

**REGULATION OF CONSTRUCTION AND USE  
OF COUNTY-MAINTAINED PUBLIC ROAD RIGHT OF WAY**

- 2.1 **Purpose:** These regulations are enacted for the purpose of regulating all activity that affects publicly dedicated right of way and publicly dedicated easements maintained by Boone County; for the purpose of establishing the construction standards for roadway acceptance for County funded maintenance; and also for the purpose of regulating all activities including but not limited to demolition, construction and repair activities within county-maintained road right of way and utilities within such rights of way; for the purpose of establishing standards for constructing, maintaining or repairing improvements within the rights of way; and also for the purpose of establishing standards for the use, closure and vacation of County-maintained public rights of way and publicly dedicated right of way that is not maintained by the County.
- 2.2 **Authority:** These regulations are enacted under authority vested in Boone County, Missouri by §§ 228.110, 228.190, 229.100, 229.300 to 229.370 RSMo, 67.1830 to 67.1846 RSMo, and Section 49.270 RSMo, as well as applicable judicial interpretations under these sections.
- 2.3 **Definitions:** As used in these regulations, unless the context clearly indicates otherwise or the definition of the term is found in a regulation adopted by reference in this regulation, the following words and terms shall have the following meanings:
- 2.3.1 **Average Daily Traffic (ADT)** - The total volume of traffic during a prescribed time period measured in whole days greater than one day and less than one year, divided by the number of days in that time period which may be further subdivided by specified days of weeks, months, or seasons and may apply to specific geographic areas.
- 2.3.2 **County Commission** - The current elected Boone County Commission.
- 2.3.3 **County Road or County-Maintained Road** - Any public road for which Boone County, Missouri has assumed responsibility for repair, maintenance or improvement.
- 2.3.4 **Construction** - The term construction as used in these regulations shall generally mean all work performed within a right of way or on any other property which will affect a right of way which may involve any form of excavation, whether on the surface or below the surface of any right of way, or which may provide or is intended to provide vehicular access to such right of way or which physically affects or can be reasonably expected to physically affect the condition or character of the right of way or use thereof by motor vehicles regardless of whether the activity involving or causing any of the foregoing is for purposes of maintenance, repair or improvement.

- 2.3.5 **County Engineer** - The Boone County Highway Administrator or a person designated by the Boone County Highway Administrator to perform or cause to be performed professional engineering services for Boone County, Missouri.
- 2.3.6 **County Highway Administrator** - The official appointed by the Commission to be the chief officer of the County in all matters pertaining to highways, roads, bridges, and culverts, under the revised statutes of Missouri and who serves as Director of the Boone County Public Works Department and who is in charge of all operations of that department.
- 2.3.7 **Director** - The Director of the Boone County Public Works Department or his/her designee for the purpose of administering these regulations.
- 2.3.8 **Easement – Temporary** – A grant by a property owner to the public, or other person or entity over specific tract of land for a specific use or purpose for a specific time frame.
- 2.3.9 **Easement – Permanent** – A grant by a property owner to the public, over specific tract of land for a specific use or purpose of indefinite duration.
- 2.3.10 **Inspection** - shall refer to the act of inspection by the Director of the Boone County Public Works Department or his/her designee.
- 2.3.11 **Licensed Professional Engineer** - A person who is professionally licensed to practice engineering in the State of Missouri.
- 2.3.12 **CATSO Major Thoroughfare Plan** – A roadway classification plan prepared by the Columbia Area Transportation Study Organization (CATSO) and passed by the Boone County Commission as of January 27, 1998, which specifies the classification of roadways within the Columbia metropolitan area.
- 2.3.13 **Neighborhood Improvement District** –An area of a city or county with defined limits and boundaries which is created by vote or by petition under sections 67.453 to 67.475 RSMo and which is benefited by an improvement and subject to special assessments against the real property therein for the cost of the improvement.
- 2.3.14 **P & Z Commission** - The current Boone County Planning and Zoning Commission.
- 2.3.15 **Pave in Place** – Boone County projects that allow county maintained roadways to be paved in its existing location with only minimal preparation.

These projects are typical for roadways that only have the 30' Statutory Right of Way.

