

# CERTIFIED COPY OF ORDER

STATE OF MISSOURI }  
County of Boone } ea.

March Session of the January Adjourned

Term. 20 14

In the County Commission of said county, on the 11th day of March 20 14

the following, among other proceedings, were had, viz:

Now on this day the County Commission of the County of Boone does hereby proclaim March 2014 to be American Red Cross Month. It is further ordered the Boone County Commissioners are hereby authorized to sign the attached proclamation.

Done this 11th day of March, 2014.

ATTEST:

Wendy S. Noren  
Wendy S. Noren  
Clerk of the County Commission

Daniel K. Atwill

Daniel K. Atwill  
Presiding Commissioner

Karen M. Miller

Karen M. Miller  
District I Commissioner

Janet M. Thompson

Janet M. Thompson  
District II Commissioner

# PROCLAMATION FOR AMERICAN RED CROSS MONTH MARCH 2014

*Whereas*, American Red Cross Everyday Heroes are on the front line every day, volunteering their time, giving blood, taking life-saving courses or providing financial donations to help those in need; and

*Whereas*, American Red Cross volunteers provide round-the-clock support to members of the military, veterans and their families, and teach lifesaving classes in CPR, aquatics safety and first aid; and

*Whereas*, when an injured service member ended up in a hospital far from home, the American Red Cross offered comfort; when a hospital patient needed blood, American Red Cross blood donors helped them; when a lifeguard jumped in to save a drowning child or someone stepped up to help a heart attack victim, American Red Cross training was there; and

*Whereas*, across the nation and across the world, the American Red Cross has responded to hurricanes, tornadoes, floods and wildfires, the tragedy at the Boston Marathon and Typhoon Haiyan in the Philippines; and

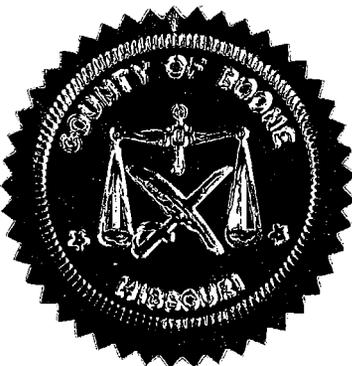
*Whereas*, the American Red Cross' mission is to prevent and alleviate human suffering in the face of emergencies; and

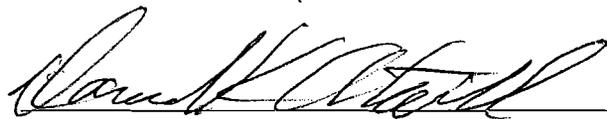
*Whereas*, American Red Cross volunteers from Boone County work tirelessly to help in time of disaster, when someone needs life-saving blood or the comfort of a helping hand; and

*Whereas*, our community depends on the American Red Cross, which relies on donations of time, money and blood to fulfill its humanitarian mission; and

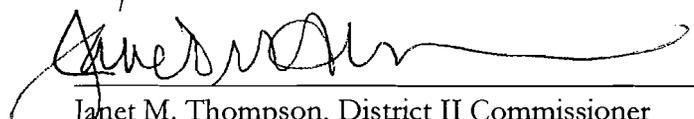
*Therefore*, the Boone County Commission does hereby proclaim March 2014 to be **American Red Cross Month** throughout Boone County and encourage Boone County residents to support this organization and its noble humanitarian mission.

IN TESTIMONY WHEREOF, this 11th day of March, 2014.

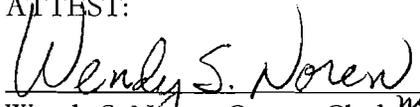


  
Daniel K. Atwill, Presiding Commissioner

  
Karen M. Miller, District I Commissioner

  
Janet M. Thompson, District II Commissioner

ATTEST:

  
Wendy S. Noren, County Clerk *nyg*

**CERTIFIED COPY OF ORDER**

STATE OF MISSOURI

} ea.

March Session of the January Adjourned

Term. 20 14

County of Boone

In the County Commission of said county, on the

11th

day of

March

20 14

the following, among other proceedings, were had, viz:

NOW ON THIS DAY the County Commission of the County of Boone takes up the following re-adoption of the Boone County Zoning Regulations and the Boone County Stormwater Ordinance:

WHEREAS, the Boone County Planning and Zoning Commission conducted three (3) public hearings, after duly notifying the public of the same, into the issue of re-adoption of the County's current zoning regulations and stormwater regulations; and

WHEREAS, the Boone County Planning and Zoning Commission has recommended that the County Commission readopt said zoning regulations and stormwater regulations; and

WHEREAS, the County Commission conducted a public hearing on re-adoption of said regulations on December 30, 2013, and

WHEREAS, all notices required by law have been duly given and all public hearings required by law have been duly convened;

NOW, THEREFORE, the County Commission of the County of Boone does hereby readopt the Zoning Ordinance for Boone County, Sections 1 through 27 and readopts the Stormwater Ordinance, Sections 1 through 9, copies of which are attached hereto and incorporated herein along with the following attachments:

1. Notice of 1st P&Z hearing, affidavit of publication from newspaper and affidavit of posting employee of posting here in Government Center (county seat hearing).
  - a. Minutes from this public hearing.
2. Notice of 2nd P&Z hearing, affidavit of publication from newspaper and affidavit of posting employee of posting here in Government Center (southern district).
  - a. Minutes from this public hearing.
3. Notice of 3rd P&Z hearing, affidavit of publication from newspaper and affidavit of posting employee of posting here in Government Center (northern district).
  - a. Minutes from this public hearing.
4. Minutes from P&Z with recommendation for adoption.
5. Notice of public hearing before the County Commission on December 30, 2013, affidavit of publication from newspaper and affidavit of posting employee here in Government Center AND in courthouse.
  - a. Minutes from the 12/30 County Commission meeting showing the public hearing was opened for the re-adoption of the zoning regulations and stormwater regulations.
6. Complete copy of Zoning Regulations Sections 1-27 and a complete copy of the Stormwater Ordinance Sections 1-9

# CERTIFIED COPY OF ORDER

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STATE OF MISSOURI }  
County of Boone } ea.

Term. 20

In the County Commission of said county, on the

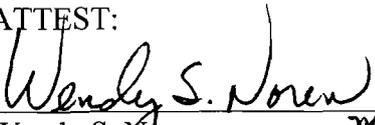
day of

20

the following, among other proceedings, were had, viz:

Done this 11th day of March, 2014.

ATTEST:

  
Wendy S. Noren  
Clerk of the County Commission



Daniel K. Atwill  
Presiding Commissioner



Karen M. Miller  
District I Commissioner



Janet M. Thompson  
District II Commissioner

**AFFIDAVIT OF PUBLICATION**

BC PLANNING/BUILDING

STATE OF MISSOURI )  
County of Boone ) ss.

I, AMY THOENEN, being duly sworn according to law, state that I am one of the publishers of the Columbia Daily Tribune, a daily newspaper of general circulation in the County of Boone, State of Missouri, where located; which newspaper has been admitted to the Post Office as periodical class matter in the City of Columbia, Missouri, the city of publication; which newspaper has been published regularly and consecutively for a period of three years and has a list of bona fide subscribers, voluntarily engaged as such, who have paid or agreed to pay a stated price for a subscription for a definite period of time, and that such newspaper has complied with the provisions of Section 493.050, Revised Statutes of Missouri 2000, and Section 59.310, Revised Statutes of Missouri 2000. The affixed notice appeared in said newspaper on the following consecutive issues:

- 1st Insertion,
- 2nd Insertion,
- 3rd Insertion,
- 4th Insertion,
- 5th Insertion,
- 6th Insertion,
- 7th Insertion,
- 8th Insertion,
- 9th Insertion,
- 10th Insertion,
- 11th Insertion,
- 12th Insertion,
- 13th Insertion,
- 14th Insertion,
- 15th Insertion,
- 16th Insertion,
- 17th Insertion,
- 18th Insertion,
- 19th Insertion,
- 20th Insertion,
- 21st Insertion,
- 22nd Insertion.

November 6, 2013

**PUBLIC NOTICE**

Notice is hereby given that the Boone County Planning and Zoning Commission will conduct a hearing for the purpose of readopting Sections 1 - 27 of the Boone County Zoning Ordinance and the Boone County Stormwater Ordinance on the following date:

**November 21 ~ Commission Chambers  
Roger B. Wilson County Government Center  
801 E. Walnut St., Columbia MO.**

**The hearing will begin immediately following the regular meeting of the Planning and Zoning Commission which begins at 7:00 P.M.**

Copies of the Zoning Ordinance and the Stormwater Ordinance may be obtained at the office of the Boone County Resource Management Department, Roger B. Wilson County Government Center, 801 E. Walnut St., Rm. 315, Columbia and are available on-line at: [www.showmeboone.com/resourcemanagement](http://www.showmeboone.com/resourcemanagement).

Boyd Harris  
Chairperson

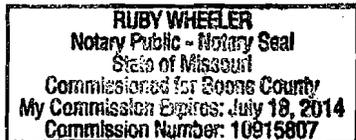
PRINTERS FEE: 89.88

By Amy Thoenen

Subscribed and sworn to before me this 24 day of February, 2014

[Signature]  
Notary Public

My Commission Expires July 18, 2014

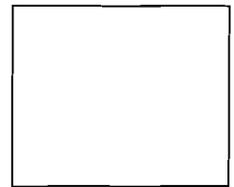


# PAYMENT REQUISITION BOONE COUNTY, MISSOURI

12/11/2013  
REQUISITION  
DATE

12/29/2013  
VENDOR  
DUE DATE

**TRANS: 2013 005889**



Check Routing Instructions

000223  
VENDOR  
NO.

COLUMBIA DAILY TRIBUNE  
VENDOR NAME

07-03MAR09  
BID NUMBER

Notes:

Fund / Dept	Account	Invoice Number	Customer Account Number	Amount
2045	84300	1176793	12525 BC RESOURCE MANAGEMENT 2003789 CONSULT AGREEMENTS	73.80
1710	84400	1176792	13397 BC RESOURCE MANAGEMENT 5112 READOPT ZONING REGS	89.88
<b>COPY</b>				
GRAND TOTAL :				163.68

I certify that the goods, services or charges above specified are necessary for the use of the department, are solely for the benefit of the county, and have been procured in accordance with statutory bidding requirements.

\_\_\_\_\_  
Approving Official

\_\_\_\_\_  
Approving Official

\_\_\_\_\_  
Approving Official

\_\_\_\_\_  
Prepared By

\_\_\_\_\_  
County Commission Approval

\_\_\_\_\_  
Auditor Approval

# COLUMBIA DAILY TRIBUNE

P.O. Box 798 • Columbia, MO • 65205-0798

## ADVERTISING INVOICE and STATEMENT

BILLING PERIOD		ADVERTISER/CLIENT NAME	
11/01/13 - 11/30/13		BC PLANNING/BUILDING	
TOTAL AMOUNT DUE	*UNAPPLIED AMOUNT	TERMS OF PAYMENT	
234.18		NET DUE 30 DAYS	
CURRENT NET AMOUNT DUE	30 DAYS	60 DAYS	OVER 90 DAYS
89.88	144.30	0.00	0.00

INVOICE NUMBER	PAGE #	BILLING DATE	BILLED ACCOUNT NUMBER	PARENT ACCOUNT NUMBER
1176792	1	11/30/2013	13397	13397

CREDIT CARD PAYMENTS	
 Card Number: _____	
 Exp. Date: _____ Amt. to pay: _____	
 Signature: _____	
 Name on Card: _____	

BILLED ACCOUNT NAME & ADDRESS: BC PLANNING/BUILDING  
 \*\*\*ATTN PAULA EVANS  
 801 E WALNUT ST RM 210  
 COLUMBIA MO 65201-4890

PLEASE DETACH AND RETURN UPPER PORTION WITH YOUR REMITTANCE

DATE	REFERENCE	PUB	DESCRIPTION - OTHER COMMENTS / CHARGES	SIZE/PAGES	TIMES	RATE	BALANCE
			BALANCE FORWARD				144.30
11/06	5112	CDT	READOPT HEARING COLUMBIA	2 X 3.00	1	14.98	89.88

CONTRACT NAME:	EXPIRES	COMMITMENT	PERIOD	TO DATE	TO FULFILL
Net Dollar Volume	04/30/2014	24000.00	3146.08	23611.21	388.79

### STATEMENT OF ACCOUNT AGING OF PAST DUE AMOUNTS

CURRENT NET AMOUNT DUE	30 DAYS	60 DAYS	OVER 90 DAYS	*UNAPPLIED AMOUNT	TOTAL AMOUNT DUE
89.88	144.30	0.00	0.00		234.18

# COLUMBIA DAILY TRIBUNE

101 North 4th Street • P.O. Box 798  
 Columbia, MO 65205 • (573) 815-1500

\*UNAPPLIED AMOUNTS ARE INCLUDED IN TOTAL AMOUNT DUE

INVOICE NUMBER	ADVERTISER INFORMATION			
	BILLING PERIOD	BILLED ACCOUNT NUMBER	PARENT ACCOUNT NUMBER	ADVERTISER / CLIENT NAME
1176792	11/01/13 - 11/30/13	13397	13397	BC PLANNING/BUILDING

# Senate

work, or, one secure," rday. asingly blicans out the whose them being d that verage e tired om the om the insur- ase in ns and o keep trust," h, top panel, ago to energy

and Commerce Committee.

At that confrontational session, she apologized for the troubles dogging the website where uninsured Americans and those buying coverage privately are supposed to be able to purchase health insurance. The secretary, who numerous Republicans have said should resign, has promised the site would be fixed by the end of this month and said it is secure.

Insurers are sending cancellation notices to customers whose current policies lack enough coverage to meet the law's more demanding standards — at least 3.5 million Americans, according to an Associated Press survey.

The Obama administration has said people facing cancellations will be able to find better coverage from their current insurance company or on state or federal exchanges where competing policies are being offered.

## NTSB lays blame on planners

### Train-float crash killed 4 veterans.

WASHINGTON (AP) — An oncoming freight train sounded its warning, and track guard gates started to descend. But the crowd was cheering, a marching band was playing, the lights of a police escort were flashing and a truck driver towing a parade float of wounded veterans and their wives in Midland, Texas, advanced heedlessly into the crossing.

The train rammed the float at 62 mph, killing four veterans and injuring 11 other veterans and their wives.

The National Transportation Safety Board yesterday faulted parade organizers and city officials for their lack of safety planning, not the truck driver towing the float.

"This terrible collision between a fast-moving freight train and a slow-rolling parade float of veter-

er/AP Car-

The Board of Directors for Columbia Neighborhood Watch invite you to attend:

Final Membership Training for 2013 is scheduled to be held for Columbia's Neighborhood Watch

November 12, 2013  
7:00 – 8:00 p.m.  
Parkade Center  
601 Business Loop 70 West (Suite 131)

Online registration is appreciated.

<http://columbianeighborhoodwatch.eventbrite.com>  
Please Email any questions to [col.neighwatch@gmail.com](mailto:col.neighwatch@gmail.com)



4817

**HAPPY HOUR**  
3:30-6:30

Free Snacks at the Bar

- Covered Patio
- Party Room Available

# Legends

RESTAURANT & BAR

Serving Fine Foods  
Wines, Spirits & Craft Beers

All You Can Eat Clams & Fries  
Every Wednesday! \$9.99

**\$10 OFF** a \$25 Purchase

Excludes Taxes. Must present coupon at time of purchase.  
Not valid with any other promotions or discounts.

573-441-2211 • 10 W. Nifong • In the Nifong Square Shopping Center

## PUBLIC NOTICE

Notice is hereby given that the Boone County Planning and Zoning Commission will conduct a hearing for the purpose of readopting Sections 1 – 27 of the Boone County Zoning Ordinance and the Boone County Stormwater Ordinance on the following date:

November 21 – Commission Chambers  
Roger B. Wilson County Government Center  
801 E. Walnut St., Columbia MO.

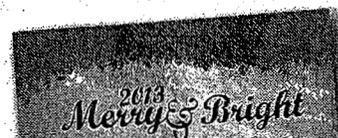
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Copies of the Zoning Ordinance and the Stormwater Ordinance may be obtained at the office of the Boone County Resource Management Department, Roger B. Wilson County Government Center, 801 E. Walnut St., Rm. 315, Columbia and are available on-line at: [www.showmeboone.com/resourcemanagement](http://www.showmeboone.com/resourcemanagement).

Boyd Harris  
Chairperson

5112

# Your guide to CoMo's best gifts.



Browse the 2013 Merry & Bright Wish Book to find

AFFIDAVIT OF NOTICE OF PUBLIC HEARING

STATE OF MISSOURI ) ss  
County of Boone )

I, Paula Evans, being duly sworn according to law, state that I am the Custodian of Records of Resource Management for the County of Boone, State of Missouri. I hereby swear that the affixed notice of public hearing was posted in the Roger B. Wilson, Boone County Government Center at 9:50 am central standard time on the 6<sup>th</sup> day of November, 2013

Paula Evans date 11/6/13  
Paula Evans

Subscribed & sworn to before me this 6<sup>th</sup>  
day of November, 2013

Christina L. Crane

Notary Public  
CHRISTINA L. CRANE  
Notary Public - Notary Seal  
State of Missouri  
County of Boone  
My Commission Expires May 21, 2017  
Commission #13705616

## **PUBLIC NOTICE**

Notice is hereby given that the Boone County Planning and Zoning Commission will conduct a hearing for the purpose of readopting Sections 1 – 27 of the Boone County Zoning Ordinance and the Boone County Stormwater Ordinance on the following dates:

**November 21 – Commission Chambers  
Roger B. Wilson County Government Center  
801 E. Walnut St., Columbia MO.**

**December 2 – Ashland City Hall, 109 E. Broadway, Ashland, MO**

**December 9 – County Office, 1023 E Highway 22, Centralia, MO**

**Hearings begin at 7:00 PM.**

Copies of the Zoning Ordinance and the Stormwater Ordinance may be obtained at the office of the Boone County Resource Management Department, Roger B. Wilson County Government Center, 801 E. Walnut St., Rm. 315, Columbia and are available on-line at:  
[www.showmeboone.com/resourcemanagement](http://www.showmeboone.com/resourcemanagement).

Boyd Harris  
Chairperson

**BOONE COUNTY PLANNING & ZONING COMMISSION**  
BOONE COUNTY GOVERNMENT CENTER, COMMISSION CHAMBERS  
801 E. WALNUT, COLUMBIA, MISSOURI  
(573) 886-4330

**Minutes**

**7:00 P.M.**

**Thursday, November 21, 2013**

I. Chairperson Harris called the meeting to order at 7:00 p.m., with a quorum present.

II. Roll Call:

a. Members Present:

Boyd Harris, Chairperson	Centralia Township
Carl Freiling, Vice-Chairperson	Cedar Township
Paul Prevo, Secretary	Rocky Fork Township
Eric Kurzejeski	Missouri Township
Gregory Martin	Katy Township
Kevin Murphy	Perche Township
Michael Poehlman	Rock Bridge Township
Loyd Wilson	Columbia Township

b. Members Absent:

Larry Oetting	Three Creeks Township
Brian Dollar	Bourbon Township
Derin Campbell	County Engineer

c. Staff Present:

Stan Shawver, Director	Uriah Mach, Planner
Paula Evans, Staff	

III. Approval of Minutes:

Minutes from the October 17, 2013 meeting were approved by acclamation.

IV. Chairperson Statement

Chairperson Harris read the following procedural statement:

The Boone County Planning & Zoning Commission is an advisory commission to the County Commission. The commission is made up of individuals representing each township of the county and the county engineer.

The planning and zoning commission makes recommendations to the county commission on matters dealing with land use. Tonight's agenda includes 3 subdivision plats and a public hearing for re-adoption of the county zoning regulations and stormwater ordinance.

The following procedure will be followed for the subdivision plats:

The agenda item will be announced, followed by a report from the planning department staff.

The Planning and Zoning Commission will then make a motion to either approve or deny the agenda item.

After action has been taken on the subdivision plats, the Commission will convene a public hearing on the proposed re-adoption of the Sections 1-27 of the Boone County Zoning Ordinance and the Stormwater Ordinance.

All subdivision plats are forwarded to the County Commission. They will consider the subdivision plats that are on tonight's agenda on Thursday, December 5th. The county commission meeting scheduled for Thursday, December 5th will begin at 1:30 p.m. and will convene in this same room.

V. Conditional Use Permits

None

VI. Rezoning

None

VII. Planned Developments

None

VIII. Plats

The following items were placed on consent agenda:

1. Trade Winds Park Plat No. 2-A. S12-T48NM-R12W. M-L. Streams Edge Properties LLC, owner. David T. Butcher, surveyor.
2. Arens Acres. S23-T51N-R11W. A-2. John W. Arens, owner. Mark B. Holt, surveyor.
3. Ambrose Point, Plat No. 1-A. S10-T48N-R14W. A-2. Chad and Carina Hrdina, owners. David T. Butcher, surveyor.

Commissioner Wilson made and Commissioner Kurzejewski seconded a motion to approve as recommended the items on consent agenda and place the staff reports in to the record.

All members voted in favor, none opposed.

## Staff reports

### **Trade Winds Park Plat No 2-A**

The subject property is located on the north side of Richland Road at the immediately north of the intersection of Trade Winds Parkway and Richland Road approximately 1400 feet west of the Route Z interchange on I-70. The site is approximately 1/2 mile east of the municipal limits of the City of Columbia. The property is zoned M-L(Light Industrial) & R-S(Residential Single-Family). Property to the north is zoned M-L, as is property adjoining to the east, property south across Richland Road is zoned A-1(Agriculture), and property to the west of the subject property is zoned R-S(Residential Single-Family) & R-M (Residential-Moderate Density). This proposal splits an existing lot, Lot 6 of Trade Winds Park Plat Number 2, into two smaller lots, 6-A & 6-B.

The subject property has frontage on both Richland Road and Trade Winds Parkway. Access is permitted only on Trade Winds Parkway. The applicant has requested a waiver to the traffic study requirement.

Public Water Service District #9 provides water service to these lots. The property is located inside the Boone County Fire Protection District service area.

The subject property has wastewater service provided by the Boone County Regional Sewer District.

The original approval of this plat was subject to the following conditions:

1. That it is understood that modifications to the plat may be required to comply with both the City & County Regulations and that a sign-off from the city prior to recording will be needed.
2. That this plat must work out the sewer and road placement issue to the satisfaction of the Director of Planning, Boone County Public Works, and the Boone County Regional Sewer District.
3. Appropriate cross-references to existing easements be placed upon the graphic.
4. That it is recognized that the existing preliminary plat is still expected to represent the replatting of the larger lots into smaller ones.

The plat must proceed through the City of Columbia's approval process prior to approval by the county commission.

The property scored 78 points on the rating system.

Staff recommends approval of the plat with the following conditions:

1. That it is understood that modifications to the plat may be required to comply with both the City & County Regulations and that a sign-off from the city prior to recording will be needed.

### **Arens Acres**

The subject property is located on Rangeline Road, approximately 1 mile to the east of the city of Centralia. The subject property is 15.37 acres in size, and currently has a house, two barns, and two sheds

present. The applicant has submitted a subdivision plat to divide the property into two lots, one at 5.01 acres, and the other at 9.65 acres. The property is zoned A-2(Agriculture). This is original 1973 zoning.

The proposed lots have direct access on to Rangeline Road, a publicly-dedicated, publicly-maintained right-of-way. The applicant has submitted a request to waive the traffic-study requirement.

The subject property is in Public Water Service District #10's service area, AmerenUE's service area & the Boone County Fire Protection District. These service providers can provide necessary water, electric, & fire protection service for the proposed lots.

The existing home has an on-site wastewater system, and an on-site system will be proposed for the new lot. Such a system will be constructed under permit with the Columbia/Boone County Health Department. The applicant has submitted a request to waive the wastewater cost/benefit analysis.

The property scored 58 points on the rating system.

Staff recommends approval of the plat and granting the requested waivers.

#### **Ambrose Point Plat No 1-A**

The subject property is located along State Route O, south of I-70, between Kings Lane and Sinking Creek Road. The property is 10.41 acres in size, and is zoned A-2 (Agriculture). It is surrounded by A-2 zoning. This is all original 1973 zoning. The applicant proposes to consolidate two of the three previously-platted lots into one larger lot. This property was previously divided into the 10.41 parent parcel through the administrative survey process and then split again by Ambrose Point Plat 1. That survey was recorded in Book 3780, Page 154, the plat in Plat Book 46, Page 20.

The new lot has direct access on to State Route O and a MoDOT-approved access point. The applicant has submitted a request to waive the traffic study requirement.

Consolidated Public Water Service District #1 is the water provider, with access on the opposite side of State Route O. Boone Electric will provide electrical service. Boone County Fire Protection District will provide fire protection services.

On-site wastewater systems are proposed to serve these new lots. An exhibit was provided identifying locations on each lot for an on-site wastewater system. The property is near an identified sinkhole area, and soil morphology may be required by the Columbia/Boone County Health Department prior to approval of any on-site system at time of construction. The applicant has submitted a request to waive the wastewater cost-benefit analysis.

Besides the substantial quantity of floodplain on Lot 1, there is approximately 360 feet of a type II stream. That stream is subject to the requirements of the Boone County Stream Buffer ordinance. Those requirements indicate a 50' buffer from the stream's ordinary high water mark. That buffer has been identified on the plat.

The property scored 48 points on the rating system.

Staff recommends approval of the plat and granting the requested waivers.

IX. Old Business

1. Update on County Commission Action.

Stan Shawver updated the Commission as follows:

The rezoning request for Glenn was approved as recommended.

X. New Business

1. Public hearing on the re-adoption of Sections 1 – 27 of the Boone County Zoning Ordinance and the Boone County Stormwater Ordinance.

Stan Shawver stated he provided the Commission members with various Commission Orders adopting the current zoning regulations. The County Commission adopted the 2003 revisions in two sessions; the first session they adopted part of the regulations, in the second session they adopted the remainder. Since that time they've also adopted the Sign Regulations, Addressing and Road Naming Regulations, the Stream Buffer Regulations and the Stormwater Ordinance. All of these are part of the zoning regulations. The reason we are re-adopting is that the County Attorney would like all of the regulations to be under one adoption date. No changes have been made to the regulations; this is simply to have all the regulations under one adoption date.

Chairperson Harris asked that if somewhere down the road one section of the ordinance is changed then the Commission will readopt the entire ordinance as a whole rather than just the one section.

Stan Shawver stated that is correct.

Stan Shawver stated that an ad was placed in the Columbia Daily Tribune, The Boone County Journal, and The Centralia Fireside Guard; notice was also posted on the bulletin board in the Government Center.

Chairperson Harris opened the public hearing for anyone wishing to speak.

No one spoke in favor or opposition.

Closed to public hearing.

Stan Shawver stated that our zoning regulations require that before the County Commission can make any changes to the regulations the Planning and Zoning Commission must hold three public hearings; one at the County seat, one in the northern County Commissioner's district, and one in the Southern County Commissioner's district. A public hearing will be held at 7:00 pm on December 2, 2013 at Ashland City Hall. Another public hearing will be held at 7:00 pm on December 9, 2013 at the County office in Centralia.

2. Subdivision Regulations

Commissioner Poehlman asked the progress of the subdivision regulations.

Stan Shawver stated we have been meeting with the Central Missouri Development Council, we've had one session with them already and explained that 90% of the proposed regulations are already in the existing regulations and have been since 1995; the wording has changed and the location of information in the regulations has changed. The group plans to meet several times to get through the proposed changes.

XI. Adjourn

Being no further business the meeting was adjourned at 7:17 p.m.

Respectfully submitted,

Secretary  
Paul Prevo

Minutes approved on this 18<sup>th</sup> day of December, 2013

AFFIDAVIT OF INSERTION

This is to certify that the insert for: Boone County Planning  
(Advertiser Name)

Titled: Planning & Zoning Commission  
(Headline/Caption)

Appeared in the: Boone County JOURNAL  
(City/Paper Name)

On: Nov 13, 2013 Total inserts distributed: —  
(Date of insertion)

Bruce P. Wallace  
Signed by Advertising Manager

\*\*Subscribed and sworn to before me this 17 day of January 2014

[Signature] [Signature]  
Signed by Notary Public

My commission expires on: Sept. 28, 2014

JESSICA LEE KENDALL  
STATE OF MISSOURI  
BOONE COUNTY  
Commission Expires Sept. 28 2014  
Commission # 10945035  
Notary Public - Notary Seal

Boone County Journal  
P.O. Box 197  
201 S. Henry Clay  
Ashland, MO 65010  
(573) 657-2334

# INVOICE

DATE
------

12/31/2013

TO:
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Boone County Planning  
Attn: Terry Freuh  
801 E. Walnut  
Columbia, MO 65201

Account #	AMOUNT DUE	AMOUNT ENC.
	\$47.70	

DATE	TRANSACTION				AMOUNT	BALANCE
11/13/2013	Boone County Planning and Zoning Commission "Public Notice on readopting Sections 1 - 27" display ad				47.70	47.70
<b>CURRENT</b>	<b>1-30 DAYS PAST DUE</b>	<b>31-60 DAYS PAST DUE</b>	<b>61-90 DAYS PAST DUE</b>	<b>OVER 90 DAYS PAST DUE</b>	<b>AMOUNT DUE</b>	
0.00	0.00	47.70	0.00	0.00	\$47.70	



Jakob McKee's aim was spot on to kill his first ever deer - a "Monster" 10 pointer.



First Buck! Macy Thompson had been successful the last two seasons taking does, however, this year she wanted to wait for a buck and it paid off. Macy shot this eight pointer during the youth season with her cousin Levi Davis, father Kevin Thompson and grandfather Phillip Thompson on their family farm.

A message from the Missouri Department of Insurance

### Shopping for a Medicare Part D plan?

Get free help with all your Medicare questions from local, trained volunteers. CLAIM, a government-funded program, can help you find the best plan for your needs. Open enrollment for Part D runs through Dec. 7.

To get help or find a free enrollment event near you, call or visit:

800-390-3330

missouryclaim.org

No one will try to sell you anything.



**Upcoming**  
**Antique Auctions & Shows**  
 Black Friday Antique Show - Nov 29  
 Rare Missouri Stoneware - Dec 7  
 Native American Auction - Dec 14  
**816.697.3830**  
[www.DirkSoulisAuctions.com](http://www.DirkSoulisAuctions.com)

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### PUBLIC NOTICE

Notice is hereby given that the Boone County Planning and Zoning Commission will conduct a hearing for the purpose of readopting Sections 1 -27 of the Boone County Zoning Ordinance and the Boone County Stormwater Ordinance on the following dates:

**November 21 - Commission Chambers - Roger B. Wilson County Government Center 801 E. Walnut St., Columbia MO.**

**December 2 - Ashland City Hall, 109 E. Broadway, Ashland, MO**

**December 9 - County Office, 1023 E Highway 22, Centralia, MO**

**Hearings begin at 7:00 PM.**

Copies of the Zoning Ordinance and the Stormwater Ordinance may be obtained at the office of the Boone County Resource Management Department, Roger B. Wilson County Government Center, 801 E. Walnut St., Rm. 315, Columbia and are available on-line at:

[www.showmeboone.com/resourcemanagement](http://www.showmeboone.com/resourcemanagement)

**Boyd Harris Chairperson**

**OPEN SATURDAY**  
**BURGERS & SMOKEHOUSE**  
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 Item K801DT  
 Can be picked up at our Factory Counter. Offers expires 11-30-13.  
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AFFIDAVIT OF NOTICE OF PUBLIC HEARING

STATE OF MISSOURI ) ss  
County of Boone )

I, Paula Evans, being duly sworn according to law, state that I am the Custodian of Records of Resource Management for the County of Boone, State of Missouri. I hereby swear that the affixed notice of public hearing was posted in the Roger B. Wilson, Boone County Government Center at 9:50 AM central standard time on the 6<sup>th</sup> day of November, 2013

Paula Evans date 11/6/13  
Paula Evans

Subscribed & sworn to before me this 6<sup>th</sup>  
day of November, 2013

Christina L. Crane

Notary Public  
CHRISTINA L. CRANE  
Notary Public - Notary Seal  
State of Missouri  
County of Boone  
My Commission Expires May 21, 2017  
Commission #13705616

**PUBLIC NOTICE**

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[www.showmeboone.com/resourcemanagement](http://www.showmeboone.com/resourcemanagement).

Boyd Harris  
Chairperson

**BOONE COUNTY PLANNING & ZONING COMMISSION**

ASHLAND CITY HALL  
109 E BROADWAY, ASHLAND, MISSOURI  
(573) 886-4330

**Minutes**

**7:00 P.M.**

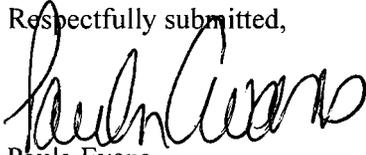
**Monday, December 2, 2013**

The special meeting was called to order. A summary was given by Resource Management Director, Stan Shawver who stated that this was the second of three required public hearings regarding the re-adoption of the existing zoning and stormwater regulations. Mr. Shawver stated that no changes have been made to the regulations but County Counsel asked that the zoning and stormwater regulations be adopted under one commission order. Currently there are six commission orders adopting different parts of the existing regulations.

The hearing was open to the public for comments and no one present wished to speak in favor or opposition.

Being no further business the meeting was adjourned at 7:05p.m.

Respectfully submitted,



Paula Evans

Administrative Assistant  
Boone County Resource Management

# AFFIDAVIT OF PUBLICATION

STATE OF MISSOURI)

SS.

COUNTY OF BOONE)

I, Gary Flick, being duly sworn according to law, state that I am the Manager  
(Editor, Publisher)

of the CENTRALIA FIRESIDE GUARD, a weekly newspaper of general circulation in the county of BOONE, where located; which newspaper has been admitted to the Post Office as periodical class matter in the City of Centralia, Missouri, the city of publication; which newspaper has been published regularly and consecutively for a period of 143 years and has a list of bona fide subscribers voluntarily engaged as such who have paid or agreed to pay a stated price for a subscription for a definite period of time, and that such newspaper has complied with the provisions of Section 493.050 Revised Statutes of Missouri 2004, and Section 59.310, Revised Statutes of Missouri 2004. The affixed notice appeared in said newspaper on the following consecutive issues.

From November 13, 20 13 to November 13, 20 13

First insertion November 13, 20 13

Second insertion \_\_\_\_\_, 20 \_\_\_\_\_

Third insertion \_\_\_\_\_, 20 \_\_\_\_\_

Fourth insertion \_\_\_\_\_, 20 \_\_\_\_\_

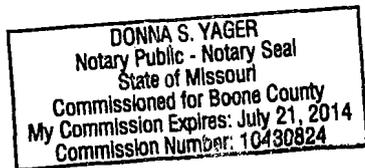
Fifth insertion \_\_\_\_\_, 20 \_\_\_\_\_

(Signed) Gary Flick  
(Editor, Publisher)

Subscribed and sworn before me this 14th day of

Feb, 20 14.  
Donna S Yager Notary Public

My commission expires July 21, 20 14.



**PUBLIC NOTICE**

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[www.showmeboone.com/resourcemanagement](http://www.showmeboone.com/resourcemanagement)

**Boyd Harris  
Chairperson**

Centralia Fireside Guard

P.O. Box 7  
Centralia MO 65240

ADVERTISING STATEMENT / INVOICE 1/1

BILLED ACCOUNT
Paula Evans Boone County Resource Management 801 E. Walnut Room 315 Columbia, MO 65201

BILLING DATE	TERMS OF PAYMENT
11/30/2013	LWPubs - Missouri Terms

BILLED ACCOUNT NO.	AGENCY/CLIENT
00029104	00029104
NAME OF AGENCY/CLIENT	
Boone County Resource Management	

DATE	TRANS #	DESCRIPTION	INS	SIZE	INCHES	AMOUNT	TOTAL
11/13/2013	300217393	Planning & Zoning Hearing - 00090665	1	3 x 4	12.00	86.28	86.28

CURRENT	AGING			
	1 - 30	31 - 60	61 - 90	91 - 120
\$ 86.28	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00

TOTAL NET AMOUNT DUE
\$ 86.28

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Acct# \_\_\_\_\_ Exp Date: \_\_\_\_\_

Signature \_\_\_\_\_

Thank you for your  
business.

BILLED ACCOUNT NO.	BILLED ACCOUNT NAME	AMOUNT REMITTED
00029104	Boone County Resource Management	

REMIT TO
Centralia Fireside Guard P.O. Box 7 Centralia MO 65240
Phone: (573) 682-2133 Fax: (573) 682-3361

Payment in full is due upon receipt of the statement. A service charge on all balances over 30 days will be computed by a 'Periodic Rate' of 1-1/2% per month, which is an ANNUAL PERCENTAGE RATE OF 18%, this applies to the previous balance after deducting current payments and credits appearing on your statement.

Remittance Advice



AFFIDAVIT OF NOTICE OF PUBLIC HEARING

STATE OF MISSOURI ) ss  
County of Boone )

I, Paula Evans, being duly sworn according to law, state that I am the Custodian of Records of Resource Management for the County of Boone, State of Missouri. I hereby swear that the affixed notice of public hearing was posted in the Roger B. Wilson, Boone County Government Center at 9:50 AM central standard time on the 6<sup>th</sup> day of November, 2013.

Paula Evans date 11/6/13  
Paula Evans

Subscribed & sworn to before me this 6<sup>th</sup>  
day of November, 2013

Christina L. Crane

Notary Public  
CHRISTINA L. CRANE  
Notary Public - Notary Seal  
State of Missouri  
County of Boone  
My Commission Expires May 21, 2017  
Commission #13705616

## **PUBLIC NOTICE**

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[www.showmeboone.com/resourcemanagement](http://www.showmeboone.com/resourcemanagement).

Boyd Harris  
Chairperson

**BOONE COUNTY PLANNING & ZONING COMMISSION**

COUNTY OFFICE

1023 E HIGHWAY 22, CENTRALIA, MISSOURI

(573) 886-4330

**Minutes**

**7:00 P.M.**

**Monday, December 9, 2013**

The special meeting was called to order. A summary was given by Resource Management Director, Stan Shawver who stated that this was the third of three required public hearings regarding the re-adoption of the existing zoning and stormwater regulations. Mr. Shawver stated that no changes have been made to the regulations but County Counsel asked that the zoning and stormwater regulations be adopted under one commission order. Currently there are six commission orders adopting different parts of the existing regulations. Notice was published in the Columbia Daily Tribune, Boone County Journal and the Centralia Fireside Guard; notice was also posted in the Government Center.

The hearing was open to the public for comments and no one present wished to speak in favor or opposition.

Mr. Shawver stated that staff did receive one phone call asking what the hearing was about. Staff explained to the caller that no changes are being made to the regulations; after hearing that, the caller had no further comments.

Being no further business the meeting was adjourned at 7:06 p.m.

Respectfully submitted,



Paula Evans  
Administrative Assistant  
Boone County Resource Management

**BOONE COUNTY PLANNING & ZONING COMMISSION**  
BOONE COUNTY GOVERNMENT CENTER, COMMISSION CHAMBERS  
801 E. WALNUT, COLUMBIA, MISSOURI  
(573) 886-4330

**Minutes**

**7:00 P.M.**

**Thursday, December 19, 2013**

I. Chairperson Harris called the meeting to order at 7:00 p.m., with a quorum present.

II. Roll Call:

a. Members Present:

Boyd Harris, Chairperson

Carl Freiling, Vice-Chairperson

Paul Prevo, Secretary

Gregory Martin

Kevin Murphy (arrived 7:05)

Michael Poehlman

Larry Oetting

Loyd Wilson

Derin Campbell

Centralia Township

Cedar Township

Rocky Fork Township

Katy Township

Perche Township

Rock Bridge Township

Three Creeks Township

Columbia Township

County Engineer

b. Members Absent:

Eric Kurzejeski

Vacant Seat

Missouri Township

Bourbon Township

c. Staff Present:

Stan Shawver, Director

Thad Yonke, Senior Planner

Paula Evans, Staff

Uriah Mach, Planner

Bill Florea, Senior Planner

III. Approval of Minutes:

Minutes from the November 21, 2013 meeting were approved by acclamation.

IV. Chairperson Statement

Chairperson Harris read the following procedural statement:

The Boone County Planning and Zoning Commission is an advisory commission to the County Commission. The commission is made up of individuals representing each township of the county and the county engineer.

The Planning and Zoning Commission makes recommendations to the County Commission on matters dealing with land use. Tonight's agenda includes one rezoning request and a related conditional use permit, a final development plan for a planned development and three subdivision plats.

In general, the Planning and Zoning Commission tries to follow Robert's Rules of Order, however, it is authorized by the Missouri state statutes to follow its own by-laws. The by-laws provide that all members of the commission, including the chairperson, enjoy full privileges of the floor. The chairperson may debate, vote upon or even make any motion.

The following procedure will be followed:

The agenda item will be announced, followed by a report from the planning department staff. At that time, the applicant or the applicant's representative may make a presentation to the commission. The commission may request additional information at that time, or later following the public hearing. After the applicant's presentation, the floor will be opened for a public hearing to allow anyone wishing to speak in support of the request. We ask that any presentation made to the commission be to the point.

Next, the floor will be given over to those who may be opposed to the request. Direct all comments or questions to the commission and please restrict your comments to the matter under discussion. Please be considerate of everyone here. We ask that you please not be repetitious with your remarks. We also recognize that some issues can be quite emotional. In that regard we ask that you refrain from applause, cheers, or other signs of support or displeasure. Please afford those with a different point of view than yours the same respect and consideration you would like yourself.

There may be individuals that neither support nor oppose a particular request. Those individuals are welcome to address the commission at any time during the public hearing portion of the request.

Please give your name and mailing address when you address the commission. Please sign the sheet on the table after you testify. Also, we ask that you turn off your cell phones.

Any materials that are presented to the commission, such as photographs, written statements or other materials will become a part of the record for these proceedings. If you would like to recover original material, please see the staff during regular business hours after they have had an opportunity to make a copy of your submission.

After those opposed to the request have had a chance to speak, the applicant will have an opportunity to respond to the concerns of those opposed to the request. Next the staff will be given an opportunity for any additional comments, as appropriate. The public hearing will then be closed and no further comments will be permitted from the audience or the applicant unless requested by the commission. The commission will then discuss the matter and may ask questions of anyone present during the discussion. Finally, a motion will be made to either recommend the approval or denial of the request to the county commission. Please note that the Boone County Zoning Regulations and Subdivision Regulations are considered to be a part of the record of these proceedings.

All recommendations for approval are forwarded to the county Commission. They will conduct another public hearing on Monday, December 30<sup>th</sup>. Interested parties will again have the opportunity to comment on the requests at that time. The County Commission generally follows the recommendations of the Planning and Zoning Commission, however, they are not obligated to uphold any recommendation. Requests that are denied will not proceed to the County Commission unless the applicant files an appeal form within 3 working days. Please contact the planning office to see if a request that has been denied has filed an appeal, as there will be no further public notification due to the short time between the hearing tonight and the County Commission hearing. The County Commission hearing scheduled for Monday, December 30<sup>th</sup> will begin at 7:00 p.m. and will convene in this same room.

Chairperson Harris stated that the bylaws indicate that conditional use permits are to be heard first. However, since an applicant on the agenda has both a rezoning request and conditional use permit request the rezoning needs to be heard first since the conditional use permit cannot be considered until the proper

zoning is in place. Chairperson Harris asked for a motion to amend the agenda to address the rezoning request first.

**Commissioner Murphy stated that his firm is involved with the rezoning and conditional use permit and stated that he will recuse himself from the proceedings. Commissioner Murphy left Commission Chambers.**

Commissioner Freiling made and Commissioner Oetting seconded a motion to amend the agenda to consider the rezoning request first and the conditional use permit second.

Boyd Harris – Yes	Carl Freiling – Yes
Gregory Martin – Yes	Paul Prevo – Yes
Larry Oetting – Yes	Michael Poehlman – Yes
Kevin Murphy – RECUSED	Loyd Wilson - Yes
Derin Campbell – Yes	

Motion to amend the December agenda passes 8 YES

#### V. Rezoning

1. Request by the Thomas D. Hilbert Trust, the Angelia H. Hilbert Trust, the Glenn T. Smith Trust and the Lillie Beatrice Smith Trust to rezone from R-S (Single Family Residential) to A-1 (Agriculture) of: Tract A - 84 acres; Tract B - 122 acres; Tract C - 7.6 acres; located at 5395 W Smith Dr., Columbia.

Planner Bill Florea gave the following staff report:

The property is located approximately one half mile west of the terminus of Smith Drive. The 213 acre tract has been in agricultural use for several decades. Nearly 100% of the tract is in the Perche Creek Bottom and within the 100 year floodplain. The site is flat and level and is bounded on the east by a bluff approximately 100 to 120 feet high. Perche Creek is adjacent to the site to the west and south. To the north is additional floodplain.

The current and original zoning is R-S, Single Family Residential. Adjacent zoning is as follows:

- North A-1
- East R-S
- South A-2 and R-S
- West A-2

Land to the north and south is in agricultural use, east (on top of the bluff) is urban density residential and to the west is agricultural (floodplain) and rural residential (bluff top).

The Master Plan identifies a sufficiency of resources test for determining whether there are sufficient resources available for the needs of the proposal. In this case the proposed rezoning will significantly reduce the potential demand for resources. In addition, the rezoning will increase the likelihood that the property will remain in predominately agricultural use.

Zoning Analysis: Approval of the rezoning will result in a reduction of the potential theoretical residential density of the property from over 900 units to 21. It will also change the Permitted and Conditional Uses that can be permitted on the property.

The A-1 zoning is more consistent with the zoning of most of the adjacent land within the flood plain and is better suited to the land than the current R-S zoning.

The property scored 31 points on the rating system. Staff notified 212 property owners about this request.

Staff recommends approval of the rezoning request.

Present representing the request:

Jay Gebhardt, A Civil Group, 3401 Broadway Business Park, Columbia  
Angelia Hilbert, 10 Kountry Lane, Marthasville, MO

Jay Gebhardt: This is the Smith's farm, it is all flood plain. The only real appropriate use for this property is agricultural because it floods often.

Open to public hearing.

Chairperson Harris reminded the audience that this public hearing is strictly for the rezoning request; the public hearing for the conditional use permit will occur later in the meeting.

No one spoke in favor of the request.

Present, speaking in opposition to the request.

George Batek, 503 Silver Thorne, Columbia

George Batek: I am authorized to speak on behalf of the homeowners association of Stoneridge Estates. I am on the board of the association and I'm also the Vice President. We have numerous concerns that come up regarding the zoning. The homeowners who bought in Stonridge Estates bought the properties knowing that the entire property behind us was zoned R-S; we are concerned about the property immediately to the west of Stoneridge Estates and all the way to Perche Creek. We understand that it is flood plain and is appropriate for agricultural use if that agricultural use consisted of farming. Smith Drive is a residential collector street and the application has it described as public use. The traffic on Smith is residential other than construction that continues in some of the newer subdivisions to the south. We are also concerned about the impact that this type of operation will have on the land that sits immediately to the west of Stoneridge Estates; what is that going to do to the value of the property? We would like to see similar houses go in with a similar value. We think that an earth moving operation will hurt the value of not only of the land behind us but likely the value of the houses that already sit there. There are over 150 houses in the subdivision and not a single person has spoken in favor. Using the land for agriculture makes sense; it is floodplain. I am concerned about what the zoning would do in affecting what type of traffic would come down Smith Drive and the value of the property west of us. What type of houses does the Commission think would want to go in next to an operation that has 10 acres of land peeled off?

Commissioner Freiling: The zoning does not create that circumstance.

George Batek: The conditional use permit does.

Commissioner Freiling: That is the second part of the hearing.

George Batek: I don't want the zoning to change; we all bought our homes knowing that property was zoned R-S and we want to keep it that way.

Commissioner Freiling: So if they were to come in and do what they did in the Chesterfield bottoms - put a levee in above the flood plain and sell house lots in the R-S zoning and create a subdivision would that be suitable?

George Batek: Our position was it is for residential homes. We bought a house and got the expectation that it was probably going to be developed.

Also present speaking in opposition:

Jerome Rackers, 205 Knollwood Ct., Columbia

Jerome Rackers: Does the R-S zoning not allow agricultural use without a conditional use or is A-1 and R-S able to do the same thing?

Chairperson Harris: The A-1 is strictly for agriculture use and the proposed use would be allowed as a conditional use; the proposed use is not allowable in residential zoning even with a conditional use permit.

Jerome Rackers: I had the same expectation in buying the property that the proposed site was going to be for residential use. I am not sure how the floodplain affects the water surrounding it when you start to have flooding. The density that is around this area is all residential.

Commissioner Martin: If the property is A-1 that would potentially make those estate lots; it doesn't limit single family homes there, it just limits the amount of land they can sit on.

Jerome Rackers: My concern is that when you open it up for just about anything to be done. My fear is that this can be used in any agricultural base. Had I bought land in the county knowing that is what my backyard would be I would be a little more in thought with that.

Bill Florea: The area that is cross-hatched in red on the aerial is the area that is proposed for rezoning. The portion right behind Mr. Rackers' house is remaining R-S.

Jerome Rackers: We didn't get any forms that show us what that is.

Bill Florea: Agriculture is allowed in R-S zoning so anything that is allowed in the agricultural zoning can also be done in R-S zoning. There are two categories of uses in each zoning district, permitted uses and conditional uses. Conditional uses require a special permit; permitted uses are uses that by right, you can conduct those uses on your property. Agriculture is a permitted use in all zoning districts.

Commissioner Freiling: The principal difference between R-S and A-1 is density.

Jerome Rackers: I am not trying to stop people from making money; I just want to protect my property.

Also present speaking in opposition:

Frank Schmidt, 505 Silver Thorne, Columbia

Frank Schmidt: Zoning is a fungible thing; it morphs. Something is zoned one way and then 60 days later it is zoned another way. I also learned that down-zoning cannot be accomplished generally without the consent of the property owner, however, up-zoning occurs on a fairly regular basis. If there was not a conditional use permit request for this land there would not be a down-zoning request from the owners. There is nothing in the request that binds them to not have it up-zoned later on.

Closed to public hearing.

Jay Gebhardt: The property is not just at flood plain level; most of the property sits about 6 feet below the base flood elevation. In order for this to be developed we would need to be annexed into the City of Columbia in order to access the sanitary sewer. The city of Columbia requires a house to be built two-feet above the base flood elevation so we are talking about 8 feet of fill over 224 acres; it is not feasible. The Chesterfield bottom is a weird thing and I don't think the city would ever allow something like that to occur. The A-1 zoning is appropriate because it is how the property should be used. It should not be used for single family homes. The only reason we are here tonight asking for rezoning is because the property is for sale and has been for many years. Ri-Mor approached the owner and is interested in this property because its proximity to the city and their customers. It will be zoned A-1 even if the conditional use permit is denied; we are not taking a risk because A-1 is the only appropriate use for the property. The idea that once it is down-zoned that you could flip this back up to something else is a pretty difficult task. I foresee Smith Drive being extended to Highway UU eventually, it was built as a major collector, it is 38-foot wide and has a 66-foot right of way. If Smith Drive were extended someday, I would hate to see it open up this property for development for single family homes; I don't think it is appropriate. I am also a property owner in Graystone subdivision and I own property that abuts the subject property and I don't oppose the request because I know the people involved and they have taken a lot of steps to protect this.

Commissioner Poehlman: Is the property currently being farmed?

Jay Gebhardt: Yes.

Angelia Hilbert: The property has been in the family for over 100 years. The 100 acres was in the family since the late 1800's; it has switched hands some and is now back in the family. We love that land and I would not be selling it except for the fact that my aunt died and in her will she made the stipulation that her daughters would have to sell it.

Chairperson Harris: (to staff) What is the distance on the north side of Smith drive between the property line and the nearest residential back lot?

Uriah Mach: Approximately 2300 feet

Commissioner Poehlman stated that anytime he has the opportunity to vote on something to rezone from R-S to agriculture he will be very inclined to do it.

Commissioner Poehlman made and Commissioner Martin seconded a motion to approve a request by the Thomas D. Hilbert Trust, the Angelia H. Hilbert Trust, the Glenn T. Smith Trust and the Lillie Beatrice Smith Trust to rezone from R-S (Single Family Residential) to A-1 (Agriculture) of: Tract A - 84 acres; Tract B - 122 acres; Tract C - 7.6 acres; located at 5395 W Smith Dr., Columbia.

Boyd Harris – Yes	Carl Freiling – Yes
Gregory Martin – Yes	Paul Prevo – Yes
Larry Oetting – Yes	Michael Poehlman – Yes
Loyd Wilson - Yes	Derin Campbell – Yes

Motion to approve the request passes 8 YES

Chairperson Harris informed the applicant that this request would go before the County Commission on December 30, 2013 and the applicant needs to be present at the hearing.

## VI. Conditional Use Permit

1. Request by the Thomas D. Hilbert Trust, the Angelia H. Hilbert Trust, the Glenn T. Smith Trust and the Lillie Beatrice Smith Trust for a permit for topsoil management, harvesting, conditioning and stockpiling on 213 acres, more or less, located at 5395 W Smith Dr., Columbia.

Bill Florea gave the following staff report:

This site is located west of Columbia off of the west end of Smith Drive. The zoning for the property is R-S, which is the original zoning. The applicant has also submitted a request to rezone the site to Agriculture A-1. The adjacent land is zoned as follows:

- North A-1
- East R-S
- South A-2, R-S
- West A-2

Nearly 100% of the 213 acre site is within the 100-year floodplain of Perche Creek. The site is mostly level and bordered by bluffs to the east and west. Land to the north and south of the site is floodplain and in agricultural use. The character of the area is described as agricultural with urban density residential to the east and rural density residential to the west. The master plan designates this site as being suitable for residential land uses.

The request is to allow removal, conditioning and export of topsoil. Topsoil will be removed from a portion of the site each year and stockpiled for sale. The operator may utilize equipment such as agricultural tractors, scrapers, bull dozers, loaders, dump trucks and a topsoil screener. Agricultural operations will continue on the site, and will not be subject to the limitations of a conditional use permit (if granted). Truck traffic leaving the site will enter Smith Drive at the intersection with Louisville Drive, and then proceed about 3000' west to Scott Boulevard. Smith Drive is a Neighborhood Collector with a 38-foot paved width with sidewalks. Scott Boulevard is a four lane Major Arterial with sidewalks.

Potential externalities that could result from the use include noise from equipment and traffic and mud/debris on the road caused by trucks hauling soil from the site. With proper conditioning and operations those impacts can be minimized.

The application must meet the criteria for issuance of a conditional use permit. Those criteria are addressed as follows:

(a) The establishment, maintenance or operation of a conditional use permit will not be detrimental to or endanger the public health, safety, comfort or general welfare.

Externalities such as noise, dust and exhaust fumes should not impact the public due to the isolated nature of the project site. Conditions of approval requiring dust control on the access road should adequately address the possibility of dust related impacts. Noise will be mitigated by the elevation difference between the project site and nearby residential areas and limited hours of operation.

(b) The conditional use permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted by these regulations.

Activities in the area that are already permitted include agricultural and residential uses. Much of the project activity will be similar in nature to the agricultural uses that have been occurring on the property for several decades. For example, topsoil removal utilizes mechanical scrapers which will sound like a farm tractor from a distance. The noise will occur over a longer period of time however, because the topsoil removal occurs between harvest and planting.

The limited hours of operation will confine the likely impacts to hours when most homeowners are at work or school. However, topography and conditions of approval will provide additional mitigation of impacts.

(c) The conditional use permit will not substantially diminish or impair property values of existing properties in the neighborhood.

Due to the limited nature of the potential offsite impacts and the proposed conditions of approval it is unlikely that the use will result in diminished or impaired property values in the area.

(d) All necessary facilities will be available, including, but not limited to, utilities, roads, road access and drainage.

The proposed use does not require any public utilities. The proposed use will utilize Smith Drive (collector street) and Scott Boulevard (arterial) for access. Both streets should be able to sustain the additional truck traffic.

(e) The establishment of a conditional use permit will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the zoning district.

Most of the surrounding property that is outside of the 100-year floodplain has already been developed. The site is separated by areas not within the floodplain by topography. There is an elevation difference between the site and adjacent residential areas ranging from 70 to 120 feet. This should provide adequate screening of the topsoil operation from adjacent residential uses and any undeveloped properties.

(f) The establishment of a conditional use permit will not hinder the flow of traffic or result in traffic congestion on the public streets. This will include the provision of points of access to the subject property.

The applicant anticipates approximately 20 to 30 truck trips per day. Averaging 30 trips over the 12 hour per day operating window yields an hourly traffic count of 2.5 trucks per hour. This will not result in traffic congestion on area roads.

(g) The conditional use permit shall in all other respects conform to the applicable regulations of the zoning district in which it is located. The County Commission shall find that there is a public necessity for the conditional use permit.

Conditions of approval address the need to obtain a Land Disturbance permit and comply with the Stream Buffer Regulations. All other applicable regulations are likewise enforceable.

Staff notified 212 property owners about this request.

Staff recommends approval subject to the following conditions:

1. Hours of operation shall be limited to
  - Monday through Friday 7 AM to 7 PM
  - Saturday 8 AM to 3 PM
  - No operation Sunday
  - No operation on New Years Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day and Christmas Day
2. A land disturbance permit shall be acquired prior to any earth moving on the site. The permit shall specifically identify the portion of the site where topsoil is to be removed on an annual basis.
3. When the topsoil removal site is adjacent to Perche Creek the stream buffer shall be staked so as to prevent removal of soil from within the stream buffer.
4. The topsoil removal operation shall be limited to 20 acres per year which will be enforced through the Land Disturbance Permit
5. The operator shall employ the use of management practices to prevent mud, dirt or debris from being deposited on public roads to the satisfaction of the Director of Resource Management.
6. The operator shall maintain the access road in a dust free condition to the satisfaction of the Director of Resource Management.

Present representing the request:

Jay Gebhardt, A Civil Group, 3401 Broadway Business Park, Columbia  
Angelia Hilbert, 10 Kountry Lane, Marthasville, MO  
Charlotte Smarr, potential property owner, 804 W Broadway, Ashland

Jay Gebhardt: The burden of proof is on the applicants to meet the criteria. The property is 213 acres and Ri-Mor Soil will only disturb 10-20 acres at a time. They remove a thin layer of soil and stockpile it. The area that is disturbed is graded back, smoothed, and planted immediately. The bulk of the disturbance will be done during a small window in the spring and fall. There will be additional work being done with tractors and scrapers that will create a stockpile. The stockpile is then utilized by Ri-Mor's own drivers; it isn't open to contract truck drivers. When you order soil from them their driver loads it into the screener where the soil is screened and loaded on to the truck and delivered. People won't be able to go there with their pickup and get a load of top soil; it is not open to the public and a gate is proposed at the top to keep people out. A lot of the concern that people have is the traffic; the truck driver loads himself and delivers it. It is probably about an hour trip. 20 to 25 loads per day is average, 30 loads a day is considered a full day. Smith Drive serves mostly residential but that is not going to be the case forever; it was built as a collector street. Since Louisville Drive has been built Smith Drive is functioning more and more like a collector. As time goes on, the traffic on Smith Drive will increase and it won't just be cars, it will be truck traffic as well. If homes are built there we will have a lot of large vehicles.

