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**Rules of**  
**Missouri Department of Transportation**  
**Division 10—Missouri Highways and Transportation**  
**Commission**  
**Chapter 3—Utility and Private Line Location and**  
**Relocation**

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## Title 7—MISSOURI DEPARTMENT OF TRANSPORTATION

### Division 10—Missouri Highways and Transportation Commission

#### Chapter 3—Utility and Private Line Location and Relocation

##### 7 CSR 10-3.010 Location and Relocation of Utility Facilities on State Highways

*PURPOSE: This rule provides a uniform system for regulating the location, construction, maintenance, removal, and relocation of utility facilities on the right-of-way of highways in the state highway system to provide for the public safety and to facilitate the construction and maintenance of these highways.*

*PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.*

##### (1) Application.

(A) The following rule is established for the location or relocation of utility facilities on the right-of-way of highways in the state highway system. Any location or relocation of utility facilities contrary to this rule and without a permit or an approved variance is declared to be an interference with the construction, maintenance, or operation of state highways and their right-of-way and is prohibited.

(B) Except as expressly exempted in this rule, all work to be performed on right-of-way of the state highway system in connection with the location, relocation, or maintenance of utilities, and where the roadway, shoulders, or right-of-way will be affected by the work, must be done only under a permit or agreement to be issued prior to the commencement of said work by authority of the Missouri Highways and Transportation Commission and that specifies the nature of the work to be performed. Application for these permits shall be made on forms M-460 provided for that purpose, which is incorporated by reference and made a part of this rule, as published by the Missouri Department of Transportation, 105 W. Capitol Ave., PO Box 270, Jefferson City, MO 65102, on July 1, 2020. This rule does not incorporate any subsequent amendments or additions to the Appli-

cation. Applications for permits may be obtained at any of the seven (7) district highway offices of the commission, Missouri Department of Transportation's website located at: <http://modot.mo.gov/design/UtilityResources/Permits.htm>, or by requesting the applications from the office of the Missouri Highways and Transportation Commission at the Missouri Department of Transportation Building, PO Box 270, Jefferson City, MO 65102, or by calling (573) 751-2551.

(C) When emergency operations work is necessary, the damaged facility may be accessed immediately and without a permit by leaving the through roadways at such points as may be necessary to effect emergency repairs, provided immediate notice is given to the Missouri State Highway Patrol and the commission's district engineer or his/her designee for the district wherein the work will be performed, and a permit for emergency operations is requested immediately upon discovery of the need for emergency operations. A permit for emergency operations work is to be obtained as soon as practical, but in no event later than two (2) working days after the emergency operations work has commenced. For the purposes of this subsection (1)(C), emergency operations include, but are not limited to, unplanned work in response to utility lines or facilities being so damaged as to constitute an emergency situation directly affecting or endangering traffic on the highway or public health or safety.

(D) This rule does not apply to utility lines for services to facilities required for operating the highway on the state highway system.

##### (2) Road Classification.

(A) Interstate System or Other Freeways. Interstate highways and highways with fully controlled access.

(B) High Type Roads. Roadways with a constructed base and/or a wearing surface (other than aggregate) of two inches (2") or more thickness which have limited access, but not fully controlled or no access control.

(C) Low Type Roads. Roadways with an aggregate surface or an asphalt wearing surface which is less than two inches (2") in thickness.

##### (3) Definitions and General Information.

(A) Ditch line. A break line where the roadway ditch meets the back slope. It is located at the lowest point of a V-bottom ditch or furthest point from the roadway of a flat bottom ditch where the roadway slopes back to the existing ground line.

(B) Duct. An enclosed tubular casing, or raceway, for protecting wires, lines, or cables

which is often flexible or semirigid (one to three percent (1-3%) diametric deflection). The casing, or raceway, is separate from the cable or conductor which passes through it.

(C) Encasement. Encasement as used in this policy means the placing of an installation around and outside of an underground facility consisting of a larger conduit which will permit the removal and replacement of the facility. An alternate to the conduit type encasement would be reinforced concrete poured around the facility. Acceptable materials are described in section (5).

(D) Limits of interchanges. For the uniform handling of utility installations only, the limits of interchanges are the outside ramp curve points.

(E) Minimum cover for new underground utilities is: forty-two inches (42") for all water lines (parallel and crossings); forty-two inches (42") for fiber optic cable (crossings, encased in rigid conduit); seventy-two inches (72") for fiber optic cable (crossings encased in polyethylene (PE) pipe); thirty inches (30") for direct burial and in-trench fiber optic cable (parallel); twenty-four inches (24") for all other direct burial cable (parallel); seventy-two inches (72") for uncased polyethylene (PE) gas pipe crossings under ditches and roadways but thirty inches (30") elsewhere and thirty inches (30") for all other (such as, but not limited to, gravity sewers, force sewers, and electric) underground utilities (parallel and crossings).

