

## **Utah Department of Transportation Administrative Code**

### **R907. Transportation, Administration.**

#### **R907-64. Longitudinal and Wireless Access to Interstate System Rights-of-Way for Installation of Telecommunication Facilities.**

##### **R907-64-1. Purpose.**

The purpose of this rule is to implement a program for facilitating longitudinal access and wireless access to interstate system rights-of-way to provide for the installation, operation and maintenance of cable and wireless telecommunication facilities in the rights-of-way. This rule recognizes the importance of quality infrastructure on the interstate system and that the safety and convenience of users of the interstate system must be preserved to the greatest extent possible. Compatible with this principle, the rule also permits the use of the rights-of-way of the interstate system for telecommunication facilities that support Federal and State laws that encourage competition in telecommunication services and the deployment of advanced telecommunication technologies. The department, through designated personnel, may facilitate such installations and maintenance of such facilities, which comply with the criteria established by this rule.

##### **R907-64-2. Authority.**

Subsection 72-7-108(2)(a) states that, except as provided in Subsection (4), the department may allow a telecommunication facility provider longitudinal access to the right-of-way of a highway on the interstate system for the installation, operation, and maintenance of a telecommunication facility.

##### **R907-64-3. Definitions.**

- (1) "Department" means the Utah Department of Transportation,
- (2) "Clear zone" means the total roadside border area, starting at the edge of the traveled way, available for safe use by errant vehicles. This area may consist of a shoulder, a recoverable slope, a non-recoverable slope, and a clear run-out area. The desired width is dependent upon the traffic volumes, speeds, and roadside geometry.
- (3) "Interstate system" means the Dwight D. Eisenhower National System of Interstate and Defense Highways as defined in the Federal-aid Highway Act of 1956 and any supplemental acts or amendments.
- (4) "Longitudinal access" means access to or use of any part of a right-of-way of a highway on the interstate system that extends generally parallel to the right-of-way for a total of 30 or more linear meters.
- (5) "Permit" means encroachment permit, a document that specifies the requirements and

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conditions for performing work on the highway right-of-way.

(6) "Right-of-way" means a general term denoting land, property, or interest therein, usually in a strip, acquired for or devoted to transportation purposes.

(7) "Telecommunication Advisory Council" means the Telecommunication Advisory Council created by Section 72-7-109.

(8) "Telecommunication facility" means any telecommunication cable, line, fiber, wire, conduit, innerduct, access manhole, hand hole, tower, pedestal, pole, box, transmitting equipment, receiving equipment, power equipment or other equipment, system and device used to transmit, receive, produce or distribute via wireless, wire line, electronic, or optical signal for communication purposes.

(9) "Telecommunication facility provider" means any owner or operator of a telecommunication facility.

(10) "Utility" means privately, publicly, cooperatively, or municipally owned pipelines, facilities, or systems for producing, transmitting, or distributing communications, power, electricity, light, heat, gas, oil, petroleum products, cable television, water, sewer, steam, waste, storm water not connected with highway drainage, and other similar commodities, which directly or indirectly service the public, or any part thereof.

(11) "Wireless access" means access to and use of any part of a right-of-way or rights-of-way on, any highway of the interstate system for the purpose of constructing, installing, maintaining, using and operating telecommunication facilities for wireless telecommunications.

### **R907-64-4. Access Policy.**

(1) The department acknowledges that Federal and State Legislation, primarily the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 70 (Feb. 8, 1996) and Utah Code Section 54-8b-1, encourage competition in the provision of telecommunication services, and the development and deployment of advanced telecommunication technologies, infrastructure, and networks. These legislative initiatives in turn have increased demand for rights-of-way, including highway rights-of-way, for the installation of telecommunication facilities necessary to support increased competition and deployment of an advanced telecommunication infrastructure.

(2) The department also recognizes that longitudinal access and wireless access for telecommunication facilities may be provided without compromising interstate system integrity, safety, normal interstate system operation or maintenance activities, while contributing to the deployment and efficient operation of intelligent transportation systems.

(3) Therefore, effective on or after August 17, 1999, the department may allow longitudinal access and wireless access on highways of the interstate system for placement, construction,

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installation, maintenance, repair, use, operation, replacement and removal of telecommunication facilities, as authorized by Section 72-7-108 and subject to compliance with this rule. This rule applies only to longitudinal access and wireless access for telecommunication facilities on rights-of-way within the interstate system and does not alter the existing policy concerning other utilities on system rights-of-way, or for accommodating utilities on other facilities under the jurisdiction of the department.

### **R907-64-5. Limitations and Conditions.**

(1) Longitudinal and wireless access of telecommunication facilities shall be permitted only as approved by the department in accordance with the criteria and procedures set forth in this rule.

(2) In the interest of safety and preservation of the highway facility and pavement structure, the placement, installation, maintenance, repair, use, operation, replacement and removal of telecommunication facilities with longitudinal access or wireless access to the right-of-way of the interstate system shall be accommodated only when in compliance with Rule 930-7 Utility Accommodation.

(3) The department may consider financial and technical qualifications of telecommunication facility providers, and specify insurance requirements for contractors authorized to enter interstate system rights-of-way to construct, install, inspect, test, maintain or repair telecommunication facilities with longitudinal access or wireless access. When the department authorizes longitudinal access or wireless access for construction and installation, the department may require approved telecommunication facility providers to install telecommunication facilities into the same general location on the interstate system, coordinate their planning and work, install in a joint trench, and equitably share costs.

(4) Access to rights-of-way of the interstate system shall be administered in compliance with 47 U.S.C. 253 2005.

### **R907-64-6. Compensation.**

The department shall require compensation from a telecommunication facility provider under the provisions of Section 72-7-108 for longitudinal access or other use within the right-of-way of the interstate system consistent with R907-65-10, R907-65-12 and R907-65-13.

### **R907-64-7. Permits and Agreements.**

In addition to the requirements of R930-7, a telecommunication facility provider shall be required to complete and sign an agreement with the department prior to obtaining a permit for construction or installation of telecommunication facilities in the right-of-way.

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### **R907-64-8. Public Involvement.**

The department will advertise the Telecommunication Advisory Council public meeting whenever a permit for longitudinal access has been submitted to the department to access highway segments in the interstate system. This will allow other telecommunication providers opportunity to share joint placement of telecommunication facilities. Any interested parties may attend the public meeting to voice opinions to the Telecommunication Advisory Council as authorized by Section 72-7-108. The Telecommunication Advisory Council will assist the department in valuing in-kind compensation in accordance with 72-7-108(3)(c).

### **R907-64-9. Removal and Relocation.**

Pursuant to Subsection 72-7-108(7)(c) the department shall require the removal or relocation of telecommunication facilities located on the interstate system to accommodate operations and highway projects at the telecommunication facility provider's expense. The department may require removal or relocation of such telecommunication facilities upon expiration or earlier termination of the permit or other agreements at the telecommunication facility provider's expense, in accordance with applicable law.

**KEY: right-of-way, interstate highway system, telecommunications, longitudinal access**

**Date of Enactment or Last Substantive Amendment: February 7, 2013**

**Notice of Continuation: September 18, 2008**

**Authorizing, and Implemented or Interpreted Law: 72-1-201; 72-7-108; 72-7-109; 54-8b-1**

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#### **R907-65. Compensation Schedule for Longitudinal Access to Interstate Highway Rights-of-Way for Installation of Telecommunications Facilities.**

##### **R907-65-1. Purpose.**

The purpose of this rule is to implement a compensation schedule for longitudinal access to the rights-of-way of the interstate system for installation and operation of telecommunications facilities. This Rule establishes the methodology and schedules for charging compensation in accordance with Subsection 72-7-108(3)(b). Subsection 72-7-108(3)(b) requires that the compensation be:

fair and reasonable;

competitively neutral;

nondiscriminatory;

open to public inspection;

established to promote access by multiple telecommunication facility providers;

established for zones of the state, with zones determined based upon factors that include population density, distance, numbers of telecommunication subscribers, and the impact upon private right-of-way users;

established to encourage the deployment of digital infrastructure within the state.

##### **R907-65-2. Authority.**

Subsection 72-7-108(3)(c) states that the department shall establish a schedule of rates of compensation for longitudinal access granted under that section, and shall do so beginning October 1, 1999, and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

##### **R907-65-3. Background.**

The department has conducted an analysis of right-of-way values for the interstate system using current market data on (1) Utah real property values differentiated by location (northern Utah (Salt Lake City/surrounding counties), central Utah (Provo/surrounding counties), and southern Utah (Cedar City/St. George/surrounding counties), population density (urban, rural) and land use (residential, commercial, industrial, agriculture) and (2) appraisal values from department land acquisitions. These data were applied to fifteen right-of-way segments of the interstate system that the department defined based on various factors, including but not limited to location, similarity of land use, population density and number of telecommunications subscribers. Segment land values

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were then calculated based on the relevant "across-the-fence" property values and the following core assumptions:

Land needed for longitudinal installations of telecommunications facilities, including a buffer zone, will generally be 6 feet in width.

Values for preassembled right-of-way for longitudinal access are 200% of values for non-assembled right-of-way.

Values for underground use of right-of-way for longitudinal access are 50% of values for ground level and aboveground use.

Upper and lower bound real property values establish a valuation range for each segment. Point estimates of segment land values are calculated at the 30th percentile within this range.

Segment land values (reported in \$/ft<sup>2</sup>) are converted to \$/mile using the following formula:

Segment land value (\$/mile) = Segment land value (\$/ft<sup>2</sup>) x 5,280 ft/mile x easement width (6 ft).

The fifteen segments were then grouped into five zones based on similarities in segment attributes and values. For example, the rural segments of I-15, I-70 and I-84 were grouped to create zone 1, while the urban segment of I-15 traversing Salt Lake City was grouped with I-215 to create zone 5. Similar groupings make up zones 2, 3 and 4. Through this process, the department defined five zones with a weighted average land value for each zone.

The department then determined annual lease valuation, as a rate of return on the land values for each zone, using current market data. The department determined that a 10% annual rate of return on investment represents a fair and reasonable compensation rate in current market conditions.

The department also received and considered recommendations on rates of compensation from the Utility in Highway Rights-of-Way Task Force pursuant to Section 6(2)(a) of S. B. 150.

### **R907-65-4. Definitions.**

The definitions of terms in R907-64-3 apply to the same terms used in this Rule. This Rule uses the following additional defined terms:

(1) "Land value" means the fair market value of land within the right-of-way of the interstate system as determined by the department under the core assumptions set forth in R907-65-3 and established for compensation purposes under R907-65-6.

(2) "Rate of return" means the annual rate of return on investment, using land value, as determined by the department and established for compensation purposes under R907-65-7.

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(3) "Zone" means a group of right-of-way segments of the interstate system as determined by the department and established for compensation purposes under R907-65-5.

### **R907-65-5. Compensation Zones.**

(1) Five zones of the State are established for purposes of determining land values and compensation rates for longitudinal access to the right-of-way of the interstate system.

(2) The five zones are:

Zone 1 - Segments traversing primarily rural, agricultural areas with low population density. The two primary segments in this zone are located south of Provo, extending to Arizona along I-15 and to Colorado along I-70. This zone also includes shorter segments of I-80 and I-84 bounded by the Wyoming and Nevada State lines respectively. Approximately 90% of this zone borders agricultural land.

Zone 2 - Segments traversing primarily sub-rural areas with low population density. Segments in this zone are located in the north-central, north-eastern and north-western regions of the State. Land usage is primarily agricultural (approximately 75%), with light pockets of industrial, commercial, and residential land usage.

Zone 3 - Segments traversing sub-rural/suburban land around the State's metropolitan areas with medium population density. Segments in this zone are located outside the Salt Lake City metropolitan area. Land usage is mixed; while agriculture still makes up the largest proportion of land usage, about one-third of the land is residential, and slightly less than one-third is commercial and industrial.

Zone 4 - Segments traversing suburban/urban areas with medium/high population density. Segments in this zone run on a north-south route on I-15 through the Salt Lake City metropolitan area. Land usage in this zone is mixed, with the greatest proportion categorized as industrial, followed by residential, then commercial, and small pockets of agricultural usage.

Zone 5 - Segments traversing the densely populated urban areas. Segments in this zone are located in and around Salt Lake City. Nearly half is categorized as residential, and the rest is split between industrial and commercial usage, with very small pockets of agricultural usage.

(3) The existing right-of-way of the interstate system is placed into the five zones as set forth in Table 1. Whenever new right-of-way is added to the interstate system, the department shall modify Table 1 to classify the new right-of-way into the applicable zone or zones and publish the modified Table 1.

(4) At least once every five years the department shall conduct an analysis to determine changes, if any, in the boundaries of zones based on demographic and market data, including but not limited to data on similarity of surrounding land uses, population density, distances and number of

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telecommunications subscribers. The department shall publish a modification to Table 1 whenever zone boundaries are changed.

TABLE 1  
Compensation Zones

Zone/Segment	Reference Post (from -- to)	Mileage
Zone 1	575	
I-15: Payson South Int. to Arizona	252 -- 0	252
I-84: Tremonton to Idaho	43 -- 0	43
I-80: Wyoming to Silver Creek Int.	198 -- 148	50
I-70: Entire Route	0 -- 230	230
 Zone 2	 212	
I-15: Idaho to Weber-Box Elder Co. Line	404 -- 354	50
I-15: Springville Int. to Payson South Int.	263 -- 252	11
I-84: Echo to SR-89	120 -- 88	32
I-84: SR-89 to I-15	88 -- 81	7
I-80: Magna Int. to Nevada	112 -- 0	112
 Zone 3	 50	
I-15: Weber-Box Elder Co. Line to Parish Lane Int.	354 -- 323	31
I-80: Silver Creek Int. to Mouth of Parley's Canyon	148 -- 129	19



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Zone 4	60	
I-15: Parish Lane Int. to Salt		
Lake-Utah Co. Line	323 -- 288	35
I-15: Salt Lake-Utah Co. Line to		
Springville Int.	288 -- 263	25
Zone 5	47	
I-80: Mouth of Parley's Canyon to		
Magna Int.	129 -- 112	17
I-215: Entire Route	0 -- 30	30

### **R907-65-6. Land Values.**

(1) Land values for longitudinal access for telecommunications facilities are established, by zone, as set forth in Table 2. Whenever new right-of-way is added to the interstate system and a zone or zones are established for such new right-of-way under R907-65-5(3), the land value for such zone or zones set forth in Table 2 shall apply to such new right-of-way.

(2) At least once every five years, the department shall conduct a market analysis to determine the fair and reasonable values of the right-of-way of the interstate system for longitudinal access for telecommunications facilities. The department shall determine this value for each zone. The department shall publish a modification to Table 2 whenever the department completes a market analysis and determines that values of the right-of-way have changed.

(3) In determining land values, the department shall disregard any circumstance in which the department's interstate right-of-way is the only viable alternative for installing and operating telecommunications facilities between relevant geographic markets. The department shall adjust such values to those which would exist if another viable alternative existed for installing and operating comparable telecommunications facilities such that the department would not possess monopolistic market power in the subject location.

TABLE 2

Land Values (\$/mile)

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Zone	Miles in Zone	Weighted Average Land Value
Zone 1	575	\$8,000
Zone 2	212	\$22,000
Zone 3	50	\$48,000
Zone 4	60	\$80,000
Zone 5	47	\$124,000

### **R907-65-7. Rate of Return.**

(1) An annual rate of return on land value of 10% is established for purposes of determining annual compensation rates for longitudinal access to the right-of-way of the interstate system.

(2) At least once every five years the department shall conduct an analysis to determine changes, if any, in the rate of return based on market data. The department shall publish a modification to the rate of return whenever the department completes a market analysis and determines that market rate of return has changed.

### **R907-65-8. Base Compensation Schedule.**

(1) The department shall charge compensation for longitudinal access for telecommunications facilities so that the department receives, on an annual basis, the rate of return on the value of land in each zone established under this Rule which is utilized for overhead, surface or underground installations of telecommunications facilities, subject to adjustment under R907-65-10 and potential discount under R907-65-11.

(2) The compensation charged shall be set forth in the agreement between the department and the telecommunications facility provider pursuant to R907-64.

(3) The annual compensation to be paid by each telecommunications facility provider which enters into an agreement with the department for longitudinal access shall be determined under the following formulas:

Land values by zone are translated into annual compensation rates (\$/mile) using the following formula:

Annual compensation rate per zone (\$/mile) = zonal land value (\$/mile)(from Table 2) x rate of return (currently 10%)

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Total annual compensation shall then be calculated as follows:

Total annual compensation per zone = annual compensation rate per zone (\$/mile) x # of miles accessed.

For telecommunications facility providers seeking a route that accesses multiple zones, the above calculations shall be made for each zone then summed to calculate total annual compensation for the requested access route.

### **R907-65-9. Compensation for Use of Department Conduit.**

(1) The land values set forth in Table 2 (and therefore the annual base compensation amounts) do not include the value of any spare conduit which the department owns. The department is authorized to offer use of and access to its spare conduit to telecommunications facility providers, provided the department determines the spare conduit is not and will not be needed for highway purposes and the department receives additional compensation for the use of and access to the spare conduit.