- 2.3.16 **Person** – Any natural person, business entity of any type, corporation, trust, association of any type, governmental entity of any type, or any agent, officer or employee of any of the foregoing.
  - 2.3.17 **Private Driveway** – A roadway used for ingress and egress typically serving a single tract or parcel; or that provides vehicular circulation within a lot.
  - 2.3.18 **Private Road** – A roadway that is not dedicated to public use serving two or more tracts or lots.
  - 2.3.19 **Public Road** - Any roadway and its associated right of way that is dedicated to public use and used by the public without regard to whether it is a county-maintained road or otherwise maintained at government expense. A public road need not be a county- maintained road as defined in these regulations.
  - 2.3.20 **Right of Way** – All land within a corridor with boundaries defined by use or surveyed description which is established by plat, written deed, easement, instrument of public dedication, or prescriptive use that is used for public roadway purposes and other subordinate permissible uses.
  - 2.3.21 **Road or Roadway** - That portion of any right of way or private road which is paved, graveled or otherwise surfaced by some means to comprise a road or street for use by vehicular traffic and which is typically identified by a road or street name.
  - 2.3.22 **Road and Bridge Advisory Committee** - A committee comprised of ten (10) Boone County citizen representatives, one from each township, the Public Works Director, a County Commissioner and a representative from the Planning and Building Inspection Department.
  - 2.3.23 **Subdivision Regulations** - The currently adopted regulations contained within the document formally titled Boone County, Missouri Land Use Regulations, Chapter I, Subdivision Regulations.
  - 2.3.24 **Urban Service Area** - That area which is defined as the urban service area in the Boone County Subdivision Regulations.
  - 2.3.25 **Zoning Ordinance** - The currently adopted regulations contained within the document formally titled Zoning Ordinance for Boone County, Missouri.
- 2.4 **Applicability:** These regulations shall be applicable to the unincorporated areas of Boone County, Missouri.

2.5 **Roadway Classifications:** All roadways within the unincorporated areas of Boone County, Missouri, shall be classified in one or more of the following categories:

2.5.1 **Arterial Road** - Any planned or existing public road right of way 100 feet or more in width and which serves to collect traffic from collector roads which permits or will permit movement of a large volume of traffic from one geographic area to another. Additionally a public road may be classified as an Arterial Road if it carries an ADT of at least 2,500 vehicles or can be reasonably expected to carry the ADT stated above as a result of a proposed development or is so classified by the Columbia Area Transportation Study Organization Major Thoroughfare Plan.

2.5.2 **Collector Road** - Any planned or existing public road right of way of 66 feet or more in width and which functions or is designed to function to collect traffic from local roads and channel such traffic to an arterial or another collector road. Additionally a public road may be classified as a Collector Road if it carries an ADT of 750 to 2,500 vehicles or can be reasonably expected to carry the ADT stated above as a result of a proposed development or is so classified by the Columbia Area Transportation Study Organization Major Thoroughfare Plan.

2.5.3 **Local Road** - Any planned or existing public road right of way 50 feet or less in width and which serves the primary purpose of permitting ingress and egress from residences or other buildings or structures along such road to circulate to and from collector roads. Additionally a public road must carry an ADT of less than 750 vehicles to be classified as a Local Road or is so classified by the Columbia Area Transportation Study Organization Major Thoroughfare Plan.

2.5.4 **Commercial/ Industrial Road** - Any planned or existing public road right of way 66 feet or more in width and which serves the primary purpose of permitting ingress and egress from a commercial or industrial development or within such a development or is so classified by the Columbia Area Transportation Study Organization Major Thoroughfare Plan.

2.5.5 **Alley** – Roadway bounded by planned or constructed buildings and accessory structures used primarily to access parking for motor vehicles.

2.5.6 **Private or Non-maintained Roads** - All private roads and publicly dedicated roadways which are not governmentally maintained because they do not qualify for governmental maintenance or for which the County is not required to provide maintenance by law.

2.6 **Public Road Acceptance, Maintenance and Improvement:** Public road rights of way may be accepted for county maintenance in accordance with the following:

2.6.1 **Right of Way Acceptance Procedure** - Roadway rights of way that qualify for County maintenance shall be accepted for maintenance by the County under the following procedure:

2.6.1.1 **New Roadway Right of Way** - New roadway right of way shall be dedicated to public use on a subdivision plat. All new roadways to be maintained by the County shall be constructed under permit issued by the County and inspected for compliance with the provisions of these regulations during construction in order to be accepted for maintenance. Roadways constructed without such permit shall not be accepted for maintenance unless it is proven at owner or contractor expense that the road was in fact constructed in accordance with these regulations to the satisfaction of the Director. "If new roadway construction for which a permit is required has not commenced within one year of department approval of roadway plans, the department may require the developer to re-submit plans and construct such roadway in compliance with current regulations in effect if different from those which were effective at the time the department approved original plans"

2.6.1.2 **New Roadway Acceptance** - When all roadways have been built according to the approved plans and specifications submitted, the Boone County Public Works Department will prepare an order for the County Commission recommending acceptance of the roadways. As a condition to acceptance, the County may require the applicant for acceptance to guarantee maintenance of seeding, mulching and other storm water drainage improvements for a period of one year after acceptance and for that purpose may require the applicant to make a cash deposit posting of a performance bond to secure performance of these obligations under such terms as may be deemed reasonable by the Director and approved by the County Commission.