Jay Gebhardt: In going through the conditional use criteria, criteria A states “The establishment, maintenance or operation of a conditional use permit will not be detrimental to or endanger the public health, safety, comfort or general welfare”. Mr. Florea spoke about the dust and exhaust fumes but the main thing is the elevation that this property is in relation to the existing homes; the people that are mostly affected by this are the applicants. The property that is staying R-S is the property that will be most impacted by this. The subdivisions are far enough away that noise and dust won’t be an issue; they are going to experience truck traffic.

Criteria B “The conditional use permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted by these regulations”. This is not a constant business, it is seasonal, people don’t plant in the middle of winter and when it gets hot in the summer the need for top soil doesn’t exist. It is a spring and fall type of business. I don’t believe it will be injurious to the neighbors because it is seasonal and so far away.

Criteria C “The conditional use permit will not substantially diminish or impair property values of existing properties in the neighborhood” With the distance and elevation and the existence of a major collector street the operation should not diminish property values. If we were trying to access this site through a residential neighborhood it would be a different story; major collector streets are there for this purpose, that is why they are built wider.

Criteria D “All necessary facilities will be available, including, but not limited to, utilities, roads, road access and drainage” At the end of Smith Drive there is an existing gravel road and that road will not be used. There will be a new road that will be built straight back that will have a dust free surface.

Criteria E “The establishment of a conditional use permit will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the zoning district” Most of the land is already developed; the part that hasn’t been developed is the Smith’s property; theirs will be the property mostly impacted. Mr. Gebhardt stated that his own property is closer to the site than most of the neighbors.

Criteria F “The establishment of a conditional use permit will not hinder the flow of traffic or result in traffic congestion on the public streets. This will include the provision of points of access to the subject property” This is a seasonal thing; they won’t be there in January scraping off the land. Most of the business will happen in spring and fall.

Jay Gebhardt: The applicants don’t have any objections to staff conditions. The land disturbance permit is an important part of this because it allows the County to monitor this every year. The applicants will be required to get a permit and identify the area they plan to harvest soil from. Part of that permit will be stabilizing the property which will be planting with some sort of crop. It is limited to 20 acres and the soil here is not as good as their customers expect. Part of what the process will be is that the first two years they own this property will be spent planting corn or soybeans and it will be plowed back in so the organic matter in the soil can be raised. It may take two or three years to do that. The applicants are asking for the ability to disturb 20 acres at a time on 213 acres so that they can take thinner lifts off it. As far as tracking mud and dirt on to the street; Ri-Mor is using their own trucks so that is easily controlled; if someone were on Smith Drive and saw mud on the road they would know exactly who to call. The City of Columbia has inspectors out and they will track down who is tracking mud onto the road. The applicants do not want rock tracked into their soil so they will control that. The applicants are fine with staff conditions. The existing gravel driveway that goes back to the house is a public right of way, there is a no trespassing sign on it but it is still a public street and that will still be there; I don’t think they get much dust from that and the applicants will not be using it.

Commissioner Martin: They don't haul when it is raining do they?

Jay Gebhardt: No; the soil has a pretty high moisture content in it because they don't want their product to blow away. There aren't many landscape people that work in the rain.

Commissioner Campbell: Any idea what the average daily traffic is on Smith Drive?

Jay Gebhardt: No; but it is not very high.

Commissioner Campbell: How many driveways empty out on to Smith?

Jay Gebhardt: There are three homes that have driveways on to Smith Drive.

Commissioner Freiling: The present improved street is in the city?

Jay Gebhardt: Yes. We have spoken with city personnel but they were reluctant to put anything in writing. They know it is a collector street; they don't have an issue with it but they wouldn't put anything in writing.

Commissioner Poehlman: Would there ever be a time when you import material?

Jay Gebhardt: Perhaps fertilizer.

Charlotte Smarr: Just fertilizer; we don't allow anyone to bring in any materials because we do testing and sell top soil to the environmental companies and it has to be free of contaminants and toxins. We test the soil; we work with the University of Missouri and MFA, they do grid testing.

Chairperson Harris: The actual scraping operation is a narrow window and you may scrape for two or three days and stockpile and then that machine is done.

Jay Gebhardt: They probably scrape for a week or two.

Chairperson Harris: But no different than if you were down there with a chisel plow and a field cultivator trying to plant.

Commissioner Freiling: Is there any restraint on the overall depth of cut? Is it possible under this proposal that you could eventually create a depth of cut to where you left a marshy condition?

Jay Gebhardt: We wouldn't want to do that. They have done test soils and suitable soil is down below eight feet. They aren't cleaning those fields off; they want the organic matter in the soil. Development occurs and things change. The reason I am okay with this and representing this is if the property isn't used for something viable there isn't any pressure for it to be developed. It may not be used for what it is today but this is a good use for the property.

Chairperson Harris asked Mr. Gebhardt where his home is located.

Jay Gebhardt pointed out his home on the aerial.

Chairperson Harris: Are you high enough to see over the bottoms?

Jay Gebhardt: Yes.

Chairperson Harris: Smith Drive was built to be a collector and it should handle the load. I assume the Ri-Mor drivers are disciplined enough that Smith will be the thoroughfare that if someone is going south they won't go the back way to Louisville?

Jay Gebhardt: Louisville is also a collector street built to the same standard as Smith. We haven't talked about a restriction for that; Louisville is a curvy road compared to Smith.

Open to public hearing.

No one spoke in favor of the request.

Present, speaking in opposition:

Jerome Rackers, 205 Knollwood Ct, Columbia

Jerome Rackers: I feel a little disadvantaged by the letter we received telling what was going on because there is more information on the recommendations made that we didn't see. This is the first time that I am hearing of things like hours of operation that I've had no previous knowledge of to try to have an opinion as to whether that would work. I would like to be more a part of what would go on in this kind of hearing by having more information before I got here. Maybe you had that somewhere I was supposed to look as a concerned citizen and didn't. I look at hours of operation and I have some concerns there. There is a park less than 150-feet from the entrance; Ri-Mor is an excellent business, I have bought from them and they have employees and drivers like the rest of us. Sometimes as much as you want an employee to do right things happen and shouldn't. Thinking about where the park is in relation to the entrance of this is very important and something that we have to take into consideration. I looked at the list of regulations and what I heard was a lot of management; who is going to manage that? Will it be left to the applicants to manage? What if Ri-Mor sells? Is this conditional use permit allowed to go on to the next owner? Who says the new owners are going to have nice shiny trucks that are always clean and deliver a great topsoil? When the Commission approves something are they looking at the long term effects, not only to the community around but what business is actually there? There are only three driveways on Smith; there are a ton of duplexes that enter onto Louisville. Louisville is a heavily residential area; a semi going through there is not going to make it through. People park on each side of the street, balls can easily end up in the front of things. If a driver were to make the wrong turn coming out of there he would probably find himself a little white-knuckled trying to get through there; I do that myself in a regular pickup truck. Something else mentioned that I don't know enough about is storage of fertilizer. Fertilizer can be a chemical, I don't know how much will be stored or how much would be onsite but it would be a question to know the answer to before I would say that this is a great thing to do. It may be minimal but fertilizer can be very volatile depending on how and where it is stored. I do feel disadvantaged that I don't have a relationship with staff to know ahead of time what was going on; whereas the other parties have been able to be around staff and may have gotten ideas of how to try to make this go.

Chairperson Harris: The letters that are sent subsequent to the request is part of a process that staff has to go through; sending those letters is the first part of that process. Any analysis and recommendation come subsequent to that initial notice going out; the analysis may be done two weeks or two hours prior to the meeting. You weren't shorted of anything; that is just the way the process works.

Jerome Rackers: I just feel that when someone else came in to talk it would be nice to know what the recommendations from the staff is going to be that way I have a chance to prepare my thoughts before I get here rather than sitting in the back of the room and listening. Is there a way to have an email set up where you can request it at a future time, I don't know how that works.

Bill Florea: We are willing to provide people with the information they like. The point of sending out the letters is so you know there is an activity pending; it is then up to the property owner to contact our office; we make the initial contact. Of the 212 mailings that we sent out you can see the people that are present at the meeting who are concerned; it is a small number. We don't continue mailing out information, we rely on them to contact us and we would be glad to provide the information we have.

Jerome Rackers: I think the reason for the small turnout is the night you are having the meeting and it is close to Christmas.

Bill Florea: Never the less, we make the initial contact and rely on people to ask questions.

Jerome Rackers: I am not saying anything is wrong; I am just speaking to the fact that it is nice to have that information before the meeting; I don't have the same relationship with you that the applicants do.

Commissioner Oetting: Wouldn't the storage of fertilizer be governed by some sort of EPA regulation?

Chairperson Harris: If I understand correctly I don't think there was anything said about storing fertilizer. That fertilizer will come in on a truck and be applied directly to the field and the truck is gone; there is no storage and no time frame.

Commissioner Poehlman: It would be no different that what they are doing today.

Also present speaking in opposition:

George Batek, 503 Silver Thorne, Columbia

George Batek: I am also troubled by the timing of this request. I am troubled by the fact that I did go to Planning and Zoning and met with Mr. Mach and asked to see what was available and what I got was essentially the petition that was provided by the applicants and I was given nothing else regarding all the materials that were prepared. That might have not been prepared then, I don't know. I was never told that it would be prepared and I could come pick it up later. Does that mean I should have come back and asked a second or third time? I recommend that you take a look at your procedures. I would suggest that not a single one of you here would feel comfortable having 10 to 20 trucks a day coming through hauling dirt out of a soil operation and hauling it down Smith Drive which is a residential street. There is a park that sits in the corner, children in the neighborhood cross the street to go to the park; there is a basketball court, a fishing lake and all that traffic is coming down Smith and those trucks are going to be subject to kids crossing the street. When I first came up and talked to Mr. Mach he indicated that there was no hours of operation limitations; today I heard 7:00 am to 7:00 pm. I suggest that it is reasonable for us when we sit outside and have dinner on the deck to look out the back of our houses and look at this property and see trucks coming down the access that the applicants propose to build. That is not enhancing our property; it is not an appropriate use. They say that this is a limited operation, they want to do work in the spring, fall, and summer; that is when people are outside enjoying their yards and the park. The children will be out playing in the yards and watch 20 trucks go by. The three people that live across from me are retired so they will hear these trucks all day. I have heard testimony that the layout of the land will keep the noise from affecting us; we can hear I-70 from our property, it roars and it has a lot to do with how the wind

blows, it blows from the west and comes right over our houses. They want to use bulldozers on the site; I understand the need it for their operation but we are going to hear them. I wonder if anyone has gone out and stood at the property and listened. When the wind is blowing from the west we are going to hear all the noise coming from the property. Mr. Gebhardt stated he owns property in Graystone but there is no house; to my knowledge there is only one house developed in Graystone.

Mr. Gebhardt indicated that is his house.

George Batek: There is currently a stop light on Smith at Scott Boulevard, there is a lot of traffic and we will be adding 20 work trucks. How long will this operation be in place and what is this going to do to the creek? I don't see how that type of an operation could be in good standing with FEMA, The Army Corps of Engineers, and DNR; Perche Creek floods. I am concerned that there will be open soil and with the wind blowing to the west it will blow toward our neighborhood. It doesn't add to the enjoyment of my property; this use will not be a good neighbor.

Also present in opposition,

Frank Schmidt, 505 Silver Thorne Dr., Columbia

Frank Schmidt asked to see the topography map.

Uriah Mach showed the topography map on the overhead screen.

Frank Schmidt: There are bluffs on the other side of Perche Creek. We can hear the agricultural operation now, there is a grain dryer somewhere that we hear when it runs. It is not annoying or that loud, but the bluff is on the other side and it echoes. The noise from this operation will not dissipate and float away; it will rebound toward the neighborhood. Another thing is that Perche Creek will be injured by this. The applicants can not give an estimate of the existing traffic flow on Smith Drive. I can't give a number either but I bicycle; I go from Silver Thorne and turn onto Smith Drive and cross Scott Boulevard. I am concerned about the trucks, I am not the only bicyclist, it is a pretty common bicycle route, heavy trucks moving at the speed limit are a unique hazard to bicyclists; they don't see very well, they don't stop very well, and they are big. I think the statement that this is not going to be a big deal on the traffic is not accurate. When I received the letter I called the County office who assured me that this was not going to be a big deal, it was only going to be a couple of loads a day. I was reluctant to come down here because of that fact. Now I find out it is up to 30 trucks per day and it is going to happen on days in the spring when it is not too hot and not too cold; in other words, the times that people want to be outside. If they wanted to run trucks now that might make a difference but their prime time for moving dirt is our prime time for enjoying our property. There are a number of retired people in the neighborhood, hopefully one day I can retire and not have to hear all the trucks going up and down the road. How much noise does a truck make when it goes up a 100 foot grade? I bet they can't give a decibel reading either. I mentioned that my wife and I bicycle fairly regularly, since Louisville has opened up we spend most days waiting for four or five cars to move before we can make our left turn from Silver Thorne on to Smith Drive; what is going to happen to that traffic, which at Louisville makes a yield right turn directly in front of the access to this property when there are trucks moving back and forth. I am sure the applicants are not planning to put in traffic signals. I have given a number of reasons why this conditional use permit does not meet the requirements.

Also speaking in opposition:

Cheryl Rackers, 205 Knollwood Court, Columbia.

Cheryl Rackers: I keep hearing about Smith and Louisville being a collector; the speed limit on Smith is 30 mph. 30 mph to have 20 to 30 trucks go down that street everyday; we have countless numbers of teenage drivers that access that road. I would like to see a traffic count and a count of teenage drivers we have. I would like to see someone from the City of Columbia give us information that shows that the road can handle that weight. I encourage the Commission to get more information before making a recommendation. The family that lives at the corner of Smith and Silver Thorne is a stay at home mom; her house would probably be impacted the most out of anyone.

Also speaking:

Kenneth Barnes, 6155 Gillespie Bridge, Columbia

Mr. Barnes stated he was not speaking in opposition but just has questions.

Kenneth Barnes: How are they going to get up the bluff to Smith Drive and where is the stockpile going to be located?

Jay Gebhardt showed Mr. Barnes the access point on the aerial as well as the location of the stockpile on the plan.

Closed to public hearing.

Jay Gebhardt: There will be no storage of fertilizer on the site. The park has been mentioned several times and although there is a park there the street has been designed as a major street; the Smith family is responsible for that park being there. There was a mention about bicycles; that does not have dedicated bike lanes but it is wide enough; they could do stripes for that but the city has not chosen to do that at this time. Mr. Schmidt was correct about the grain dryer, I hear it all the time; I can hear the train down at McBaine and I hear many concerts at Midway because the noise does travel down in the bottoms; those are noises that are there now. The difference is that there are no bulldozers in this operation now, we have tractors and pull scrapers. The noise may be there at different times and there may be more than there is now but it is the same type of equipment that is used for the agricultural activity going on now. There is a stream buffer required in the county; we can plant and do agricultural activity in the stream buffer area but we can not harvest soil. As part of the land disturbance every year we have to identify area that we will harvest from, we will have to stake out the stream buffer area.

Chairperson Harris: What is the required stream buffer?

Bill Florea: 100-feet.

Jay Gebhardt: It is in a floodplain and a floodplain development permit will be required. You can cut dirt out of the flood way but you cannot build in that area so the stockpile will have to be out of the floodplain. We won't be cutting or stockpiling near the creek. We will want to get the the stripped areas planted as soon as possible but we will also be required by County and State land disturbance permits to stabilize those areas. Someone mentioned that this does not add to the property but it doesn't take away from the property either, if they were in homes on the bluff looking down on the property I couldn't say that but they are ½ mile away. They would have a bigger impact from the property that is remaining R-S when it is developed in the city than they will have from the 20 trucks. We have 100 acres of R-S that will be developed in the city and the average in the city is 2.5 houses per acre; that is 250 homes; if you take 250 homes with 10 trips per day which is what the traffic engineers tell you that is 2500 additional trips and

they won't go down Louisville, they will go down Smith, that is why Smith was built as a collector street because the city recognized that. The difficult part of rezoning is the change that has to happen, everyone wants things to stay the way it is, they want homes to be like their homes and they want it to be developed like theirs but the process usually doesn't work that way; it is what the landowner has the right to do.

Charlotte Smarr: I have probably worked three Saturdays in ten years. I don't like to have the guys working Saturdays but I put that down just in case; sometimes there is an overflow, usually I like to have the guys off by 5:00 pm on weekdays because I don't want to pay overtime. When they say 20 trucks a day; a typical day is one of the drivers with his loads and that is probably 10 loads. If I have to put on another truck then I have another driver who has worked for me for 15 years. It is one guy loading, he loads himself, screens and takes the load out and comes back. As far as 20 different trucks coming up and down the road, that is not how the operation works. It is probably going to be a couple of years of developing; the land has been farmed very heavily and we are going to be working at getting the organic matter back up. Right now the soil tests are showing 1/10 of one percent, we want it up to about two percent of organic matter; we want to bring it back to improve the land, not take it down and strip it.

Commissioner Martin: Are there days that you just haul a few loads? Not everyone uses something every day. There may not be any traffic at all. In regards to the mining operation, getting the top soil, that operation will run continuously until you have your stock pile and then you will have to take care of the ground and that is it.

Charlotte Smarr: Usually that takes about three to five days when we do the scraping and make the stock pile, sometimes two weeks at the most.

Commissioner Martin: You don't generally do any work on the weekends.

Chairperson Harris: The reality is that it is a seasonal thing and on days to say that there will be 20 trucks a day everyday year round is wrong.

Commissioner Freiling: What is the annual amount of truck loads?

Charlotte Smarr: We have done five this week.

Chairperson Harris: The testimony this evening has been that the R-S zoning is acceptable but the agriculture is not. Truck traffic has been a big concern but the reality is were that adjacent 100 acres to be developed the traffic flow would be an astronomical increase.

Jay Gebhardt: It is not whether it will be developed but when.

Commissioner Poehlman: They would have to load a lot of loads of dirt down there to bring it up.

Commissioner Freiling: One of the questions was whether the conditional use permit ran with the land.

Bill Florea: It runs with the land.

Commissioner Freiling: We are all mortal so Ri-Mor will not be the property owner at some point. A conditional use permit is an odd circumstance for Commissioners in that our position is not discretionary. Normally we decide how we feel but as I understand conditional use permits it either falls within the criteria that must be met or it doesn't. For us to approve or deny a conditional use permit is solely based on our judgment that those conditions are either met or not.

From the audience, Frank Schmidt: did the staffs report say that bulldozers were permitted.

Bill Florea: Yes and that was taken from the information that was provided by the applicant.

From the audience, Jerome Rackers: can you go through the conditions that the applicants have met? I am curious as to the conditions that the applicants have or haven't met.

Chairperson Harris: Even if the property changes hands the conditional use permit runs with the land, the conditions placed on this, if approved, would apply to the new owners.

Commissioner Prevo: The applicants indicated earlier that they would be okay with having no bulldozers as one of the conditions.

Charlotte Smarr: We don't use them now.

Jerome Rackers: Are we able to work with the Commission to help form these conditions?

Commissioner Freiling: These are just staff recommendations; the County Commission has the final say.

Jerome Rackers: Is there a process in which we can help make recommendations at the next level?

Commissioner Martin: Come to the County Commission meeting.

Chairperson Harris: We did receive an email from a resident on White Fish Drive in opposition to the request.

Commissioner Freiling: It seems to me that traffic is the main concern. The nature of the operation being requested under the conditional use permit is not dramatically different from normal row crop farming with the exception of traffic. Unfortunately noise is an epidemic issue of modern life. The question is does the introduction of that much truck traffic make a change that is not acceptable under the conditional use permit.

Chairperson Harris: It looked to me like at least half, if not more of the backyards have eight foot high privacy fences around them. As someone who drives semi's, even with a 30 mhp speed limit if I were bringing a truck through there I am not sure I would want to be rolling that fast. Any prudent driver is going to be coming out of there pretty slow. The way the property is zoned and with crop land there it would not be inconceivable that someone could buy that property for row crop production and put up their own grain elevator and be moving grain trucks in and out of the same size and weight as the dump trucks are and we wouldn't be having this discussion. The volume of truck traffic will be very minimal in comparison to what the future holds, if it is two or three years before the soil is in the condition to start harvesting it there could be a lot more houses and cars out there.

Commissioner Freiling: A professional driver is safer for your kids even in a dump truck than a teenage driver.

Jerome Rackers: How can the neighbors be more involved in the process and have input on the conditions?

Jay Gebhardt: I can talk to the neighbors and give them my phone number with any concerns.

Chairperson Harris: I don't want to get the applicants in the position of suggestion by committee.

Thad Yonke: Staff doesn't generate conditions by talking to the applicant or the neighbors. Staff starts by doing the analysis of the information we are given and using the tests and then trying to propose conditions that would mitigate potential impacts from those tests. That is the starting point. Anything that people hear that they feel a condition doesn't hit the mark that is exactly what they should bring up and the Commission can modify those conditions.

Commissioner Poehlman made a motion to approve the conditional use permit with staff conditions and add a condition to restrict bulldozers and track type equipment. Commissioner Poehlman asked for any additional conditions.

Commissioner Freiling: What does the applicants use for a loader?

Jay Gebhardt: Rubber tire equipment.

Commissioner Freiling: Looking at the seven criteria for approval of a conditional use permit I don't see a path to say no. Staff is really good at enforcement. While the applicants intend to meet the conditions I would like to set standards for future owners as well. If Saturday operations are currently minimal I would like to restrict Saturday hours because that is when people are home. I would also like to add a condition that the applicants use only rubber tired or rubber track equipment.

Commissioner Oetting: Could we cut the Saturday hours rather than eliminating them? Perhaps 8:00 am to 11:00 am.

Charlotte Smarr: I have had people ask for delivery on Saturdays; 8:00 to 11:00 will be fine. I don't have a problem with cutting out Saturdays or reducing the hours of operation. I have another lot that I can do Saturday deliveries.

Frank Schmidt: Would it be possible to restrict the number of trucks per day?

Jay Gebhardt: The problem with that it is that it is a seasonal business; if customers need the service we may have to make 40 loads in one day and two the next. It is very short periods that it happens.

Chairperson Harris: It becomes very shaky ground for us under the guise of a condition to restrict trade; I am not willing to do that.

Commissioner Poehlman: They are going to be somewhat limited by the 20 acre limit.

Commissioner Poehlman repeated his motion to approve the conditional use permit with staff conditions and amended to no Saturday hours.

Commissioner Poehlman made and Commissioner Oetting seconded a motion to **approve the request by the Thomas D. Hilbert Trust, the Angelia H. Hilbert Trust, the Glenn T. Smith Trust and the Lillie Beatrice Smith Trust for a permit for topsoil management, harvesting, conditioning and stockpiling on 213 acres, more or less, located at 5395 W Smith Dr., Columbia with the following conditions:**

1. Hours of operation shall be limited to
  - Monday through Friday 7 AM to 7 PM
  - No operation Saturday and Sunday
  - No operation on New Years Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day and Christmas Day
2. A land disturbance permit shall be acquired prior to any earth moving on the site. The permit shall specifically identify the portion of the site where topsoil is to be removed on an annual basis.
3. When the topsoil removal site is adjacent to Perche Creek the stream buffer shall be staked so as to prevent removal of soil from within the stream buffer.
4. The topsoil removal operation shall be limited to 20 acres per year which will be enforced through the Land Disturbance Permit
5. The operator shall employ the use of management practices to prevent mud, dirt or debris from being deposited on public roads to the satisfaction of the Director of Resource Management.
6. The operator shall maintain the access road in a dust free condition to the satisfaction of the Director of Resource Management.
7. Rubber track/rubber tired equipment only.

Boyd Harris – Yes

Gregory Martin – Yes

Larry Oetting – Yes

Loyd Wilson - Yes

Carl Freiling – Yes

Paul Prevo – Yes

Michael Poehlman – Yes

Derin Campbell – Yes

Motion to approve the request passes 8 YES

Chairperson Harris informed the applicant that this request would go before the County Commission on December 30, 2013 and the applicant needs to be present at the hearing.

**Commissioner Murphy returned to Commission Chambers.**

## VII. Planned Developments

1. Request by Frank W. Glenn and John D. Glenn to approve a final development plan for Judy School A-1P on 10 acres, more or less, located at 11553 E Judy School Rd., Columbia.

The following staff report was entered into the record:

The subject property is located on Judy School Road, near the intersection of Glendale Drive, approximately 5 miles to the east of the city limits of Columbia. The parent property is 117.5 acres in size and zoned A-1 (Agriculture). The property is vacant and surrounded by A-1 zoning. This is all original 1973 zoning.

The applicant is seeking approval for a final plan covering a 10 acre portion of the property, finalizing the A-1P(Planned Agriculture) zoning. The plan will create a 7.5 acre not-for-development area and a 2.5 acre lot for subdivision and development. The Boone County Planning & Zoning Commission and the Boone County Commission approved the rezoning & review plan for this development on 17 October 2013 and 29 October 2013. The approval of the final plan establishes the site plan and zoning on the site.

The Boone County Master Plan has indicated that this property is suitable for rural residential and agricultural land uses. The master plan also designates a sufficiency of resources test for the approval of zoning changes where each proposal is evaluated to see if sufficient utility, transportation, and public safety infrastructure is in place to support the change in zoning.

Utilities: The subject property is located in Public Water Service District #9, who has domestic flows available to the property. Boone Electric can provide electrical service and an on-site system inspected by the Columbia/Boone County Health Department will provide wastewater treatment.

Transportation: The property is located at on Judy School Road, a publicly-dedicated and maintained right-of-way.

Public Safety: The property is located in the Boone County Fire Protection District, who maintains a station near Lake of the Woods, approximately 5 miles to the west.

Zoning Analysis: This request is a classic example of the advantages of planned A-1 over A-2 rezoning requests. It allows for smaller lots, but preserves the overall density of the area. By not platting the not-for-development area, it also allows for a revised plan to reconfigure that area more easily should additional smaller lots be created in future rezonings.

The property scored 26 points on the rating system.

No one present to represent the request.

Staff recommends approval of the final plan.

Commissioner Freiling made and Commissioner Martin seconded a motion to **approve** the request by Frank W. Glenn and John D. Glenn to approve a final development plan for Judy School A-1P on 10 acres, more or less, located at 11553 E Judy School Rd., Columbia:

Boyd Harris – Yes

Carl Freiling – Yes

Gregory Martin – Yes

Paul Prevo – Yes

Larry Oetting – Yes

Michael Poehlman – Yes

Kevin Murphy – Yes

Loyd Wilson - Yes

Derin Campbell – Yes

Motion to approve the request passes unanimously

Chairperson Harris stated that this request would go before the County Commission on December 30, 2013.

## VIII. Plats

The following items were placed on consent agenda:

1. Old Asbury. S29-T49N-R13W. A-2. Bettie L. Asbury, owner. Brian David Dollar, surveyor.
2. Judy School. S21-T49N-R11W. A-1P. Frank W. and John D. Glenn, owners. J. Daniel Brush, surveyor.

Commissioner Martin made and Commissioner Wilson seconded a motion to approve as recommended the items on consent agenda and place the staff reports in to the record.

All members voted in favor, none opposed.

#### Staff reports

##### Old Asbury

The subject property is located on State Route E, approximately 1 mile to the northwest of the city limits of the Columbia, ½ mile to the south of Hatton Chapel Road. The proposal is to split 3.70 acres from a 4.1 acre parent parcel, with the remainder being transferred to an adjacent property owner. The property has a house, garage, and shed present. The property is zoned A-2(Agriculture) and is surrounded by A-2 zoning. This is all original 1973 zoning.

The property has direct access on to State Route E, a publicly-maintained right-of-way. Any modification of existing entrances will need to be done under permit from the Missouri Department of Transportation. The applicant has submitted a request to waive the traffic study requirement.

The property is located in the Boone Electric service area, Consolidated Public Water Service District #1, and the Boone County Fire Protection District. An existing 4" waterline on the east side of Route E provides domestic water service. Existing facilities are sufficient to serve the needs of this development.

An existing on-site system serves the house on the property. Given proximity to a Missouri Department of Natural Resources-designated sinkhole area, any modifications to the existing system will require soils data to be submitted to the Columbia/Boone County Health Department for review. The applicant has submitted a request to waive the wastewater cost-benefit analysis.

The garage, being located closer to the front property line than the house, had a variance approved (#2013-007) at the 24 October 2013 meeting of the Boone County Board of Adjustment.

The property scored 58 points on the rating system.

Staff recommends approval of the plat and granting the requested waivers.

##### Judy School

The subject property is located on Judy School Road, near the intersection of Glendale Drive, approximately 5 miles to the east of the city limits of Columbia. The parent property is 117.5 acres in size and zoned A-1 (Agriculture). The property is vacant and surrounded by A-1 zoning. This is all original 1973 zoning. The applicant intends to divide the property as described in the Judy School A-1P review & final plans, creating a single 2.5 acre lot.

The property has direct access on to Judy School Road, a publicly-dedicated, publicly-maintained right-of-way. The applicant has requested a waiver to the traffic-study requirement.

The property is in Public Water Service District #9 for water service, the Boone Electric Cooperative service area for electrical service, and the Boone County Fire Protection District for fire protection.

An on-site system is proposed for the new lot. The applicant has submitted a request to waive the wastewater cost-benefit analysis.

This plat is tied to the Judy School A-1P rezoning request. Revisions to this plat will require modification to the approved review & final plans.

The property scored 26 points on the rating system.

Staff recommends approval of the plat and granting the requested waivers.

## IX. Old Business

1. Recommendation on the re-adoption of Sections 1 – 27 of the Boone County Zoning Ordinance and the Boone County Stormwater Ordinance.

Chairperson Harris stated that the Planning and Zoning Commission had a public hearing on this matter in November as well as two additional public hearings in the north and south areas of the county.

Commissioner Harris made and Commissioner Oetting seconded a motion to recommend the re-adoption of Sections 1 – 27 of the Boone County Zoning Ordinance and the Boone County Stormwater Ordinance:

Boyd Harris – Yes	Carl Freiling – Yes
Gregory Martin – Yes	Paul Prevo – Yes
Larry Oetting – Yes	Michael Poehlman – Yes
Kevin Murphy – Yes	Loyd Wilson - Yes
Derin Campbell – Yes	

Motion to recommend approval passes unanimously

2. Update on Commission action.

Stan Shawver updated the Commission as follows:

There were three subdivision plats on the November agenda.

We have had a couple of meetings with the development council representatives on the subdivision regulations we have had good dialogue and have gotten good suggestions.

X. New Business

None

XI. Adjourn

Being no further business the meeting was adjourned at 9:27 p.m.

Respectfully submitted,

Secretary  
Paul Prevo

Minutes approved on this 20<sup>th</sup> day of February, 2014

**AFFIDAVIT OF PUBLICATION**

STATE OF MISSOURI )  
County of Boone ) ss.

I, ERICK IRVIN, being duly sworn according to law, state that I am one of the publishers of the Columbia Daily Tribune, a daily newspaper of general circulation in the County of Boone, State of Missouri, where located; which newspaper has been admitted to the Post Office as periodical class matter in the City of Columbia, Missouri, the city of publication; which newspaper has been published regularly and consecutively for a period of three years and has a list of bona fide subscribers, voluntarily engaged as such, who have paid or agreed to pay a stated price for a subscription for a definite period of time, and that such newspaper has complied with the provisions of Section 493.050, Revised Statutes of Missouri 2000, and Section 59.310, Revised Statutes of Missouri 2000. The affixed notice appeared in said newspaper on the following consecutive issues:

- 1st Insertion,
- 2nd Insertion,
- 3rd Insertion,
- 4th Insertion,
- 5th Insertion,
- 6th Insertion,
- 7th Insertion,
- 8th Insertion,
- 9th Insertion,
- 10th Insertion,
- 11th Insertion,
- 12th Insertion,
- 13th Insertion,
- 14th Insertion,
- 15th Insertion,
- 16th Insertion,
- 17th Insertion,
- 18th Insertion,
- 19th Insertion,
- 20th Insertion,
- 21st Insertion,
- 22nd Insertion,

December 13, 2013

**PUBLIC NOTICE**

Notice is hereby given that the Boone County Commission will conduct a hearing for the purpose of readopting Sections 1 - 27 of the Boone County Zoning Ordinance and the Boone County Stormwater Ordinance on the following date:

December 30 - Commission Chambers  
Roger B. Wilson County Government Center  
901 E. Walnut St., Columbia MO.

The hearing will begin immediately following the regular meeting of the County Commission which begins at 7:00 P.M.

Copies of the Zoning Ordinance and the Stormwater Ordinance may be obtained at the office of the Boone County Resource Management Department, Roger B. Wilson County Government Center, 901 E. Walnut St., Rm. 315, Columbia and are available on-line at [www.showmiboone.com/resourcemanagement](http://www.showmiboone.com/resourcemanagement).

PRINTERS FEE: 60.25

By [Signature]

Subscribed and sworn to before me this 27 day of FEBRUARY, 2014

[Signature]  
Notary Public

My Commission Expires 7.1.2017

**AMY L. THOENEN**  
Notary Public - Notary Seal  
State of Missouri  
Commissioned for Boone County  
My Commission Expires: July 01, 2017  
Commission Number: 13473566

# COLUMBIA DAILY TRIBUNE

P.O. Box 798 • Columbia, MO • 65205-0798

## ADVERTISING INVOICE and STATEMENT

BILLING PERIOD		ADVERTISER/CLIENT NAME	
12/01/13 - 12/31/13		BC PLANNING/BUILDING	
TOTAL AMOUNT DUE	*UNAPPLIED AMOUNT	TERMS OF PAYMENT	
218.98		NET DUE 30 DAYS	
CURRENT NET AMOUNT DUE	30 DAYS	60 DAYS	OVER 90 DAYS
218.98	0.00	0.00	0.00

INVOICE NUMBER	PAGE #	BILLING DATE	BILLED ACCOUNT NUMBER	PARENT ACCOUNT NUMBER
1180291	1	12/31/2013	13397	13397

BILLED ACCOUNT NAME & ADDRESS: BC PLANNING/BUILDING  
 \*\*\*ATTN PAULA EVANS  
 801 E WALNUT ST RM 210  
 COLUMBIA MO 65201-4890

CREDIT CARD PAYMENTS	
	Card Number: _____
	Exp. Date: _____ Amt. to pay: _____
	Signature: _____
	Name on Card: _____

PLEASE DETACH AND RETURN UPPER PORTION WITH YOUR REMITTANCE

DATE	REFERENCE	PUB	DESCRIPTION - OTHER COMMENTS / CHARGES	SIZE/PAGES	TIMES	RATE	BALANCE
			BALANCE FORWARD				234.18
12/08	7042	CDT	HILBERT	2 X 5.50	1	14.43	158.73
12/13	178440		PAYMENT				(144.30)
12/13	7043	CDT	STORMWATER	2 X 2.50	1	12.05	60.25
12/20	178517		Payment				(89.88)

CONTRACT NAME:	EXPIRES	COMMITMENT	PERIOD	TO DATE	TO FULFILL
Net Dollar Volume	04/30/2014	24000.00	2893.80	33489.66	-9489.66

### STATEMENT OF ACCOUNT AGING OF PAST DUE AMOUNTS

CURRENT NET AMOUNT DUE	30 DAYS	60 DAYS	OVER 90 DAYS	*UNAPPLIED AMOUNT	TOTAL AMOUNT DUE
218.98	0.00	0.00	0.00		218.98

# COLUMBIA DAILY TRIBUNE

101 North 4th Street • P.O. Box 798  
 Columbia, MO 65205 • (573) 815-1500

\*UNAPPLIED AMOUNTS ARE INCLUDED IN TOTAL AMOUNT DUE

INVOICE NUMBER	ADVERTISER INFORMATION			
	BILLING PERIOD	BILLED ACCOUNT NUMBER	PARENT ACCOUNT NUMBER	ADVERTISER / CLIENT NAME
1180291	12/01/13 - 12/31/13	13397	13397	BC PLANNING/BUILDING

13397

# evealed



Levinson Family/AP

oto in April 2011. Levinson, who was missing since a 2007 trip to Iran.

eezy, diplomatic incident, the agency  
o the isn't caught by surprise.  
ts-off That didn't happen before  
son's Levinson's trips, former officials  
thud- said. He journeyed to Panama,  
in-son Turkey and Canada and was paid  
The upon his return, people familiar  
nean- with his travels said. After each  
a visa trip, he submitted bills, and the  
CIA paid him for the information  
and reimbursed him for his travel  
expenses.  
Nobody who reviewed the intel-  
ligence or reviewed the contract  
ever flagged this as a potential  
problem, investigators found.  
The whole arrangement was so  
peculiar that CIA investigators  
conducting an internal investiga-  
tion would later conclude it was an  
effort to keep top CIA officials from  
figuring out that the analysts were  
running a spying operation.  
Jablonski adamantly denies that.  
The internal investigation  
renewed some longtime tensions  
between the CIA's operatives and  
analysts. The investigators felt the  
analysts had been running their

## PUBLIC NOTICE

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**December 30 - Commission Chambers**  
Roger B. Wilson County Government Center  
801 E. Walnut St., Columbia MO.

The hearing will begin immediately following the regular meeting of the County Commission which begins at 7:00 P.M.

Copies of the Zoning Ordinance and the Stormwater Ordinance may be obtained at the office of the Boone County Resource Management Department, Roger B. Wilson County Government Center, 801 E. Walnut St., Rm. 315, Columbia and are available on-line at: [www.showmeboone.com/resourcemanagement](http://www.showmeboone.com/resourcemanagement).

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AFFIDAVIT OF NOTICE OF PUBLIC HEARING

STATE OF MISSOURI ) ss  
County of Boone )

I, Paula Evans, being duly sworn according to law, state that I am the Custodian of Records of Resource Management for the County of Boone, State of Missouri. I hereby swear that the affixed notice of public hearing was posted in the Roger B. Wilson, Boone County Government Center on the 13<sup>th</sup> day of December, 2013

Paula Evans date 1/14/13  
Paula Evans

Subscribed & sworn to before me this 7<sup>th</sup>  
day of January, 2014

Christina L. Crane  
Notary Public

CHRISTINA L. CRANE  
Notary Public - Notary Seal  
State of Missouri  
County of Boone  
My Commission Expires May 21, 2017  
Commission #13705616



DIRECTOR  
STAN SHAWVER

# Boone County Resource Management

ROGER B. WILSON GOVERNMENT CENTER  
801 E. WALNUT ROOM 315 COLUMBIA, MO 65201-7730  
(573) 886-4330 FAX (573) 886-4340

PLANNING - INSPECTIONS - ENGINEERING

CHIEF ENGINEER  
DERIN CAMPBELL

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13<sup>th</sup> day of December, 2013

Paula Evans date 1/7/14  
Paula Evans

Subscribed & sworn to before me this 7<sup>th</sup>  
day of January, 2014

Christina L. Crane  
Notary Public

CHRISTINA L. CRANE  
Notary Public - Notary Seal  
State of Missouri  
County of Boone  
Commission Expires May 21, 2017  
Commission #13705616



# Boone County Resource Management

ROGER B. WILSON GOVERNMENT CENTER  
801 E. WALNUT ROOM 315 COLUMBIA, MO 65201-7730  
(573) 886-4330 FAX (573) 886-4340

DIRECTOR  
STAN SHAWVER

PLANNING - INSPECTIONS - ENGINEERING

CHIEF ENGINEER  
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[www.showmeboone.com/resourcemanagement](http://www.showmeboone.com/resourcemanagement).

TERM OF COMMISSION: December Session of the October Adjourned Term

PLACE OF MEETING: Roger B. Wilson Boone County Government Center  
Commission Chambers

PRESENT WERE: Presiding Commission Daniel Atwill  
District I Commissioner Karen Miller  
District II Commissioner Janet Thompson  
Director Resource Management Stan Shawver  
County Counselor C. J. Dykhouse  
Deputy County Clerk Mike Yaquinto

The meeting was called to order at 7:00 p.m.

### **Resource Management**

- 1. Request by the Thomas D. Hilbert Trust, the Angelia H. Hilbert Trust, the Glenn T. Smith Trust and the Lillie Beatrice Smith Trust to rezone from R-S (Single Family Residential) to A-1 (Agriculture) of: Tract A - 84 acres; Tract B - 122 acres; Tract C - 7.6 acres; located at 5395 W Smith Dr., Columbia.**

Stan Shawver read the following Staff Report:

The minutes for the Planning and Zoning Commission meeting of December 19, 2013, along with the Boone County Zoning Regulations and Subdivision Regulations are entered into the record of this meeting.

The property is located approximately one half mile west of the terminus of Smith Drive. The 213 acre tract has been in agricultural use for several decades. Nearly 100% of the tract is in the Perche Creek Bottom and within the 100 year floodplain. The site is flat and level and is bounded on the east by a bluff approximately 100 to 120 feet high.

Perche Creek is adjacent to the site to the west and south. To the north is additional floodplain.

The current and original zoning is R-S, Single Family Residential. Adjacent zoning is as follows:

- North A-1
- East R-S
- South A-2 and R-S
- West A-2

Land to the north and south is in agricultural use, east (on top of the bluff) is urban density residential and to the west is agricultural (floodplain) and rural residential (bluff top).

The Master Plan identifies a sufficiency of resources test for determining whether there are sufficient resources available for the needs of the proposal. In this case the proposed rezoning will significantly reduce the potential demand for resources. In addition, the rezoning will increase the likelihood that the property will remain in predominately agricultural use.

Zoning Analysis: Approval of the rezoning will result in a reduction of the potential theoretical residential density of the property from over 900 units to 21. It will also change the Permitted and Conditional Uses that can be permitted on the property.

The A-1 zoning is more consistent with the zoning of most of the adjacent land within the flood plain and is better suited to the land than the current R-S zoning.

The property scored 31 points on the rating system. Staff notified 212 property owners about this request.

Staff recommended approval of the rezoning request.

The Planning & Zoning Commission conducted a public hearing on this request during their December 19, 2013 regular meeting. There were nine members of the commission present during the meeting, however, one member recused himself for cause and was not present during the hearing or subsequent vote.

Following the public hearing, a motion was made to approve the rezoning request.

The motion carried and so the application comes forward with a recommendation for

approval.

Commissioner Atwill opened the public hearing and asked if there is anyone that would like to speak in support of this request.

Jay Gebhardt said he is a civil engineer and land surveyor and owner of A Civil Group and is here with Angie Hilbert, who, with her husband, own ½ of the property and her cousins own the other half. This is a straight forward request going from R-S (Single Family Residential) to A-1 (Agriculture) as the land is being used for agriculture and is in the flood plain, approximately 6 feet lower than base flood elevation which is not appropriate for a single family housing development.

Commissioner Miller asked about the road leading to the proposed area to be re-zoned.

Mr. Gebhardt said they will be putting in an all weather, dust free road. Smith Drive is a public right of way and does go further back to the home. The curvy, gravel section road is not what will be used. We will continue straight in what we believe will be the extension of Smith Drive.

Commissioner Atwill asked where the hill is located and is told that it is a steep drop from there.

Mr. Gebhardt said there is about a 100 foot elevation difference from top to bottom.

Commissioner Atwill asked about the creek.

Mr. Gebhardt said that Perche Creek is west of the property and will not need to be crossed for access.

Commissioner Miller asked about other access to the property.

Mr. Gebhardt said that there are no other access points on the owners property. For scale purposes, where Louisville is and where Smith Drive ends to the point of the bottoms is about ½ mile.

Commissioner Atwill asked if there is anyone else to speak in support of the request. There were no other speakers. Commissioner Atwill asked if there is anyone present that would like to speak in opposition to the request.

Roger Howell said he is here to speak in opposition to the change. This is very aggravating when one is being told half the whole truth, which then is a lie and we are not being told the truth. The notice came about the re-zoning and didn't tell us the use. Agriculture to me is crops and cattle, not strip mining. Sub soil rights and drilling, that's another issue, not agriculture. I believe there has been a misinterpretation of the word agriculture by us in the community. So I ask the Commission to identify for us the real use of the land. The community is growing to the west and allowing a company to come in and strip off 4" of topsoil from 200 acres will create a lot of dust.

Mr. Howell also stated that there doesn't seem to be any regulations of the company to build a concrete road so we don't have a dusty, gravel road from where they would strip mine up to the main road where my house is on Silver Thorne. I am concerned about the dust and us being misled. Sure, they have followed the letter of the law and the lawyers would argue it is the letter of the law, but there must be some compassion for the people that have bought out there with the understanding that it was going to be residential out to the west eventually.

Mr. Howell said he speaks in opposition to the request because we haven't been told the whole truth and have been deceived. There is no guarantee that they are going to control the dust. If there is a drought, are they going to water and grow back. I appeal to not allow the re-zoning to take place. If they want topsoil, there is plenty of bottom land some place else. Mr. Howell thanked the Commission for allowing him to speak tonight.

Commissioner Atwill thanked Mr. Howell for speaking tonight and asked if there is anyone else present that would like to speak in opposition.

George Batek said he has spoken in front of Planning and Zoning on this issue and he is here tonight to speak in opposition. His backyard looks out directly to the Smith Farm with a straight line of sight to the ridge and the house that sits on the ridge. It is his understanding that the re-zoning is to take place in the bottom land of Perche Creek. He is here tonight not only as a homeowner, but as a representative of the homeowners association. The President and Treasurer could not be here and asked for me to appear. Everyone is in agreement and I have had to explain this to many homeowners as to what is going on. When we heard agriculture, we thought that the land was going back to being a farm. After a conversation with members of Planning & Zoning, we got a different story. In my opinion, it is a soil harvesting operation which is like a rotating strip mine operation.

Mr. Batek said that a natural resource; earth, dirt, soil is taken from the land and being transported down our residential collector street, Smith Drive. When we all bought our homes, we bought thinking that it was R-S behind us. One needs to rely on County or City government, that if the area is zoned residential, it will remain residential. We understand the Harris situation. They have this land they want to sell, they don't live on it. The land has some issues with the karst topography, cave system and the bottom land all the way to Perche Creek. We can't see the bottom land. There is a sufficient drop off from the cliff and doesn't have an impact on us. The main concern is the exit coming from this commercial endeavor. The exit is straight through Smith Drive. We rely on city and county government when zoned residential, it should be kept residential. It has been mentioned that there is agriculture to the north and south. There is also residential to the south, east and west moving that way. The bottom land has limited use, it floods regularly and it will be interesting to see how the permits are granted concerning all the flooding there.

Our collector street gathers residential traffic. This would be the only commercial traffic

coming through and we don't know if the street can handle the weight of the trucks. The neighborhood will be subjected to 20 trucks a day. I have spoken to a random group of the 150 in the neighborhood and no one wants this. We speak in opposition. We had expectations of the type of use for this property and this would be an inconsistent use. The picture speaks for itself. Columbia is moving west. Louisville Park is there and children run across Smith to get there. Other neighborhoods also use it as well. We are going to be subjected to 5 ton trucks on the roads doing who knows what to our foundations and to the neighborhood.

The biggest concern is the exit. If somehow the trucks could exit off UU, then this wouldn't be an issue. Because of this, we don't want to agree, knowing full well the intention is not to grow crops, but dig out topsoil. We would like to keep it residential as when we bought our homes. Mr. Batek thanked the Commission for letting him speak.

Commissioner Atwill thanked Mr. Batek for speaking and asked if there is anyone else that would like to speak in opposition.

Forrest and Laura Maisills said they live on the corner of Silver Thorne and Smith Drive. They purchased the home two years ago with the understanding that the property behind the subdivision is zoned residential. If they were looking to buy this home today, they would not, knowing that there is a strip mine located behind the subdivision. The dust is certainly an issue as are the trucks driving by. Are they covered and what dirt is left on the road as they travel through. Traffic is also a concern. Smith is very congested and is the only way in and out for the residents and now we will be adding commercial trucks to the congestion. We live right across the street from the park and there are children always running across the street to the park. Travelling north on Louisville, there is only a yield sign at Smith drive. Adding commercial traffic is a major safety concern. There should be a stop sign at the intersection. Smith is a straight shot through the subdivision and goes up an incline and there is no visibility to the kids crossing the street by the Louisville/Smith intersection. There is no reason for anyone to slow down. It is not residential friendly having only one

access road for the entire subdivision. If there was another way for the trucks to exit, there would be less opposition.

The notification for the zoning meeting for the 19<sup>th</sup> came registered mail with a latest pickup date of the 20<sup>th</sup> which is after the meeting occurred. There are inconsistencies with the notification process to homeowners as to what was going on with this property. In closing, we bought with the understanding of the residential zoning and it is best if it could remain farm land. The dust is an issue. If done right with good roads and covered trucks, that would help. The best is to have the trucks exit somewhere else.

George Batek supplied pictures with views from various homes looking out toward the cliff as well as onto Smith Drive.

Commissioner Atwill thanked Forrest and Laura Maisills for speaking and asked if there is anyone else to speak in opposition.

Patricia Kome Howell said that they are retired and are home quite a bit. Smith Drive does have an up and down grade and they would be hearing all the trucks laboring up and down the hill all day. One other concern would be the fertilizer dust and the possible health concern that it would present. For those reasons I am opposed to the re-zoning.

Commissioner Atwill thanked Patricia Kome Howell for speaking and asked if there was anyone else to speak in opposition.

Jerome Rackers said he would like to know why there are different road surfaces in the complex, black top as well as concrete. The incline on Smith is scary. There is no flat spot and is very tricky in the winter due to ice build up. It is a matter of flow and a safety issue as is the lack of a stop sign. With A-1 there shouldn't be as much traffic.

Commissioner Atwill thanked Mr. Rackers for speaking and asked if there were any other

speakers in opposition. There were no other speakers.

Commissioner Atwill said several questions have been raised about safety, damage to asphalt, dust, after use conditions as well as the duration of the operation. Commissioner Atwill asked Mr. Gebhardt to address these issues.

Mr. Gebhardt said that Smith Drive is one he designed while working for Allstate Consultants. The developer built it, not the city. The first portion is concrete due to low bid. The city has equal standards for both concrete and asphalt. Once additional development occurred, it was required by the city to have another exit for the neighborhood and low bid at that time was for asphalt. The hill that is discussed meets requirements for stopping distances at 35 mph which is the speed limit for this collector street. It is 38 feet wide with sidewalks on both sides.

Angie and her mother were instrumental in putting the park in the neighborhood. They owned the property. As is any collector street system, it is the responsibility of all drivers to act reasonable and responsible and to watch out for children.

The truck drivers are professionals with the required licenses and are much safer than a 16 year old driving in the neighborhood. They sit up much higher and understand their vehicle much better. As for the dust, per the Conditional Use Permit, the road from the end of Smith to the field will be re-surfaced. Also per the CUP, we will be abiding by the county permitting process which includes the land disturbance process. Under the land disturbance process, there is 14 days to stabilize all disturbance areas. This will be done by raising corn and/or beans. Also, there has been talk about how west of the subdivision will be impacted. That land to the west is owned by the requesters of the re-zoning so the only major impact would be on them.

Commissioner Miller asked if the process for harvesting dirt and making good topsoil could be explained. It would be helpful to everyone here.

Angie Hilbert said that the opposition keeps referring to strip mining. There are 200 acres and we will only be doing a small portion of that. There will be no stripping of anything. We will be putting nutrients in the soil; organic things. This is a positive, not a negative operation.

Mr. Gebhardt said that the bottom land is 244 acres. They will be stripping topsoil of 2-4" on 10-20 acres at a time. If they take thinner lifts, it would need more land. As soon as enough topsoil is stockpiled for the season, they go back to the area where the topsoil has been removed and plant either corn or beans. Testing has been done and the topsoil goes down 5 to 6 feet. Farming has been done the last 10 years with only beans, no rotation, and the soil is in poor condition. Before any of the topsoil can be sold, they must farm corn or beans for at least 2-3 years, harvesting the crop then plowing back the material into the ground to create the organic matter necessary. That will take 2 or 3 years.

Commissioner Miller asked what is the season for this business.

Charlotte Smarr said typically it is the spring and fall. Landscapers usually set the season. We will be doing corn on corn because the organic matter is so low right now due to no rotation. We work closely with the University soil labs. We will work with MFA to get PK's and the potassium and nitrogen levels built up. We will also do grid testing. When done with an area, it will go back to crops to build up the organic matter. The land disturbed isn't disturbed for long. Flooding is good for our business. It enhances the quality of the soil. Mr. Gebhardt said in early spring, there is a two week window where they will build a stockpile and then plant crops. If the stockpile is depleted, then after the crops have been harvested, they may create another stockpile.

Commissioner Miller asked Ms. Smarr what type of trucks are used.

Ms. Smarr said they are dump trucks and are covered per city ordinance.

Commissioner Atwill asked what timing is expected before the first batch of topsoil is ready.

Ms. Smarr said we are looking at 2 to 3 years. The University said it is a minimum of 2 years. The soil needs to be built up. It will take time and investing.

Commissioner Thompson asked once the topsoil is taken from the 10-20 acres, how often will that portion be used.

Ms. Smarr said that with 225 acres, it will be about 10 years before that same area is re-visited.

Commissioner Atwill noted this will be a long term project.

Ms. Smarr said yes, a very long time.

Commissioner Miller said that the area was originally zoned residential and asked Stan Shawver if that would be allowed today seeing it is in a flood plain.

Mr. Shawver said we have much better mapping capabilities today than in 1973 and would apply a zoning that is more appropriate than what was done in 1973.

Commissioner Miller said that there has been talk of the zoning process and guaranteed zoning designations. That is not how it works and asked Mr. Shawver to explain zoning rights and property rights.

Mr. Shawver said that land use and zoning is applied to the land in an initial application. Generally, it is a broad sweep – short of someone asking to re-zone their land, it does not change. In Boone County, re-zoning is not done unless a property owner puts in a request.

Zoning is a hierarchy in Missouri and Boone County, like a pyramid. Highest and best use is residential use, usually by density. As you get to more restrictions in zoning, lot sizes are larger, density more sparse until you get to A-2 which is 2 ½ acres per lot to A-1 which is 10 acres per lot. Best farm land is A-1. Along the river and flood plain, that is A-1. Boone County has wooded and hilly areas and that is A-2.

Commissioner Miller verified that the agriculture zoned areas are not under the stormwater ordinance.

Mr. Shawver said they are not unless the area is re-zoned and the CUP is granted, they would be subjected to the land disturbance permits and stream buffer regulations.

There were no further comments or questions and Commissioner Atwill closed the public hearing for this request and asked County Counselor, C. J. Dykhouse, to describe the procedure to follow at this stage.

Mr. Dykhouse said that for the re-zoning issue, the Commission is acting in a Legislative capacity. What is required of the Commission under the law is to act in accordance with the comprehensive plan. In Boone County, the master plan contemplates the sufficiency of resources test. Down zoning situations are usually non controversial issues. The original zoning in 1973 is appropriate, but by today's standards one could not build there due to the flood plain. The Staff Report on the down zoning from R-S to A-1 clearly indicates it meets the sufficiency of resource test. Further the theoretical density test, going from 900 units to 21 units in the flood plain also meets the sufficiency of resource test. As stated, the Commission will make a legislative decision if it believes that the down zoning is consistent with the Commissions previously adopted sufficiency of resource master plan.

Commissioner Miller said that if she were to make a determination on the zoning of the affected area, it would be A-1 and knowing what we know about the area and the flood plain, she is comfortable with supporting the request.

Commissioner Thompson concurred with Commissioner Miller.

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby approve the request by the Thomas D. Hilbert Trust, the Angelia H. Hilbert Trust, the Glenn T. Smith Trust and the Lillie Beatrice Smith Trust to rezone from R-S (Single Family Residential) to A-1 (Agriculture) of: Tract A - 84 acres; Tract B - 122 acres; Tract C - 7.6 acres; located at 5395 W Smith Dr., Columbia, MO.

Commissioner Miller seconded the motion.

The motion carried 3 to 0. **Order #583-2013**

**2. Request by the Thomas D. Hilbert Trust, the Angelia H. Hilbert Trust, the Glenn T. Smith Trust and the Lillie Beatrice Smith Trust for a permit for topsoil management, harvesting, conditioning and stockpiling on 213 acres, more or less, located at 5395 W Smith Dr., Columbia.**

Stan Shawver read the following Staff Report:

This site is located west of Columbia off of the west end of Smith Drive. The zoning for the property is R-S, which is the original zoning. The applicant has also submitted a request to rezone the site to Agriculture A-1. The adjacent land is zoned as follows:

- North A-1
- East R-S
- South A-2, R-S
- West A-2.

Nearly 100% of the 213 acre site is within the 100-year floodplain of Perche Creek. The site is mostly level and bordered by bluffs to the east and west. Land to the north and south of the site is floodplain and in agricultural use. The character of the area is described as

agricultural with urban density residential to the east and rural density residential to the west. The master plan designates this site as being suitable for residential land uses.

The request is to allow removal, conditioning and export of topsoil. Topsoil will be removed from a portion of the site each year and stockpiled for sale. The operator may utilize equipment such as agricultural tractors, scrapers, bull dozers, loaders, dump trucks and a topsoil screener. Agricultural operations will continue on the site, and will not be subject to the limitations of a conditional use permit (if granted). Truck traffic leaving the site will enter Smith Drive at the intersection with Louisville Drive, and then proceed about 3000' east to Scott Boulevard. Smith Drive is a Neighborhood Collector with a 38-foot paved width with sidewalks. Scott Boulevard is a four lane Major Arterial with sidewalks.

Potential externalities that could result from the use include noise from equipment and traffic and mud/debris on the road caused by trucks hauling soil from the site. With proper conditioning and operations those impacts can be minimized.

The application must meet the criteria for issuance of a conditional use permit. Those criteria are addressed as follows:

*(a) The establishment, maintenance or operation of a conditional use permit will not be detrimental to or endanger the public health, safety, comfort or general welfare.*

Externalities such as noise, dust and exhaust fumes should not impact the public due to the isolated nature of the project site. Conditions of approval requiring dust control on the access road should adequately address the possibility of dust related impacts. Noise will be mitigated by the elevation difference between the project site and nearby residential areas and limited hours of operation.

*(b) The conditional use permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted by these regulations.*

*Activities in the area that are already permitted include agricultural and residential uses. Much of the project activity will be similar in nature to the agricultural uses that have been occurring on the property for several decades. For example, topsoil removal utilizes mechanical scrapers which will sound like a farm tractor from a distance. The noise will occur over a longer period of time however, because the topsoil removal occurs between harvest and planting.*

*The limited hours of operation will confine the likely impacts to hours when most homeowners are at work or school. However, topography and conditions of approval will provide additional mitigation of impacts.*

- (c) The conditional use permit will not substantially diminish or impair property values of existing properties in the neighborhood.

Due to the limited nature of the potential offsite impacts and the proposed conditions of approval it is unlikely that the use will result in diminished or impaired property values in the area.

- (d) All necessary facilities will be available, including, but not limited to, utilities, roads, road access and drainage.

*The proposed use does not require any public utilities. The proposed use will utilize Smith Drive (Collector Street) and Scott Boulevard (arterial) for access. Both streets should be able to sustain the additional truck traffic.*

- (e) The establishment of a conditional use permit will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the zoning district.

