

ACCESS MANAGEMENT: CURRENT STATUS OF POLICIES IN IOWA

**Prepared for
Access Management Task Force
Iowa Department of Transportation**

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Table of Contents:
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	<u>Section</u>	<u>Page</u>
I.	Background	1
II.	Access Management Laws and Regulations	1
	--A. Legal Considerations	1
	--B. Planning and Regulatory Tools	3
III.	Survey of Iowa Cities and Counties	4
	--A. Telephone Survey Responses	5
	--B. Summary of Current Practices	8
	--C. Summary	10
IV.	Conclusions	10
IV.	References	11

I. Background

Comprehensive access management is a relatively new approach to addressing traffic congestion, accidents, and loss of street capacity. Access management programs address the location and design of street and driveway connections to the roadway, as well as subdivision and site design. Because it involves both land use and transportation, access management requires cooperation among government agencies responsible for land development and transportation decisions.

The state of Iowa and its cities and counties are legally responsible for providing and managing roadway access to commercial, industrial, recreational, and residential properties within their jurisdictions. Access that is not properly managed can negatively impact safety, increase congestion, and result in an inefficient use of designed roadway capacities. It is important that the criteria and review process for roadway access are understood by landowners, developers, planners, engineers, appointed and elected officials, and members of the motoring public.

The Iowa Department of Transportation's Access Management Task Force was established as part of the Iowa Department of Transportation's overall Safety Management System (SMS) effort. The goal of the task force is to develop a program to educate the organizations and individuals responsible for and affected by access management and to market the concept and benefits of access management.

The task force commissioned the Center for Transportation Research and Education (CTRE) at Iowa State University to review existing literature on access management; research current access management regulations and practices in Iowa; conduct case studies regarding the effects of access management on safety, traffic flow, and local businesses; and develop and disseminate access management training and educational materials. The literature review was completed in October 1996. This report provides a summary of access management laws, regulations, and current practices within Iowa. The information assembled on the access management policies and practices of the various jurisdictions will be used to help identify needs for educational materials and policy alternatives.

II. Access Management Laws and Regulations

A review of current legal and regulatory practices reveals four fundamental aspects of access management. First, access management is exerted at the state level through enabling legislation. Second, state enabling legislation can also dictate the level of power given to local jurisdictions. In the case of Iowa, cities and counties have significant latitude in access control. Third, there are legal implications of access management. Planning agencies must be cautious of "takings" which result from insufficient compensation to private property owners for use (taking) of their land for public purposes. Finally, land use planning techniques can be used to promote access management and provide consistency in legal and regulatory practices. The application of access management principles in Iowa is comparable to that of other states. It appears that coordination of access management policies among local agencies is a challenge for most states currently implementing such programs.

A. Legal Considerations

There are two primary issues related to access management policy: 1) public right to safe and efficient movement and 2) a landowner's right to suitable and sufficient access. This means that in providing for safe and efficient transportation, access management laws and regulations must balance the use of public police power and the protection of private property rights. The takings clause of the Fifth Amendment of the U.S. Constitution is the foundation for the protection of private property rights. When private property is taken for public use, landowners must be justly compensated for their loss. In the process of providing for a greater public interest through regulating access, there must exist a rational nexus between the burden realized by a property owner and the public interest being advanced.

States enable regulatory activity through state enabling legislation similar to Iowa's Chapter 306A for controlled access highways. Local jurisdictions may have greater or lesser degrees of authority than state DOTs in implementing access control policies. In general, with the consent of the citizenry, local authorities may be more restrictive in land use regulation than provided by state code, but not less restrictive. This provides the flexibility for local areas to assert additional control when conditions which diminish public welfare exceed those experienced by other areas within the state. When a conflict arises in the application of access control regulations, generally a property owner must prove the loss of use of their property or diminution of value of their property, while the local government must prove the advancement of public safety and welfare in their actions.