2.6.1.3 **Existing Public Roadways** - Public roadways existing as of July 16<sup>th</sup>, 1998, which have no instrument recorded in the public records showing conveyance or dedication to public use for roadway purposes but which have been used by the public for roadway purposes for a period of 10 continuous years or more may be accepted for maintenance by County Commission order, filed of record, so long as such roadways meet current County construction standards or have had a variance, as defined in **Section 2.8.4** of these regulations, granted from the strict requirements of the standards provided in these regulations. Other existing public roadways established in accordance with the provisions of Chapter 228 RSMo. or otherwise accepted for county maintenance shall be conveyed to the County for public use forever by means of deed of dedication, quitclaim deed, warranty deed, or easement for all roadway right of way.

2.6.1.4 **Order of Acceptance** - No roadway shall be accepted for maintenance at the expense of Boone County unless the County Commission enters a formal order accepting dedication or other instrument of conveyance and/or enters an order accepting such roadway as a County road for maintenance at County expense. All such orders shall be filed of record with the County Clerk and in the public land records of the County. No such roadways shall be accepted for maintenance except upon application of a party or parties authorized to dedicate or convey such roadway to the public use, or in the case of existing roadways, upon application of an interested party or by the County at its own initiative; applications shall be on forms provided by the Director. Any person applying for public roadway acceptance and maintenance shall be responsible for the necessary expenses in processing such application including land survey and land record recording expenses.

2.6.2 **Roadway Maintenance** – County-maintained road rights of way and roadway structures within them shall be maintained to the extent that funding is available at Boone County expense only if constructed by Boone County, or if currently maintained at the effective date of these regulations, or if constructed privately in accordance with the standards prescribed by these regulations and transferred to Boone County in accordance with these regulations, or if privately constructed prior to the effective date of these regulations but do not conform with current requirements, then only if a variance is granted from the particular requirements of these regulations and transferred to Boone County in accordance with the requirements of these regulations. Notwithstanding County maintenance and control of county road right of way, persons who lawfully own or possess private roads, streets, or driveway ingress and egress which connect to county maintained roads shall be solely responsible for the maintenance and repair of such private roads, streets and driveway ingress and egress to a point which intersects the publicly used and county maintained driving surface of county road and any such work may be performed without a work permit as otherwise required for work within the county maintained road right of way. Except as otherwise authorized in these regulations, no person shall perform any maintenance, repair, or other work within the county maintained road right of way, including work on driveway culverts, ditches, signs, or other structures within the right of way, which are otherwise maintained by and subject to control by the county except pursuant to a duly issued work permit authorized herein.

2.6.2.1 **Drainage Easements and Structures** – Drainage ways within county maintained rights of way and drainage easements and structures accepted by the County for maintenance shall be maintained by the County to the extent funding is available in accordance with County

maintenance standards. The County shall not be responsible for repair or maintenance of publicly dedicated or private drainage easements or structures located outside of County maintained road right of way which have not been formally accepted for repair or maintenance by the County. No drainage structure shall be connected to or adversely impact a County maintained drainage easement or structure without County approval under a work permit issued for that purpose.

2.6.2.2 **School Bus Turn-Around** – School Districts may make special requests for County assistance in creating school bus turn-around. At the request of a school district the County may deliver surfacing material to a specific location and supply grading services, but the County will not pay for surfacing material and if the work involved is adjacent to but not located within publicly maintained right-of-way, a signed Maintenance Work Authorization form will be required from each property owner in which the work will take place.

2.6.3 **Roadway Improvements** - County-maintained road rights of way and roadway structures within them shall be improved by Boone County or under its direction and control as deemed necessary by the County to preserve, protect or enhance the public safety and convenience subject to funding made available for this purpose and under such policies as may be adopted from time-to-time by the Director. In order to facilitate repairs and improvements to county-maintained road rights of way and roadway structures within them, persons using such rights of way and areas adjacent to them shall abide by the following regulations:

2.6.3.1 **Vehicular Traffic** - The Boone County Public Works Department may temporarily close, reroute, detour, or otherwise control vehicular traffic and roadway use in and around construction areas for purposes of promoting safety and efficient delivery of services in connection with road repair and improvement projects consistent with any applicable law and traffic regulations enacted by Boone County, Missouri.

2.6.3.2 **Utility Use of Rights of Way; Relocation, Repair and Improvement**  
From and after the date of these regulations, all new and existing utility usage of county-maintained road right of way shall be by general licensed right of use under the authority of the County Commission and subject to the terms and conditions of these regulations. All utility service providers having utilities located in private easements within county-maintained road right of way shall comply with the requirements of these regulations, subject to the provisions for reimbursement for construction and relocation expense provided for herein. The Director may require public and private utilities located within county-maintained road rights of way to

relocate and/or perform planned repairs or improvements to utilities located within the roadway right of way when necessary for completion of a road repair or improvement project. In such cases, the Director shall provide public and private utility service providers affected by any planned road repair or improvement project with engineering plans and a planned schedule for work to be performed within the roadway right of way within a reasonable time prior to commencement in order to allow all such utility service providers the opportunity to plan for relocating, repairing, or upgrading facilities as a part of, or in coordination with the project, and to obtain necessary permits as required by law or these regulations. Repairs and improvements shall be performed by utility service providers in coordination with the Public Works Department in order to assure that road repair or improvement work is performed in a timely and efficient manner. When relocation is necessary, utilities shall be relocated within or outside the roadway right of way as required under the circumstances as determined by the Director of Public Works in order to complete the project for which the relocation is necessary.

