

761—112.3 (306A) General requirements for control of access.

112.3(1) *Establishment of controlled access highway.* Access locations necessary for free and convenient access that exist at the time a primary highway is established are hereby approved if the department deems they are reasonably located.

112.3(2) *Frontage roads.* If a frontage road is open to public travel, access from the abutting property shall be to the frontage road.

a. Access to frontage roads maintained by the department shall be authorized in accordance with rules 761—112.4(306A), 761—112.8(306A) and 761—112.9(306A).

b. Access to frontage roads maintained by other governmental agencies shall conform to those agencies' access requirements.

112.3(3) *Enforcement of access control.*

a. Fences. The department may construct and maintain fences or other appropriate physical separations within the primary highway right-of-way to effectively enforce and control access to the highway.

b. Unauthorized construction or modification of entrances. If an entrance is constructed or altered without the approval of the department or if the work is not completed in conformity with an approved permit or agreement, the department may notify the owner by certified mail of the violation and the need to restore the area to the standards which existed immediately prior to construction or alteration or advise of the changes necessary to conform. If after 20 days the changes have not been made, the department may make the necessary changes and immediately send a statement of the cost to the property owner. If within 30 days after sending the statement the cost is not paid, the department may institute proceedings in the district court system to collect the cost.

c. Written permission—right to inspect. A person must have written permission from the department via the specified permit or agreement before the person may construct or alter an entrance.

(1) The department reserves the right to inspect and approve any work performed within the right-of-way.

(2) If the work is not performed as required by the permit or agreement, the department may revoke its permission and deny access until the conditions are corrected.

(3) If the work performed does not conform to the department's specifications, the department may make the necessary changes, charge the costs to the party responsible and pursue other available remedies.

112.3(4) *Maintenance of entrances.*

a. Property owners having access to a primary highway are responsible for the maintenance of their entrances as follows:

(1) For an entrance that does not have a paved surface, the property owner is responsible for maintaining the entrance from the outer shoulder line of the primary highway to the right-of-way line.

(2) For an entrance that has a paved surface, the property owner is responsible for maintaining the entrance from the paved edge of the primary highway to the right-of-way line.

b. Drainage structures located within the primary highway right-of-way shall be maintained by the department except for concrete box culverts and bridges constructed by a permit holder under authority of an entrance permit. These structures shall be maintained by the permit holder.