A survey of state rulings on takings cases from various states have shown:

- complete loss of access is always necessary to demonstrate a taking;
- a substantial loss of access to private property may result in a taking and warrant compensation, although no physical appropriation of property has occurred;
- loss of the most convenient access, or increase in circuitry of access, is not usually compensable where other suitable access continues to exist;
- governmental actions that diminish traffic flow on an abutting road, such as installation of a raised median, are not takings;
- damages must be peculiar to that property and not common to the public at large for compensation to be paid;
- recoverable damages are limited to the reduction in property value caused by the loss of access but if the property is landlocked the entire parcel may have to be purchased.

There have been no known takings cases filed against Iowa jurisdictions in relation to access management regulations or requirements. This may in part be due to the fact that Iowa has existing access codes at the state level. In addition, for at least highway facilities, Iowa relies on advance acquisition of right-of-way which may minimize conflicts with landowners seeking access improvements.

Along with evaluating the fairness of regulatory impacts on private property owners, courts are placing greater weight on comprehensive plans and planning studies in weighting the

validity of regulatory actions. These planning activities show consistency and forethought in policy implementation. Most planning activities that effect broad land use regulation also require a public participation component. This means that access management strategies that are an element of comprehensive plans and planning studies have achieved at least some level of public acceptance.

B. Planning and Regulatory Tools

Planning and regulatory tools that promote access management have traditionally included zoning, subdivision, and traffic controls. Other tools may require state enabling legislation like cluster zoning or development agreements. At this point there is only one example of access management being incorporated within community planning activities. Iowa City has included an access management element within their comprehensive plan. This represents one method that can be implemented at the local level. The following is a brief outline of planning methods that can be used to supplement access management strategies:

land division

lot dimension requirements

Lot dimensions can be controlled through minimum lot size, minimum lot frontage, set back requirements, etc. Controlling lot dimensions has an impact on driveway spacing, on-site circulation, and driveway lengths.

subdivision regulation

review process

The site plan review process can require documentation of all on- and off-site access points. Documentation of access control facilities (signals, medians, etc.) and on-site circulation controls can be required to ensure that standards are followed.

regulating lot splits and further subdivisions

Further subdivision of lots will likely require more access points along a roadway. Permissive subdivision regulations that allow frequent flag lot configurations contribute to a typical problem of inadequate spacing between access points.

subdivision regulation tied to functional class of roads

Subdivision regulation can orient lots and access points to local streets and away from high traffic volume arterials.

access controls

location and design

It is important to control the location of access points in relation to road deceleration and acceleration lanes to avoid conflict points. Other design issues involve driveway throat length where insufficient length can conflict with flow of off-site traffic and cause on-site circulation problems. Also, driveway spacing requirements, corner clearance, and joint and cross access configurations are important development characteristics.

retrofitting non-conforming access

Land development regulations are not retroactive so conformance can be required with new permit requests for new driveways, land use intensity changes, site improvements, etc.

private road ordinances

Efficient access management should extend to private roads which would mean that local ordinances would apply to both public and private roadways.

requirements for transit, bicycle, and pedestrian access

Effective access management must account for conflict points not only among and between motor vehicles, but also with connections to transit access, bicycle facilities, and pedestrian paths.

zoning regulations

overlay zoning

With corridor overlay for access control problem areas, standards can be tailored by priority or intensity of access, safety, and congestion problems.

flexible zoning

Flexible zoning can allow for alternative site design, buffering, and screening between incompatible uses.

National experiences with access management activities indicate that to be legally viable and acceptable to the development community, access management programs should promote public involvement at the earliest stages. Conflicts or legal challenges are less likely if stakeholders are involved in the formative stages of program development. Approaching access management as both a transportation and land use issue is a logical and efficient approach. Coordinating legal and regulatory activities through transportation engineering and land use planning strategies have proven effective in numerous states.