(2) Such additional compensation shall be fair and reasonable to the department and the telecommunications facility provider and shall be charged in a competitively neutral and nondiscriminatory manner to all similarly situated telecommunications facility providers. The department shall establish the amount of compensation for use of and access to the department's spare conduit by zone.

(3) Such additional compensation shall be subject to adjustment annually in the same manner as provided in R907-65-10.

(4) At least once every five years the department shall conduct an analysis to determine changes, if any, in the value of its spare conduit. Whenever the department completes a market analysis and determines that value of its spare conduit has changed, the department shall apply its new values to each agreement thereafter executed by the department.

### **R907-65-10. Adjustments to Base Compensation Schedule for Annual Payments.**

(1) The base compensation schedule for each calendar year after a year in which the department determines land values under R907-65-6 shall be adjusted effective January 1 of each such calendar year (each an "adjustment date"). The adjustment shall be calculated by multiplying the base compensation amount for the immediately preceding calendar year by a fraction. The numerator of the fraction shall be the "All Items, Consumer Price Index for All Urban Consumers (CPI-U) for the West (1982-84=100)," reported by the U.S. Department of Labor, Bureau of Labor and Statistics (BLS), published for the month of September immediately preceding the adjustment date in question. The denominator of the fraction shall be such index published for the next

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preceding month of September. The adjustment may result in an increase or decrease in the base compensation schedule.

(2) If the methodology for determining the index is changed by the issuer of the index, the department shall convert the index in accordance with the conversion factor published by the issuer of the index. If the index is discontinued or changed so that it is not practical to obtain a continuous measurement of price changes, the department shall replace the index with a comparable governmental index and apply the index chosen to all agreements which require annual adjustment to the base compensation.

(3) Except as provided in R907-65-11, each agreement for longitudinal access to the right-of-way of the interstate system with telecommunications facilities providers shall require that the rates of compensation during the first calendar year of the term of the agreement equal the base compensation schedule determined for that calendar year under this Rule (prorated if the term begins after January 1), taking into account any adjustments under R907-65-10(1).

(4) Except as provided in R907-65-11, each agreement for longitudinal access to the right-of-way of the interstate system with telecommunications facilities providers shall require an adjustment in the annual base compensation effective January 1 of each subsequent calendar year of the term (prorated for the last year of the term if it ends before December 31). The adjustment shall be calculated by multiplying the base compensation amount for the immediately preceding calendar year (annualized for partial calendar years during the term) by the fraction described in R907-65-10(1).

(5) It is the intent of this Rule that revisions to the base compensation schedule resulting from re-analysis of market conditions by the department pursuant to R907-65-5(4), R907-65-6(3), R907-65-7(2) and R907-65-9(4) shall apply only to agreements executed after the department completes and issues its revisions, and shall not apply to agreements executed prior to the revision. It also is the intent of this Rule that annual adjustments to the base compensation schedule due to inflation or deflation pursuant to R907-65-10(1) shall apply to every agreement under which annual compensation payments are required.

### **R907-65-11. Compensation Prior to Construction of Telecommunications Facilities.**

(1) The department may charge compensation for the period of time between execution of the agreement and completion of construction at rates which are discounted from the full annual compensation rates determined under R907-65-8, R907-65-9 and R907-65-10 including no compensation prior to commencement of construction. The department also may agree to the phasing of projects into clearly identified phases, with the compensation schedule structured based on the construction commencement and/or completion dates for each phase.

(2) If the department elects to discount compensation rates, it shall do so in a competitively

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neutral and nondiscriminatory manner for all similarly situated telecommunication facility providers.

### **R907-65-12. Lump Sum Monetary Compensation.**

(1) The department is authorized to enter into agreements for longitudinal access to the right-of-way of the interstate system with telecommunications facility providers which offer, in lieu of annual compensation, one or more lump sum payments of monetary compensation. The agreement shall set forth the lump sum payment or payments due.

(2) Lump sum payments shall be calculated to be equivalent, on a present value basis, to annual compensation payments which would be required under R907-65-8, R907-65-9, R-907-65-10 and R907-65-11 over the same time period as that covered by each lump sum payment.

(3) For purposes of determining lump sum monetary compensation for longitudinal access to the right-of-way of the interstate system, the department shall use a discount rate equal to the yield (in percent per annum) on Moody's seasoned Aaa Corporate Bonds, as reported by the Federal Reserve Board through the Federal Reserve Statistical Release. The yield on Moody's Aaa Corporate Bonds reported for the first full month immediately prior to the date an agreement for lump sum monetary compensation is executed by the department shall be the discount rate applied for purposes of determining the amount of such lump sum monetary compensation.

(4) Each telecommunications facility provider which is to pay monetary compensation shall have the right to choose whether to pay it in one lump sum determined according to this Rule R907-65-12 or to pay it in annual installments. Unless the department otherwise agrees in writing, this choice shall be made before the agreement is signed, and the agreement shall set forth the choice made.

### **R907-65-13. In-Kind Compensation.**

(1) The department is authorized to enter into agreements for longitudinal access to the right-of-way of the interstate system with telecommunications facility providers which offer, in lieu of or in addition to monetary compensation, in-kind compensation. In-kind compensation may include, without limitation, delivery to the department for its own uses and purposes of conduit, innerduct, dark fiber, access points, telecommunications equipment, telecommunications services, bandwidth and other telecommunications facilities. The agreement shall set forth the in-kind compensation.

(2) The department shall determine the present value of the in-kind compensation according to the methods set forth in R907-65-12. The department shall prepare an analysis setting forth its

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valuation at or before the time it executes the agreement. The valuation analysis need not be included in the agreement.

(3) The department shall value the in-kind compensation as follows:

(a) Facilities for Department Use Only. Electronic equipment, conduit, fiber and other telecommunications hardware and software contributed to the department shall be valued on a present value basis at the estimated, reasonable cost to the telecommunications facility provider of procuring and installing the same.

(b) Joint Trenching. The present value of the estimated, reasonable cost to the telecommunications facility provider of joint trenching for placing conduit, fiber and other facilities of both the provider (and its customers) and the department shall be proportionately allocated to the department as a component of the present value of the in-kind compensation. The proportion allocated to the department shall equal the total estimated, reasonable cost of the trenching work multiplied by a fraction. The numerator of the fraction shall equal the amount of conduit and innerduct space to be contributed to the department under the agreement. The denominator of the fraction shall equal the total amount of conduit space the telecommunications facility provider is authorized to install under the agreement. Single duct conduit space shall be measured using the planned diameter of the conduit. Multi-duct conduit space shall be measured by summing the planned diameters of each innerduct in the conduit.

(c) Other Jointly Used Facilities. The present value of the estimated, reasonable cost to the telecommunications facility provider of providing any other telecommunications facility which is shared jointly by the provider and the department shall be proportionately allocated to the department as a component of the present value of the in-kind compensation. The department shall determine the proportion to be allocated to the department based on the percentage of use or benefit to which each party will be entitled under the agreement.

(d) Warranties; Maintenance and Operating Covenants. The department shall determine the present value of equipment warranties, warranties of conduit, fiber or other components, software warranties, maintenance covenants and operating covenants based on the reasonable, estimated cost of purchasing such warranties, maintenance and operating contracts from manufacturers or other third parties (if not already included in the cost to purchase the equipment, conduit, fiber, other components or software).

(e) Summation of In-Kind Values. The total present value of the in-kind compensation shall be the sum of the present values determined under subsections (a) through (d) above.

(4) The department shall require annual or lump sum monetary compensation (determined according to the methods set forth in R907-65-12), in addition to the in-kind compensation, if the present value of the in-kind compensation is less than the present value of the annual monetary compensation the department would require over the term of the agreement under R907-65-8, R907-65-9, R907-65-10 and R907-65-11. The amount of the annual or lump sum monetary

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compensation shall be the difference in such present values.

(5) The department may accept in-kind compensation with a present value in excess of the present value of annual monetary compensation payments which would be required under R907-65-8, R907-65-9, R907-65-10 and R907-65-11 if the telecommunications facility provider consents in writing and gives a written waiver and release of all claims and protections arising under federal or Utah law by reason of such excess value. The waiver and release shall be in form approved by the director.

(6) Before entering into an in-kind compensation agreement, the department shall obtain from the telecommunications facility provider its valuations of the in-kind compensation. The telecommunications facility provider may provide the department information on its costs in order to assist the department in determining in-kind compensation value. The department shall reasonably consider such valuation and cost information in making its determination, but is not bound by the valuation or cost information submitted.

### **R907-65-14. Multiple Providers in Same Trench.**

(1) If the department enters into an agreement with two or more telecommunications facility providers, or with a consortium or other entity whose members, partners, venturers or other participants are two or more telecommunications facility providers, or if the department requires two or more telecommunications facility providers to share a single trench, then the agreement(s) shall require that the telecommunications facility providers share the burden of the compensation owing to the department under the agreement(s) on a fair, reasonable and equitable basis, taking into consideration the proportionate uses and benefits to be derived by each telecommunications facility provider from the trench, conduits and other telecommunications facilities to be installed under the agreement(s).

(2) The foregoing does not limit the right of the department to require all the participating telecommunications facility providers to bear joint and several liability for the obligations owing to the department under the agreement(s).

(3) Any agreement which requires sharing of the burden of compensation owing to the department shall provide the department the right to review and audit the books, records and contracts of or among the participating telecommunications facility providers to determine compliance or lack of compliance with R907-65-14(1).

**KEY: right-of-way, interstate highway system**

**Date of Enactment or Last Substantive Amendment: November 16, 1999**

**Notice of Continuation: September 22, 2008**

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**Authorizing, and Implemented or Interpreted Law: 72-7-108**



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### **R930. Transportation, Preconstruction.**

#### **R930-6. Access Management.**

##### **R930-6-1. Purpose.**

(1) The purpose of this rule is to:

- (a) maximize public safety;
- (b) provide for efficient highway operations and maintenance of roadways; and
- (c) utilize the full potential of the highway investment.

(2) This rule serves to establish highway access management procedures and standards to protect Utah's state highway system. The state highway system constitutes a valuable resource and a major public investment. The Utah Department of Transportation (Department) has an obligation and a public-trust responsibility to preserve and maintain the state highway system, protect the public investment in this system, and to ensure the continued use of state highways in meeting state, regional, and local transportation needs and interests. This rule also serves to establish a procedure for allowing and establishing new or existing highways as limited-access facilities, for the elimination of intersections and for the right to access restricted facilities.

(3) The primary function of a state highway is to provide system continuity and efficiency of state highway system operation and maintenance activities. Utah Code Section 72-4-102.5. A state highway may provide access to property as a secondary function. The primary function of city and county roads is to provide access to property. Owners of property adjoining a state highway have certain rights of access unless such access has been restricted by purchase or by legal action. The Department recognizes that property owners have the right of reasonable access to their property. This rule establishes standards that balance the need for reasonable access to properties with the need to preserve the smooth flow of traffic on the state highway system in terms of safety, capacity, and speed.

(4) Failure to manage access to and from state highways can cause an increase in accidents, increased traffic congestion, decline in operating speed, loss of traffic carrying capacity, and increased traffic delays. This failure results in reduced traffic mobility, increased congestion, transportation costs and delays, and contributes to higher rates of property damage, personal injury, and fatal accidents. The proliferation of driveways, intersections, and traffic signals without regard to their proper design, location, and spacing degrades highway operation and performance and poses traffic hazards for the traveling public.

(5) It is a goal of the Department to improve public safety in the development, design, and operation of the state highway system. In exercising this public safety duty, the Department enacts this rule to limit the number of conflict points at driveway locations, separate highway conflict areas, reduce the interference of through-traffic, and adequately space at-grade signalized and

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unsignalized intersections. The Department works closely with property owners and local authorities to provide reasonable access to the state highway system that is safe, and enhances the movement of traffic. The Department shall utilize all of the state highway right-of-way to the best advantage for highway purposes through a permit process that assesses and grants the number, location, width, and design of connecting streets and driveways.

(6) This rule provides guidance to Department Permit Officers, local authorities, land owners, or developers for when a grant of access or encroachment permit is required, how to apply for a permit, what standards or guidelines are considered in the granting of an access and encroachment permits, and what to do when a variance is sought to deviate from the standards and requirements of this rule.

### **R930-6-2. Authority.**

- (1) This rule is authorized by the following sections of the Utah Code.
  - (a) Section 41-6a-216. Removal of plants or other obstructions impairing view - Notice to owner - Penalty.
  - (b) Section 41-6a-1701. Backing - When permissible.
  - (c) Subsection 72-1-102(11). "Limited-access facility" defined.
  - (d) Section 72-1-201. Creation of Department of Transportation - Functions, powers, duties, rights, and responsibilities.
  - (e) Section 72-3-109. Division of responsibility with respect to state highways in cities and towns.
  - (f) Section 72-4-102.5. Definitions - Rulemaking - Criteria for state highways.
  - (g) Section 72-6-117. Limited-access facilities and service roads - Access - Right-of-way acquisition - Grade separation - Written permission required.
  - (h) Section 72-7-102. Excavations, structures, or objects prohibited within right-of-way except in accordance with law - Permit and fee requirements - Rulemaking - Penalty for violation.
  - (i) Section 72-7-103. Limitation on access authority.
  - (j) Section 72-7-104. Installations constructed in violation of rules - Rights of highway authorities to remove or require removal.
  - (k) Section 72-7-105. Obstructing traffic on sidewalks or highways prohibited.
  - (l) Section 72-7-503. Advertising - Permit required - Penalty for violation.

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### **R930-6-3. Scope.**

- (1) This rule supersedes the following publications:
  - (a) "Regulations for the Accommodation of Utilities on Federal Aid and Non Federal Aid Highway Rights-of-way" - 1970.
  - (b) "Regulations for the Control and Protection of State Highway Rights-of-way" - 1982, and previous editions of this rule, "Accommodation of Utilities and the Control and Protection of State Highway Rights of Way" - 2006.
- (2) Utility accommodation in state highway right-of-way is governed by Rule 930-7.
- (3) Regulations, laws, or orders of public authority or industry code prescribing a higher degree of protection or construction than provided by this rule shall govern.

### **R930-6-4. Application.**

- (1) This rule applies to all state highways within the Department's jurisdiction.
- (2) The Department may issue grants of access and encroachment permits only when the application is found by the Department to be in compliance with this rule. The Department is authorized to impose terms, conditions and limitations as necessary and convenient to meet the requirements of this rule. In no event shall a grant of access or encroachment permit be issued or authorized if it is detrimental to the public health, welfare, and safety.
- (3) This rule requires that installation or modification of access facilities to the state highway system be made by permit from the Department. This rule provides a description of information to be contained in the grant of access and encroachment permit application, the standards against which the application shall be measured, and the administrative relief offered by the Department to review the balance of private property rights of reasonable access versus the public need to preserve the smooth flow of traffic on the state highway system. The standards, procedures, and requirements of this rule are in addition to other county or municipal land use regulation authority and apply to grant of access approvals on the state highway system. Local authorities may adopt similar policies or procedures for application of access management on other street systems.
- (4) If any part or parts of this rule are held to be unlawful, such unlawfulness may not affect the validity of the remaining parts of this rule. Nothing in this rule shall be construed to disqualify the Department from receiving federal participation on any federal-aid highway project.

### **R930-6-5. Definitions.**

- (1) "AADT" means the Annual Average Daily Traffic, the average 24-hour traffic volume at

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a given location over a full 365-day year, divided by 365.

(2) "AASHTO" means the American Association of State Highway and Transportation Officials.

(3) "ADT" means the Average Daily Traffic, the total volume during a given time period (in whole days), greater than one day and less than one year, divided by the number of days in that time period. The Department may, at its own discretion, define the appropriate time period (including days of the week) to be considered when measuring or calculating ADT.

(4) "Acceleration lane" means a speed-change lane, including tapered areas, for the purpose of enabling a vehicle entering a roadway to increase its speed to a rate at which it can more safely merge with through traffic.

(5) "Access" or "access connection" means any driveway or other point of entry or exit such as a street, road, or highway that connects to the general street system. Where two public roadways intersect, the secondary roadway is considered the access.

(6) "Access approval" see "grant of access."

(7) "Access category" is a classification assigned to a segment of highway that determines the degree to which access to a state highway is managed. It is also referred to as "category."

(8) "Access control" see "controlled access highway."

(9) "Access corridor control plan" specifies the limitation or management of driveways, streets or other access points which balance the need for reasonable access to land development with the smooth and efficient flow of traffic defined by safety, capacity, and travel speed. Also referred to as a "corridor agreement."

(10) "Access management plan" means a roadway design plan that designates access locations and their design for the purpose of bringing those portions of roadway included in the access management plan into conformance with their access category to the extent feasible.

(11) "Access opening" means a vehicular access point through or across a limited-access or no-access line.

(12) "Access operation" refers to the utilization of an access for its intended purpose and includes all consequences or characteristics of that process including access volumes, types of access traffic, access safety, time of the access activity, and the effect of such access on the state highway system.

(13) "Access spacing" means the distance measured from the inside point of curvature of the radius of an intersection or driveway to the inside point of curvature of the adjacent intersection or driveway radius. In the case of a flared curb driveway, the distance is measured from or to the inside driveway edge.