*Most of the surrounding property that is outside of the 100-year floodplain has*

*already been developed. The site is separated by areas not within the floodplain by topography. There is an elevation difference between the site and adjacent residential areas ranging from 70 to 120 feet. This should provide adequate screening of the topsoil operation from adjacent residential uses and any undeveloped properties.*

*(f) The establishment of a conditional use permit will not hinder the flow of traffic or result in traffic congestion on the public streets. This will include the provision of points of access to the subject property.*

The applicant anticipates approximately 20 to 30 truck trips per day. Averaging 30 trips over the 12 hour per day operating window yields an hourly traffic count of 2.5 trucks per hour. This will not result in traffic congestion on area roads.

*(g) The conditional use permit shall in all other respects conform to the applicable regulations of the zoning district in which it is located. The County Commission shall find that there is a public necessity for the conditional use permit.*

Conditions of approval address the need to obtain a Land Disturbance permit and comply with the Stream Buffer Regulations. All other applicable regulations are likewise enforceable.

Staff notified 212 property owners about this request.

Staff recommended approval subject to the following conditions:

1. Hours of operation shall be limited to
  - Monday through Friday 7 AM to 7 PM
  - Saturday 8 AM to 3 PM
  - No operation Sunday
  - No operation on New Years Day, Memorial Day, Fourth of July, Labor Day,

Thanksgiving Day and Christmas Day

- 
- 2. A land disturbance permit shall be acquired prior to any earth moving on the site. The permit shall specifically identify the portion of the site where topsoil is to be removed on an annual basis.
- 3. When the topsoil removal site is adjacent to Perche Creek the stream buffer shall be staked so as to prevent removal of soil from within the stream buffer.
- 4. The topsoil removal operation shall be limited to 20 acres per year which will be enforced through the Land Disturbance Permit
- 5. The operator shall employ the use of management practices to prevent mud, dirt or debris from being deposited on public roads to the satisfaction of the Director of Resource Management.
- 6. The operator shall maintain the access road in a dust free condition to the satisfaction of the Director of Resource Management.

The Planning & Zoning Commission conducted a public hearing on this request during their December 19, 2013 regular meeting. There were nine members of the commission present during the meeting, however, one member recused himself for cause and was not present during the hearing or subsequent vote.

A motion was made to recommend approval of the conditional use permit, with the following conditions:

1. Hours of operation shall be limited to Monday through Friday 7 AM to 7 PM
  - No operation Saturday and Sunday
  - No operation on New Years Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day and Christmas Day

2. A land disturbance permit shall be acquired prior to any earth moving on the site. The permit shall specifically identify the portion of the site where topsoil is to be removed on an annual basis.
3. When the topsoil removal site is adjacent to Perche Creek the stream buffer shall be staked so as to prevent removal of soil from within the stream buffer.
4. The topsoil removal operation shall be limited to 20 acres per year which will be enforced through the Land Disturbance Permit
5. The operator shall employ the use of management practices to prevent mud, dirt or debris from being deposited on public roads to the satisfaction of the Director of Resource Management.
6. The operator shall maintain the access road in a dust free condition to the satisfaction of the Director of Resource Management.
7. Rubber track/rubber tired equipment only.

The motion carried and so the application comes forward with a recommendation for approval with conditions.

Commissioner Atwill opened the public hearing and asked if there is anyone present that would like to speak on behalf of this request.

Jay Gebhardt said he is here with Angie Hilbert and Charlotte Smarr. Charlotte is the contract purchaser and Angie is representing the owners. The conditions set forth by the Planning & Zoning Commission are acceptable to us. There has been a change since the original recommendations by Staff and that concerns no Saturday operations at all and the

use of rubber tract/ rubber tired equipment only which are also acceptable to us.

As mentioned earlier, the greatest impact from the Conditional Use Permit will be on the 100 acres retained by the owners. There will be a roadway planned when the property is developed that will extend Smith Drive to the west. Before that occurs, the Smarrs will build a road that is dust free and meets Resource Management's requirements and will comply with Resource Management if any issues arise.

At the Planning & Zoning meeting there were questions concerning the impact on the creek. We have agreed to all the permitting processes, the stream buffer and the flood plain development permit. There will be on going permits, renewed annually, similar to the land disturbance permit relating to stormwater. There will be a stabilization of the soil and stockpile. We feel we are being good stewards of the land. There have been references to a strip mining operation and we feel that harvesting is a more appropriate word.

Traffic is an issue. The site is 3,000 feet from the homes and 100 feet lower. I will make an assumption that the actual operation is not the issue, but the transportation of the stockpiled material. There will be 20-30 trips a day, two drivers, two trucks. The operation is not open to the public, it is not like having contract haulers coming in and out. They are employees of the Smarrs. They are professional drivers, the loads will be covered. With the help of the Smarrs we will get the stop sign put up at Louisville. It was there at one time and removed for a yield sign. The city has no published traffic counts on this portion of Smith Drive.

My staff and I counted the lots that take access through Smith Drive and it came to about 400. The 40 acres to the east will be developed with 200-250 apartments and some commercial. The 100 acres directly to the west and zoned R-S is room for about 250 homes based on the city statistics of 2.5 lots per acre. The International Traffic Engineers manual says that a single family home creates 10 trips a day. The 400 homes will be creating 4,000 trips and the possible addition of 250 homes from the land zoned R-S is another 2,500. This operation will be adding only 40 trips to these numbers. As I mentioned earlier, I designed Smith Road back in 1996 to city standards. It meets the load requirements for a collector

street which includes dump trucks, based on the number of wheels that are on the pavement. The business is seasonal, it is not 20-30 trucks every day of the year. The season is spring to fall and is weather dependent.

Commissioner Miller noted that when the city has a similar situation, they send over to the County for comment. Has the city commented on this issue.

Mr. Shawver said they have not.

Commissioner Atwill asked if there is anyone else present that would like to speak in support of this request. There were no additional speakers. Commissioner Atwill asked if there is anyone present that would like to speak in opposition to this request.

Jerome Rackers asked what actions the Commission is bound to.

Commissioner Atwill said this is a different process and Mr. Shawver, in his report, identified the areas that need to be complied with in order for approval.

Mr. Rackers said there is a tree lined area, a buffer of sorts, that is very important to be maintained and kept. With the 100 foot elevations from where the operation is and the average height of 30-40 feet of the trees, this will stop the dust in some degree. This is the arched tree line and along with the leaves will be a buffer and is it possible to add this on as a condition that it not be removed. I believe the best solution is to work together to resolve these issues.

Another concern is that the CUP does not address if the property is sold. Do the conditions carry forward. Also, the hours of operation, 7 to 7 are very long. The traffic in the morning is very heavy with a backup of 100-150 feet at the light at Scott. After 8:15, the congestions is minimal. In the summer during the evenings, the noise from the diesel trucks can be very loud and those in their backyard by Smith Drive will be affected. Lastly, the stop sign at

Louisville needs to be reinstated.

Commissioner Atwill asked the County Counselor to clarify the matter of the CUP should the property be sold.

Mr. Dykhouse said that the CUP accompanies the land.

Commissioner Atwill asked if there is anyone else that would like to speak in opposition.

Forrest Maisells said that it would be roughly 30 trips in a 12 hour period, essentially one every 24 minutes. The size, noise and vibration of the trucks will have an impact on the homeowners. My house has all the bedrooms on the south side, which is closest to Smith Drive. I have a pool, which was there when I purchased the house. The vibrations of the trucks could have an effect on pool foundation. I can't say for sure, but it certainly is something to be concerned about. I leave before 7 a.m. because I know after that, the area looks like a parking lot. With the heavy trucks, accelerating very slowly, it will have an impact on the traffic flow so the hours of operation should be condensed. Lastly, I believe that my property value will be affected in a negative way.

Commissioner Atwill asked if there is anyone else to speak in opposition.

George Batek said that the noise coming over the ravine towards the houses will be an issue because the winds blowing from the west will carry that noise into the neighborhood. Even though the P & Z has put limitations on the machinery, it is still heavy, probably 5 ton trucks.

Mr. Gebhardt said the trucks are 15 ton dump trucks.

Mr. Batek said there will be 20 trips of 15 ton trucks along this proposed route. They will create vibrations. Our homes have concrete foundations and some have already cracked

during the drought and most certainly be damaged with the heavy truck vibration. This will be the only commercial enterprise on Smith. Mr. Gebhardt said he lives and owns neighboring Graystone and I don't see him offering an alternative to run these trucks through there.

The operation is for the spring and summer and that's when the kids will be out playing. The dust that will come in from the west will be covered with fertilizer. I reiterate that I am in opposition to this request. If it was farming, it would make sense and be subjected to the planting and removal. This is heavy machinery travelling along a city collector street.

Mr. Batek said he contacted city council and the representative, Ian Thomas, had no knowledge of this and what the impact of this would be on the street and houses.

Commissioner Miller said that we have a staff to staff relationship with the city. We always respond to their concerns.

Mr. Batek said that he called the city P & Z and they said it was not appropriate for them to comment on something that would limit access to a public street. The only time they would care is if the tonnage of the truck was excessive. This is not in the best interest of the neighborhood. There is no benefit. If possible, going from 20 to 10 acres for allowable harvesting would limit, to a certain extent, the dust and traffic concerns. Also, the tree line is outside the area of consideration. If there was a way to make sure that tree line stayed, creating a buffer, that would be a positive. Mr. Batek thanked the Commission.

Commissioner Atwill asked if there is anyone else to speak in opposition.

Roger Howell said that he is concerned with any violation on the CUP and who would be the regulator of these violations. There are many issues of concern, notably these trucks coming onto the streets loaded with dirt in the axles and throwing clogs of dirt toward vehicles behind these trucks. We need to make sure that the regulations, if violated, are

attended to. These issues need to be resolved before any approval is given.

Commissioner Atwill noted that the recommendations from the P & Z state that the operator shall employ the use of management practices to prevent mud, dirt or debris from being deposited on public roads to the satisfaction of the Director of Resource Management and the operator shall maintain the access road in a dust free condition to the satisfaction of the Director of Resource Management.

Commissioner Miller asked Mr. Shawver if the city has an ordinance about leaving dirt on the street.

Mr. Shawver said they do. The Stormwater Ordinance and Land Disturbance permits prohibit the deposit of dirt on the roads.

Commissioner Miller asked if the business can be stopped if they are in violation of this.

Stan Shawver said they could and the County does this as well.

Commissioner Atwill asked if there is anyone else to speak in opposition.

Laura Maisills said that there is a hill coming from the operation and these trucks travelling east on Smith will be downshifting as they go past my house. We purchased this house 2 ½ years ago and if there was any indication that there was going to be a commercial business behind my home, we never would have purchased. If there was a different way to exit, we could work with them. Dust on the street is visible. The air quality is an intangible. How much dust gets kicked up and travels to our area is unknown. I am not sure I want to sit in my backyard by the pool with the dust and noise. I agree that the land is better suited for agriculture. My house is in a residential neighborhood and the construction traffic will end. This traffic, although limited, has no end. Finally, this will not appreciate the value of our property.

Commissioner Atwill asked if there is anyone else to speak in opposition. There were no additional speakers and Commission Atwill closed the public hearing.

Commissioner Atwill asked County Counselor C. J. Dykhouse to outline the procedure for this request.

Mr. Dykhouse said that Section 15 of the P & Z regulations states the Commission sits in a quasi-judicial capacity passing judgment on the factors A – G in the Staff Report and the public hearing that followed. The Commission makes a judgment on the weight to give the evidence presented in the form of the P & Z record and public testimony to make a finding as to whether the criteria for approval have been met based on the record. The burden is on the applicant to persuade the Commission in the affirmative for each of the criteria.

Commissioner Miller asked County Counsel if this is done, does the Commission approve tonight, then hold for a later date and deliver the Findings of Fact and Conclusions of Law.

Mr. Dykhouse said that is correct. In the past, because of the detailed nature of the deliverable, we create written Findings of Fact and Conclusions of Law. Commission gives staff direction as to what determination the Commission has made and tasks staff to come back at a later Commission meeting to actually adopt the formal Findings of Fact and Conclusions of Law. Tonight, the Commission gives staff direction if moving forward and then review the conditions that the Commission has determined and ask staff to come back with Findings of Fact and Conclusions of Law incorporating the conditions agreed upon within Commission. Denial could be done tonight.

Commissioner Miller said that 20 trucks a day compared to the multiple houses creating a

whole lot more traffic should not impact traffic that much. It is frustrating, but that amount of trucks should have little impact and the stop sign will need to be placed at Louisville.

Commissioner Miller asked about the use of the stockpile.

Mr. Gebhardt said the stockpile is usually used for the season. They will only stockpile what is needed for the season. If, for some reason, additional is needed, they will wait until the crop is harvested and then create a new stockpile.

Commissioner Atwill asked what authority the Commission has subsequent to this if we are unhappy with the results.

Mr. Dykhouse said that the Commission has the authority to enforce the conditions that the Commission places on the request. If operational use is discontinued for a period in excess of 12 months, then the CUP lapses.

Commissioner Miller said that if they go out of business and sell and no harvesting is done for 12 months, then the CUP goes away.

Mr. Dykhouse said that if it is buyer's remorse on the part of the Commission and wished that other conditions were added, that cannot be done. Can't go back and augment the CUP. Revocation can only happen if they don't comply with the approved conditions.

Commissioner Miller asked if this can be reviewed in one year.

Mr. Shawver said it can be reviewed any time to see if they are in compliance.

Commissioner Thompson asked if they don't start right away and don't harvest for 12 months, does the CUP lapse as a matter of law.

Mr. Gebhardt said per conversations with P & Z, we will tell them when we will be starting and once we start, we can't stop.

Mr. Dykhouse said that is reasonable.

Commissioner Atwill asked if Commission will get notice when they start.

Mr. Gebhardt said yes, because that is when we will get the Land Disturbance permit.

Commissioner Atwill asked if any arrangements have been made to have an annual review as part of the order.

Mr. Shawver said he does not recall. They have had great success with compliance.

Commissioner Atwill asked if Resource Management had any objection to adding this to the order.

Mr. Shawver said no.

Commissioner Atwill said he would like that to be considered in the order if approved.

Commissioner Thompson asked if there are any CUP's created that do not go with the land.

Mr. Shawver said no. It goes with the land.

Commissioner Miller said she supports this but at the same time is trying to consider the concerns of the neighbors so I would ask staff to put the right conditions on this to mitigate the concerns we heard tonight. Have a work session, which would be open to the public, and see if there is anything we need to tweak in this list of conditions. This will show we intend to do this but with the best possible conditions to mitigate the concerns of the homeowners.

Commissioner Atwill said there will be no vote at this time.

Commissioner Miller moved to table the request by the Thomas D. Hilbert Trust, the Angelia H. Hilbert Trust, the Glenn T. Smith Trust and the Lillie Beatrice Smith Trust for a permit for topsoil management, harvesting, conditioning and stockpiling on 213 acres, more or less, located at 5395 W Smith Dr., Columbia.

Commissioner Thompson seconded the motion.

The motion carried 3 to 0.

**3. Petition submitted by SS4US, LLC for permission to vacate and re-plat Lot 2 of Pin Oak Subdivision Block III, located at 1312 N Pin Oak Blvd., Columbia.**

Stan Shawver said that the County received a petition request to vacate lot 2 of the Pin Oak Subdivision Block III. The petition was submitted by the owner of record, SS4US, LLC. Mr. Shawver read into record the subdivision code 1.8.1.3 regarding said requests. All 55 owners within 500 feet of said property have been notified and Commission is requested to hold a public hearing on this matter.

Commissioner Atwill opened the public hearing and asked if there was anyone present that would like to speak on behalf of this petition request.

Nancy Bundy said she lives at 1409 N. Pin Oak. She has been there since her dad built the house in 1993. When looking for lots back then, Lake of the Woods was an undeveloped area. When she built, there were not a lot of houses on Pin Oak. Looking at the overhead map, there have been five or six houses built since 1993. She is in support of the division of the property lots. When the house was built, it was put on one side of the lot with the intention to re-plat and sell that portion of the lot at a later time. She lives alone with her son and as the neighborhood has developed and more houses have been built, she feels safer

having people closer.

Ms. Bundy also said that originally when the house was built, it was in the country and that is not the case anymore. There is a new high school and soon there will be a new elementary school and believes that the area will be eventually annexed into the city. It is still dark in the neighborhood as there are no street lights. There is much more traffic, probably from people using Pin Oak to get to Lake of the Woods. Noise is not an issue and there have been several break-ins of other houses. If the houses were closer together, it would make one more aware of what is happening. She would eventually like to re-plat her lot. She believes that this has been done prior to some who perhaps know people who assisted in getting this done.

Mr. Dykhouse assured Ms. Bundy that is not the case. If a re-plat occurred, it was not because they knew someone, but because they presented a case to the Commission that had merit for approval.

Commissioner Atwill thanked Ms. Bundy for speaking and asked if there was anyone else present that would like to speak on behalf of this item.

There were no additional speakers.

Commissioner Miller asked if the applicant is present.

Mr. Shawver said they are not here. They were notified and there was contact with a representative of the applicant on this issue.

Commissioner Miller asked why this is even being considered with no applicant present. Usual practice is that the request will be denied.

Mr. Shawver said that in this circumstance, the request will either be denied or tabled,

especially if there are no speakers, for or against. When there are speakers other than the applicant, the Commission will listen to those speakers.

Commissioner Miller concurred with that procedure.

Commissioner Atwill asked if there is anyone present that would like to speak in opposition to this request.

Kurt Doolady said he lives at 1505 N. Pin Oak and that this issue has come up several times before. He purchased his lot, about two acres in size, 15-16 years ago with the intention of building, which he has done. Over the years, he has added on to the house as well as built a swimming pool in the back. He liked the geographic location of the lot as well as the rural type setting. He would like to keep it this way. There was a covenant started many, many years ago when the property was sub-divided that the lots were to be a minimum of one acre. Looking at the lots on Pin Oak and Golf, those lots are at least one acre and that was the intention of the area development. As mentioned before, this issue has been before the Commission previously on this property lot. The only difference is that this time there is a different company representing the ownership of the lot.

Mr. Doolady said he has been in contact with other owners who could not attend tonight that are also opposed to this request. He has a letter from one and cell phone number of another if that would have any bearing on the decision tonight. There is also opposition from someone who is just outside the 500 feet regulation for notification. All subdivisions are re-platting. One occurred next to my property which was a two acre tract and broken down into two one acre lots which is still within the covenant guidelines. When this occurred, the houses were offset from the street and changed the appearance of the neighborhood as both were set back further from the street. This property will be adding a second house to a ½ acre tract which will also change the feel of the neighborhood. There is a property across the street, which is a rental, where the owner tried to re-plat in a similar circumstance and was denied.

Mr. Doolady said that most everyone that lives on the street and notified would be in opposition because of the aspect of a rural setting, wanting space between neighbors. Columbia is growing and this is a secluded street with a rural feel. If people want a neighborhood where the houses are close, they have a choice to go there. He bought this property for a particular reason and that is the way it is today.

Commissioner Miller noted how the new High School has changed the neighborhood. Mr. Doolady said that is true and there are numerous subdivisions going up where people are going there because of the way they are marketed. People are in our subdivision to be in a non-packed residential feeling. If this request is approved, there will be other requests to do the same. This lot in question is an investment lot.

Commissioner Miller said that has no bearing on this request. Land use is land use. Looking at St. Charles, there will be a lot of commercial building which will change the neighborhood.

Mr. Doolady said that is expected. That intersection has many properties that are commercial with gas stations, etc. Living in Boone County all my life, I assumed there would be development. Going east, that farm land will eventually go residential. We have an established , rural setting area and it does not need to be packed with additional houses.

Commissioner Miller said that the reason that the lots were originally big was because of the sewer issue. These lots needed lagoons so a house could be built. When the NID came along, it changed the demographic of the neighborhood. There appears to be ½ lots just down the road.

Mr. Doolady said that those are before his time, but are or were multi-family dwellings and were not built exactly the way they were supposed to be done. 1311 and 1313 are houses and the next two are side-by-side structures.

Commissioner Miller said she did notice a mix of housing when driving through the neighborhood and one needs to be prepared for change.

Mr. Doolady said that the property across the street with the old barn and rental house has since been sold. It is a rental property, the owners don't live on the street and don't have to worry about how it looks. I like it here, it is my investment.

Commissioner Thompson asked about the covenant that Mr. Doolady has referred to.

Mr. Doolady said he believes it is not properly recorded. They are words on a piece of paper that talk of a minimum of one acre.

Commissioner Miller said you can't go by covenants. Those are civil issues.

Mr. Doolady said what you can go by is the way most of the houses are placed on the lot. Most of the lots are over one acre and the house is appropriately positioned on the lot and not pushed to one side. The sewer project occurred just as I was purchasing the lot. My bill for that was about \$7,000.

Commissioner Atwill thanked Mr. Doolady for speaking and asked if there is anyone else present to speak in opposition.

Richard Sorrels said he has lived on a nearby farm for 54 years. The original owner of the subdivision re-platted to what it is today and wanted it that way and there is no need to change it.

Commissioner Atwill thanked Mr. Sorrels and asked if there was anyone else to speak in opposition.

Shannon Bossaller said he lives at 1703 N. Pin Oak. He and his wife lived by Hickman High

School and all the chaos. We saved enough money to move and looked at many subdivisions and the way they were platted gave us the same feeling of congestion. When looking at the subdivision we are currently in, we found the open space and the larger lots. It had a rural feeling to it and because of this initial impression, we purchased a house. It is not congested, has a sense of openness and we are not the only ones to feel this way. It seemed like a stable environment because of how the houses were positioned and where they were located. It was an established area, designed for the type of living we were looking for.

Mr. Bossaller said he spent 1 ½ years re-modeling the house and they feel very fortunate to have it. Some of his clients have made offers to buy the house citing the uniqueness of the area and rural setting. He would like to maintain this characteristic of the area. He agrees that the area is rife with change, but not so sure that change is mandated for such an established area. He is very supportive of keeping this appeal. My neighbor originally wanted to sub-divide his property and has since changed his mind recognizing the appeal of the rural setting. We have city living with a country feel.

Commissioner Atwill thanked Mr. Bossaller for his comments and asked if there was anyone else to speak. There were no additional speakers and the public meeting was closed.

Commissioner Atwill asked if there is a motion to be made on this request.

Commissioner Thompson said that since the applicant is not present, the request should be denied.

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby deny the petition by SS4US, LLC for permission to vacate and replat Lot 2 of Pin Oak Subdivision Block III, located at 1312 N Pin Oak Blvd., Columbia.

Said vacation is not to take place until the re-plat is approved.

Commissioner Miller seconded the motion.

The motion carried 3 to 0. **Order #584-2013**

**4. Request by Frank W. Glenn and John D. Glenn to approve a final development plan for Judy School A-1P on 10 acres, more or less, located at 11553 E Judy School Rd., Columbia.**

Stan Shawver said that the re-zoning request was approved by Commission in October and this is the final development plan on the Glenn property to use 2.5 acres of the 10 acres to build a house which is currently under construction and use the remaining 7.5 acres as agricultural.

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby approve the request by Frank W. Glenn and John D. Glenn on a final development plan for Judy School A-1P on 10 acres, more or less, located at 11553 E Judy School Rd., Columbia, MO.

Commissioner Thompson seconded the motion.

The motion carried 3 to 0. **Order #585-2013**

**5. Readoption of Sections 1 – 27 of the Boone County Zoning Ordinance and the Boone County Stormwater Ordinance.**

Commissioner Atwill asked if this is a consolidation of ordinances.

Stan Shawver said that there are seven different Commission Orders that cover the adoption of the zoning regulations with the most recent one occurring in 2004. There was the address ordinance, sign regulation and the stream buffer ordinance. There are no changes to the existing ordinances and this action will have one adoption, in the form of a re-adoption of these ordinances so there is one date for both the zoning and stormwater ordinances. There was an advertisement placed for a public hearing as conducted in the Planning & Zoning

Commission meeting in November. There were two additional public hearings, one in Centralia and one in Ashland and at the Planning & Zoning Commission meeting on December 19th, it was recommended that the Commission re-adopt the ordinances. The meeting tonight has been advertised and posted and the request is to have a public hearing tonight on this subject.

Commissioner Atwill opened the public hearing. There were no speakers and Commission Atwill closed the public hearing.

County Counselor C. J. Dykhouse said that at this time there is no order to approve as he would like to get with Mr. Shawver to ultimately prepare a deliverable in the preparation of a Commission Order with some recitals which will reflect all the procedural history as read into the record today. It will include all the affidavits and other pertinent information. It will be a complete document.

All Commissioners concurred with the process set forth by Mr. Dykhouse and will await presentation of this issue at a later meeting.

**6. Receive and accept the following subdivision plats:**

- **Old Asbury. S29-T49N-R13W. A-2. Bettie L. Asbury, owner. Brian David Dollar, surveyor.**
- **Judy School. S21-T49N-R11W. A-1P. Frank W. and John D. Glenn, owners. J. Daniel Brush, surveyor.**
- **Arens Acres. S23-T51N-R11W. A-2. John W. Arens, owner. Mark B. Holt, surveyor.**

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby receive and accept the following subdivision plats and authorizes the Presiding Commissioner to sign them:

- Old Asbury. S29-T49N-R13W. A-2. Bettie L. Asbury, owner. Brian David Dollar, surveyor.
- Judy School. S21-T49N-R11W. A-1P. Frank W. and John D. Glenn, owners. J. Daniel Brush, surveyor.
- Arens Acres. S23-T51N-R11W. A-2. John W. Arens, owner. Mark B. Holt, surveyor.

Commissioner Miller seconded the motion.

The motion carried 3 to 0. **Order #586-2013**

### **Purchasing**

#### **7. Second reading; Amendment #1 to C208026004 – Data & Voice Wireless Services, U.S. Cellular (1<sup>st</sup> reading 12-26-13)**

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby approve Contract Amendment Number One to C208026004 – Voice & Data Wireless Devices and Service, U.S. Cellular. The terms of this amendment are stipulated in the attached Contract Amendment Number One. It is further ordered the Presiding Commissioner is hereby authorized to sign said Contract Amendment Number One.

Commissioner Thompson seconded the motion.

The motion carried 3 to 0. **Order #587-2013**

#### **8. Second reading; Bid Award 39-18OCT13, Alarm Systems Equipment & Monitoring (1<sup>st</sup> reading 12-26-13)**

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby award bid 39-18OCT13 – Alarm System Equipment & Monitoring to Alarm Communications Center, Inc. The terms of the agreement are stipulated in the attached Purchase Agreement. It is further ordered the Presiding Commissioner is hereby authorized to sign said Purchase Agreement.

Commissioner Miller seconded the motion.

The motion carried 3 to 0. **Order #588-2013**

**9. Second reading; Request for Surplus Disposal of Public Works Equipment on GovDeals (1<sup>st</sup> reading 12-26-13)**

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby approve the request by the Purchasing Department to dispose of the attached list of surplus equipment by auction on GovDeals or by destruction for whatever is not suitable for auction. It is further ordered the Presiding Commissioner is hereby authorized to sign the Request for Disposal forms.

Commissioner Thompson seconded the motion.

The motion carried 3 to 0. **Order #589-2013**

**Public Works**

**10. 1<sup>st</sup> & 2<sup>nd</sup> reading; Mutual Agreement for Extension of MOU with Local Union 773.**

County Counselor C. J. Dykhouse said that this extension has been agreed to with the union

to allow the bargaining to be extended to March 14, 2014. This will allow the process to move forward without any interruptions.

Commissioner Thompson moved on this day the County Commission of the County of Boone does hereby approve, by mutual agreement, the extension of the MOU with Local Union 773. The terms of the extension are stipulated in the attached Agreement. It is further ordered the Presiding Commissioner is hereby authorized to sign said Extension Agreement.

Commissioner Miller seconded the motion.

The motion carried 3 to 0. **Order #590-2013**

#### **Commission**

#### **11. 1<sup>st</sup> & 2<sup>nd</sup> reading; Approve Closed Session authorized per RSMo Sec 610.021 (3) and RSMo Sec 610.021 (13) at 9:00AM on January 9, 2014**

Commissioner Miller moved on this day the County Commission of the County of Boone does hereby authorize a closed meeting on Thursday, January 9, 2013, at 9:00 a.m. The meeting will be held in Room 338 of the Roger B. Wilson Boone County Government Center at 801 E. Walnut, Columbia, Missouri, as authorized by RSMo 610.021(3), to discuss the hiring, firing, disciplining or promoting of particular employee by a public governmental body when personal information about the employee is discussed or recorded and RSMo 610.021 (13), to discuss individually identifiable personnel records, performance ratings or records pertaining to employees or applicants for employment.

Commissioner Thompson seconded the motion.

The motion carried 3 to 0. **Order #591-2013**

**12. Public Comment**

None

**13. Commissioner Reports**

None

The meeting adjourned at 10:02 p.m.

Attest:

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Daniel K. Atwill  
Presiding Commissioner

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Wendy S. Noren  
Clerk of the County Commission

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Karen M. Miller  
District I Commissioner

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Janet M. Thompson  
District II Commissioner

**ZONING ORDINANCE  
FOR  
BOONE COUNTY, MISSOURI**

**BOONE COUNTY PLANNING  
AND  
ZONING COMMISSION**

## TABLE OF CONTENTS

SECTION 1. TITLE, PURPOSE AND INTENT	
A. Title	1
B. Purpose and Intent	1
C. Jurisdictional Area	2
D. Authority	2
SECTION 2. DEFINITIONS	2
SECTION 3. DISTRICTS AND BOUNDARIES	
A. Districts	13
B. District's Minimum Lot Sizes	14
C. District Boundaries	15
SECTION 4. GENERAL PROVISIONS	
A. For Non-Agricultural Activity Uses	15
SECTION 5. DISTRICT USE REGULATIONS	
A. District Regulations	18
SECTION 6. PLANNED DISTRICTS	
6.1 General Regulations	30
6.2 Approval Procedures and Standards of Review	31
6.3 General Standards for Concept Review	35
6.4 Review Plan – Scope and Content	36
6.5 General Standards for Final Plan	37
6.6 Planned Residential Developments	38
6.7 Planned Recreation District	39
6.8 Planned Commercial Developments	39
6.9 Planned Industrial Developments	39
6.10 Conflicting Requirements	40
SECTION 7. ACCESSORY BUILDINGS AND USES FOR NON-AGRICULTURAL USES	
A. Permitted When in Accordance With the Following	40
SECTION 8 NONCONFORMING USES	
8.1 Nonconforming Use of Land and Buildings	41
8.2 Discontinuance of Nonconforming Use	42

BOONE COUNTY ZONING REGULATIONS, BOONE COUNTY, MISSOURI

8.3	Repair, Enlargement and/or Modification	42
8.4	Nonconforming Lots of Record	43
8.5	Conditional Uses Not Nonconforming	43
8.6	Certificate of Occupancy for Nonconforming Use	43

SECTION 9. HEIGHT REGULATIONS

A.	Maximum Height Limits for Non-Farm Buildings	44
B.	Height Limits May Be Exceeded	44
C.	Airspace Height Limits for Airports	44

SECTION 10. YARD REQUIREMENTS

A.	Minimum Yard Requirements	45
B.	Additional Requirements	46
C.	Exceptions to Yard Requirements	47

SECTION 11. AREA REGULATIONS

A.	Minimum Lot Areas	48
B.	Exceptions to Lot Area Requirements	49

SECTION 12. SEWAGE DISPOSAL IN SINKHOLE AREAS 49

SECTION 13. KEEPING OF ANIMALS IN RESIDENTIALLY DEVELOPED AREAS 50

SECTION 14. OFF-STREET PARKING AND LOADING REGULATIONS

A.	Off-street Parking Requirements	51
B.	Rules for Computing Parking Spaces	52
C.	Location of Required Parking Spaces	52
D.	Minimum Improvement and Maintenance Standards	52
E.	Off-Street Loading Requirements	53

SECTION 15. ADMINISTRATION

A.	Conditional Uses	54
B.	Conditional Uses for Transmission Facilities	57
C.	Board of Adjustment	69
D.	Enforcement of the Ordinance	71
E.	Boundaries of Districts	73
F.	Amendment of Regulations	73

SECTION 16. INTERPRETATION AND CONFLICT 76

BOONE COUNTY ZONING REGULATIONS, BOONE COUNTY, MISSOURI

SECTION 17. FEES	76
SECTION 18. VIOLATIONS	77
SECTION 19. VALIDITY	77
SECTION 20. REPEAL	77
SECTION 21. WHEN EFFECTIVE	77
SECTION 22. FLOODPLAIN MANAGEMENT	
Article 1. Statutory Authorization, Findings of Fact	78
Article 2. General Provisions	79
Article 3. Administration	81
Article 4. Provisions for Flood Hazard Reduction	83
Article 5. Floodplain Management Variance	88
Article 6. Penalties for Violation	95
Article 7. Amendments	95
Article 8. Definitions	96
Article 9. Certificate of Adoption	102
SECTION 23. CHARACTER PRESERVATION OVERLAY DISTRICT	
23.1 Aspects of Character Preservation Districts	103
23.2 Intent and Purpose	103
23.3 Procedures for Designating a District	104
23.4 Application Content, Fees, Costs	106
23.5 Procedures for Vacation of District	107
23.6 Protection District Regulations and Standards	108
SECTION 24. AIRPORT APPROACH AND DEPARTURE DISTRICT	
24.1 Permitted Uses for A-1 and A-2 Districts	109
24.2 Permitted Uses for the A-R, R-S and R-M Districts	110
24.3 Commercial and Industrial Land Uses	110
24.4 Prohibited Uses	110
24.5 Development Standards and Requirements	111
24.6 Avigation Easement	112
24.7 Exemptions	112
SECTION 25. SIGNS	
25.1 Purpose and Intent	113
25.2 Exempt Signs	113
25.3 Signs in Agriculture, Transition, Recreation and Residential Districts	114
25.4 Signs in Commercial, Industrial and Planned Recreation Districts	115

BOONE COUNTY ZONING REGULATIONS, BOONE COUNTY, MISSOURI

25.5	General Sign Regulations	117
25.6	Specific Sign Regulations	120

SECTION 26. STREAM BUFFER

26.1	Title, Purpose and Intent	123
26.2	Administration	125
26.3	Definitions	128
26.4	Stream Buffer Plan Requirements	130
26.5	Design Standards for Stream Buffers	131
26.6	Two-Zone Stream Buffer System	132
26.7	Stream Buffer Management and Maintenance	135

SECTION 27. ADDRESSING AND ROAD NAMING REGULATIONS

27.1	Applicability and Authority	137
27.2	Definitions	138
27.3	Administration	138
27.4	Purpose and Intent	139
27.5	Basis of the Boone County Addressing Grid System	139
27.6	Components of an Address	139
27.7	Standards for Address Number Assignment	140
27.8	Standards for Directional Prefixes & Suffixes	143
27.9	Standards for Official Name Assignment	143
27.10	Standards for Road Type Assignment	146
27.11	Standards for Address Assignment	147
27.12	Signage Usage and Display	149
27.13	Penalties and Remedies	151
27.14	Severability	151
27.15	Jurisdiction	151

## **ZONING REGULATIONS BOONE COUNTY, MISSOURI**

### **SECTION 1. TITLE, PURPOSE AND INTENT**

A. Title. These regulations shall be referred to as the "Zoning Ordinance."

B. Purpose and Intent. The County Commission of Boone County, Missouri has determined that these regulations are necessary for the purpose of promoting the health, safety, morals, comfort, or general welfare, and conserving the values of property throughout the County, and lessening or avoiding undue congestion in the public streets or highways; in securing safety from fire and other dangers; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; all in accordance with a comprehensive plan.

(1) These regulations are a part of the Boone County planning and zoning program and are to be considered along with the County's Comprehensive Plan, Point Rating System, and Subdivision Regulations. These Zoning Regulations are in accordance with the Comprehensive Plan for Boone County which was in effect at the time of the adoption of these regulations. Said Comprehensive Plan includes planning goals and objectives, estimate of population growth, land use surveys, a land use plan, plans for major thoroughfares, other transportation facilities, community facilities, public services and utilities, and a public works program.

(2) A planning goal of Boone County is to reduce urban sprawl through the use of the Point Rating System, County Subdivision Regulations, and this Zoning Ordinance. Paramount among the County's objectives are (a) to preserve good agricultural land, (b) to insure that new, urban developments will not seriously interfere with accepted farming practices on adjacent land, (c) to make maximum use of existing facilities and to reduce the need for new and/or expanded facilities, and (d) to discourage development in areas where:

- desired services cannot be provided in a cost effective manner; and
- the safety of citizens could be jeopardized due to the fact that the area is not readily accessible to fire protection, law enforcement and ambulance services.

(3) Need for public services and facilities in both size and location depends upon the character and intensity of land use. Regulation of the use of land is thus fundamental to a coordinated optimum physical development of the community. The land use regulations are intended to be the foundation of the entire process of improvements of the physical environment.

(4) The zoning district map reflects the probable development in the future and does not, in all districts, reflect a present land use.

(5) It is not the intent of the Zoning Regulations to influence the assessment of the value of properties.

C. Jurisdictional Area. These regulations apply to all unincorporated lands within Boone County.

D. Authority. These regulations are adopted pursuant to the provisions of SECTIONS 64.850 and 64.885, Revised Statutes of Missouri, 1978.

(1) The provisions of these regulations shall not be exercised so as to impose regulations or to require permits with respect to land used or to be used for the raising of crops, pasture, orchards livestock or forestry, within the context of agriculture as defined by these regulations, or with respect to the erection, maintenance, repair, alteration or extension of farm buildings or farm structures.

## SECTION 2. DEFINITIONS

For the purpose of this ordinance certain items are hereby defined. Words used in the present tense shall include the future; the singular number shall include the plural and the plural the singular; the word "shall" is mandatory and not directory; the words "used" or "occupied" include the words "intended", "designed", or "arranged to be used or occupied"; the word "lot" includes the word "plot" or "parcel"; and the word "person" includes a firm, association, organization, partnership, trust, company or corporation as well as individual. Any word not herein defined shall be as defined in any recognized standard English Dictionary.

**Accessory Building:** A subordinate building, the use of which is incidental to and customary in connection with the principal building or use and which is located on the same lot with such principal building or use.

**Accessory Use:** A subordinate use which is incidental to and customary in connection with the principal building or use and which is located on the same lot with such principal building or use.

**Adult Cabaret:** A building or a portion of a building regularly featuring dancing or other live entertainment if the dancing or entertainment that constitutes the primary live entertainment is distinguished or characterized by an emphasis on the exhibiting of specific sexual activities or specified anatomical areas for observation by patrons therein.

**Agricultural or Farming Activity:** An agricultural activity shall be defined as the cultivating of the soil, producing of crops and the raising of animals for food or fiber and including horticulture, beekeeping, aquaculture, silviculture and forestry. Concentrated animal feeding operations must conform to the Missouri Department of Natural Resource's regulations pertaining to waste water management and order control. The raising and keeping of horses for any purpose other than the production of food and fiber is not considered agricultural activity.

**Agricultural Structure:** Any structure used exclusively in connection with the production, harvesting, storage, drying or raising of agricultural commodities.

**Animal Training Facility:** A building and/or land where animals, other than those owned by the owner or leaseholder of the property, on which the use is occurring, are trained.

**Alley:** A public right-of-way which affords only a secondary means of access to abutting property.

**Allowed Uses:** See Uses

**Apartment:** See Dwelling Unit.

**Automobile Service Station:** Any land, building, structure, or premises used for the sale at retail of motor vehicle fuels, oils, or accessories, or for servicing or lubrication motor vehicles or installing or repairing parts and accessories; but not including the repairing or replacing of motors, bodies, or fenders of motor vehicles or painting motor vehicles, public garages and the open storage of rental vehicles or trailers.

**Bar or Tavern:** Any premises wherein alcoholic beverages are sold at retail for consumption on the premises. It shall not mean a premises wherein such beverages are sold in conjunction with the sale of food for consumption on the premises and the sale of said beverages comprises less than fifty percent (50%) of the gross receipts.

**Basement:** A story having part but not more than one-half of its height below grade. A basement is counted as a story for the purposes of height regulation if subdivided and used for dwelling purposes other than by janitor employed on the premises.

**Bed and Breakfast:** A dwelling unit that has been converted or built for and is intended to provide overnight lodging to the public for compensation, and which is open to overnight guests in not more than five guest bedrooms, and is not a rooming or boarding house and is the primary residence of the owner or operator.

**Billboard:** Any sign that is greater than 120 square feet in area.

**Board:** Means Board of Adjustment established in Section 15.

**Boarding House or Rooming House:** A building other than a hotel, occupied as a single housekeeping unit, where lodging or meals are provided for five or more persons for compensation, pursuant to previous arrangements, but not for the public or transients.

**Building:** Any structure having a roof supported by columns or walls for the shelter or enclosure of persons or property.

**Building, Height of:** The vertical distance from the average grade to (a) the highest point of a flat roof, (b) the deck line of a mansard roof, or (c) the average height between eaves and ridge for gable, hip, and gambrel roofs.

**Buildable Width:** The width of the lot left to be built upon after the side yards are provided.

**Calendar Week:** A seven-day period beginning on Sunday and running through Saturday.

**Cellar:** That part of a building having more than one-half of its height below the average grade of the adjoining ground.

**Clinic:** An establishment where patients are not lodged overnight but are admitted for examination and treatment by a group of physicians or dentists practicing medicine together.

**Club or Lodge:** Buildings and facilities owned or operated by a corporation, association, person or persons for social, educational, or recreational purpose, including fraternal organizations, but not primarily for profit and not primarily to render a service which is customarily carried on as a business.

**Conditional Use:** A use allowed in a zoning district after a permit is granted by the County Commission according to provisions of Section 15.

**Condominium Development:** A development in which individual ownership in fee is restricted to that which is within the walls or designated bounds of a unit, and collective ownership applies to all other land and facilities beyond the individual units. A residential structure in a condominium development is: (1) a unit, (2) a two family dwelling if the structure contains two dwelling units, or (3) a multiple dwelling if the structure contains three or more dwelling units.

**Commission:** Means County Planning and Zoning Commission of Boone County.

**County Commission:** Means County Commission of Boone County.

**Development Complex**: A commercial or industrial development consisting of two or more buildings or one building containing or designed to contain more than one business.

**Director and Director of Planning**: The individual designated to administer the Zoning Ordinance and who is responsible for the enforcement of the regulations imposed by said ordinance.

**District**: Means a part of the county wherein regulations of this ordinance are uniform.

**Doublewide**: A modular building or manufactured home that is designed and manufactured in a factory to function as a single complete self-contained unit by the assembly, on a site, of two or more manufactured component pieces whether or not any additional site built additions have been added to the unit.

**Driveway**: A roadway giving vehicular access from a street or alley to abutting property and may also provide for vehicular circulation on the abutting property.

**Dwelling**: Any building or portion thereof which is designed and used exclusively for residential purposes.

**Dwelling, Accessory**: A second dwelling, in addition to the primary dwelling, that is on a tract of land which is greater than 20-acres in area.

**Dwelling, Multiple-Family**: A building designed for or occupied exclusively by three or more families.

**Dwelling, Primary**: Any dwelling other than an accessory dwelling.

**Dwelling, Single-Family**: A building designed for or occupied by one family. This definition shall include any home in which eight or fewer unrelated mentally or physically handicapped persons reside, and may include two additional persons acting as house-parents or guardians who need not be related to each other or to any of the mentally or physically handicapped persons residing therein. This definition shall also include any private residence licensed by the division of family services or department of mental health or other governmental agency, to provide foster care to one or more but less than seven children who are unrelated to either foster parent by blood, marriage or adoption.

**Dwelling, Single-Family Attached**: A building designed so that each unit has an independent means of egress; is separated from adjoining units by a 2-hour fire separation assembly that extends from ground to roof; no unit is above or below another unit; each unit has separate heating systems and each unit has separate utility meters and separate sewer service.

**Dwelling, Two-Family**: A building designed for or occupied exclusively by two families.

**Dwelling, Unit:** One or more rooms in a dwelling occupied or intended to be occupied as separate living quarters by a single person or a family as defined herein.

**Equine Boarding Facility:** A building and/or land where equine, other than those owned by the owner or leaseholder of the property where the use is occurring, are boarded and/or trained.

**Equine Ranch:** A building and/or land used for the purpose of keeping and/or training equine provided, all of the animals are owned by the owner of the property on which the use is occurring. If the property is leased, all of the animals must be owned by the leaseholder of the property on which the use is occurring.

**Family:** Two or more persons related by blood, marriage, adoption, or not more than four persons not related by blood, marriage, or adoption, occupying a dwelling unit as an individual housekeeping organization.

**Frontage:** All the property on one side of a street or highway, between two intersecting streets (crossing or terminating) or for a distance of 400 feet on either side of a proposed building or structure, measured along the line of the street, or if the street is dead-ended, then all of the property abutting on one side between an intersecting street and the dead-end of the street, but not including property more than 400 feet distant on either side of a proposed building or structure.

**Garage, Private:** A detached accessory or portion of a main building housing the automobiles of the occupants of the premises, but not commercial vehicles.

**Garage Public:** A building or portion thereof, other than a private or storage garage, designed or used for equipping, servicing, repairing, hiring, selling, storing, or parking motor driven vehicles. The term repairing shall not include an automotive body repair shop nor the rebuilding, dismantling or storage of wrecked or junked vehicles.

**Grade:** The average level of the finished surface of the ground adjacent to the exterior walls of the building.

**Guest Ranch:** A recreational facility where lodging and horses for riding are furnished for compensation.

**Home Occupation:** Any occupation or profession carried on by a member of the immediate family, residing on the premises, in connection with which there is used no sign other than a nameplate, not more than three square feet in area, or no display that will indicate from the exterior that the building is being utilized in whole or part for any purpose other than that of a dwelling; there is no commodity sold upon the premises except that prepared on the premises; no person is employed other than a member of the immediate family residing on the premises; and

no mechanical equipment is used except such as is customary for purely domestic household purposes.

**Hospital:** An establishment providing physical or mental health services, inpatient or overnight accommodations, and medical or surgical care of the sick or injured. Hospital includes sanitariums.

**Hotel:** A building in which lodging is provided and offered to the public for compensation, and which is open to transient guests and is not a rooming or boarding house as herein defined.

**Hours of Operation, Daytime:**

- April through October, 6:00 A.M. to 9:00 P.M. Central Daylight Time
- November through March, 6:00 A.M. to 7:00 P.M. Central Standard Time

Daytime hours of operation may be further limited as a specific condition to a conditional use permit or a planned development.

**Hours of Operation, Nighttime:** Any hours other than Daytime Hours of Operation and may be further limited as a specific condition of a conditional use permit or planned development.

**Incidental:** A use dependent on and subordinate to the principal use of the parcel.

**Institution:** A nonprofit establishment for public use.

**Junk Vehicle:** Any unlicensed or disabled vehicle.

**Kennel:** An establishment where small animals are boarded for compensation or where dogs are bred, raised or sold on a commercial scale or where two or more breeding females are kept or bred.

**Kennel, Hobby:** A kennel that is not a commercial operation.

**Landscaped Area:** An area that is permanently devoted and maintained to the growing of shrubbery, grass and plant material.

**Litter:** The word litter means and includes garbage, trash, junk, branches, cans, inoperative machinery and appliances, or other waste materials.

**Loading Space:** A space within the main building or on the same lot for the standing, loading, or unloading of trucks, having a minimum area of 420 square feet, minimum width of 12 feet, a minimum depth of 35 feet, and a vertical clearance for at least 14.5 feet.

**Lot:** A parcel of land occupied or intended for occupancy by a use permitted in this ordinance, including one main building together with its accessory buildings, open spaces and parking spaces required by this ordinance, and having its principal frontage upon a road or street.

**Lot, Corner:** A lot abutting upon two or more streets at their intersection.

**Lot, Depth:** The mean horizontal distance between the front and rear lot lines.

**Lot, Double Frontage:** A lot having a frontage on two non-intersecting roads, as distinguished from a corner lot.

**Lot, Interior:** A lot other than a corner lot.

**Lot of Record:** A lot or parcel of land that was legally created in compliance with the land use regulations in effect at the time the instrument creating the parcel was recorded with the Boone County Recorded or Deeds.

**Lot, Width:** The width of a lot measured at the building line.

**Manufactured Home:** A dwelling unit, designed and built in a factory, which bears a seal certifying that it was built in compliance with the National Manufactured Housing Construction and Safety Standards Act.

**Mobile Home:** A one family dwelling unit of vehicular, portable design having a length of not less than 32 feet and a width of not less than 8 feet, built on a chassis and designed to be moved from one site to another and to be used without a permanent foundation.

**Mobile Home Park:** A parcel of land which is developed for the placement of two or more mobile homes.

**Mobile Home Subdivision:** A subdivision containing any lot or lots that are less than 5-acres that are intended for the placement of one mobile home per lot and where individual lots can be sold and/or owned independently from other lots contained within the development. For purposes of the floodplain management regulations, a mobile home subdivision is a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**Modular Building:** A prefabricated building having over 1,000 square feet of floor area, manufactured in whole or in part off the site, and transported to a site.

**Motel, Motor Court, Motor Lodge, Or Tourist Court:** Any building or group of buildings containing guest rooms or dwelling units, some or all of which have a separate entrance leading directly from the outside of the building with garage or parking space conveniently located on the

lot, and designed, used or intended wholly or in part for the accommodation of automobile transients.

**Nonconforming Use:** A use which lawfully occupied a building or land or portion thereof, at the time these regulations became effective, that has been lawfully continued and that does not now conform with the use regulations for the district in which it is located and for which a Certificate of Occupancy for Nonconforming Use has been issued by the Board of Adjustment.

**Nursery School:** Any land, building, structure or premises used for educational instruction and/or supplemental parental care for four or more children, either on an hourly or daily basis, with or without compensation.

**Nursing Home:** A home for the aged or infirm in which three or more persons not of the immediate family are received, kept or provided with food and shelter, or care for compensation; but not including hospitals, clinics, or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.

**Open Space:** Any parcel or area of land not covered by water, structures, hard surfacing, parking lots and other impervious surfaces except for bicycle or pedestrian pathways. Such areas must be set aside and/or dedicated for active or passive recreation or visual enjoyment. Land covered by water may be included as open space as otherwise provided in these regulations.

**Parent Zoning District:** The unplanned zoning district type from which the possible allowed uses in the planned district are derived. The letter designated zoning district to which the “P” is added to designate the district as planned.

**Park, Public:** A tract of land and/or premises that is owned and operated by a governmental entity and that is open to the general public for recreational purposes.

**Parking Space:** A durably dust-proofed, properly graded for drainage, usable space, enclosed in a main building or in an accessory building, or unenclosed, reserved for the temporary storage of one vehicle, and connected to a street or alley by a surfaced driveway. Each such space shall be not less than nine feet wide and nineteen feet long and be accessible to a vehicle without the necessity of moving any other vehicle.

**Permitted Use:** A principal use of a site allowed as a matter of right in conformance to applicable zoning, building and health or other codes, and not subject to special review or conditions under this ordinance beyond those specifically set forth in the Zoning Regulations.

**Place of Worship:** Any premises used primarily for religious services and study.

**Premises:** A lot together with all buildings and structures thereon.

**Private School:** A place of learning that is not tax supported. This shall include, but not be limited to, business or commercial schools, music or dancing academies, day care homes or centers, private colleges and universities, and private schools having a curriculum equivalent to public elementary or public high schools.

**Reception Facility:** A building, land or premises that is made available for receptions, parties, meetings or other special events.

**Residentially Developed Area:** A recorded, major subdivision where at least twenty-five (25%) percent of the lots have been developed or a recorded subdivision in a residential or transitional zoning district.

**Riding School:** A building and/or land where humans, other than the owner, resident or leaseholder of the property on which the use is occurring, are trained in riding and/or driving and/or handling animals.

**Rooming House:** See Boarding House.

**Salvage or Junk Yard:** Any land or building, or other structure used for the storage, collection, processing or conversion of any worn out, cast off, or discarded metal, paper, glass or other material which is ready for destruction, or has been collected or stored for salvage or conversion to some use. This includes, but is not limited to, such things as automobiles, machinery, farm implements, household appliances and construction material.

**Setback:** the minimum distance required between the property line and a building measured in accordance with the provisions for yards in Section 10.B (11).

**Sexually Oriented Business:** An inclusive term used to describe collectively: adult cabaret, adult motion picture theater, video arcade, bathhouse, massage shop and/or sex shop.

**Sign:** Any medium or device or symbol intended to identify, inform, advertise or that is intended to attract attention to any private or public premises and, said device is placed so as to be seen from any public or quasi-public place with the intent or effect of attracting attention to the subject matter.

- **Sign, Backlit:** A sign that is composed of one or more transparent or translucent faces and that is illuminated by means of a light source from within or behind the sign that is projected through the sign face(s).
- **Sign, Billboard:** A freestanding sign that is greater than 120 square feet in area.
- **Sign, Double Faced:** A sign consisting of two faces that form parallel planes, which are the same size shape and elevation, where the distance between the two sign faces is 18 inches or less.

- **Sign, Electronic Message:** Any sign that carries a changing message or a message that is capable of being changed by means of an electronic control unit and that is displayed by a system of electric lights
- **Sign, Façade:** A sign mounted on the exterior wall of a structure with the plane formed by the sign face being parallel to the plane of the wall and projecting no more than 12-inches from the wall. Also known as a wall sign.
- **Sign, Freestanding:** A self-supporting sign placed on the same parcel as, but away from, the building to which it is related.
- **Sign, Noncompliant:** Any sign that does not comply with Section 25, Sign Regulations and has not been issued a Certificate of Occupancy for a Nonconforming Use.
- **Sign, Nonconforming:** Any sign that is in existence on the date of adoption of Section 25, Sign Regulations but that does not comply with the provisions of Section 25, Sign Regulations and for which the Board of Adjustment has issued a Certificate of Occupancy for a Nonconforming Use in accordance with Section 8.
- **Sign, Parapet Mounted:** A façade or wall sign that is mounted on a parapet.
- **Sign, Projecting:** A sign that is wholly or partly dependent upon a building for support and projects more than 12-inches from such building.
- **Sign, Suspended:** A sign hanging down from a marquee, awning, porch or other structural element of a building.

**Singlewide:** A mobile home or manufactured home that is designed and manufactured in a factory to function as a single complete self-contained unit without any additional components or construction, whether or not any site built addition or additional auxiliary components have been added to the structure.

**Specified Anatomical Areas:** (1) Less than completely and opaquely covered: human genitals, pubic region, buttock or female breast below a point immediately above the top of the areola; and (2) human male genitals in a discernibly turgid state, even if completely and opaquely covered.

**Specified Sexual Activities:** Human genitals in a state of sexual stimulation or arousal or acts of human masturbation, sexual intercourse, sodomy or fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.

**Street:** A dedicated and accepted public way which affords the principal means of access to abutting property.

**Street Centerline:** The street centerline is a line halfway between the street right-of-way lines.

**Street Right-of-Way Line:** A dividing line between a lot and a contiguous street.

**Structure:** Anything constructed or installed or portable, the use of which requires a location on a parcel of land. It includes a movable structure while it is located on land which can be used for housing, business, commercial, agricultural or office purposes, either temporarily or permanently. Structure also includes fences, billboards, swimming pools, poles, pipelines, transmission lines, tracks and advertising signs, whether located on a rock, tree, separate or part of another structure.

**Structural Alteration:** Any change except those required by law members of a building or structure, such as bearing walls, columns, beams or girders, not including openings in bearing walls as permitted by other ordinances.

**Symbol:** Something that represents something else by association, resemblance or convention. A symbol may be either two or three dimensional.

**Tavern:** See Bar or Tavern

**Travel Trailer or Motor Home:** (1) A vehicular, portable structure built on a chassis and designed for temporary occupancy for travel, recreational or vacation use; and when factory equipped for the road, being of any weight, provided its overall length does not exceed 32 feet; (2) A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation and vacation; (3) A portable, temporary dwelling to be used for travel, recreational and vacation purposes, constructed as an integral part of a self-propelled vehicle; (4) A canvas, folding structure, mounted on wheels and designed for travel, recreational and vacation use.

**Travel Trailer Park:** A parcel of land which has been improved for the placement of travel trailers for transient use.

**Truck Stop:** A facility for the servicing and repair of trucks and including accessory uses such as a truck wash, sleeping accommodations, restaurant and gift shop.

**Uses, Allowed:** In a planned district, only those uses specifically shown/listed on an approved review plan.

**Uses, Category of:** The subsection of a Zoning District which contains a list of uses allowed in the district such as Permitted Use, Conditional Use or Accessory Use.

**Vehicle:** Automobile, truck, bus, motorcycle, recreational vehicle or other conveyance designed and constructed as a motor-driven vehicle for traveling on the public streets and ways.

**Yard:** An open space, other than a court on a lot, unoccupied and unobstructed from the ground upward, except as otherwise provided in this ordinance.

**Yard, Front:** A yard across the full width of the lot extending from the front line of the main building to the front line of the lot, or to the designated street line in cases where the present property line extends to the center line of the abutting street. On corner lots the front yard shall face the shortest street dimension of the lot, except that if the lot is square or almost square, i.e., has dimensions in a ratio of from 3:2 to 3:3, then the front yard may face either street.

**Yard, Side:** A yard between the main building and the side line of the lot and extending from the front plane of the building to the rear plane of the building.

**Yard, Rear:** A yard extending the full width of the lot between a principal building and the rear lot line.

**Yard Width and Depth:** The shortest horizontal distance from a lot line to the main building.

### **SECTION 3. DISTRICTS AND BOUNDARIES**

A. Districts. The unincorporated area of Boone County is hereby divided into the following districts:

#### **AGRICULTURE DISTRICTS**

- A-1 Agriculture
- A-1P Planned Agriculture 1
- A-2 Agriculture
- A-2P Planned Agriculture 2

#### **TRANSITION DISTRICTS**

- A-R Agriculture Residential
- A-RP Planned Agriculture-Residential

#### **RESIDENTIAL DISTRICTS**

- R-S Single-Family Residential
- R-SP Planned Single-Family Residential
- R-D Two-Family Residential
- R-DP Planned Two-Family Residential
- R-M Moderate Density Residential
- R-MP Planned Moderate Density Residential

#### **RECREATION DISTRICT**

- REC Recreation
- REC-P Planned Recreation

#### **COMMERCIAL DISTRICT**

- C-O Office Commercial
- C-N Neighborhood Commercial
- C-G General Commercial
- C-GP Planned Commercial

**INDUSTRIAL DISTRICTS**

- M-L Light Industrial
- M-LP Planned Industrial
- M-G General Industrial
- M-GP Planned General Industrial

**OVERLAY DISTRICTS**

- Character Preservation Overlay District
- Airport Approach and Departure District

B. District's Minimum Lot Sizes. The following are the minimum lot sizes for the corresponding districts specifically listed below:

**AGRICULTURE DISTRICTS**

A-1 Agriculture:

The minimum lot size for any parcel within the A-1 zoning district is ten (10) acres.

A-2 Agriculture:

The minimum lot size for any parcel within the A-2 zoning district is two and one half (2 & ½) acres.

**TRANSITION DISTRICTS**

A-R Agriculture-Residential:

The minimum lot size for any parcel within the A-R zoning district is one half (½) acre.

**RESIDENTIAL DISTRICTS**

R-S Single-Family Residential:

The minimum lot size for any parcel within the R-S zoning district is seven thousand (7,000) square feet.

R-D Two-Family Residential:

The minimum lot size for any parcel within the R-D zoning is seven thousand (7,000) square feet. The minimum lot size for a duplex is ten thousand (10,000) square feet.