III. Survey of Iowa Cities and Counties

In order to better understand the current state of access management in Iowa, the CTRE research team conducted a telephone survey of 20 cities and 11 counties and asked about current planning activities related to access management (see figure 1). Telephone interviews were conducted during the months of January, February, and March 1997 (see tables 1 and 2). Each city and county was asked questions regarding its implementation of access management policies and procedures. In addition, each city and county was asked whether access management is perceived as an important issue in that jurisdiction (see list of interview questions). The following is a summary of survey responses as well as a brief summary of the types of access management policies and procedures currently in use throughout Iowa.

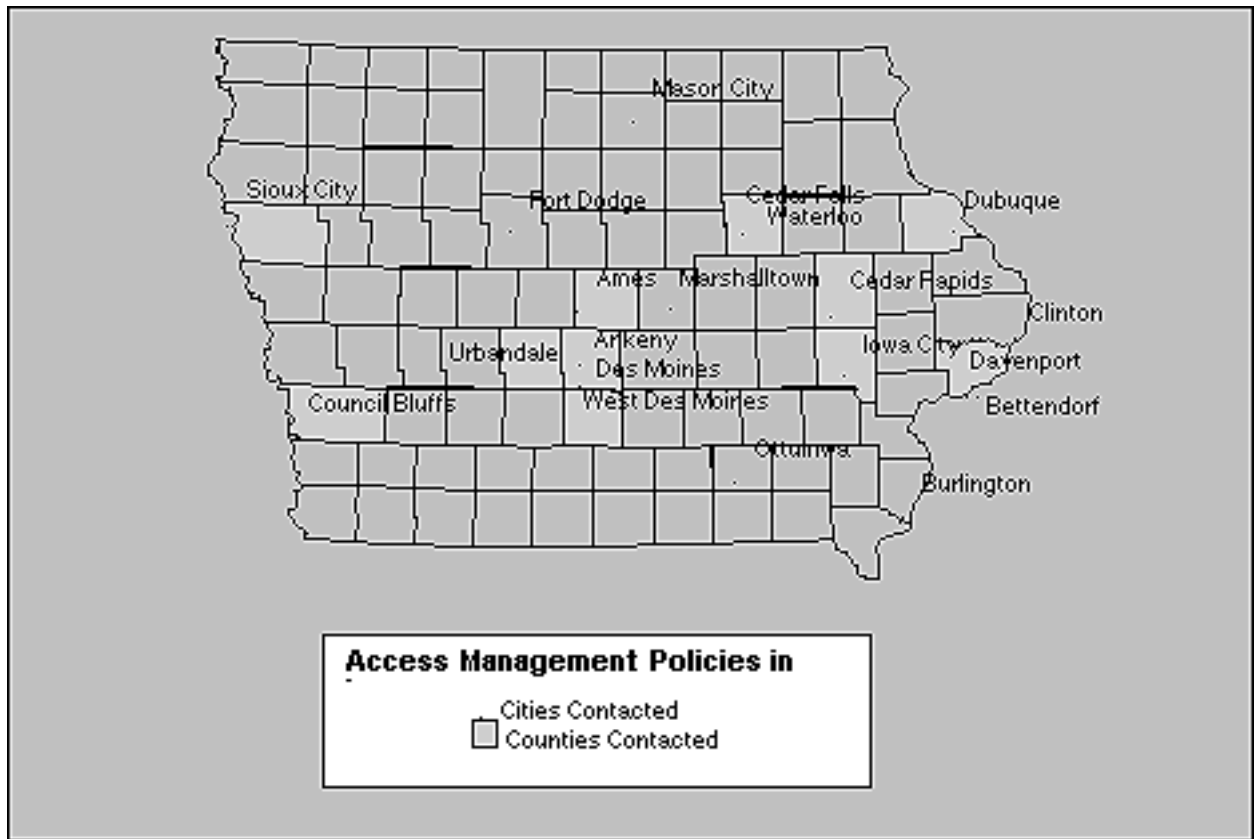


Figure 1

Table 1 Telephone Survey of Iowa Cities

City	1. Ordinances	2. Zoning, subdivision and design	3. Documented procedures	4. New developments	5. Lawsuits or challenges	6. Importance and Comments
Ames						Important
Ankeny						Handle access control through site plan review
Bettendorf						Staying the same
Burlington						Growing in importance
Cedar Falls						C considered at many stages of the review process
Cedar Rapids						Growing in importance
Clinton						Growing in importance
Council Bluffs						Growing in importance
Davenport						Important, especially along arterials
Des Moines						Very important to provide safety and traffic flow
Dubuque						Approval through city works director
Ft. Dodge						An issue for safety and traffic flow - especially at intersections
Iowa City						Important. Business owners have been cooperative
Marshalltown						Growing in importance. On-site inspections/reviews used
Mason City						Important with growth occurring at west end of Highway 18
Ottumwa						Important. Much time devoted to specifications
Sioux City						Important. Use of overlay zoning for problem areas
Urbandale						Growing in importance
Waterloo						Challenges negotiated. Approvals granted by city engineer
West Des Moines						Use Metro Design Standards to review access

Table 2 Telephone Survey of Iowa Metro County Engineer Offices

County	1. Ordinances	2. Zoning, subdivision and design procedures	3. Documented procedures	4. New developments	5. Lawsuits or challenges	6. Importance and Comments
Blackhawk						Important
Dallas						Increasing importance, especially eastern parts of the county
Dubuque						Important, development in rural subdivisions is a perceived barrier
Johnson						Very important. Legal challenges, but no lawsuits have taken place
Linn						Important, especially for driveways
Folk						Important county-wide
Pottawattamie						Extremely important, barrier is negative attitude of developers
Scott						Largest issue is driveways
Story						Important issue county-wide
Warren						Very important, barriers are developers and real-estate persons
Woodbury						More important, especially in Sioux City

A. Telephone Survey Responses

