

State Highway Access Approach Permit Standard Conditions

When this permit was issued, the Department made its decision based in part on information submitted by the applicant, what alternative access to other public roads and streets was available, the operation of the highway and safety and design standards. Changes in access approach use or design not approved by the Department may cause the revocation or suspension of the permit. The permittee is responsible for the costs of construction, maintenance, and removal (if necessary) of the approach.

PERMIT EXPIRATION

A permit shall be considered expired if the access is not under construction within one year of the permit issue date or before the expiration of any authorized extension. When the permittee is unable to commence construction within one year after the permit issue date, the permittee may request a one-year extension from the Department. Only one extension may be granted. Any request for an extension must be in writing and submitted to the Department before the permit expires. The request should state the reasons why the extension is necessary, when construction is anticipated, and include a copy of page 1 (face of permit) of the access permit. Extension approvals shall be in writing. Any person wishing to reestablish an access permit that has expired may begin again with the application procedures.

CONSTRUCTION

1. The construction of the access and its appurtenances as required by the terms and conditions of the permit shall be completed at the expense of the permittee. All materials used in the construction of the access within the highway right-of-way or on permanent easements, become public property. Any materials removed from the highway right-of-way will be disposed of only as directed by the Department. Only clean fill material may be used for construction. Rubble and organic materials are prohibited. Permittee is responsible for salvaging and replacing topsoil, erosion control and revegetation of access.
2. The permittee shall notify the Area Office at least two working days prior to any construction within state highway right-of-way. Construction of the access shall not proceed until the access permit is issued. The access shall be completed in an expeditious and safe manner and shall be finished within 45 days from the initiation of construction within the highway right-of-way. One construction time extension may be requested from the Area Engineer. The permittee shall also notify the Area Office two days prior to substantial completion of the access construction.
3. A utility permit shall be obtained for any utility work within highway right-of-way. Where necessary to remove, relocate, or repair any traffic control device or public or private utility for the construction of a permitted access, the relocation, removal or repair shall be accomplished by the permittee without cost to the Department, and at the direction of the Department or utility company. Any damage to the state highway or other public right-of-way beyond that which is allowed in the permit shall be repaired immediately. The permittee is responsible for the repair of any utility damaged in the course of access construction, reconstruction or repair. Utilities are responsible for salvaging and replacing topsoil and must have an approved erosion control and revegetation plan. A final inspection must be held with the utility at the completion of the work.
4. The Department and the local government may inspect the access during construction and upon completion of the access to determine that all terms and conditions of the permit are met. Inspectors are authorized to enforce the conditions of the permit during construction and to halt any activities within state right-of-way that do not comply with the provisions of the permit, that conflict with concurrent highway construction or maintenance work, that endanger highway property, natural or cultural resources protected by law, or the health and safety of workers or the public.
5. Prior to using the access, the permittee is required to complete the construction according to the terms and conditions of the permit. Failure by the permittee to abide by all permit terms and conditions shall be sufficient cause for the Department to initiate action to suspend or revoke the permit and close the access. If in the determination of the Department the failure to comply with or complete the construction requirements of the permit create a highway safety hazard, such shall be sufficient cause for the summary suspension of the permit. If the permittee wishes to use the access prior to completion, arrangements must be approved by the Department and included in the permit. The Department may order a halt to any unauthorized use of the access pursuant to statutory and regulatory powers. Reconstruction or improvement of the access may be required when the permittee has failed to meet required specifications of design or materials.
6. The permittee shall provide construction traffic control devices at all times during access construction, in conformance with the Manual on Uniform Traffic Control Devices as required by state statute.

7. In the event it becomes necessary to remove any right-of-way fence, the posts on either side of the access shall be securely braced with an approved end post before the fence is cut to prevent any slacking of the remaining fence.
8. The permittee shall ensure that a copy of the permit is available for review at the construction site at all times. The permit may require the contractor to notify the individual or office specified on the permit at any specified phases in construction to allow the field inspector to inspect various aspects of the construction such as concrete forms, subbase, base course compaction, and materials specifications. Minor changes and additions may be ordered by the Department or local authority field inspector to meet unanticipated site conditions.
9. Each access shall be constructed in a manner that shall not cause water to enter onto the roadway or shoulder, and shall not interfere with the existing drainage system on the right-of-way or any adopted municipal system and drainage plan.
10. By accepting the permit, permittee agrees to save, indemnify, and hold harmless to the extent allowed by law, the Department, its officers, and employees from suits, actions, claims of any type or character brought because of injuries or damage sustained by any person resulting from the permittee's use of the access permit during construction of the access.

CHANGES IN ACCESS USE AND PERMIT VIOLATIONS

1. It is the responsibility of the property owner and permittee to ensure that the use of the access to the property is not in violation of the permit terms and conditions. The terms and conditions of any permit are binding upon all assigns, successors-in-interest, heirs and occupants. If any significant changes are made or will be made in the use of the property that will affect access operation, traffic volume and or vehicle type, the permittee or property owner shall contact the Department to determine if a new access permit and modification to the access are required.
2. When an access is constructed or used in violation of the permit, the Department may summarily suspend an access permit and immediately order closure of the access.

MAINTENANCE

The permittee shall be responsible for the repair and maintenance of the access beyond the edge of the roadway including:

- (1) surfacing ,
- (2) curb and gutter,
- (3) cattle guard and gate,
- (4) vegetation control,
- (5) removal or clearance of snow or ice upon the access even though deposited on the access in the course of department snow removal operations,
- (6) repair and replacement of any access-related culverts of 36 inch diameter or smaller within the right-of-way in unincorporated areas,
- (7) obtaining department approval for all culvert repairs, drainage repairs, resurfacing, and changes in access design or configuration, and
- (8) all other maintenance required for continued safe and satisfactory operation of the access point.

The department shall perform no maintenance of access points, except:

- (1) The department determines that modification of the access point is necessary to meet adjacent highway reconstruction;
- (2) The department performs similar type maintenance on the highway at the access;
- (3) The maintenance of a new approach is required for construction under SDCL 31-24-1 and 31-24-2.
- (4) The maintenance consists of culvert cleaning in an unincorporated area; or
- (5) The maintenance consists of repair and replacement of culverts larger than 36" diameter in an unincorporated area.

In the event that the permittee fails to maintain an access point, the department may declare the negligently maintained access point a public nuisance, and upon notice to the permittee, may correct maintenance deficiencies at cost to the owner.