R-M Moderate Density Residential:

The minimum lot size for any parcel within the R-M zoning district is seven thousand (7,000) square feet. The minimum lot size for a duplex is ten thousand (10,000) square feet. The minimum lot size for a multiple family dwelling is two thousand five hundred (2,500) square feet per dwelling unit.

C. District Boundaries

(1) The boundaries of the districts are shown upon the map attached hereto and made a part hereof, which map is designated as the "District Map." The district map and all notations, references and other information shown thereon are a part of this Ordinance and have the same force and effect as if the district map and all the notations, references and other information shown thereon were fully set forth or described herein, the original of which district map is properly attested and is on file with the County Clerk of Boone County, Missouri.

(2) Whenever any street, alley or other public way is vacated by official action of the County Commission, the zoning district adjoining each side of such street, alley or public way shall be automatically extended to the center of such vacation, and all area included in the vacation shall then and henceforth be subject to all appropriate regulations of the extended districts.

## **SECTION 4. GENERAL PROVISIONS**

A. For non-agricultural activity uses, except as hereinafter provided:

(1) No building shall be erected, converted, enlarged, reconstructed or structurally altered, nor shall any building or land be used except for a purpose permitted in the district in which the building or land is located.

(2) No building shall be erected, converted, enlarged, reconstructed or structurally altered except in conformity with the height and area regulations of the district in which the building is located.

(3) The density and yard regulations of this ordinance are minimum regulations for each and every building existing at the effective date of this ordinance and for any building hereafter erected or structurally altered. No land required for yards or other open spaces about an existing building or any building hereafter erected or structurally altered shall be considered a yard or lot area for more than one building.

(4) Any division of land is subject to the Boone County Subdivision Regulations if the resulting lots or tracts contain less than twenty acres.

BOONE COUNTY ZONING REGULATIONS, BOONE COUNTY, MISSOURI

(5) Every building hereafter erected or structurally altered shall be located on a lot as herein defined and in no case shall there be more than one main building on a lot except as otherwise provided in this ordinance.

(6) No building shall be erected or structurally altered to the extent specifically provided hereinafter except in conformity with the off street parking and loading regulations of this ordinance.

(7) Cooperatives, condominiums and all other forms of property ownership do not effect the provisions of these regulations and all requirements shall be observed as though the property were under single ownership.

(8) A mobile home park will be constructed in accordance with the Boone County Mobile Home Ordinance. Mobile Homes within a Mobile Home Subdivision shall be on a foundation, with its axles and wheels removed.

(9) A manufactured home or mobile home shall be used for residential purposes only as a dwelling. A manufactured home containing a minimum of 650 sq. ft. of floor space shall be permitted in all Districts where Single Family Dwellings are permitted. No manufactured home or mobile home shall be permitted in a recorded subdivision except as a conditional use. It is further provided that:

(a) The manufactured home or mobile home complies with all yard, density and off-street parking requirements of the district in which it is located;

(b) The space beneath the manufactured home or mobile home is enclosed by a foundation or under skirted with a durable material such as fiberglass, plywood or metal, within 90 days of placement on the property;

(c) The manufactured home or mobile home is tied down to withstand wind-loads of 15 pounds per square foot within 30 days of placement on the property and prior to occupancy (except when the ground is frozen);

(d) The manufactured home or mobile home shall be provided with a system to treat the wastewater in accordance with minimum standards of the Missouri Department of Natural Resources or Boone County prior to occupancy of the unit;

(e) The owner or occupant shall obtain a permit for the placement of a manufactured home or mobile home on property pursuant to the provisions of Section 15. D. of these regulations prior to placing a manufactured home on property.

(f) Manufactured homes and mobile homes designed as a single wide unit may not be attached to other single wide units, thus creating a double unit, without first obtaining a conditional use permit.

(g) Manufactured homes and mobile homes designed as a single wide unit may be added on to as long as the site built add-on section is built in accordance with the Boone County Building Code; however, no part of the add-on may be used to meet the one thousand square foot requirement to classify it as a modular building.

(10) In the Agricultural Districts, Transitional District, Residential Districts, Recreation Districts, and in the C-O Commercial Office Districts, and in the C-N Neighborhood Commercial Districts:

(a) The number of junk vehicles permitted on a tract, parcel or lot shall not exceed two, and

(b) Said vehicles must be stored by the owner or occupant of the property, upon which said vehicles are located, in a manner so that said vehicles are not visible from any point of land outside the property.

(11) The dumping or storing of litter shall not be permitted in any district except under the conditions specified in Sub Section 12 of this Section. No person shall throw or deposit litter on any vacant or occupied property whether owned by such person or not. The owner or person in control of any private property shall, at all times, maintain the premises free of litter.

(12) It shall be lawful:

(a) To accumulate or store non-putrescible litter in a sight proof structure or container.

(b) To accumulate or store litter produced as an incident to the otherwise lawful use of the same premises where stored, where such storage is pending removal or proper disposal and does not exceed seven (7) days, provided the litter is placed or stored in a container or otherwise screened from the view of persons upon adjacent property or rights-of-way.

(c) To operate an otherwise lawful, sanitary landfill, building demolition material site, vehicle or machinery repair facility, construction material stockpile, sewage treatment facility, salvage yard, recycling center or junk yard.

(d) To store material to be used in an otherwise lawful agricultural or

nursery operation on the premises devoted to such use.

The phrase "*otherwise lawful*" as used in this Sub Section 12 means in compliance with applicable zoning district regulations and with all rules, regulations, ordinance, Court or Commission Orders, conditions, permits and licenses applicable to the property or activity, whether arising from this Zoning Ordinance or any other ordinance, Court or Commission Order or regulation.

(13) Group homes for the handicapped included under the definition of "*Dwelling, Single-Family*" as specified above are permitted in all districts that permit residential use. The operator of a group home for the handicapped shall apply for a permit to operate from the Director of Planning and Building Inspection. The application shall include a floor plan showing the layout and emergency exits of the house and will be retained on file and distributed to emergency service personnel. All provisions of the building code relative to handicapped facilities and accessibility shall be complied with prior to occupancy by any handicapped residents. Upon examining the application and plans submitted, the Director shall issue a permit to the operator. Group homes for the handicapped are subject to an annual inspection by the fire marshal.

(14) All kennels shall be constructed and maintained in accordance with the current minimum standards of the United States Department of Agriculture, published in 9 CFR Chapter 1, Subpart A, Sections 3.1 - 3.4 (1-1-85 Edition).

## **SECTION 5. DISTRICT USE REGULATIONS**

A. District Regulations. In the following established districts, a building or premise shall be used only for the following purposes:

(1) **A-1 Agriculture District**

Permitted Uses:

Agricultural Activity which shall include greenhouses and nurseries  
Equine Boarding Facility for a maximum of six animals on a minimum 10-acre tract  
Equine Ranch on a minimum 10-acre tract  
Farm Dwelling  
Home Occupation  
Public Park  
Bait House  
Place of Worship  
Public school, elementary and high, or private school having a curriculum equivalent to a public, elementary or high school and having no rooms regularly used for housing or sleeping purposes.

Livestock sales barn and stockyard provided that such activity is located at least 2,640 feet from R-S, R-SP, R-D, R-DP, R-M and/or R-MP zoning and from a recorded major subdivision.

Veterinary office or clinic or animal hospital provided, however, if the establishment is in a major recorded subdivision or is within 500 feet of a residentially developed area or an existing R-S, R-SP, R-D, R-DP, R-M or R-MP Zoning District all animals that are treated or cared for shall be kept within a sound-proofed, air conditioned building; no odor shall be perceptible at the boundary of the premises; and the noise outside the building shall not exceed that of average daily traffic measured at the lot line.

Family Day Care Home (maximum of six children) and Group Day Care Home (maximum of ten children) provided that the Day Care Home is (1) in compliance with all state regulations and (2) meets all the criteria for a Home Occupation.

Single-Family Dwelling, on a Lot of Record recorded prior to December 27, 1973 or on a lot having a minimum area of 10 acres.

Conditional Uses:

Kennel or Hobby Kennel

Equine Boarding Facility for more than six animals on a minimum 10-acre tract

Animal Training Facility on a minimum 10-acre tract

Riding School

Airport

Transmission facility

Privately operated outdoor recreational facility

New cemetery, human or animal, or enlargement of existing cemetery

Private family cemetery

Farm implement sales and service, and other agribusiness uses oriented to and exclusively serving the agricultural community

Livestock sales barn and stockyard

Water Tower, sewage lagoon or mechanical treatment plant where not approved under County Subdivision Regulation

Sanitary landfill operated by a public agency

Mobile Home not meeting the provisions of Section 4A. (9) of this ordinance

Rock quarry on a minimum of 40 acres

Permanent asphalt, cement or concrete plant provided the plant is located within the property boundary of a rock quarry producing a minimum average of 1,000 tons of rock per operating day

Portable asphalt, cement or concrete plant used for a specific construction project  
Creek or river gravel recovery operation  
Bed and Breakfast  
Seasonal deer/game processing

(2) **A-1P Planned Agriculture 1 District**

A Planned Residential Development approved in accordance with the provisions of Section 6.

(3) **A-2 Agriculture District**

Permitted Uses:

Any permitted use of the A-1 District, provided however, a Single-Family Dwelling shall, in addition to the provisions of the A-1 District, be permitted on a lot or tract having a minimum area of two and one half acres

Conditional Uses:

Any conditional use of the A-1 District

(4) **A-2P Planned Agriculture 2 District**

A Planned Residential Development approved in accordance with the provisions of Section 6

(5) **A-R Agriculture-Residential District**

Permitted Uses:

Agricultural Activity which shall include greenhouses and nurseries  
Equine Boarding Facility for a maximum of six animals on a minimum  
20-acre tract  
Equine Ranch on a minimum 20-acre tract  
Farm Dwelling  
Home Occupation  
Public Park  
Golf course, except miniature course and driving range  
Place of Worship  
Public School, elementary and high, or private school having a curriculum

equivalent to a public elementary or high school and having no rooms regularly used for housing or sleeping purposes.

Family Day Care Home (maximum of six children) and Group Day Care Home maximum of ten children) provided that the Day Care Home is (1) in compliance with all state regulations and (2) meets all the criteria for a Home Occupation

Single Family Dwelling on a lot having a minimum area of one-half acre, (21,780 s.f.).

Conditional Uses:

Privately operated outdoor recreational facility

Enlargement of an existing cemetery

Equine Boarding Facility for more than six animals on a minimum 20-acre tract

Animal Training Facility on a minimum 20-acre tract

Riding School on a minimum 20-acre tract

Farm implement sales and service, and other agribusiness uses oriented to and exclusively serving the agricultural community

Veterinary office or clinic or animal hospital provided, however, if the establishment is in a major recorded subdivision or is within 500 feet of a residentially developed area or an existing R-S, R-SP, R-D, R-DP, R-M or R-MP Zoning District all animals that are treated or cared for shall be kept within a sound-proofed, air conditioned building; no odor shall be perceptible at the boundary of the premises; and the noise outside the building shall not exceed that of average daily traffic measured at the lot line.

Public building erected by any governmental agency

Hospital, nursing home, and educational, religious and philanthropic institution

Nursery, pre-kindergarten, kindergarten, play, special and other private schools

Water Tower, sewage lagoon or mechanical treatment plant where not approved under County Subdivision Regulations

Mobile Home Subdivision

Mobile Home not meeting the provisions of Section 4. (9) of this ordinance

Bed and Breakfast

(6) **A-RP Planned Agriculture Residential**

A Planned Residential Development approved in accordance with the provisions of Section 6.

(7) **R-S Single-Family Residential District**

Permitted Uses:

BOONE COUNTY ZONING REGULATIONS, BOONE COUNTY, MISSOURI

- Agricultural activity
- Single-family dwelling (minimum lot size; 7,000 square feet)
- Family Day Care Home (maximum of six children) Group Day Care Home (maximum of ten children) provided that the Day Care Home is (1) in compliance with all state regulations, and (2) meets all the criteria for a Home Occupation.
- Public Park or playground
- Place of worship
- Public school, elementary and high, or private school having a curriculum equivalent to a public elementary or public high school and having no rooms regularly used for housing or sleeping purposes.
- Golf course, except miniature course and driving tees (Ranges) operated for commercial purposes
- Home Occupation

Conditional Uses:

- Privately operated club with swimming pool and/or tennis courts on site of not less than five acres
- Public building erected by governmental agency
- Hospital, nursing home, retirement center, group home for the handicapped, and educational, philanthropic or religious institution on site of not less than five acres, provided not more than 50 percent of the site area may be occupied by buildings, and provided further, that the building shall be set back from all required yard lines and additional foot for each foot of building height
- Nursery, pre-kindergarten, kindergarten, play, special, and other private schools
- Waterpower, sewage lagoon or mechanical treatment plant where not approved under County Subdivision Regulations
- Two-family Dwelling
- Mobile Home Park or Mobile Home Subdivision in accordance with the existing mobile home park ordinance
- Mobile Home not meeting the provisions of Section 4. (9) of this ordinance
- Bed and Breakfast

(8) **R-SP Planned Single-Family Residential**

A Planned Residential Development approved in accordance with the provisions of Section 6.

(9) **R-D Two-Family Residential District**

Permitted Uses:

- Agricultural activity
- Any permitted use of the R-S District
- Two-family dwelling (minimum lot area per family; 5,000 square feet)

Conditional Uses:

- Any conditional use of the R-S District
- Three-family dwelling on a lot having a minimum area of 10,000 square feet.

(10) **R-DP Planned Two-Family Residential District**

A Planned Residential Development approved in accordance with the provisions of Section 6.

(11) **R-M Moderate Density Residential District**

Permitted Uses:

- Agricultural activity
- Any permitted use of the R-D District
- Privately operated club with swimming pool and/or tennis courts on site of not less than five acres
- Public building erected by any governmental agency except not maintenance or storage buildings
- Hospital, nursing home, retirement center, group home for the handicapped, and educational, philanthropic, or religious institution on site of not less than 5 acres provided not more than 50 percent of the site area may be occupied by buildings, and provided further that the building shall be set back from all required yard lines an additional foot for each foot of building height.
- Nursery, pre-kindergarten, kindergarten, play special and other private school
- Private recreational facility where buildings do not occupy more than ten percent of the site area
- Multiple-family dwellings (minimum lot area per family; 2,500 square feet)
- Home Occupation
- Bed and Breakfast

Conditional Uses:

- Privately operated club with swimming pool and/or tennis courts
- Private recreational facility
- Hospital, nursing home, retirement center, group home for the handicapped, and

educational, philanthropic or religious institution on a site of less than 5 acres  
Rooming or boarding house  
Water tower, mechanical treatment plant or sewage lagoon where not approved  
under County Subdivision Regulations  
Mobile Home Park or Mobile Home Subdivision in accordance with existing mobile  
home park ordinance  
Mobile Home not meeting the provisions of Section 4A. (9) of this ordinance

(12) **R-MP Planned Moderate Density Residential District**

A Planned Residential Development approved in accordance with the provisions of  
Section 6.

(13) **Rec Recreation District**

Permitted Uses:

Agricultural activity  
Club and lodge with incidental facilities  
Golf and baseball driving range  
Fishing or fly-casting pond  
Marina  
Golf course, including miniature golf course  
Pitch and putt course  
Skating rink  
Guest ranch and incidental facilities, including stable, corral, swimming pool  
provided they are located on a site of at least 5 acres  
Swimming pool, swim park  
Tennis court  
Reception Facility  
Other similar recreation uses

Conditional Uses:

Animal training with incidental facilities  
Shooting preserve  
Skeet, trap shooting, pistol and rifle range  
Incidental retail sales and services accessory to the main use  
Restaurant, cafeteria, and bars when incidental to the recreational uses on the  
premises  
Drag strip or race track  
Travel trailer park

(14) **REC-P Planned Recreation District**

A Planned Recreational Development approved in accordance with the provisions of Section 6.

(15) **C-O Commercial Office District**

Permitted Uses:

Agricultural activity  
Place of Worship  
Bank or financial institution, drive-in or otherwise  
Office or office building  
Medical, dental and psychiatric offices and out-patient clinics provided that retail sales shall be limited to those items which are professionally adjusted or fitted on the promises

Automobile parking lot, except no disabled, wrecked or junked motor vehicles shall be permitted

Public buildings erected by any public agency except no maintenance or storage buildings

Conditional Uses:

Mortuary  
Private School  
Retail Sales and the manufacture of articles to be sold at retail only, on the premises, when such activities are accessory uses to medical and dental offices and clinics provided that the total mechanical power used in manufacturing shall not exceed five (5) horsepower for any one shop and the space devoted to sales or manufacturing shall not exceed thirty (30) percent of the total floor area, and further provided that such manufacturing use shall not be noxious or offensive

Residential uses when located on the second floor or above

(16) **C-N Neighborhood Commercial District**

Permitted Uses:

Agricultural activity

Any permitted use of the C-O District

Dressmaking, tailoring, shoe repair, repair of household appliances and bicycles, catering, and bakery with sale of bakery products on the premises and other uses of a similar character

Mortuary

Personal service uses, excluding massage parlors, but including barber shop, beauty parlor, photographic or art studio, laundry or dry cleaning receiving station and other uses of a similar character

Photographic or blueprint service shops

Private school

Frozen food locker for individual or family use

Private club or lodge

Retail store provided that in connection with which there shall be no slaughter of animals or poultry, nor commercial fish cleaning and processing on the premises.

Theatre, not including drive-in theatre

Restaurants and cafeterias, not including drive-in or walk-in carry-out establishments

Self-service laundry or cleaning establishment

Shops for custom work, or the manufacture of articles to be sold at retail only, on the premises, provided that in such manufacture the total mechanical power shall not exceed five (5) horsepower for the operation of any one shop, and provided the space occupied by the manufacturing use permitted herein shall not exceed fifty (50) percent of the total floor area of the entire building and further provided that such manufacturing use is not noxious or offensive

Veterinary office or clinic where small animals are treated, cared for or kept within a soundproofed, air conditioned building provided there shall be no odor that shall be perceptible at the boundary of the premises and further provided the noise outside the building shall not exceed that of normal daily traffic measured at the lot line

Bed and Breakfast

#### Conditional Uses:

Automobile service station

General service and repair establishments, including dyeing or cleaning works or laundry, plumbing and heating, printing, painting, upholstering or appliance repair

Bar or tavern

Water tower, mechanical treatment plant or sewage lagoon where not approved under County Subdivision Regulations

Residential uses when located on the second floor or above

(17) **C-G General Commercial District**

Permitted Uses:

Agricultural activity  
Any permitted use of the C-N District  
Amusement centers and video arcades  
Automobile service station  
Automobile repair shop  
Bar or tavern  
Billboards and signs in compliance with Section 25  
Bowling alley or billiard parlor  
Display and salesroom  
Farm implements, sale and repair  
Farm store or feed store  
Frozen food locker  
Hotel or Motel  
Laboratory, research, experimental or testing, but not testing combustion engines or explosives  
Radio or television broadcasting station or studio  
Reception Facility  
Rental agency  
Seasonal temporary fireworks stand  
Kennel where animals are kept within a soundproofed, air conditioned building provided there shall be no odor that shall be perceptible at the boundary of the premises and further provided the noise outside the building shall not exceed that of normal daily traffic measured at the lot line  
New or used cars, mobile homes, travel trailer, or boat sales or storage lot  
Dyeing, cleaning, laundry, printing, painting, plumbing, tinsmithing, tire sales and services, upholstery and other general service or repair establishment of similar character. Not more than 10 percent of the lot or tract occupied by such establishment shall be used for the open and unenclosed storage of materials or equipment

Conditional Uses:

Transmission facility  
Drive-in or walk-in, carry-out establishment, including restaurant and theatre  
Lumberyard and building materials  
Farm feed store with bulk feed and/or bulk fertilizer storage and mixing facilities  
Bottling works

Collection point for recyclable material  
Wholesale establishment or warehouse (including self-storage mini-warehouse) in a completely enclosed building  
Truck stop and associated uses  
Railroad spur tracks and truck terminal  
Water tower, mechanical treatment plant or sewage lagoon where not approved under County Subdivision Regulations  
Travel trailer park  
Residential uses when on the second floor or above  
Portable concrete plant used for a specific construction project  
Permanent fireworks stand or store

(18) **C-GP Planned Commercial District**

A Planned Commercial Development approved in accordance with the provisions of Section 6

(19) **M-L Light Industrial District**

Permitted Uses:

Agricultural activity

Any permitted use and any conditional use of the C-G General Commercial District except that no residential uses shall be permitted other than dwellings for resident watchmen and caretakers employed on the premises.

Generally those light manufacturing uses similar to those listed below which do not create any more danger to health and safety in surrounding areas and which do not create any more offensive noise, vibration, smoke, dust, lint, odor, heat, or glare, than that which is generally associated with light industries of the types specifically permitted below:

1. Manufacture or assembly of medical and dental equipment, drafting, optical, and musical instruments, watches, clocks, toys, games, and electrical or electronic apparatus.
2. Preparation, processing or bottling of food or beverage products; such as, bakery products, candy manufacture, dairy products and ice cream, fruit and vegetable processing and canning and processing of fish, meat and poultry products, but not the slaughtering of poultry or animals
3. Manufacture of textile products; such as, rugs, mattresses, pillows, quilts,

millinery, hosiery, clothing and fabrics, printing and finishing of textiles and fibers into fabric goods

4. Manufacture or assembly of wood products; such as, boxes, furniture, cabinets, baskets, and other wood products of similar nature
5. Compounding of cosmetics, toiletries, drugs, and pharmaceutical products.

Photographic processing or blueprinting

Printing and publishing

Recycling center for metal containers having a capacity of less than five gallons and for glass, paper, plastic and aluminum

Wholesale merchandising or storage warehouses and fenced outdoor storage areas (including self-storage mini-warehouses)

Contractor's buildings and storage yards

Forges and blacksmithing

Bus barns or lots

Hatcheries

Monument or marble works

Moving, transfer or storage plants

Veterinary office or clinic, animal hospital, kennels

Conditional Uses:

Manufacture or assembly of metal or fiberglass products; such as, boats, vehicles, farm equipment, auto or machine parts, satellite receivers, nails, bolts, nuts, screws and rivets, ornamental iron products, firearms, electrical appliances, tools, dies, machinery and hardware products, sheet-metal products, and vitreous enameled products.

Massage Parlor

Sexually Oriented Business

(20) **M-LP Planned Industrial District**

A Planned Industrial Development approved in accordance with the provisions of Section 6.

(21) **M-G General Industrial District**

Permitted Uses:

Agricultural activity  
Any permitted use and any conditional use of the M-L Light Industrial District  
Asphalt plant  
Cement or Concrete Plant  
Poultry killing and dressing for commercial purposes  
Stockyard or slaughter of animals

Conditional Uses:

Acid Manufacture  
Distillation of bones  
Explosive manufacture or storage  
Fat rendering  
Fertilizer manufacture  
Storage of disabled, wrecked, or junked motor vehicles and associated salvage uses  
Sanitary landfill  
Glue manufacture or tankage  
Junk yard or salvage yard  
Wholesale storage of gasoline  
Any industrial use which the Commission determines is of a character similar to those listed above.

(22) **M-GP Planned General Industrial District**

A Planned Industrial Development approved in accordance with the provisions of Section 6.

**SECTION 6. PLANNED DEVELOPMENTS; RESIDENTIAL, RECREATIONAL, COMMERCIAL, AND INDUSTRIAL.**

6.1 The general regulations contained in Sections 6.1 through 6.5 apply to all Planned Residential Developments, Planned Recreation Developments, Planned Commercial Developments, and Planned Industrial Developments.

6.1.1 Purposes. The purposes of Planned Developments are to encourage unified developments, to minimize adverse impacts on the surrounding area and to allow greater flexibility in the design of buildings and building complexes than would otherwise be possible through the strict application of district regulations.

6.1.2 Allowed Uses. The Allowed Uses in a Planned Development are determined as follows:

6.1.2.1 An applicant may request any number of permitted or conditional uses, or combination thereof, from the underlying parent zoning district. Or, when a rezoning is requested along with a planned development, an applicant may request any number of permitted or conditional uses, or combination thereof, of a requested parent zoning district contingent upon approval of the rezoning request.

6.1.3 Change of Allowed Uses. Any change in allowed uses, on a previously approved review plan or final plan shall require submittal of a new review plan and processing in accordance with this Section; such new review plan shall be known as Revised Review Plan and shall be treated as a rezoning request. Such new final plan shall be known as a Revised Final Plan. Revised review plans shall conform to and are subject to all standards and procedures of these regulations with respect to review plans. Revised final plans shall conform to and are subject to all standards and procedures of these regulations with respect to final plans.

6.1.4 Required Plans. Both an approved Preliminary Development Plan, hereinafter referred to as the "Review Plan" and a Final Development Plan, hereinafter referred to as the "Final Plan" are required for all Planned Developments.

6.1.5 Compliance with Subdivision Regulations. In the event the proposed development plan involves the subdivision of land the owner shall follow all applicable procedures, standards and requirements of the Subdivision Regulations of Boone County. In such cases the preliminary plat may be submitted concurrently with the review plan; the final plat may be submitted concurrently with the final plan.

6.1.5.1 When a review plan and a preliminary plat are submitted concurrently, they may be combined on one document provided all necessary information is clearly shown.

6.1.5.2 If the review plan and preliminary plat are not combined on the same document, they must be drawn to the same scale.

6.1.5.3 The Director may require submittal of "detail plans" of all or portions of a proposed review plan if such plans will facilitate review of the proposal.

## 6.2 Approval Procedures and Standards of Review

6.2.1 Concept Review: Prior to preparing the Review Plan and initiating the approval procedures the property owner or his agent, hereinafter referred to as the "proponent", is required to prepare a graphic proposal, meeting the requirements of Section 6.3, pertaining

to the proposed planned development and consult with the Director or his designee in a manner consistent with procedures established by this section. The purpose of this consultation is to discuss procedural, technical or other requirements necessary to gain approval and to obtain information and advice which could expedite matters, save the owner unnecessary expense and coordinate the plans of the proponent with those of Boone County.

6.2.2 Submission of Review Plan and Rezoning Request. The proponent of a Planned Development shall submit one original, in permanent ink on vellum or double matte polyester film, and 17 paper copies of the Review Plan to the Director.

6.2.3 Rezoning Application Required. The proponent shall submit a request for rezoning along with a request for approval of a Planned Development Review Plan if the proponent's tract is not already in the appropriate Planned District. For example, if a property is currently zoned R-S and a planned development is proposed for the property a rezoning to R-SP is required.

6.2.4 Conditional Use Permit Not To Be Combined With Rezoning Request. Any allowed use that is listed as a conditional use in the underlying or proposed zoning district requires a conditional use permit in the planned development. The hearings for the planned development and the conditional use shall not be held concurrently. If a specific proposal for the conditional use is made in conjunction with the review plan application the conditional use application shall not be submitted until after the Commission makes a recommendation upon the review plan application

6.2.5 Staff shall conduct a review of the proposed Review Plan and prepare a report and recommendation for the Commission. The report shall contain the following: (1) A statement indicating whether the information provided is sufficient for a recommendation to be made. (2) An analysis as to whether the information provided on the plan meets the approval criteria and standards contained in these regulations. (3) A recommendation for approval, disapproval or tabling, which may include a list of proposed conditions of approval to allow approval in compliance with these regulations.

6.2.6 Commission Action on the Review Plan. The Commission shall advertise and hold a public hearing on the Review Plan and on any accompanying request for rezoning. The public hearing shall be advertised in accordance with the provisions of Section 15.F of these regulations. The Commission, after the hearing, shall recommend to the County Commission the approval or rejection of the Review Plan, with or without modifications or conditions, and the approval or rejection of any accompanying rezoning request. The Commission's recommendation shall include a list of allowed uses that may include some or all of the uses proposed by the proponent. Uses not specifically proposed by the proponent upon the initial Review Plan may not be added or approved. Uses not listed in the Commission recommendation are not allowed and must be removed from the Review Plan. The Commission may table action on the request, until the next

regularly scheduled business meeting, should it feel that there is insufficient information upon which to base a recommendation.

6.2.7 Any development or property that has been approved as a planned residential development prior to the effective date of these regulations is considered to have been rezoned to a planned district of the corresponding parent zoning district and shall be treated as such for purposes of these regulations.

6.2.8 Any planned development approved prior to the effective date of these regulations is limited to the specific uses approved for the development. Other uses listed in the parent zoning district are not allowed without approval of a revised review plan and revised final plan that complies with these regulations which adds such uses.

6.2.9 General Standards for Approval of a Review Plan. The Commission shall review the proposed development for conformity with the county Master Plan, Major Thoroughfare Plan, subdivision and zoning regulations, the point rating system and other land planning principles. Before recommending approval of a Review Plan the Commission shall determine that:

6.2.9.1 Adequate utilities, access roads and/or other necessary facilities will be provided.

6.2.9.2 Adequate measures will be taken to provide ingress and egress designed to minimize traffic congestion on the public streets.

6.2.9.3 The proposed development is located in an area where infrastructure and services can be provided in a cost-effective manner.

6.2.10 Specific Standards for Approval of a Review Plan. The Commission and/or the County Commission may reject a Plan or may approve a Plan subject to conditions, which may include, but not necessarily be limited to the following:

- Conditions regarding proposed land use
- Deletion of proposed allowed uses
- Layout of the development
- Vehicular and pedestrian circulation
- Adequacy of and impacts to utility systems
- Adequacy of and impacts to public roadways
- Adequacy of and impacts to stormwater drainage systems and drainage ways
- buffer zones
- landscaping
- setbacks
- off-street parking
- lighting

- other factors deemed as being essential to the sound development of the area and for the protection of adjacent areas.

6.2.11 Alteration of a Review Plan, Not Allowed. Once the Commission has made a recommendation, the proponent may not propose alterations to the proposal and Review Plan without further Commission review. This shall not preclude the County Commission from requiring modifications to the Review Plan as specified in Section 6.2.12.

6.2.12 County Commission Action on the Review Plan.

6.2.12.1 After receipt of the Commission's recommendations and after public hearing the County Commission shall approve or reject the Commission's recommendation on the Review Plan with or without modifications or conditions. The County Commission may continue the hearing to a future date after specifying the date to which the hearing is continued.

6.2.12.2 If the County Commission finds that additional information is required in order to make a decision, it shall remand the application to the Commission for further investigation and information gathering. In such cases, the Commission shall conduct additional public hearings, as necessary, after providing public notice consistent with Section 15.F. Following the public hearing(s) the Commission shall forward a recommendation, consistent with Section 6.2.6 to the County Commission.

6.2.12.3 Any accompanying requests for rezoning shall be heard at the Review Plan hearing. If the Review Plan is approved, the Official Zoning Map shall not be amended to the requested zoning district until such date that the required Final Plan is approved.

6.2.12.4 Expiration of the Review Plan. Any review plan or any portion thereof for which a final plan has not been approved shall expire and become null and void after a period of 24 months from the date the County Commission approved said review plan. The County Commission may approve a longer period of time upon a showing of good cause by the developer/proponent.

6.2.13 Commission Action on the Final Plan. Following Review Plan approval the proponent shall submit one permanent reproducible original, in permanent ink on double matte polyester film, and 17 paper copies of the Final Plan to the Commission; the applicant is strongly encouraged to submit a digital copy of the plan. At the discretion of the Commission Chairperson, in cases where the County Commission has endorsed the recommendation of the Commission without change or additional modification or conditions, the Commission's Chairperson and Secretary may approve a final Plan without full Commission review; provided the Plan meets all Final Plan requirements. After approval the permanent reproducible copy of the Final Plan shall be signed by the Commission's Chairperson and Secretary and be

permanently filed by the Director of Planning. After a County Commission Order is generated for the endorsement of the Final Plan, the Final Plan shall be recorded in the office of the Boone County Recorder of Deeds. The recording fee is to be paid by the proponent.

6.2.14 Standards for Approval of the Final Development Plan. The Commission shall approve the Final Plan when it is satisfied of the following:

- All required information is accurately portrayed on the Plan.
- The Final Plan conforms to the approved Review Plan.
- The Final Plan demonstrates compliance with all conditions, which the County Commission may have imposed on the Review Plan.

6.2.15 County Commission Order. Following approval of the final plan by the Commission, the plan shall be presented to the County Commission who shall summarily endorse the plan by Order of the Commission.

6.2.16 Issuance of Building Permits. No Building Permit or Certificate of Occupancy shall be issued for any building or use that is not in accordance with the approved Final Plan.

6.2.17 At the discretion of the Director, any change of use of a building or premises, within an approved planned development, as shown on the final plan, shall require submittal of a revised review plan and revised final plan.

6.2.18 In an approved Planned Development, any change of use not in conformance with the approved review and final plan is not allowed and shall require a revised review plan and revised final plan.

6.3 General Standards for Concept Review. Concept reviews are normally scheduled for the second and third Monday of each month. The required information must be submitted at least one week prior to the Monday on which the concept review meeting is to be held.

6.3.1 Any request for a concept review shall include the following written information on one or more 8 ½" x 11" sheets of paper:

- The assessor's parcel numbers of all tracts included in the planned development
- The owner's name, address, phone number and fax number (if available)
- The primary contact person's name, address, phone number and fax number
- A brief written description of the proposal

6.3.2 Any request for a concept review shall include a graphic depiction of the proposal on one or more 8 ½” x 11” sheets of paper which includes the following information drawn to an approximate scale:

- Approximate scale
- Graphic scale on all diagram sheets
- North point
- Parcel boundaries
- Section, township and range in which the property is located
- Adjacent streets
- General layout of proposed streets and/or circulation patterns
- General location of proposed utilities
- General lot layout
- A list of proposed Allowed Uses

6.4. Review Plan - Scope and Content. The Review Plan shall encompass the entire tract, acreage and all adjacent parcels held in one ownership at the time of submission. All of the information listed below must be submitted at the time of application. Failure to provide all of the information, by the submittal deadline, will result in rejection of the application. The review plan submission shall include the following:

6.4.1 A written description of the proposal including a list of requested Allowed Uses.

6.4.2 An erosion sedimentation control plan

6.4.3 A landscape and buffering plan

6.4.4 A stormwater control plan

6.4.5 A Phasing Plan if the development is proposed to be developed in phases

6.4.6 A Site Plan titled “Review Plan” that shall clearly and legibly show, at a scale of not less than one inch equals one hundred feet (1" = 100'), the following:

- A site location map showing the proposed planned development, all adjacent land owned by the proponent and its relationship to the surrounding area.
- A legal description of the property included in the review plan.
- The name of the proposed development, scale, north point, acreage and boundaries of the property to be developed.
- The name of the owners of the property and the individual or firm responsible for the preparation of the Review Plan.
- Existing zoning districts in the tract and within 200 feet of the property.
- Proposed lot lines.

- The location, use and approximate size of existing structures on the tract and within 200 feet of the property.
- Allowable and proposed unit densities or floor area as appropriate and corresponding parking ratios and the total number of required and proposed parking spaces.
- Graphic description of the location of natural features such as wooded areas, ponds, lakes, streams, wetlands, the 100-year floodplain, slopes greater than 25% and areas of Karst topography.
- A note indicating whether any portion of the property is within the 100-year floodplain and containing a reference to the appropriate FIRM Community and Panel Number.
- The relationship of streets, drives and alleys in the Planned Development to adjacent streets, drives and alleys.
- Label and show the proposed location, size, and arrangements of structures including signs, parking areas, existing and proposed public streets and private drives, easements, utility lines, landscaping and other features of the proposed plan that are necessary to show in order to meet the requirements of Section 6.2.9 and 6.2.10.
- A block for the signature of the Chairperson of the Commission.
- A block for the signature of the Presiding Commissioner.
- The signature and seal of an architect, engineer or land surveyor duly registered to practice in the State of Missouri.

6.4.7 The Director may require the submittal of additional reports, plans and/or other information, as necessary, in order to document compliance of the proposal with Sections 6.2.9 and 6.2.10.

## 6.5 General Standards for Final Plan

6.5.1 Final Plan – Scope and Content. The Final Plan shall contain all of the information required on the Review Plan and shall show any changes, modifications or conditions that have been required by the Commission or County Commission.

6.5.2 Phasing of the Final Plan does not have to include the entire area included in the approved Review Plan.

6.5.3 The Final Plan shall be prepared by and have the seal and signature of an architect, engineer or land surveyor duly registered to practice in the State of Missouri.

6.5.4 The Final Plan shall be drawn clearly, legibly and graphically in ink on 24” by 36” sheets of double matte polyester film without adhesive stick-ons. When necessary the

Final Plan may be on several sheets, accompanied by an index showing the entire planned development.

## 6.6 Planned Residential Developments.

Planned Residential Developments must comply with all provisions of Sections 6.1 through 6.5 and the following additional provisions:

6.6.1 Where Permitted. Planned Residential Developments are permitted in the A-1P, A-2P, A-RP, R-SP, R-DP, and R-MP Districts.

6.6.2 In the A-1P, and A-2P Districts permitted uses shall be restricted to single-family detached dwellings, and the accessory buildings and uses permitted in the A-1, and A-2 districts. Single-family attached dwellings may be permitted upon demonstration of architectural compatibility with the character of the surrounding area.

6.6.3 Housing Types. In the A-RP, R-SP, R-DP and R-MP Districts, housing may consist of single, two-family or multiple-family dwellings, or any combination thereof.

6.6.4 Yard, Setback, Height and Lot Size Requirements. The minimum yard, setback, minimum lot size and maximum height requirements of the district in which the development is located may be varied upon approval by the Commission except that minimum setbacks equal to a front yard setback for the corresponding non-planned parent zoning district shall be provided around the boundaries of the planned development.

6.6.5 Density. The number of dwelling units permitted shall be determined by dividing the net development area within the proposed PRD by the net development area per residence required by the corresponding non-planned parent zoning district in which the area is located as indicated in the following table:

<b>Parent Zoning District</b>	<b>Net Development Area Per Residence</b>
A-1Agriculture	10-acres
A-2Agriculture	2.5-acres
A-R Agriculture Residential	½ - acres (21,780 square feet)
R-S Residential Single Family	7,000 square feet
R-D Two-Family Residential	5,000 square feet
R-M Moderate Density Residential	2,500 square feet

Net development area shall be determined by subtracting the area set aside for churches, schools, and other non-residential uses from the gross development area. The area set aside for permanent common open space shall be included in determining the number of dwelling units permitted.

Land covered by water may be included in the open space, for purposes of calculating density, according to the following table (the figures are representative of the maximum percentage of total open space that may be covered by water and still be used for density calculations):

Planned Agriculture, A-1P	60%
Planned Agriculture, A-2P	20%
Planned Agriculture Residential, A-RP	15%
Planned Single Family Residential, R-SP	5%
Planned Two Family Residential, R-DP	5%
Planned Moderate Density Residential, R-MP	5%

6.6.6 More than one dwelling unit may be proposed on individual lots.

6.7 Planned Recreation District. Planned recreation developments must comply with all provisions of sections 6.1 through 6.5 and the following additional provisions:

6.7.1 In general, the height and bulk of buildings, the amount of open space, the parking and loading requirements shall be equal to those in the REC district. The Commission may vary yard, setback, and parking requirements of the REC district except that a 25 foot minimum setback shall be provided around the boundaries of the planned development. The minimum distance between structures shall be as provided in the Building Code as adopted by Boone County.

6.8 Planned Commercial Developments. Planned Commercial Developments must comply with all provisions of Sections 6.1 through 6.5 and the following additional provisions:

6.8.1 In general, the height and bulk of buildings, the amount of open space, the parking and loading requirements shall be equal to those in the Commercial District. The Commission may vary the minimum yard, setback, and parking requirements of the Commercial District except that a minimum 20 foot setback shall be provided around the boundaries of the planned development. Minimum distance between structures shall be as provided in the Building Code as adopted by Boone County.

6.9 Planned Industrial Developments. Planned Industrial Developments must comply with all provisions of Sections 6.1 through 6.5 and the following additional provision:

6.9.1 In general, the height and bulk of buildings, the amount of open space, the parking and loading requirements shall be equal to those in the Industrial District. The Commission may vary the minimum yard, setback, and parking requirements of Industrial District except that a minimum 25 foot setback shall be provided around the boundaries of

the planned development. Minimum distance between structures shall be as provided in the Building Code as adopted by Boone County.

#### 6.10 Conflicting Requirements.

Procedures, standards and requirements contained in this Section shall prevail over conflicting requirements of Sections 5, 9A & 9B, 10, 11, and 14 of this Zoning Ordinance.

### **SECTION 7. ACCESSORY BUILDINGS AND USES FOR NON-AGRICULTURAL USES**

A. Accessory buildings and uses for non-agricultural uses are permitted when in accordance with the following:

- (1) In the A-1 and A-2 Agricultural Districts accessory buildings and uses are limited to:

A private residential garage

Tennis court, swimming pool, non-commercial greenhouse, garden house, barbecue oven, fireplace and similar uses customarily accessory to residential uses.

Satellite dish antenna

Collectors for solar and other alternate energy sources

Roadside stands for the sale of agricultural products produced on the premises.

- (2) In the A-R, R-S, R-D and R-M Districts accessory buildings and uses are limited to:

Those accessory buildings and uses permitted in the A-1 and A-2 Agricultural Districts except roadside stands shall not be permitted.

- (3) A single accessory dwelling is allowed on legally created individual parcels that are 20-acres or larger in size up to a maximum of two total dwelling units on said individual 20-acre or larger parcels.

- (4) In Commercial Districts there may also be:

Accessory dwelling unit on floors above or attached to commercial uses for occupancy by the owner or employee.

Incidental storage provided such storage does not exceed 40-percent of the floor area of a building in the C-N and C-G districts.

A manufactured home may be used as an office in the commercial or industrial districts provided that all existing building code and zoning regulations are complied with and the unit is placed on a foundation, or is tied down and under-skirted.

- (5) There shall be the following additional regulations for accessory buildings located on legally created parcels less than 5-acres in area:

No accessory building shall be constructed upon a lot until the construction of the main building has actually commenced, and no accessory building shall be used unless the main building on the lot is also being used. However, nothing shall prevent the use of a temporary construction shed or road wagon for the storage of tools, material and equipment by a contractor during building construction, with said shed or wagon being removed from the property within 10 days following the completion of the construction.

Legally created parcels that are 5-acres in area or larger may have a single accessory personal storage structure, without a primary structure on the parcel, provided the structure is not used for any type of commercial use including home occupation.

No accessory building may be erected in front of a main building unless the accessory building is attached to the main building by a common wall.

Accessory buildings may not be used for dwelling purposes except as provided in (3) and (4) above.

## **SECTION 8. NONCONFORMING USES**

8.1 Nonconforming Use of Land and Buildings. Except as otherwise provided herein, the lawful use of open land or of a building existing at the effective date of this ordinance may be continued

although such use does not conform to the provisions of the zoning district or regulations. The nonconforming use of land shall not be extended or enlarged, either on the same or adjoining property.

8.1.1 Change of Use. A nonconforming use of land or a building may, if no structural alterations are made, be changed to another nonconforming use of the same or of a more restricted/less intensive classification by Conditional Use Permit. Whenever a nonconforming use has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted/more intensive use.

8.1.1.2 The most restrictive/least intensive district and category in which the current non-conforming use is listed, either as a permitted or conditional use, establishes the category of uses to which the current non-conforming use may be changed by Conditional Use Permit.

8.1.2 The nonconforming use of an existing building may be hereafter extended throughout those parts of that building, which were lawfully and manifestly arranged or designed for such use on or before December 27, 1973.

## 8.2 Discontinuance of Nonconforming Use

8.2.1 Vacancy. Any lot or structure or any portion thereof, occupied by a nonconforming use, which is or hereafter becomes vacant and remains unoccupied by a nonconforming use for a period of one year shall not thereafter be occupied, except by a use which conforms to the zoning district in which the lot or structure is located.

8.2.2 Destruction. No building, which has been damaged by any cause to the extent equal to more than seventy-five (75) percent of the actual value of the building immediately prior to the damage, shall be restored except in conformity with the regulations of this ordinance. In such cases all rights as a nonconforming use are terminated.

8.3 Repair, enlargement and/or modifications shall not be allowed on any land or structure containing a nonconforming use except in accordance with this section. If any nonconforming structure or use is, by any cause, damaged to the extent of less than 75 percent of the actual value of the building immediately prior to the damage, it may be repaired to its original foot print and floor area. All rights as a nonconforming use are continued provided the repairs are completed within 12 months of the date of such damage. If the repairs are not completed within 12 months of the date of such damage, all rights as a nonconforming use are terminated.

8.4 Nonconforming Lots of Record. Where a lot of record has less area than required for the district in which it is located, said lot may be used for any use permitted in the district in which it is located provided that all minimum setback or yard requirements are met.

8.5 Conditional Uses Not Nonconforming. Existing uses eligible for conditional use permits shall not be considered to be nonconforming uses but shall require a conditional use permit for any alteration, enlargement, continuation, or extension.

8.6 Certificate of Occupancy for a Nonconforming Use. Nonconforming uses existing at the effective date of this ordinance shall apply for a Certificate of Occupancy no later than January 1, 2006. The existence of a nonconforming use shall be a question of fact and shall be decided by the Board of Adjustment after public notice and hearing and in accordance with the rules of the Board. Failure to apply for a Certificate of Occupancy for Nonconforming Use by January 1, 2006 shall result in the loss of all nonconforming rights. In obtaining a Certificate of Occupancy for Nonconforming Use, the burden of proof is upon the applicant. The applicant must provide competent evidence of the continuous existence of the nonconforming use since December 27, 1973 and all changes of use since December 27, 1973.

8.6.1 Certificate of Occupancy for Nonconforming Signs. The owner of a nonconforming sign shall obtain a Certificate of Occupancy for a Nonconforming Sign. If the application for the certificate of occupancy is made prior to January 1, 2006 the Director may issue the certificate of occupancy. If the application for certificate of occupancy is made after January 1, 2006, the existence of the sign as a nonconforming use shall be a question of fact and shall be decided by the Board of Adjustment after public notice and hearing and in accordance with the rules of the Board.

8.6.1.1 Applications to the Director for certificate of occupancy are subject to the following:

- The application for certificate of occupancy shall be submitted on form(s) provided by the Director. The applicant shall attach all documentation necessary to establish the existence of the nonconforming use. It is the responsibility of the applicant to obtain all such information. The applicant shall also submit a list containing the owner's name, address and parcel number for each property within 1000-feet of the property on which the sign is located.
- Notice of the application shall be sent to the owners of all property within 1000-feet of the property on which the sign is located. The applicant shall pay all notification costs.
- All evidence of the nonconforming sign must originate from public records such as building permit records, tax records and aerial photographs maintained by a

public agency. If the existence of a nonconforming sign cannot be established through the use of evidence from public records, the application shall be referred to the Board of Adjustment for decision.

- The certificate of occupancy shall specify the elements from Section 25 with which the sign does not comply.
- The decision of the Director may be appealed to the Board of Adjustment.
- The Director may defer any decision to the Board of Adjustment.

## **SECTION 9. HEIGHT REGULATIONS**

### **A. Maximum height limits established for non-farm buildings and structures are as follows:**

(1) Thirty-five feet in the A-1, A-1P, A-2, A-2P, A-R, A-RP, R-S, R-SP, R-D, R-DP, R-M, R-MP, REC and REC-P Districts.

(2) Forty-five feet in the C-O, C-N, C-G, C-GP, M-L, M-LP, M-G and M-GP Districts.

### **B. The above height limits may be exceeded in the following instances:**

(1) Buildings and structures, when permitted in the district, may be erected to a height not exceeding 100 feet if the building or structure is set back from each yard line at least one foot for each additional foot of height above the height limit otherwise permitted in the district in which the building or structure is located.

(2) Buildings and structures, when permitted in the district, may be erected to such height as may be authorized by a Conditional Use Permit obtained in accordance with the provisions of Section 15.A.

### **C. Airspace Height Limits for Public and Private Airports.**

Height restrictions for airspace needed for public and private airports shall be in accordance with the most current Federal Aviation Regulations. Additionally, the following height restrictions apply in relation to Columbia Regional Airport:

(1) Structures within one mile of Columbia Regional Airport, as measured from the nearest point of the airport property boundary, shall be limited in height to 50 feet above the airport elevation.

(2) Structures located more than one mile but less than two miles from Columbia Regional Airport, as measured from the nearest point of the airport property boundary, shall be limited to a height of 100 feet above the airport elevation.

(3) Structures located more than two miles but less than three miles from Columbia Regional Airport, as measured from the nearest point of the airport property boundary, shall be limited to a height of 150 feet above the airport elevation.

(4) Structures located more than three miles but less than four miles from Columbia Regional Airport, as measured from the nearest point of the airport property boundary, shall be limited to a height of 200 feet above the airport elevation.

(5) Structures located more than four miles but less than five miles from Columbia Regional Airport, as measured from the nearest point of the airport property boundary, shall be limited to a height of 250 feet above the airport elevation.

(6) Structures located more than five miles but less than six miles from Columbia Regional Airport, as measured from the nearest point of the airport property boundary, shall be limited to a height of 300 feet above the airport elevation.

(7) In applying these height restrictions, the heights of a structure may be increased within each of the above categories one additional foot for every 106 feet of additional distance beyond the closest point to the airport within that category.

## SECTION 10. YARD REQUIREMENTS

### A Minimum Yard Requirements

The following minimum yards for non-farm uses, measured in feet, shall be provided within the districts indicated below:

<u>DISTRICT</u>	<u>FRONT</u>	<u>REAR</u>	<u>SIDE MINIMUM</u>
A-1, A-2	50	50	15
A-R, R-S, R-D, R-M	25	25	6
REC	10	20	6
C-O, C-N, C-G, C-GP	10	20	6

M-L, M-G, M-LP	25	25	6
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B. Additional Requirements The following additional yard requirements must also be observed:

- (1) On lots fronting on two non-intersecting streets, front yard setbacks shall apply on both streets.
- (2) On corner lots front yard setbacks will apply on both streets. On corner lots that were lots of record on December 27, 1973, the buildable width cannot be reduced to less than 28 feet, except that there shall be a yard along the side street side of such a lot of at least five (5) feet.
- (3) In the Commercial and Industrial Districts there may be more than one building on a lot provided that the required yards are maintained around the group of buildings.
- (4) There may be two or more related multi-family, hotel, motel or institutional buildings on a lot; provided that (a) the required yards be maintained around the group of buildings and (b) buildings that are parallel or that are within 45 degrees of being parallel be separated by a horizontal distance that is at least equal to the height of the highest building.
- (5) Buildings containing attached, single-family dwelling units shall be permitted in the R-M District provided that the total length of any one such building shall not exceed 160 feet. Except for the end units, each dwelling building shall have a common wall with at least two other dwelling units. The building containing the attached dwellings shall meet all the yard requirements for the R-M District. Each attached single-family dwelling shall front onto a public street.
- (6) Those parts of buildings existing on December 27, 1973, that violate yard regulations may be repaired and remodeled, but not reconstructed or structurally altered unless permitted in accordance with paragraph (2) above.
- (7) Required front yards shall be devoted entirely to landscape area except for off street parking and the necessary paving of driveways and sidewalks to reach parking or loading areas in the side or rear yard.
- (8) Where an official line has been established for the future widening or opening of a street or major thoroughfare upon which a lot abuts, then the depth of front or side yard shall be measured from such official line to the nearest line of the building.

(9) The minimum width of side yards for schools, libraries, churches, community buildings and other public and semi-public buildings in residential districts shall be 25 feet, except where a side yard is adjacent to a commercial or industrial district, in which case the width of that yard shall be as required in the district in which the building is located.

(10) No sign, fence, wall, shrub or other obstruction to vision exceeding two feet in height above the established street grade shall be erected, planted or maintained within the area of a corner lot that is included between the lines of the intersecting streets and a straight line connecting them at points 20 feet distant from the intersection of the street right-of-way lines.

(11) Yard requirements shall be measured as follows:

(a) Yard requirements for lots fronting on state roads shall be measured from the closest edge of the dedicated roadway right-of-way.

(b) In subdivisions or areas having a dedicated roadway right-of-way, yard requirements shall be measured from the closest edge of the right-of-way.

(c) On roads not having a dedicated roadway right-of-way, yard requirements shall be measured from a point at least 15 feet from the closest center of the road. Right-of-way for roads designated on the Thoroughfare Plan as having a higher classification shall have a right-of-way as set forth in the most current Boone County Subdivision Regulations.

C. Exceptions to Yard Requirements The following exceptions may be made to the yard requirements:

(1) Sills, belt courses, window air-conditioning units, chimneys, cornices, and ornamental features may project into a required yard a distance not to exceed 24 inches.

(2) Filling station pumps and pump islands may occupy required yards provided, however, that they are at least 15 feet from all lot lines.

(3) When located in side or rear yards above ground, commercial fuel tanks shall not be erected closer than 15 feet to a side or rear lot line. Above ground fuel tanks shall not be permitted in required front yards.

(4) Open fire escapes, fireproof outside stairways and balconies opening upon fire towers and the ordinary projections of chimneys and flues into a rear yard for a distance of not more than three and one half feet when so placed as to not obstruct light and ventilation, may be permitted by the Director of Planning.

(5) Terraces which do not extend above the level of ground (first) floor may project into a required side yard, provided these projections are at least two feet from the side lot line.

(6) Accessory buildings may be located in a side or rear yard but may not occupy more than 30 percent of the yard in which it is located.

(7) Any accessory building less than ten feet from a main building shall be considered as part of the main building and shall be provided with the side and rear yard required for the main building.

(8) Any accessory building more than ten feet from a main building may be erected not closer than two feet to a side or rear lot line, but must be located at least 60 feet from the front street line.

(9) In addition to the locations permitted by the above yard exceptions for accessory buildings, satellite dish antennae, and collectors for solar energy may also be located in a front yard but must be at least 25 feet from the front street line.

(10) On corner lots the minimum buildable width of 28 feet for main buildings is reduced to 22 feet for accessory buildings.

## SECTION 11. AREA REGULATIONS

A. Minimum Lot Areas The following minimum lot areas must be provided in the districts indicated:

### LOT AREA PER FAMILY IN SQ. FT.

<u>District</u>	<u>Sq. Feet</u>	<u>Single Family Dwelling</u>	<u>Two Family Dwelling</u>	<u>Multiple Dwelling</u>
A-1	10 acres*	10 acres*	N.A.	N.A.
A-2	2 1/2 acres*	2 1/2 acres*	N.A.	N.A.
A-R	1/2 acre*	1/2 acre*	N.A.	N.A.
R-S	7,000	7,000	5,000	N.A.
R-D	7,000	7,000	5,000	N.A.
R-M	7,000	7,000	5,000	2,500

\* or as specified in Section 3 and Section 5 (1/2 acre = 21,780 sq. ft.) There are no minimum area requirements in the Recreation, Commercial, and Industrial Districts.

B. Exceptions to Lot Area Requirements The minimum lot area requirements established above may be modified as follows:

(1) Where a lot of record, on December 27, 1973, had less area than herein required in the district in which it is located, said lot may nevertheless be used for a one-family dwelling or for any non-dwelling use permitted in the district in which it is located provided that all minimum yard requirements are met.

(2) Existing buildings that are in violation of lot area requirements may be remodeled or repaired, but may not be reconstructed or structurally altered unless made to conform to these requirements.

## **SECTION 12. SEWAGE DISPOSAL IN THE SINK HOLE AREAS**

Where public or community sewer systems are not available, suitable sewage disposal systems shall be designed and installed at the owner's expense, in accordance with plans prepared by a registered professional engineer. All sewage or wastewater system inspections shall be performed at the owner's expense by, or under the supervision of, a registered professional engineer. Following completion of the installation of the wastewater system, the engineer responsible for the design and inspection of the installation of the wastewater system shall provide the Director with a letter of certification stating that the wastewater system has been properly designed for a sinkhole area and installed according to the design. Special attention shall be given to the following localities designated as sink hole areas by the Missouri Department of Natural Resources;

Designated sinkhole areas are as follows:

Pierpont area:

- Section 7 Township 47 North Range 12 West: the South Half
- Section 8 Township 47 North Range 12 West: the South Half
- Section 17 Township 47 North Range 12 West: Northwest Quarter and the North Half of the Northeast Quarter.
- Section 18 Township 47 North Range 12 West: North half of the Northwest Quarter and the Northeast Quarter.
- Section 21 Township 47 North Range 12 West: the East half
- Section 28 Township 47 North Range 12 West: the West Half of the Southwest Quarter
- Section 29 Township 47 North Range 12 West: the Southeast Quarter, the South Half of the Northeast Quarter and the East Half of the Southwest Quarter.
- Section 12 Township 47 North Range 13 West: the East Half of the Southeast Quarter

Rocheport and Huntsdale Area;

- Section 7 Township 48 North Range 14 West: the Northeast Quarter and the Northwest Quarter.
- Section 8 Township 48 North Range 14 West: the Southwest Quarter and the Southeast Quarter.
- Section 9 Township 48 North Range 14 West: the South Half.
- Section 15 Township 48 North Range 14 West: the West Half.
- Section 16 Township 48 North Range 14 West: the entire section.
- Section 17 Township 48 North Range 14 West: the East Half and the East Half of the Northwest Quarter.
- Section 21 Township 48 North Range 14 West: the North Half.
- Section 22 Township 48 North Range 14 West: the Northwest Quarter.

Midway Area;

- Section 2 Township 48 North Range 14 West: the West Half of the Northeast Quarter and the East Half of the Northwest Quarter.
- Section 19 Township 49 North Range 13 West: the Southeast Quarter.
- Section 20 Township 49 North Range 13 West: the South Half.
- Section 29 Township 49 North Range 13 West: the North Half.
- Section 30 Township 49 North Range 13 West: the Northeast Quarter.
- Section 26 Township 49 North Range 14 West: the entire section.
- Section 35 Township 49 North Range 14 West: the East Half.

### **SECTION 13. THE KEEPING OF ANIMALS IN RESIDENTIALLY DEVELOPED AREAS**

The following restrictions shall apply to the keeping of animals in residentially developed areas where the size of lots is 3 acres or less:

- (1) The keeping, feeding and maintenance of domesticated animals and fowl is permitted for non-profit purposes only.
- (2) The slaughter of animals and fowl is permitted only where intended for consumption by the resident family.
- (3) Buildings for the housing of animals, other than household pets, shall not be kept within fifty (50) feet of a dwelling on adjoining property.

## **SECTION 14. OFF-STREET PARKING AND LOADING REGULATIONS**

A Off-Street Parking Requirements Off-street parking spaces shall be provided in all districts as follows:

- (1) Single-family and two-family dwellings- two spaces per dwelling unit.
- (2) Multiple dwellings- two spaces for each dwelling unit.
- (3) Rooming and boardinghouses, sororities, and fraternities- one parking space for each two occupants.
- (4) Private club or lodge- one parking space for each 100 square feet of floor area.
- (5) Place of worship- one parking space for each four seats in the main auditorium.
- (6) School- for high schools, colleges and universities, 10 spaces per classroom; for elementary schools, two parking spaces per classroom.
- (7) Hospital- two parking spaces for each bed.
- (8) Sanitarium or institutional home- one parking space for each three beds.
- (9) Funeral Homes- one parking space for each four seats in the main auditorium, plus one for each funeral home vehicle plus one for each family vehicle.
- (10) Auditoriums, theatres and other places of public assembly- one parking space for each five seats.
- (11) Community center, library, museum, or similar public or semi-public building- one parking space for each 300 square feet of floor area in the building.
- (12) Hotel or motel- five parking spaces plus one space for each sleeping room or suite.
- (13) Medical office building- buildings in which 20 percent or more of the gross area is occupied by members of the healing profession. One parking space for each 200 square feet of the gross area used for this purpose.