(F) Normal right-of-way line. An imaginary line that connects sudden breaks in the major right-of-way points for roadways. Sight distance right-of-way points (triangles) at roadway intersections are not to be considered as sudden breaks for determining normal right-of-way.

(G) Pull box width. Maximum pull box width, perpendicular to the right-of-way line within the utility corridor, is thirty inches (30").

(H) Scenic enhancement areas. Scenic enhancement areas include areas acquired or so designated as scenic strips, overlooks, rest areas, and all rights-of-way of highways adjacent thereto and the rights-of-way of highways which pass through public parks, recreation areas, wildlife or waterfowl refuges, and historic sites as described under Title 23 United States Code (U.S.C.), section 138, which is incorporated by reference and made a part of this rule, as published by the United States Superintendent of Documents, 732 N. Capitol Street NW, Washington D.C. 20402-0001, website: <http://bookstore.gpo.gov>, on November 13, 2019. This rule does not incorporate any subsequent amendments or additions.



(I) Utility. Privately, publicly, or cooperatively owned line, facility, or system for producing, transmitting, or distributing communications, cable television, power, electricity, light, heat, gas, oil, crude products, water, steam, waste, storm water not connected with highway drainage, or any other similar commodity, including any fire or police signal system or street lighting system which directly or indirectly serves the public and does not include privately-owned facilities devoted exclusively to private use. The term utility also means the utility company inclusive or any wholly owned or controlled subsidiary. The term utility includes those facilities used solely by the utility which are a part of its operating plant. The term also includes those utility type facilities owned or leased by a government agency for its own use or otherwise dedicated solely to governmental use.

(J) Utility corridor. An area established for the placement of utility facilities parallel to and within six feet (6') of the normal right-of-way. The utility corridor may be expanded from six feet (6') to up to twelve feet (12') where space is reasonably available, and only as determined by the department pursuant to section (10) of this rule.

(K) Variance. A one- (1-) time deviation from the requirements for location or relocation of utility facilities on the right-of-way of highways in the state highway system as established in Title 7 *Code of State Regulations* 10-3, requested by the utility and approved by a MoDOT district utilities engineer. The process for requesting and approving a variance is described in section (9) of this rule.

(L) Vertical clearance for overhead crossings. The vertical clearance of new or existing overhead installations is not less than the current minimum requirements of the *National Electric Safety Code*, but in no case less than eighteen feet (18'). The *National Electric Safety Code* is incorporated by reference and made a part of this rule as published by the Institute of Electrical and Electronics Engineers-Standards Association, 501 Hoes Lane, 3rd Floor, Piscataway, New Jersey 08855, website: <http://standards.ieee.org>, on August 1, 2016. This rule does not incorporate any subsequent amendments or additions to these standards.

#### (4) Location and Relocation of Utility Lines.

##### (A) Interstate System or Other Freeways.

###### 1. General policy.

A. All utility installations on highways of the interstate system or other freeways shall be installed, serviced, and maintained without entering or leaving the through-traffic roadways and ramps except at

points approved by the department for that purpose and without parking any equipment or storing materials upon the medians, through roadways and ramps, or shoulders of the roadways.

B. New service connections to existing parallel facilities shall be permitted only where an outer roadway exists and then only where access is permitted by the commission.

###### 2. Roadway crossings of utilities.

A. Overhead crossings are permitted for power transmission and distribution lines and for multiple circuit communication lines where an underground installation is not economically feasible. Supports for existing overhead crossing facilities may be located on the right-of-way near the right-of-way line. Supports for new overhead crossing facilities may be located on the right-of-way near the right-of-way line where an outer roadway exists and shall be located off the right-of-way where no outer roadway exists. Overhead service crossings are not permitted except as described in paragraph (4)(A)3.

B. Underground utility crossings shall be continuously encased under the through roadways, medians, ramps, and shoulder areas with the casing extending to the toe of the fill slopes or to the ditch line, and where installed by open trench through unpaved areas, have detector tape placed approximately one foot (1') above the encasement. Encasement will be used under high type outer roadways. Manholes or vent pipes will be located at the right-of-way line or adjacent to the outer roadway. Additional encasement requirements include the following:

(I) In curb sections, extend outside the outer curb of the roadways a distance equal to the depth of the encasement at the curb line; and

(II) For fiber optic cable, extend from within six feet (6') of one right-of-way line to within six feet (6') of the other right-of-way line. Exceptions may be made for encasement as follows: non-fiber communication or electric cables installed in ducts; welded steel pipelines carrying gaseous or liquid petroleum products provided they are cathodically protected against corrosion, triple coated in accordance with accepted pipeline construction standards, and meet the applicable material requirements; natural gas distribution pipe (nominal six inches (6") diameter maximum) of polyethylene (PE) plastic, traceable, installed by a horizontal bore method at a minimum depth of seventy-two inches (72") under ditches and roadways, constructed in accordance with and meeting applicable material requirements; gas service connections of steel or copper, protected and constructed in accordance with and meeting

applicable material requirements; and water service connections and crossings of copper two inches (2") inside diameter or less and meeting applicable material requirements.