**2.6.3.2.1 Utility Relocation Expense** - The actual expense of relocating public or private utilities in connection with a county-maintained road repair or improvement project, which are located in private utility easement within and predating the county-maintained road right of way, shall be paid by the County. The actual expense of relocating public or private utilities in connection with a county-maintained road repair or improvement project physically located within the county-maintained road right of way without a private utility easement which predates the county-maintained road right of way shall be paid by the utility service provider. When necessary to preserve or promote public safety or convenience, or for reasons of engineering necessity, the Director may require a public or private utility service provider to relocate utilities within the county-maintained road right of way onto private easement outside of the county-maintained road right of way, thereby requiring acquisition of new private utility easement; in such cases, the County upon order of the County Commission, shall pay such public or private utility the fair and reasonable value of new equivalent easement outside of the public right of way and the fair and reasonable expenses associated with such acquisition. When a utility service provider determines it is necessary to relocate outside of the county-maintained road right of way in connection with a county-maintained road repair or improvement project without requirement by the Director, it may do so at its own expense so long as relocation is accomplished within such time and in a manner which will not hinder or delay completion of the project. The cost of repairing, improving or replacing utilities within a county-maintained road right of way shall be paid by the utility service provider except that the county shall pay the actual expense of repair or replacement of equivalent existing facilities in cases where repair or replacement is necessitated by a county-maintained road repair or improvement project and the utility facilities are located within private easement located within and predating the county-maintained road right of way.



**2.6.3.2.2 Utility Repair and Improvement** - Utilities shall be repaired, improved or upgraded as a part of a roadway repair or improvement project whenever practicable, and utility service providers having utilities located within the county-maintained road right of way shall promptly notify the Director of needed or planned additions, changes, or improvements to utilities within the area subject to construction, after being given notice of the need for road repairs or improvements scheduled for construction in accordance with Subsection 2.6.3.2.3 below. Whenever utility repairs, improvements, or installations can be performed as a part of a road improvement project, utility service providers shall nonetheless perform such preliminary work as may be appropriate to eliminate future excavation of and damage to newly paved road surfaces, curbs, gutters, drainage structures and related facilities by installation of conduits, sleeves, manholes and other facilities; failure of a utility service provider to perform preliminary work as a part of or in coordination with county-maintained road repair or improvement project shall be grounds for the denial of a construction permit required by these regulations to perform excavation work at a later date.

**2.6.3.2.3 Mandatory Utility Work** – Utility work such as removal, relocation, or repair of facilities necessary for timely completion of a county-maintained road right of way repair or improvement project shall be performed by utilities in a timely manner so as not to unreasonably delay completion of any such project, provided that the Director provides reasonable advance notice of the need for such work which shall in no event be less than five (5) days as prescribed by law. In the event a utility service provider fails to perform work reasonably necessary for the timely completion of a road repair or improvement project or unreasonably delays performance of such work after reasonable notice of the need for such work as provided for herein, then the Director of the Public Works Department may perform or contract for the performance of such work with the expense thereof chargeable to such utility service provider, or in cases where it is impracticable for the Director to perform or cause the performance of such work, then the Director may seek an order to compel performance of such work from a court of competent jurisdiction with the expense thereof chargeable to such utility provider.

**2.7 Closure and Vacation of County-maintained Roads:** County maintained roads may be closed or vacated in accordance with the following procedures:

**2.7.1 Roadway Closure** - County-maintained roads and/or the access points to them may be closed in whole or part in accordance with the traffic regulations of Boone County, Missouri. County-maintained roads which in the judgment of the Director are no longer used by the traveling public or which were at one time county-maintained roads but are currently used only as a means for private ingress and egress may be closed to public use, except for authorized persons, for the purpose of effecting statutory vacation by means of abandonment. The closure of a county-maintained road shall not affect the title to real estate unless and until such road is vacated.

**2.7.2 Vacation of Public Roads** - Public roads shall be vacated as authorized by law and applicable regulations of the county. The county shall notify all

public and private utility service providers known or discovered to use the right of way proposed for vacation prior to final action thereon. Public roads may be vacated with title thereto reverting to abutting property owners in accordance with the following procedures:

2.7.2.1 **Subdivision Roadways** - Roadways and rights of way located in platted subdivisions may be vacated in accordance with the requirements of the subdivision regulations of Boone County, Missouri or Revised Statutes of Missouri.