(14) Manufacturing or industrial establishment- one space for each 300 square feet of floor area, whichever is greater, plus space to accommodate all trucks and other vehicles used in connection therewith.

(15) Wholesale, warehouse, or similar establishment- one space for each 2,000 square feet of floor area.

(16) Recreational uses- ten parking spaces in addition to any parking spaces required by structures associated with the use.

(17) All nonresidential buildings, except those above specified- one space for each 300 square feet of floor area.

B. Rules for Computing Parking Spaces In computing the number of required off-street parking spaces the following rules shall apply:

(1) Floor area shall mean the gross floor area of the specific use, excluding any floor or portion thereof used for parking, as herein defined.

(2) Where fractional spaces result, the parking spaces required shall be the nearest whole number.

(3) In the case of mixed uses, the parking spaces required shall equal the sum of the requirements of various uses computed separately.

C. Location of Required Parking Spaces The parking spaces required for residential buildings or uses shall be located on the same lot with the building or use served. The parking spaces required for any other building or use may be located on an area within 300 feet of said building on a lot zoned for commercial or industrial uses, and two or more owners of buildings may join together in providing the required parking spaces. Where the required parking spaces are not located on the same lot with building or use served, the usage of the lot or tract upon which said parking spaces are provided shall be restricted by an instrument of record describing the premises for which said parking is provided and assuring the retention of such parking so long as required by this ordinance.

D. Minimum Improvement and Maintenance Standards Parking lots and garages shall conform to the following improvements and maintenance standards:

(1) Such lot shall have a dust free surface composed of a minimum level of improvement equivalent to a chip and seal surface.

(2) Adequate provision shall be made for the disposal of storm water.

(3) The location and width of entrances and exists to and from the lot or garage shall be in accordance with the standards adopted by the County Commission.

(4) The location of each parking space and the location and direction of movement along the driveways providing access thereto shall be indicated by painting upon the surface, by raised directional signs, or by markers or other similar measures placed in the surfacing.

(5) Whenever a parking lot is lit, all lights shall be shielded, so that a minimum of glare will extend to adjacent property, street, or road.

(6) Lots utilized as display lots for vehicles, boats, mobile homes, manufactured homes and farm equipment may provide a dust free parking surface that does not comply with Section (1) above.

(7) Lots utilized as Equine Boarding Facilities, Animal Training Facilities or Riding Schools shall not require a dust free surface unless specifically required by the terms of a Conditional Use Permit.

E. Off-Street Loading Requirements There shall be provided at the time any building is erected or structurally altered, off-street loading space in accordance with the following requirements:

(1) Office Buildings, Apartments, Apartment Hotels, Motels, and Hotels- one space for each 5,000 to 50,000 square feet of gross floor area; two spaces for each 50,000 to 200,000 square feet of gross floor area; one additional space for each 75,000 square feet of gross floor area above 200,000 square feet.

(2) Retail or Service Establishment or Wholesale Commercial Use- one space for each 2,000 to 20,000 square feet of gross floor area; two spaces for each 20,000 to 100,000 square feet of gross floor area; one additional space for each 75,000 square feet of gross floor area above 100,000 square feet.

(3) Manufacturing or Industrial Use- one space for each 10,000 square feet of floor area or fraction thereof in excess of 5,000 square feet.

(4) In all cases where the off-street loading space is located in a manner that a truck must back directly from a major street into a loading space, a maneuvering space of not less than 50 feet shall be provided on the lot on which the industrial use is located.

## SECTION 15. ADMINISTRATION

### A. Conditional Uses

(1) Applications for conditional use permits for uses specifically authorized for conditional consideration in the district use regulations shall be made to the County Commission. The County Commission shall refer the application to the Planning Commission for investigation and public hearing. Adjoining property owners within 1000 feet shall be notified by first class mail of the request and hearing date. Following a public hearing, the Planning Commission shall vote on a recommendation to either approve or deny the request. A record of the recommendation shall be forwarded to the County Commission and shall include the wording of the motion and the action taken. Upon receipt of a recommendation from the Planning Commission, the County Commission shall conduct a public hearing and either approve or deny the request or continue action for a period of not more than 45 days. Should the Planning Commission fail to forward a report of their action to the County Commission within 60 days of the date of referral to the Planning Commission, it shall be assumed that the Planning Commission has recommended approval of the request. No application for a conditional use permit will be accepted if it is the same or substantially the same as an application submitted within the previous 12 months and which was denied by the County Commission or withdrawn by the applicant.

(a) Requests for structures having height in excess of 200 feet shall require additional notification beyond the 1,000 feet as noted above. In such cases, each additional 50 feet in height shall require notification to be extended for an additional 500 feet, up to one mile in distance from the location of the structure.

(2) Criteria for Approval. It is the responsibility of the applicant to provide sufficient information/documentation to allow approval of the conditional use permit. Before authorizing the issuance of such a conditional use permit, the County Commission shall satisfy itself that:

(a) The establishment, maintenance or operation of a conditional use permit will not be detrimental to or endanger the public health, safety, comfort or general welfare.

(b) The conditional use permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted by these regulations.

(c) The conditional use permit will not substantially diminish or impair property values of existing properties in the neighborhood.

(d) All necessary facilities will be available, including, but not limited to,

utilities, roads, road access and drainage.

(e) The establishment of a conditional use permit will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the zoning district.

(f) The establishment of a conditional use permit will not hinder the flow of traffic or result in traffic congestion on the public streets. This will include the provision of points of access to the subject property.

(g) The conditional use permit shall in all other respects conform to the applicable regulations of the zoning district in which it is located. The County Commission shall find that there is a public necessity for the conditional use permit.

(3) Any approved conditional use permit must be utilized within one year of approval by the County Commission, unless a longer period of time is approved for initial utilization. Failure to exercise an approved permit within this period of time will automatically invalidate the permit. An invalidated permit can only be renewed by reapplication and approval as outlined above. If a use authorized by a conditional use permit ceases for twelve months, said permit shall become void.

(4) In the event that it appears to the Director that the holder of a conditional use permit is making use of the permit or premises in violation of the permit, or is permitting others to use the permit or premises in violation of the permit, the Director may file a written complaint with the County Commission, which for cause shown, shall have authority to revoke the permit. The Director will send a copy of the complaint to the holder of the permit, by first class mail to his last known address, at least 45 days prior to a scheduled public hearing to consider revocation of a permit. The Director shall prove by a preponderance of the evidence that violation(s) of one or more conditions of the permit has occurred and shall show cause as to why the permit should be revoked. If the County Commission finds that one or more conditions have been violated, upon hearing the evidence of the director and the permittee, it may revoke the permit. Failure of the permittee to appear at the County Commission hearing or to present evidence shall not constitute grounds to avoid revocation of the permit. The Director may, in his discretion, dismiss the complaint prior to hearing if he determines that the violation(s) alleged in the complaint has been corrected.

(5) Applications shall include the following minimum information:

(a) The name, address and telephone number of the property owner and the potential buyer or lessee of the property. Corporate applicants shall list the names, titles and addresses of the officers and the Board of Directors of the corporation. A copy of the corporate certificate of good standing with the state

of Missouri shall be attached.

(b) A legal description of the property included in the request. Proof of ownership by the applicant shall be attached to the application.

(c) The present zoning of the land included in the request.

(d) The present use of land included in the request.

(e) The size of the tract included in the request, broken down either by acreage or square feet.

(f) The zoning of land adjacent to the land included in the request.

(g) The proposed use of land if the permit is approved. This description should be as complete as possible.

(h) The classification of conditional use requested, the reason or justification for the request being submitted and a sketch of the tract of land showing existing structures and proposed structures.

(i) A site plan that shall clearly and legibly show, at a scale of not less than one inch equals one hundred feet (1"=100'), the following:

- Scale, north point, boundary and area of land included in the request
- The name of the owners of the property, name of the applicant and the name of the person and/or firm who prepared the site plan
- The location, use and approximate size of existing structures on the tract and within 200-feet of the boundary of the request
- The location, use, size and arrangement of structures, signs, parking and loading areas, existing and proposed public streets, existing and proposed private drives, all known easements, utility lines, landscaping and other features of the proposed conditional use that are necessary to show in order to document compliance with the approval criteria contained in Section 15.A.2
- Access points to the property from public streets, roads and highways
- The location and size of existing and proposed on-site wastewater systems. The type of wastewater system shall be listed and copies of any existing wastewater operating permits shall be attached

(j) The signature of the property owner or his authorized agent and the signature of any potential buyer or lessee or his authorized agent. In the absence of the signature of the owner, the applicant shall attach a written

power of attorney signed by the owner.

(k) The names and addresses of all property owners owning land within 1,000 feet of the property under consideration for a conditional use permit.

(l) The application shall include photographs of the property and existing structures as well as any proposed mobile homes or manufactured structures to be placed on the property.

(m) The application shall include the floor plan and front elevation view of any site built structure proposed to be constructed.

(n) Failure to provide any of the required material will result in the invalidation of the application.

(6) In cases where the Planning and Zoning Commission recommends denial of a request, the County Commission shall summarily endorse denial action of the Commission unless; (1) the applicant files in the Department office within 72 hours (three working days) following the Planning Commission hearing a notice of appeal to the County Commission stating grounds why the Planning Commission recommendation for denial is in error; and (2), the applicant appears before the County Commission in person or by representative with written authorization of the owner.

(7) In cases where the Planning and Zoning Commission recommends approval of an application, the County Commission will summarily deny the application if: (1) the applicant does not appear at the County Commission hearing in person or by representative, and (2) there is opposition to the application expressed in person at the County Commission hearing.

(8) It is the applicant's responsibility to demonstrate to the Planning and Zoning Commission and the County Commission by competent, substantial evidence that the requirements of the standards for granting a conditional use permit set forth in Section 15.A(2) are satisfied.

## **B. CONDITIONAL USE PERMITS FOR TRANSMISSION FACILITIES**

### **(1) PURPOSES AND GENERAL PERMIT REQUIREMENT**

(a) These regulations are intended to regulate the placement and construction of telecommunication transmission towers and transmission facilities in order to protect and promote the public health, safety and welfare, to protect the environment, to promote the efficient use of land and to preserve property values.

(b) No transmission facility or tower as defined herein shall be constructed, erected, maintained or operated except under conditional use permit issued in accordance with these regulations in areas zoned for such conditional uses.

(2) DEFINITIONS

As used in these regulations, unless the context clearly indicates otherwise, the following terms shall have the following meanings:

(a) Telecommunications Equipment - telecommunications antenna and accessory electronic equipment not including transmission towers, buildings or other equipment not directly related to the operation of antenna.

(b) Transmission Facility - Transmission tower, buildings, guy wires, guy anchors, land or site permitted under these regulations, fence and other equipment necessary for the transmission of telecommunication signals authorized by these regulations.

(c) Transmission Facility Operator - any person(s), partnership, corporation, association, organization or entity of any type or kind that owns or has a legal possessory interest in a transmission facility and the owner of land upon which a transmission facility exists and is permitted under these regulations if different than the owner of the transmission facility, but excluding any person(s), partnership, corporation, association, organization or entity of any type or kind who leases or otherwise is permitted to place one or more antennas on a transmission tower but have no ownership interest in the transmission tower upon which they are placed.

(d) Transmission Tower - a land based tower used as a base for those antennas specified in these regulations.

(3) APPLICABILITY

(a) These regulations apply to land based transmission facilities and the accessory facilities permitted under Section (4)(i) or the following uses in areas zoned A-1, A-2 and C-G provided they comply with Sections (4) and (6) of these regulations:

(a) 1. VHF and UHF television;

(a) 2. FM radio;

- (a) 3. Two-way radio;
- (a) 4. Common carriers;
- (a) 5. Cellular telephone; and
- (a) 6. Fixed-point microwave.
- (a) 7. Low-power television; and
- (a) 8. AM radio.

(b) An antenna and supporting structure for the following use is permitted in any district if accessory to a permitted use and if it complies with applicable regulations of the district in which it is situated:

- (b) 1. Amateur radio;
- (b) 2. Citizen band radio;
- (b) 3. A telecommunication device that only receives an RF signal, and;
- (b) 4. A sole-source emitter with more than one kilowatt average output.

(c) A source of nonionizing radiation can be attached to an approved tower or structure in any district if the planning director finds the source complies with Sections (4)(k) and (6).

#### (4) APPROVAL STANDARDS FOR A NEW TRANSMISSION FACILITY

(a) Applications for new transmission facilities shall be considered only when an existing or approved transmission facility cannot accommodate the telecommunications equipment planned for the proposed transmission facility.

(a) 1. Planned telecommunications equipment cannot be accommodated on an existing or approved transmission tower if:

(a) 1.1. Planned telecommunications equipment would exceed the structural capacity of an existing or approved transmission tower, and

the transmission tower cannot be reinforced to accommodate planned telecommunication equipment at a reasonable cost;

(a) 1.2. Planned telecommunications equipment will cause radio frequency interference with other existing or planned telecommunications equipment for that transmission tower and the interference cannot be prevented at a reasonable cost;

(a) 1.3. Existing or approved towers do not have space on which planned telecommunication equipment can be placed so it can function effectively and at least in parity with other similar telecommunication equipment in place or approved by the Boone County Commission;

(a) 1.4. Addition of planned equipment to an existing or approved transmission tower would result in NIER levels in excess of those permitted under Section (6); or

(a) 1.5. Other reasons that make it impracticable to place the telecommunications equipment planned by the applicant on an existing and approved transmission tower.

(a) 2 No application for a new transmission facility shall be considered unless the applicant is unable to lease or otherwise secure space on an existing or planned transmission tower.

(a) 2.1 Shared use of an existing or approved tower shall be conditioned upon the applicant's agreement to pay reasonable fees and costs associated with adapting existing facilities to the proposed use, including but not limited to reasonable costs for reinforcing or modifying a tower or structure, for preventing radio frequency interference and other changes reasonably required to accommodate shared use.

(a) 2.2. The fees and costs for shared use are unreasonable, among other reasons, if they exceed the cost of the proposed transmission tower.

(a) 2.3. The County Commission may consider expert testimony to determine whether the fees and costs are reasonable.

(a) 2.4. Once the County Commission finds that telecommunications equipment proposed by the applicant cannot be accommodated on an existing or approved tower, each tower so found is presumed unable to

accommodate similar equipment that may be proposed in the future, unless evidence is introduced to demonstrate otherwise.

(b) Applications for new transmission facility sites shall be considered only when an existing or approved transmission facility cannot accommodate the telecommunications equipment planned for the proposed new transmission facility.

(b) 1. A planned transmission facility cannot be accommodated on the site of an existing or approved transmission facility and still comply with the provisions of Section (4) (c).

(b) 2. Shared use of a site shall be conditioned on the applicant's agreement to pay reasonable fees and costs of adapting existing transmission facilities to the proposed use, including but not limited to the measures listed in Section (4) (a) 2.1.

(b)3. The County Commission may consider expert testimony to determine whether the fees and costs are reasonable.

(b) 4. Once the County Commission finds that the new transmission tower proposed by the applicant cannot be accommodated on the site of an existing or approved transmission facility, each site so found is presumed unable to accommodate similar transmission facilities that may be proposed in the future.

(c) Transmission facilities shall be set back from abutting property or roads sufficient to:

(c) 1. Substantially contain on-site ice-fall or debris from tower failure;

(c)2. Protect the general public from NIER in excess of that allowed in Section (6); and

(c) 3. Create open spaces for public safety purposes. A site is of sufficient size to comply with this requirement if:

(c) 3.1. Accessory structures and guy wire anchors shall comply with the setback standard in the underlying zoning district;

(c) 3.2. A tower base is set back from property lines or roads by a distance equal to the tower height.

(d) Transmission towers shall structurally accommodate the maximum number of foreseeable users technically practicable and shall be designed to comply with the following standards:

(d) 1. Television towers shall be designed to accommodate at least 2 high-power television antennas, 4 microwave antennas, 1 FM radio antenna, a two-way radio antenna for every 100 feet of tower height over 200 feet, and space for one public safety two-way radio antenna.

(d) 2. FM towers shall be designed to accommodate at least 2 FM antennas, 4 microwave antennas, a two-way radio antenna for every 100 feet of tower height over 200 feet, and space for one public safety two-way radio antenna.

(d) 3. Transmission towers that are not for television or FM antennas shall be designed to accommodate at least 2 microwave antennas, a two-way radio antenna for every 100 feet of tower height over 200 feet, and space for one public safety two-way radio antenna.

(d) 4. The County Commission may reduce the required shared capacity of a tower in the following circumstances:

(d) 4.1. If fewer or different antennas should be accommodated based on: the number of FCC licenses that are potentially available for the area; kind of tower site or structure proposed; the number of existing and potential licenses without tower space; and space available on existing and approved towers; or

(d) 4.2. If a tower necessary to provide for such sharing dominates and alters the visual character of the area adversely such that property values are diminished.

(d) 5. Antennas on a shared tower shall be arranged as follows, except as needed to prevent electromagnetic interference or to accommodate topographic or other physical or functional constraints:

(d) 5.1. Transmitting and receiving equipment serving similar kinds of uses shall be placed on a shared-use tower so one of the users in a group can operate roughly equal to other users in the group with similar equipment.

(d) 5.2. A TV tower shall have two side-mounted and one top-mounted

TV antenna or one top-mounted, one mounted below it, and one side-mounted. Triangular, T-shaped, or other platforms or candelabra may be used if required telecommunications equipment cannot be mounted as safely or economically without such structures.

(d) 5.3. Microwave antennas and FM and two-way radio antennas can be placed anywhere on a tower above surrounding obstacles subject to the restrictions contained in these regulations.

(d) 6. Transmission facility operators shall be required to:

(d) 6.1. Respond in a timely manner to any request from a potential user with information about the available capacity.

(d) 6.2. Respond in a timely, comprehensive manner to a request, required under Sections (5) (e) and (5) (f) for information from a potential shared-use applicant; tower owner may charge a party requesting information under Section (5) (e) or (5) (f) to pay a reasonable fee not in excess of the actual cost of preparing a response.

(d) 6.3. Negotiate in good faith for shared use of a transmission facility or tower by applicants and operators shall negotiate in the order in which requests for information are received, except an operator generally shall negotiate with a third party applicant who has received an FCC license or permit before doing so with other applicants.

(d) 6.4. Allow shared use of a transmission facility or tower if an applicant agrees in writing to pay charges specified in (4)(d)6.5.

(d) 6.5. Make no more than a reasonable charge for shared use, based on generally accepted accounting principles and pricing practices generally reflective of the central Missouri area. The charge may include but is not necessarily limited to a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance, financing, return on investment, and depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference or causing uses on the site to emit NIER in excess of levels permitted under Section (6).

(e) Transmission towers shall have the least practicable adverse effect on the environment and property values in the surrounding area. A transmission tower complies with this standard if it complies with the following:

- (e) 1. If the tower is 200 feet or less in height, more than 10,000 feet from an airport, and has a galvanized finish or is painted silver.
- (e) 2. If the tower is over 200 feet in height, it shall comply with FAA painting and lighting standards. Lighting is restricted to red beacon style lights, except where FAA requirements specify a different type of lighting.
- (e) 3. Towers shall not be artificially lighted unless required by the FAA.
- (e) 4. Towers shall be the minimum height necessary to comply with the provisions of these regulations.
- (e) 5. Towers shall be either mono-pole or guyed unless the County Commission approves other reasonable alternatives practicable for visual or technical reasons.
- (f) Vehicular access shall be limited to a collector street if the site adjoins both a collector and a local street.
- (g) At least two off-street parking spaces and one additional space for each two on-site personnel shall be provided.
- (h) Existing on-site vegetation shall be preserved to the maximum extent practicable. Ground disturbed by construction at a transmission facility site shall be seeded and mulched within 45 days of the completion of construction, except in cases where the applicant has requested and received an extension of this time.
- (i) Transmission facilities in the A-1 and A-2 zoned districts may not include offices, long-term vehicle storage, outdoor storage, broadcast studios (except for emergency purposes), or other uses that are not needed to send or receive transmissions, and in no event may exceed 25 percent of the floor area used for transmission equipment and functions.
- (j) Fence shall be installed around the base of the transmission towers, guy anchors and buildings in compliance with the following standards:
  - (j) 1. Fences shall consist of chain link material with a minimum of 6-feet in height.

(j) 2. Guy anchors shall be fenced to allow a clear zone around the guy anchors such as to provide a 14-foot minimum vertical clearance.

(j) 3. A sign shall be installed on the gate to the facility and on the door of any buildings to indicate "High Voltage" on the premises.

(k) The proposed use shall comply with applicable federal and state regulations.

(l) The owners of transmission facilities shall cause the facility to be safety inspected every two years from the date of construction. The inspection shall be performed by a licensed engineer who shall provide a certified copy of the inspection report to Boone County. Deficiencies noted in inspection reports shall be corrected within 90 days and shall be certified as corrected by the engineer unless for good cause an extension is granted by the Boone County Commission.

(5) APPLICATION CONTENTS FOR A NEW TRANSMISSION FACILITY AND PERMITTING PROCEDURES

(a) An application for approval of a new transmission facility shall include:

(a) 1. A site plan or plans drawn to scale and identifying the site boundary; tower(s); guy wire anchors; existing and proposed structures; vehicular parking and access; existing vegetation to be retained, removed, or replaced; uses, structures, and land-use designations on the site and abutting parcels; and the location of the nearest public recreational and wildlife areas.

(a) 2. A plan drawn to scale showing proposed landscaping, including species type, size, spacing, and other features.

(a) 3. A report from a licensed professional engineer. The report shall:

(a) 3.1. Describe the tower and the technical, economic, and other reasons for the tower design;

(a) 3.2. Demonstrate that the tower complies with the current building code;

(a) 3.3. Describe the capacity of the tower, including the number and type of antennas that it can accommodate and the basis for the calculation of capacity;

(a) 3.4. For a tower in the A-1 and A-2 zoning district, show that the tower complies with Section (4)(d)1. (4)(d)2. or (4)(d)3., or the capacity reduction requested under Section (4)(d)4.;

(a) 3.5. Demonstrate that the tower and site comply with Sections (4)(c)1., (4)(c)2., and (4)(d); and

(a) 3.6. Demonstrate that the proposed sources of NIER will comply with Section (6).

(b) The applicant shall provide the FAA Determination of No Hazard and FCC construction permit (if required), or a written statement from those agencies that the tower is exempt from such requirements.

(c) The applicant for a transmission facility in any zoning district shall provide evidence that the tower complies with Section (4)(d)1., (4)(d)2., and (4)(d)3. or (4)(d)4. and a publicly recordable notice of intent to provide telecommunication antenna access on the transmission tower except to the extent reduced capacity is requested under Section (4)(d)4. and, if applicable, access to the transmission facility site for the erection of additional transmission towers.

(c)1. The notice of intent shall commit the transmission facility operator and successors in interest to:

(c)1.1. Respond in a timely, comprehensive manner to a request, required under Sections (4)(a) and (4)(b) for information from a potential shared-use applicant; the tower owner may charge a party requesting information under Section (4)(a) or (4)(b) to pay a reasonable fee not in excess of the actual cost of preparing a response.

(c) 1.2. Negotiate in good faith for shared use of a transmission facility or tower with third parties; the owner generally will negotiate in the order in which requests for information are received except an owner generally will negotiate with a party who has received an FCC license or permit before doing so with other parties.

(c) 1.3. Allow shared use of a transmission facility or tower if an applicant for shared use agrees in writing to pay charges described in Section (5)(c)1.4.

(c) 1.4. Make no more than a reasonable charge for shared use, based

on generally accepted accounting principles and pricing practices necessarily limited to a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance, financing, return on investment, and depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference or causing uses on the site to emit NIER in excess of levels permitted under Section (6).

(c)2. If the conditional use permit for the transmission facility is approved, the above described notice of intent shall be recorded in the Office of the Boone County Recorder of Deeds by the permittee before a building permit is issued.

(d) An applicant shall provide evidence of its ownership or legal possessory interest of the land for which the conditional use permit for a transmission facility is being sought.

(e) For a transmission facility in an A-1 or A-2 district, an applicant shall provide documentary evidence that it complies with Section (4)(a) as follows:

(e)1. The applicant has contacted the operators of all existing or approved towers with a top elevation like or higher than that proposed, except owners of those towers presumed unable to accommodate the proposed antenna under Section (4)(b)4. and provide each contacted operator with the engineer's report required under Section (5)(a)3.

(e) 2. The applicant shall request each contacted operator to:

(e) 2.1. Identify the site by address and legal description;

(e) 2.2. Describe tower height and existing tower users;

(e) 2.3. Assess whether the existing tower could accommodate the antenna to be attached to the proposed tower without causing structural instability or electromagnetic interference; and

(e) 2.4. If the antenna to be attached to the proposed tower cannot be accommodated on each existing tower, assess whether the existing tower could be structurally strengthened or whether the antennas, transmitters, and related equipment could be protected from

electromagnetic interference and generally describe the means and projected cost of shared use of the existing tower.

(e) 3. Document in writing the response to each contact to the information request specified in (5)(e)1. through (5)(e)2.4., above, inclusive, for each operator contacted.

(f) For a transmission facility in an A-1 or A-2 district, the applicant shall provide documentary evidence that it complies with Section (4)(b) as follows:

(f) 1. The applicant shall contact the operators of all existing or approved transmission facilities if the base elevation of an existing or approved tower at each such facility is the same or higher than the base elevation of the proposed transmission tower except operators of those towers presumed unable to accommodate the proposed facility under Section (4)(b)4.

(f) 2. The applicant shall request each contacted operator to:

(f) 2.1. Identify the site by address and legal description;

(f) 2.2. Assess whether the site could accommodate the proposed facility without changing an existing or approved tower;

(f) 2.3. If the proposed facility cannot be accommodated on an existing site, assess whether the existing site could be changed to accommodate the proposed facility, and generally describe the means and projected cost of shared use of the existing site.

(f) 3. Document in writing the response of each contact to the information request specified in (5)(f)1. through (5)(f)3 above, inclusive, for each operator contacted.

(g) Applicants for a conditional use permit for a transmission facility shall complete and submit to the office of the Boone County Planning and Building Inspection Department 15 completed applications for a conditional use permit for a transmission facility as prescribed by these regulations, together with publicly recordable notice of intent prescribed by Section (5)(c) of these regulations and applicable conditional use permit fees. The permit approval process for conditional use permits for transmission facilities shall otherwise be the same as for other conditional use permits as specified in SECTION 15 A of the Boone County Zoning Regulations.

(h) Transmission facility operators possessing conditional use permits for transmission facilities shall at all times comply with these regulations; transmission facility operators which violate these regulations shall be subject to prosecution and/or conditional use permit revocation as otherwise specified in the Boone County Zoning Regulations.

(6) NONIONIZING ELECTROMAGNETIC RADIATION STANDARDS

(a) All transmission facilities shall conform to the relevant sections of the "American National Standard Safety Levels with Respect to Human Exposure to Radio Frequency Electromagnetic Fields, 300 kHz to 100 GHz". This standard is identified as ANSI-C95.1-1982 and is published by the American National Standards Institute, a copy of which is incorporated herein by reference and is maintained on file in the office of the Boone County Planning and Building Inspection Department.

**C. BOARD OF ADJUSTMENT**

(1) The County Board of Zoning Adjustment previously created is hereby continued. The Board shall consist of five (5) members, all freeholders, and not more than two (2) of whom shall be residents of the incorporated area of the county and not more than one (1) of whom may be a member of the County Planning and Zoning Commission. Members shall be appointed for terms of four years each. Members shall be removable for cause by the County Commission upon written charges and after public hearings. Vacancies shall be filled by the County Commission for the unexpired term of any member whose term becomes vacant.

(2) The Board shall elect its own chairman and shall adopt rules of procedure consistent with the provisions of this ordinance. The Chairman or in his absence, the acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public, and minutes shall be kept of all proceedings and official actions, which minutes shall be filed in the office of the Board and shall be a public record.

(3) Appeals to the Board may be taken by any owner, lessee, or tenant of land, or by a public officer, department, board or bureau affected by any decision of the administrative officer in administering this ordinance. The appeals shall be taken within a period of not more than three months, and in the manner provided by the rules of the Board. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken shall certify to the Board that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property.

(4) The Board shall have the following powers:

- (a) To hear and decide appeals where it is alleged there is error of law in any order, requirement, decision, or determination made by an administrative official in the enforcement of this ordinance.
- (b) To hear and decide all matters referred to it on which it is required to determine under the regulations of this ordinance as herein provided.
- (c) Where by reason of shape or topography or other extraordinary or exceptional situation or condition of a specific ordinance would result in peculiar and exceptional difficulties to or exceptional and demonstrable undue hardship upon the owner of the property as an unreasonable deprivation of use as relating to the property, a variance from the strict application of this ordinance provided the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the Zone Plan as embodied in these regulations and Zoning Map.
- (d) To permit, in case of practical difficulty or unnecessary hardship, for a period of two years, the location of a mobile home on a lot.
- (e) To permit placement of a singlewide manufactured prior to 1976 on a parcel less than 20-acres in area that does not have any other dwelling unit on the property.
- (f) Variance for the Height of a Freestanding Sign. The height of a freestanding sign may be varied due to extreme elevation difference between the base of the sign and the adjacent street frontage subject to the following criteria:
  - The strict application of the height limit will result in undue hardship to the sign user by reducing the net sign height to less than 20-feet.
  - There is no alternative location on the parcel where the regulations could be met and the requested variance is the minimum necessary to afford relief to the sign user.
  - The granting of the variance would not be materially detrimental to other property owners in the vicinity.

(5) In exercising the above powers, the Board may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

(6) Any owners, lessees, or tenants of buildings, structures or land jointly or severally aggrieved by any decision of the Board or of the County Commission, respectively, under the provisions of this ordinance, or Board, Commission, or other public official, may present to the Circuit Court a petition, duly verified, stating that the decision is illegal in whole or in part,

specifying the grounds of illegality and asking for relief therefrom. Upon the presentation of the petition, the Court shall allow a Certiorari directed to the Board of Adjustment or the County Commission, respectively, of the action taken and data and records acted upon, and may appoint a referee to take additional evidence in the case. The Court may reverse or affirm or may modify the decision brought up for review.

**D. ENFORCEMENT OF THE ORDINANCE**

(1) Director of Planning

(a) Duties: It shall be the duty of the Director of Planning to enforce this ordinance. The Director of Planning shall receive applications required by this ordinance, issue permits, and furnish the prescribed certificates. He shall examine premises for which permits have been issued, and shall make the necessary inspections to see that the provisions of law are complied with. He shall enforce all laws relating to the construction, alteration, repair, equipment, use and occupancy, location and maintenance of buildings and structures, except as may be otherwise provided for. He shall, when requested by the Commission, or when the interests of the county so require, make investigations in connection with matters referred to in this ordinance and render written reports on the same. For the purpose of enforcing compliance with the law, he shall issue such notices or orders as may be necessary.

(b) Inspections: Inspections shall be made by the Director of Planning or a duly appointed assistant.

(c) Rules: For carrying into effect its provisions, the Director of Planning may adopt rules consistent with this ordinance.

(d) Records: The Director of Planning shall keep careful and comprehensive records of applications, of permits issued, of certificates issued, of inspections made, of reports rendered, and of notices of orders issued. He shall retain on file copies of all papers in connection with building work so long as any part of the building or structure to which they relate may be in existence. All such records shall be open to public inspection at reasonable hours, but shall not be removed from the office of the Director of Planning.

(e) Cooperation of Other Officials: The Director of Planning may request and shall receive, so far as may be necessary in the discharge of his duties, the assistance and cooperation of the Engineer in fixing grades, of the Sheriff in enforcing orders, of the County Attorney in prosecuting violations and of other

officials.

(2) Building Permits

(a) When Required: It shall not be lawful to install a manufactured home or mobile home outside of a mobile home park or to construct, alter, or repair, or to commence the construction or alteration, of a non-farm building or structure, without first filing with the Director of Planning an application in writing and obtaining a formal permit.

(b) Action on application: It shall be the duty of the Director of Planning and Building Inspection to examine applications for permits. If, after examination, he finds that the proposed work will be in compliance with the laws and ordinances applicable hereto, he shall approve such application and issue a permit for the proposed work. If his examination reveals noncompliance with the applicable laws or ordinances, he will reject such application, noting his findings in a report to be attached to the application and deliver a copy to the applicant. Reasons for rejection must be based on noncompliance with the provisions of applicable laws and ordinances.

(c) Approval in part: Nothing in this section shall be construed to prevent the Director of Planning and Building Inspection from issuing a permit for the construction of part of a building or structure before the entire plans and detailed statements of said building or structure have been submitted or approved, if adequate plans and detailed statements have been presented for the portion to be approved and which have been found to comply with this ordinance.

(d) Certificate of Occupancy for a Building: No building, except those used for agricultural nonresidential purposes, shall be utilized before a Certificate of Occupancy has been issued. Certificate of Occupancy for a new building or the reconstruction or alteration of an existing building shall be applied for coincident with the application for a building permit. Said certificate shall be issued within three days of receipt of a written request made to the Director of Planning and Building Inspection following the completion of a building or part thereof. A temporary certificate of occupancy may be issued by the Director of Planning and Building for a period not exceeding one year, allowing the completion of alterations during partial occupancy of a building pending its completion. Such temporary certificate shall not be construed to alter in any way the respective rights, duties, or obligations of the owners or of the tenants relating to the use and occupancy of the premises or any other matter covered by this ordinance, and such temporary certificate shall not be issued except under such restrictions and provisions as

will adequately insure the safety of the occupants.

(e) Certificate of Occupancy for Nonconforming Uses: Certificate of Occupancy shall be required of all nonconforming uses. Applications for such certificate for nonconforming uses shall be filed within six months from the effective date of this ordinance.

## **E. Boundaries of Districts**

Where uncertainty exists with respect to the boundaries of the various districts as shown on the District Map accompanying and made part of this ordinance, the following rules apply:

(1) The district boundaries are streets unless otherwise shown, and where the districts designated on the map accompanying and made part of this ordinance are bounded approximately by street lines, the street shall be construed to be the boundary of the district.

(2) Where the district boundaries are not otherwise indicated, and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be the lot lines, and where the districts designated on the District Map accompanying and made a part of this ordinance are bounded approximately by lot lines, the lot lines shall be construed to be the boundary of the districts unless the boundaries are otherwise indicated on the map.

(3) In subdivided property, the district boundary lines on the map accompanying and made a part of this ordinance shall be determined by use of the scale appearing on the map.

## **F. Amendments of Regulations**

(1) General. The County Commission may, from time to time, on its own motion or on petition after public notice and hearing, as provided below, may revise, modify, or amend the regulations and the districts created by this ordinance; however, such proposed changes shall first be submitted to the Commission for recommendations and report after hearings thereon by the Commission as provided below.

(2) Revision, Modification or Amendment to the Zoning District Map.

(a) Before the adoption of a revision, modification or amendment to the Zoning District Map, the County Commission shall hold at least one public hearing thereon. At least 15 days prior to the public hearing, the Director shall give notice by certified mail to all owners of any real property located within one thousand feet of the parcel of land for which the change is proposed and all contiguous land under the same ownership. Additionally, notification shall be provided through publication of a locality map in a newspaper having a daily

circulation at least 15 days prior to hearing before the County Commission. All notification costs shall be paid by the applicant prior to the public hearing. No application for revision of the Zoning District Map will be accepted if it is the same or substantially the same as an application submitted within the previous 12 months and which was denied by the County Commission or withdrawn by the applicant after a recommendation has been issued by the Commission.

(b) In case of written protest against any proposed change or amendment, signed and acknowledged by the owners of twenty (20) percent of the frontage within one thousand (1,000) feet to the right or left of the frontage proposed to be changed, or by the owners of twenty (20) percent of the frontage directly opposite, or directly in the rear of the frontage proposed to be altered, or in cases where the land affected lies within one and one-half (1 1/2) miles of the corporate limits of a municipality having in effect ordinances zoning property within the corporate limits of a municipality, made by resolution of the City Council or Board of Trustees thereof, and filed with the County Clerk, the amendment may not be passed except by the favorable vote of two members of the County Commission.

(c) Before any action shall be taken on a petition submitted under the provisions of this section, the party or parties proposing a change in the district regulations or district boundaries shall deposit with the County Planning Office the rezoning fee established by the County Commission to cover the approximate cost of this procedure and under no condition shall said sum or any part thereof be refunded for failure of the requested change to be adopted by the County Commission. In addition, the applicant shall furnish the names of the adjacent property owners within one thousand (1,000) feet of the parcel of land for which the change is proposed and all contiguous land under the same ownership and shall pay all mailing costs for notification of these owners.

(d) In cases where the Planning and Zoning Commission recommends denial of a request, the County Commission shall summarily endorse denial action of the Planning Commission unless: (1) the applicant files in the Department office within 72 hours (three working days) following the Planning Commission hearing a notice of appeal to the County Commission stating grounds why the Planning Commission recommendation for denial is in error, and (2) the applicant appears before the County Commission in person or by representative with written authority of the owner.

(e) In cases where the Planning Commission recommends approval of an application, the County Commission will summarily deny the application if: (1) the applicant does not appear at the County Commission hearing in person

or by representative with the written authorization of the owner, and (2) there is opposition to the application expressed in person at the County Commission hearing.

(f) Applications for amendment to the Zoning District Map shall include the following information:

- (1) The name, address and telephone number of the property owner and the potential buyer or lessee of the property. Corporate applicants shall list the names, titles and addresses of the officers and the Board of Directors of the corporation. A copy of the corporate certificate of good standing with the state of Missouri shall be attached.
- (2) A legal description of the property included in the request. Proof of ownership shall be attached to the application.
- (3) The present zoning of the land included in the request.
- (4) The present use of the land included in the request.
- (5) The size of the tract to be rezoned, broken down either by acreage or square feet.
- (6) The zoning district to which the applicant wants property rezoned.
- (7) The zoning of the adjacent land.
- (8) The proposed use of land, should the request to rezone be approved.
- (9) The approximate size and location of any existing structures on the property to be rezoned, including wastewater system. The applicant should also list the approximate size of buildings proposed to be built.
- (10) The reason and justification for the request being submitted.
- (11) A sketch of the tract of land showing the location of existing and proposed structures.
- (12) The signature of the property owner or his authorized agent. In the absence of the signature of the owner, the applicant shall attach a written power of attorney signed by the owner.
- (13) The names and mailing addresses of all property owners owning land

within 1,000 feet of the property under consideration for rezoning.

- (14) Failure to provide any of the required material will result in the invalidation of the application.
  
- (g) An applicant for a change in the Zoning District Map shall have the responsibility to demonstrate to the Planning Commission and the County Commission by competent, substantial evidence that the proposed change in the Zoning District Map is justified.

(3) Revision, Modification or Amendment to Text. Before the adoption of a revision, modification or amendment to the text of this ordinance, the Commission shall hold at least three (3) public hearings. One hearing will be held in each of the County Commission districts outside of the county seat and one in the county seat. Fifteen days notice of the time and place of the public hearing shall be published in at least one newspaper having general circulation in the county and notice of such hearing shall also be posted at least fifteen days in advance thereof in one or more public areas of the county administration building. The hearing may be adjourned from time to time. Within ninety days after the final adjournment of the hearings, the Commission shall make a report on the proposed revisions, modifications or amendments to the County Commission. The County Commission may adopt the revisions, modifications or amendments with or without change or may refer it back to the Commission for further consideration and report.

## **SECTION 16. INTERPRETATION AND CONFLICT**

In interpreting and applying the provisions of these regulations they shall be held to be the minimum requirements for the promotion of health, safety, morals, or general welfare. Whenever these regulations require greater width or size of yards, courts, or other open spaces, or requires a lower height of buildings or less number of stories, or requires a greater percentage of lot to be left unoccupied, or imposes higher standards than are required in any other statute or ordinance or regulation this ordinance shall govern. Whenever any other statute or ordinance or regulations requires a greater width or size of yards, courts, or other open spaces, or requires a greater percentage of lot to be left unoccupied, or imposes other higher standards than are required by these regulations, the provisions of such statute, ordinance or regulation shall govern.

## **SECTION 17. FEES**

Fees shall be as determined by the County Commission.

## **SECTION 18. VIOLATIONS**

The owner or general agent of any land, building, structure or premises where a violation of any part of these zoning regulations has been committed or shall exist, or the lessee or tenant of any entire building or entire premises where the violation has been committed or shall exist, or the owner, general agent, architect, builder or contractor or any other person who knowingly commits, takes part or assists in the violation, or who maintains any building or premises in which any violation exists, shall be guilty of a misdemeanor.

## **SECTION 19. VALIDITY**

In case any portion of these regulations shall be held invalid or unconstitutional, the remainder of the regulations shall not thereby be invalid, but shall be in full force and effect, or in case any portion of the Zoning District Map shall be held to be invalid, the remainder of said map shall not be invalidated thereby.

## **SECTION 20. REPEAL**

The written provisions of Ordinance Number 76-28 and all text amendments thereto are hereby repealed.

The Zoning District Map is not repealed, nor is it altered, by the adoption of this ordinance. The Zoning District Map in effect on the effective date of this ordinance is, and remains, the Zoning District Map of Boone County.

## **SECTION 21. WHEN EFFECTIVE**

This ordinance shall be effective on and after the 30th day of June, 1985, at 5:00 P.M.

This ordinance amended by order effective December 14, 1990 at 5:00 P.M.

This ordinance amended by order effective September 3, 1991

This ordinance amended by order effective September 30, 2003

This ordinance amended by order effective December 30, 2003

## **22. FLOODPLAIN MANAGEMENT ORDINANCE**

### **ARTICLE 1. STATUTORY AUTHORIZATION, FINDINGS OF FACT, AND PURPOSES**

#### **A. STATUTORY AUTHORIZATION**

The Legislature of the State of Missouri has in Chapter 64.850 of the Revised Statutes of the State Missouri (RSMo) delegated the responsibility to local governmental units to adopt floodplain management regulations designed to protect the health, safety, and general welfare. Therefore, the County Commission of Boone County, Missouri ordains as follows:

#### **B. FINDINGS OF FACT**

##### **1. Flood Losses Resulting from Periodic Inundation**

The special flood hazard areas of Boone County, Missouri are subject to inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base; all of which adversely affect the public health, safety and general welfare.

##### **2. General Causes of the Flood Losses**

These flood losses are caused by (1) the cumulative effect of development in any delineated floodplain causing increases in flood heights and velocities; and (2) the occupancy of flood hazard areas by uses vulnerable to floods, hazardous to others, inadequately elevated, or otherwise unprotected from flood damages.

##### **3. Methods Used To Analyze Flood Hazards**

The Flood Insurance Study (FIS) that is the basis of this ordinance uses a standard engineering method of analyzing flood hazards which consist of a series of interrelated steps.

a. Selection of a base flood that is based upon engineering calculations which permit a consideration of such flood factors as its expected frequency of occurrence, the area inundated, and the depth of inundation. The base flood selected for this ordinance is representative of large floods which are characteristic of what can be expected to occur on the particular streams subject to this ordinance. It is in the general order of a flood which could be expected to have a one percent chance of occurrence in any one year as

delineated on the Federal Insurance Administrator's FIS, and illustrative materials dated December 15, 1982 as amended, and any future revisions thereto.

b. Calculation of water surface profiles is based on a standard hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the regulatory flood.

c. Computation of a floodway required to convey this flood without increasing flood heights more than one (1) foot at any point.

d. Delineation of floodway encroachment lines within which no development is permitted that would cause any increase in flood height.

e. Delineation of flood fringe, i.e., that area outside the floodway encroachment lines, but still subject to inundation by the base flood.

### **C. STATEMENT OF PURPOSE**

It is the purpose of this ordinance to promote the public health, safety, and general welfare; to minimize those losses described in Article 1, Section B (1); to establish or maintain the community's eligibility for participation in the National Flood Insurance Program (NFIP) as defined in 44 Code of Federal Regulations (CFR) 59.22(a)(3); and to meet the requirements of 44 CFR 60.3(d) by applying the provisions of this ordinance to:

1. Restrict or prohibit uses that are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities;
2. Require uses vulnerable to floods, including public facilities that serve such uses, be provided with flood protection at the time of initial construction; and
3. Protect individuals from buying lands that are unsuited for the intended development purposes due to the flood hazard.

## **ARTICLE 2. GENERAL PROVISIONS**

### **A. LANDS TO WHICH ORDINANCE APPLIES**

This ordinance shall apply to all lands within the jurisdiction of Boone County identified as numbered and unnumbered A zones, AE, AO, and AH Zones, on the Flood Insurance Rate Map (FIRM) and Flood Boundary and Floodway Map (FBFM) dated June 15, 1983 as amended, and any future revisions thereto. In all areas covered by this ordinance, no development shall be permitted except through the issuance of a floodplain development

permit, granted by the County Commission or its duly designated representative under such safeguards and restrictions as the County Commission or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community, and as specifically noted in Article 4.

#### **B. FLOODPLAIN ADMINISTRATOR**

The Director of Planning and Building Inspections is hereby designated as the Floodplain Administrator under this ordinance.

#### **C. COMPLIANCE**

No development located within the special flood hazard areas of this community shall be located, extended, converted, or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

#### **D. ABROGATION AND GREATER RESTRICTIONS**

It is not intended by this ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.

#### **E. INTERPRETATION**

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements, shall be liberally construed in favor of the governing body, and shall not be deemed a limitation or repeal of any other powers granted by State statutes.

#### **F. WARNING AND DISCLAIMER OF LIABILITY**

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that areas outside the floodway and flood fringe or land uses permitted within such areas will be free from flooding or flood damage. This ordinance shall not create a liability on the part of Boone County, any officer or employee thereof, for any flood damages that may result from reliance on this ordinance or any administrative decision lawfully made thereunder.

#### **G. SEVERABILITY**

If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of appropriate jurisdiction, the remainder of this ordinance shall not be affected thereby.

### **ARTICLE 3. ADMINISTRATION**

#### **A. FLOODPLAIN DEVELOPMENT PERMIT (REQUIRED)**

A floodplain development permit shall be required for all proposed construction or other development, including the placement of manufactured homes, in the areas described in Article 2, Section A. No person, firm, corporation, or unit of government shall initiate any development or substantial-improvement or cause the same to be done without first obtaining a separate floodplain development permit for each structure or other development.

#### **B. DESIGNATION OF FLOODPLAIN ADMINISTRATOR**

The Director of Planning and Building Inspections is hereby appointed to administer and implement the provisions of this ordinance.

#### **C. DUTIES AND RESPONSIBILITIES OF FLOODPLAIN ADMINISTRATOR**

Duties of the Director of Planning and Building Inspections shall include, but not be limited to:

1. Review of all applications for floodplain development permits to assure that sites are reasonably safe from flooding and that the floodplain development permit requirements of this ordinance have been satisfied;
2. Review of all applications for floodplain development permits for proposed development to assure that all necessary permits have been obtained from Federal, State, or local governmental agencies from which prior approval is required by Federal, State, or local law;
3. Review all subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding;
4. Issue floodplain development permits for all approved applications;
5. Notify adjacent communities and the (Missouri) State Emergency Management Agency prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA);

6. Assure that maintenance is provided within the altered or relocated portion of any watercourse so that the flood-carrying capacity is not diminished; and
7. Verify and maintain a record of the actual elevation (in relation to mean sea level) of the lowest floor, including basement, of all new or substantially improved structures;
8. Verify and maintain a record of the actual elevation (in relation to mean sea level) that the new or substantially improved non-residential structures have been floodproofed;
9. When floodproofing techniques are utilized for a particular non-residential structure, the Director of Planning and Building Inspections shall require certification from a registered professional engineer or architect.

#### **D. APPLICATION FOR FLOODPLAIN DEVELOPMENT PERMIT**

To obtain a floodplain development permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every floodplain development permit application shall:

1. Describe the land on which the proposed work is to be done by lot, block and tract, house and street address, or similar description that will readily identify and specifically locate the proposed structure or work;
2. Identify and describe the work to be covered by the floodplain development permit;
3. Indicate the use or occupancy for which the proposed work is intended;
4. Indicate the assessed value of the structure and the fair market value of the improvement;
5. Specify whether development is located in a designated flood fringe or floodway;
6. Identify the existing base flood elevation and the elevation of the proposed development;
7. Give such other information as reasonably may be required by the Director of Planning and Building Inspection;
8. Be accompanied by plans and specifications for proposed construction; and
9. Be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority.

**ARTICLE 4. PROVISIONS FOR FLOOD HAZARD REDUCTION**

**A. GENERAL STANDARDS**

1. No permit for floodplain development shall be granted for new construction, substantial-improvements, and other improvements, including the placement of manufactured homes, within any numbered or unnumbered A zones, AE, AO, and AH zones, unless the conditions of this section are satisfied.

2. All areas identified as unnumbered A zones on the FIRM are subject to inundation of the 100-year flood; however, the base flood elevation is not provided. Development within unnumbered A zones is subject to all provisions of this ordinance. If Flood Insurance Study data is not available, the community shall obtain, review, and reasonably utilize any base flood elevation or floodway data currently available from Federal, State, or other sources.

3. Until a floodway is designated, no new construction, substantial improvements, or other development, including fill, shall be permitted within any unnumbered or numbered A zones, or AE zones on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

4. All new construction, subdivision proposals, substantial-improvements, prefabricated structures, placement of manufactured homes, and other developments shall require:

a. Design or adequate anchorage to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

b. Construction with materials resistant to flood damage;

c. Utilization of methods and practices that minimize flood damages;

d. All electrical, heating, ventilation, plumbing, air-conditioning equipment, and other service facilities be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

e. New or replacement water supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems be located so as to avoid impairment or contamination;

f. Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, located within special flood hazard areas are required to assure that:

(1) all such proposals are consistent with the need to minimize flood damage;

(2) all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage;

(3) adequate drainage is provided so as to reduce exposure to flood hazards;

(4) all proposals for development, including proposals for manufactured home parks and subdivisions, of five (5) acres or fifty (50) lots, whichever is lesser, include within such proposals base flood elevation data.

5. Storage, material, and equipment

a. The storage or processing of materials within the special flood hazard area that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal, or plant life is prohibited.

b. Storage of other material or equipment may be allowed if not subject to major damage by floods, if firmly anchored to prevent floatation, or if readily removable from the area within the time available after a flood warning.

6. Structures used solely for agricultural purposes in connection with the production, harvesting, storage, drying, or raising of agricultural commodities, including the raising of livestock, may be constructed at-grade and wet-floodproofed provided there is no human habitation or occupancy of the structure; the structure is of single-wall design; there is no permanent retail, wholesale, or manufacturing use included in the structure; a variance has been granted from the floodplain management requirements of this ordinance; and a floodplain development permit has been issued.

7. Structures used solely for parking and limited storage purposes, not attached to any other structure on the site, of limited investment value, and not larger than 700 square feet, may be constructed at-grade and wet-floodproofed provided there is no human habitation or occupancy of the structure; the structure is of single-wall design; a variance has been granted from the standard floodplain management requirements of this ordinance; and a floodplain development permit has been issued.

8. A structure, or the use of a structure or premises that was lawful before the passage or amendment of the ordinance, but which is not in conformity with the provisions of this ordinance, may be continued subject to the following conditions:

- a. If such structure, use, or utility service is discontinued for 12 consecutive months, any future use of the building shall conform to this ordinance.
- b. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50 percent of the pre-damaged market value of the structure. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, safety codes, regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, the State Inventory of Historic Places, or local inventory of historic places upon determination.

## **B. SPECIFIC STANDARDS**

1. In all areas identified as numbered and unnumbered A zones, AE, and AH Zones, where base flood elevation data have been provided, as set forth in Article 4, Section A(2), the following provisions are required:

- a. New construction or substantial-improvement of any residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated to or above base flood elevation.
- b. New construction or substantial-improvement of any commercial, industrial, or other non-residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated to or above the base flood elevation or, together with attendant utility and sanitary facilities, be floodproofed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Article 3, Section C(9).
- c. Require, for all new construction and substantial-improvements that fully enclosed areas below lowest floor used solely for parking of vehicles, building access, or storage in an area other than a basement and that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
  - (1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided; and

- (2) The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

### **C. MANUFACTURED HOMES**

1. All manufactured homes to be placed within all unnumbered and numbered A zones, AE, and AH zones, on the community's FIRM shall be required to be installed using methods and practices that minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

2. Require manufactured homes that are placed or substantially improved within unnumbered or numbered A zones, AE, and AH zones, on the community's FIRM on sites:

- a. Outside of a manufactured home park or subdivision;
- b. In a new manufactured home park or subdivision;
- c. In an expansion to an existing manufactured home park or subdivision; or
- d. In an existing manufactured home park or subdivision in which a manufactured home has incurred substantial-damage as the result of a flood;

to be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

3. Require that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within all unnumbered and numbered A zones, AE and AH ones, on the community's FIRM, that are not subject to the provisions of Article 4, Section C(2) of this ordinance, be elevated so that either:

- a. The lowest floor of the manufactured home is at or above the base flood level; or
- b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

**D. AREAS OF SHALLOW FLOODING (AO and AH zones)**

Located within the areas of special flood hazard as described in Article 2, Section A are areas designated as AO zones. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. The following provisions apply:

1. AO Zones

- a. All new construction and substantial-improvements of residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).
- b. All new construction and substantial-improvements of any commercial, industrial, or other non-residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community FIRM (at least two feet if no depth number is specified) or together with attendant utilities and sanitary facilities be completely floodproofed to that so that the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
- c. Adequate drainage paths shall be required around structures on slopes, in order to guide floodwaters around and away from proposed structures.

2. AH Zones

- a. The specific standards for all areas of special flood hazard where base flood elevation has been provided shall be required as set forth in Article 4, Section B.
- b. Adequate drainage paths shall be required around structures on slopes, in order to guide floodwaters around and away from proposed structures.

**E. FLOODWAY**

Located within areas of special flood hazard established in Article 2, Section A are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters that carry debris and potential projectiles, the following provisions shall apply:

1. The community shall select and adopt a regulatory floodway based on the principle that the area chosen for the regulatory floodway must be designed to carry the waters of the base flood without increasing the water surface elevation of that flood more than one foot at any point.
2. The community shall prohibit any encroachments, including fill, new construction, substantial-improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
3. If Article 4, Section E (2) is satisfied, all new construction and substantial-improvements shall comply with all applicable flood hazard reduction provisions of Article 4.
4. In unnumbered A zones, the community shall obtain, review, and reasonably utilize any base flood elevation or floodway data currently available from Federal, State, or other sources as set forth in Article 4, Section A(2).

#### **F. RECREATIONAL VEHICLES**

1. Require that recreational vehicles placed on sites within all unnumbered and numbered A zones, AO, AE, and AH zones on the community's FIRM either:
  - a. Be on the site for fewer than 180 consecutive days, and be fully licensed and ready for highway use\* ; or
  - b. Meet the permitting, elevating, and the anchoring requirements for manufactured homes of this ordinance.

### **ARTICLE 5. FLOODPLAIN MANAGEMENT VARIANCE PROCEDURES**

#### **A. ESTABLISHMENT OF APPEAL BOARD**

The Boone County Zoning Board of Adjustment as established by Boone County shall hear and decide appeals and requests for variances from the floodplain management requirements of this ordinance.

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\* A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions.

## **B. RESPONSIBILITY OF APPEAL BOARD**

Where an application for a floodplain development permit or request for a variance from the floodplain management regulations is denied by the Director of Planning and Building Inspections, the applicant may apply for such floodplain development permit or variance directly to the Appeal Board, as defined in Article 5, Section A.

The Zoning Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Director of Planning and Building Inspection in the enforcement or administration of this ordinance.

## **C. FURTHER APPEALS**

Any person aggrieved by the decision of the Zoning Board of Adjustment or any taxpayer may appeal such decision to the Circuit Court as provided in Chapter 64.870 RSMo.

## **D. FLOODPLAIN MANAGEMENT VARIANCE CRITERIA**

In passing upon such applications for variances, the Zoning Board of Adjustment shall consider all technical data and evaluations, all relevant factors, standards specified in other sections of this ordinance, and the following criteria:

1. The danger to life and property due to flood damage;
2. The danger that materials may be swept onto other lands to the injury of others;
3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. The importance of the services provided by the proposed facility to the community;
5. The necessity to the facility of a waterfront location, where applicable;
6. The availability of alternative locations, not subject to flood damage, for the proposed use;
7. The compatibility of the proposed use with existing and anticipated development;
8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
9. The safety of access to the property in times of flood for ordinary and emergency vehicles;

10. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters, if applicable, expected at the site; and,

11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems; streets; and bridges.

#### **E. CONDITIONS FOR APPROVING FLOODPLAIN MANAGEMENT VARIANCES**

1. Generally, variances may be issued for new construction and substantial-improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items 2 through 6 below have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

2. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places, the State Inventory of Historic Places, or local inventory of historic places upon determination.

3. Variances shall not be issued within any designated floodway if any significant increase in flood discharge would result.

4. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

5. Variances shall only be issued upon (a) a showing of good and sufficient cause, (b) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (c) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

6. A community shall notify the applicant in writing over the signature of a community official that (1) the issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and (2) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this ordinance.

#### **F. CONDITIONS FOR APPROVING VARIANCES FOR AGRICULTURAL STRUCTURES**

Any variance granted for an agricultural structure shall be decided individually based on a case by case analysis of the building's unique circumstances. Variances granted shall meet the following conditions as well as those criteria and conditions set forth in Article 5, Sections D and E of this ordinance.

In order to minimize flood damages during the 100-year flood and the threat to public health and safety, the following conditions shall be included for any variance issued for agricultural structures that are constructed at-grade and wet-floodproofed.

1. All agricultural structures considered for a variance from the floodplain management regulations of this ordinance shall demonstrate that the varied structure is located in wide, expansive floodplain areas and no other alternate location outside of the special flood hazard area exists for the agricultural structure. Residential structures, such as farm houses, cannot be considered agricultural structures.
2. Use of the varied structures must be limited to agricultural purposes in zone A only as identified on the community's Flood Insurance Rate Map (FIRM).
3. For any new or substantially damaged agricultural structures, the exterior and interior building components and elements (i.e., foundation, wall framing, exterior and interior finishes, flooring, etc.) below the base flood elevation, must be built with flood-resistant materials in accordance with Article 4, Section A (4)(b) of this ordinance.
4. The agricultural structures must be adequately anchored to prevent flotation, collapse, or lateral movement of the structures in accordance with Article 4, Section A (4)(a) of this ordinance. All of the building's structural components must be capable of resisting specific flood-related forces including hydrostatic, buoyancy, and hydrodynamic and debris impact forces.
5. Any mechanical, electrical, or other utility equipment must be located above the base flood elevation or floodproofed so that they are contained within a watertight, floodproofed enclosure that is capable of resisting damage during flood conditions in accordance with Article 4, Section A (4)(d) of this ordinance.
6. The agricultural structures must meet all National Flood Insurance Program (NFIP) opening requirements. The NFIP requires that enclosure or foundation walls, subject to the 100-year flood, contain openings that will permit the automatic entry and exit of floodwaters in accordance with Article 4, Section B (1)(c) of this ordinance.
7. The agricultural structures must comply with the floodplain management floodway encroachment provisions of Article 4, Section E (2) of this ordinance. No variances may be issued for agricultural structures within any designated floodway, if any increase in flood levels would result during the 100-year flood.