3. Service crossings may be permitted in isolated cases for residential or commercial establishments when the denial of these crossings would require construction of more than twelve hundred feet (1,200') of utility line to provide the service. Main or distribution line crossings shall be required to serve a general area other than isolated cases.

4. Parallel installations on the right-of-way may be permitted only where an outer roadway exists, provided that poles are within two feet (2') of the normal right-of-way line and underground facilities are within six feet (6') of the normal right-of-way line, and provided that the facility can be installed and maintained between the outer roadway and the right-of-way line, except that—

A. Existing overhead or underground facilities that parallel an existing roadway which will be incorporated into the completed highway as an outer roadway may remain in place if all maintenance and service can be performed from an outer roadway and the existing location does not interfere with construction, maintenance, or operation of the completed highway;

B. Existing parallel facilities along an existing road which will be incorporated into the completed highway, except as permitted in subparagraph (4)(A)4.A., shall be relocated to the normal right-of-way line—poles to be within five feet (5') and underground installations within six feet (6') thereof;

C. Existing telephone conduit systems with multiple ducts may be filled with any type of communication cable until full; and

D. Underground facilities are expected to be buried within six feet (6') of sight distance right-of-way lines at roadway intersections unless granted a variance. Overhead facilities may be allowed to span intersecting roadways with sight distance triangles (SDTs) provided the poles, or supports, are located outside the SDT.

5. Guys, anchors, braces, and other utility supports will be located at right-of-way jogs, along intersecting road right-of-way or at other similar acceptable locations, so that encroachment is held to an absolute minimum.

6. Existing gravity trunk sanitary sewers may be considered individually and removed or left in place, contingent upon age, condition, feasibility of moving, and whether service and maintenance can be performed without entering or leaving the through roadways and ramps except at points provided for that purpose or without parking any equipment or



storing materials upon the median, through roadways, ramps, or shoulders. Encasement for existing trunk sanitary sewer crossings may be required for questionable condition, protection during construction or heavy fills. Manholes are to be relocated to the right-of-way lines or adjacent to an outer roadway.

7. Encasement is not necessary for new trunk sanitary sewer crossings of vitrified clay, reinforced concrete, or cast iron except when installation procedures would produce voids in the roadbed, heavy fills, or installations under pressure. Manholes are to be located off the right-of-way where possible or adjacent to an outer roadway.

8. Interchanges and separations.

A. No facilities will be permitted within the limits of an interchange separation where planned or existing.

B. Utility installations within the limits of an interchange or separation will be permitted only along the minor road, provided that all construction, service, and maintenance can be performed from the minor road. Manholes and poles shall be located beyond the ramp termini.

9. Structures.

A. No utility facilities will be permitted in or on a structure carrying an interstate road or other freeway.

B. No utility facilities will be permitted in or on a structure carrying a minor road over an interstate road or other freeway except wires and then only when no other practical means exist for crossing. All such crossings shall be by agreement.

(B) High Type Roads (Limited but not Fully Controlled Access Right-of-Way).

1. General policy. All utility facilities shall be installed, serviced, and maintained without entering or leaving the highway except at approved access points, and without parking equipment and materials on the median, pavement, ramps, or shoulders, and without cutting or damaging the roadway surface or paved shoulders. New service connections to parallel facilities and service crossings shall be permitted only at access points granted by the commission.

2. Roadway crossings of utilities.

A. Overhead mainline crossings are permitted provided the supports are located as near to the right-of-way line as possible. New overhead service crossings may be permitted in isolated cases for residential or commercial establishments where the denial of such crossings would require the construction of more than twelve hundred feet (1,200') of utility line to provide the same service. Supports for service crossings shall be located as near to the right-of-way line as possible.

B. Underground utility crossings shall

be continuously encased under the through roadways, median, ramps, and shoulder areas with the casing extending to the toe of the fill slopes or to the ditch line, and where installed by open trench through unpaved areas, have detector tape placed approximately one foot (1') above the encasement. Encasement will be used under high type outer roadways. Manholes or vent pipes will be located at the right-of-way line or adjacent to the outer roadway. Additional encasement requirements include the following:

(I) In curb sections, extend outside the outer curb of the roadways a distance equal to the depth of the encasement at the curb line; and

(II) For fiber optic cable, extend from within six feet (6') of one right-of-way line to within six feet (6') of the other right-of-way line. Exceptions may be made for encasement as follows: non-fiber communications and electric cables installed in ducts; welded steel pipelines carrying gaseous or liquid petroleum products, provided they are cathodically protected against corrosion, triple coated in accordance with accepted pipeline construction standards, and meet the applicable material requirements; natural gas distribution pipe (nominal six inches (6") diameter maximum) of polyethylene (PE) plastic, traceable, installed by a horizontal bore method at a minimum depth of seventy-two inches (72") under ditches and roadways, constructed in accordance with and meeting applicable material requirements; gas service connections of steel or copper, protected and constructed in accordance with and meeting applicable materials requirements; and water service connections and crossings of copper two inches (2") inside diameter or less and meeting applicable material requirements.