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(14) "Access width" means the width of the traveled portion of the access as it extends away from the main highway. Access width measures only the travel portion of the access; it excludes auxiliary or turn lanes, transitions, radii, flares, and curb and gutter.

(15) "Agricultural access" means an access to undeveloped or agricultural property.

(16) "Applicant" means any person, corporation, entity, designee or agency applying for a permit. As used within this rule, applicant also refers to the property or project subject to a grant of access or encroachment permit application.

(17) "Application fees" means the latest application fees established by the Department and approved by the legislature. Application fees are non-refundable and are designed to offset access management application review costs.

(18) "Arterial highway" is a general term denoting a highway primarily for through traffic, usually on a continuous route.

(19) "Auxiliary lane" refers to the portion of the roadway adjoining the traveled way for speed change, turning, storage for turning, weaving, truck climbing, and other purposes supplementary to through traffic movement.

(20) "Bandwidth" means the time in seconds or the percent of traffic signal cycle between a pair of parallel speed lines on a time-space diagram that delineate a progressive movement. It is a quantitative measurement of the through traffic capacity of a signal progression system. The greater the bandwidth the higher the roadway capacity.

(21) "Capacity" means the maximum rate at which persons or vehicles can reasonably be expected to traverse a point or uniform section of a lane or a roadway during a given time period under prevailing roadway and traffic conditions. Capacity may refer to the entire roadway, a single lane, or an intersection. Measures of capacity may include, but are not limited to, traffic volumes, speed, throughput and density.

(22) "Channelizing island" means a defined area between traffic lanes for control of vehicle movements.

(23) "Clear roadside policy" refers to the policy employed by the Department to increase safety, improve traffic operations and enhance the appearance of highways by designing, constructing, and maintaining highway roadsides as wide, flat and rounded as practical and as free as practical from physical obstructions above the ground, within the clear zone as defined in the AASHTO Roadside Design Guide and the Department's current standards and specifications, including Standard Drawing DD-17.

(24) "Clear zone" means the total roadside border area, starting at the edge of the traveled way, available for safe use by errant vehicles. The desired width is dependent upon the traffic volumes and speeds and on the roadside geometry as referenced in the AASHTO Roadside Design

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Guide.

(25) "Control of access" means the condition where the right of owners of abutting land or any other persons having access to highway right-of-way is controlled by the appropriate public authority.

(26) "Controlled access highway" means a street or highway to which owners or occupants of abutting lands and other people have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over such street or highway. See also "limited-access line" and "no-access line."

(27) "Contiguous property" means a parcel of land that has two or more adjoining properties abutting highway rights-of-way.

(28) "Corridor agreement" refers to a multi-agency cooperative agreement for managing the development, operations, and maintenance of a highway corridor or segment of highway corridor. In this rule, corridor agreements refer to agreements between the Department and one or multiple Local Authorities and are based on signal control plans and access corridor control plans agreed on and approved by the Department and local authorities.

(29) "County roads" are all roads that are or may be established as a part of a county system of roads.

(30) "Deceleration lane" is a speed-change lane, including tapered areas, enabling a vehicle to leave the mainstream of faster moving traffic and to slow to a safe turning speed prior to exiting the highway.

(31) "Department" means the Utah Department of Transportation. Where referenced to be contacted, submitted to, approved by, accepted by or otherwise engaged, Department means an authorized representative of the Utah Department of Transportation.

(32) "Department Region permitting office" refers to the permitting office of the Utah Department of Transportation regional offices.

(33) "DVH" means the design hour volume, an hourly traffic volume determined for use in the geometric design of highways. It is by definition the 30th highest hour vehicular volume experienced in a one-year period. The Department shall determine the appropriate DVH conditions. In most cases the Department will require the use of the peak hour volume as the DVH, typically in a range of 8-12 percent of AADT if actual volume data not available. For rural areas and recreational routes the Department will typically require the use of the 30th highest hour for DVH.

(34) "Design speed" means the maximum safe speed that can be maintained over a specified section of highway when conditions are so favorable that the design features of the highway govern as referenced in the most recent addition of the AASHTO "A Policy on Geometric Design of Highways and Streets."

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(35) "Divided highway" means a highway with separated traveled ways for traffic in opposite directions, such separation being indicated by depressed dividing strips, raised curbing, traffic islands, or other physical barriers so constructed as to discourage crossover vehicular traffic.

(36) "Driveway" refers to an access constructed within the public highway right-of-way, connecting the public highway with the adjacent property. Driveway to highway connection designs may include, but are not limited to, curb cuts and radius curb returns.

(37) "Driveway angle" means the angle of the driveway alignment relative to the highway alignment. The driveway angle refers to the alignment of a driveway near and at the connection with the highway. The driveway angle is measured between the alignment of the driveway and the alignment of the highway traveled way.

(38) "Driveway spacing" means the distance between adjacent driveways on the side of the roadway as measured from near edge to near edge, considered necessary for the safe ingress and egress of vehicles and the safe operation of the highway at its posted speed.

(39) "Easement" is an interest in real property that conveys use, but not ownership, of a portion of an owner's property.

(40) "Encroachment" is the use of highway right-of-way.

(41) "Encroachment permit" is a document that specifies the requirements and conditions for performing work on the highway right-of-way.

(42) "Expressway" is a divided arterial highway for through traffic with full or partial control of access and generally with grade separations at major intersections.

(43) "Federal-aid highway" is a highway eligible to receive Federal aid.

(44) "FHWA" means the Federal Highway Administration.

(45) "Freeway" is an expressway with full control of access.

(46) "Freeway one-way frontage road" is a one-way public street that runs parallel to a freeway and provides direct freeway access through ramps that connect the freeway main lane and frontage road.

(47) "Frontage road" is a public street or road auxiliary to and normally alongside and parallel to the main highway, constructed for the purposes of maintaining local road continuity and the controlling of direct access to the main highway.

(48) "Full access" means that ingress and egress is afforded at the point of access. It does not mean full movement.

(49) "Full movement" means that all possible vehicle turning movements are afforded at the point of access.

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(50) "Functional classification" refers to a classification system that defines a public roadway according to its purposes and hierarchy in the local or statewide highway system.

(51) "General street system" is the interconnecting network of city streets, county roads, township roads, and state highways in an area.

(52) "Grade separation" is a crossing of two roadways, a roadway and a fixed guideway, a roadway and a pedestrian walkway, or bike path in such a way that neither facility interferes with the operation of the other.

(53) "Gradient or grade" means the rate or percent change in slope, either ascending or descending from or along the highway measured along the centerline of the roadway or access.

(54) "Grant of access" is the document that specifies requirements and conditions under which a driveway, curb cut, or other vehicular access point is granted. Also referred to as grant of access approval or access approval. Unless specified, references to grant of access refer to grants of access and temporary grants of access.

(55) "Hierarchy of the roadway" refers to the functionality and the mobility flow of traffic across a system of highway facilities. The natural progression to flow from a highest order facility of high capacity and high operational speed serving major economic centers to the lowest order facility of low volume, low speed and serving multiple driveway connections.

(56) "Highway" is a general term for denoting a public way for the transportation of people, materials, and goods, including the entire area within the right-of-way. Also referred to as road.

(57) "Interchange" is a facility that provides ramps for access movements between intersecting roadways that are separated in grade. The ramps and any structures used to accomplish the movement of traffic between the roadways are considered part of the interchange.

(58) "Interchange crossroad access spacing" means the distance measured between the interchange ramp gore area (point of widening on the crossroad) and the adjacent driveway or street intersection.

(59) "Intersection" is the general area where two or more highways or streets join or cross at-grade.

(60) "Intersection sight distance" is the distance at which a motorist attempting to enter or cross a highway is able to observe traffic in order to make a desired movement. The required distance varies with the speed of the traffic on the main highway.

(61) "Interstate highway system" refers to the Dwight D. Eisenhower National System of Interstate and Defense Highways as defined in the Federal-aid Highway Act of 1956 and any supplemental acts or amendments. It is also referred to as interstate.

(62) "Inventory" means the listing maintained by the Department that gives the access category for each section of state highway.



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(63) "ITE" means the Institute of Transportation Engineers.

(64) "Lane" is the portion of a roadway for the movement of a single line of vehicles. It does not include the gutter or shoulder of the roadway.

(65) "LOS" means level of service, a qualitative measure describing a range of traffic operating conditions such as travel speed and time, freedom to maneuver, traffic interruptions, and comfort and convenience as experienced and perceived by motorists and passengers. Six levels of service are defined from A to F, with A representing the free flow travel conditions and F representing extreme traffic congestion. LOS shall be evaluated according to the procedures and conditions defined in the most recent edition of AASHTO "A Policy on Geometric Design of Highways and Streets."

(66) "Limited-access line" means a line parallel or adjacent to the state highway right-of-way purchased and held with the intent to limit and control access across such lines and thereby preserve the functionality, operation, safety, and capacity of the highway system. The highest priority and consideration for access category spacing standards and design apply where 1 a lines exist. Also referred to as line of limited-access, limited-access highway, limited-access freeway or limited-access facilities (See Utah Code Section 72-1-102(11)).

(67) "Local authority" means the governing body of counties and municipalities.

(68) "Local road" includes any road or highway in public ownership that is not designated part of the Utah state highway system or as defined by Utah Code. It is also referred to as a "local street."

(69) "Median" means the portion of a roadway separating the traveled ways for opposing traffic flows.

(70) "Median island" means a curbed island that prevents egress traffic from encroaching upon the side of the drive used by ingress traffic. The island ensures that ingress traffic has the necessary maneuvering space.

(71) "MPH" means miles per hour, a rate of speed measured in miles per hour.

(72) "MUTCD" means the current Utah Manual on Uniform Traffic Control Devices referenced in R920-1.

(73) "No-access line" means a line parallel or adjacent to the state highway right-of-way purchased and held with the intent to disallow connections across such lines. No-access lines are of the highest priority and order of the state highway system and have been established to preserve and protect the functional operation of the adjacent facility. No-Access Lines are created through the purchase of access rights. The purchase of these access rights may utilize federal, state, or combination of federal and state funds. Also referred to as line of no-access or no-access facilities.

(74) "Peak hour" means the hour of the day in which the maximum volume occurs.

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(75) "Peak hour volume" see "design hour volume."

(76) "Permit" as referenced under this rule may include grant of access or encroachment permit. Permits defined under this rule do not include other written permission that may be required by local authorities for utility work in the state highway right-of-way, and other permits referenced in other applicable rules.

(77) "Permit issuance date" means the date when the authorized Department official signs the permit electronically or by any other means.

(78) "Permittee" means any person, unit of government, public agency, or any other entity to whom a grant of access or encroachment permit is issued. The permittee is responsible for fulfilling all the terms, conditions and limitations of the grant of access or encroachment permit.

(79) "Person" means any individual, partnership, corporation, association, government entity, or public or private organization of any character other than a state agency , as noted in Section 63G-3-102(12).

(80) "Posted speed" means the maximum speed limit for a specified section of highway.

(81) "Public authority" means a public administrative agency or corporation authorized to administer a public facility.

(82) "Reasonable alternate access" refers to conditions where access to the general street system from a property adjoining a state highway can be achieved by way of another alternative including but not limited to a lesser function road, internal street system, or dedicated rights-of-way or easements. For example, where a subject property adjoining a state highway also adjoins or has access to an internal street system, such access shall be considered a reasonable alternate access and any access to the state highway shall be considered an additional access. Determination of reasonable alternate access shall be determined in consultation with the appropriate local authority and as prescribed in this rule.

(83) "Relocate" means to remove and establish in a new place and may include, if necessary to conform a property's access to the provisions of this rule, merging or combining non-conforming access with other existing access so as to eliminate the non-conformance. In such event, the property owner or permittee, if applicable, may be required to remove all physical elements of the non-conforming access such as curb cuts and surfacing material and install curbing, barriers, or other physical separators to prevent continued use of the access.

(84) "Right-in right-out" refers to a type of three-way road intersection where turning movements of vehicles are restricted with only right turns allowed. Also refers to intersection or driveway movements restricted to right-turn ingress and right-turn egress movements only.

(85) "Right-of-way" is a general term denoting property or property interest, usually in a strip devoted to transportation purposes.

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- (86) "Road" see "highway."
- (87) "Roadside" means the area between the outside shoulder edge and the right-of-way limits.
- (88) "Roadway" means the portion of a highway, including shoulders, for vehicular use.
- (89) "Rural" includes areas incorporated, or designated by census, with a population of less than 5,000.
- (90) "Shared access" is an access point serving more than one parcel or landowner.
- (91) "Shoulder" means the paved or unpaved portion of the roadway contiguous with the traveled way for accommodation of stopped vehicles.
- (92) "Signal" means a traffic control signal. It is also used to refer to a signalized intersection or traffic signal.
- (93) "Signal control plan" is a comprehensive action plan for identification of signal locations along a corridor or segment of a corridor. The purpose of a signal control plan is to provide for efficiency of signal progression and corridor functionality. This is also referred to as a corridor agreement.
- (94) "Signalization" means the installation or modification of a traffic control signal.
- (95) "Signal progression" means the progressive movement of traffic at a planned rate of speed without stopping through adjacent signalized locations along a corridor or within a traffic control system.
- (96) "Signal spacing" means the distance between signalized intersections measured from the centerline of a signalized intersection cross street to the centerline of the adjacent existing or future signalized intersection cross street. Signal spacing addresses the uniformity and frequency of signalized intersections along a highway and is thought to be one of the most important access management techniques. Signal spacing generally governs the performance of urban and suburban highways. Traffic signals that are closely or irregularly spaced bring about increases in the number of accidents, stops, delay, fuel consumption, and vehicular emissions. Long and uniform signal spacing allows for more efficient progression throughout the corridor and provides for the implementation of a more efficient traffic control system to accommodate variations in peak and off-peak period traffic flows.
- (97) "Slope" means the relative steepness of the terrain expressed as a ratio or percentage. Slopes may be categorized as positive or negative and as parallel or cross slopes in relation to the direction of traffic.
- (98) "Speed" refers to the posted legal speed limit at the access location at the time of permit approval. A higher speed for access design must be used if the section of highway is presently being redesigned or reconstructed to a higher speed or an approved access control plan

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requires a higher speed.

(99) "Speed change lane" means a separate lane for the purpose of enabling a vehicle entering or leaving a roadway to increase or decrease its speed to a rate at which it can safely merge with or diverge from through traffic. Acceleration and deceleration lanes are speed change lanes.

(100) "State highway" includes those highways designated as state highways in Utah Code Title 72, Chapter 4, Designation of State Highways Act

(101) "Stewardship and oversight agreement" means the current agreement formalizing the roles and responsibilities of the FHWA, Utah Division and the Department in administering the Federal-Aid Highway Program. This agreement is available from the Department's website.

(102) "Stopping sight distance" means the distance required by a driver of a vehicle traveling at a given speed to bring the vehicle to a stop after an object on the roadway becomes visible. It includes the distance traveled during driver perception and reaction times and the vehicle braking distance.

(103) "Storage length" means the additional lane length added to a deceleration lane to store the maximum number of vehicles likely to accumulate in the lane during a peak hour period to prevent stored vehicles from interfering with the function of the deceleration lane or the through travel lanes.

(104) "Street" is a general term for denoting a public way or private way for purpose of transporting people, materials, and goods.

(105) "Street spacing" means the distance between intersections (signalized or unsignalized) measured as the distance between the leaving point of tangent of a street access to the receiving point of tangent of the adjacent street access.

(106) "Structure" means any device used to convey vehicles, pedestrians, animals, waterways or other materials over highways, streams, canyons, or other obstacles. A major structure is a highway structure with a span or multiple span length of 20 feet or more measured along the center line of the roadway and a minor structure is the same as a major structure except it is less than 20 feet.

(107) "Taper" means a transitional area of decreasing or increasing pavement width to permit the formation or elimination of an auxiliary lane.

(108) "Traffic control equipment" means equipment, including but not limited to, traffic control signs, traffic signal poles, circuitry and appurtenant equipment.

(109) "Temporary grant of access" is required from the Department whenever a temporary driveway or connection to a state highway is sought. A temporary grant of access shall expire within twelve months of the permit issue date or before as specified in the terms, conditions, and limitations of the temporary grant of access. No extensions may be granted. To reestablish a

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temporary access, the permittee or applicant shall submit a new grant of access application. Unless specified, references to grant of access include temporary grants of access.

(110) "TIS" means traffic impact study, a study that may be required by the Department or local authorities that addresses the impacts of a proposed development, mitigation of impacts, access usage, or land use to ensure the efficient flow of traffic.

(111) "Traveled way" includes the portion of the roadway for the movement of vehicles.

(112) "Urban" refers to a census designated area with a population of 5,000 or more or any portion of a designated urbanized Metropolitan Planning Organization planning boundary.

(113) "Variance" is a granting of permission to depart from the standards and requirements of this rule.

(114) "Warrant" is the criteria by which the need for a treatment or improvement can be determined.

(115) "Working day" includes any weekday in which a normal day of work can be performed exclusive of delays that result from inclement weather, labor disputes, and material shortages. It does not include weekends and legal holidays.