Over two-thirds (22 of 31 responses) of cities and counties reported that they currently have ordinances pertaining to access management. However, nearly all (28 of 31) have documented zoning, subdivision, or design regulations that affect access to roadways. Because restrictions on methods of access to property or roadways have potential legal implications, each jurisdiction was asked if they had encountered legal or administrative challenges to their policies. Eight of the thirty-one responses reported that their policies had been challenged at one time or another. Of these challenges, practically all were administrative in nature. For this reason, there is practically no Iowa case law related to regulation or restriction of access.

The questions asked:

1. Does county have access management ordinances?
2. Does the county have access management provisions in zoning ordinances, subdivision regulations, and design standards?
3. Are access management processes (such as driveway permitting or impact study requirements) documented?
4. Any new developments in access management/control in this locality?
5. Have there been any lawsuits or other administrative challenges?
6. How important an issue is access management? Growing in importance? What are perceived barriers?

B. Summary of Current Practices

From the interviews with city and county representatives, common characteristics of access management activities included the following:

Driveway (entrance, access, and curb cut) permits are the predominant method used for controlling access changes by the cities and counties that were contacted.

Many of the permit application forms include design standards and specifications for driveways as well as allowed types of access by functional classification of the roadway. Specifications are typically provided for minimum and maximum dimensions, sight distances, driveway approach grades, surfacing materials, drainage requirements, turning radii, and driveway spacing.

Among the examples of access permits and specifications that were received from Iowa cities and counties, there did not appear to be a standard format for application forms or design specifications. In other words, each jurisdiction needs to provide a certain amount of information to applicants for changes in access, but it appears that there is no common format for such information.

Some cities reported that they rely upon on-site approvals rather than formal permit application processes for changes in access. In these cases the engineering or building department perform inspections in lieu of plan review.

The review process for access modifications typically involve action by the planning, building, zoning, and engineering departments. Because of the separation of responsibility for land use and traffic engineering, rarely are there single points of contact for approval of access changes. This is true also for obtaining information about local policies. There is one case (Polk County) where a single policy document addresses access management administration.

Nearly all cities and counties were aware of IDOT regulations for access control. However, none referred specifically to the Iowa State Code as a basis for local ordinances.

Legal challenges to decisions regarding road access are rare. Typically disagreements are negotiated in the design/permit review process and don't result in lawsuits.