3. Parallel facilities. Parallel installations on the right-of-way will be permitted provided that poles are within two feet (2') of the normal right-of-way line and underground facilities are within six feet (6') of the normal right-of-way line except—

A. Existing poles being relocated shall be placed within five feet (5') of the normal right-of-way line;

B. Existing overhead facilities that parallel an existing roadway which will be incorporated into the completed roadway may remain in place if all maintenance and service can be performed in accordance with provisions of paragraph (4)(B)1. and their existing location does not interfere with construction, maintenance, or operation of the completed highway;

C. Existing underground facilities (other than sanitary sewers) that parallel an existing roadway, which will be incorporated

into the completed roadway, may be left in place where it is impractical to relocate the facility provided that maintenance and service be performed without cutting or damaging the pavement or interfering with the construction, maintenance, and operation of the highway;

D. Multiple facilities at intersections, existing steel pipe transmission and distribution facilities for gaseous petroleum products that parallel an existing roadway, which will be incorporated into the completed roadway, may be left in place subject to an agreement by the utility company with the commission that maintenance or service, and facility expansion will be performed without cutting or damaging the pavement or interfering with the construction, maintenance, or operation of the highway and provided that the facility is cathodically protected against corrosion and meets the applicable material requirements;

E. Guys, anchors, braces, and other utility supports will be located at right-of-way jogs, along intersecting road right-of-way, or at other similar acceptable locations, so that encroachment is held to an absolute minimum;

F. Existing telephone conduit systems with multiple ducts may be filled with any type of communications cable until full; and

G. Underground facilities are expected to be buried within six feet (6') of sight distance right-of-way lines at roadway intersections unless granted a variance to this policy. Overhead facilities may be allowed to span intersecting roadways with SDTs provided the poles, or supports, are located outside the SDT.

4. Existing gravity sanitary sewer mains will be considered individually and removed or left in place contingent upon age, condition, feasibility, or moving and whether service and maintenance can be performed without damaging the roadway surfacing. If an existing parallel gravity main is left in place within the limits of the paved surface, paved shoulder lines or curb lines, stub mains as required shall be laid between the sewer main and curb or shoulder lines for future service connections in each block. Manholes shall be relocated outside the traveled roadway. Encasement for existing gravity trunk sanitary sewer crossings may be required for questionable condition, protection during construction, heavy fills, or installations under pressure.

5. Encasement is not necessary for new trunk sanitary sewer crossings of vitrified clay, reinforced concrete, or cast iron pipe except when installation procedures would produce voids in the roadbed, heavy fills, or installations under pressure. Manholes are to be located as near the right-of-way line as



practical.

6. Interchanges and separations.

A. No facilities will be permitted within the limit of an interchange separation where planned or existing.

B. Utility installations within the limits of an interchange or separation will be permitted only along the minor road provided that all construction, service, and maintenance can be performed from the minor road. Manholes and poles shall be relocated beyond the ramp termini.

7. Structures.

A. No utility facilities will be permitted in or on a structure carrying a limited access high type road.

B. No utility facilities will be permitted except by agreement with the commission that includes any fees for increased maintenance costs involved in or on a structure carrying a minor road over a high type road except wires and then only where no other practical means exist for crossing.

(C) High Type Roads (Without Access Control).

1. General policy.

A. All new facilities shall be installed and maintained without cutting or damaging the roadway surface or paved shoulders except that in the event that underlying rock formations or other obstructions are encountered that prevent boring or pushing operations, special permission may be granted for pavement cuts when the need is established.

B. Pavement cuts may be made by permit only. Permits will be issued only when it is impractical to otherwise service and maintain the facility.

2. Roadway crossings of utilities.

A. Overhead main line and service crossings are permitted provided the supports are located near the right-of-way lines.

B. Underground facilities generally shall be continuously encased under the through roadways, median, ramps, and shoulder areas with the casing extending to the toe of the fill slopes or to the ditch line, and where installed by open trench through unpaved areas, have detector tape placed approximately one foot (1') above the encasement. Encasement will be used under high type outer roadways. Manholes or vent pipes will be located at the right-of-way line or adjacent to the outer roadway. Additional encasement requirements include the following:

(I) In curb sections, extend outside the outer curb of the roadway(s) a distance equal to the depth of the encasement at the curb line; and

(II) For fiber optic cable, extend from within six feet (6') of one right-of-way

line to within six feet (6') of the other right-of-way line. Exceptions for encasement may be made as follows: non-fiber communication and electric cables installed in ducts; welded steel pipelines carrying gaseous or liquid petroleum products, provided they are cathodically protected against corrosion, triple coated in accordance with accepted pipeline construction standards, and meet the applicable material requirements; natural gas distribution pipe (nominal six inches (6") diameter maximum) of polyethylene (PE) plastic, traceable, installed by a horizontal bore method at a minimum depth of seventy-two inches (72") under ditches and roadways, constructed in accordance with and meeting applicable material requirements; gas service connections of steel or copper, constructed and protected in accordance with and meeting the applicable material requirements; and water service connections and crossings of copper two inches (2") inside diameter or less and meeting the applicable material requirements.