2.7.2.2 **Other Public Roads** - Other public roads located in the unincorporated areas of Boone County, Missouri, which are not located within platted subdivisions shall be vacated in accordance with the provisions of § 228.110 RSMo. upon petition or by means of abandonment due to non-use by the public under § 228.190 RSMo.

2.8 **Construction Standards:** All construction work performed within rights of way shall conform to the following standards applicable to the type of work performed:

2.8.1 **New Construction** - All new public roads, existing roadways and storm water projects that are to be maintained by the County shall be constructed or improved under permit issued by the Department of Public Works in accordance with the standards and specifications set forth in **Appendix A** of these regulations and **Appendix D** for plan submittal requirements. No roadway shall be accepted as a public road to be maintained at county expense unless it meets or exceeds the requirements set forth in **Appendix A** or unless specific variances are granted to the requirements set forth in **Appendix A** of these regulations. In either case, all utilities to be located within the rights of way shall be installed before County acceptance unless otherwise authorized by the Director.

2.8.2 **Driveway Locations and Culverts** - All driveway accesses and culverts shall be installed in accordance with the procedures and standards set forth in **Appendix B** of these regulations.

2.8.3 **Utility Pavement Cuts** - All non-emergency cuts within pavement, curbs, gutters, shoulder or drainage areas shall be made in accordance with plans and specifications approved by the Director as set forth in **Appendix C** of these regulations.

2.8.4 **Variances** - A variance from the strict application of the requirements set forth in the Appendices of these regulations may be granted upon a written application to the Director setting forth the specific variance(s) desired, planned substitutes and the reasons and justifications for the variance(s). Written applications for variances must be submitted by the holder of or applicant for a construction permit to the Director and scheduled for

consideration by the Road and Bridge Advisory Committee in accordance with the provisions of 2.16 of these regulations. Any variances tabled and/or not acted upon within 60 days shall be deemed denied. Variances shall be tabled for no more than 60 days from the initial review. Any variance denied by the Road and Bridge Advisory Committee may be appealed to the County Commission, provided the appeal is submitted within 10 working days of the denial date, or resubmitted for review by the Road and Bridge Advisory Committee. Resubmission shall follow the same procedures as submission for a new variance. The Road and Bridge Advisory Committee shall forward its written recommendation to the County Commission. Thereafter the County Commission shall act upon all such applications for variances as soon as practicable after receiving report and recommendation from the Committee and shall grant or deny all such requests.

**2.9 Construction Permits:** All construction activity shall be carried out pursuant to work permit under Boone County Right of Way Permits Policy dated September 10, 2002 and any amendments to such policy in force as of the effective date of these regulations. No person shall perform any construction within a right of way for any purpose except upon issuance of and in conformity with a permit issued by the Director pursuant to the provisions of these regulations: provided, however that construction work within private easements located within or adjacent to county maintained road right of way which does not alter or damage road surface, road drainage ditches or structures, signage or other road improvements and which will not interfere with road traffic shall not be subject to the permit requirements contained herein. The issuance of a permit in accordance with these regulations does not relieve the permittee of the responsibility to properly plan, design, construct, install, modify, or maintain the construction or the area in which construction is authorized pursuant to the permit. Issuance of the permit shall not relieve the permittee from compliance with any other applicable laws, rules or regulations, including but not limited to identification or location of underground utilities, compliance with erosion control standards, pollution control standards or Floodplain Management Ordinance.

**2.9.1 Permit Requirements** - Any person seeking a permit for construction within a right of way shall submit a written application on forms provided by the Director. The Director in his discretion may issue general or blanket permits for specific recurring categories of construction activities under such terms and conditions and for such duration as the Director deems appropriate under the terms and conditions of these regulations. **(In the case of new road construction, see 2.8.1 New Construction)**

The Director may require plans and specifications in support of an application for permit to be prepared or approved by a qualified and registered engineer if recommended by the Department's Division of Design and Construction to preserve and promote the public health and safety. All permit applications, including plans and specifications submitted in support thereof, shall demonstrate in writing and graphically, as appropriate, that the

proposed construction activity is or will be in compliance with the requirements of these regulations. All permit applications other than for private driveway culverts, blanket permits, and permits issued under special cooperative agreement, shall be submitted to the Director at least thirty (30) in advance of the proposed date of construction except in cases of emergency as provided in **Section 2.9.3.4**.

The Department shall review and respond to all permit applications for construction activity other than the installation of driveways, blanket permits, or permits issued under special cooperative agreements, within twenty-one (21) days of receipt of the application and supporting materials: provided, however, the Director may extend the time for response to a permit application in extraordinary circumstances in order to address engineering or public safety issues arising from a permit application.

For driveway permits, see **Appendix B**.