8. Major equipment, machinery, or other contents must be protected from any flood damage.
9. No disaster relief assistance under any program administered by any Federal agency shall be paid for any repair or restoration costs of the agricultural structures.
10. A community shall notify the applicant in writing over the signature of a community official that (1) The issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and (2) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this ordinance.
11. Wet-floodproofing construction techniques must be reviewed and approved by the community and a registered professional engineer or architect prior to the issuance of any floodplain development permit for construction.

#### **G. CONDITIONS FOR APPROVING VARIANCES FOR ACCESSORY STRUCTURES**

Any variance granted for an accessory structure shall be decided individually based on a case by case analysis of the building's unique circumstances. Variances granted shall meet the following conditions as well as those criteria and conditions set forth in Article 5, Sections D and E of this ordinance.

In order to minimize flood damages during the 100-year flood and the threat to public health and safety, the following conditions shall be included for any variance issued for accessory structures that are constructed at-grade and wet-floodproofed.

1. Use of the accessory structures must be solely for parking and limited storage purposes in zone A only as identified on the community's Flood Insurance Rate Map (FIRM).
2. For any new or substantially damaged accessory structures, the exterior and interior building components and elements (i.e., foundation, wall framing, exterior and interior finishes, flooring, etc.) below the base flood elevation, must be built with flood-resistant materials in accordance with Article 4, Section A (4)(b) of this ordinance.
3. The accessory structures must be adequately anchored to prevent flotation, collapse, or lateral movement of the structure in accordance with Article 4, Section A (4)(a) of this ordinance. All of the building's structural components must be capable of resisting specific flood-related forces including hydrostatic, buoyancy, and hydrodynamic and debris impact forces.

4. Any mechanical, electrical, or other utility equipment must be located above the base flood elevation or floodproofed so that they are contained within a watertight, floodproofed enclosure that is capable of resisting damage during flood conditions in accordance with Article 4, Section A (4)(d) of this ordinance.
5. The accessory structures must meet all National Flood Insurance Program (NFIP) opening requirements. The NFIP requires that enclosure or foundation walls, subject to the 100-year flood, contain openings that will permit the automatic entry and exit of floodwaters in accordance with Article 4, Section B (1)(c) of this ordinance.
6. The accessory structures must comply with the floodplain management floodway encroachment provisions of Article 4, Section E (2) of this ordinance. No variances may be issued for accessory structures within any designated floodway, if any increase in flood levels would result during the 100-year flood.
7. Equipment, machinery, or other contents must be protected from any flood damage.
8. No disaster relief assistance under any program administered by any Federal agency shall be paid for any repair or restoration costs of the accessory structures.
9. A community shall notify the applicant in writing over the signature of a community official that (1) the issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and (2) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this ordinance.
10. Wet-floodproofing construction techniques must be reviewed and approved by the community and registered professional engineer or architect prior to the issuance of any floodplain development permit for construction.

## **H. CONDITIONS FOR APPROVING VARIANCES FOR TEMPORARY STRUCTURES**

Any variance granted for a temporary structure shall be decided individually based on a case by case analysis of the building's unique circumstances. Variances granted shall meet the following conditions as well as those criteria and conditions set forth in Article 5, Sections D and E of this ordinance.

1. A temporary structure may be considered for location within the 100-year floodplain only when all of the following criteria are met:

BOONE COUNTY ZONING REGULATIONS, BOONE COUNTY, MISSOURI

a. Use of the temporary structure is unique to the land to be developed and cannot be located outside of the floodplain nor meet the NFIP design standards;

b. Denial of the temporary structure permit will create an undue hardship on the property owner;

c. The community has adopted up-to-date NFIP and building regulations to direct placement and removal of the temporary structure; and,

d. The community has sufficient staff to monitor the placement, use, and removal of the temporary structure throughout the duration of the permit.

2. Once all of the above conditions are met, an application for a special use permit must be made to the County Commission. The County Commission shall consider all applications for special use permits for a temporary structure based on the following criteria:

a. The placement of any temporary structure within the special flood hazard areas as shown on the community's adopted Federal Emergency Management Agency /National Flood Insurance Program map shall require an approved conditional use permit. The special use permit shall be valid for a period not to exceed 180 days.

b. Conditional use permit applications, for a temporary structure to be located in special flood hazard areas, shall conform to the standard public hearing process prior to any community action on the permit request.

c. An emergency plan for the removal of the temporary structure that includes specific removal criteria and time frames from the agency or firm responsible for providing the manpower, equipment, and the relocation and disconnection of all utilities shall be required as part of the conditional use permit application for the placement of any temporary structure.

d. On or before the expiration of the end of the 180 day conditional use permit period, the temporary structure shall be removed from the site. All utilities, including water, sewer, communication, and electrical services shall be disconnected.

e. To ensure the continuous mobility of the temporary structure for the duration of the permit, the temporary structure shall retain its wheels and tires, licenses, and towing appurtenance on the structures at all times.

f. Under emergency flooding conditions, the temporary structure shall be removed immediately or as directed by the community and as specified in the emergency removal plan.

g. Location of any temporary structure within the regulatory floodway requires the provision of a "no-rise" certificate by a registered professional engineer.

h. Violation of or non-compliance with any of the stated conditions of the conditional use permit during the term thereof, shall make the permit subject to revocation by resolution of the governing body of the community. Issuance of permit revocation notice shall be made to the landowner, the occupant of the land, and to the general public.

I. Any deviation from the approved site plan shall be deemed a violation of the conditional use permit approval and the uses allowed shall automatically be revoked. The subsequent use of the land shall be as it was prior to the conditional use permit approval. In event of any violation, all permitted conditional uses shall be deemed a violation of this ordinance and shall be illegal, non-conforming uses and shall be summarily removed and abated.

j. If the temporary structure is to be returned to its previously occupied site, the process for issuing a special use permit must be repeated in full. Any subsequent permit shall be valid for 180 days only.

#### **ARTICLE 6. PENALTIES FOR VIOLATION**

Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with granting of variances) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be punished as provided by law. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the County Commission or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

#### **ARTICLE 7. AMENDMENTS**

The regulations, restrictions, and boundaries set forth in this ordinance may from time to time be amended, supplemented, changed, or appealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973, provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties of interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in a newspaper of general circulation in the County. At least 20 days shall elapse between the date of this publication and the public hearing. A copy of such amendments will be provided to the Region VII office of the Federal Emergency Management Agency (FEMA) and to the State Emergency Management Agency (SEMA). The regulations of this ordinance are in compliance with the National Flood Insurance Program (NFIP) regulations.

**ARTICLE 8. DEFINITIONS**

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the same meaning they have in common usage and to give this ordinance its most reasonable application.

"**100-year Flood**" see "base flood."

"**Accessory Structure**" means the same as "appurtenant structure."

"**Actuarial Rates**" see "risk premium rates."

"**Administrator**" means the Federal Insurance Administrator.

"**Agency**" means the Federal Emergency Management Agency (FEMA).

"**Agricultural Commodities**" means agricultural products and livestock.

"**Agricultural Structure**" means any structure used exclusively in connection with the production, harvesting, storage, drying, or raising of agricultural commodities.

"**Appeal**" means a request for review of the Floodplain Administrator's interpretation of any provision of this ordinance or a request for a variance.

"**Appurtenant Structure**" means a structure that is on the same parcel of property as the principle structure to be insured and the use of which is incidental to the use of the principal structure.

"**Area of Shallow Flooding**" means a designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"**Area of Special Flood Hazard**" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

"**Base Flood**" means the flood having a one percent chance, of being equaled or exceeded in any given year.

"**Basement**" means any area of the structure having its floor subgrade (below ground level) on all sides.

**"Building"** see "structure."

**"Chief Executive Officer"** or "Chief Elected Official" means the official of the community who is charged with the authority to implement and administer laws, ordinances, and regulations for that community.

**"Community"** means any State or area or political subdivision thereof, which has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.

**"Development"** means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, levees, levee systems, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

**"Elevated Building"** means for insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

**"Eligible Community"** or "Participating Community" means a community for which the Administrator has authorized the sale of flood insurance under the National Flood Insurance Program (NFIP).

**"Existing Construction"** means for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

**"Existing Manufactured Home Park or Subdivision"** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

**"Expansion to an Existing Manufactured Home Park or Subdivision"** means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**"Flood"** or **"Flooding"** means a general and temporary condition of partial or complete inundation of normally dry land areas from (1) the overflow of inland and/or (2) the unusual and rapid accumulation or runoff of surface waters from any source.

**"Flood Boundary and Floodway Map (FBFM)"** means an official map of a community on which the Administrator has delineated both special flood hazard areas and the designated regulatory floodway.

**"Flood Elevation Determination"** means a determination by the Administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.

**"Flood Elevation Study"** means an examination, evaluation and determination of flood hazards.

**"Flood Fringe"** means the area outside the floodway encroachment lines, but still subject to inundation by the regulatory flood.

**"Flood Hazard Boundary Map (FHBM)"** means an official map of a community, issued by the Administrator, where the boundaries of the flood areas having special flood hazards have been designated as (unnumbered or numbered) A zones.

**"Flood Insurance Rate Map (FIRM)"** means an official map of a community, on which the Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

**"Flood Insurance Study (FIS)"** means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

**"Floodplain" or "Flood-prone Area"** means any land area susceptible to being inundated by water from any source (see "flooding").

**"Floodplain Management"** means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

**"Floodplain Management Regulations"** means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain and grading ordinances) and other applications of police power. The term describes such state or local regulations, in any combination thereof, that provide standards for the purpose of flood damage prevention and reduction.

**"Floodproofing"** means any combination of structural and non-structural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, or structures and their contents.

**"Floodway" or "Regulatory Floodway"** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

**"Floodway Encroachment Lines"** means the lines marking the limits of floodways on Federal, State and local floodplain maps.

**"Freeboard"** means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as bridge openings and the hydrological effect of urbanization of the watershed.

**"Functionally Dependent Use"** means a use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. This term includes only docking facilities and facilities that are necessary for the loading and unloading of cargo or passengers, but does not include long-term storage or related manufacturing facilities.

**"Highest Adjacent Grade"** means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**"Historic Structure"** means any structure that is (a) listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either (1) by an approved state program as determined by the Secretary of the Interior or (2) directly by the Secretary of the Interior in states without approved programs.

**"Lowest Floor"** means the lowest floor of the lowest enclosed area, including basement. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable floodproofing design requirements of this ordinance.

**"Manufactured Home"** means a structure, transportable in one or more sections, that is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

**"Manufactured Home Park or Subdivision"** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**"Map"** means the Flood Hazard Boundary Map (FHBM), Flood Insurance Rate Map (FIRM), or the Flood Boundary and Floodway Map (FBFM) for a community issued by the Federal Emergency Management Agency (FEMA).

**"Market Value" or "Fair Market Value"** means an estimate of what is fair, economic, just and equitable value under normal local market conditions.

**"Mean Sea Level"** means, for purposes of the National Flood Insurance Program (NFIP), the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map (FIRM) are referenced.

**"New Construction"** means, for the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of the floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

**"New Manufactured Home Park or Subdivision"** means a manufactured home park or subdivision for which the construction of facilities for servicing the lot on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by the community.

**"(NFIP)"** means the National Flood Insurance Program (NFIP).

**"Participating Community"** also known as an "eligible community," means a community in which the Administrator has authorized the sale of flood insurance.

**"Person"** includes any individual or group of individuals, corporation, partnership, association, or any other entity, including Federal, State, and local governments and agencies.

**"Principally Above Ground"** means that at least 51 percent of the actual cash value of the structure, less land value, is above ground.

**"Recreational Vehicle"** means a vehicle which is (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projections; (c) designed to be self-

propelled or permanently towable by a light-duty truck; and (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**"Remedy A Violation"** means to bring the structure or other development into compliance with Federal, State, or local floodplain management regulations; or, if this is not possible, to reduce the impacts of its noncompliance.

**"Risk Premium Rates"** means those rates established by the Administrator pursuant to individual community studies and investigations which are undertaken to provide flood insurance in accordance with Section 1307 of the National Flood Disaster Protection Act of 1973 and the accepted actuarial principles. "Risk premium rates" include provisions for operating costs and allowances.

**"Special Flood Hazard Area"** see "area of special flood hazard."

**"Special Hazard Area"** means an area having special flood hazards and shown on an FHBM, FIRM or FBFM as zones (unnumbered or numbered) A, AO, AE, or AH.

**"Start of Construction"** includes substantial-improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvements were within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, the installation of streets and/or walkways, excavation for a basement, footings, piers, foundations, the erection of temporary forms, nor installation on the property of accessory structures, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial-improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**"State Coordinating Agency"** means that agency of the state government, or other office designated by the governor of the state or by state statute at the request of the Administrator to assist in the implementation of the National Flood Insurance Program (NFIP) in that state.

**"Structure"** means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. "Structure, for insurance purposes, means a walled and roofed building, other than a gas or liquid storage tank that is principally above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair,-

but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

**"Substantial-Damage"** means damage of any origin sustained by a structure whereby the cost of restoring the structure to pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**"Substantial-Improvement"** means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This term includes structures which have incurred "Substantial-damage," regardless of the actual repair work performed. The term does not, however, include either (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (2) any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

**"Temporary Structure"** means a structure permitted in a district for a period not to exceed 180 days and is required to be removed upon the expiration of the permit period. Temporary structures may include recreational vehicles, temporary construction offices, or temporary business facilities used until permanent facilities can be constructed, but at no time shall it include manufactured homes used as residences.

**"Variance"** means a grant of relief by the community from the terms of a floodplain management regulation. Flood insurance requirements remain in place for any varied use or structure and cannot be varied by the community.

**"Violation"** means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required by this ordinance is presumed to be in violation until such time as that documentation is provided.

**"Water Surface Elevation"** means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum where specified) of floods of various magnitudes and frequencies in the floodplain.

## **ARTICLE 9. CERTIFICATE OF ADOPTION**

This Floodplain Management Ordinance for Boone County, Missouri

ADOPTED AND APPROVED by the Governing Body of Boone County, Missouri.

This Twenty-ninth day of October 1996.

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Don Stamper, Presiding Commissioner

ATTEST:

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Wendy S. Noren, County Clerk

## 23. CHARACTER PRESERVATION OVERLAY DISTRICT

23.1 Aspects of Character Preservation Districts: Two Different Purviews. County regulations and policy for Character Preservation Districts shall fall into two separate areas as follows:

23.1.1 The first area is the right-of-way as defined in the *Boone County Road Bridge and Right of Way Regulations*. The Boone County Public Works Department will administer the regulation and policy for the right-of-way portion of the Character Preservation Overlay District.

23.1.2 The second area is defined as the Preservation District, which consists of the privately held land within an established Character Preservation Overlay District. The Boone County Planning and Building Inspection Department will administer the regulations and policy for the Preservation District area.

### 23.2 Intent and Purpose

The intent of the Character Preservation Overlay District is to identify, preserve and protect the historic, cultural or environmental character of designated areas by insulating them from negative aspects of development. This is accomplished by carefully defining the existing character of the area proposed for designation and guiding what development does occur to insure that it is compatible and consistent with the identified character of the area. Interested property owners in the area that is proposed for designation shall instigate the initiative for the designation.

Careful consideration as to practicable suitability of an area requesting designation with respect to the existing and reasonably assumable future land uses should factor heavily in the decision of whether or not an area should be designated for Character Protection Overlay District status.

Once designated, an overlay district shall be a compelling factor in any decision pertaining to land use decisions, rezoning requests, conditional use permits and other development within the designated area. This is to say Boone County should deny any requests for rezoning, conditional use permits or building permits that are incompatible with or would be detrimental to the nature and character of the overlay district.

### 23.3 Procedures For Designating A Character Preservation Overlay District

23.3.1 Application. Any Petition for Application for designation of a Character Preservation Overlay District must be submitted to the County Commission through the Director. The Petition for Application shall be on forms provided by the Director and shall include information as required by Section 22.4.1.

23.3.2 The applicants shall work with the Boone County Planning and Building Inspection Department to identify the character of the proposed overlay district and to create a set of development and/or performance standards to be known as Preservation and Character Standards (PCS).

23.3.2.1 At such time as the Preservation and Character Standards have been developed, the applicants shall provide the Director a Petition for Certification of Preservation and Character Standards. The Petition for Certification of Preservation and Character Standards shall be on forms provided by the Director and shall include information as required by Section 23.4.1.

23.3.3 Notice. Following submission of the Petition for Certification of Preservation and Character Standards and at least 15 days prior to the next regularly scheduled Planning and Zoning Commission hearing, the Director shall give notice of the application in the following manner:

23.3.3.1 By certified mail to the owners of all property within the proposed overlay district.

23.3.3.2 By first class mail to the owners of all property within 1000 feet of the boundary of the proposed overlay district.

23.3.3.3 Publication of a locality map in a newspaper having a daily circulation.

23.3.3.4 Publication of a locality map in a newspaper having a weekly or daily circulation in the northern portion of the County if any part of the proposed district lies north of the north boundary of Township 49 North.

23.3.3.5 Publication of a locality map in a newspaper having a weekly or daily circulation in the southern portion of the County if any part of the proposed district lies south of the north line of Township 47 North.

23.3.4 The Planning and Zoning Commission shall hold a public hearing. Following the public hearing, the Commission shall vote on a recommendation to approve, modify, deny or table the request and proposed Preservation and Character Standards. A record of the recommendation shall be forwarded to the County Commission and shall include the wording of the motion and the action taken. In formulating its recommendation, the Commission shall make findings consistent with the following criteria:

- Establishment of the district must promote the public good
- Establishment of the district shall not thwart established public policy and/or adopted long range plans
- Establishment of the district shall not result in the creation of redundant regulations where adequate protections already exist
- Establishment of the district shall not prohibit the future improvement of public roadways and utility services or the acquisition of right of way for public roadways and utilities

23.3.5 Upon receipt of a recommendation from the Commission and before adoption of a Character Preservation Overlay District and accompanying Preservation and Character Standards, the County Commission shall hold at least one public hearing thereon. The County Commission may approve, deny or remand the proposal and PCS back to the Commission for modification. In order to approve a Character Preservation Overlay District the County Commission must make findings consistent with the following:

- Establishment of the district must promote the public good

- Establishment of the district shall not thwart established public policy and/or adopted long range plans
- Establishment of the district shall not result in the creation of redundant regulations where adequate protections already exist
- Establishment of the district shall not prohibit the future improvement of public roadways and utility services or the acquisition of right of way for public roadways and utilities

23.3.5.1 In cases where the Commission recommends denial of a request, the County Commission shall summarily endorse denial action of the Commission unless the applicant files a Notice of Appeal to the County Commission. The Notice of Appeal must be filed with the Director within 72 hours (three working days) following the P&Z Commission hearing. The Notice of Appeal shall state the grounds why the Commission recommendation for denial is in error. The applicant must appear before the County Commission in person or by representative with written authorization by the applicant.

23.3.5.2 In cases where the Commission recommends approval of an application, the County Commission will summarily deny the application if the following two conditions occur: (1) the applicant does not appear at the County Commission hearing in person or by representative with the written authorization of the owner, **and** (2) there is opposition to the application expressed in person at the County Commission Hearing.

#### 23.4 Application Content, Fees, Costs.

23.4.1 No action on the request will be taken until all of the required information has been submitted. Applications for establishing a Character Preservation Overlay District shall include the following:

- A Petition for Application on forms provided by the Director. The petition shall contain the following:

- The notarized signatures of the private property owners of at least 75% of the privately owned public road frontage within the proposed district.
- The notarized signatures of at least 67% of all private property owners within the proposed district.
- A legal description of the proposed Overlay District prepared by a Missouri Registered Land Surveyor.
- An aerial photograph obtained from the Boone County Assessors Office or Boone County GIS map, if available, showing the boundary of the proposed overlay district and tax parcel boundaries of all properties within the proposed district and within 1000 feet of the proposed district.
- A designated contact person, who will serve as the liaison between the county and the applicants.
- A list of individuals to serve on the PCS development committee. Said committee shall be comprised of at least three but not more than five persons who signed the Petition for Application.
- The name, address and parcel number(s) of all property owners within the proposed overlay district
- The name, address and parcel number(s) of all property owners within 1000 feet of the boundary of the proposed overlay district.
- A certified copy of a County Commission Order designating all public roads within the proposed overlay district to be in the “Adopt a Road” program. The required signage can be waived if it is not consistent with the Character and Preservation Standards of the established district.

23.4.2 Fees. The applicant shall submit a fee of \$150 with the application.

23.4.3 Costs. The applicant shall be responsible for the costs of all required public notice and the preparation of the application materials including but not limited to all required surveys and property descriptions.

23.5 Procedures for Vacation (Removal) of the Overlay District:

Removal of a designated Character Preservation Overlay District shall be accomplished by the same procedures as followed to establish the overlay district. Additionally, the

County Commission shall have the authority, after a public hearing, to remove the district status if it determines the districts character has changed to the extent that it no longer possesses the nature and character originally intended.

23.6 Protection District Regulations and Standards:

23.6.1 All development within a Character Preservation Overlay District must conform to the Preservation and Character Standards adopted for the district.

23.6.2 All subdivision proposals and commercial or industrial developments must be developed as planned developments.

23.6.3 Public improvements and construction within the Character Preservation Overlay District shall conform to the Character Preservation Standards to the highest degree practicable. To that extent, the Boone County Department of Public Works or other governmental agency shall consult with the Department of Planning and Building Inspection regarding the design of any project proposed to be constructed within a Character Preservation Overlay District.

23.6.4 Standards for Commercial & Industrial Properties within the Protection District may include but are not limited to the following:

23.6.4.1 The following areas shall be screened from public view:

- Loading areas
- Waste collection and storage areas
- Areas used for storage of materials or equipment
- Parking areas

23.6.4.2 Screening shall be achieved through the use of evergreen trees or privacy fence. Evergreen trees used for screening purposes shall have a minimum diameter of 3 inches, planted every 6 feet. The owner shall replace dead or dying trees within the next growing season.

23.6.4.3 Outdoor lighting in areas zoned for Commercial or Industrial use shall be limited to heights less than 25 feet. Lighting shall be positioned such that the illuminated area will not extend beyond the property line.

23.6.4.4 Billboards shall not be permitted within the Protection District.

23.6.4.5 Properties zoned for Commercial or Industrial use shall not use lighted signage. The permitted signage for the area shall be limited to a single identifying sign no larger than 4' by 8' and must meet setback requirements for the district in which it is located.

## 24. AIRPORT APPROACH AND DEPARTURE DISTRICT

The purpose of the Airport Approach and Departure District is: (1) to protect the public health, safety, and welfare of property owners within airport hazard areas and noise sensitive areas; (2) to enhance compatibility between the Columbia Regional Airport and surrounding land use; and (3) to protect Columbia Regional Airport from encroachment of incompatible development. The Airport Approach and Departure District map, adopted herein by reference, shall serve as an overlay district that applies additional standards and requirements to properties located within the underlying zoning district. In case of conflicting standards and requirements, the more restrictive shall apply.

### 24.1 Permitted Uses for the A-1 and A-2 District:

Agricultural activity which shall include greenhouses and nurseries.

Roadside stands for the sale of agricultural products produced on the premises.

Open space and natural areas

Single-family dwellings located on lots meeting the minimum lot size of the zoning district.

Home Occupation (excluding Family or Group Day Care).

#### **Conditional Uses:**

Any use that is not specifically listed as a permitted use when it is determined that said use meets the purpose of this district including, but not limited to, the following:

Kennel

Animal boarding and training facility

Cemetery, human or animal, or enlargement of existing cemetery.

Agribusiness

Sewage lagoon or mechanical treatment plant where not approved under County Subdivision regulations.

Transmission facility not having a transmission tower; providing it can be shown that it will not create electrical interference with navigational signals or radio communication between the airport and aircraft.

24.2 Permitted uses for the A-R, R-S, R-D and R-M districts:

Agricultural activity which shall include greenhouses and nurseries.

Roadside stands for the sale of agricultural products produced on the premises.

Open space and natural areas

Single-family dwellings located on lots containing 2.5 acres or more.

Home Occupation (excluding Family or Group Day Care).

Golf course (excluding miniature course or driving range) operated during daylight hours only.

Single-family dwelling on a lot smaller than 2.5 acres provided that it is a lot of record as defined by the Zoning Regulations.

Conditional uses for the A-R, R-S, R-D and R-M districts:

Any use that is not specifically listed as a permitted use when it is determined that said use meets the purpose of this district including, but not limited to, the following:

Sewage lagoon or mechanical treatment plant where not approved under County Subdivision regulations.

Public building erected by any governmental agency.

24.3 Commercial and Industrial land uses:

Requests for Commercial or Industrial zoning of land falling within the Airport Approach and Departure District are required to be Planned Developments conforming to all requirements of Section 6 of the Zoning Ordinance in addition to the requirements of the Airport Approach and Departure District.

24.4 Prohibited Uses:

Any use not specifically listed in this district as a permitted use or listed as a conditional use is considered a prohibited use. Additionally, the following uses are expressly prohibited in this district:

Mobile Home.

Mobile Home Park.  
Race tracks.  
Dwelling structures designed for more than one family.  
Hospitals.  
Nursing homes or retirement centers.  
School, public or private.  
Structures used for public assembly.  
Nursery, pre-school or Day Care Center.  
Sanitary landfill.

**Any use that will create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.**

## **24.5 Development Standards and Requirements**

The following development standards and requirements shall apply to all proposed uses and structures unless specifically exempt.

24.5.1 Whenever buildings are to be located within the 65 Ldn or higher noise contour, measures to achieve an interior noise level reduction of 25 decibels must be incorporated into the design and construction of portions of said buildings which are noise sensitive including, but not limited to, areas designed for sleeping, areas where the public is received, office areas, public assembly areas and other areas where people work or congregate. The location of the 65 Ldn and other noise contours shall be as shown on the official zoning map as depicted by the Columbia Regional Airport FAR Part 150 Noise Compatibility Study, which is adopted by reference.

24.5.2 Whenever an application for a building permit, change of zoning or conditional use permit within this district shall be requested by a property owner, Boone County shall within five (5) days of receiving said request submit a copy of the application to the Manager of the Columbia Regional Airport, who shall provide a written recommendation within ten (10) days of receipt.

24.5.3 The application for a building permit, change of zoning or conditional use permit shall include the following information:

24.5.3.1 A site development plan drawn to scale which shows the location of all existing and proposed buildings and structures on the property and the location of the existing and projected 65 Ldn and higher noise contours.

24.5.3.2 A description of the subject property and its total acreage, the proposed development or use of the site, and the uses intended to occupy each building or structure on the site.

24.5.3.3 The site development plan shall be reviewed and recommendations made to the applicant using the following criteria:

24.5.3.3.1 Buildings and structures should be located the greatest distance from the centerline of the runway (extended) as is practical and should be oriented to take maximum advantage of natural topography to minimize exposure to the noise.

24.5.3.3.2 Building openings, such as windows, should be faced away from the centerline of the runway (extended). Landscaping materials should be used to deflect noise.

## 24.6 Avigation Easement.

Prior to receiving approval of a building permit, the applicant shall convey to the Columbia Regional Airport an avigation easement permitting the right of flight in the airspace above the subject property. Such easement shall be provided in a form prescribed by Boone County in consultation with the Columbia Regional Airport and shall be recorded on the title of the subject property. All recording fees shall be paid by the City of Columbia.

## 24.7 Exemptions.

The provisions of this ordinance shall not apply to the following uses when permitted by the underlying zoning district:

24.7.1 The uses existing on the effective date of this ordinance shall not be required to change in order to comply with these regulations; provided however, the nonconforming use requirements of the zoning ordinance shall apply.

24.7.2 Temporary uses with a period of operation not exceeding five days. An extension of the time period may be approved when deemed reasonable and appropriate.

24.7.3 Temporary or accessory buildings and structures not used for habitable purposes, which are incidental to a permitted use.

## **25. SIGN REGULATIONS**

25.1 Purpose and Intent. The Boone County sign regulations are intended to aid in traffic control and safety, preserve and protect property values, lessen congestion of land and air space, provide against undue concentrations of signs which distract and endanger traffic safety and traffic flow, establish reasonable standards for commercial and other advertising through the use of signs in order to maintain and encourage business activity and area development, avoid uncontrolled proliferation of signs, recognize the rights of the public in its use of roads, streets and highways, recognize the tradition of individual liberty within the home and preserve the wholesome and attractive character of Boone County.

Promotion of the public comfort and welfare is to be accomplished by insuring adequate and appropriate spacing of signs so that confusion is reduced and so that businesses and other entities can effectively communicate with the public. The public comfort, safety and welfare will be further protected by regulating the size, height, location and general characteristics of permitted signs. These regulations are found to be the minimum necessary to promote the public health, safety and welfare.

### 25.2 Exempt Signs

25.2.1 Official notices authorized by a court, public body or public safety official

25.2.2 Directional, warning or information signs authorized by federal, state, county or municipal governments

25.2.3 Memorial plaques, buildings identification signs and building cornerstones when cut or carved into a masonry surface or when made of noncombustible material and made an integral part of the building or structure.

25.2.4 The flag of a government or a noncommercial institution, such as a school.

### 25.3 Signs in Agriculture, Transition, Recreation and Residential Districts

#### 25.3.1 Residential Development Signs.

25.3.1.1 Residential developments of four or more dwelling units shall be permitted one development complex sign for each adjacent public street frontage not within the project (or for each entrance in the case of a subdivision project). Such signs that are based on one street frontage or subdivision entrance shall not be located on a different street frontage or subdivision entrance.

25.3.1.2 Such signs shall be placed within 75' of the entrance to the development and outside of any right of way, public easement, or clear vision area.

25.3.1.3 Maximum height for such signs shall be 5 feet above the established street grade. Maximum sign area shall be 32 square feet per sign.

#### 25.3.2 Business Signs.

25.3.2.1 Uses permitted by the zoning district regulations, including the sale of the property on which the sign is located, shall each be permitted façade signage and/or one freestanding sign per adjacent public street frontage. Total signage for such a use shall not exceed 32 square feet in area. The height of freestanding signs shall be limited to eight-feet above the established street grade.

25.3.2.2 Home occupations are permitted one (1) façade sign on the structure in which the home occupation is located, which shall not exceed three (3) square feet (432 square inches) in area. Such signs shall be unlit and shall use non-flashing, non-reflective materials.

25.3.2.2.1 The area of the sign shall be calculated using the following formula: height x width = area. For example if a sign was 21 inches high and 20 inches wide the area would be calculated by multiplying the height of 21 inches x the width of 20 inches, which equals 420 square inches (21 x 20 = 420).

25.3.3 Non-commercial signs. Residential uses shall each be permitted façade signage and/or one freestanding sign per adjacent public street frontage provided the signage does not convey a commercial message. Total signage for such a use shall not exceed 32 square feet in area. The height of freestanding signs shall not exceed eight-feet above the adjacent grade.

#### 25.4 Signs in Commercial, Industrial and Planned Recreation Districts.

25.4.1 Freestanding or Projecting Signs in Development Complexes. On each public street frontage each development complex shall be permitted one freestanding development complex sign or one projecting development complex sign, but not both. Freestanding or projecting signs, which are based on the length of one street frontage, shall not be placed on a different street frontage.

25.4.1.1 The base allowable sign area for each development complex sign shall be two square feet of sign area for each 5 lineal feet of street frontage, not to exceed 80 square feet of sign area. A bonus sign area of 10 additional square feet per business, enterprise, institution or franchise, within the development complex, is allowed provided that such bonus shall not exceed 50% of the base allowable sign area. Total Freestanding Sign Area is calculated as follows:

- Base Allowable Sign Area (BASA) in square feet = (lineal feet of street frontage ÷ 5) x 2 or 80 square feet, whichever is less.
- Bonus Sign Area (BSA) in square feet = Number of businesses, etc. x 10 or BASA ÷ 2, whichever is less
- Total Freestanding Sign Area = BASA + BSA or 120 square feet, whichever is less.

25.4.1.2 Businesses that are within a development complex shall not be allowed an individual freestanding or projecting sign

25.4.2 Freestanding or Projecting Signs for Businesses. Each business not within a development complex may be permitted a freestanding sign or one projecting sign, but not both, subject to compliance with the applicable standards.

25.4.2.1 The base allowable sign area for each freestanding or projecting business sign shall be two square feet of sign area for each 5 lineal feet of street frontage, not to exceed 80 square feet of sign area. Total Freestanding Sign Area is calculated as follows:

- $(\text{Lineal feet of street frontage} \div 5) \times 2$  or 80 square feet, whichever is less.

25.4.3 Business Signs. Each enterprise, institution or business shall be permitted façade signs and one under canopy sign per street frontage, subject to the following requirements. Businesses that are not within a development complex shall be permitted one freestanding or projecting sign, but not both. Businesses that are within a development complex shall not be allowed an individual freestanding or projecting sign.

25.4.3.1 Maximum Façade Sign Area. Total area of façade signage shall not exceed 2 square feet for each lineal foot of the building wall to which the sign is attached up to a maximum of 80 square feet. Maximum façade sign area in square feet shall be calculated as follows:

- Lineal feet of building wall  $\times 2$  or 80 square feet, whichever is less.

25.4.3.2 Maximum Freestanding Sign Area. Two square feet for each 5 lineal feet of street frontage, not to exceed 80 square feet. Only one freestanding sign is allowed per parcel except as provided for in development complexes. Maximum freestanding sign area in square feet shall be calculated as follows:

- $(\text{lineal feet of street frontage} \div 5) \times 2$  or 80 square feet, whichever is less

25.4.3.3 Parapet Mounted Sign Area shall be calculated the same as and counted as part of the allowed façade signs.

25.4.3.4 Maximum Projecting Sign Area. Two square feet for each 5 lineal feet of street frontage, not to exceed 80 square feet. Only one projecting sign is allowed per parcel. Maximum projecting sign area in square feet shall be calculated as follows:

- $(\text{lineal feet of street frontage} \div 5) \times 2$  or 80 square feet, whichever is less

25.4.3.5 Maximum Suspended Sign Area. The maximum allowable sign area shall be 1 square foot for each lineal foot of width of the canopy, awning, marquee or other structural element of a building from which the sign is suspended, as measured perpendicular to the building wall.

25.4.4 Freestanding Signs for Boat Services on the Missouri River. Businesses that provide boat services such as fuel and pump out may have one freestanding sign subject to the following:

25.4.4.1 The maximum allowable sign area shall be 64-square feet.

25.4.4.2 Maximum sign height is 30-feet, measured vertically, from the edge of the river bank as defined by the line of vegetation.

25.4.4.3 The sign must be within 25-feet, measured horizontally, of the river bank as defined by the line of vegetation.

2.4.4.4 The sign may be composed of one or two faces. The face(s) of the sign must be oriented toward the river and must be within  $0^{\circ}$  to  $25^{\circ}$  of parallel to the centerline of the river at the location of the sign.

25.4.5 Non-commercial signs. Commercial and industrial uses that are located in commercial or industrial zoning districts shall each be permitted façade signage and/or freestanding signs provided the signage does not convey a commercial message. Such signs shall not exceed 32 square feet in area and shall not be displayed for more than six months in each calendar year. The height of freestanding signs shall not exceed eight-feet above the adjacent grade.

25.5 General Sign Regulations. The following regulations apply to all signs.

25.5.1 Sign Illumination. Except for billboards, sign illumination may be from backlighting, an internal source or floodlight projection. Lighting shall be shielded to preclude glare visible from public rights of way and neighboring properties.

25.5.2 Measurement of Sign Area. The square footage of a sign made up of letters, words or symbols within a frame shall be determined from the outside edge of the frame itself. The square footage of a sign composed of only letters, words or symbols shall be determined from imaginary straight lines drawn around the entire copy or grouping of such letters, words or symbols. Double-faced signs shall be calculated as the area of one side only. Three-dimensional or signs other than single or double-faced signs shall be calculated as the cumulative area of all faces of the sign.

25.5.3 Maximum Sign Height. Maximum height of any sign is 35 feet unless a more restrictive standard is established elsewhere in these regulations.

25.5.4 Measurement of Sign Height The height of a sign shall be measured from average grade to the highest point of the sign or its supporting structure. Signs do not qualify for increased height due to increase in setback.

25.5.5 Condition and Maintenance. All signs shall be of rust-inhibitive or rot-inhibitive material or treatment, and shall be maintained in good condition in the opinion of the Director. All signs, together with all of their supports, braces, guys and anchors shall be kept in good repair and in a safe state of preservation. The display surfaces of all signs shall be kept neatly painted or posted at all times.

25.5.6 Electronic Message Signs. Electronic message signs that provide changing messages are permitted provided such signs do not blink or flash at a frequency of less than one blink or flash per 3 seconds.

25.5.7 All signs must meet or exceed the setback requirements established for the zoning district in which the sign is located. No portion of any sign shall overhang or encroach on the setback area, public right of way or public easement.

25.5.8 Vehicle Clearance Area. When a sign is placed over a private area where vehicles travel or are parked, the bottom of the sign structure must be at least 15 feet above the ground. Vehicle areas include but are not limited to driveways, alleys, parking areas, loading and maneuvering areas. Exceptions are prohibited.

25.5.9 Signs, which are allowed based on the length of or adjacency to one street frontage, shall not be placed on a different street frontage.

25.5.10 Prohibited Signs. The following devices and locations are specifically prohibited:

25.5.10.1 Signs located in such a manner as to obstruct or otherwise interfere with an official traffic sign, signal or device or obstruct or interfere with a driver's view of approaching, merging or intersecting traffic.

25.5.10.2 Signs encroaching upon or overhanging public right of way or easement dedicated for use by the public. No sign shall be attached to any utility pole, light standard, street tree or any other public facility located in the public right of way or public easement.

25.5.10.3 Cloth, paper, soft plastic or similar advertising signs or devices other than in rigid frames as provided herein.

25.5.10.4 Signs that blink, flash or are animated by lighting in any fashion that would cause such signs to have the appearance of traffic safety signs and lights, or municipal vehicle warnings from a distance.

25.5.10.5 Portable signs.

25.5.10.6 Any sign attached to or placed on a vehicle or trailer parked on public or private property. The prohibition of this subsection does not prohibit the identification of a firm or its principal products on a vehicle being operated during the normal course of business or being taken home.

25.5.10.7 Pennants, banners and private flags bearing any logo, product name, business name or other advertising.

25.5.10.8 Signs in any district except as specifically authorized by these regulations.

25.5.10.9 Rotating signs and roof-mounted signs and searchlights.

25.5.10.10 Any sign, other than a billboard that is located on a parcel that is otherwise undeveloped, except as otherwise permitted by these regulations.

25.5.11 Signs, variances not allowed except. No variance from the provisions of Section 25, Sign Regulations is allowed except in accordance with Section 15.C(4)(f) of these regulations.

## 25.6 Specific Sign Requirements

### 25.6.1 Billboards

25.6.1.1 Billboards are only allowed in the General Commercial (C-G), Planned General Commercial (CG-P), Light Industrial (M-L), Planned Light Industrial (ML-P), General Industrial (M-G) and Planned General Industrial (MG-P) districts and must be within 100 feet of the U.S. 63 or I-70 right of way.

25.6.1.2 Maximum sign area is 288 square feet.

25.6.1.3 Minimum ground clearance is 8 feet.

25.6.1.4 Minimum setback from all public rights of way is 50 feet with no portion of the sign overhanging the setback area.

25.6.1.5 Minimum setback from a side or rear property line, not abutting a public right of way, is 10 feet with no portion of the sign overhanging the setback area.

25.6.1.6 Minimum distance from Agriculture, Transition, Residential, Commercial Office (C-O) or Neighborhood Commercial (N-C) zoning districts or municipal limits of any city or town is 200 feet, based upon the location of the zoning district boundary or municipal limits in effect at the time the building permit for the billboard is issued.

25.6.1.7 Minimum distance from other billboards is 2,640 feet.

25.6.1.8 Minimum distance from any street intersection is 200 feet.

25.6.1.9 All freestanding billboards shall be mounted on a monopole mast.

25.6.1.10 Billboards consisting of two faces are permitted only if the planes formed by the two faces are parallel, the same size and shape and mounted at the same elevation.

25.6.1.11 Billboards consisting of more than two faces are prohibited.

25.6.1.12 Billboards shall not be illuminated.

25.6.1.13 Maximum number of billboards per parcel is one.

25.6.1.14 Billboards shall comply with all specific requirements for freestanding, projecting or facade signs, as appropriate, unless a stricter standard applies.

## 25.6.2 Freestanding Signs

25.6.2.1 All freestanding signs shall maintain a clear vision area as specified in this ordinance.

25.6.2.2 For purposes of calculating the number of freestanding signs allowed on a parcel, a billboard constitutes 1 freestanding sign.

25.6.2.3 Any freestanding sign that is not a billboard shall be a minimum of 35 feet from any public street intersection.

25.6.2.4 Freestanding signs shall be placed on a parcel so that they are no more than 150 feet from the public right of way.

25.6.2.5 In Commercial, Industrial or Planned Recreation Districts a freestanding sign cannot be placed closer than 50 feet to another freestanding sign.

25.6.2.6 There shall be no freestanding sign on the same street frontage where there is a projecting sign on the same parcel and street frontage.

25.6.3 Parapet-Mounted Signs. Signs projecting above the point of intersection of the exterior wall of the building with its roof shall be mounted on a parapet.

#### 25.6.4 Projecting Signs

25.6.4.1 A projecting sign shall not extend above the line defined by the intersection of the planes formed by the building wall and the roof.

25.6.4.2 No supporting structure shall be visible above the sign face.

25.6.4.3 The edge of the sign shall not be more than one foot from the building wall.

25.6.4.4 A minimum of 8 feet must be maintained between the lowest point of the sign and the ground unless a stricter standard applies.

25.6.4.5 A projecting sign shall not project more than 10 feet from the building wall to which it is attached.

#### 25.6.5 Suspended Signs

25.6.5.1 The maximum allowable horizontal length of a suspended sign shall be equal to the width of the canopy, awning, marquee other structural element of a building from which the sign is suspended, as measured perpendicular to the building wall, minus 2 feet.

25.6.5.2 The sign must be hung at least 1 foot from the outside building wall and at least 1 foot from the outside edge of the canopy, awning, marquee or similar structure from which the sign is hung measured at the location at which the sign is to be hung.

25.6.5.3 The minimum vertical clearance between the lowest edge of an under-canopy sign and the ground shall be 8 feet.

25.6.5.4 The sign must be hung perpendicular to the direction of the building wall at the location where the sign is to be hung.

## 26. STREAM BUFFER REGULATIONS

### 26.1 Title, Purpose and Intent

26.1.1 Title. This chapter shall be known as the "Stream Buffer Regulations of Boone County, Missouri."

26.1.2 Purpose. The County Commission of Boone County, Missouri has determined that these regulations are necessary for the purpose of promoting the health, safety, comfort, and/or general welfare; and conserving the values of property throughout the

County; and lessening or avoiding undue impact of stormwater runoff on adjoining properties and the environment. Buffers adjacent to stream systems provide numerous environmental protection and resource management benefits which can include the following:

- Restoring and maintaining the chemical, physical and biological integrity of the water resources,
- Removing pollutants delivered in urban storm water,
- Reducing erosion and controlling sedimentation,
- Stabilizing stream banks,
- Providing infiltration of storm water runoff,
- Maintaining the base flow of streams,
- Contributing the organic matter that is a source of food and energy for the aquatic ecosystem,
- Providing tree canopy to shade streams and promote desirable aquatic organisms,
- Providing riparian wildlife habitat,
- Furnishing scenic value and recreational opportunity,
- Protecting the public from flooding, property damage and loss, and
- Providing sustainable, natural vegetation.

26.1.3 Intent. It is the purpose of this section to establish minimum acceptable standards for the design of stream buffers to protect the streams, wetlands, floodplains and riparian and aquatic ecosystems of the County of Boone, and the implementation of specifications for the establishment, protection and maintenance of vegetation along all stream systems and/or waterbodies within our County's authority. It is the desire of the County to protect and maintain natural vegetation in riparian and wetland areas by implementing specifications for the establishment, protection and maintenance of buffer vegetation along stream systems and/or waterbodies within our County's authority.

26.1.4 Jurisdictional Area – These regulations apply to all unincorporated lands within Boone County.

26.1.5 Authority – These regulations are adopted pursuant to the provisions of Sections 64.825 – 64.885 and 64.907, Revised Statutes of Missouri.

26.1.6 Applicability

26.1.6.1 This article shall apply to:

26.1.6.1.1 All proposed development except as provided in

Section 26.1.6.2

26.1.6.1.2 Activities that involve clearing, earthwork and excavation within the buffer zone as defined herein.

26.1.6.1.3 All tracts and parcels of land in the County except as provided in Section 26.1.6.2.

26.1.6.2 This article shall not apply to:

26.1.6.2.1 Development which prior to the effective date of this article:

- Is covered by a plat recorded of record in accordance with subdivision regulations.
- Is covered by an approved and unexpired Preliminary Plat or Review Plan.
- Is covered by a valid, unexpired building permit.
- Has applied for a building permit.

26.1.6.2.2 This article shall not apply to surface mining operations which are operating in compliance with a State-approved surface mining permit.

26.1.6.2.3 This article shall not apply to agricultural or farming activities.

26.1.6.2.4 This article shall not be construed so as to prevent modifications to stream channels or wetlands if such modifications have been approved and permitted by a Federal Agency such as the U.S. Army Corps of Engineers.

26.1.6.2.5 Structures that exist on or before the date of adoption of this section, that do not conform to this section and cannot be made to conform by using the stream buffer averaging provisions of Section 26.5.6 shall be allowed to remain in the present location and footprint. Such structures can be expanded or enlarged if the expansion or enlargement is vertical and/or away from the stream being buffered.

26.2 Administration

26.2.1 Limitation on liability. This chapter does not guarantee that properties will always be free from storm water flooding or flood damage. This chapter shall not create liability on the part of, or a cause of action against, the county or any county

officer or employee for any flood damage.

26.2.2 Conflicts. Where any provision of this chapter imposes restrictions different from those imposed by any other law or regulation, whether state, federal or local, whichever is more restrictive or imposes a higher standard shall control.

26.2.3 Administration and Enforcement. The provisions of this chapter shall be administered and enforced by the Director. The Director shall receive applications required by these regulations and issue permits. He/she shall examine premises for which permits have been issued, and shall make the necessary inspections to see that the provisions of law are complied with. He/she shall, when requested by the County Commission, or when the interests of the county so require, make investigations in connection with matters referred to in these regulations and render written reports on the same. For the purpose of enforcing compliance with the law, he/she shall issue such notices or orders as may be necessary.

- Inspections: Inspections shall be made by the Director or his/her designee(s).
- Rules/ Policies: For carrying into effect its provisions, the County Commission and/or its designee may adopt rules/ policies consistent with these regulations.
- Records: The Director shall keep careful and comprehensive records of applications, of permits issued, of inspections made, of reports rendered, and of notices of orders issued. All such records shall be open to public inspection at reasonable hours, but shall not be removed from the office of the Director.

26.2.4 Appeals. Any person aggrieved by any decision of the Director in the administration or enforcement of this Chapter may appeal such decision to the Board of Adjustment.

#### 26.2.5 Variances

26.2.5.1 Variances by the Director. The Director may grant a waiver for the following:

- Those projects or activities serving a public need where no feasible alternative is available.
- The repair and maintenance of public improvements where avoidance and minimization of adverse impacts to wetlands and associated aquatic ecosystems have been addressed.

26.2.5.1.1 Application. The applicant shall submit a written request for a variance to the Director in a form specified by the Director. The

application shall include information specified by the Director and specific reasons justifying the variance and any other information necessary to evaluate the proposed variance request. The Director may require an alternatives analysis that clearly demonstrates that no other feasible alternatives exist and that minimal impact will occur as a result of the project or development.

26.2.5.1.2 Review by Director. Upon receipt of all application materials the Director shall certify the application complete. The Director shall have 10-working days from the date of the complete application in which to issue a decision. If during review of the application the Director requests additional information, then the time between when the request was made and when the information is submitted shall not count against the 10-day review period.

26.2.5.2 Other Variances. Where undue hardships or practical difficulties may result from strict compliance with this chapter, the developer may file an application for a variance. Said applications shall be directed to the Boone County Board of Adjustment organized and existing under the zoning regulations of Boone County, Missouri, which shall have the jurisdiction and shall be charged with the duty of hearing and deciding applications for variances from the strict application of the provisions of this ordinance. The Board may grant a variance only if it finds after public hearing and upon competent and substantial evidence that the applicant meets the following criteria:

- The variance shall not have the effect of nullifying the intent and purpose of these regulations;
- The granting of the variance will not be detrimental to the public safety, health or welfare, or injurious to other property or improvements.
- The conditions upon which the request for a variance is based are unique to the property for which the variance is sought, are not applicable generally to other property, and are not self-imposed.
- Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if this chapter was strictly interpreted and carried out.

26.2.5.2.1 Conditions: In recommending variances and exceptions, staff may recommend and the Board may require such conditions as will, in

the judgment of each, secure substantially the objectives of the standards or requirements of this chapter.

26.2.5.2.2 Application: An application for a variance shall be submitted at the time of filing for a preliminary plat or for application for a building permit, whenever possible. The application shall be on forms provided by the County and shall state fully the grounds for the request and all facts relied upon by the practitioner. The application shall be filed with the Director and after review thereof the Director shall make a recommendation to the Board to grant or deny the application and state the reasons for his or her recommendation. Either the applicant or the Director may appeal or seek judicial review of any decision of the Board as provided by law.

### 26.3 Definitions

**Best Management Practices (BMPs)** - Conservation practices or management measures which control soil loss and reduce water quality degradation mainly caused by nutrients, animal wastes, toxins, sediment in the runoff. BMPs may be either structural (grass swales, terraces, retention and detention ponds), or non-structural (disconnection of impervious surfaces, directing downspouts onto grass surfaces and educational activities).

**Buffer** - A vegetated area including trees, shrubs, managed lawn areas, and herbaceous vegetation which exists or is established to protect a stream system. Alteration of this natural area is strictly limited.

**Development** - A change in the zoning, intensity of use or allowed use of any land, building, structure or premises for any purpose. The subdivision or severance of land. The construction, erection or placing of one or more buildings or structures on land or use of land or premises for storage of equipment or materials. Making of an addition, enlargement or alteration to a building or structure, in, on, over or under land, which has the effect of increasing the size or usability thereof. Land disturbance activities such as but not limited to site-grading, excavation, drilling, removal of topsoil or the placing or dumping of fill and installation of drainage works. The use of the term shall include redevelopment, as defined in the stormwater regulations, in all cases unless otherwise specified in these regulations.

**Director** – The Boone County Director of Public Works or Boone County Director of Planning and Building Inspection as designated by the County Commission.

**Farming Activities** – See Agriculture or Farming Activity (Zoning Regulations Section 2)

**Flood Control Structures**– Use of levees, walls, ditching or reservoirs in an effort to minimize the occurrence of floods.

**Indigenous Vegetation** – Any species that was present in Missouri prior to European Settlement (approximately 1735 A.D.) or any plant identified as native or indigenous on lists maintained by agencies such as the Missouri Department of Conservation or United States Department of Agriculture.

**Managed Lawn Areas** - Any area greater than five hundred (500) square feet where the vegetative ground cover is maintained at a uniform height of less than 5-inches.

**Ordinary High Water Mark** – That line on the shore established by the fluctuations of water and indicated by physical characteristics such as clear natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter or debris, or other appropriate means that consider the characteristics of the surrounding area.

**Pollution** - Any contamination or alteration of the physical, chemical, or biological properties of any waters which will render the waters harmful or detrimental to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses; or to livestock, wild animals, birds, fish or other aquatic life.

**Streams** - Perennial and intermittent watercourses identified through site inspection and United States Geological Survey (USGS) maps and further defined and categorized as follows:

- A. Type I Streams are defined as perennial streams shown as solid blue lines on the United States Geological Survey seven and one-half minutes series topographical map and have a drainage area of greater than 50 acres.
- B. Type II Streams are defined as intermittent streams shown as dashed blue lines on the United States Geological Survey seven and one-half minutes series topographical map and have a drainage area of greater than 50 acres.
- C. Type III Streams are defined as intermittent streams or natural channels which are not shown on the United States Geological Survey seven and one-half minutes series topographical map as either blue or dashed blue lines which have drainage areas of greater than 50 acres..

**Wetlands** - Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support,

a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

#### 26.4 Stream Buffer Plan Requirements

26.4.1 General Plan Requirements. All administrative surveys, plats, development plans and building permits shall set forth an informative, conceptual and schematic representation of the proposed stream buffers by means of maps, graphs, charts, or other written or drawn documents so as to enable the Director an opportunity to make a reasonably informed decision regarding the proposed activity.

26.4.2 Specific Plan: Stream buffer plans shall contain the following information and shall be shown on one or more sheets as required by the Director:

26.4.2.1 A site plan map at a minimum scale of 1"=200'.

26.4.2.2 Field delineated and surveyed streams, springs, seeps, bodies of water, sink holes, and wetlands (include a minimum of 200 feet into adjacent properties).

26.4.2.2.1 Stream buffer plans for an individual single family or two family dwelling or an administrative survey are not required to survey the features listed above.

26.4.2.3 Delineated stream buffers.

26.4.2.4 Limits of the 100-year floodplain as shown on the adopted floodplain maps for the County of Boone.

26.4.2.5 Steep slopes greater than 15% for areas adjacent to and within 200 feet of Type I, II or III streams

26.4.3 Plan Submittal. The buffer plan shall be submitted in conjunction with the required development permit application or land disturbance plan for any development, whichever is submitted first. The buffer must be clearly delineated on the site grading plan.

26.4.3.1 Provide a note on the site grading and drainage plans or development site plan stating, "There shall be no clearing, grading, construction or disturbance of vegetation except as specifically approved by the Director."

26.4.4 Temporary Boundary Markers. Markers will be installed by the applicant prior to commencing clearing and grading operations and maintained throughout the

applicant’s development activities. The markers will be placed on the outside edge of the buffer zone prior to the start of any activity within 50-feet of the buffer or as shown on a land disturbance plan approved by Boone County. Markers shall be clearly visible and shall be spaced at a maximum of 100 feet. The markers shall be joined by marking tape or fencing. Orange construction fencing should be used to delineate the limits of the stream buffer.

26.4.5 Plan Preparation. Stream buffer plans, except for single family dwellings, two family dwellings or administrative surveys, shall be prepared by a professional surveyor, engineer or architect licensed to practice in the State of Missouri.

26.5 Design Standards for Stream Buffers

26.5.1 General. An adequate buffer for a stream system shall consist of a predominantly undisturbed strip of land extending along both sides of a stream and their adjacent wetlands, floodplains or slopes. The buffer width may be adjusted to include contiguous sensitive areas, such as steep slopes or erodible soils, where disturbance may adversely affect water quality, streams, wetlands, or other water bodies. All specified stream buffer widths are minimums and may be increased as specified in these regulations or on a voluntary basis by the property owner.

26.5.2 Buffer Measurement. The buffer shall begin and be measured from the ordinary high water mark of the channel during base flows.

26.5.3 Minimum Buffer Width. The required base width for all buffers shall be determined based on the type of stream being protected, as specified in TABLE I. of this ordinance below:

TABLE I. Required Minimum Stream Buffer Width	
Stream Type	Required Width (each side)
Type I	100 feet
Type II	50 feet
Type	30 feet

26.5.4 Modifications to Buffer Width. Stream buffer width shall be modified if there are steep slopes which are above the ordinary high water mark and within the required stream buffer width and drain into the stream system. In those cases, the buffer width will be adjusted according to the guidance in TABLE II. Below:

TABLE II. Modifications to Stream Buffer Width Based on Slope	
Percent Slope	Width of Buffer
0 – 14%	No Change
15% - 25%	add 25 feet
Greater than 25%	add 50 feet

26.5.5 No Buffer Required. A stream buffer shall not be required for portions of a stream that are less than 150 feet in length due to the stream having been previously enclosed within a pipe or box structure immediately upstream and downstream of the subject location. In such cases, said stream portion may be similarly enclosed in a pipe or box structure.

26.5.6 Stream Buffer Averaging. The stream buffer width may be relaxed and the buffer permitted to become narrower at some points to allow for structures existing on the date of adoption of these regulations provided:

26.5.6.1 The average width of the stream buffer must meet the minimum requirement specified in Table 1 and Table 2.

26.5.6.2 There is no reduction in the width of the Streamside Zone (Zone 1)

26.5.6.3 No new structures are built in the 100-year floodplain. This does not restrict allowable uses in the streamside zone as defined in Section 26.6.1 and 26.6.2.3.

26.6 Two Zone Stream Buffer System

26.6.1 Buffer Zones. The stream buffer shall be composed of two distinct zones, with each zone having its own set of allowable uses and vegetative targets as specified in this section. (Table III contains information that has been condensed from subsequent text. For a complete listing of uses see Section 26.6.2 and 26.6.3).

Table III. Stream Buffers	
Streamside Zone (Zone 1)	Outer Zone (Zone 2)

	Type I Stream	Type II Stream	Type III Stream		Type I Stream	Type II Stream	Type III
Width	50	25	15	Width	50	25	15
Vegetation	Indigenous Vegetation			Vegetation	Type I – Indigenous Vegetation Type II - Managed Lawns Permissible Type III – Managed Lawns Permissible		
Uses	Flood control, permeable-surfaced foot and bicycle paths, road crossings, utility crossings, stream or stream bank restoration and restoration of indigenous vegetation			Uses	All uses allowed in Streamside Zone, hard-surfaced biking/hiking paths, detention/retention structures, utility corridors, storm water BMPs, residential yards, landscaped		
Function	Protect the physical and ecological integrity of the stream ecosystem			Function	Protect key components of the stream and filter and slow velocity of water runoff		

26.6.2 Zone 1. Streamside Zone

26.6.2.1 Function. The function of the streamside zone is to protect the physical, biological and ecological integrity of the stream ecosystem. The vegetative target for the streamside zone is undisturbed indigenous vegetation.

26.6.2.2 Adjoining Wetlands. The streamside zone will begin and be measured as defined and extend away from the ordinary high water mark a distance as shown in Table III. Wetlands that adjoin the buffer shall be added to the buffer. There shall be a 15-foot buffer around any edge of the wetland that is not within the stream buffer (inner or outer zone).

26.6.2.3 Allowable uses in the streamside zone:

- Flood control structures, stream gauging and water quality monitoring equipment, stormwater treatment facilities in accordance with an approved plan

- Utility crossings
- Permeable surfaced foot and bicycle paths
- Road crossings
- Utilities where no practical alternatives exist as determined by the director.
- Stream restoration, stream bank restoration or restoration of indigenous vegetation in accordance with an approved plan
- Roads, that exist on or before the date of adoption of these regulations, and associated maintenance activities.