3. Parallel installations on the right-of-way will be permitted provided that poles are within two feet (2') of the normal right-of-way line and underground facilities are within six feet (6') of the normal right-of-way line except—

A. Existing poles, being relocated, shall be within five feet (5') of the normal right-of-way line;

B. Existing overhead facilities that parallel an existing roadway, which will be incorporated into the completed roadway, may remain in place if their existing location does not interfere with construction, maintenance, or operation of the completed highway;

C. Existing underground facilities (other than sanitary sewers) that parallel an existing roadway, which will be incorporated into the completed roadway, may be left in place where it is impractical to relocate the facility provided that maintenance and service can be performed without cutting or damaging the pavement or interfering with the construction, maintenance, and operation of the highway;

D. Multiple facilities at intersections, existing steel pipe transmission, and distribution facilities for gaseous petroleum products that parallel an existing roadway, which will be incorporated into the completed roadway, may be left in place subject to an agreement by the utility company that maintenance, service, and facility expansion will be performed without cutting or damaging the pavement or interfering with the construction, maintenance, or operation of the highway and provided that the facility is cathodically protect-

ed against corrosion and meets the applicable material requirements;

E. Guys, anchors, braces, and other utility supports will be located at right-of-way jogs, along intersecting road right-of-way or at other similar acceptable locations, so that encroachment is held to an absolute minimum;

F. Existing telephone conduit systems with multiple ducts may be filled with any type of communication cable until full; and

G. Underground facilities are expected to be buried within six feet (6') of sight distance right-of-way lines at roadway intersections unless granted a variance to this policy. Overhead facilities may be allowed to span intersecting roadways with SDTs provided the poles, or supports, are located outside the SDT.

4. Existing sanitary sewer mains shall be considered individually and removed or left in place contingent upon age, condition, feasibility of moving, and whether service and maintenance can be performed without damaging the roadway surfacing. If an existing parallel main is left in place within the limits of the paved surface, paved shoulder, or curb lines, stub mains as required shall be laid between the sewer main and curb or shoulder lines for future service connections in each block. Manholes, where necessary, shall be relocated outside the traveled roadway wherever practical. Encasement for existing trunk sanitary sewer crossings may be required for questionable condition, protection during construction, heavy fills, or installations under pressure.

5. Encasement is not necessary for new trunk sanitary sewer crossings of vitrified clay, reinforced concrete, or cast iron except when installation procedures would produce voids in the roadbed, heavy fills, or installations under pressure. Manholes are to be located as near the right-of-way line as practical.

6. Structures.

A. No utility facilities will be permitted in or on a grade separation structure except wires (communication, electric power, fiber, or metal) and then only where no other practical means exist for crossings.

B. No utility facilities shall be placed on any structure except by agreement.

(D) Low Type Roads (Without Access Control).

1. Roadway.

A. Existing parallel surface installations interfering with construction, maintenance, or operation shall be relocated to within five feet (5') of the normal right-of-way line. Poles for new parallel surface installations shall be located within two feet



(2') of the normal right-of-way line. Careful consideration shall be given to the location of guys, anchors, braces, and other supports. Generally, good design procedure will provide that these appurtenances be located at right-of-way jogs, along intersecting road right-of-way, or at other similar acceptable locations, so that encroachment is held to an absolute minimum.

B. Existing parallel underground installations interfering with construction, maintenance, or operation shall be relocated to as near the right-of-way line as practical. New parallel underground installations shall be located within six feet (6') of the normal right-of-way line. Existing telephone conduit systems with multiple ducts may be filled with any type of communication cable until full.

C. Existing overhead crossings that interfere with construction, maintenance, or operation shall be relocated with their supports as near the right-of-way line as is practical. New overhead crossing installations shall be located with their supports as near the right-of-way line as is practical.