### **R930-6-6. Access Control.**

(1) General.

(a) This section addresses general methods, requirements and limitations utilized to manage and control access to state highways.

(2) Access categories.

(a) Access category management system. This rule provides a system of ten highway access categories to which all sections of state highways have been or will be assigned.

(i) Each access category describes the function of the highways including the operational standards that are applied to maintain the highway's function in terms of mobility, capacity, traffic flow, and safety.

(ii) The access category is assigned based on, but not limited to, evaluation of the attributes and characteristics of whether or not the facility is a part of the National Highway System, FHWA functional classification, urban or rural designation, and posted speed.

(iii) The number, spacing, type, and location of accesses and traffic signals have a direct and often significant effect on the capacity, speed, and safety of the highway and are therefore managed by this category system which establishes a hierarchy of the roadway for access management.

(iv) The spacing and design standards for each category are necessary to ensure the

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highway functions at the levels expected for its assigned access category.

(v) The access management standards of this rule have been developed for segments or classifications of highways that have similar context and functions. Access Management standards have been established to achieve safety, capacity, and traffic flow objectives for each classification.

(vi) Implementation of the statewide access management requirements of this rule ensures equitable, uniform, consistent, and systematic application of access management standards.

(b) Access category description. The following describe the function and application of the ten access categories used to manage access to state highways:

(i) Category 1: Freeway/interstate system facilities (I).

(A) Category 1 is appropriate for use on highways that have the capacity for high speed and high traffic volumes over medium and long distances.

(B) These facilities serve major interstate, intrastate, and inter-regional travel demand for through traffic. In urbanized and metropolitan areas, they may also serve high volume and high speed intra-city travel.

(C) All interstate and freeway facilities are included in this category.

(ii) Category 2: System priority-rural importance (S-R).

(A) Category 2 is appropriate for use on highways that have the capacity for high speed and relatively high traffic volumes.

(B) Category 2 highways are designed and intended to achieve a posted speed of 55 mph or higher in areas without signals and 45 mph or higher in areas with signals.

(C) These facilities provide for interstate, inter-regional, intra-regional, and intercity travel needs in rural areas.

(D) Direct access service to adjoining land is subordinate to providing service to through traffic movements.

(iii) Category 3: System priority-urban importance (S-U).

(A) Category 3 is appropriate for use on highways that have the capacity for high speed and relatively high traffic volumes.

(B) Category 3 highways are designed and intended to achieve a posted speed of 50 mph or higher in areas without signals and 40 mph or higher in areas with signals.

(C) These facilities provide for interstate, inter-regional, intra-regional, and intercity travel needs in urban areas.

(D) Direct access service to abutting land is subordinate to providing service to through traffic movements.

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(iv) Category 4: Regional-rural importance (R-R).

(A) Category 4 is appropriate for use on highways that have the capacity for moderate to high speeds (generally greater than 50 mph) and relatively high traffic volumes.

(B) These facilities move traffic across multiple communities or jurisdictions, typically connecting facilities of interstate or system importance in rural areas.

(v) Category 5: Regional priority-urban importance (R-PU).

(A) Category 5 is appropriate for use on highways that have the capacity for moderate speed (generally 45 mph or higher) and moderate to high traffic volumes.

(B) There is a balance between direct access and mobility needs within this category.

(C) These facilities move traffic across multiple communities or jurisdictions, typically connecting facilities of interstate or system importance and through urban areas that have significant potential for development or redevelopment.

(vi) Category 6: Regional-urban importance (R-U).

(A) Category 6 is appropriate for use on highways that have the capacity for moderate to low speeds (generally to a speed range of 40 mph or less) and moderate to high traffic volumes.

(B) While this category provides service to through traffic movements, it allows more direct access to occur.

(C) These facilities move traffic across multiple communities or jurisdictions, typically connecting facilities of Interstate or system importance but through urban areas that are significantly developed to the point where travel speed and capacity has eroded.

(vii) Category 7: Community-rural importance (C-R).

(A) Category 7 is appropriate for use on highways that have the capacity for moderate to low speeds and moderate volumes.

(B) This category provides a balance between through traffic movements and direct access. These facilities move both regional and local rural traffic but with emphasis on local movements such as those common on small city Main Streets.

(viii) Category 8: Community-urban importance (C-U).

(A) Category 8 is appropriate for use on highways that have the capacity for moderate to low speeds and moderate volumes.

(B) This category provides a balance between through traffic movements and direct access.

(C) These facilities move traffic through a single community or to an adjacent community but not generally used for long distance (greater than five mile) travel.

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(ix) Category 9: Other importance (O).

(A) Category 9 is appropriate for use on frontage roads, back roads, service roads, critical connections of short distance, and other special use facilities.

(x) Category 10: Freeway one-way frontage road (F-FR).

(A) Category 10 is appropriate for use on one-way frontage road systems that provide direct access to and from freeway ramps. Specifically, this category applies to the one-way frontage roads.

(B) Freeway main lane and ramp components of the freeway/frontage road systems must meet the criteria defined for Category 1 facilities.

(c) Access category assignments. To make category assignments for specific sections of state highways, the Department may consider adopted administrative and functional classifications, National Highway System routes, designated urban areas, existing and projected traffic volumes, posted and operating speed, current and future highway capacity and levels of service, current and predicted levels of highway safety, adopted state and local transportation plans and needs, the character of lands adjoining the highway, adopted local land use plans and zoning, the availability of existing and planned vehicular access from local streets and roads other than a state highway, and other reasonable alternate access provided by municipal streets and county roads. Category assignment boundaries shall be logical and identifiable. Category assignments shall maintain highway system hierarchy and facility continuity to the extent possible.

(i) Category reviews and reassignments. Requests for changes in the access category of a state highway or sections thereof must be submitted to the Department through the appropriate local authority and metropolitan planning organization where appropriate. Such requests must include information pertaining to the factors cited in this rule for determination of category assignment and explain the need for the requested change. The explanation must also discuss how the requested change is consistent with and conforms to the purpose and standards of this rule and does not compromise the public health, safety, and welfare. A reassignment in access category may not be granted solely to accommodate eventful or planned growth of an entity, a specific access request, or to allow the permitting of access connections that would otherwise not be permitted.

(A) Local authority coordination. Upon request by local authorities, the Department shall coordinate with local authorities in the review of zoning, subdivision, and other land use regulations affecting the safety and operation of state highways to ensure that future access requirements related to local land use decisions are consistent with the purposes and standards of this rule. The issuance or approval of any permit, agreement, plat, subdivision, plan, or correspondence does not abrogate or limit the regulatory powers of the Department in the protection of the public's health, safety and welfare.

(ii) Access category inventory. The Department maintains an inventory of each section of state highway listing its access category assignment. This inventory is available from the



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appropriate Department Region and District office or the Department's website. Mapping inventory may not be held as the sole determination for access category assignment. Field assessment by a Department Permit Officer or designee shall verify the appropriate access category assignment.

(iii) Category updates. The Department may review the access category inventory once every five years to accommodate requests and changes in the highway environment affecting the access requirements of the highway. The initial assignment of access categories and any subsequent revision must be determined in cooperation and coordination with local authorities to ensure category assignments are compatible with preserving and maintaining the highway's intended and designed function within the state highway system and within the context of the area's transportation needs and plans.

### (3) Corridor agreements.

(a) General. The Department, in cooperation with local authorities, may draft agreements for the planned and future spacing or installation of access connections based on the assigned access category for the facility. The local authorities must consider these agreements upon approval of their local development orders. A corridor agreement in the form of a signal control plan or access corridor control plan may supersede an access category assignment. The following apply to all corridor agreements including signal control plans and access corridor control plans.

(i) The corridor agreement shall balance between state and local authority transportation planning objectives and preserve and support the current and future functional integrity of the highway.

(ii) The corridor agreement must receive the approval of both the Department and the local authority to become effective. This approval shall be in the form of a written agreement signed by the local authority and the appropriate Department Region Director.

(iii) To be considered in effect, the corridor agreement shall be noted and reflected in the local jurisdiction transportation master plan.

(iv) Where a corridor agreement is in effect, all action taken in regard to the access must be in conformance with the agreement and current design standards except by approval of the Department and local authority.

(b) Signal control plan. The Department may, at its discretion, initiate, direct or develop a signal control plan for a designated portion of a state highway. The following requirements apply for signal control plans in addition to those described for corridor agreements.

(i) A signal control plan must provide a comprehensive action plan for identification of signal locations along a designated portion of state highway. This plan shall, to the extent practical, meet the functional characteristics and design standards of the appropriate access category and requirements of the Department's Traffic and Safety division.

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(ii) The signal control plan must indicate the location of existing and future signalized intersections. The plan must identify signal locations intended to be modified, relocated, realigned, removed, or added. The plan must reserve signalized access for state facilities and local jurisdiction routes noted in their corresponding transportation master plans.

(c) Access corridor control plan. The Department or local authority may, at its discretion, initiate, direct or develop an access corridor control plan for a designated portion of a state highway. The following requirements apply to access corridor control plans in addition to those described for corridor agreements.

(i) An access corridor control plan must provide a comprehensive roadway access design plan for a designated portion of a state highway. This plan shall, to the extent feasible and given existing conditions, bring said portion of highway into conformance with its access category and its functional needs.

(ii) The access corridor control plan must indicate existing and future access locations and all access related roadway access design elements including signals to be modified, relocated, removed, or added, or to remain. The plan must reserve signalized access for state facilities and local jurisdiction routes noted in their corresponding transportation master plans.

(iii) The access corridor control plan shall include current or future accommodation for multiple transportation modes, including vehicles, bicycles, pedestrians, and public transit.

(4) Limited-access and no-access lines.

(a) Application of limited-access control lines. Limited-access control for new classified principal arterial highways other than the interstate system and expressways shall be obtained in all rural areas and in areas of the highway being constructed on new alignment or if the existing highway is in sparsely developed areas where control is desirable and economically feasible.

(i) Short alignments. Limited-access control may be justified for limited lengths of high volume minor arterial highways, especially on new alignments and if adjacent to a freeway interchange.

(ii) Existing urban alignments. Limited-access control in urban areas on existing alignment shall not be allowed unless approved by the Department.

(b) Application of no-access control lines. Interstate and freeway facilities shall have no-access control lines.

(c) Designation of access control lines. Determination of the final location for limited-access and no-access lines, including final access locations, shall be made by the Department. The following requirements and limitations apply:

(i) FHWA review and concurrence for access locations is required for federal-aid roads based on the Stewardship and Oversight Agreement between FHWA and the Department, even if

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the right-of-way was nonparticipating.

(ii) The access openings granted shall be accurately described in the property deed and shown on right-of-way maps and roadway construction plans.

(iii) After execution of the deeds, no change may be made in the access location, use, or size or additional access openings granted except as provided in this rule.

(iv) If a portion of a property which has no access to the highway is later sold, the Department has no obligation to grant an access to the property.

(5) Local authority highway projects.

(a) Compliance requirements. A public highway reconstruction project is not required to bring legal access into full compliance with current standards of this rule, except to the extent reasonable within the limitations and scope of the project, consistent design parameters, and available public funds.

(b) Maintenance responsibility. Vehicular use and operation of local roads where they connect to (access) a state highway is the responsibility of the local authority. The local authority shall maintain such state highway access locations in conformance with this rule to the extent feasible and within statutory and public funding limitations. The local authority may fund any necessary improvements by obtaining contributions from the primary users of the access or as off-site subdivision improvements necessary for the public safety.

(c) Consolidation and modification of access. Where multiple accesses service the same ownership, public highway reconstruction projects may combine or reduce the number of accesses or modify access size and design to meet current standards.

(d) Temporary access. Temporary access within a highway project construction zone may be permissible at the discretion of the Department. A temporary grant of access is required for any new temporary access location that provides access to the traveled portion of the highway.

(e) Interference with public highway construction. Under no circumstances shall the construction or reconstruction of a private driveway by a private interest interfere with the completion of a public highway construction project. The private interest must coordinate work with the Department project engineer for the project.

### **R930-6-7. Design Requirements.**

(1) General.

(a) The design requirements presented herein are intended to protect the functional integrity of state highways, maintain and preserve traffic mobility, provide efficient and necessary access, while protecting the public health, safety, and welfare. Designs for access connections to state

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highways must comply with Department standards and conform to the current MUTCD. A design based on engineering standards and methods that are more exact than those presented in this rule may be allowed if the design meets the purposes of this rule, does not violate standards of this rule, is based on desirable nationally accepted standards, and is determined acceptable to the Department. Local authority standards that are more stringent than those required by this rule may be used only if determined acceptable by the Department.

(2) General criteria for granting access.

(a) General criteria. The Department may grant modified or new access that is in compliance with this rule.

(b) Reasonable alternate access. When an application is created for access to a state highway with assigned access category 4 through 9, the access may be granted if reasonable alternate access cannot be obtained from the local street or road system. If the proposed access does not meet design or spacing standards, the access shall be denied if the proposed access on the property has reasonable alternate access available to the general street system.

(i) Reasonable alternate access from a city or county road shall be determined in consultation with the appropriate local authority and the applicant. A determination of reasonable access from a local street or road shall include consideration of the local street or road function, purpose, capacity, operational and safety conditions and opportunities to improve the local street or road.

(ii) Where a subject property adjoins or has access to a lesser function road or an internal street system or by way of dedicated rights-of-way or easements, such access will be considered a reasonable alternate access and any access to the state highway will be considered an additional access.

(iii) Direct access to the state highway may be approved if the alternative local access will create, in the determination of the Department, a significant operational or safety problem at the alternative location and the direct access to the state highway will not be a safety or operational problem to the highway.

(c) Parcel division. No additional access rights may accrue upon the splitting or dividing of existing parcels of land or contiguous parcels under or previously under the same ownership or controlling interest.

(d) Signalized intersections. The Department shall give preference to public ways that meet or may be reasonably expected to meet signal warrants in the foreseeable future.

(e) Category 1. For highways and corresponding facilities with Category 1 designations, any new access or modification of existing access shall meet freeway/interstate design practices and Department and FHWA standards and must receive FHWA approval when the Interstate Highway system is involved.

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(i) All private direct access to Category 1 highways, access ramps, and structures is strictly prohibited unless specifically authorized for official temporary highway construction purposes under Department contract and must receive approval from FHWA when the interstate highway system is involved.

(ii) Public access to a Category 1 facility shall only be provided by means of interchanges properly spaced, located, and designed in accordance with Department and FHWA standards and regulations.

(iii) Any new access or modification of existing access to Category 1 facilities shall separate all opposing traffic movements by physical constraints such as grade separations and non-traversable median separators.

(iv) A new interchange or, in the determination of the Department, a significant modification to an interchange on a Category 1 facility that is part of the interstate highway System requires the preparation of analyses and reports that meet current FHWA requirements and receive approval by FHWA.

(f) Category 2 and 3. For highways with Category 2 or 3 designations, access may be allowed by means of interchanges or public street intersections. Public street access to Category 3 highways shall be signalized.

(i) The Department may allow modifications to an existing private point of access abutting a Category 2 or 3 highway including relocation of the point of access within the limits of the property, if such modification or change will benefit the operation and safety of the highway, bring the access level of the highway into greater conformance with the access category, or be in the interest of public health, safety, and welfare.

(ii) Any direct private access granted for Category 2 or 3 highways shall be for right turns only and shall be closed when reasonable alternate access is available or based on additional criteria defined by the Department in the grant of access.

(g) Category 4 through 9. For highways with Category 4 through 9 designations, direct access may be granted if the alternative local access would create, in the determination of the Department, a significant operational or safety problem at the alternative location and the direct access to the state highway does not create an operational or safety problem for the state highway.

(h) Category 10. For highways with Category 10 designations, direct access shall be provided only by means of public street intersections.

(i) All private direct access to Category 10 highways is strictly prohibited unless specifically authorized for official temporary highway construction or utility maintenance and operations purposes under Department contract.

(ii) Spacing between ramps and adjacent intersections shall accommodate weaving

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movements and storage requirements to ensure smooth and safe operations for the frontage road.

(iii) No access shall be allowed between an exit ramp and its downstream cross-street intersection or between an entrance ramp and its upstream cross-street intersection.

(iv) No access shall be permitted within 100 feet of the intersection of freeway ramp and one-way frontage road.

(3) Access placement requirements.

(a) Spacing requirements. Table 1 summarizes the minimum required signal spacing, street spacing, driveway spacing, and interchange crossroad access spacing for corresponding state highway access categories.