Practically all cities and counties felt that access management was an important local issue and were interested to find out that new information will be provided through the Access Management Awareness Program.

The following are examples of current practices and documentation that were received in response to the telephone survey:

Jurisdiction	Policies/Procedures
City of Ames	Zoning and subdivision ordinances.
City of Cedar Falls	Major streets right-of-way ordinance. Cedar Rapids Metropolitan Area Engineering Design Standards Manual (Chapter V. Roadway Design - Access Criteria).
City of Council Bluffs	Driveway permit application and specification for driveway approach construction.
City of Davenport	City ordinance for driveway permits. Permit may be denied if staff feels that the comprehensive plan was not adhered to. The comprehensive plan discusses arterial street spacing and street configuration standards.
City of Des Moines	Des Moines City Code - Streets and Sidewalks.
Dallas County	Resolution regarding entrances and driveways to county roads. Roadway design specifications and access criteria.
Dubuque County	Entrance and access change permits. Subdivision regulations on entrance spacing based upon functional class.
Johnson County	Application for new access to roadways. Subdivision regulations. The board of supervisors or county engineer may refuse to approve plats and subdivisions which propose highway entrances that adversely affect safety or traffic capacity.
Linn County	Entrance and driveway permits.
Polk County	Polk County Secondary Road Access Policy Manual with entrance permit. Zoning ordinance limits the number of driveways by development type.
Pottawattamie County	Entrance and access extension permits.
Scott County	Residential and farm entrance requirements including construction specifications.
Story County	Subdivision regulations and driveway permits.

Current practices and documentation that were received in response to the telephone survey.

Of the current policies and practices reviewed, Polk County, through the Polk County Public Works Department (Engineering Division) is a very good example of a comprehensive access management approach. The county's Draft Secondary Road Access Policy Manual (dated December 1996) provides a good explanation of access control as well as clearly outlining the criteria for permit application review. The standards and specifications incorporated into the manual are thorough and can easily be used as a model for other communities and counties around the state.

C. Summary

The primary finding of the interviews with cities and counties is that there is no consistent process used to review local changes in access to roadways. It is common for development plans that involve modification of ingress and egress to undergo review by multiple departments. These departments may each rely upon a variety of codes and design criteria. This increases the difficulty of providing coherent and coordinated information to property owners, developers, and the public regarding access modifications.

Another finding of the interviews is that legal challenges to access changes or access restrictions are very rare. Typically conflicts are negotiated during the design review process or before city or county councils. However, there have been threats of legal action. In Mason City the construction of a raised median in front of a McDonald's restaurant became an issue between the city and the business owner. Ultimately, the median was never built and the business owner dropped the challenge. Coralville may experience a lawsuit regarding their police powers to use private property for public purposes. The issue does not pertain to the design of access facilities, rather, the property owner is contesting the compensation that they received from the city for the condemned property. Overall, it appears that disagreements over the implementation of access controls are handled administratively and have not resulted in court cases.

Finally, nearly all cities and counties contacted expressed interest in how to better administer access management policies. There does appear to be some information sharing among jurisdictions, but usually only for metropolitan cities and counties. Medium or small sized jurisdictions outside of metro areas tend to develop their own policies and procedures, independent of other local jurisdictions. This may indicate that there is a need for a model access permit procedure where jurisdictions can then tailor the model to local conditions. This could potentially save these jurisdictions a significant amount of time in drafting policies and procedures for access management. Through a model ordinance or model permit application process, state-wide policies and procedures can also be easily communicated to local jurisdictions. More consistent local regulations may lead to a better understanding of access management and implementation strategies.

IV. Conclusions

Experiences with access management within the state of Iowa are very similar to those of other states. Other states have identified a need for local coordination of codes, regulations, and permit processes. A variety of traffic engineering design and land use policy alternatives are being implemented by these states; however, it appears that there are no means by which to share information about these activities. Iowa is one of only a few states that have attempted to address access management through a state-wide educational program.

V. References

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