D. Installation of underground utility crossings may be made by utilizing pavement cuts issued by permit. Permits will only be issued for pavement cuts when servicing and maintaining the facility by any other methods is impractical. Encasement with detector tape placed approximately one foot (1') above it, as provided in section (5), is required for fiber optic cable that extends from within six feet (6') of one right-of-way line to within six feet (6') of the other right-of-way line, pressure lines except welded steel pipelines carrying gaseous or liquid petroleum products provided they are cathodically protected against corrosion and natural gas distribution polyethylene (PE) plastic pipe of nominal six inches (6") diameter maximum bored a minimum of seventy-two inches (72") below the ditches meeting the applicable material requirements, sewers, and drains when crossing under the roadway using polyethylene, polyvinyl chloride (PVC), thermoplastic, asbestos cement, or acrylonitrile butadiene styrene (ABS) pipe material.

E. Underground facilities are expected to be buried within six feet (6') of sight distance right-of-way lines at roadway intersections unless granted a variance to this policy. Overhead facilities may be allowed to span intersecting roadway with SDTs provided the poles, or supports, are located outside the SDT.

2. Structures. No utility facilities will be permitted except by agreement with the commission that includes any fees for increased maintenance costs involved in or on any

structure or in or on a grade separation except wires (communication, electric power, fiber, or metal) and then only where no other practical means exist for crossings.

(E) Scenic Enhancement Areas.

1. Above Ground Utility. All existing above ground utility facilities within the limits of a scenic enhancement area impacted by construction or reconstruction shall be located underground or relocated beyond the limits of the scenic enhancement area unless such location or relocation is otherwise not authorized under this rule. No new above ground facilities will be permitted.

2. Underground Utility. New underground facilities will be permitted provided they do not extensively alter or impair the appearance of the area.

(5) Approved Materials for Underground Utility Facilities (Including Carrier and Encasement). Utility companies are allowed to use the types of material as a carrier and encasement for its facilities as expressly provided for in the respective permit issued by the department for any utility location, relocation, and maintenance work where the use of the material is contemplated.

(6) Protective equipment. Cables, wires, small diameter pipes, and other such utility appurtenances extending from the surface of the ground shall be equipped with covers or guards to improve their visibility.

(7) Cutting Pavement. In the event that permission is granted to cut an existing P.C.C. or A.C. pavement, all cuts, if possible, shall be made with a saw to a minimum depth of two and one-half inches (2 1/2"). The width of cut shall be determined by the width of required trench plus twelve inches (12") on each side of the trench. In the event that the distance to any adjacent longitudinal or transverse joint or crack is less than four feet (4'), the pavement shall be removed to that joint or crack. All pavement repair shall be made in compliance with the 2020 *Missouri Standard Specification for Highway Construction*, which is incorporated by reference and made a part of this rule, as published by the Missouri Department of Transportation, 105 W. Capitol Ave., PO Box 270, Jefferson City, MO 65102, website: [http://www.modot.org/business/standards\\_and\\_specs/highwayspecs.htm](http://www.modot.org/business/standards_and_specs/highwayspecs.htm), on July 1, 2020. This rule does not incorporate any subsequent amendments or additions to the *Standard Specifications*.

(8) Special Conditions. Special conditions at specific locations, which make adherence to this rule impractical, will be subject to

approval by the district utilities engineer for consideration of an acceptable alternate.

(9) Variance Process. Any utility authorized under section 227.240, RSMo, may apply for a variance. The process for requesting a variance is as follows:

(A) Utilities may submit to the district utilities engineer a written request for approval of a plan that does not conform to the requirements of this rule. The utility must clearly show the following:

1. The provision(s) or guideline(s) in this rule for which the variance is being requested;

2. The condition(s) which the utility believes warrants the granting of a variance;

3. A thorough explanation of the reason(s) for the requested variance, including safety, aesthetic, economical, or other data which apply to the request; and

4. Sufficient and appropriate documentation of the barriers to installing the utility facility in accordance with this rule, how installing according to this rule would be adverse to the function, access, or maintenance of the utility and not in the best interest of the public;

(B) The utility bears the full responsibility of demonstrating to the department's satisfaction that the variance is the most appropriate way to serve the public interest. The department may present, and the utility must consider, reasonable alternatives to the variance requested by the utility;

(C) The department must obtain Federal Highway Administration (FHWA) concurrence to the variance request when the variance is on the interstate system; and

(D) In determining whether to grant a variance, the department will consider all relevant factors, including, but not limited to, whether:

1. The requested variance is reasonably necessary for the convenience, safety, and/or welfare of the public; or

2. There is exceptional or undue financial burden or other hardship on the specific applicant, or a physical impracticability that would result from the applicant's compliance with the location/relocation provisions in this rule, that would be lessened by department approval of the requested variance; or

3. The requested variance will impair the safe construction, maintenance, or operations of the highway, or otherwise conflict with the purposes of the rule; or

4. The requested variance will be detrimental to the public health, welfare, and/or public travel, traffic, or safety on the highway.