TABLE 1

### State Highway Access Management Spacing Standards

Category	Minimum Signal Spacing (feet)	Minimum Street Spacing (feet)	Minimum Driveway Spacing (feet)	Minimum Crossroad to 1st Right-in (feet)	Minimum Inter-Right-out section (feet)	Minimum Access to 1st from last Right-in Driveway (feet)
1 (I)	N/A	N/A	N/A	n-a	n-a	n-a
2 (S-R)	5,280	1,000	1,000	1,320	1,320	1,320
3 (S-U)	2,640	N/A	N/A	1,320	1,320	1,320
4 (R-S)	2,640	660	500	660	1,320	500
5 (R-PU)	2,640	660	350	660	1,320	500
6 (R-U)	1,320	350	200	500	1,320	500
7 (C-R)	1,320	300	150	n-a	n-a	n-a
8 (C-U)	1,320	300	150	n-a	n-a	n-a

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9 (O) 1,320 300 150 n-a n-a n-a

10 (F-FR) 1,320 660 N/A n-a n-a n-a

"N/A" means not allowed

"n-a" means not applicable

(i) Signal spacing. Signal spacing addresses the uniformity and frequency of signalized intersections along a highway and is thought to be one of the most important access management techniques. Signal spacing generally governs the performance of urban and suburban highways. Signals that are closely or irregularly spaced bring about increases in crashes, stops, delay, fuel consumption, and vehicle emissions. Long and uniform signal spacing allows for more efficient progression through a corridor and provides for the implementation of a more efficient traffic control system to accommodate variations in peak and off-peak period traffic flows. Signal spacing shall be as defined in this rule or as deemed necessary by the Department for the safe operation, capacity, signal progression, and proper design of the signal and adjacent accesses. Preference for the spacing, timing, and operation of a signal shall be given to highways and cross streets of a higher access category or function.

(ii) Street and driveway spacing. Access connections, including streets and driveways introduce conflicts and friction into the traffic stream of the main highway. Vehicles entering and leaving the main highway often slow the through traffic. The speed differentials between turning and through vehicles increase the potential for crashes. Increasing the distance between intersections and driveways enhances traffic flow and safety by reducing the frequency of conflicts for the main highway and providing greater distances to anticipate and recover from turning maneuvers. Where feasible or required by this rule, accesses must be combined or closed to reduce frequency and increase spacing between accesses. The spacing must also be consistent with current signal progression efficiency and cause no degradation to existing operations.

(iii) Interchange crossroad access spacing. Freeway and expressway interchanges allow traffic to transition from freeways to arterial or other lower functioning roadways. Interchanges also serve as important focal points of roadside development in urban, suburban, and rural areas. Intersections that are too close to the arterial/freeway interchange ramp termini result in heavy weaving volumes, complex signal operations, frequent accidents, and recurring congestion. Access connections to interchange crossroads shall be sufficiently spaced to allow the smooth transition between the freeway or expressway and intersecting lower functioning roadways. The Department may require applicants to conduct a weaving or speed change lane analysis given unique area conditions. The Department may require applicants to use a distance greater than defined in this rule when said analysis shows that a greater spacing is necessary to provide safe and efficient

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weaving maneuvers.

(A) The following elements must be considered in determining minimum interchange crossroad access spacing distances:

- (I) The distance required to weave across the through travel lanes.
- (II) The distance required for transition into left-turn lane(s).
- (III) The distance needed to store left turns with a low likelihood of failure.
- (IV) The distance from the stop line to the centerline of the intersecting road or driveway.

(B) The minimum interchange to crossroad spacing requirements of Table 1 are based on the following definitions:

(I) "To 1st right-in right-out driveway," means the distance from the interchange off-ramp gore area (point of widening on the crossroad) to the first right-in right-out driveway intersection.

(II) "To 1st intersection," means the distance from the interchange off-ramp gore area (point of widening on the crossroad) to the first major intersection.

(III) "From last right-in right-out driveway," means the distance from the last right-in right-out driveway intersection to the interchange on-ramp gore area (point of widening on the crossroad).

(b) Emergency access. Emergency access may be granted on state highways with category 2 through 10 designations and where required by local safety regulations. Such direct emergency access may be permitted only if it is not feasible to provide the emergency access to a secondary roadway. Requests for such access must include a written explanation with references to local standards from the local authority safety official. Emergency Access may not be granted to accommodate general vehicular ingress or egress. The access shall be gated and locked.

(c) Agricultural access. Agricultural access may be granted to state highways with access to category 2 through 9 designations and where, in the determination of the Department, the property has no other reasonable alternate access. Additional agricultural access to property under the same ownership or controlling interest may be granted if the necessity for such additional access due to topography or ongoing agricultural activities is demonstrated. Agricultural accesses must be kept to the minimum necessary to provide access service. Agricultural access must meet minimum access design and safety standards of this rule. A change in use of the parcel of land serviced by the agricultural access may require that the access be closed. The spacing criteria between accesses contained in this rule may be waived for agricultural access. All such agricultural accesses must meet the sight distance criteria of this rule.

(d) Access near at-grade railroad crossings. Access near an at-grade railroad crossing must not be located closer than 250 feet from the crossing. Circumstances may exist where greater spacing is required consistent with the appropriate access category spacing. See R930-5 for more information.



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(e) Shared access. Shared access of two or more parcels may be required where a proposed new access or the redesign of an existing access does not meet spacing standards and criteria for the appropriate access category. The access location shall serve as many properties and interests as possible to reduce the need for additional direct access to the state highway.

(f) Offset placement. Where proposed or redesigned access connections which are offset and not separated by a non-traversable median are to be considered, every effort must be made to align opposing driveways and streets.

(g) Challenging topography. Where existing topography or other existing conditions make the required access spacing intervals not feasible, the Department may consider topography, established property ownerships, unique physical limitations, unavoidable or pre-existing historical land use patterns, and physical design constraints with a reasonable attempt to achieve the required access spacing.

(h) Access to limited-access facilities. Under limited-access control, the following additional limitations shall apply. Where there are conflicts between the following limitations and other requirements of this rule, the more stringent requirement shall be met.

(i) The maximum feasible and economic access control must always be obtained.

(ii) On bypasses of cities and towns, all property access shall be prohibited except where the bypass is in a low population town with little or no business and where inadequate public crossroads for property access exists.

(iii) Other than on bypass roads, a maximum of five accesses per mile on each side of the highway may be granted. Accesses to property shall only be granted opposite to each other.

(iv) Where any property has access to another public road or roads, no access shall be given closer than 1/2 mile from the public road nor shall any two granted accesses be closer than 1/2 mile. However, where the proposed project involves reconstruction on or near an existing highway where a home, business or other property development is located and lack of direct access to a home, business or other property development would involve excessive property damage and added construction costs, access openings may be provided within the other stated limitations.

(4) Access design requirements.

(a) Sight distance. Access points must be located and designed to provide adequate sight distance along the state highway and the access.

(i) Access design must meet AASHTO sight distance guidelines and Department standards.

(ii) Potentially obstructing objects, including but not limited to, advertising signs, structures, trees, and bushes must be designed, placed, and maintained to meet sight distance requirements for vehicles using the access.

(iii) Modifications to the existing highway may be required for access points with less than

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the required minimum sight distance. Modifications may include, but are not limited to, changes to horizontal or vertical alignments, addition of acceleration or deceleration lanes, roadway relocation, use or creation of other general street system facilities, or other modifications as required by the Department.

(b) Access width. Access width shall be designed and constructed to properly accommodate the anticipated traffic volumes, lane geometries, and vehicle characteristics of both the access and the adjoining highway.

(i) Minimum and maximum access widths (feet):

(A) Commercial or industrial land uses:

(I) Two-way direction use: 25 feet minimum to 50 feet maximum.

(II) One-way direction use: 16 feet minimum to 30 feet maximum.

(B) Residential land uses:

(I) Two-way or one-way direction use: 16 feet minimum to 30 feet maximum.

(C) Agricultural uses:

(I) Two-way or one-way direction Use: 16 feet minimum to 32 feet maximum.

(ii) One-way approaches. The Department may treat adjacent one-way approaches (one-way in, one-way out) as one access when all of the following conditions are met:

(A) The one-way approaches are divided by a non-traversable median at least four feet wide but no more than 25 feet.

(B) Signing for the access median is clear and visible.

(iii) Future public streets. Applications for an access point intended to become a future public street access must consider long-term traffic projections, modal use, and agency standards to determine appropriate access widths.

(iv) Private openings for limited-access highways. The maximum size of private access openings shall be 16 feet for residences, 30 feet for farms or other areas where large equipment is used, and 50 feet for commercial and industrial areas

(c) Access radii. The turning radii of an access must accommodate the turning radius of the largest vehicle using the access on a regular basis.

(i) Minimum and maximum radii ranges:

(A) Commercial, industrial, or agricultural land uses:

(I) Urban areas: 30 feet minimum to 60 feet maximum.

(II) Rural areas: 20 feet minimum to 60 feet maximum.

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(B) Residential land uses:

(I) Urban areas: 10 feet minimum to 15 feet maximum.

(II) Rural areas: 20 feet minimum to 30 feet maximum.

(ii) Where possible, applicants shall reduce the access radii to improve visual and physical separation of accesses and to reduce pedestrian conflicts by reducing the total access width at the roadway edge (i.e., at the intersection). Access radii shall be no larger than required to accommodate the volume and type of vehicles using the access on a regular basis.

(iii) Curb cut style driveways are typically required where curbs are present. However, radius curb returns may be used when determined by the Department to be necessary and consistent with existing or planned conditions.

(iv) Access points intended to become a future public street access may use the design criteria of the local authority and the Department to select appropriate radii, corner and intersection design. Access designs are subject to approval by the Department.

(d) Driveway profile. Driveways must be designed to minimize slope changes to prevent dragging and must conform to Department standards, including standard drawing GW-4-series.

(e) Driveway vertical curves. Driveway vertical curves must be as flat as feasible and at least 20 feet long. To prevent dragging, the following driveway vertical curve designs are prohibited:

(i) A hump or dip greater than 6 inches within a wheelbase of 10 feet.

(ii) Crest vertical curves exceeding a 3-inch hump in a 10-foot chord.

(iii) Sag vertical curves exceeding a 2-inch depression in a 10-foot chord.

(iv) Rolled gutters crossed by traffic.

(f) Driveway angle. Driveway angles less than 80 degrees are prohibited. Whenever possible, driveways must provide a right (90-degree) driveway angle.

(i) Exceptions. For one-directional use driveways with a right-turn entry-only or a right-turn exit-only operation, driveway angles may not be less than 60 degrees. Whenever possible, these one-directional driveways must provide a right (90-degree) driveway angle.

(g) Access signing. Traffic control devices for accesses that serve the general public must conform to the current MUTCD. Stop or yield signs are required for all street intersections and driveways when warranted by traffic conditions.

(h) Emergency access. Emergency access features must be designed to accommodate emergency vehicle characteristics appropriate for the development or intended land use and in conformance with the Department driveway standards, including those defined in this rule.

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However, emergency access widths may be designed to serve one-way traffic and may be less than 16 feet wide.

(i) Emergency access surfacing must minimize its visibility while still providing sufficient strength.

(ii) Emergency access must be designed based on the standards of the local emergency services and accommodate emergency vehicles necessary to serve the site.

(iii) Emergency access must provide a suitable barrier to eliminate non-emergency use. The access must be signed for emergency services only and shall only be opened during emergencies.

(iv) The access, including but not limited to barriers and signing, shall be maintained by the permittee.

(v) Emergency access barriers shall not be placed within the state highway right-of-way.

(i) Other design elements. The Department may require other design elements or features to ensure accesses are designed and constructed in a manner that will encourage proper operations and safety. Additional design elements and features include, but are not limited to, the following:

(i) Positive barrier. The Department may require access with turn restrictions to provide positive barrier such as a non-traversable median to prevent unauthorized turns. Intersection or driveway islands that channel traffic movements may be required for turn-restricted movements when any of the following apply.

(A) No restrictive center median is in place or programmed to be constructed.

(B) When frequent violations of the turn restrictions are anticipated.

(ii) Parking and site circulation. Accesses must be designed to facilitate turning movements to and from the highway while preventing vehicle queues on the highway.

(A) Parking or storing vehicles within the state highway right-of-way is prohibited. Roadside businesses must provide sufficient private parking or storage space to handle their corresponding parking needs.

(B) No access may be granted for parking areas that require backing maneuvers within the state highway right-of-way. Circulation for parking facilities must be arranged to restrict backing onto the state highway and allow vehicles to enter and exit the site in forward drive. This requirement does not apply to residential single unit driveways.

(C) Accesses that have or are planned to have a gate across it, must be designed so the longest vehicle using the access can clear the highway when the gate is closed. For locations with prohibitive topographical features, applicants must provide a wide shoulder for temporary standing while the gate is operated.

(D) The Department may require the review of the parking lot and circulation layout and

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require designs, terms, and conditions necessary to ensure the safe use of the access.

(iii) Modal considerations. Access designs must provide for the safe and convenient movement of all highway right-of-way users and modes of transportation including but not limited to pedestrians, bicyclists, transit, and the physically challenged. Sidewalks and bike lanes or paths may be required where deemed appropriate by the Department or when required by the local authority.

(iv) Storm drainage. All new or modified accesses must make provisions for site retention, detention, or accommodation of site originating surface run off such that no flow of storm water or spill shall utilize the state highway drainage system unless by prior analysis and agreement.

(A) Applicants must construct all driveways and buffer areas to maintain a positive drainage system within the highway right-of-way and not alter the stability of the roadway sub-grade.

(B) The Department is not liable for the quality of drainage waters originating at service stations or special industrial processing plants that are directed into irrigation canals through highway drainage system. Such drainage concerns are the subject of separate agreements and permits by the developers and irrigation companies.

(v) Roadside development lighting equipment. All lighting equipment for the roadside development must be placed outside the highway right-of-way. Directing light beams toward the eyes of approaching drivers on the highway is prohibited.

(5) State highway design requirements.

(a) General. This section describes the Department requirements for highway features located within the rights-of-way of any state highway. Highway features include, but are not limited to, traffic signs and street name signs, traffic signals, traffic control equipment, highway lighting, crosswalks, curb and gutter, sidewalks, and pavements. Installation of new features within the highway right-of-way and modifications to existing highway features necessary as part of permitted work must be completed at the expense of the permittee and in accordance with plans approved by the Department. Any damage to existing highway features must be repaired or restored at the expense of the permittee and in accordance with plans approved by the Department. Any work completed within state highway right-of-way must comply with Department standards and conform to the current MUTCD.

(i) Site specific requirements. For specific sections of state highway, the Department may provide additional requirement details for access design and construction, including but not limited to, pavement thickness and specifications, curb design and specifications, roadway fill design and compaction, testing and inspection, and other specific details.

(ii) Posted speed. A proposal for access may not presume a lower posted speed limit than currently posted or request a lower speed limit in order to accommodate the access unless specifically directed in writing by the Department. Where a traffic signal will be installed as part of

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the access construction, the access design and the anticipated posted speed limit after signal installation may be used for the overall access design at the discretion of the Department.

(b) Traffic signals. The installation of permanent traffic control devices, including but not limited to traffic signals is regulated by the MUTCD and Department guidelines and standards.

(i) Nothing in this rule is intended to require the Department to authorize a traffic signal or other permanent traffic control device.

(ii) The Department may, at its discretion, complete the installation of permanent traffic control devices. The permittee shall pay for direct costs and labor provided by the Department for the installation and relocation of all traffic control devices within public right-of-way which are directly related to the use or construction of the permitted access.

(iii) Signal location, timing, and operation are not intended to serve or benefit single use or private access connections. Preference to signal location, timing and operation shall be given to highways and cross streets of a higher access category or function.

(iv) New traffic signals and modifications to existing traffic signals shall be allowed only as approved by the Department. No traffic signal may be authorized without the completion of an analysis that is sealed (stamped) by a Professional Engineer licensed in the State of Utah and meets MUTCD signal warrants and all requirements of the Department. The traffic signal analysis must consider traffic signal system operation, design, construction feasibility, and safety.

(v) For existing or proposed accesses that meet MUTCD warrants and the Department requirements for signalization, but do not meet the spacing or placement requirements of this rule, the access shall be reconstructed to conform to appropriate design criteria and eliminate or reduce the traffic movements that caused the traffic signal warrant to be met.

(vi) Where the access may warrant signalization in the future, phasing of the installation may be required.

(vii) The Department may, at its discretion in consideration of granting access, require design, and operational modifications, restrict one or more turning movements, or deny access.

(viii) Category 2 and 3. For state highways with Category 2 or 3 designations, signals at intersections with major cross streets or roads of equal importance may be programmed to optimize traffic on both streets equally. Cross-streets of lesser importance need not be optimized equally. Traffic signals must be programmed to allow a desirable highway bandwidth of at least 50 percent. The efficiency of the signal system must be analyzed utilizing traffic volume, capacity, and level of service calculations. The analysis must determine the optimum progression speed under both existing and proposed conditions.

(ix) Category 4, 5 and 6. For state highways with Category 4, 5, or 6 designations, where it is not feasible to meet one-half mile spacing and where signal progression analysis indicates good

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progression (40 percent efficiency or better), or does not degrade the existing signal progression, a full movement intersection may be allowed. In such cases, a variance and subsequent traffic study is required. Spacing to nearby intersections must be sufficient to accommodate the future vehicle storage queues for both turning and through movements. The access location must also meet other access spacing, design, and need requirements of this rule.

(c) Surface. The permittee must appropriately surface driveways and connections between the traveled way and the service area. For accesses adjoining paved highways, the permittee must pave the access surface to the right-of-way line. Pavement materials used within the state highway right-of-way shall meet Department standards and requirements.