A permit may be issued with modifications accompanied by written reasons for such modifications. A permit may be denied if the Director finds that the construction as proposed will endanger the public safety or will result in permanent degradation of the right of way, or if the permittee on one or more occasions has failed to engage in or complete construction activities in accordance with the requirements of these regulations or has failed to properly maintain the right of way subject to the permittee's construction permit within the time provided for by these regulations.

Any permit which is issued with modifications or which is denied shall be subject to review by the County Commission provided the applicant files a written appeal to the County Commission on forms provided by the Department within ten (10) business days of a permit issuance with modifications or permit denial.

The County Commission shall upon timely and proper appeal determine the facts and issues pertaining to the appeal and render its decision thereon in writing. Any further appeal shall be in accordance with the provisions of Chapter 536 RSMo.

- 2.9.2 **Construction Inspection** - All construction activity under authorized permit shall be inspected during construction and upon completion of construction activity by the Boone County Public Works Department. No portion of the right of way subject to construction shall be used by the public or be open to public vehicular traffic until approved after final inspection. No excavation or boring shall be covered or filled in unless authorized by the Director or his designee upon inspection. Inspections hereunder may be waived by the Director in cases where the permittee provides adequate assurances that all construction activity has been performed in accordance with approved plans

and specifications under the construction permit or the work performed under construction permit is otherwise subject to review for conformity with the requirements of these regulations and is found to be in compliance herewith.

2.9.3 **General Permit Conditions** - Construction permits shall be issued upon submission and approval of a permit application and payment permit fees and charges for recoupment of right of way management costs as authorized by section 67.1832 RSMo and established from time-to-time by County Commission order as otherwise provided in these regulations. In addition, the following general conditions shall be applicable to all permits.

2.9.3.1 **Expiration of Permit** - Any permit issued hereunder shall expire on the date specified by the Director in the permit or as specified in the application for permit if not specified by the Director, or in the absence of specification, within thirty (30) days after issuance unless the Director has extended the permit in writing. Permits may be extended for good cause for a period not to exceed ninety (90) days after the initial period of validity provided there have been no changes in plans for construction and construction occurs within the time period authorized by the permitted extension. No permit shall be renewed except by written endorsement of renewal of the permit by the Director prior to expiration. Failure to request or obtain renewal prior to expiration shall require the permittee to submit an application for a new permit.

2.9.3.2 **Transfer of Permit** - Permits may be transferred only with approval of the Director for good cause and proof that transferee is capable of performing all work under the permit in compliance with these regulations. All terms and conditions of permits shall be automatically applicable to any successor permittee.

2.9.3.3 **Permit Suspension and Revocation** - The Director may deny, suspend or revoke a permit for construction reasonable written notice to the permittee stating the reasons for denial, suspension or revocation and stating what corrective actions and time frames, if any, are necessary to obtain approval or avoid suspension or revocation when practicable under the circumstances. A construction permit may be denied, suspended or revoked due to material non-compliance with the terms of the permit or these regulations, unapproved modifications in design or construction, false or inaccurate information submitted with the application for permit, change in site conditions which will result in violation of one or more provisions of the permit, permittee failure to complete work within the time or under standards authorized or required by the permit, permittee failure to maintain construction after completion when required to do so, permit misrepresentation concerning compliance with these regulations, or any other reasons necessary for the protection

of the public safety or preservation of public property. A permit may be suspended summarily with notice to the permittee when necessary to preserve the public safety. Permit suspension or revocation shall be subject to written appeal to the County Commission if the appeal is filed within 5 business days of denial, suspension or revocation and shall be heard and determined by the County Commission at their next regularly scheduled session or special session called by the County Commission. An appeal shall not stay suspension or revocation of a permit unless so ordered by the County Commission upon a showing of good cause or with the consent of the Director. The County Commission shall determine the appeal of any suspension or revocation as soon as reasonably practicable and shall issue written findings of fact and conclusions of law in support of the decision; the decision of the County Commission shall be final and any further appeal or review shall be as prescribed by Chapter 536 RSMo.

2.9.3.4 **Emergency Repair Exemption** - Utility service providers may perform unplanned work within county-maintained road rights of way without issuance of construction permit or prior notification or approval of the Director of Public Works in cases of emergency or other exigent circumstance; provided, however, that the utility service provider shall report the occurrence, location, date and scope of emergency work as soon as reasonably practicable but not less than two business days following such work. All exempt emergency repair work shall be performed in accordance with the requirements of **Appendix C** of these regulations.