26.6.2.4 Restricted uses in the streamside zone. The following uses are prohibited except where incidental to an allowable use:

- Clearing of existing vegetation,
- Grading, stripping or other soil-disturbing practices,
- Filling or dumping,
- Draining the buffer area by ditching, underdrains or other systems,
- Use, storage or application of pesticides, except for the spot spraying of noxious weeds or other species consistent with recommendations of the Missouri Department of Conservation, Boone County Soil and Water Conservation District, United States Department of Agriculture or University of Missouri Extension Service
- Storage or operation of motorized vehicles except for maintenance or emergency use.
- Walls, solid fences, chain link fences, woven or welded wire fences
- Structures or any type of impervious surface except as provided above

### 26.6.3 Zone 2, Outer Zone.

26.6.3.1 Function. The function of the outer zone is to prevent encroachment into the streamside zone and to filter runoff from residential and commercial development.

26.6.3.2 Adjoining Wetlands. The outer zone will begin at the outside edge of

the streamside zone and extend outward, away from the streamside zone the distances as shown in Table III. Wetlands that adjoin the buffer shall be added to the buffer. There shall be a 15-foot buffer around any edge of the wetland that is not within the stream buffer (inner or outer zone).

#### 26.6.3.3 Allowable uses in outer zone

- All uses allowed in the streamside zone
- Utilities
- Hard-surfaced biking/hiking paths,
- Detention/retention structures,
- Storm water BMPs,
- Landscaped areas (Type II and Type III streams only) although planting of indigenous vegetation is encouraged.

#### 26.6.3.4 Restricted Uses in Outer Zone

- Walls, solid fences, chain link fences, woven or welded wire fences
- Structures or any type of impervious surface except as provided above

### 26.7 Stream Buffer Management and Maintenance

26.7.1 Management, Responsible Party. The stream buffer, including wetlands and floodplains, shall be managed by the landowner to enhance and maximize the unique value of these resources. Management includes specific limitations on alteration of the natural conditions of the land and vegetation.

26.7.2 Allowed maintenance practices and activities in the streamside zone of the buffer. All allowed uses may be maintained subject to the review of the County. Any entity conducting an allowed activity within the streamside zone shall restore any disturbed area to its previous condition or in accordance with a plan approved by the Director. In addition to maintenance of allowed uses, the following maintenance activities may be conducted:

- Roads, bridges, paths, and utilities existing as of the date of adoption of these regulations.
- Rights of way for roads and utilities should be the minimum width to allow for installation, access and maintenance.
- Removal of diseased or dead trees, brush and trash.
- Maintenance of all County-approved improvements, including utilities
- Removal of debris which could cause flooding.
- Selective (spot) spraying of noxious or other vegetation consistent with

recommendations from the Missouri Department of Conservation,  
Boone County Soil and Water Conservation District, United States  
Department of Agriculture or University of Missouri Extension Service

26.7.3 Restricted maintenance practices and activities within the streamside zone of the stream buffer:

- Clearing of existing vegetation.
- Soil disturbance by grading, stripping, or other practices.
- Filling or dumping.
- Drainage by ditching, under drains or other systems.
- Use, storage, or application of pesticides, except as provided for in 26.7.2 above.
- Storage or operation of motorized vehicles, except for maintenance and emergency use approved by the County or when operated on a legally established roadway.

26.7.4 Allowed maintenance practices and activities within the outer zone of the stream buffer:

- All Allowed Uses
- All maintenance practices and activities that are allowed in the Streamside Zone.

26.7.5 Restricted maintenance practices and activities within the outer zone of the stream buffer:

- Structures or buildings except as otherwise allowed by these regulations

26.7.6 Water pollution hazards – The following land uses and/or activities are designated as potential water pollution hazards and must be set back from any stream by the distance indicated below:

- Storage & use of hazardous substances 300 feet provided:
  - Up to 20 gallons of liquid fertilizer or pesticide is allowed but must remain outside of the stream buffer
  - Up to 100 pounds of granular fertilizer or pesticide is allowed but must remain outside of the stream buffer
- Above- or below-ground petroleum storage facilities 300 feet provided:

- Up to 500 gallons of heating oil, gasoline or diesel fuel is allowed but must remain outside of the stream buffer
- Up to 1000 gallons of propane is allowed but must remain outside of the stream buffer
- Salvage yards or Automobile Recyclers 600 feet

#### 26.8 Violations, Penalties and Remedies

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of these regulations. A violation of or failure to comply with any of the requirements of these regulations shall constitute a misdemeanor and shall be upon conviction punished as provided by law. In addition, any person permitting, aiding, abetting or concealing a violation of this ordinance shall be deemed guilty of a misdemeanor and shall be upon conviction punished as provided by law. Each day a violation of these regulations continues shall constitute a separate offense. The penalty provided in this section shall not be construed to be exclusive but is intended to be supplemental and in addition to any other remedy provided by law or at equity. The County may institute in the circuit court of the County any appropriate action or other proceedings to prevent any unlawful activity proscribed in this ordinance or to correct any violations of this ordinance.

#### 26.9 Conflict with Other Regulations

Where the standards and management requirements of this buffer ordinance are in conflict with other laws, regulations, and policies regarding streams, steep slopes, erodible soils, wetlands, floodplains, timber harvesting, land disturbance activities, or other environmental protective measures, the more restrictive shall apply.

#### 26.10 Severability

If any part or parts of this Ordinance shall be held unconstitutional, invalid, or otherwise unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Ordinance.

## **27. ADDRESSING AND ROAD NAMING REGULATIONS**

### **27.1 Applicability and Authority.**

Applies to all divisions of land and related addressing and road naming. These regulation are adopted pursuant to the authority granted under the provisions of RSMo 64.825-64.885, RSMo

67.318 and the provisions of the adopted International Fire Code and International Residential Code which have been adopted by the County pursuant to the authority granted in RSMo 64.170.

**27.2 Definitions.** For purposes of this section, the following terms are hereby defined:

**27.2.1 Addressable Structures.** Structures eligible for addresses. See Section 27.11.

**27.2.2 Alias Road Names.** An alias road name is the name, other than the official name, commonly used for the road (See Section 27.9.15).

**27.2.2 Boone County Addressing Grid System.** The system used in unincorporated Boone County to assign address numbers (See Section 27.5).

**27.2.3 Address Directional Prefix.** An abbreviation of the main cardinal direction which precedes the official road name. There are four address directional prefix quadrants with north designated as N, south designated as S, east designated as E, and west designated as W.

**27.2.4 Bulb / Bumpout.** In context of roads, a condition where the right of way for a road is widened to allow for more frontage for additional lots and continues the numbering pattern, interval, and direction as a continuation from the main road (See Canterbury Dr, 27.7 Figure 1).

**27.2.5 Circle.** In context of roads, a road that has only one connection to the main road that acts as both the entrance and exit, and only intersects with itself which also contains parcels located in the interior of the circle (See Franklin Cir, 27.7 Figure 2).

**27.2.6 Court.** In context of roads, a uniquely named dead-end road with no other roads intersecting the main road and terminates in a permanent cul-de-sac.

**27.2.7 Connector.** In context of roads, a segment of road between two officially named roads created by a road realignment project.

**27.2.8 Official Legal Road Names.** The road name listed in the Boone County Road Directory as administered by Boone County Planning and Building Inspection is the official road name.

**27.2.9 Vanity.** In context of roads and/or addresses, an address requested by a business, organization, or individual that is not related to the Boone County Addressing Grid System.

### **27.3 Administration.**

**27.3.1 Addressing Authority.** The Boone County Planning and Building Inspection Director is the Boone County addressing authority.

**27.3.2 Administrative Review.** If, under application of the provisions of these regulations, any existing road name or address number is required to be changed, then any person aggrieved by such a decision by the Planner or other duly-qualified employee of the County Planning and Building Inspection department assigned to make decisions about a road name or address designation under the provisions of this ordinance may file a request to review that decision with the Director of Planning and Building Inspection for Boone County by making a written request for said review within fifteen (15) days of the date of the written decision of the Planner. Said request must be on the form(s) provided by the Director of Planning's office and shall include a copy of the written decision of the Planner.

**27.3.3 Appeals to Board of Zoning Adjustment.** The aggrieved person, if dissatisfied with the decision of the Director, may further appeal the decision of the Director to the Board of Zoning Adjustment in the same manner as appeals from the decisions of administrative officers in applying the Zoning Ordinance for Boone County.

**27.4 Purpose and Intent.** The Boone County addressing and road naming regulations are to establish standards for naming public and private roads, posting official road signs, and assigning official address numbers to all addressable structures; and to assist emergency management agencies, the United States Postal Service, and the public in the timely and efficient provision of services to residents and businesses within unincorporated Boone County.

These regulations are designed to eliminate addressing confusion and to create a standard system by which addresses shall be assigned, displayed, and maintained from this time forward. These regulations are further designed to establish an official master address database and road name directory in Boone County to be maintained by Boone County Planning and Building Department. It is not the objective of these regulations to change all previously official addressed structures or to change all previously officially named duplicate road names. Changes to existing official addresses and road names will only be made when non-conformity could interfere with the accurate dispatch of emergency vehicles, postal delivery, and provision of County services.

**27.5 Basis of the Boone County Addressing Grid System.** The unincorporated Boone County addressing grid system shall originate at the intersection of Broadway and Garth Ave in the City of Columbia and continue to increase in all directions as they radiate outward from the origin point. Other municipalities in Boone County use the same type of numbering grid system but begin at their own origin point.

**27.6 Components of an Address.** An address shall contain the following components as applicable:

- Address number
- Directional prefix
- Street name
- Street type
- Directional suffix \*
- Unit type \*\*
- Unit number \*\*

- City
- State
- Zip

\* Historical component

\*\* If applicable

**27.7 Standards for Address Number Assignment.** Addresses are assigned based off the primary access to the property. The standards for address number assignment are that the address number is a unique numerical identifier based on the Boone County addressing grid system and that the number can range from one to five digits depending on the location within the grid. The address numbers continue to increase in all directions as they radiate outward from the origin point.

**27.7.1 Address Directional Prefix.** Assignment of an address directional prefix is based on the position and orientation of the underlying road being addressed as it relates within the address grid. (See Section 27.8 for additional information).

**27.7.2 Address Numbers.** New address numbers shall consist entirely of numbers. Characters such as hyphens, decimals, or fractions shall not be allowed. If a structure is legally subdivided into more than one occupancy, a unit type and unit number shall be required. For example, instead of 2456.5 or 2456 ½ being issued as an address number, 2456 APT A and B, or 2456 STE 101 and 102 would be the correct issued address number, see Section 27.11 for additional information.

**27.7.3 Vanity Address Numbers.** Vanity address numbers shall not be allowed. All numbers shall be consistent with the address grid. For example, a business named Acme Five Company in the 1800 address grid range will not be assigned “1 Acme Dr” or “5 Acme Dr” as its address. The address shall be assigned an official address number according to the established address grid range.

**27.7.4 Address Ranges.** The possible address range of a road shall be identified using the Boone County address grid system to determine which addresses are eligible to be assigned along the length of a road segment. For example, an address number of 220 cannot be assigned on a block with an address range of 1000-1099.

**27.7.5 Address Parity.** In Boone County even numbers shall be located on the south and east sides of the road and odd numbers shall be located on the north and west sides of the road. Addresses across the road from one another should be comparable. If 645 is used on the odd-numbered side of a road, numbers close to 644 or 646 should be used on the even side.

**27.7.6 Numerical Sequence.** Assignment of addresses shall be done in numerical sequence along a road. Address numbers shall increase as they move away from the origin point of the address grid and they shall not be assigned out of order. For instance, 1789 should not fall between 1735 and 1741.

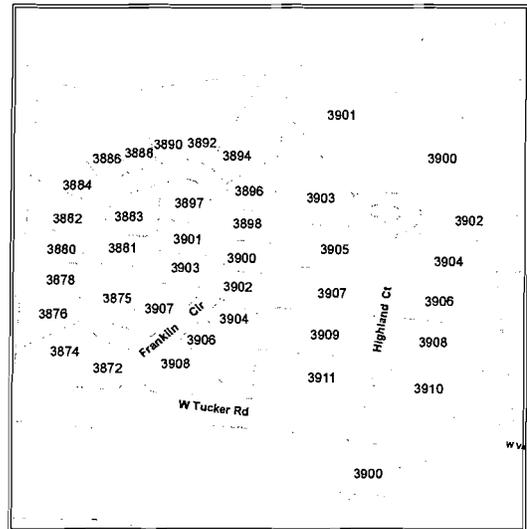


**27.7.12 Courts.** Courts shall be addressed as if the centerline of the road bisects the cul-de-sac with odd numbers on the north or west and even numbers on the south or east. The numbers meet at the far end of the center area. In addition, if the road that the court intersects is designated as an east/west directional road, the court shall be addressed as a north/south directional road even if the two are not perpendicular (See Highland Ct, 27.7 Figure 2).

**27.7.13 Circles.** Circles shall be addressed with the road name, numbering pattern, interval and direction shall be flowing with the traffic direction or to the right when there is no clear traffic flow due to the road design and/or location (See Franklin Cir, 27.7 Figure 2).

**27.7.14 Roads that Change Direction.** There shall be two ways to contend with roads that change direction or curve significantly. For purposes of this section the Boone County Planning and Building Inspection Director has sole discretion in determining significance (See N Boone Rd, 27.7 Figure 3).

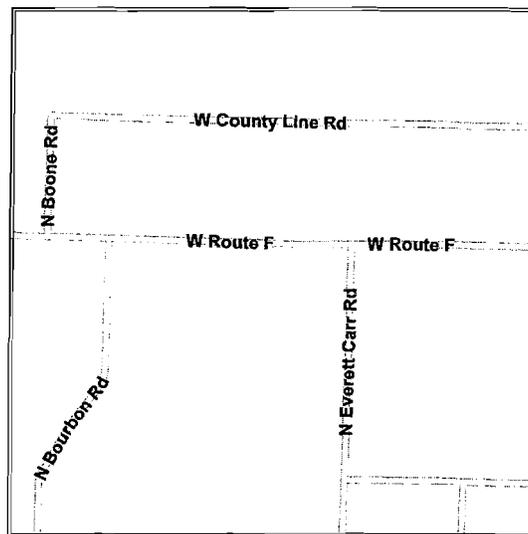
**27.7 Figure 2 – Courts and Circles**



**27.7.14.1 Insignificant Change of Direction.** The road will retain its original address grid and range throughout its entire length no matter how many times the road turns or bends. This means the address numbers do not change direction with the road (See N Reams Rd, 27.8 Figure 1).

**27.7 Figure 3 – Significant Change of Direction**

**27.7.14.2 Significant Change Direction.** Where overall road involves a single significant direction and the road for a significant distance after change, in relationship to its length, a new road name shall assigned in the middle of the curve. This option is most appropriate where the curve is approximately a 90-degree angle changing the major of the road (See N Boone Rd, Figure 3).



of alignment change in continues the overall be curve, where the degree direction 27.7

**27.8 Standards for Directional Prefixes & Suffixes.** Directional prefixes shall be abbreviated, capitalized, and contain no punctuation such as periods. Directional suffixes shall not be used. Standard directional prefix abbreviations include the following:

<u>Example</u>	<u>Abbreviation</u>
North	N
South	S
East	E
West	W

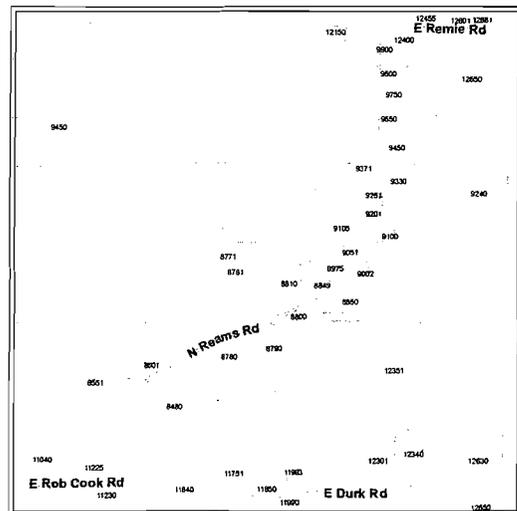
**27.8.1 Directional Prefix.** A directional prefix is mandatory on all roads but is not part of the official road name. Roads that cross a grid base line may have duplicate address ranges. For example, 301 W Williams Rd and 301 E Williams Rd, the W and E are crucial in distinguishing between the two blocks.

**27.8.1.1 Retain Directional Prefix.**

A diagonal or curving road, having one road name for its entire length, shall be determined to be either a north/south or an east/west road and shall be assigned a single directional prefix. (See N Reams Rd, 27.8 Figure 1)

**27.8.1.2 Change Directional Prefix.** Two roads that meet at or near a 90-degree curve with no physical feature to indicate a road name change shall be dealt with as two separate roads with different names and different directional prefixes in accordance to Section 27.7.14.2.

**27.8 Figure 1 – Retain Directional Prefix**



**27.9 Standards for Official Name Assignment.**

**27.9.1 Pronunciation.** Road names shall be easy to read, pronounce, and spelled so the public, children in particular, can say the name in an emergency situation.

**27.9.2 Inappropriate Road Names.** Roads names shall not be names that are generally considered inappropriate or offensive.

**27.9.3 Confusing, Common, or Generic Road Names.** Road names that are confusing, common, or generic shall not be used. Proposed names shall also be rejected if one of the principal words in the name has already been used several times. In an effort to keep road names distinct and short, roads named after seasons, weather, tree species, common animal names, colors, or geographic features shall not be used, even within a compound road name.

**Examples**

<b>Confusing Road Names</b>	<b>Common Road Names</b>	<b>Generic Road Names</b>
Nub Buck Ln	Autumn Dr	Dead End Rd
Jay Jay Rd	Scenic Dr	Gravel Rd
Cross Rd	White Oak Dr	Nameless Rd
Waterfront Dr*	Spring Valley Dr	Private St

\* Compound road name

**27.9.4 Similar Sounding Road Names.** Roads names shall not sound similar or duplicate, even if the spelling is different, to any other official road name found in Boone County, either incorporated or unincorporated areas.

**27.9.4.1 Roads with Similar Sounding Names.** Road names with similar sounding names shall not be accepted. Pearce and Pierce are not acceptable, nor will Wild and Wilde be allowed.

**27.9.4.2 Similar Road Names with Different Road Types.** It is not acceptable to merely change the road type if the root road name is the same, with the special exceptions of Court, Circle, or Connector provided they meet at an intersection. St James Drive and St James Court cannot both be used unless they meet at an intersection as defined in Section 27.9.11 Road Name Continuity. Further explanation of the proper use of Court, Circle, and Drive is covered in Section 27.7.

**27.9.5 Road Name Length.** Road names shall be eighteen characters (including spaces) or less in length. The Boone County Planning and Building Inspection Director or his designee may allow an existing official road name, exceeding eighteen characters, to be used as the official name provided the new road segment is an extension of the existing road to comply with Section 27.9.11, to maintain road name continuity.

**27.9.6 Root Road Name Spacing.** Root road names shall be no more than two words to eliminate unnecessary spacing. For example, Nighthawk Dr would be preferred as opposed to Night Hawk Dr since the compression does not cause confusion.

**27.9.7 Numeric Road Names.** Numeric road names through tenth shall be spelled out. Roads higher than tenth shall be named with numbers and include the appropriate suffix: th, rd, st, or nd. For example, 14th shall be used instead of Fourteenth or 14.

**27.9.8 Abbreviations and Punctuation of Road Names.** The following is a list of the only accepted abbreviations: I, HWY, RTE, or St. No other words shall be abbreviated in a road name and no punctuation, including possessives such as Scott’s Blvd, is to be used as otherwise specified in these regulations.

<b>Example</b>	<b>Abbreviation</b>
Interstate Highway 70	I 70
US Highway 63	HWY 63

Old Highway 63	Old HWY 63
State Highway 124	HWY 124
State Route E	RTE E
State Highway EE	HWY EE
Saint Charles	St Charles

**27.9.9 Geographic Directions as Part of Road Names.** Geographic directions shall not be used as part of the road name. While these do exist, such as Southgate St, North Shore Dr, South Cedar Lake Dr, Waterfront Dr South, or Southwest Way, this practice shall be avoided in future developments. To eliminate confusion, the use of north, south, east, west, and any variations shall be reserved for prefix use only. For example, when verbally giving an address, it would be impossible to distinguish between Northshore Dr and N Shore Dr.

**27.9.10 Road Types as Part of Road Names.** A road type shall not be used as part of the root road name even if included in a proposed compound root road name. For example, a road named Dustytrail Dr shall not be allowed since Trail and Drive are both road types. Section 27.10 covers the standard for road abbreviations types for Avenue, Court, Ridge, and Boulevard.

**27.9.11 Road Name Continuity.** Road name continuity is the consistent retention of one road name for the length of the road. This is not to be confused with road name duplication. Road name continuity shall be used when possible. A road with a gap should maintain the same name across the gap, as long as the road continues on the same alignment after the gap. (See E Ash St, 27.9 Figure 1).

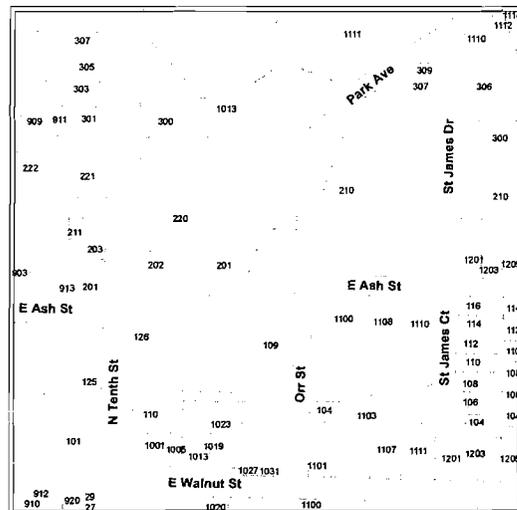
If the road shifts off-alignment by more than 200 feet, a new road name shall be assigned. Roads that continue beyond an intersection and dead-end as courts shall be named with the same root name as the main road but designated as a Court (See St James Dr and St James Ct, 27.9 Figure 1).

**27.9.12 Intersecting Road.** Roads shall not cross or meet more than twice.

**27.9.13 Consistent Road Name Spelling.** Any new segment to an existing road shall be spelled consistent with the road name being extended provided the existing road name is in compliance with this section.

**27.9.14 Official Legal Road Name Changes.** When a road name is officially renamed, the new road name becomes the official road name and replaces the old official road name and is the only acceptable name for the renamed road.

**27.9 Figure 1 – Road Name Continuity**



**27.9.15 Unofficial or Alias Road Names.** Different entities sometimes refer to the same road using several different unofficial road names for the same segment of road. The road name shown on a road sign is not the official road name unless it matches the road name listed in the Boone County Road Directory. For example, Range Line St is also referenced as HWY 763.

**27.9.16 Private Roads.** All roadways used for access or the possibility of access to seven or more addressable structures must be named and all structures must be numbered off that roadway. All other roadways with less than seven addressable structures shall be considered private driveways or ingress/egress easements and shall not be officially named. Initiating road naming or road name changes are the responsibility of the property owner(s). The name must then be submitted for approval by the addressing authority and must adhere to the same naming standards for official public road names. Private road names must adhere to the same naming standard for public roads; approval will not be given for duplicate or confusing private road names, for example Golfview Dr and Golfview Ln, as outlined in Section 27.9.3.

**27.10 Standards for Road Type Assignment.** All road segments shall have a standard road type assigned by the addressing authority.

**27.10.1 Correct Use of Road Types.** All roads shall have a road type which shall be assigned by the addressing authority from the following list. The addressing authority reserves the right to put priority in assigning road types highlighted in grey in the following list. For example, Wagon Ridge Rd shall not be assigned as it would go against the directive that road types shall not be part of the root road name. Likewise, if a court extends off Wagon Ridge it will be assigned Wagon Ct, not Wagon Ridge Ct.

Road type	Abbreviation
Alley	Alley
Avenue	Ave
Boulevard	Blvd
Bridge	Br
Bypass	Byp
Causeway	Cswy
Circle	Cir
Connector	Conn
Court	Ct
Cove	Cv
Crossing	Xing
Drive	Dr
Establishment	Est
Expressway	Expy
Extention	Ext

Road type	Abbreviation
Meadow	Mdw
Meadows	Mdws
Park	Park
Parkway	Pkwy
Pass	Pass
Place	Pl
Plaza	Plz
Point	Pt
Ramp	Ramp
Ridge	Rdg
Road	Rd
Route	Rte
Run	Run
Spur	Spur
Square	Sq

Freeway	Fwy
Glen	Gln
Green	Grn
Heights	Hts
Highway	Hwy
Hill	Hl
Hills	Hls
Lane	Ln
Loop	Loop

Station	Sta
Street	St
Terrace	Ter
Trace	Trce
Trail	Trl
Turnpike	Tnpk
Valley	Vly
View	Vw
Village	Vlg
Walk	Walk
Way	Way

**27.10.2 Root Road Names Assigned Only One Road Type.** Once a root road name is assigned it must not be used

again with a different road type except in the case of a Court, Circle, or Connector as shown in Section 27.9.4. For example, the use of both Maple Lane and Maple Trail shall not be acceptable.

**27.11 Standards for Address Assignment.** All addressable structures shall have an address number assigned by the addressing authority.

**27.11.1 Addressable Structures.** Only the following types of structures are eligible for official addressing. Accessory structures and non-dwelling units shall not be assigned addresses unless otherwise specified by this ordinance.

**27.11.1.1 Single Family Dwellings, 2-Family, Triplexes, Multi-Family, and Condominiums.** Single Family Dwellings, 2-Family, Triplexes, and Multi-Family shall be assigned separate address numbers. Buildings containing condominiums shall be assigned addresses in the same manner that is appropriate for the type of structure constructed within which the condominium is located.

**27.11.1.2 Mobile Home Parks.** Mobile home parks are designated by sequential, non-duplicated lot numbers with a single site address for the entire park. If additional road names are unavoidable inside a mobile home park, then they shall be addressed in the same manner as a platted subdivision.

**27.11.1.3 Commercial or Industrial Buildings.**

**27.11.1.3.1 Contained Within a Single Structure.** Businesses in shopping centers or strip malls contained within a single structure shall be assigned an address consisting of the structure address and a unique individual suite number in compliance with Section 27.11.5 with sufficient suite numbering interval to allow for one suite to be split into several future suites.

**27.11.1.3.2 Contained Within a Development Complex.** Businesses in shopping centers or strip malls contained within a development complex of multiple structures shall be assigned separate site address for each structure with sufficient numbering interval to allow for additional structures. Businesses contained within a given

structure will be assigned individual suite numbers in compliance with Section 27.11.5 with sufficient numbering interval to allow for one suite to be split into several future suites.

**27.11.2 Address Number Assignment.** Addressable structures shall be numbered off a road on which they have frontage and where the property is primarily accessed. In cases where an addressable structure is located on a property that does not have road frontage on an officially named road, the structure shall be numbered off of the officially named road where the property is primarily accessed. A request for an address number to be assigned off of a major road shall not be allowed unless the major road physically borders that property and provides primary access.

**27.11.3 Unit Type Assignment.** In structures with a single type of use, multiple unit types per address shall be avoided. The unit type “Apartment” shall be used to designate residential dwellings. If mixed uses are anticipated or proposed within a structure, then the unit type “Unit” shall be used. The unit type “Suite” shall be used for all other applications unless otherwise specified by this ordinance.

Unit types shall be limited to four characters. The standard abbreviations for unit types are:

**Example Abbreviation**

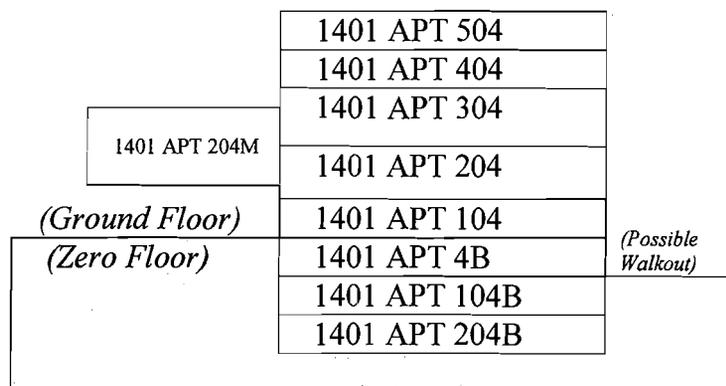
Apartment	Apt
Building	Bldg
Department	Dept
Floor	Flr
Lot	Lot
Room	Rm
Suite	Ste
Unit	Unit

**27.11 Figure 1 – Unit Numbering**

**27.11.5 Unit Number**

**Assignment.** Unit types are used to further define a space such as an apartment, a lot in a mobile home park, or an office suite in a large building. When assigning unit numbers, a numerical value is required. In a multi-level structure, the unit number shall reflect the floor on which it is located. For example, Apt 304

would be the fourth apartment located on the third floor or Suite 512 would be the twelfth suite on the fifth floor (See 27.11 Figure 1). The only time an alphanumeric value is allowed is to designate sub-basement floors and mezzanine levels and these are suffixed by



the letter abbreviations B or M (See 27.11 Figure 1). The first floor below the floor designated as the ground floor even if it is a walkout basement is considered floor zero. Additional floors below floor zero are numbered based on the number of levels below zero floor.

**27.12 Signage Usage and Display.** Only officially approved road name and address signage shall be allowed.

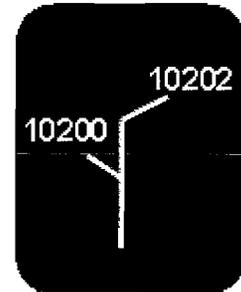
**27.12.1 Address Signage.** Use of assigned official address is mandatory. Within sixty (60) days after written notice of the assignment of or change of an address number, the owner of such property shall be required to post the number so assigned in accordance with the following standards:

**27.12.1.1 Display of Official Address.** All addressable structures, see Section 27.11, shall clearly display an address number, even during construction. The owner and/or occupant of each addressable structure shall be required to clearly display an address number on each addressable structure so that the location can be identified from the road.

**27.12.1.2 Placement of Official Address.** The official address number must be displayed at the main entrance of an addressable structure. If the main entrance of the addressable structure is not visible from the road, the official address number shall also be on the side of the addressable structure which is most visible from the road during both day and night. When an addressable structure is seventy-five (75) feet or more from a public road or driveway on which it fronts or the lot on which the building is located is landscaped such that numbers cannot be seen from the road or driveway entrance the assigned number shall also be posted at the end of the driveway or easement nearest the road which provides access to the building. Manufactured homes in mobile home parks shall display the assigned address and lot number on the side of the manufactured home closest to the road/driveway which serves the lot so that the number is clearly visible from the road/driveway at all times.

**27.12 Figure 1 – Directional Address Signage**

**27.12.1.3 Directional Address Signage.** Directional address signage shall be required for any addressable structure located off the main road or that requires specific knowledge to locate. This also applies to any driveway or private road that services multiple structures or owners. A directional sign shall be placed so that it is visible from the intersection of the driveway or private road and public road. Directional sign shall be blue with white numbers that are a minimum of four (4) inches in height and placed on a standard street sign post (See 27.12 Figure 1).



**27.12.1.4 Address Signage Sizing.**

**27.12.1.4.1 Address Number Visibility.** Address numbers shall be in a contrasting color to the color scheme of the addressable structure so that they are clearly visible and shall be maintained in a clearly visible manner. Reflective numbers are desirable but not required.

**27.12.1.4.1.1 Single Family Dwelling.** Single family dwelling address numbers shall be a minimum of four (4) inches in height and shall be posted so as to be legible from the road.

**27.12.1.4.1.2 Multiple Dwelling Units.** Multiple dwelling building address numbers shall be at least six (6) inches in height.

**27.12.1.4.1.3 Manufactured Home Parks.** Manufactured home parks shall erect a sign at the entrance to the park displaying the name of the park and the assigned road address with numbers at least six (6) inches in height.

**27.12.5.4.1.4 Manufactured Homes in a Mobile Home Park.** Manufactured homes in a mobile home park address numbers shall be a minimum of four (4) inches in height.

**27.12.5.4.1.5 Commercial or Industrial Structures.** Commercial/Industrial structure address numbers shall be at least six (6) inches in height.

**27.12.5.4.3 Address Signage Maintenance.** Following the posting of the assigned number as required, the owner or occupant shall maintain such house or building numbers at all times in compliance with the above referenced standards. Address numbers shall not be obstructed from view by shrubs or vegetation as viewed from the public road.

## **27.12.2 Road Name Signage and Sign Sizing.**

**27.12.2.1 Public Road Name Signage.** Signs are to be green with white letters and adhere to the Boone County Public Works Department road name signage standards and comply with all abbreviation and naming standards found within this section. The sign shall include both N-S and E-W address coordinate numbers, root road name, and suffix (See 27.12 Figure 2). Furthermore, the cross-street address coordinate number shall be located on the first line in the upper right and the through-street coordinate number shall be located directly below the cross-street address coordinate.

**27.12 Figure 2**

**27.12.2.2 Public Road Name Sign Sizing.** Public road name sign sizing shall adhere to the Boone County Public Works Department road name sign sizing standards.



**27.12.2.3 Private Road Name Signage.** Signs are to be white with black letters and adhere to the Boone County Public Works Department road name signage standards and comply with all abbreviation and naming standards found within this section. The sign shall include both N-S and E-W address coordinate numbers, root road name, and suffix (See 27.12 Figure 2). Furthermore, the cross-street address coordinate number shall be located on the first line in the upper right and the through-street coordinate number shall be located directly below the cross-street address coordinate.

Private road name signs located along public roads are the responsibility of the Public Works Department or designated entity. Private road name signs located within the development are the responsibility of the owners residing on the private road, and the road name signs shall match placement and height of official road name signs, and shall display the road name on both sides.

**27.12.2.4 Private Road Name Sign Sizing.** Private road name sign sizing shall adhere to the Boone County Public Works Department road name sign sizing standards.

**27.12.3 Non-compliant Signs.** Non-compliant signs within the right-of-way shall be removed by Boone County Public Works Department staff.

**27.13 Penalties and Remedies.** Any owner, lessee, tenant, occupier of land or other person who violates any provision of these regulations shall be deemed guilty of a misdemeanor and shall be upon conviction punished as provided by law. Each day a violation of these regulations continues shall constitute a separate offense. The penalty provided in this section shall not be construed to be exclusive but is intended to be supplemental and in addition to any other remedy provided by law or at equity. The County may institute any appropriate action or proceeding to prevent any unlawful activity proscribed in this ordinance or to correct any violation of this ordinance.

**27.14 Severability.** If any part or provision of these regulations is declared invalid or unconstitutional then the remainder of these regulations shall not be declared invalid or unconstitutional but shall remain in full force and effect to the greatest extent permitted by law.

**27.15 Jurisdiction.** These regulations shall be applicable to all unincorporated areas within Boone County, Missouri.

**BOONE COUNTY**  
**STORMWATER REGULATIONS**



# TABLE OF CONTENTS

SECTION 1 GENERAL PROVISIONS	
1.1 FINDINGS OF FACT	1
1.2 INTENT AND PURPOSE	1
1.3 APPLICABILITY	2
1.4 EXEMPTIONS	2
1.5 LEGAL AUTHORITY	3
1.6 COMPATIBILITY WITH OTHER PERMIT AND ORDINANCE REQUIREMENTS	3
1.7 LIMITATIONS OF LIABILITY	3
SECTION 2 DEFINITIONS	3
SECTION 3 PLAN SUBMITTAL/REVIEW REQUIREMENTS	
3.1 PRE-APPLICATION MEETING	10
3.2 PRELIMINARY STORMWATER MANAGEMENT PLAN	10
3.3 CLEARING AND ROUGH GRADING	10
3.4 STORMWATER MANAGEMENT CONSTRUCTION PLAN	11
3.5 CONSTRUCTION PLAN REVIEW PROCEDURES	11
3.6 COORDINATION WITH OTHER APPROVALS AND PERMITS	12
3.7 MAINTENANCE AGREEMENT AND PLANS	13
SECTION 4 PERFORMANCE CRITERIA FOR STORMWATER MANAGEMENT	
4.1 GENERAL STORMWATER MANAGEMENT CRITERIA	13
4.2 ENGINEERED SYSTEMS	14
4.3 NATURAL SYSTEMS	15
4.4 STORMWATER QUALITY AND QUALITY CONTROL	15
4.5 REDEVELOPMENT CRITERIA	18
4.6 ENVIRONMENTALLY SENSITIVE AREAS: ENHANCED CRITERIA	18
SECTION 5 CONSTRUCTION SITE RUNOFF CONTROL	
5.1 GENERAL	22
5.2 CLEARING AND GRADING	22
5.3 EROSION CONTROL	22
5.4 SEDIMENT CONTROLS	22
5.5 WATERWAYS AND WATERCOURSES	22
5.6 CONSTRUCTION SITE ACCESS	23



SECTION 5 CONSTRUCTION SITE RUNOFF CONTROL (CONT.)

5.7 CONTROL OF OTHER CONSTRUCTION POLLUTANTS 23

SECTION 6 ONGOING MAINTENANCE FOR STORMWATER BMPs

6.1 GENERAL MAINTENANCE REQUIREMENT 23  
6.2 MAINTENANCE RESPONSIBILITY 24  
6.3 INSPECTION BY BOONE COUNTY PUBLIC WORKS 24  
6.4 RECORDS OF MAINTENANCE ACTIVITIES 24  
6.5 FAILURE TO PROVIDE ADEQUATE MAINTENANCE 24  
6.6 REQUIRED EASEMENT 25  
6.7 INTERFERENCE AND DAMAGE 25

SECTION 7 ILLICIT DISCHARGE DETECTION AND ELIMINATION

7.1 GENERAL 25  
7.2 PROHIBITIONS 26  
7.3 NOTIFICATION OF SPILLS 27  
7.4 REGULATIONS AND MONITORING 27

SECTION 8 PERMITS

8.1 PROMULGATION OF RULES 28  
8.2 STORMWATER DISCHARGE PERMIT 28  
8.3 LAND DISTURBANCE PERMIT 29  
8.4 PERFORMANCE BOND OR GUARANTEE 29  
8.5 FEES 30  
8.6 INSPECTION 30

SECTION 9 VIOLATIONS, ENFORCEMENT AND PENALTIES

9.1 VIOLATIONS AND PENALTIES FOR PERMITS 31  
9.2 ADMINISTRATION, PENALTIES AND REMEDIES 31  
9.3 TEMPORARY ABEYANCE OF DEVELOPMENT APPROVALS AND PERMITS 32  
9.4 VARIANCES 35



## **Section 1. General Provisions**

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### **1.1. FINDINGS OF FACT**

It is hereby determined that:

- (1) Land development activities and associated increases in site impervious cover alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, sediment transport and deposition;
- (2) This stormwater runoff contributes to increased quantities of water-borne pollutants;
- (3) Illicit and non-stormwater discharges to the storm drain system can contribute a wide variety of pollutants to waterways, and the control of these discharges is necessary to protect public health and safety and water quality;
- (4) Improper design and construction of stormwater best management practices (BMPs) can increase the velocity of stormwater runoff thereby increasing stream bank erosion and sedimentation;
- (5) Clearing and grading during construction increases soil erosion and adds to the loss of native vegetation;
- (6) Impervious surfaces allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream baseflow;
- (7) Substantial economic losses can result from these adverse impacts on the waters of the County;
- (8) Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from land development activities;
- (9) The regulation of stormwater runoff discharges from land development activities in order to control and minimize increases in stormwater runoff rates and volumes, stream channel erosion, and nonpoint source pollution associated with stormwater runoff is in the public interest and will minimize threats to public health and safety.
- (10) Regulation of land development activities by means of performance standards governing stormwater management and site design will produce development compatible with the natural functions of a particular site or an entire watershed and thereby mitigate the adverse effects of stormwater runoff from development.

### **1.2 INTENT AND PURPOSE**

The purpose of this ordinance is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing in watersheds within Boone County. This ordinance seeks to meet that purpose through the following objectives:

## Boone County Stormwater Ordinance

- (1) To protect the safety and welfare of citizens, property owners, and businesses by minimizing the negative impacts of increased stormwater discharges from new land development and redevelopment.
- (2) To control the rate, quality and volume of stormwater originating from development and redevelopment sites so that surface water and groundwater are protected and flooding and erosion potential are not increased.
- (3) To encourage responsible development to occur in Boone County
- (4) To control nonpoint source pollution and stream channel erosion.
- (5) To maintain the integrity of stream channels and networks for their biological functions, drainage, and natural recharge of groundwater.
- (6) To protect the condition of state (and U.S.) waters for all reasonable public uses and ecological functions.
- (7) To provide long-term responsibility for and maintenance of stormwater BMPs.
- (8) To establish legal authority to carry out all the inspection and monitoring procedures necessary to ensure compliance with this ordinance.
- (9) To enable Boone County Public Works to comply with the National Pollution Discharge Elimination System permit and applicable federal and state regulations.

### 1.3 APPLICABILITY

This ordinance shall be applicable to all land development, including, but not limited to, site plan applications, subdivision applications, and grading applications, unless exempt pursuant to Section 1.4. These provisions apply to any new development or redevelopment site within Boone County that meets one or more of the following criteria:

- (1) Land development that disturbs 1 acre or more.
- (2) Redevelopment that creates or adds three thousand (3,000) square feet or more of impervious cover.
- (3) Land development in or near an ecologically and/or environmentally sensitive area (as defined in Section 4.7) that disturbs more than 3000 square feet.
- (4) Land development activities that are smaller than the minimum applicability criteria set forth above if such activities are part of a larger common plan of development, even though multiple, separate and distinct land development activities may take place at different times on different schedules.

### 1.4 EXEMPTIONS

The following activities are exempt from this ordinance:

- (1) Projects that are exclusively for agricultural and silvicultural uses. Agricultural or silvicultural roads that are used to access other lands subject to this ordinance are not exempt. Agricultural structures that are used for other uses subject to this ordinance are not exempt.
- (2) Maintenance and repair to any stormwater BMP deemed necessary by Boone County Public Works.
- (3) Any emergency project that is immediately necessary for the protection of life, property, or natural resources.
- (4) Linear construction projects, such as pipeline or utility line installation that does not result in the creation of impervious cover or land disturbance greater than one acre, as determined by Boone County Public Works. Such projects must be designed to minimize the number of stream crossings and width of disturbance, and are subject to County erosion and sediment control practices.

## Boone County Stormwater Ordinance

- (5) Any part of a land development that was approved by Boone County Planning Department prior to the effective date of this ordinance.

### 1.5. LEGAL AUTHORITY

These regulations are adopted pursuant to the authority granted in 64.907, 64.825 – 64.885, Revised Statutes of Missouri.

### 1.6. COMPATIBILITY WITH OTHER PERMIT AND ORDINANCE REQUIREMENTS

This ordinance is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. The requirements of this ordinance should be considered minimum requirements, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.

### 1.7. LIMITATIONS ON LIABILITY.

Floods from stormwater runoff may occur which exceed the capacity of stormwater drainage facilities constructed and maintained under this chapter. This chapter does not guarantee that property will be free from stormwater flooding or flood damage. This chapter shall not create a liability on the part of, or cause of action against, the County or any officer or employee thereof for any flood damage. This chapter does not purport to reduce the need or the necessity for obtaining flood insurance.

## Section 2. Definitions

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Unless specifically defined below, words or phrases in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application:

**"Applicant"** means a property owner or agent of a property owner who has filed an application for a permit.

**"Bankfull"** An established river stage/elevation at a given location along a river which is intended to represent the maximum safe water level that will not overflow the river banks or cause any significant damage within the river reach.

**"Best Management Practice (BMP)"** Activities, practices and procedures which control soil loss and reduce or prevent water quality degradation caused by nutrients, animal wastes, toxins, organics and sediment in the runoff. BMPs may either be structural (grass swales, terraces, retention and detention ponds, and others); or non-structural (disconnection of impervious surfaces, directing downspouts onto grass surfaces, ordinances and educational activities).

**"Boone County Stormwater Design Manual"** means the engineering and/or project review document maintained by Boone County Public Works containing technical standards and specifications, policies, procedures, and other materials deemed appropriate to assist with compliance with the provisions of this ordinance as adopted February 2010.

## Boone County Stormwater Ordinance

**"Building"** means any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property, and occupying more than 160 square feet of area.

**"Channel"** means a natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

**"Clearing"** means any activity which removes the vegetative surface cover through disturbance of the root zone.

**"County Commission"** means the Boone County Commission.

**"County"** is Boone County, Missouri.

**"Dedication"** means the deliberate appropriation of property by its owner for general public use.

**"Detention"** is the temporary storage of storm runoff in a stormwater BMP with the goals of controlling peak discharge rates and providing gravity settling of pollutants.

**"Developer"** is a person directing or participating in the direction of improvements on and/or to land, including, but not limited to, the owner of the land, a general contractor or a commercial agent engaged for such activity.

**"Development"** A change in the zoning, intensity of use or allowed use of any land, building, structure or premises for any purpose. The subdivision or severance of land. The construction, erection or placing of one or more buildings or structures on land or use of land or premises for storage of equipment or materials. Making of an addition, enlargement or alteration to a building or structure, in, on, over or under land, which has the effect of increasing the size or usability thereof. Land disturbance activities such as but not limited to site-grading, excavation, drilling, removal of topsoil or the placing or dumping of fill and installation of drainage works. The use of the term shall include redevelopment in all cases unless otherwise specified in these regulations.

**"Director"** The Boone County Director of Public Works or Boone County Director of Planning and Building Inspection or his/her designee, as determined by the County Commission.

**"Drainage Facility"** is a man-made structure or natural watercourse used for the conveyance of stormwater runoff. Examples are channels, pipes, ditches, swales, catch basins and street gutters.

**"Easement"** means a legal right granted by a landowner to a grantee allowing the use of private land for conveyance or treatment of stormwater runoff and access to stormwater practices.

**"Environmentally Sensitive Area"** is any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem; or an area of land that contributes water to the habitat of an aquatic animal that is rare or valuable; or an area of land with increased vulnerability (presence of karst features, steep terrain, highly erodable soils) where the proposed human activities would likely cause disproportional damage to the environment; or as defined in Section 4.6.

**"Erosion and Sediment Control Plan"** is a plan designed to minimize the loss of soil and prevent discharge of sediment from a site during, and after construction activities.

## Boone County Stormwater Ordinance

**“Flood Routing Path”** is that part of the major storm drainage system that carries the runoff that exceeds the capacity of the designed drainage facilities. Essentially, the complete drainage system of an urban area contains two (2) separate drainage elements. The storm sewers collect the frequent events while surface drainage-ways must be provided for the major flow from more intense storms, or the event of clogging.

**“Grading”** means excavation or fill of material, including the resulting condition thereof.

**“Groundwater Management Area”** is a geographically defined area that may be particularly sensitive in terms of groundwater quantity and/or quality by nature of the use or movement of groundwater, or the relationship between groundwater and surface water, and where special management measures are deemed necessary to protect groundwater and surface water resources. Example includes the Devils Icebox Recharge Area.

**“Hazardous Materials”** means any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

**“Illegal Discharge”** means any direct or indirect non-storm water discharge to the storm drain system, except as exempted by this ordinance.

**“Illicit Connections”** means either of the following: Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system. These include but are not limited to any conveyances that allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency. Illicit connections also includes any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

**“Impaired Waters”** means those streams, rivers and lakes that currently do not meet their designated use classification and associated water quality standards under the Clean Water Act.

**“Impervious Cover”** includes those surfaces that cannot effectively infiltrate rainfall (e.g., building rooftops, pavement, sidewalks, driveways, etc).

**“Industrial Stormwater Permit”** means a National Pollutant Discharge Elimination System permit issued to a commercial industry or group of industries that regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

**“Infill Development”** means land development that occurs within designated areas based on local land use, watershed, and/or utility plans where the surrounding area is generally developed, and where the site or area is either vacant or has previously been used for another purpose.

**“Infiltration”** means the process of percolating stormwater into the subsoil.

**“Infiltration Facility”** means any structure or device designed to infiltrate retained water to the subsurface. These facilities may be above grade or below grade.

## Boone County Stormwater Ordinance

**“Land Development”** means a human-made change to, or construction on, the land surface that changes its runoff characteristics.

**“Land Disturbing Activity”** means any activity that changes the volume or peak flow discharge rate of rainfall runoff from the land surface. This may include the grading, digging, cutting, scraping, or excavating of soil, placement of fill materials, paving, construction, substantial removal of vegetation, or any activity that bares soil or rock or involves the diversion or piping of any natural or man-made watercourse.

**“Land Disturbance Permit”** – an authorization for the permittee to develop land and conduct activities in accordance with County ordinances and erosion and sediment control practices outlined in an approved Stormwater pollution prevention plan.

**“Landowner”** the legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights to the land.

**“Maintenance Agreement”** is a legally recorded document that acts as a property deed restriction, and that provides for long-term maintenance of stormwater BMPs.

**“Motorized Equipment”** vehicles or equipment which are motorized except this definition shall not apply to equipment used for the farming of land, or normal yard maintenance.

**“Municipal Separate Storm Sewer System (MS4)”** a publicly-owned facility by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, catch basins, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage ditches/channels, reservoirs, and other drainage structures.

**“National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit”** a permit issued by the State under authority delegated pursuant to 33 USC § 1342(b), that authorizes the discharge of pollutants to waters of the State, whether the permit is applicable on an individual, group, or general area-wide basis.

**“Non-Stormwater Discharge”** any discharge to the storm drain system that do not originate from precipitation events, such as but not limited to septic system discharges, floor drains, and laundry or commercial car wash facilities.

**“Non-Structural Measure”** a stormwater control and treatment technique that uses natural processes, restoration or enhancement of natural systems, or design approaches to control runoff and/or reduce pollutant levels. Such measures are used in lieu of or to supplement structural practices on a land development site. Non-structural measures include, but are not limited to: minimization and/or disconnection of impervious surfaces; development design that reduces the rate and volume of runoff; creation, restoration or enhancement of natural areas such as riparian zones, wetlands, and forests; and on-lot practices such as rain barrels, cisterns, and vegetated areas that intercept rainfall and surficial runoff.

**“Nonpoint Source Pollution”** pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

## Boone County Stormwater Ordinance

**“Ordinary High Water Mark”** – That line on the shore established by the fluctuations of water and indicated by physical characteristics such as clear natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter or debris, or other appropriate means that consider the characteristics of the surrounding area.

**"Off-Site Facility"** means a stormwater BMP located outside the subject property boundary described in the permit application for land development activity.

**"On-Site Facility"** means a stormwater BMP located within the subject property boundary described in the permit application for land development activity.

**“Owner”** the owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee or other person, firm or corporation in control of a piece of land. As used herein, owner also refers to, in the appropriate context: (i) any other person authorized to act as the agent for the owner; (ii) any person who submits a stormwater management concept or design plan for approval or requests issuance of a permit, when required, authorizing land development to commence; and (iii) any person responsible for complying with an approved stormwater management construction plan.

**“Perimeter Control”** means a barrier that prevents sediment from leaving a site either by filtering sediment-laden runoff, or diverting it to a sediment trap or basin.

**“Permanent Stormwater BMP”** a stormwater best management practice (BMP) that will be operational after the construction phase of a project and that is designed to become a permanent part of the site for the purposes of managing stormwater runoff.

**“Person”** means a natural person, corporation, partnership or other entity.

**“Phasing”** is the clearing a parcel of land in distinct phases, with the stabilization of each phase before the clearing of the next.

**“Point source”** is any discernible, confined and discrete conveyance including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, separate storm sewer or vessel or other floating craft from which pollutants are, or may be, discharged. (Code of State Regulations – 10 CSR 20-2)

**“Pollutant”** means anything that causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

**Predevelopment:** The time period prior to a proposed or actual development activity at a site. Predevelopment may refer an undeveloped site or a developed site that will be redeveloped or expanded.

**“Professional Engineer”** – a licensed engineer who is registered with and authorized to practice engineering in the state of Missouri

## Boone County Stormwater Ordinance

**“Professional Geologist”** is a licensed geologist who is registered with and authorized in the state of Missouri.

**“Receiving Stream or Channel”** means the body of water or conveyance into which stormwater runoff is discharged.

**“Recharge”** means the replenishment of underground water reserves.

**“Redevelopment”** means a change to previously existing, improved property. This includes but is not limited to the demolition or building of structures, filling, grading, paving; including the conversion of gravel areas to pavement, or excavating. Redevelopment excludes ordinary maintenance activities such as remodeling of buildings on the existing footprint, resurfacing and/or repaving of existing paved areas, and exterior changes or improvements that do not materially increase or concentrate stormwater runoff or cause additional nonpoint source pollution.

**“Responsible Party”** means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns that is named on a stormwater maintenance agreement as responsible for long-term operation and maintenance of one or more stormwater BMPs.

**“Riparian Zone / Riparian Buffer”** is the land adjacent to streams, rivers, and lakes that actively interfaces with the waterbody through physical and chemical processes. Riparian zones filter nutrients and sediments, increase streambank stability, and provide shade that reduces stream temperatures

**“Runoff Reduction (RR)”** is defined as the total annual runoff volume reduced through canopy interception, soil infiltration, evaporation, transpiration, rainfall harvesting engineered infiltration or extended filtration.

**“Sediment Control”** means measures that prevent eroded sediment from leaving the site.

**“Sensitive Area”** means areas containing features that are of critical importance to the protection of ecological or environmental resources, and include bluffs, caves, sinkholes, springs, and wetlands.

**“Sinkhole Cluster Area”** any area that contributes surface water to a sinkhole which is located in a group of two (2) or more sinkholes grouped within 500 feet.

**“Sinkhole Drainage Area”** means the land area around a sinkhole that contributes surface water directly to the sinkhole(s).

**“Sinkhole”** means any closed depression formed by removal (typically underground) of water, surficial soil, rock, or other material. The existence of a sinkhole shall be as indicated by the closed depression contour lines on the topographical maps of the county or as may be determined by a field survey. Its actual limits may, however, be determined by field measurements with concurrence of the Director. Sinkholes may be either circular in plan or irregular, depending upon structural control.

**“Sinkhole Ponding Elevation”** means the maximum elevation of either the elevation as determined by using currently accepted methods of the Natural Resource Conservation Service (formerly Soil Conservation Service) to calculate the total volume of runoff from the sinkhole drainage area to the sinkhole utilizing an eight (8) inch rainfall and no sink outlet or the historical elevation or the published flood elevation. NOTE: Overflow conditions will establish maximum ponding elevation.

## Boone County Stormwater Ordinance

**“Stabilization”** means the use of practices that prevent exposed soil from eroding.

**“Start of Construction”** means the first land-disturbing activity associated with a development, including land preparation such as clearing, grading and filling; installation of streets and walkways; excavation for basements, footings, piers or foundations; erection of temporary forms; and installation of accessory buildings such as garages.

**“Stop Work Order”** means an order issued that requires that all construction activity on a site be stopped except as necessary to remedy the issue(s) for which the order was issued.

**“Stormwater”** means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation (such as rain or snow), and resulting from such precipitation.

**“Stormwater drainage system”** means all drainage facilities used for collecting and conducting stormwater to, through and from drainage areas to the points of final outlets including, but not limited to, any and all of the following: Conduits and appurtenant features, canals, ditches, streams, gullies, flumes, culverts, streets, gutters and pump stations.

**“Stormwater Hotspot”** means an area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater.

**“Stormwater Management”** means the use of structural or non-structural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes, peak flow discharge rates and detrimental changes in stream temperature that affect water quality and habitat.

**“Stormwater Pollution Prevention Plan (SWPPP)”** means a narrative plan, usually required by a permit, to manage stormwater associated with industrial, commercial, institutional, or other land use activities, including construction. The SWPPP commonly describes and ensures the implementation of practices that are to be used to reduce pollutants in stormwater and non-stormwater discharges.

**“Stormwater Retrofit”** means a stormwater BMP designed for an existing development site that previously had either no stormwater BMP in place or a practice inadequate to meet the stormwater management requirements of the site.

**“Stormwater Runoff”** is the rain or snowmelt that runs off streets, parking lots, lawns and other surfaces and drains into natural or manmade conveyance systems. Often stormwater transports accumulated material including litter, soil, nutrient, pathogens, chemicals, pesticides, oils and grease.

**“Stream Buffer”** is a vegetated area including trees, shrubs, managed lawn area, and herbaceous vegetation which exists or is established to protect the stream system. Alteration of this natural area is strictly limited by the stream buffer ordinance dated June 1, 2009.

**“Water Quality Storm”** is the storm event that produces less than or equal to 90 percent stormwater runoff volume of all 24-hour storms on an annual basis.

**“Water Quality Volume (WQv)”** means the storage needed to capture and treat 90% of the average annual stormwater runoff volume.

**“Watercourse”** means a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

## Boone County Stormwater Ordinance

“**Watershed**” or “**Catchment**” is the entire geographical area drained by a river and its tributaries; an area characterized by the conveyance of all runoff to the same outlet.

“**Watershed Management Plan**” means a document, usually developed cooperatively by government agencies and other stakeholders, to protect, restore, and/or otherwise manage the water resources within a particular watershed or subwatershed. The plan commonly identifies threats, sources of impairment, institutional issues, and technical and programmatic solutions or projects to protect and/or restore water resources.

“**Wetland**” Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.

“**Wetland Hydroperiod**” means the pattern of fluctuating water levels within a wetland caused by the complex interaction of flow, topography, soils, geology, and groundwater conditions in the wetland.

### **Section 3. Plan Submittal/Review Requirements**

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Each developer/owner subject to this ordinance shall submit to Boone County Public Works for review and approval a stormwater management plan as provided herein:

#### **3.1. PRE-APPLICATION MEETING**

All applicants shall participate in a concept review and pre-application meeting with the Public Works and Planning departments to discuss potential approaches for stormwater design and opportunities to use design techniques to reduce runoff rates, volumes, and pollutant loads. During the pre-application meeting, the applicant shall provide information regarding design considerations as outlined in the Boone County Stormwater Design Manual.

#### **3.2. PRELIMINARY STORMWATER MANAGEMENT PLAN**

After the pre-application review, the applicant shall prepare a preliminary stormwater management plan describing, in general, how stormwater runoff through and from the development will be treated and conveyed. Required information is provided in the Boone County Stormwater Design Manual.

- (1) **Maximize Use of Techniques to Reduce Runoff by Design:** The preliminary stormwater management plan shall utilize to the maximum extent practicable site planning and design technique that reduce runoff rates, volumes, and pollutant loads. Such techniques include, but are not limited to, minimization and/or disconnection of impervious surfaces; development design that reduces the rate and volume of runoff; restoration or enhancement of natural areas such as riparian zones, wetlands, and forests; and distributed practices that intercept and treat runoff from developed areas.
- (2) **Preliminary Plan Prior to Design Plan:** The preliminary stormwater management plan must be approved by Boone County Public Works prior to submission of a stormwater management construction plan (as part of the construction or final site plan) for the entire development, or portions thereof.

#### **3.3. CLEARING AND ROUGH GRADING**

## Boone County Stormwater Ordinance

If the developer/owner only desires to obtain a land disturbance permit for purposes of clearing and grading, they may do so upon approval of the preliminary plan, erosion and sediment control plan and a stormwater pollution prevention plan.

### 3.4. STORMWATER MANAGEMENT CONSTRUCTION PLAN

A stormwater management construction plan containing all appropriate information as specified in this Ordinance and outlined in the Boone County Stormwater Design Manual shall be submitted to Boone County in conjunction with the final subdivision plat, final development plan, final site plan, construction plan, or any other land development plan subject to this ordinance.