(i) Preservation of new pavement. The Department may not issue permits to cut or excavate on newly constructed, paved, or overlaid state highways. This preservation restriction applies for a period of two years after installation of pavement or overlay. Exceptions to preservation of new pavement restrictions shall be made only in cases of emergency, and only with the approval of the appropriate Department Region Director or designee.

(d) Median treatments. A raised median or movement channelization may be required.

(i) Nothing in this rule is intended to require the Department to authorize a left turn movement at any location.

(ii) Left turn movements may not be permitted if a median is already established and the proposed opening of the median does not provide, in the determination of the Department, any significant operational or safety benefits to the general public or will be counter to the purpose of the median construction and the continued function of the highway at the category assigned to it.

(iii) A median opening may not be allowed if any of the following apply:

(A) A safety or hazard situation is likely or identified.

(B) The location is within the functional area of an existing or planned interchange, signalized intersection, or major unsignalized intersection.

(iv) Category 2 and 3. For state highways with Category 2 or 3 designations, Left turn movement may be permitted if all of the following apply:

(A) Access does not have potential for signalization.

(B) Travel is circuitous in one direction that exceeds two miles.

(C) Left turn movement can be designed to the Department's satisfaction that meets all safety, design, and operational standards.

(v) Category 4, 5, 6, 7 and 8. The following apply for state highways with Category 4, 5, 6, 7 or 8 designations:

(A) If a restrictive median exists, left turns at unsignalized intersections shall be restricted

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unless the restriction of these movements will cause a safety or operations problem or cause an out-of-direction movement of greater than one mile (or one-half mile for state highways with Category 6, 7, or 8 designations).

(B) If a flush or traversable median exists, left turns may be permitted unless an operational or safety problem is identified.

(e) Auxiliary lanes. Auxiliary lanes for state highways must conform to Department Standards, including standard drawing DD-series.

(i) Auxiliary lanes may be required where any of the following apply:

(A) An auxiliary lane has been specifically identified and documented necessary to prevent or correct an operational or safety condition that will be associated with traffic imposed by the creation of a new access or an existing access.

(B) Any of the following apply for an access to an access category 2 or 3 highway:

(I) A left turn lane with deceleration, storage, and taper lengths is required for any access with a projected peak hour left turn ingress turning volume greater than 5 vehicles per hour.

(II) A right turn lane with deceleration and taper lengths is required for any access with a projected peak hour right turn ingress turning volume greater than 10 vehicles per hour.

(III) A right turn lane with acceleration and taper lengths is required for any access with a projected peak hour right turning volume greater than 10 vehicles per hour.

(IV) A left turn acceleration lane may be required if such a design will be a benefit to the safety and operation of the roadway.

(V) Left turn acceleration lanes are generally not required where the posted speed is less than 50 mph, the intersection is signalized, or the acceleration lane would interfere with the left turn ingress movements to any other access.

(C) The following applies for an access to an access category 3 highway:

(I) Left turn acceleration lanes are generally not required where the posted speed is less than 45 mph, the intersection is signalized, or the acceleration lane would interfere with the left turn ingress movements to any other access.

(D) The following apply for an access to an access category 4 or 5 highway:

(I) A left turn deceleration lane with taper and storage length is required for any access with a projected peak hour left ingress turning volume greater than 10 vehicles per hour. The taper length must be included in the required deceleration length.

(II) A right turn deceleration lane and taper length is required for any access with a projected peak hour right ingress turning volume greater than 25 vehicles per hour. The taper length



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must be included in the required deceleration length.

(III) A right turn acceleration lane and taper length is required for any access with a projected peak hour right turning volume greater than 50 vehicles per hour when the posted speed on the highway is greater than 40 mph. The taper length must be included in the required acceleration length. A right turn acceleration lane may also be required at a signalized intersection if a free-right turn is needed to maintain an appropriate level of service for the intersection.

(IV) Right turn deceleration and acceleration lanes are generally not required on roadways with three or more travel lanes in the direction of the right turn.

(V) A left turn acceleration lane may be required if it will be a benefit to the safety and operation of the roadway.

(VI) A left turn acceleration lane is generally not required where the posted speed is less than 45 mph, the intersection is signalized, or the acceleration lane would interfere with the left turn ingress movements to any other access.

(E) Any of the following apply for an access to an access category 6, 7, 8, or 9 highway

(I) A left turn lane with storage length plus taper is required for any access with a projected peak hour left ingress turning volume greater than 25 vehicles per hour. If the posted speed is greater than 40 mph, a deceleration lane and taper is required for any access with a projected peak hour left ingress turning volume greater than 10 vehicles per hour. The taper length must be included in the deceleration length.

(II) A right turn lane with storage length plus taper is required for any access with a projected peak hour right ingress turning volume greater than 50 vehicles per hour. If the posted speed is greater than 40 mph, a right turn deceleration lane and taper is required for any access with a projected peak hour right ingress turning volume greater than 25 vehicles per hour. The taper length must be included in the deceleration length.

(F) The following apply for an access to an access category 10 highway:

(I) Exclusive turning lanes are required for all intersections. At a minimum all street accesses must provide an exclusive right turn lane with a minimum length of 250 feet, exclusive of tapers. Longer storage lengths may be necessary based on traffic analysis. Left turn lane dimensions to be defined through traffic analysis. Taper and deceleration lengths to meet current Department standards for posted speeds.

(ii) For specifically identified and documented safety and operation reasons, a turn acceleration or deceleration lane may also be required based on any of the following location factors:

(A) Volume of commercial trucks.

(B) Influence of nearby access.

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- (C) Highway speed and traffic density access volume.
- (D) Existing highway auxiliary lanes close to the access.
- (E) Nearby traffic control devices.
- (F) Available stopping sight distance.
- (G) Topographic and highway design factors.

(iii) For access locations with high percentage of truck use, the Department may require corresponding auxiliary lanes be built to full length and width and the transition taper length extend beyond the full length.

### **R930-6-8. Access Application Procedures and Requirements.**

#### (1) General.

(a) Current standards. Applicant must use the most recent editions of engineering and state standards and best practices, including but not limited to those cited in this rule.

(b) Compliance responsibility. It is the responsibility of the applicant to demonstrate the application meets the requirements of this rule. Requirements for grant of access refer to the applicant's responsibility to obtain a grant of access approval from the Department before being granted access to a state highway.

(c) Approvals and environmental compliance. Applicants must comply with all Federal, State, and local authority approvals and laws, including environmental laws before the Department can grant a permit.

(d) Site plan. A site plan approval by a local authority does not entitle the applicant to access a state highway. Grant of access from the Department does not imply endorsement or approval of the submitted site plan.

(e) Multiple accesses. A grant of access application may cover multiple access connections serving a site.

(f) Review periods. Failure of the Department to comply with the review periods defined in this rule shall not preclude the Department from approving or denying any application.

(g) Encroachment permit. Grant of access approval does not allow the applicant to construct the access. An encroachment permit must be obtained prior to any construction in the state highway right-of-way.

(h) Movement restrictions. A grant of access does not guarantee a right of full movement access. The Department may, at its own discretion, require access movements to be restricted.

#### (2) Conditions requiring grant of access.

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(a) Access changes. A grant of access is required whenever a new driveway, other curb cut, or local street connection is sought on a state highway. This applies to proposals to construct a new vehicular access, modify or relocate an existing access, or to close an access on the state highway right-of-way.

(b) Change in land use type and intensity. A grant of access is required when there is a change in land use or a change in the land use intensity of an existing access.

(i) Change of land use. A change in land use includes any land use change that requires a change in zoning, site plan, or conditional use approval by the local authority.

(ii) Change of intensity of land use. A change of intensity of land use is considered to have occurred when an existing land use intensifies as described below. The applicant must use current ITE Trip Generation procedures or other Department accepted methodology to identify this change. A level of change requiring a grant of access is a trip generation that exceeds 100 peak hour trips or 500 daily trips or a change in trip generation of 20% or greater relative to existing conditions. If the property is vacant for more than twelve months, the trip generation for that property is considered zero. A grant of access is also required if trip generation change causes a change in the Access Application Level.

(c) Modification or improvement by local authorities. A grant of access is required for new or modified public access to the state highway (such as county roads and municipal streets).

(i) Access to subdivisions and other developments must be processed in the same manner as a private access and applied for pursuant to this rule, until the access is constructed, completed, and accepted as a public access and public way by the local authority.

(ii) The local authority shall be considered the applicant for requests submitted by local authorities for a new or modified public access. A private development may not apply for a private driveway with the local jurisdiction as the applicant.

(iii) Where a private development accessing the roadway of a local authority necessitates access improvements and where the private access shall become and operate as a local roadway connecting to a state highway, the applicant may either be the local jurisdiction, the developer, or a combination, at the discretion of the local authority. The corresponding application must identify the intended connection on the local jurisdiction transportation master plan

(iv) Appropriate requests submitted by local authorities shall be administered by the Department by one of the following:

(A) As provided in this rule for any applicant (including non-public applicants);

(B) By special written agreement; or

(C) By contract between the Department and the local authority.

(d) Transfer of Additional Right-of-Way and Improvements. The increased intensity of

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traffic associated with a proposed access may require the transferring of new state highway real property and highway improvements to handle the traffic associated with the proposed development. The Department may require the applicant to transfer real property, improvements and highway appurtenances when an essential link exists between a legitimate governmental interest and the transfer of the mitigation requirements and the mitigation requirements are roughly proportionate to the impact of the proposed development. In some instances where the transfer of real property is not feasible, the Department may require the applicant to pay for the mitigation of the development impacts to the highway. Additional right-of-way necessary for the state highway improvements, including but not limited to, travel lanes, turn lanes, and auxiliary lanes, are to be conveyed without cost to the Department by dedication or by a warranty deed in a form acceptable to the Department. The Department may accept a perpetual easement for facilities or improvements located outside of the highway right-of-way. If the applicant transfers the property by warranty deed, all rights, title and interests are conveyed to the Department. The applicant shall provide a title policy for the real property to be transferred to the Department. The title policy shall only contain exceptions approved by the Department. If the property is being dedicated through a plat, the property shall not have any encumbrances that are not approved by the Department. The Department may refuse to accept the transfer of real property if the property has unacceptable encumbrances, contains hazardous substances or other conditions of the property. The real property must be in compliance with all applicable state and federal statutes, regulations and rules.

(e) Temporary grant of access. A temporary grant of access is required for any temporary driveway or connection to a state highway. A temporary driveway or connection may be granted to accommodate actions associated with site construction or development. The term of the temporary grant of access shall be noted on the permit.

### (3) Pre-application coordination.

(a) Department primary contact. The Region permits officer or other designated employee of the Department shall be the primary contact for the applicant. Direct inquires regarding an application or review must be directed to this person.

(b) Local agency coordination. To apply for a grant of access, it is recommended that applicants work closely with the local authority's land use approval division and the appropriate Department Region permitting office.

(c) Pre-application meeting. Prior to submitting an application, applicant must contact the appropriate Department Region permitting office to schedule a pre-application meeting. A pre-application meeting provides Department personnel and local authorities an early opportunity to examine the feasibility of the access proposal with the applicant and to consider whether it is permissible under the Department's standards, the requirements of this rule and requirements of locally adopted access plans. The applicant is advised to consult with the Department during the pre-application meeting to determine the appropriate access category, access application level,

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traffic impact study requirements, and other application requirements. An application may be submitted anytime after the pre-application meeting.

(i) Meeting is not binding. The pre-application meeting is not binding to the Department or the applicant. Information presented and findings generated during the pre-application meeting may be documented and confirmed in a written notification. However, any pre-application written notification or communication from the Department shall not be considered binding.

(ii) Number of meetings. For typical access applications, one pre-application meeting shall be provided in regards to a specific access application. A second pre-application meeting may be allowed at the Department's discretion to address complex access situations, or to include other affected jurisdictional partners. Additional meetings shall not be held until after the application has been submitted and the appropriate fee has been rendered.

### (4) Application requirements.

(a) State highway access category. The applicant must identify and note the appropriate access category assignment for the application. Upon submittal of the application, the Department shall verify the access category assignment. The Department shall make the final determination on the appropriate access category assignment.

(b) Access type. The applicant must note on the application the type of access requested. Access types are defined based on the applicant's property land use and include agricultural, residential, industrial or commercial accesses.

(c) Connection service type. The applicant must note on the application the type of physical connection requested. The connection may serve either a private or public street or private or public driveway connection.

(d) Limited-access and no-access lines. The Applicant must identify any Limited-Access and No-Access lines adjoining the property. The Department makes final determination whether an established line of Limited-Access or No-Access exist in the area in which access is sought.

(e) Permit type. The applicant must identify the type of access permit requested for the site. Permit types include grant of access, temporary grant of access, and encroachment. Procedures and requirements for the encroachment permit are included in Subsection R930-6-8(8) of this rule. The application process for a grant of access and temporary grant of access are the same. A temporary grant of access may be requested alone or in conjunction with a grant of access for a site.

(f) Access application level. The applicant must identify the level of application required for the site. The level of application required is based on the size and magnitude of the project being proposed by the applicant. The application levels define specific threshold elements related to required applicant site plan elements, permitting process, permitting schedule, applicant fees, traffic impact study requirements, and other permit related issues. The applicant must declare all property within the application area to which they hold interest, including, but not limited to, property to be

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developed. The application levels are based on anticipated changes to state highway facilities and site-generated traffic volumes for daily (ADT) or peak hour time periods. Higher application levels are required when the construction of the proposed access would require significant modifications to elements of a state highway. The Department reserves the right to determine at its own discretion which modifications are considered minor or significant. Generally, the Department will consider modifications to traffic signals, pedestrian ramps, and sidewalks to be minor modifications. For convenience, application level thresholds are also presented in terms of standalone land use intensity. Land use intensities are based on published ITE Trip Generation rates. The Department may require the applicant to provide more precise trip generation estimates to determine the appropriate access application level for mixed land use or complex developments.

(i) Application level I thresholds. Applicant shall meet the requirements of application level I if the projected site generated traffic is less than 100 ADT and there are no proposed modifications to traffic signals or elements of the roadway. Stand alone land use intensities corresponding to application level I site generated traffic thresholds include the following:

- (A) Single Family: < 10 units.
- (B) Apartment: < 15 units.
- (C) Lodging: < 11 occupied rooms.
- (D) General Office: < 9,000 square feet.
- (E) Retail: < 2,500 square feet.

(ii) Application level II thresholds. Applicant shall meet the requirements of application level II if the projected site generated traffic between 100 and 3,000 ADT or less than 500 peak hour vehicle trips and there are minor modifications to traffic signals or elements of the roadway. Standalone land use intensities corresponding to application level II site generated traffic thresholds include the following:

- (A) Single Family: 10 to 315 units.
- (B) Apartment: 15 to 450 units.
- (C) Lodging: 11 to 330 occupied rooms.
- (D) General Office: 9,000 to 270,000 square feet.
- (E) Retail: 2,500 to 70,000 square feet.
- (F) Gas Station: < 18 fueling positions.
- (G) Fast Food: < 6, 000 square feet.
- (H) Restaurant: < 26,000 square feet.

(iii) Application level III thresholds. Applicant shall meet the requirements of application

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level III if the projected site generated traffic between 3,000 and 10,000 ADT or between 500 to 1,200 peak hour vehicle trips or there is a proposed installation or, in the determination of the Department, significant modification of one or more traffic signals or elements of the roadway, regardless of project size. Standalone land use intensities corresponding to application level III site generated traffic thresholds include the following:

- (A) Single Family: 316 to 1,000 units.
- (B) Apartment: 451 to 1,500 units.
- (C) Lodging: 331 to 1,100 occupied rooms.
- (D) General Office: 270,001 to 900,000square feet.
- (E) Retail: 70,001 to 230,000 square feet.
- (F) Fast Food: 6,000 to 20, 000 square feet.

(iv) Application level IV thresholds. Applicant shall meet the requirements of application level IV if the projected site generated traffic greater than 10,000 ADT or there is a proposed installation or, in the determination of the Department, significant modification of two or more traffic signals, addition of travel lanes to the state highway or proposed modification of freeway interchange, regardless of project size. Standalone land use intensities corresponding to application level IV site generated traffic thresholds include the following:

- (A) Single Family: > 1,000 units.
- (B) Apartment: > 1,500 units.
- (C) Lodging: > 1,100 occupied rooms.
- (D) General Office: > 900,000square feet.
- (E) Retail: > 230,000 square feet.

(g) Reasonable alternate access. The applicant shall identify any and all reasonable alternate access for the subject site.

(i) Determination of reasonable access. Reasonable local access shall be determined in consultation with the appropriate local authority and as defined in this rule.

(ii) Limited-access and no-access lines. When applications are made for properties adjoining a state highway with a limited-access or no-access line, reasonable alternate access shall be afforded through the use of other existing or planned facilities in consultation with the appropriate local authorities and their transportation master plan.

(h) Traffic impact study (TIS). The applicant is responsible for performance and delivery of an acceptable traffic impact study. The TIS shall be completed by an individual or entity demonstrating capability to analyze and report mobility, traffic engineering elements, and design

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elements as necessary for the application study area and site design.