(10) Utility Corridor Dimension. When considering if the current utility corridor is available to expand from six feet (6') to as much as twelve feet (12'), the commission delegates to the department the sole authority to determine if expansion is warranted. In making its determination, the department will consider the existing utilization of the original six feet (6') corridor. Poles must remain within two feet (2') of the normal right-of-way line. The utility corridor will only be expanded beyond six feet (6') if the original six feet (6') corridor is fully utilized and additional space would be required to accommodate additional utility facilities. Nothing in this rule requires the commission to acquire additional right-of-way. When considering a new underground utility facility within the expanded corridor, the available space shall be limited such that the distance from the ditch line to the proposed utility facility location shall be equal to or greater than the intended depth of the new utility facility installation, as described in the Definitions and General Information section of this rule.

*AUTHORITY: section 226.020, RSMo 2016, and section 227.240, RSMo Supp. 2020.\* Original rule filed Jan. 21, 1965, effective Jan. 31, 1965. Amended: Filed May 8, 1965, effective May 18, 1965. Amended: Filed Aug. 5, 1966, effective Aug. 10, 1966. Amended: Filed Aug. 15, 1967, effective Aug. 25, 1967. Amended: Filed Dec. 3, 1968, effective Dec. 13, 1968. Amended: Filed Jan. 20, 1970, effective Jan. 30, 1970. Amended: Filed April 8, 1971, effective April 18, 1971. Amended: Filed Nov. 22, 1972, effective Dec. 2, 1972. Amended: Filed Aug. 9, 1974, effective Aug. 19, 1974. Refiled: March 17, 1976, effective March 17, 1976. Rescinded and readopted: Filed May 12, 1978, effective Aug. 11, 1978. Amended: Filed Feb. 21, 1984, effective Aug. 15, 1984. Amended: Filed June 10, 1988, effective Nov. 11, 1988. Amended: Filed Aug. 8, 1997, effective Feb. 28, 1998. Amended: Filed Oct. 7, 2002, effective May 30, 2003. Amended: Filed Nov. 14, 2017, effective June 30, 2018. Amended: Filed Sept. 3, 2020, effective April 30, 2021.*

*\*Original authority: 226.020, RSMo 1939 and 227.240, RSMo 1939, amended 2005, 2006, 2018.*

### 7 CSR 10-3.020 Utility Relocation Hearings and Variance Request Hearings

*PURPOSE: This rule provides a uniform procedure for administrative hearings concerning variance requests and location and relocation of utility improvements and facilities within the rights-of-way of state highways.*

(1) Hearing Authorized.

(A) Utility Relocation Hearings. The commission has authority to order the location and relocation of utility improvements and facilities within the right-of-way of any state highway to prevent interference with the construction, maintenance, and public use of state highways. Before exercising its authority to order the relocation of utility facilities within the right-of-way, the commission shall provide the opportunity for an administrative hearing under section 227.240, RSMo to any entity, person, or corporation authorized under section 227.240, RSMo to own or maintain utility lines, poles, wires, conduits, pipelines, and tramways (utility facility) within state highway right-of-way regarding the commission's proposed plan of utility facility location or relocation and other incidental matters. Such entity, person, or corporation may waive, at any time, the right to an administrative hearing under section 227.240, RSMo, which is to be provided to the district engineer or his/her designee or the hearing examiner.

(B) Variance Request Informal Hearings.

1. Request for Informal Hearing. If denied a utilities variance, the applicant will have thirty (30) calendar days to request an informal hearing for the purpose of appealing the denial. The applicant will submit its request for an informal hearing to the State Design Engineer, Missouri Department of Transportation, PO Box 270, Jefferson City, MO 65102.

2. Procedure. If the applicant requests an informal hearing, the department's authorized representative will advise the applicant of the time, date, and place of the hearing. This hearing is not a contested case under Chapter 536, RSMo. The rules of evidence will not apply at the hearing and the department's decision after conduct of the hearing is not subject to appeal.

(2) Notice of Hearing – Utility Relocations. Upon request by the district engineer, the commission's hearing examiner shall prepare a written notice of hearing that includes a plan or drawing indicating the locations within the right-of-way in which utilities may be located and maintained, state when the commission or its contractor is scheduled to begin work on the right-of-way, state the date by which work shall be completed on utilities within the right-of-way, fix the time and place of the administrative hearing, and advise that the purpose of the hearing is to consider the commission's proposed plan of utility location and other incidental matters. The notice of hearing may be served upon each entity, person, or corporation, authorized under sec-

tion 227.240, RSMo to own or maintain a utility facility within the right-of-way by certified mail, with return receipt requested, at least fifteen (15) days before the date of the hearing.

(3) Hearing Officer. The commission's hearing examiner presides at and conducts the hearing as provided in Chapter 536, RSMo and this rule, including, but not limited to, ruling on all discovery matters, objections, and motions, and having the hearing record transcribed.

(4) Discovery. The parties to the hearing may conduct any method of discovery authorized in Chapter 536, RSMo.