2.10 **Road Name and Regulatory Signs:** Roads shall be signed along private and publicly maintained roads under the following provisions:

**Road Name Signs** - In order to promote and protect the safety of the public at large the County through the County Commission may assign names to all county-maintained roads pursuant to these regulations and all private roads under the zoning regulations of the county, and may place uniform road name signs at the intersections of all such roads in order to facilitate the efficient delivery of emergency public health and safety services except internal roadways in privately maintained subdivisions. Except as authorized by these regulations, no person shall name or change the name of any road, nor install, place or remove or replace any road or street name sign on any such road except duly authorized agents of the County upon order of the County Commission. No new road or street within a subdivision shall be accepted for maintenance by the County unless and until the owner or developer of the roads or streets to be maintained by the County shall purchase and install road or street name signs in conformity with a signage plan submitted by the applicant and approved by the Director consistent with County regulations and standards prior to County acceptance for maintenance. All road names and road name changes shall be established by the County Commission through the

Department of Planning and Building Inspection. The County shall post and maintain Street Name signs on all county maintained roads and at the entrances of privately maintained roads. Street Name signs for newly constructed private roads with official names shall be installed by developers according to county standards. Upon acceptance of this installation, the county will assume on going maintenance responsibility. The Street Name sign posting of the privately maintained roads will be located at the intersection of the county maintained road and the privately maintained road within the county right-of-way, whenever possible. If the privately maintained road intersects with a State right of way, the Street Name sign will be placed in the State right of way as permitted. The County will not provide and maintain Street Name signs for the internal roads of a privately maintained subdivision. The placement or maintenance of any uniform road name sign shall not be construed as creating or establishing any obligation of the County to regulate, control or maintain any private or non-maintained public road not otherwise in compliance with these regulations.

**2.10.1 Regulatory Signs and Traffic Control Devices** - The County through the Public Works Department shall have the exclusive authority and control over the placement and maintenance of signs regulating traffic and traffic control devices on county-maintained road right of way consistent with the requirements of the Boone County Traffic Manual adopted July, 2002. No person shall place any sign regulating traffic or other traffic control device, nor any sign or other structure on any county-maintained road right of way without the express written consent of the Director. No road or street within a subdivision shall be accepted for maintenance by the County unless the owner or developer of roads or streets within such subdivision submits a traffic control and signage plan prepared and sealed by a licensed engineer and which is approved by the Director unless submittal of such plan is waived by the Director for good cause shown. All regulatory signs to be installed in accordance with an approved traffic control plan shall be purchased and installed by the owner or developer of roads or streets within a subdivision in accordance with County regulations and standards prior to any such roads or streets being accepted for maintenance by the County. The Public Works Department shall remove any sign, traffic control, or other traffic control device or other structure placed in the right of way without permission from the Director. The County shall not place, install or maintain any sign regulating traffic or other traffic control device upon any private road or any publicly used roadway, which is not maintained by the County except where a privately maintained roadway intersects with a publicly maintained roadway. See Appendix A-1, Section 288, for Sign Specifications.

**2.11 Brush and Vegetation Control:** Persons owning real estate adjacent to County publicly maintained road right of way may cut and clear brush and mow grass and other vegetation at their own expense within County maintained roadway right of way adjacent to their property and within 30 feet of their driveways within such

right of way or as determined by **Appendix B, 1.5 Sight Distance for Driveways**. All such work shall be performed without liability for personal injury or property damage on the part of the County to persons performing such work or others who may be affected thereby. All property owners performing such work shall be solely responsible for determining the location of public right of way and for the safe conduct of work and operation of vehicles and equipment and for the removal of trash and debris. No trees over the diameter of six (6) inches measured on the trunk three (3) feet above the ground shall be cut down without the express approval of the Director or his/her designee. All work shall be performed in a manner which prevents natural or man-made obstruction to the visibility of persons using the right of way, prevents erosion to right of way and does not otherwise detrimentally affect the public right of way. Persons desiring to cut or clear trees or brush or mow grass or vegetation within public rights of way which are not adjacent to property owned by them may do so only upon issuance of a written permit authorized by the Director upon such terms and conditions set forth in such permit.

- 2.12 **Bonds:** The Director may require any permit applicant to furnish bond in the form of cash, surety or other approved deposit in such sum sufficient to secure repair and restoration of right of way in the event the applicant for permit fails to perform the obligations under the permit including final maintenance of the construction site after completion as required by these regulations. Such deposit or bond also may be conditioned upon the applicant maintaining a repaired or restored portion of the right of way under construction permit for a period of twelve (12) months from the completion and require the applicant to hold the County harmless from any costs and expense occasioned by or resulting from the use of such right of way during that time period. In addition, the Director may require any utility company or provider to post a general bond in such amount determined by the Director based on any reasonable formula which adequately secures the utility's performance over a time period based on the frequency, nature and extent of excavations made by such utility.
- 2.13 **Penalties and Remedies for Violations:** Any person who violates any requirement or provision of these regulations shall be deemed guilty of a misdemeanor pursuant to § 229.370 RSMo. and punished therefore as prescribed by law. Any person who violates any requirement or provision of these regulations may, in addition to any criminal liability thereof, be civilly liable to the County by way of restitution for such sums and costs the County incurs in repairing or restoring any right of way under construction permit or otherwise if the Director gives notice of violation to the permittee by personal delivery or regular or certified mail and a specified time to cure. Such notice shall advise the permittee of the deficiencies in work and violations of regulations hereunder and advise the permittee that the permittee shall be required to make appropriate restoration or repair within the time stated in the notice and such permittee shall be required to guarantee all such work for twelve (12) months after restoration or repair is made. In the event the permittee fails to perform the work required by the notice within the time specified by the notice, or fails to guarantee the work after it is performed, then the County may perform or cause to be performed all