(i) Conditions requiring a TIS. A TIS is required for all grant of access applications. A TIS is required for modifications to existing state highway traffic control equipment. A TIS may also be required for encroachment permit applications. For access application levels I and II, the Department may, at its own discretion, waive requirements for a TIS. Applicants wishing to waive the requirement for a TIS must submit a written request, including justification for waiving the requirement for a TIS. Requirements for a TIS for access application levels III and IV shall not be waived.

(ii) Purpose of the TIS. The purpose of the TIS is to identify system and immediate area impacts associated with the proposed connection(s). A traffic study is necessary to identify, review, and make recommendations for mitigation of the potential impacts a development may have on the roadway system.

(iii) Study area of the TIS. The TIS must include any proposed or existing access or connection within an area identified by the Department. Determination of the extent of the TIS study area is at the discretion of the Department. The study area may be defined by, but not limited to, an identified safety problem, accident review, congested locations, or as a result of a change in land use or access in accordance with an application. The study area may also be defined by the size and intensity of the development and surrounding development and by a travel time boundary, area of influence, parcel boundaries, physical boundaries, or political boundaries.

(iv) Scope of the TIS. The TIS must, at a minimum, incorporate traffic engineering principles and the standards as presented in this rule. Additional requirements and investigation not specifically identified in this rule may be imposed upon the applicant as necessary. In general, the TIS scope must achieve the following:

(A) Present project overview of the proposed development including information such as site location and proposed access point(s), phased and full development trip generation, connection point design elements, adjacent and relevant development, existing and future traffic volumes, assessment of the system impacts, and mitigation measures as appropriate.

(B) Document whether or not the access request can meet the standards and requirements of this rule and other applicable regulations.

(C) Analyze appropriate location, spacing, and design of the access connection(s) necessary to mitigate the traffic.

(D) Analyze operational impacts on the highway and permissible under the highway's assigned access category and in accordance with applicable requirements and standards of this rule.

(E) Recommend the need for any improvements to the adjacent and nearby roadway system to maintain a satisfactory level of service and safety and to protect the function of the highway system while providing appropriate and necessary access to the proposed development.



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(F) Assure that the internal traffic circulation of the proposed development is designed to provide safe and efficient access to and from the adjacent and nearby roadway system consistent with the purpose of this rule.

(G) Analyze and recommend the means for land uses to minimize their external transportation costs to the traveling public through traffic improvements necessitated by that development as well as making the fullest use of alternative travel modes.

### (5) Application submittal.

(a) Application and attachments. Applicants must submit to the appropriate Department Region permitting office, the complete application including any required attachments reasonably necessary to review and assess the application and complete the application review process. Required attachments may include detailed site plans, maps, traffic studies, surveys, deeds, agreements, documents, and other data to demonstrate compliance with this rule. Maps and site plans to be submitted may include, but are not limited to utilities in the vicinity of the access and utilities to be moved. The Department shall determine the scope of the attachments necessary for application submission based on the identified access application level.

(b) Site or development overview. Applications must provide a description of the site/development including site plan and overview materials such as preliminary maps, plans, and documents to illustrate the site, the size and type of proposed land use, estimated traffic volumes, vehicle types generated by the site, adjacent public roads and highways, adjacent properties, and any existing or available access points. The application must include all the information and materials requested at the pre-application meeting.

(c) Document ownership. All submitted applications become the property of the Department. The Department may not request items without relevance to the approval or denial of the application. If the applicant is other than the fee surface rights owner of the property to be served, the applicant shall include sufficient evidence of concurrence or knowledge in the application by the fee surface rights owner and proof of development rights (i.e. option to buy, federal use permit). The applicant shall give complete names, addresses, and telephone numbers of the property owner(s), the applicant(s), and primary contact person, on the application along with the expected dates of construction and commencement of use of the access.

(d) Corporate or agency applicant. When the owner or applicant is a company, corporation, government agency or other entity, the application must provide the office, title, and the name of the responsible officer. A corporation must be licensed to do business in the State of Utah.

(e) Misrepresentation. Intentional misrepresentation of existing or future conditions or of information requested for the application for the purposes of getting a more favorable determination is sufficient grounds for the rejection or denial of the application or revocation of a granted access and encroachment permit.

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(f) Application fees. A fee shall be assessed for the review and assessment of the grant of access and temporary grant of access application.

(i) The Department shall establish and collect a reasonable schedule of fees for the review and administration of grants of access and construction permits pursuant to this rule. The permit fee schedule shall not exceed the cost of the review and administration of the application. The appropriate application fees may be found in the Department schedule of fees.

(ii) The application review may not proceed until payment has been received by the Department. The application shall not be considered submitted until payment has been received.

(6) Application review and approval.

(a) Completeness review. The Department shall review the application to verify that the required information has been submitted. If the Department determines an application to be incomplete, the applicant shall be notified in writing including by, but not limited to, email notification. The notice shall include any outstanding items, issues, or concerns given the available information. Upon receipt of the Department's letter requesting more information, the applicant shall provide additional data and information as appropriate, or withdraw the application. The applicant is required to submit the necessary information as determined by the Department to complete the application within six months from the date the application was submitted. Otherwise the application is considered withdrawn.

(b) Completeness review period. The typical completeness review period is ten working days. This review period begins when the applicant submits a completed application packet with all required components for approval and has rendered the appropriate nonrefundable application fee. Once additional requested information is submitted, or resubmitted, by the applicant the ten-day completeness review period starts over.

(c) Application review. The Department shall begin processing the application when the application has been identified as complete. The Department shall use this rule and any other applicable state and federal laws, policies, or guidelines to evaluate and act on the application. If during the review of the application it is found that additional information for review is necessary, the Department shall address in writing to the applicant the need for additional information. Written notification may include, but not be limited to, email notification. The application review period may be lengthened or begin again when the applicant submits significant additional information.

(d) Signatures. When this rule or related official forms require the signature of the permittee(s) or applicant, the signatures shall be that of the specific individual or if a corporation or partnership or other entity, the duly authorized officer or agent of the corporation or partnership or other entity. The applicant shall include the name of the corporation, partnership, or entity with the signature.

(e) Application review period. The typical application review period is forty-five working

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days.

(f) Action by the Department. As determined by the standards of this rule, the Department may grant the access as proposed, require layout, design and location modifications as it considers appropriate, restrict one or more turning movements as necessary to reduce traffic and safety impacts, or deny the access.

(i) The application shall be denied if the proposed access cannot meet the requirements or standards of this rule including consideration of appropriate variance criteria or other applicable laws. If the Department denies the application, the Department shall provide a written explanation of the decision.

(ii) Upon access approval, the Department shall prepare a grant of access document and transmit it to the applicant.

(iii) The issue date of the grant of access shall be the date the Department representative signed the grant of access.

(g) Grant of access expiration. A grant of access shall expire if the access construction is not completed within twelve months of the permit issue date or before the expiration of any authorized extension. When the permittee is unable to complete construction within twelve months after the permit issue date, the permittee may request a six-month extension from the Department. No more than one six-month extension may be granted under any circumstances. The applicant must submit request for an extension in writing to the Department before the permit expires. The request shall state why the extension is necessary, when construction is anticipated, and include a copy the grant of access approval. Extension approvals shall be in writing and may include, but not be limited to, email documentation. To reestablish an access approval that has expired, the applicant shall begin the application procedures again. The Department shall maintain a copy of the grant of access issued for as long as the granted access is in existence pursuant to the grant of access.

(7) Additional requirements for limited control lines.

(a) Applicable procedures and standards. The following procedures and standards apply to requests for modification of a Limited Access or No Access line.

(i) No-access lines. A modification of a no-access line is only allowed to create a general or local street connection as proposed by the local authority where no other reasonable alternate access to abutting property can be provided.

(ii) Limited-access lines. Only in cases where, in the determination of the Department, significant public benefit is expected may new access openings be granted through established Limited-Access lines. A request for a new or modified access opening shall be submitted by the property owner or local authority in writing to the Department and must clearly identify the proposed public benefit resulting from for the access opening.

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(iii) If there are other justifications for the access opening that are not solely for the public's benefit, the applicant shall identify those justifications and any public interests served by those justifications.

(iv) Upon review of the application, the Department, in its sole discretion, shall determine whether there is a sufficient public benefit to justify allowing the proposed new or modified access opening.

(b) Extended review period. While most requests for a new access opening may be reviewed within 45 days, additional review time may be needed. There is no fixed amount of time that the Department may take to review a request to create or modify an access opening. Complex or incomplete requests may take longer than 45 days to review and approve or deny.

(c) Corridor agreements. Requests to modify a limited-access line may require the applicant to produce or provide analysis for a signal control plan or access corridor control plan. Requests to modify a no-access Line must include a signal control plan agreement or access corridor control plan agreement.

(i) If no such agreement exists, the applicant must complete an analysis that the Department may use to create or modify a signal control plan or access corridor control plan.

(ii) The Department, local authorities and, if one exists, the Metropolitan Planning Organization, must ratify signal control plan and access corridor control agreements.

(iii) Signal control plans and access corridor control plans must be consistent with the local authority's transportation master plan. Such plans must also conform to the Metropolitan Planning Organization's plans and designs.

(d) Approval or denial decision. Upon recommendation of Department staff, the Department Deputy Director or designee shall approve or deny the grant of access request for changes to limited-access lines or no-access lines and send notice of the decision to the applicant. FHWA review is required for federal-aid roads based on the Stewardship and Oversight Agreement between FHWA and the Department, even if the right-of-way was nonparticipating.

(e) Fees and reimbursements. The Department considers access control rights an asset that is purchased and can be sold. Any approved changes to limited-access or no-access lines requires reimbursement to the Department of its fair market value. If the access opening is approved and is to serve private property, the property owner shall pay the Department for property appreciation, resulting from the Department's relinquishment of the access. The appreciation of the private property involved shall be determined by an independent licensed appraiser as listed within the Department's certified pool of approved appraisers. The property appraisal must show the property valuation before the access is created or modified (the before condition) and after the access is created or modified (the after condition). The difference in the appraised property valuation in the before condition, when compared with the appraised property valuation in the after condition,

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determines the current fair market value for the access, which shall be the price of the access. Because appraised access valuation costs are a major consideration for any development-related initiative, it is considered a best practice for the applicant to obtain the appraisal at the beginning of the grant of access application process. Upon approval to modify a limited-access line or no-access line, the applicant must pay the fair market value of the access right acquired from the Department. The property owner shall also pay all costs for construction of gates, approaches and any other incidental construction costs involved.

(f) Recorded deed. The applicant shall execute and record the grant of access on the appropriate property deed indicating the access opening. The applicant shall revise all maps and plans. This procedure applies to roads constructed with federal-aid funds, which will remain on a federal-aid system and be transferred to local authorities.

(g) Review considerations. Department and, if applicable, FHWA staff shall investigate safety and other operational features and impacts of the request review and comment on the following:

(i) Finding or demonstration of no reasonable alternate access and,

(ii) Providing the access connection to a local street system or an identified local street system on which:

(A) The opening is identified on the local master street plan,

(B) The opening provides continuity to other local streets,

(C) The opening provides reasonable alternate access via the local system,

(D) If the opening creates or exists as a dead-end, it is for a local and not private connection.

(iii) Identifying the access on an agreed local signal control or access corridor control plan on which:

(A) The opening provides continuity to other local streets,

(B) The opening provides reasonable alternate access via the local system, and

(C) If the opening creates or exists as a dead-end, it is for a local and not private connection.

(h) Revision of access openings. If a property owner desires to change the location, use or size of an access opening, after execution of the deed, a new application must be submitted to the Department giving the location of the desired change and its justification. Changes shall comply with the standards and requirements of this rule.

(i) The Department shall evaluate the application to determine if the change in location, use or size will cause any adverse safety or other traffic operational effects and submit a report with recommendations to the Deputy Director.

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(ii) If the change is approved by the Deputy Director and by FHWA for federal-aid roads, new deeds shall be prepared and executed and all maps corrected.

(iii) The property owner shall pay for all costs involved in closing or modifying an existing access opening.

(iv) Requests for modification of access control shall be forwarded with recommendations to the Department by the local authority.

(8) Encroachment permit requirements.

(a) General. No work on the state highway right-of-way may begin until an approved encroachment permit is issued by the Department and the permittee is authorized in writing to proceed. Written authorization may include, but not be limited to, email.

(i) Prior to any construction, the applicant must receive approval for an encroachment permit (related to the grant of access approval) with appropriate traffic control, construction plans, bonds, and insurance requirements. The applicant must attach a copy of the grant of access document to the encroachment permit application.

(ii) In addition to procedures and requirements defined herein, all of the application procedures defined for grant of access application within this rule, including review periods, apply to applications for an encroachment permit.

(iii) All construction materials, techniques, and processes shall be in conformance with the terms, conditions, and limitations of the permit and consistent with Department requirements and standard specifications.

(b) Permit fees. A fee shall be assessed for approved encroachment permits. The Department may not authorize the permittee to begin work on the state highway until the permit fee is paid.

(c) Notice of construction and work completion time-frames. The permittee shall notify the Department at least two working days prior to any construction within state highway right-of-way. The permittee shall execute access construction in an expeditious and safe manner. Access construction must be completed within ninety days from initiation of construction within the highway right-of-way.

(d) Phased construction of access. Upon request, the phasing of the installation of access design requirements may be allowed if the average use of the access at any time does not exceed the constructed design and the Department or local authority is provided monetary or legal guarantees that access approval terms, conditions and limitations shall be met prior to any use of the access exceeding the existing design of the access.

(i) The following items may be used to provide the monetary or legal guarantees referenced above:

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- (A) Posting a bond.
- (B) Irrevocable letter of credit.
- (C) Certificates of deposit.
- (D) Inclusion in zoning ordinance.
- (E) Inclusion in subdivision plats or land use permit requirements.
- (F) Inclusion in the deeds to the properties involved.
- (G) Any other techniques as approved and accepted by the Department.
- (ii) All such arrangements shall be included as terms and conditions of the permit.
- (iii) The local authority and Department may record notices in the county records of such agreements to inform future property owners of potential liabilities and responsibilities.
- (iv) If the project is to be phased over time, the schedule, location and other details of each phase must be provided as part of the application for an encroachment permit.
- (e) Traffic control. The permittee shall provide appropriate construction traffic control devices at all times during access construction in conformance with the MUTCD and Department standard drawings for traffic control.
  - (i) The applicant shall provide traffic control plans detailing the location, duration, design, use, and traffic controls of the access.
  - (ii) Construction may not commence until the traffic control plan has been approved by the Department.
  - (iii) Traffic control plans must be sealed (stamped) by a Professional Engineer licensed in the State of Utah or, when determined appropriate by the Department, a certified Traffic Control Supervisor.
  - (iv) Traffic control plans must conform to the current MUTCD and Department requirements and standards, including Department Traffic Control Standards and Specifications.
  - (v) Traffic control plans must address the following:
    - (A) Construction phasing.
    - (B) Lane/shoulder closures.
    - (C) Tapers and device spacing.
    - (D) Sign boards, arrow boards, and variable message signs.
    - (E) Temporary modifications to traffic signals.
    - (F) Time restrictions and work schedule.

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(G) Lane shifts.

(H) Flagging operations.

(vi) Traffic control plans may be revised as necessary with Department concurrence.

(vii) The Department may establish a fee schedule to charge an hourly fee or daily fees for the closure of any travel lanes necessary for the construction of a private access. The purpose of the fee is to encourage the quick completion of all work that reduces highway capacity and safety or interferes with the through movement of traffic.

(f) Professional evaluation. For any permit involving changes to state highways or structures, the Department may require the permittee to hire a Professional Engineer licensed in the State of Utah to inspect the access and state highway and structures carefully and to affirm to the best of their knowledge and belief that the construction is in compliance with the permit, Department specifications, materials construction monitoring and testing, and to report any item that may not be in compliance or cannot be determined to be in compliance and the nature and scope of the item relative to compliance. The Department may require testing of materials at the permittee's expense. When so required by the Department or as specified on the permit, test results must be provided to the Department.

(g) Construction operations. Installation of highway and access elements must be in compliance with all Department requirements for grant of access and encroachment permits, the Department standard drawings and the state or local health ordinance specifications for culverts, catch basins, drainage channels, and other drainage structures.

(i) Applicant must ensure adequate sight distance for traffic operation and comply with the requirements of the Department approved traffic control plans during all construction operations.

(ii) Applicant must provide proper drainage, suitable slopes for maintenance operations, and good appearance during construction operations.

(iii) Trees, shrubs, ground cover, or other landscape features may need to be removed, replaced, or suitably adjusted.

(iv) Applicant must free the construction buffer area, as defined by Department traffic control standards from any encroachment that will hinder traffic. Applicant must grade or landscape the buffer area between driveways to prevent use by vehicles while protecting clear sight across the area.

(9) Withdrawn applications.

(a) No payment. A permit shall be deemed withdrawn if the Department has not received the signed copy of the permit or fee payment, if any, from the applicant within forty-five days of the date of approval transmittal.

