construction or maintenance project, it is shown on the original plan, and it has been approved previously by the department and, when required, the Federal Highway Administration.