- (1) **Application Requirements:** The stormwater management construction plan submittal shall contain:
  - a completed application form provided by Boone County Public Works for any applicable permits as outlined in Section 8,
  - the fee(s) required by Section 8.5,
  - a stormwater management construction plan that satisfies the requirements of this section and the Boone County Stormwater Design Manual,
  - a stormwater facilities and/or BMP maintenance plan, and
  - owner and developer certification stating that all requirements of the approved plan will be complied with. Failure of the owner to demonstrate that the project meets these requirements, as determined by Boone County Public Works, shall be sufficient reason to refuse review and/or deny approval of the plan.
- (2) **Consistency between Preliminary Plans and Construction Plans:** A copy of the approved preliminary stormwater management plan shall be submitted with the construction plans. Boone County Public Works shall check the construction plan for consistency with the preliminary plan.
- (3) **Stormwater management construction plan content:** The stormwater management construction plan shall contain maps, charts, graphs, tables, photographs, narrative descriptions, explanations, calculations, citations to supporting references, a record of all major permit decisions, and other information as may be necessary for a complete review of the plan, and as specified in the Boone County Stormwater Design Manual.

### 3.5. CONSTRUCTION PLAN REVIEW PROCEDURES

- (1) **Review for Completeness of Plan:** Boone County Public Works shall have a maximum of ten (10) workdays from the receipt of an application for preliminary review to determine if the application is complete. After this period, the application will be accepted for review, which will begin the thirty (30) calendar day review period, or rejected for incompleteness. For detailed procedures, refer to the Stormwater Design Manual.
- (2) **Review Period:** The thirty (30) calendar day review period begins on the day the complete stormwater management construction plan is accepted for review by Boone County Public Works. During the thirty (30) day review period, Boone County Public Works shall either approve or disapprove the plan and communicate the decision to the applicant in writing. Approval or denial shall be based on the plan's compliance with this Ordinance and the Boone County Stormwater Design Manual. Within thirty (30) days after receiving an application, the County shall, in writing:
  - A. approve the permit application; or

## Boone County Stormwater Ordinance

- B. approve the permit application subject to such reasonable conditions as may be necessary to secure substantially the objectives of this regulation, and issue the permit subject to these conditions; or
  - C. disapprove the permit application, indicating the deficiencies and the procedure for submitting a revised application and/or submission.
- (3) **Modifications Needed for Approval:** In cases where modifications are required to approve the plan, Boone County shall have an additional thirty (30) days to review the revised plan from the initial and any subsequent resubmission dates. If the plan is approved, one copy bearing certification of such approval shall be returned to the applicant. If the plan is disapproved, the applicant shall be notified in writing of the reasons.
- (4) **Substantive Changes to Plan:** No substantive changes shall be made to an approved plan without review and written approval by the Director. The County may request additional data with a plan amendment as may be necessary for a complete review of the plan and to ensure that changes to the plan will comply with the requirements of this ordinance.
- (5) **Expiration of Plan Approval:** The stormwater management construction plan is contingent on the land disturbance permit approval. These plans will expire two years from the date of approval unless work has begun on the site; or a land disturbance permit extension request from the owner or design engineer has been received by the Director. If the land disturbance and/or stormwater management construction plan approval expires and is not granted an extension, the applicant shall file with Boone County for reapproval of the stormwater management construction plan.

### 3.6. COORDINATION WITH OTHER APPROVALS AND PERMITS

- (1) **Approval of Other Permits:** Unless exempt, no stormwater discharge permit or building permit shall be issued for land development without approval of a stormwater management construction plan.
- (2) **Coordination with Other Plans:** Approval of the stormwater management construction plan shall be coordinated by Boone County with approval of an erosion and sediment control or construction stormwater plan with regard to the location, schedule, and/or phasing for temporary and permanent stormwater management measures. If natural drainage features or other natural areas are to be preserved, then these areas must be shown and measures provided for their protection on both the erosion and sediment control plan and the stormwater management construction plan. If other elements of the stormwater management construction plan utilize soils, vegetation, or other natural features for infiltration or treatment, then these areas must be shown on the erosion and sediment control plan and measures provided for their protection during construction
- (3) **Other Permits or Approvals May Be Needed:** Approvals issued in accordance with this ordinance do not relieve the applicant of responsibility for obtaining all other necessary permits and/or approvals from other federal, state, and/or local agencies. If requirements vary, the most restrictive shall prevail. These permits may include, but are not limited to: applicable state and federal permits for stream and wetland impacts and applicable dam safety permits. Applicants are required to show proof of compliance with these regulations before Boone County will issue a land disturbance, stormwater discharge, or building permit.
- (4) **Stormwater Measures within Designated Flood Hazard Areas:** Construction of stormwater measures or facilities within a Federal Emergency Management Agency (FEMA) designated

## Boone County Stormwater Ordinance

floodplain or floodway shall be avoided to the extent possible. When this is unavoidable, all stormwater BMP construction shall be in compliance with all applicable requirements of the Flood Plain Management Ordinance.

### 3.7. MAINTENANCE AGREEMENT AND PLANS

Prior to approval by the Director of a stormwater management construction plan, each owner shall submit a maintenance agreement and maintenance plan in accordance with the following:

- (1) **Responsible Party:** The owner shall be responsible for the operation and maintenance of such measures and shall pass such responsibility to any successor owner, unless such responsibility is accepted by the County.
- (2) **Requirement for Maintenance Agreement & Plan:** If a stormwater management construction plan requires structural or nonstructural measures, the owner shall execute a stormwater maintenance agreement prior to the Director granting final approval for the plan, or any plan of development or other development for which a permit is required under this Ordinance. The agreement shall be recorded by the responsible party in the office of the Boone County Recorder of Deeds and shall run with the land.
- (3) **Required Elements for Maintenance Agreement & Plan:** The stormwater maintenance agreement shall be in a form approved by the County, and shall, at a minimum:
  - (a) **Designate Responsible Party:** Designate for the land development the owner, governmental agency, or other legally established entity (responsible party) which shall be permanently responsible for maintenance of the structural or non-structural measures required by the plan.
  - (b) **Pass Responsibility to Successors:** Pass the responsibility for such maintenance to successors in title.
  - (c) **Right of Entry for Stormwater Authority:** Grant Boone County Public Works and its representatives the right of entry for the purposes of inspecting all stormwater facilities and BMPs at reasonable times and in a reasonable manner. This includes the right to enter a property when Boone County Public Works has a reasonable basis to believe that a violation of this Ordinance is occurring or has occurred and to enter when necessary for correction of a violation of this Ordinance.
  - (d) **Maintenance Plan:** Ensure the continued performance of the maintenance obligations required by the plan and this ordinance through a maintenance plan (which may be an attachment to the actual maintenance agreement). The plan shall include a list of inspection and maintenance tasks, a schedule for routine inspection and maintenance, required maintenance actions, and other items listed in the Boone County Stormwater Design Manual.

## Section 4. Performance Criteria for Stormwater Management

### 4.1. GENERAL STORMWATER MANAGEMENT CRITERIA

- (1) **Compliance with Federal & State Regulations:** All stormwater facilities and conveyance systems shall be designed in compliance with all applicable state and federal laws and regulations, including

## Boone County Stormwater Ordinance

the Federal Clean Water Act and all applicable erosion and sediment control, wetland and flood plain regulations.

- (2) **Protect Public Health, Safety & General Welfare:** The design of stormwater BMPs shall consider public health, safety, and general welfare. These considerations include, but are not limited to: preventing the flooding of structures; safe passage of vehicles on roadways; preventing standing water in facilities, manholes, inlets, and other structures in a manner that promotes breeding of mosquitoes; preventing attractive nuisance conditions and dangerous conditions due to velocity or depth of water and/or access to orifices and drops; and preventing aesthetic nuisances due to excessive slopes, cuts and fills, and other conditions.
- (3) **Adherence to Boone County Stormwater Design Manual:** All stormwater facilities and BMPs shall be designed to the standards of the Boone County Stormwater Design Manual, unless a variance is granted or the applicant is exempt from such requirements.
- (4) **Stormwater Authority Discretion:** If hydrologic, geologic, topographic, or land use conditions warrant greater control than that provided by the minimum control requirements, the Director may impose additional requirements prior to the approval of the preliminary stormwater management plans, as deemed reasonable and necessary to control the volume, timing, rate and/or quality of runoff. The Director may restrict the use of certain stormwater BMPs, require additional pretreatment, and/or require a post-construction stormwater pollution prevention plan in certain circumstances. These include, but are not limited to: stormwater generated from stormwater hotspots, stormwater discharges that are conveyed with non-stormwater discharges, and stormwater discharged in important groundwater management areas, areas with known flooding problems, areas with slopes greater than 25%, areas discharging to impaired waterways or areas where geologic conditions are conducive to groundwater contamination (e.g., karst). The Director may use this authority to mitigate impacts anticipated by a proposed development or redevelopment project. However the additional requirements must be proportional to the impact being mitigated.
- (5) **Hydrologic Computation Assumptions:** Hydrologic parameters shall reflect the ultimate land development and shall be used in all engineering calculations. All pre-development calculations shall consider woods and fields to be in good condition, regardless of actual conditions at the time of application.
- (6) **Location of Stormwater Facilities on Lots:** Stormwater facilities within residential subdivisions that serve multiple lots and/or a combination of lots and roadways shall be on a lot owned and maintained by an entity of common ownership, unless an alternative arrangement is approved by the Director. Stormwater practices located on individual lots shall be placed within an easement and either maintained by the lot owner or maintained by an entity of common ownership.

### 4.2. ENGINEERED SYSTEMS

- (1) **Replicating Pre-Development Hydrology:** Stormwater management designs shall preserve the natural hydrologic functions, stream channel characteristics, and groundwater recharge of the pre-developed site as outlined in the Boone County Stormwater Design Manual and to the maximum extent practical. This shall be accomplished by treating runoff at the source, disconnecting impervious surfaces, preserving or enhancing natural flow paths and vegetative cover, preserving or enhancing natural open spaces and riparian zones, and other measures that replicate pre-development hydrologic conditions. The Director shall exercise discretion in the application of this standard, especially in cases of infill development, redevelopment, or other unique circumstances.

## Boone County Stormwater Ordinance

- (2) **Overland Flood Routes:** Overland flood routing paths shall be used to convey stormwater runoff from the 100-year storm event to an adequate receiving water resource or stormwater BMP such that the runoff is contained within the drainage easement for the flood routing path and does not cause flooding of buildings or related structures. The peak 100-year water surface elevation along flood routing paths shall be at least one foot below the finished grade elevation at the structure. When designing the flood routing paths, the conveyance capacity of the site's storm sewers shall be taken into consideration.
- (3) **Velocity Dissipation:** Velocity dissipation devices shall be placed at discharge locations of the stormwater conveyance system and along the length of any outfall to provide non-erosive flow velocity from the structure to an adequate receiving stream or channel so that the natural physical and biological characteristics and functions of the receiving stream are maintained and protected.
- (4) **Discharges to Adjacent Property:** Concentrated discharges from the stormwater drainage system or stormwater best management practices shall not be discharged onto adjacent property without adequate conveyance in a natural stream or storm sewer system. Drainage easements are required when stormwater discharges must cross an adjacent or off-site property before reaching an adequately sized conveyance.
- (5) **Flow toward streets:** In order to have sufficient traffic safety, any concentration of surface flow in excess of two (2) cubic feet per second (cfs) for the ten-year frequency rain shall be intercepted before reaching the street right-of-way and shall be carried by a storm drain to connect with a drainage structure at the low point in the street right-of-way or to discharge to a watercourse.

### 4.3. NATURAL SYSTEMS

**Stream & Wetland Crossings:** All stream and wetland crossings subject to Section 404 of the Clean Water Act and/or state stream and/or wetland regulations shall minimize impacts on streams and wetlands, to the extent practical and achievable, by crossing streams and wetlands at a right-angle, reducing the footprint of grading and fill, matching the existing stream profile grade, and utilizing bridges, open bottom arches, spans, or other structures that do not restrict or alter stream or wetland hydrology. Mimic the natural multi-stage channel shape as much as possible. If culverts are placed within streams and/or wetlands, at least one culvert shall be countersunk at least one foot (1') below the natural channel flowline, (or 10% of the pipe diameter whichever is less) to allow movement of aquatic organisms.

**Limited Stream Assessment Required:** A limited stream assessment as outlined in the Boone County Stormwater Design Manual is required when construction will enter the stream or streamside buffer zone.

### 4.4. STORMWATER QUANTITY AND QUALITY CONTROL

- (1) **Runoff Reduction:** In an effort to replicate pre-development hydrologic conditions, and to promote baseflow to streams and wetlands, ten percent (10%) of the water quality volume shall be permanently reduced. This may be accomplished through infiltration practices where soil conditions allow, by disconnecting impervious areas, maintaining or reestablishing deep-rooted vegetation, maintaining sheet flow to areas of natural vegetation such as riparian corridors and undisturbed forest lands, and/or collection and reuse of runoff.

The Director may waive the requirements of this section as specified in (A) and (B) below:

## Boone County Stormwater Ordinance

- A. **Risk of Groundwater Contamination:** Stormwater hotspots, contaminated soils, and sites in close proximity to karst or drinking water supply wells may not be subject to groundwater recharge/infiltration requirements, as determined by the Director. The Director may impose reasonable conditions such as increased forest, buffer or pervious areas in granting such a waiver.
  - B. **Site Constraints:** Areas characterized by high water table, shallow bedrock, contaminated soils, and other constraints may be subject to reduced volume control requirements, as determined by the Director. The Director may impose reasonable conditions in granting such a waiver.
- (2) **Water Quality Protection:** In order to protect the receiving waters from nonpoint source pollution, the remainder of the water quality volume that was not removed through runoff reduction, shall be treated through filtration BMPs such as sand filters, vegetated swales, or proprietary products.
- A. **Treatment of the Water Quality Volume:** Post-development runoff from the water quality rainfall event that is not permanently removed through the application of the runoff reduction criterion shall be captured and treated in a water quality BMP to prevent or minimize water quality impacts from land development.
  - B. **Vegetated Filter Strips:** Up to 25%, of a site's total impervious surface may discharge in a sheet flow condition through established vegetation such as may exist in a stream buffer without otherwise being treated.
  - C. **Pretreatment:** Each stormwater BMP shall have an acceptable form of water quality pretreatment if required to provide adequate long-term operation and maintenance of the BMP.
  - D. **Treatment of Off-Site Stormwater:** Off-site stormwater conveyed through a land development shall be placed within an easement and conveyed in a manner that does not increase upstream or downstream flooding. Off-site stormwater shall be conveyed around on-site stormwater BMPs, unless the facilities are designed to manage the off-site stormwater. The Director may allow the treatment of off-site stormwater in lieu of the treatment of the entire site's water quality volume.
  - E. **Additional Criteria for Stormwater Hotspots:** In addition, stormwater discharges from stormwater hotspots may require the use of specific structural, non-structural, and/or pollution prevention practices, including enhanced pre-treatment. Discharges from a stormwater hotspot shall not be infiltrated without enhanced pre-treatment, as approved by the Director.
  - F. **Landscape Plan:** The design of vegetative stormwater BMPs shall include a landscape plan detailing both the vegetation in the BMP and the maintenance requirements, and who will manage and maintain the vegetation.
- (3) **Channel Protection Criteria:** The stormwater system shall be designed so that post-development discharges will not erode natural channels or steep slopes. This will protect in-stream habitats and reduce in-channel erosion. The applicant shall use either Tier 1 or Tier 2 performance standards, as applicable, to meet this criterion.
- A. **Tier 1 Performance criteria:** sites having less than 5 acres of land disturbance OR less than 20% imperviousness on the entire tract shall apply the following performance standards:

## Boone County Stormwater Ordinance

1. Wherever practical, maintain sheet flow to riparian buffers or vegetated filter strips. Vegetation in buffers or filter strips must be preserved or restored where existing conditions do not include dense vegetation.
2. Energy dissipaters and level spreaders must be used to spread flow at outfalls.
3. On-site conveyances must be designed to reduce velocity through a combination of sizing, vegetation, check dams, and filtering media (e.g., sand) in the channel bottom and sides.
4. If flows cannot be converted to sheet flow, they must be discharged at an elevation that will not cause erosion or require discharge across any constructed slope or natural steep slopes.
5. Outfall velocities must be non-erosive from the point of discharge to the receiving channel or waterbody where the discharge point is calculated.

**B. Additional criteria for Tier 2 sites:** Sites greater than 5 acres of land disturbance OR greater than 20% imperviousness on the entire tract shall apply the performance standards in subsection (A), in addition to the following performance standards:

Site design techniques that decrease runoff volumes and peak flows. This shall be accomplished by controlling the post-development peak discharge rate to the pre-development rate.

This criterion shall be met for the post-development 2-year, 24-hour storm event, (or equivalent storm runoff volume using other methodologies). The release rate shall be equal to or less than the pre-development 1-year, 24-hour storm event. Boone County will give credit for the application Runoff Reduction and WQv measures towards meeting the storage requirements.

OR

In an effort to encourage micro-detention and utilize stormwater BMPs to detain stormwater, the difference (increase) in the runoff volume that is predicted due to the development during the 2-year event will be stored and released at no more than 0.1 cfs/acre; providing that 75% of the water leaving the site drains through at least one storage basin, and that the volume stored accounts for the added runoff from the entire disturbed site.

**(4) Flood Control Criteria:** Downstream overbank flood and property protection shall be provided by controlling the post-development peak discharge rate to the pre-development rate. This criterion shall be met for the 25-year, 24 hour storm event on property zoned REC, REC-P, C-O, C-N, C-G, C-GP, M-L, M-LP, M-G, M-GP.

Stormwater BMPs that impound water shall demonstrate that the 100-year storm can safely pass through the structure without overtopping or creating damaging conditions downstream.

The Director may waive some or all of the requirements of this section as specified in (A), (B), (C) and (D) below:

- A. Discharge to Large Waterbody:** The land development discharges directly to a flood plain, major river or waterbody and the Director determines that waiving the flooding criteria will not harm public health and safety. The applicant shall secure drainage easements from any downstream property owners across whose property the runoff must flow to reach the flood plain, major river or waterbody. The applicant shall also demonstrate that any piped or open-channel system in which the runoff will flow has adequate capacity and stability to receive the project's runoff plus any off-site runoff also passing through the system.

## Boone County Stormwater Ordinance

- B. **Insignificant Increases in Peak Flow:** The land development results in insignificant increases in peak flow rates, as determined by the Director.
- C. **Alternative Criteria Provided:** The land development is subject to a floodplain study that recommends alternative criteria for flood control.
- D. **Increases in Downstream Peak Flows or Flood Elevations:** The Director determines that complying with the requirements of this section will result increases in peak flows or downstream flooding conditions due to coincident peaks from the site and the contributing watershed or another factor.
- E. **Documentation for Waiver:** When seeking a waiver in accordance with either (1), (2), (3) or (4) above, the applicant shall demonstrate that stormwater discharges will not unreasonably increase the extent, frequency, or duration of flooding at downstream properties and structures or have an unreasonable adverse effect on streams, aquatic habitats, and channel stability. In making its determination to allow full or partial waivers, the Director shall consider cumulative impacts and the land development's adherence to the land use plans and policies of Boone County, including the promotion of infill and redevelopment in particular areas.

### 4.5. REDEVELOPMENT CRITERIA

Land development that qualifies as redevelopment shall meet one of the following criteria:

- (1) **Reduce Impervious Cover:** Reduce existing site impervious cover by at least 20%.
  - A. This can be accomplished through stormwater BMPs designed in accordance with the criteria in Sections 4.2 through 4.3 and the Boone County Stormwater Design Manual.
  - B. Runoff reduction may be used instead of water quality treatment on land zoned Residential, Transition or Agriculture where the lot size is at least 2.5 acres and impervious cover is less than 10%.
- (2) **Provide Treatment:** Provide water quality treatment for at least 20% of the site's pre-development impervious cover and 100% of any new impervious cover, not to exceed 150% of the total new impervious.
  - A. This can be accomplished through stormwater BMPs designed in accordance with the criteria in Sections 4.2 through 4.3 and the Boone County Stormwater Design Manual.
  - B. Runoff reduction may be used instead of water quality treatment on land zoned Residential, Transition or Agriculture where the lot size is at least 2.5 acres and impervious cover is less than 10%.
- (3) **Apply Innovative Approaches:** Utilize innovative approaches to reduce stormwater impacts across the site. Examples include green roofs and pervious parking materials.
- (4) **Provide Off-Site Treatment:** Provide equivalent stormwater treatment at an off-site facility within the same watershed and as immediately downstream of the site as feasible.
- (5) **Address Downstream Issues:** Address downstream channel and flooding issues through channel restoration, increase in existing system capacity and/or other off-site remedies.
- (6) **Combination of Measures:** Any combination of (1) through (5) above that is acceptable to Boone County Public Works.

### 4.6 ENVIRONMENTALLY SENSITIVE AREAS: ENHANCED CRITERIA

## Boone County Stormwater Ordinance

This section shall be applicable to all land development, including, but not limited to, site plan applications, subdivision applications, and grading applications, in or draining to an environmentally sensitive area that disturbs more than 3000 square feet.

- (1) These provisions apply to any stormwater discharge or drainage on new development or redevelopment sites within Boone County that meets one or more of the following criteria:
  - A. Within 1000 feet of and draining to a losing stream\*, Outstanding National or State Resource Water\*
  - B. Within 100 feet of a Class P Stream\*, or Type 1 stream per the Stream Buffer Regulations
  - C. Within 1000 feet of and draining to, or changes the site hydrology of, a jurisdictional wetland as defined by the U.S. Army Corps of Engineers; or
  - D. Runoff that discharges to a groundwater point recharge feature such as a sinkhole or other direct conduit to groundwater such as a cave.

\*See listings in Missouri Water Quality Standards 10 CSR 20-7.031. This information is also provided in the Boone County Stormwater Design Manual – Appendix C.

- (2) **Land Disturbance Permit Threshold Lowered:** When any of the above conditions exist, permitting related to land disturbance, stormwater management and water quality control will be required for any land disturbance greater than 3000 square feet.
- (3) **General Stormwater Management:** Drainage patterns for proposed development must be designed to protect sensitive areas from the effects of runoff from developed areas, and to maintain the drainage areas of groundwater recharge features in a natural state. Special controls must be used where necessary to avoid the effects of erosion, sedimentation, and/or high rates of flow.
- (4) **Buffer zone limitations and prohibitions:** The natural vegetative cover must be retained within a buffer zone described in this section. All construction activities including grading and filling are prohibited. Additionally, wastewater disposal or irrigation is prohibited.
- (5) **Buffer zone widths:** The following buffer widths are required to reduce construction activities and retain the natural vegetative cover in unique and environmentally sensitive areas throughout the County.
  - A. Point Recharge Feature (Sinkholes): For a point recharge feature, the buffer zone coincides with the topographically defined drainage area, except that the width of the buffer zone from the edge of the sensitive area shall not be less than 150 feet, or greater than 300 feet from the sinkhole eye.
  - B. Wetlands: For a wetland, the buffer zone shall be at least 50 feet.
  - C. Outstanding Resource Waters/Losing Streams: For national or state outstanding resource waters, the buffer zone shall be twice that of the stream buffer requirement. (Chapter 26 Boone County Zoning Regulations)
  - D. Other Features: For other environmentally sensitive areas, the buffer zone shall be at least 50 feet.
- (6) **Wetland Protection:** Wetlands meeting the Army Corps of Engineers definition of a jurisdictional wetland must be protected in all watersheds. Protection methods for wetlands include:

## Boone County Stormwater Ordinance

- A. Appropriate setbacks that preserve the wetlands or wetland functions;
- B. Wetland mitigation, including wetland replacement;
- C. Wetland restoration or enhancement.

The Director may approve the removal and replacement of a wetland as approved by the U.S. Army Corps of Engineers or the elimination of setbacks from a constructed wetland that is primary use is for water quality control.

### (7) Sinkhole/Cave Protection:

- A. **Sinkhole Evaluation:** The developer/owner of any development that will discharge runoff to a sinkhole shall submit a Sinkhole Evaluation during the pre-application meeting or preliminary plat/plan review. A professional engineer or professional geologist must complete a sinkhole evaluation, with the following information.
  - i. Drainage area map
  - ii. Details of the drainage path of the discharge from the development to the sinkhole (offsite sinkholes)
  - iii. Sinkhole boundary map based on topography
  - iv. Geological Evaluation
- B. **Geological Evaluation:** A professional geologist or a professional engineer with a demonstrated expertise in geotechnical applications is required to prepare a geologic evaluation of off-site sinkholes to determine the structural integrity of the geology, and the stability of the formation. The geological evaluation shall provide the following information:
  - i. Identification of all sinkholes as depression or collapse sinkholes.
  - ii. A map of the topographic rim (highest closed contour) of all depression sinkholes, based on a 2-foot contour interval or less.
  - iii. A map of all depression and collapse sinkholes contributing to the groundwater recharge of the area.
  - iv. A map showing no-build areas for buildings and other structures based on topographic and geologic rims of depression and collapse sinkholes.
  - v. Detail of proposed stabilization of collapse sinkholes, if applicable.
- C. **Sinkhole or Cave-Related Non-Buildable Areas:** The Director may, based upon the topography, geology, soils, and history of the sinkhole(s) and/or cave(s) (such as past filling) and the engineer's storm water analysis, establish sinkhole or cave-related non-buildable areas. No grading or installation of parking areas, streets or other infrastructure shall be permitted within the said non-buildable area unless otherwise authorized by the Director.

This non-buildable area shall follow the limits of the sinkhole in most cases. However, the non-buildable area may be expanded or contracted by action of the Director where warranted, due to the nature of the specific sinkhole or cave, the underlying geology, soils, drainage, and any related information, such as depth to bedrock.

In sinkhole cluster areas, the Director may require the developer to provide recommendations from a consulting engineer and a consulting hydrogeologist, based upon substantial and state-of-the-art field studies and evaluation of the specific sinkhole or cave system. These studies shall be submitted to the Director

**D. Development in Sinkhole Drainage Areas without Discharge to Sinkhole:** Development may occur in the immediate sinkhole drainage area if the developer provides alternative surface drainage away from the sinkhole, while keeping the water in the same surface drainage basin, and providing that the water shall not go into another sinkhole drainage area off the applicant's property. The immediate sinkhole drainage area (or portion thereof) which cannot be provided with an alternative drainage system can be deleted from the development area for calculations utilizing this information to meet regulatory requirements.

**E. Development in Sinkhole Drainage Areas with Discharge to Sinkhole:** For portions of the sinkhole drainage area where alternative surface drainage methods cannot be provided, the sinkhole can be used for limited surface runoff drainage of a proposed development if the following conditions are met:

- i. That the runoff from the development area is either completely retained in a retention basin or detained in a detention basin. The flow rate out of the above basins shall be regulated so that it is no greater than the flow rate into the sinkhole of the development area prior to development.
- ii. Enough runoff is diverted from the sinkhole drainage area so that the development of the remaining area does not increase the total quantity or deteriorate the water quality of runoff into the sinkhole. Where additional runoff is anticipated, a consulting engineer and hydrogeologist shall evaluate and show the effect of any additional quantity of runoff to the sinkhole and sinkhole system. The Director shall review the study findings and make a determination that the plan is acceptable.
- iii. Where the sinkhole outlet is off site, either the runoff leaving the subject property must be shown to be no greater in flow or in quantity than that which existed before development, or easements must be obtained from owners of property where any increase in flow or quantity of water must go to reach the sinkhole outlet. Easement areas shall be approved by the Director based upon the developer's engineer's calculations of the proposed ponding elevation.

**F. Filling in sinkholes and sinkhole drainage areas:**

- i. No street shall be placed below an elevation of at least one (1) foot above the sinkhole ponding elevation and only when collapse of the sinkhole will not adversely affect the road.
- ii. No increase in the ponding elevation will be allowed by grading or filling without a storm water analysis approved by the Director.
- iii. It shall be unlawful for any person to place, dump or deposit trash, debris, rubbish, brush, leaves, grass clippings, yard waste, hazardous waste or similar materials within a sinkhole.

**G. Grading or alteration of land near or over Sinkhole:** The alteration of land in a sinkhole by means of grading or the use of motorized equipment without a permit is a violation of this ordinance.

## **Section 5. Construction Site Runoff Control**

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### **5.1. GENERAL**

Grading, erosion control practices, sediment control practices, and waterway crossings shall be adequate to prevent transportation of sediment from the site. The design and construction guidance in the Boone County Stormwater Design Manual shall be followed insofar as it is applicable. Other pollutants shall be controlled as necessary to prevent potential discharge to waters of the State.

### **5.2. CLEARING AND GRADING**

- (1) Clearing and grading of natural resources, such as forests and wetlands, shall not be permitted, except when in compliance with all other County regulations.
- (2) Clearing techniques that retain natural vegetation and retain natural drainage patterns shall be used to the maximum extent practicable.
- (3) Clearing, except that necessary to establish sediment control devices, shall not begin until all sediment control devices have been installed and have been stabilized.
- (4) Cut and fill slopes shall be *no greater than 3:1*, except as approved by the County to meet other community or environmental objectives.
- (5) Phasing shall be required on all sites disturbing greater than *thirty* acres, with the size of each phase to be established at plan review.
- (6) Other measures may be required in order to ensure that sediment is not tracked onto public streets by construction vehicles, or washed into storm drains.

### **5.3. EROSION CONTROL**

- (1) Soil must be stabilized within 14 days of clearing or inactivity in construction, unless otherwise authorized, and shall be effectively maintained throughout the duration of any inactivity.
- (2) Soil stockpiles must be stabilized or covered at the end of each work day unless otherwise protected from allowing sediment to leave the site.
- (3) Techniques shall be employed to prevent the blowing of dust or sediment from the site.
- (4) Techniques that divert upland runoff past disturbed slopes shall be employed.

### **5.4. SEDIMENT CONTROLS**

- (1) Sediment controls shall be provided in the form of settling basins or sediment traps or tanks, and perimeter controls.
- (2) Where possible, settling basins shall be designed in a manner that allows adaptation to provide long term stormwater management.
- (3) Adjacent properties shall be protected by the use of a vegetated buffer strip, in combination with perimeter controls wherever possible.

### **5.5. WATERWAYS AND WATERCOURSES**

## Boone County Stormwater Ordinance

- (1) When a wet watercourse must be crossed regularly during construction, a temporary stream crossing shall be provided, and an approval obtained from the U.S. Army Corps of Engineers and the Missouri Department of Natural Resources if deemed a jurisdictional stream.
- (2) When in-channel work is conducted, the channel shall be stabilized before, during and after work.
- (3) Stabilization adequate to prevent erosion must be provided at the outlets of all pipes and paved channels.

### 5.6. CONSTRUCTION SITE ACCESS

- (1) A temporary access road or driveway shall be provided at all sites.
- (2) Regardless of the amount of land disturbance at a particular site, it shall be the responsibility of the permit holder and/or property owner to ensure streets open to the public surrounding a permitted site are kept free of debris and sediment throughout construction. Upon notification that a problem exists, the permit holder and/or property owner shall remedy the issue within 12 hours.

### 5.7. CONTROL OF OTHER CONSTRUCTION POLLUTANTS

- (1) **Concrete Truck Washout:** Concrete truck washout shall not discharge surplus concrete or drum wash water on the site in such a manner that promotes contact with storm waters or natural streams discharging from the site.
- (2) **Construction Waste:** All construction waste material shall be collected, deposited, and stored in a manner to prevent contact with storm waters discharging from the site and shall be disposed of by a licensed solid waste management contractor. No waste shall be buried on the site.
- (3) **Sanitary Waste:** A state licensed sanitary waste management contractor shall collect all sanitary waste from portable units that will be maintained on a regular basis for any site that cannot provide other means of sanitary waste disposal.
- (4) **Petroleum Products:** All construction equipment and vehicles shall be monitored for leaks and receive regular preventative maintenance to ensure proper operation and reduce the risk for leaks or spills. Petroleum products shall be stored in clearly labeled and tightly sealed containers or tanks. Fuel or oil contaminated soil shall be removed and disposed of properly.
- (5) **Fertilizers:** Fertilizers shall be applied following manufacturer's recommendations. Fertilizers shall be stored in a covered area or in watertight containers. Partially used products shall be properly sealed and stored to avoid spills or leaks.
- (6) **Hazardous materials:** Storage areas for hazardous materials such as oils, greases, paints, fuels, and chemicals, shall be provided with secondary containment to ensure that spills in these areas do not reach waters of the State. All hazardous waste materials shall be disposed of according to state regulation or the manufacturer's recommendations.

## **Section 6. Ongoing Maintenance for Stormwater BMPs**

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### 6.1. General Maintenance Requirement

## Boone County Stormwater Ordinance

All stormwater facilities and BMPs shall be maintained in accordance with the approved and recorded stormwater maintenance agreement and stormwater maintenance plan. If no maintenance agreement or plan is in place, the owner shall maintain the facility as it was designed in order to continue the mitigation of stormwater quantity and quality impacts. This maintenance shall include removal of overgrown vegetation, repair of erosion, repairs to any inlet/outlet structures, and removal of excess silt or any other maintenance deemed necessary to provide said mitigation. The design of stormwater facilities shall incorporate maintenance accommodation and long-term maintenance reduction features.

### **6.2. Maintenance Responsibility**

The responsible party named in the recorded stormwater maintenance agreement (**Section 3.7**) shall maintain in good condition and promptly repair and restore all structural and non-structural stormwater facilities and BMPs and all necessary access routes and appurtenances (grade surfaces, walls, drains, dams and structures, vegetation, erosion and sedimentation controls, and other protective devices) in order to maintain the mitigation of stormwater quantity and quality impacts. Such repairs or restoration and maintenance shall be in accordance with the approved stormwater management construction plan, the stormwater maintenance agreement, and the stormwater maintenance plan.

### **6.3. INSPECTION BY BOONE COUNTY PUBLIC WORKS**

The County shall be permitted to enter and inspect facilities subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance. If the site has security measures in force that require proper identification and clearance before entry into its premises, the responsible party shall make the necessary arrangements to allow access to representatives of the County.

Unreasonable delays in allowing the County access to a permitted facility is a violation of a storm water discharge permit and of this ordinance.

If the County has been refused access to any part of the premises from which stormwater is discharged, and is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the County may seek issuance of a search warrant from any court of competent jurisdiction.

### **6.4. RECORDS OF MAINTENANCE ACTIVITIES**

The responsible party shall make records of the installation and of all maintenance and repairs, and shall retain the records for at least five (5) years. These records shall be made available to the Director during inspection of the facility and at other reasonable times upon request.

### **6.5. FAILURE TO PROVIDE ADEQUATE MAINTENANCE**

In the event that the stormwater BMP has not been maintained and/or becomes a danger to public safety or public health, the Director shall notify the responsible party by registered or certified mail. The notice shall specify the measures needed to comply with the maintenance agreement and the maintenance plan and shall specify that the responsible party has thirty (30) days or other time frame mutually agreed to between the Director and the responsible party, within which such measures shall be completed. If such

## Boone County Stormwater Ordinance

measures are not completed, then the Director shall pursue enforcement procedures pursuant to Section 9 of this Ordinance.

If a responsible person fails or refuses to meet the requirements of an inspection report, maintenance agreement, or maintenance plan the Director, after thirty (30) days written notice (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours notice shall be sufficient), may correct a violation of the design standards or maintenance requirements by performing the necessary work to place the practice in proper working condition. The Director may assess the responsible party of the practice for the cost of repair work which shall be a lien on the property, or prorated against the beneficial users of the property, and may be placed on the tax bill and collected as ordinary taxes by Boone County.

### **6.6. REQUIRED EASEMENTS**

Whenever improvements to land are made, easements for the stormwater management facilities including structural facilities, engineered channels and overflow paths, shall be provided across private property. Easements through existing developments shall be obtained as deemed necessary. Drainage easements shall include access from a convenient public street or parking lot. Minimum dimensions are as follows:

- (1) Where a storm drain consists of a closed conduit, the width shall be the greater of fifteen (15) feet or the sum of the conduit diameter and twice the cover depth over the conduit.
- (2) The stormwater drainage system easements shall contain the overflow from the 100 year (1% annual chance) storm event and shall indicate the highest expected water surface elevation of said event.
- (3) Access easements to and around detention/retention facilities shall be a minimum of fifteen (15) feet wide with cross slopes to be safely accessible by a vehicle unless otherwise approved by the Director.

### **6.7. INTERFERENCE AND DAMAGE**

No person shall damage, discharge or place any substance into the drainage system which will or may cause obstruction to flow or other interference with the operation of the stormwater drainage system. Any person violating this section or damaging the stormwater drainage system shall be liable to the County for all expense, loss or damage incurred by the County due to such violation or damage, in addition to any other penalties set forth herein.

## **Section 7. Illicit Discharge Detection and Elimination**

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### **7.1. GENERAL**

- (1) **Purpose:** This ordinance is adopted pursuant to the authority granted in 64.907, 64.825 – 64.885, Revised Statutes of Missouri and are intended to regulate non-stormwater discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this ordinance are:

## Boone County Stormwater Ordinance

- A. To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by stormwater discharges by any user
  - B. To prohibit Illicit Connections and Discharges to the MS4
  - C. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this ordinance
- (2) **Applicability:** This ordinance shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted.
- (3) **Ultimate Responsibility:** The standards set forth in this article and promulgated pursuant to this article are minimum standards. Compliance with this article does not insure that there will be no contamination, pollution or unauthorized discharge of pollutants into the waters of the United States. This article shall not create liability on the part of the County or any agent or employee of the County for any damages that result from any discharges, reliance on this article or any administrative decision made under this article.
- (4) **Stormwater Pollution Prevention:** Any owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of structural and non-structural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliant with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWPPP) as necessary for compliance with requirements of the NPDES permit.

### 7.2. PROHIBITIONS

- (1) **Illegal Discharges:** It shall be unlawful for any person to discharge or cause to be discharged into the municipal separate storm sewer system or into any watercourse any material other than stormwater. The following discharges are exempt from the prohibitions established by this article:
- A. Waterline flushing or other potable water sources;
  - B. Landscape irrigation or lawn watering;
  - C. Diverted stream flows;
  - D. Rising groundwater;
  - E. Groundwater infiltration;
  - F. Uncontaminated pumped groundwater;
  - G. Foundation or footing drains excluding active groundwater de-watering systems;
  - H. Crawlspace pumps, air conditioning condensation;
  - I. Springs;
  - J. Non-commercial washing of vehicles;
  - K. Natural riparian habitat or wetland flows;

## Boone County Stormwater Ordinance

- L. Swimming pools if de-chlorinated to less than 1 ppm chlorine;
- M. Fire fighting activities;
- N. Other water not containing pollutants;
- O. Discharges specified by the County as necessary to protect public health and safety;
- P. Dye testing if notification is given to the County before the test; and
- Q. Any non-storm water discharge permitted under an NPDES permit, waiver or waste discharge order issued to the discharger and administered under the authority of the Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the municipal separate storm sewer system.

### (2) **Illicit connections:**

- A. It shall be unlawful for any person to construct, use, maintain or have an illicit connection.
- B. This section expressly applies to illicit connections made in the past even if the connection was permissible under law or practices applicable or prevailing at the time of connection.

### (3) **Waste disposal prohibitions:** It shall be unlawful for any person to place, deposit or dump or to cause or allow the placing, depositing or dumping any refuse, rubbish, yard waste, paper litter or other discarded or abandoned objects, articles and accumulations containing pollutants into the municipal separate storm sewer system or into any waterway.

### (4) **Connection of sanitary sewer prohibited:** It shall be unlawful for any person to connect a line conveying sewage to the municipal separate storm sewer system or to allow such a connection to continue.

### (5) **Industrial or construction activity discharges:** It shall be unlawful for any person subject to an industrial activity or construction NPDES storm water discharge permit to fail to comply with all provisions of such permit.

## 7.3. NOTIFICATION OF SPILLS

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or water of the U.S. said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the County in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the County within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

## 7.4. REGULATIONS AND MONITORING

## Boone County Stormwater Ordinance

- (1) The County Commission may, by ordinance, adopt standards identifying best management practices (BMP) for any activity, operation or facility which may cause or contribute to pollution of storm water, the storm drain system, waters of the state or waters of the United States. These standards shall be on file at Boone County Public Works. It shall be unlawful for any person undertaking any activity or owning or operating any facility subject to such standards to fail to comply with the standards.
- (2) The owner or operator of a commercial or industrial establishment shall provide reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal separate storm sewer system or water courses through the use of structural and non-structural BMPs. Any person responsible for property which is or may be the source of an illicit discharge may be required to implement additional structural and non-structural BMPs to prevent further discharge. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity to the extent practicable shall be deemed in compliance with provisions of this section. These BMPs shall be a part of the storm water pollution prevention plan as necessary for compliance with the requirements of the NPDES permit.

### Section 8. Permits

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#### 8.1. Promulgation of Rules

The Director may promulgate rules governing the issuance of the permits required by this section and may produce forms to effectuate the intent of this ordinance.

#### 8.2. Stormwater Discharge Permit

- (1) **Authorization to Discharge to MS4:** If runoff from a land development will flow to a municipal separate storm sewer system (MS4) or other publicly-owned storm sewer system, then the applicant shall obtain authorization from the system's owner to discharge into the system. The applicant must demonstrate that the system has adequate capacity for any increases in peak flow rates and volumes.
- (2) **Permit Required:** No stormwater drainage facility shall be constructed, altered or reconstructed without a stormwater discharge permit. To obtain a permit, the application form provided by the County shall be completed and plans must be submitted for review and approval of the Director. All such construction shall comply with the general requirements and design procedures, as set forth in this chapter, and the criteria of the Boone County Stormwater Design Manual.
- (3) Prior to the issuance by the County of a permit for any type of construction, the property owner, the developer or their agent shall have a stormwater management plan approved by the County in accordance with Section 3. The property owner, developer or their agent shall, at his own expense, submit necessary plans, designs and specifications to the County for review and approval. This plan shall:
  - Include a pre- and post-development hydrologic analysis of the site
  - Identify pollutants of concern for each area of the site
  - Identify pollution prevention measures
  - Identify controls that provide treatment and reduce stormwater volumes and velocities
  - Identify any environmentally sensitive areas and provide a plan for protection of these areas per this chapter

## Boone County Stormwater Ordinance

- Identify Low Impact Development opportunities that can best mimic the natural hydrology of the site and filter pollutants from the runoff.
  - Provide for long term operation and maintenance of controls
- (4) Provisions of this section for plan requirement shall be waived provided no land is disturbed and no trees, shrubs, grass or vegetation is destroyed or removed for construction, reconstruction, repair or alteration of any building provided the improvement does not alter or increase the flow of water.
- (5) The post-construction stormwater management plan shall show the location of any environmentally sensitive features (as listed in Section 4.6), the sensitive feature's drainage area, any sinkhole cluster area, or portions of such items, along with ground contours, a hydrologic analysis of the drainage area and significant physical features on the property, and detailed information on the work to be performed in or near the sensitive area.

Upon review of the information presented by the applicant, the site, and such other information as may be available, the Director may issue a permit for work to be performed in or near the sensitive area. All work shall be performed in accordance with the permit. The Director may designate certain areas where grading or construction equipment is not permitted or is otherwise limited.

### 8.3. Land Disturbance Permit

- (1) **Applicability:** No clearing, grading, borrowing or filling of land resulting in a land disturbance greater than one acre shall commence prior to obtaining a land disturbance permit. All such work shall also comply with an approved erosion and sediment control plan in conjunction with an approved site development plan. Additionally, no person shall engage in the grading of land in excess of 3000 square feet or the use of motorized equipment in or near a sinkhole, losing stream, cave, spring, wetland or other environmentally sensitive area without first securing a permit from the Director.
- (2) **Individual Lots Not Separate Land Development:** Residential, commercial or industrial developments shall apply these stormwater management criteria to land development as a whole. Individual residential lots in new subdivisions shall not be considered separate land development projects, but rather the entire subdivision shall be considered a single land development project.
- (3) **Expiration:** Every approval under this subsection for clearing, grading, borrowing or filling of land shall expire within two (2) years from the date of issuance. This permit may be renewed for up to two (2) years by submitting a written request for an extension to the Director with the appropriate fee as listed in Section 8.5.

### 8.4. Performance Bond or Guarantee

- (1) **Performance Bond or Guarantee Required:** Upon approval of the Storm Water Pollution Prevention Plan (SWPPP) and prior to issuance of a Land Disturbance Permit, the developer shall post a security in the form of a cash bond, cash or equivalent of not less than 150% of the value of all erosion and sediment control measures, which are part of the SWPPP. For land disturbance permits where no other security is required, the only type of security which will be accepted will be a cash bond. For land disturbance permits where other security is established for public improvements, the erosion control security may be added to the security for public improvements. If the bond, or other security document is placed in default, or the insurance is terminated or not maintained at a satisfactory level, then no additional permits or approvals, including building permits, shall be issued

## Boone County Stormwater Ordinance

for the developer's property located in the development for which the security was given, until the improvements are completed to the satisfaction of the County.

- (2) **Term of Performance Bond or Guarantee:** Any portion of the deposit not expended or retained by the County hereunder shall be refunded to the applicant within sixty (60) days of the closing of the Land Disturbance Permit, after soil and drainage conditions are stabilized to the satisfaction of the County
- (3) **Term Extended for Initial Maintenance:** At the discretion of the Boone County Public Works, the performance bond or guarantee may be extended beyond the time period specified above to cover a reasonable period of time for testing the practices during storm events and for initial maintenance activities. For the purposes of this section, the time shall not exceed 2 years.
- (4) **Partial Release of Bond:** The County shall have the discretion to adopt provisions for a partial pro-rata release of the performance bond or guarantee on the completion of various stages or phases of development.

### 8.5. Fees

The County has the ability to require a fee to support local plan review, inspection and program administration. Each developer/owner seeking a land disturbance or stormwater discharge permit shall pay a fee upon submittal of the plans, in amounts according to the schedule set forth below.

- (1) Stormwater Discharge Permit: \$50.00
- (2) Major Amendment to a Stormwater management construction plan: \$25.00
- (3) Land Disturbance Permit: \$150.00
- (4) Land Disturbance Permit Renewal: \$50.00

### 8.6. Inspection

- (1) The County may periodically inspect development sites. Through such periodic inspections, the County shall ensure that the Stormwater Pollution Prevention Plan (SWPPP) is properly implemented and any necessary amendments thereto made in order to protect the environment and the public's health, safety and welfare. The erosion and sediment control measures for the site must be maintained by the developer until the site is stabilized. Also through such periodic inspections the County shall ensure that the post-construction management plan is properly implemented. The stormwater infrastructure improvements shall be maintained by the responsible party (per Section 6) until the infrastructure is accepted by the County.
- (2) The permittee shall notify the County at least two (2) working days before the start of site clearing.
- (3) The permittee or his/her agent shall make regular inspections of all control measures in accordance with the inspection schedule outlined on the approved erosion and sediment control plan(s) or in the Stormwater Pollution Prevention Plan (SWPPP). The purpose of such inspections will be to determine the overall effectiveness of the control plan, and the need for additional control measures and/or maintenance of existing measures. All inspections shall be documented in written form and kept readily on site.

## **Section 9. Violations, Enforcement and Penalties**

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## 9.1 VIOLATIONS AND PENALTIES FOR PERMITS

- (1) The County may suspend or revoke any permit associated with the site or any permit associated with the person(s) holding the permit(s) for the site for non-compliance with the Land Disturbance Permit or Stormwater Discharge Permit.
- (2) **Procedure:**
  - A. Upon discovery of a violation of this article, the contractor will be notified and given up to seven (7) days to remedy the violation in a Land Disturbance Permit or up to forty-five (45) days for a Stormwater Discharge Permit. Extensions of time may be granted in the Director's sole discretion.
  - B. If the violation has not been remedied within the time frame set forth in the notice, a stop work order may be issued and the permit(s) will be suspended. The stop work order shall state the reason for the order and the conditions under which the order and suspension will be lifted.
  - C. Any person, who shall continue to engage in activity for which a permit is required after having been served with a stop work order, except in such work as that person is directed to perform to remove a violation or unsafe condition, shall be a violation of this ordinance.
  - D. After two (2) stop work orders of a permit for the same site for similar violations, the permit(s) shall be revoked. All applicable procedures will have to be followed for re-issuance of the permit(s). Additionally, any remediation or abatement costs will be required to be paid prior to re-issuance.
  - E. If the stop work order has not been lifted through compliance with its terms within thirty (30) days from the date of its issuance, the permit shall be revoked. All applicable procedures will have to be followed for re-issuance of the permit(s). Additionally, any remediation or abatement costs will be required to be paid prior to re-issuance.
  - F. A person aggrieved by a decision to revoke any permit provided for herein may appeal the revocation to the Boone County Board of Adjustment.
- (3) Engaging in activity requiring a permit without first obtaining such permit shall be a violation of this ordinance.

## 9.2 ADMINISTRATION, PENALTIES AND REMEDIES

- (1) **Responsibility for Administration:** The provisions of this chapter shall be administered and enforced by the Director. The Director shall prescribe forms for attainment of the purposes of this chapter and for the proper enforcement thereof. The Director may delegate the administration of this chapter, or any part thereof, subject to limitations of the ordinances of the County, to duly qualified employees, deputies or agents of the County.
- (2) **Interpretation:** The provisions of this chapter shall be the minimum requirements for the protection of the public health, safety and general welfare and shall be liberally and broadly construed and applied to the greatest extent permitted by law in order to promote and protect the public health, safety and welfare. These regulations are not intended to conflict with, abrogate or annul any other rule, law or regulation. Where any provisions of these regulations impose restrictions different from those imposed by any other regulation, rule or law, the provision which is more restrictive or imposes a higher standard shall control. These regulations are intended to be

## Boone County Stormwater Ordinance

construed harmoniously and consistently with each other, the Boone County Stormwater Design Manual, and all other applicable rules, laws and regulations.

- (3) **Severability:** If any part or provision of these regulations is declared invalid or unconstitutional then the remainder of these regulations shall not be declared invalid or unconstitutional but shall remain in full force and effect to the greatest extent permitted by law.
- (4) **Penalties and Remedies:** Any owner, lessee, tenant, occupier of land or other person who violates any provision of these regulations shall be deemed guilty of a misdemeanor and shall be upon conviction punished as provided by law. In addition, any person permitting, aiding, abetting or concealing a violation of this ordinance shall be deemed guilty of a misdemeanor and shall be upon conviction punished as provided by law. Each day a violation of these regulations continues shall constitute a separate offense. The penalty provided in this section shall not be construed to be exclusive but is intended to be supplemental and in addition to any other remedy provided by law or at equity. The County may institute in the circuit court of the County any appropriate action or proceedings to prevent any unlawful activity proscribed in this ordinance or to correct any violations of this ordinance.

### **9.3 TEMPORARY ABEYANCE OF DEVELOPMENT APPROVALS AND PERMITS (This section is not in effect at this time)**

- (1) **Implementation, removal, and exceptions:** The purpose of this section is to provide the criteria for imposing a six year temporary abeyance of development permits or approvals when land is cleared without a land disturbance permit and/or stream buffers are removed. This regulation will apply to all land including land that is currently being used for agricultural purposes. If an agricultural operator or owner of land used for agricultural purposes wants to avoid the temporary abeyance, then he/she may voluntarily apply for a land disturbance permit. If the clearing is done in compliance with the permit then the temporary abeyance will not be imposed. This section also provides standards for the Board of Adjustment to remove a six-year temporary abeyance, and for the director to authorize the construction of one single-family dwelling unit on a site that is subject to a six-year temporary abeyance.

**A. Actions That Result in a Temporary Abeyance.** The following actions shall result in a six-year temporary abeyance being imposed by the Director or his/her designee:

1. Clearing of any land, including land used for agricultural purposes, without a land disturbance permit issued by Boone County (Note: a land disturbance permit is not necessary to clear land for agricultural use except to avoid imposition of the six year temporary abeyance);
2. Removal of vegetation in violation of or in a manner that is inconsistent with the Boone County Stream Buffer Regulations;
3. Removal of vegetation within a stream buffer in a manner that is in conflict with the standards in Boone County Stream Buffer Regulations, on land used for agricultural purposes;

**B. Consequences of a Temporary Abeyance.**

1. Boone County shall suspend review of any application for development of land which is, or becomes, subject to a six-year temporary abeyance.

## Boone County Stormwater Ordinance

2. Boone County shall not accept applications for any development of land which is subject to a six-year temporary abeyance.
3. A temporary abeyance imposed by Boone County shall apply to all portions of the lot, tract or parcel on which the clearing activity occurred that is within 1,000 feet of the cleared or disturbed area.

**C. Effective Date of the Temporary Abeyance.** The property owner shall be provided ten business days to request a Pre-imposition Review.

1. If the property owner does not submit a request for Pre-imposition Review the temporary abeyance shall be imposed on the date the 10-day period expires.
2. If the property owner does submit a request for Pre-imposition review and the County Commission decides to impose the temporary abeyance it shall be effective on a date specified by the County Commission.

### **D. Notice of Temporary Abeyance and Pre-imposition Review**

1. The Director shall send a Notice of Intent to impose the temporary abeyance to the owner of record as indicated by the records of the Boone County Assessor by Certified and Regular U.S. Mail. Said notice shall include the following:

- (a) The parcel number(s) on which the clearing activity occurred
- (b) The proposed date of imposition of the temporary abeyance
- (c) The deadline for requesting Pre-imposition Review

2. **Pre-imposition Review.** The property owner shall have 10 days from the date of the Notice of Intent to file a request for pre-imposition review. Such request shall be filed with the Director in a form specified by the Director. The Director shall refer the request to the County Commission who shall hold a public hearing on the matter before issuing a final decision whether to impose the temporary abeyance. The County Commission shall render a written decision including Findings of Fact and Conclusions of Law.

- (2) **Request for Removal of Temporary abeyance.** A temporary abeyance may be considered for removal by the Board of Adjustment. All applications for removal shall be filed with the Director and after review thereof the Director shall make a recommendation to the Board to grant or deny the request and state the reasons for his/her recommendation. The application shall be on form(s) provided by the Director and shall be accompanied by supporting documentation and a filing fee.

A. The Board of Adjustment shall review all documentation provided by the applicant and the County, any comments received, and applicable county regulations or policies. The members of the Board may inspect the property prior to rendering a decision.

B. The Board of Adjustment may approve an application for a request to remove a temporary abeyance, approve the application with conditions, require modifications of the proposal to comply with specified requirements of local conditions, or deny the application if it fails to comply with requirements of this section.

## Boone County Stormwater Ordinance

C. Removal of a temporary abeyance may be approved by the Board of Adjustment if the following findings can be made regarding the proposal and are supported by the record

1. Any required mitigation plan has been completed or the performance thereof has been adequately bonded.
2. Any bonding required as part of a mitigation requirement has been established to county satisfaction.
3. Payment has been made of all other fees, penalties, liens, or taxes owed to the county which have been assigned to the subject parcel including reimbursement of any county expenses incurred relating to enforcement and/or preparation for the waiver hearing.
4. All permit conditions have been addressed.
5. Any environmental damage or alteration resulting from the activity that caused the six-year temporary abeyance to be imposed has been repaired and/or mitigated
6. Neither the applicant nor any person who acted in privity with the applicant:
  - (a) Has circumvented any requirement of the Boone County Stormwater, Land Disturbance or Stream Buffer regulations by taking the actions for which the temporary abeyance was imposed; or
  - (b) Has engaged in a pattern or practice of violations of any applicable regulations.

(3) **Request for Single-Family Dwelling Exception.** The Director may administratively grant an exception to the mandatory six-year temporary abeyance to allow the construction of one single-family dwelling unit and associated accessory structures pursuant to the following standards:

A. General Requirements.

1. Permitted Area. The area that is permitted to be developed pursuant to this administrative exception shall not exceed 2.5 acres in size unless site and/or well and wastewater constraints require a larger area, in which case the area developed is not to exceed five acres. Access roads shall not be included in the total area permitted to be developed.
2. Upon approval of a single-family dwelling unit exception, a memorandum of agreement (MOA), on forms provided by the Director, shall be recorded with the Boone County Recorder of Deeds by the landowner that includes a site plan depicting the area of the parcel to be dedicated for the single-family dwelling, yard area, permitted accessory structures, and access road. The MOA shall identify the action to be taken by the landowner to correct any violations of county ordinances or regulations. The land owner shall be responsible for the cost of recording the MOA.
3. The temporary abeyance shall remain in effect for the remainder of the site.

B. **Review Criteria.** One single-family dwelling, permitted accessory structures, lawns and landscaped area, and access road may be constructed together with site development activities necessary to construct the dwelling on land subject to a temporary abeyance provided, that:

1. The construction of the single-family dwelling, lawn and landscaping area, accessory structures, and access road are in compliance with all applicable county regulations;

## Boone County Stormwater Ordinance

2. The landowner corrects any violations of relevant stormwater, land disturbance or stream buffer requirements if any have occurred on the permitted area;
- C. **Required Written Findings and Determinations.** A single-family dwelling unit exception may be approved by the director on a site that is subject to a six-year temporary abeyance only if all of the following findings can be made regarding the proposal and are supported by the record:
1. The single-family exception to the six-year temporary abeyance will not be detrimental to the public health, safety, and general welfare.
  2. The single-family exception to the six-year temporary abeyance will not be injurious to the property or improvements adjacent to and in the vicinity of the proposal.
  3. The single-family exception to the six-year temporary abeyance will not result in significant adverse environmental impacts.
  4. The granting of the single-family exception to the six-year temporary abeyance is consistent with the review criteria in subsection (3)(b) of this section.
  5. The single-family exception to the six-year temporary abeyance is consistent and compatible with the goals, objectives, and policies of the Master Plan, appropriate community plan or subarea plan, and the provisions of this section.
- D. Six-year temporary abeyance will be administratively removed by the director or his/her designee when it is determined that the abeyance has been attached to an incorrect parcel.

### 9.4. VARIANCES

- (1) **General:** Where undue hardships or practical difficulties may result from strict compliance with this chapter, the developer may file an application for a variance. Said applications shall be directed to the Boone County Board of Adjustment organized and existing under the zoning regulations of Boone County, Missouri, which shall have the jurisdiction and shall be charged with the duty of hearing and deciding applications for variances from the strict application of the provisions of this ordinance. The Board may grant a variance only if it finds after public hearing and upon competent and substantial evidence that the applicant meets the following criteria:
- A. The variance shall not have the effect of nullifying the intent and purpose of this stormwater ordinance;
  - B. The granting of the variance will not be detrimental to the public safety, health or welfare, or injurious to other property or improvements.
  - C. The conditions upon which the request for a variance is based are unique to the property for which the variance is sought, are not applicable generally to other property, and are not self-imposed.
  - D. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if this chapter was strictly interpreted and carried out.

## Boone County Stormwater Ordinance

- (2) **Conditions:** In recommending variances and exceptions, staff may recommend and the Board may require such conditions as will, in the judgment of each, secure substantially the objectives of the standards or requirements of this chapter.
- (3) **Application:** An application for a variance shall be submitted at the time of filing for a preliminary plat or for application for a building permit, whenever possible. The application shall be on forms provided by the County and shall state fully the grounds for the request and all facts relied upon by the practitioner. The application shall be filed with the Director and after review thereof the Director shall make a recommendation to the Board to grant or deny the application and state the reasons for his or her recommendation. Either the applicant or the Director may appeal or seek judicial review of any decision of the Board as provided by law.