(5) Subpoenas. Witnesses may be summoned to appear and give testimony or to give testimony and produce documents by a subpoena or *subpoena duces tecum* issued by the hearing examiner at the request of any party authorized under section 536.077, RSMo.

(6) Evidence, Arguments, and Briefs. The commission shall first present its evidence at the hearing. Then any party may present evidence in opposition. The parties may offer closing arguments before conclusion of the hearing. The hearing examiner may require written briefs to be filed within the time set by the hearing examiner for the use of the commission in reaching a final decision.

(7) Transcript. Any party may obtain a copy of the transcript of the hearing at that party's expense.

(8) Report and Order. As soon as practical after receipt of the transcripts and briefs of the parties, if any, the hearing examiner shall submit to each member of the commission a full copy of the transcript of the proceedings along with a proposed report and order for consideration by the commission.

(9) Final Decision. As soon as practical after receipt of the transcript and proposed report and order, the commission members shall render a final decision in writing.

*AUTHORITY: section 227.240, RSMo Supp. 2020.\* Original rule filed May 12, 1978, effective Aug. 11, 1978. Amended: Filed Nov. 14, 2017, effective June 30, 2018. Amended: Filed Sept. 3, 2020, effective April 30, 2021.*

*\*Original authority: 227.240, RSMo 1939, amended 2005, 2006, 2018.*



### 7 CSR 10-3.030 Location and Relocation of Private Lines on State Highways

*PURPOSE: This rule defines private lines and establishes where private lines should be located on state highway right-of-way and provides a uniform system for regulating the location, construction, maintenance, removal, and relocation of private lines on the right-of-way of state highways.*

(1) Private lines are defined as privately-owned facilities which convey or transmit communications, cable television, power, electricity, light, heat, gas, oil, crude products, water, steam, waste, storm water not connected with highway drainage, or any other similar commodity, including any fire or police signal system or street lighting system but which is devoted exclusively to private use.

(2) Private lines are permitted to cross the right-of-way of a highway on the state highway system in the same manner as provided for utility facilities in 7 CSR 10-3.010.

(3) Longitudinal use of the highway right-of-way by private lines is not permitted except as provided for in section (4) of this rule.

(4) Special conditions at specific locations which make adherence to this policy impractical may be submitted to the Missouri Department of Transportation chief engineer for consideration of an acceptable alternative.

(5) Except as herein described, all work to be performed on right-of-way of the state highway system in connection with the location, relocation, or maintenance of private lines, and where the roadway, shoulders, or right-of-way will be affected by the work, must be done only under a permit or agreement to be issued prior to the commencement of the work by authority of the Missouri Highways and Transportation Commission and that specifies the nature of the work to be performed. Application for permits may be made on forms provided for that purpose. The chief engineer shall determine and order the location and relocation of private lines within the right-of-way of any state highway to prevent interference with the construction, maintenance, and public use of state highways. A deposit or bond may be required, in the department's sole discretion, to insure completion in accordance with the permit issued. Applications for permits may be obtained at any of the seven (7) district highway offices of the commission, Missouri Department of Transportation's website located at: <http://modot.mo.gov/design/Utili->

[tyResources/Permits.htm](#), or by requesting the applications from the office of the Missouri Highways and Transportation Commission at the Missouri Department of Transportation Building, 105 W. Capitol Ave., PO Box 270, Jefferson City, MO 65102, or by calling (573) 751-2551.

(6) When emergency operations work is necessary, the damaged facility may be accessed immediately and without a permit by leaving the through roadways at such points as may be necessary to effect emergency repairs, provided immediate notice is given to the Missouri State Highway Patrol and the commission's district engineer or his/her designee for the district wherein the work will be performed, and a permit for emergency operations is requested immediately upon discovery of the need for emergency operations. A permit for emergency operations work is to be obtained as soon as practical, but in no event later than two (2) working days after the emergency operations work has commenced. For the purposes of this section (6), emergency operations include, but are not limited to, unplanned work in response to utility lines or facilities being so damaged as to constitute an emergency situation directly affecting or endangering traffic on the highway or public health or safety.

*AUTHORITY: sections 226.020 and 227.240, RSMo 2016.\* Original rule filed June 10, 1988, effective Nov. 11, 1988. Amended: Filed July 29, 1994, effective Feb. 26, 1995. Amended: Filed Nov. 14, 2017, effective June 30, 2018.*

*\*Original authority: 226.020, RSMo 1939 and 227.240, RSMo 1939, amended 2005, 2006.*

### 7 CSR 10-3.040 Division of Relocation Costs

(Rescinded December 30, 2003)

*AUTHORITY: sections 226.020 and 227.240, RSMo 2000. Original rule filed Oct. 7, 2002, effective May 30, 2003. Emergency rescission filed June 6, 2003, effective June 16, 2003, expired Feb. 26, 2004. Rescinded: Filed June 6, 2003, effective Dec. 30, 2003.*