remedial measures and charge the expense thereof to the permittee which expense shall be chargeable against any bond or cash deposit made by the permittee, or may be recoverable by action filed in the Circuit Court of Boone County, Missouri, for restitution for all such expenses so incurred as well as the cost of enforcement.

- 2.14 **Fees:** The County may uniformly impose right of way management fees and charges as authorized by section 67.1840 RSMo and as established and approved by County Commission order. Any person who is aggrieved by the imposition of any right of way management fee or charge and reasonably believes that any such fee or charge is not in conformity with section 67.1840 RSMo may have any such fee or charge reviewed by the County Commission upon application if such application is filed within five (5) business days of the imposition. In the event a timely application is filed with the County Commission, it shall review the matter as soon thereafter as is practicable and issue its decision and findings of fact and conclusions of law in support of its decision, and may further order any change in its fees and charges deemed appropriate. The filing of an application for review of fees and charges imposed under section 67.1840 shall not relieve a person of the obligation to pay fee or charge imposed, but upon review, the County Commission may order a refund of any fees or charges imposed, or portion thereof, if found not to be in conformity with section 67.1840. Any further review of the County Commission decision shall be as provided for in chapter 536 RSMo.
- 2.15 **Cost of Construction:** The cost of all construction activities within County right of way performed under county issued permit shall be incurred and paid by the permittee. In addition, whenever the Director deems it necessary for the public safety, health or welfare, and a part of necessary repair, maintenance or improvement work within County right of way, the Director may give all utility providers notice of the need to remove, change, or alter utilities within the right of way as specified in § 229.350 RSMo. and these regulations. All such notices shall be given as soon as practicable when the need for utility movement, relocation, or change is necessary but in no event shall notice be given in less than five (5) days prior to the date needed for such work.
- 2.16 **Road and Bridge Advisory Committee:** The Road and Bridge Advisory Committee is established and exists to accomplish the following five goals: (1) to establish short-term and long-term plans for the Public Works Department, (2) to address innovations in construction methods that apply to the Public Works Department; (3) to address inconsistencies in Public Works policy or policy interpretation; (4) to evaluate revisions to these regulations, and (5) to hear disputes and make recommendations on variance requests to any of the Appendices within these regulations. The officers of this committee shall consist of Chairperson, Vice-Chairperson, and Secretary, all of whom shall be elected annually from within the existing membership of the committee. The citizen members of the committee shall be appointed by the County Commission to serve terms of four years except that no term shall expire until a replacement member is appointed unless such member resigns or such member's membership is terminated by order of the County Commission. Four year terms of

membership for citizen members may be designated and staggered as directed by order of the County Commission to promote continuity of citizen membership. The

Committee shall meet as often as necessary to properly conduct necessary business with at least one meeting per quarter. Minutes of the meetings shall be kept and an abbreviated text of the minutes shall be forwarded to the County Commission after each meeting. All actions of the Committee shall require a quorum of at least a majority presence of the existing membership. Recommendations and other actions shall require a simple majority vote of the quorum present. The Committee is charged with the duty of hearing and deciding applications for variances from the strict application of any provision within any Appendices of these regulations. The Committee may grant a variance only if it finds after public hearing and upon competent and substantial evidence that the applicant meets the criteria for grant of a variance required by these regulations. No variance from any requirement contained within Appendices of these regulations shall be granted unless the Committee finds: (a) the applicant will incur unreasonable and unnecessary hardship if a variance is not granted and the variance is not sought primarily to avoid financial expense in complying with the requirements of these regulations (b) grant of a variance will not endanger the health, safety or welfare of the public, and (c) grant of a variance will not hinder, thwart or circumvent the general intent or any specific purpose of these regulations. All applications for variances shall be filed with the Director of Public Works and after review thereof the Director shall make a recommendation to the Committee to grant or deny the application and state the reasons for his recommendation. Either the applicant or the Director may appeal any decision of the Committee to the County Commission; any additional appeal or review shall be as provided by law.

2.17 **Jurisdiction:** These regulations apply to all road Right of Way to be accepted for maintenance by the County and County maintained right of way in all unincorporated areas of Boone County, Missouri except roads in areas within the jurisdiction of any special road district organized and operating under the provisions of chapter 233 RSMo.

2.18 **Effective Date:** These regulations shall become effective from and after the date Boone County Commission enters an order adopting these regulations.