(b) Non-responsive applicant. The application shall be deemed withdrawn if the applicant



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fails to provide requested documents, plan alterations, or similar application components as required by the Department within sixty days of such a request. The clock for a non-responsive applicant starts anytime the Department provides the applicant a written request for additional information, plan alterations, or other application components deemed necessary to effect further review of the application. Written requests for additional information may include, but are not limited to, email. Prior to deeming a nonresponsive application withdrawn, the Department shall make a minimum of three direct contact attempts in approximately two week intervals to advise an applicant that their access approval is in jeopardy of being terminated. Contact attempts may be made in person, via email, written letter, or phone call.

- (c) Resubmission. Once an application is deemed withdrawn, the applicant must:
  - (i) Submit a new application.
  - (ii) Include a complete re-submittal of the current plans and studies.
  - (iii) Pay a new application fee.

### **R930-6-9. Variances and Appeals.**

#### (1) General.

(a) This section describes procedures and requirements for applicants to request a variance from the standards and requirements of this rule. This section also describes the procedures to appeal the Department's decision to deny a grant of access or encroachment permit request.

(b) Variations from provisions of this rule may be allowed if they do not violate state and federal statutes, laws, or regulations and the Department has determined there is no reasonable alternate access and the access and use of the state highway right-of-way will not compromise the safety and operation of the of the state highway.

#### (2) Variance requests.

(a) Application submittal. A variance may be considered for any design standard of this rule that is not applicable or feasible given the proposed physical and operational characteristics of the site. Applicants seeking a variance from the standards and requirements of this rule must submit a thoroughly detailed variance request as an attachment to the grant of access or encroachment permit application. The Department may allow a request for a variance as a supplement to a previously submitted application if the Department determines that it is in the public interest to do so.

(i) General requirements. The applicant is responsible to demonstrate that the variance request meets minimum acceptable engineering, operation, and safety standards is not detrimental to the public health, welfare, and safety and is reasonably necessary for the convenience and welfare of the public.

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(A) The request for a variance must specify, in writing, why the variance is appropriate and necessary. The request must include documentation of conditions with and without the variance and documentation showing that the applicant has considered all practical mitigation alternatives and demonstrate that better alternatives in terms of highway operations are not feasible or do not exist. A variance from the spacing standards shall not be considered unless the subject property and proposed access points cannot achieve the minimum spacing standards under the appropriate access category and no other reasonable alternate access can be afforded the site.

(B) The applicant must show that the variance request results from the application of the standards or requirements of this rule and is not self-created or self-imposed (such as by the applicant acting with or without knowledge of the applicable standard or requirement).

(ii) Existing non-conforming access. Non-conforming modifications to an existing highway access that is either in use or can demonstrate historical use and does not comply with the provisions of this rule, may be allowed when the applicant demonstrates to the Department that the proposed access point(s) modifications will improve the operation and safety of the highway. Consolidation of access points is considered to benefit the highway operations and is encouraged. Where there are multiple accesses serving a site, the Department shall consider a 50 percent reduction (rounded up for odd numbers) to demonstrate an improvement to operations of the highway.

(iii) Limited-access and no-access facilities. Variance requests to modify a limited-access line or no-access line shall include detailed reports of appraisals, costs and justification for the variance. A request to modify a limited-access line or no-access line shall be treated as a request for variance. The Department may consider variances from the provisions of this rule for limited-access facilities when a careful appraisal reveals extensive damage, or if needed frontage roads would involve excessive right-of-way costs or construction costs.

(b) Department review considerations. The Department shall not grant variances that, in the Department's determination, pose hazards to public mobility, health, safety, and welfare. The Department shall not grant variances for procedural requirements. The Department shall review the variance request for consistency with the purposes of this rule. The Department shall consider the following specific factors in determining that the granting of a variance will not negatively impact the current and proposed operation of the highway:

(i) The applicant has considered all other feasible alternatives to provide reasonable alternate access to the property or development and can demonstrate that better alternatives in terms of highway operations are not feasible or do not exist.

(ii) The applicant has considered access through a shared use driveway or access point with an adjacent land use and such a shared use access is not feasible.

(iii) The applicant is providing on-site or off-site traffic improvements that might offset the negative impacts of granting an access that does not meet the provisions of this rule.

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(iv) The applicant has considered and demonstrated trip reduction strategies that allow the access to properly function without creating a negative impact to the highway.

(v) The applicant has provided traffic engineering or other studies to determine that the access will not degrade the efficient flow of traffic on the highway in terms of safety, capacity, travel speed, and other functional features of the highway.

(c) Department review period. The review periods defined within this rule for grant of access applications shall apply to request for variance applications.

(d) Department documentation. The Department shall include in its files documentation of reasons for approving or denying a variance request.

(e) Limitations and conditions of variance approval. An approved grant of access or encroachment permit may stipulate conditions and terms for the expiration of the permit when the necessity for the variance no longer exists. It may also require the permittee to improve, modify, eliminate, or correct the condition responsible for the variance when it is evident that the justification for the variance is no longer valid. Such stipulations and requirements shall be stated in the approved permit.

### (3) Appeals.

(a) Applicant appeal rights. The applicant may appeal the Department's decision only if the Department has denied a grant of access, encroachment permit or variance request. Any appeal of Department action must comply with this rule, R907-1, and Utah Code Title 63G Chapter 4, Administrative Procedures Act. The Assistant Attorney General shall assist the Department Region Director during the hearing and drafting of the final order.

## **R930-6-10. Conditions of Right-of-Way Use.**

### (1) General.

(a) This section describes conditions that apply to all connections, encroachments, and uses of the state highway right-of-way. The conditions and requirements of this section are in addition to other conditions, limitations, and requirements of this rule and the grant of access and encroachment permit.

### (2) Right-of-way encroachment requirements.

(a) Prohibited right-of-way uses. The state highway right-of-way shall not to be used for servicing vehicles or equipment, displays, sales, exhibits, business overhang signs, parking areas, banners, or any other form of advertising, or conducting of private business.

(b) Buildings and structures. The placement of buildings or structures of any type within state highway rights-of-way is not allowed unless authorized by a permit obtained from the

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Department.

(c) Advertising. Private advertising or business endeavors on federally funded or other state highway rights-of-way are prohibited.

(i) No part of the state highway right-of-way may be used for servicing vehicles or equipment, displays, sales, exhibits, business overhang signs, parking areas, banners, or any other form of private advertising or to conduct private business.

(ii) Special advertisement may be allowed within the state highway right-of-way if it will not compromise traffic flow or safety and will be in the public interest. A permitted encroachment to occupy the right-of-way for such advertising may be issued, for a time not to exceed one week. All such special advertisement shall not conflict with any provisions of Utah's Outdoor Advertising Act.

(d) Mailboxes. Installation of new mailboxes must be approved by the appropriate Department Region Director or an authorized representative. All new mailboxes placed within a state highway right-of-way must be constructed in conformance with Department standard drawings GW-7 and GW-8. Existing mailboxes located within the state highway right-of-way must be maintained or corrected to conform to the Department standards. Owners of mailboxes deemed nonconforming shall be notified in writing by the Department Region Director or an authorized representative. Within thirty days of receipt of notice, the owner must, at its own expense, reconstruct the mailbox or otherwise correct any deficiencies to conform to current safety standards and regulations of the Department. The Department may contact the postmaster and stop delivery of mail until compliance is achieved. Mailboxes may be deemed nonconforming for the following:

(i) Mailboxes that constitute a traffic hazard are considered nonconforming.

(ii) Mailboxes and supports that are in poor repair and detract from the appearance of the highway may be considered nonconforming.

(iii) Any part of a mailbox that is over 50 inches high is considered nonconforming

(iv) Any part of a mailbox that is located within the shoulder is considered nonconforming.

(v) Mailbox supports that exceed any of the following criteria are considered nonconforming:

(A) Wood support with over 16 square inches cross-sectional area.

(B) Metal support with greatest dimension over 3.5 inches.

(C) Metal pipe support of over 2 inches in diameter.

(D) Other metal supports deemed to be a hazard by the appropriate Department Region Director or an authorized representative.

(e) Special limitations. All encroachments on state highway, including permits issued for

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special encroachment, are subject to the following conditions and limitations:

(i) Red or reddish colored lights. Red or reddish colored decorations or advertising lights are not permitted within the right-of-way.

(ii) Clearance over highway surface. Any decoration, display, flag, banner, colored light, handbill, structure or other advertising or decoration item placed within the right-of-way must have a minimum clearance of 20 feet.

(iii) Utility poles. Attach no decorations, displays, flags, banners, colored lights, handbills, structures or other advertising or decoration items may be attached to a utility facility without written permission of the appropriate entity or owner.

(iv) Highway control obstructions. No decoration, display, flag, banner, colored light, handbill, structure or other advertising or decoration item may block the normal view of any official highway sign or other traffic control device and signals.

(v) Shapes similar to highway control devices. No decoration, display, flag, banner, colored light, handbill, structure or other advertising or decoration item may be of such shape, size, color or design similar to any Department traffic control sign, signal, marking or device.

(vi) Attachments to traffic signals. No attachments of any type may be allowed on traffic signals.

(vii) Sight obstructions. No decoration, display, flag, banner, colored light, handbill, structure or other advertising or decoration item may obstruct the normal view of traffic nor may obstruct, impede or endanger the normal flow of traffic. In accordance with Utah Code Section 41-6a-216 "Removal of plants or other obstructions impairing view, Notice to owner - Penalty," owners of real property next to state highway rights-of-way shall be ordered to remove any trees, plants, shrubs, or any other obstructions that obstruct the view of motorists and thereby constitute a hazard.

(3) Department changes to existing access.

(a) The Department may, when necessary for the improved safety and operation of the roadway, rebuild, modify, remove, or relocate any access or redesign the highway including any auxiliary lane and allowable turning movement.

(i) The Department shall notify the permittee or current property owner of the change.

(ii) Changes in roadway median design that may affect turning movements normally does not require a hearing because a grant of access approval confers no private rights to the permittee regarding the control of highway design or traffic operation even when that design affects access turning movements.

(iii) In order to eliminate public road access, a study shall be made in conjunction with local authorities for a feasibility of dead ending or rerouting of intersecting roads.

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### (4) Permittee requirements and limitations.

(a) Grant of access limitations. The granting of an access approval conveys no rights, title, or interest in state highway rights-of-way to the permittee or property served. A grant of access for direct access to a state highway does not entitle the permittee to control or have any rights or interests in any portion of the design, specifications or operation of the highway or roadway, including those portions of the highway built pursuant to the terms, conditions and limitations of the grant of access.

(b) Completion requirements. Prior to using the access, the permittee is required to complete the construction according to the terms, conditions and limitations of the grant of access and encroachment permit. Department approval is required if the permittee wishes to use the access prior to completion.

(c) Access transferability and maintenance. The permittee, his or her heirs, successors-in-interest, assigns, and occupants of the property serviced by the access is responsible for meeting the terms, conditions and limitations of the permit, including, but not limited to the following maintenance requirements:

(i) Ensuring that the use of the access to the property is not in violation of this rule and terms, conditions and limitations of the permit.

(ii) Repairing and maintaining the access beyond the edge of the roadway, including any cattle guard and gate.

(iii) Removing or clearing snow or ice upon the access, including snow or ice deposited on the access in the course of Department snow removal operations.

(iv) Repairing and replacing any access-related features within the right-of-way, including culverts. Any significant repairs, such as culvert replacement, resurfacing, or changes in design or specifications requires authorization from the Department.

(d) Notification of changes. The permittee shall contact the Department if changes are made or will be made in the use of the property which would affect access operation, traffic volume, or vehicle type to determine if a new grant of access and or modifications to the access approval are required.

(e) Indemnification requirements. Permittees shall, at all times, indemnify and hold harmless the Department, its employees and the State of Utah from responsibility for any damage or liability arising from their construction, maintenance, repair, operation, or use of an access or other facility.

(f) Insurance, bonding and letter of credit requirements. The permittee is responsible for the maintenance of the construction performed within the state highway right-of-way for a period of three years from the date of beginning work or two years from the end of work, whichever provides

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the longer period of coverage.

(i) Insurance. Permittee is required to have in force a liability insurance policy, naming the Department as an additional insured in the minimum amount of \$1,000,000.00 per occurrence and \$2,000,000.00 in aggregate. Failure to meet this requirement for the life of the permit shall result in permit revocation.

(ii) Bonding. As authorized by Utah Code Subsection 72-7-102(3)(b)(i) this rule requires encroachment permit applicants to post a performance and warranty or maintenance bond, using the Department's approved bond form, for a period of three years from the date of beginning of work or two years from the end of work, whichever provides the longer period of coverage. A performance and warranty bond is required for each individual encroachment permit. Political subdivisions of the state are not required to post a bond unless the political subdivision fails to meet the terms, conditions and limitations of previous permits issued as determined by the Department. The amount of the bond is determined by the Department Region Permits Officer based on the scope of work being performed but will not be less than \$10,000.00.

(iii) Proceeds Against Bond. The Department may proceed against the bond to recover all expenses incurred if payment is not received from the permittee within forty-five calendar days of receiving an invoice. Upon discovery of permittee caused damage to the highway or to the right of way, the Department may opt to exercise its bonding rights in recovering costs incurred to restore the highway or right of way due to permittee caused damages. Failure by the permittee to maintain a valid bond in the amounts required shall be cause for denying issuance of future permits and for the closure of the access to from the state highway right of way.

(iv) Letter of credit. For small projects, the Department may accept an irrevocable letter of credit as reasonable security in lieu of bonding. A letter of credit shall be issued by a federally insured bank authorized to do business in Utah and shall be placed in the possession of and payable upon demand only to the Department. A letter of credit shall be irrevocable during its terms and shall be automatically renewable, or the applicant shall insure continuous coverage by replacing letters of credit, if necessary, at least thirty days before their expiration date with other acceptable bond types or letters of credit.

### (5) Existing interests.

(a) Historical interest. The Department recognizes that pre-existing property interests within the state highway rights-of-way may exist. Proof of a pre-existing property interest within a public right-of-way must be provided to the Department in the form of a duly executed deed, grant or other document establishing the same are required to establish prior right or title of the entity or person. In the absence of such proof, it shall be assumed that the entity or person occupies the right-of-way under permit (i.e., by permission), and enjoys no vested interest in the state highway right-of-way. In those instances when the Department requires an entity or person with a pre-existing property interest to move completely or partially off the right-of-way, the Department shall make

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appropriate remuneration for the relinquishment of that interest.

(i) The adoption of this rule by the Department does not constitute an acceptance or recognition of pre-existing property interests.

(ii) The Department assumes no liability associated with these interests and uses; either for the safety to users or the traveling public, damage to property, or for the continued use thereof.

(b) Parcel division. No additional access rights may accrue upon the splitting or dividing of existing parcels of land or contiguous parcels under or previously under the same ownership or controlling interest.

(c) Permittee improvement of existing access. The property owner or authorized representative served by a lawful access may make physical improvements to the access per the requirements of this rule and only with the written permission of the Department. Denial of the application for improvements does not constitute revocation of the existing access authorization. Denial of an application to enlarge, relocate, or modify an existing lawful access, in no way impairs the permit for or right to the existing access for its legal historical use.

### **R930-6-11. Enforcement.**

#### (1) Access violations enforcement.

(a) The Department may install barriers across or remove any access that it determines to be unlawful. Costs incurred by the Department to install barriers or remove access must be reimbursed by the permittee before the access is restored.

(b) When an access is constructed or used in violation of this rule, the Department may suspend an access approval and immediately order closure of the access. Costs incurred by the Department in closing an access shall be reimbursed by the permittee.

(c) When an access is constructed without prior grant of access, the Department may impose a fine or fee. The Department may order immediate closure of the access. The offender shall reimburse costs incurred by the Department in closing an access.

(d) Upon detection of unauthorized modifications to limited-access lines, the Department shall contact the property owner and require the owner to restore the state highway right-of-way, including, but not limited to, any damaged fences.

(e) Highways with limited-access control may be marked by the Department with public property plates on fences at sufficient intervals to clearly indicate to maintenance personnel the limits of access control.

#### (2) Permit violations enforcement.

(a) Abuse or noncompliance of a grant of access or encroachment permit shall be subject to



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enforcement through fine and corrective measures.

(b) Failure by the permittee to abide by all permit terms, conditions and limitations is sufficient cause for the Department to initiate action to suspend or revoke the permit and close the access. The Department may suspend the permit for cause if it determines failure to comply with or complete the construction requirements of the permit create a highway safety hazard. The Department may order a halt to any unauthorized use of the access pursuant to statutory and regulatory powers. Reconstruction or improvement of the access may be required when the permittee has failed to meet required specifications of design or materials.

(c) Failure of the permittee to pay the Department for costs related to the Department's installation or relocation of traffic control devices within a reasonable period may be considered grounds for permit suspension that may lead to revocation and access removal.

**KEY: access control, permits**

**Date of Enactment or Last Substantive Amendment: March 9, 2013**

**Notice of Continuation: November 2, 2016**

**Authorizing, and Implemented or Interpreted Law: 41-6a-216; 41-6a-1701; 72-1-102(11); 72-1-201; 72-3-109; 72-4-102.5; 72-6-117; 72-7-102; 72-7-103; 72-7-104; 72-7-105; 72-7-503**

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### **R930. Transportation, Preconstruction.**

#### **R930-7. Utility Accommodation.**

##### **R930-7-1. Purpose.**

- (1) The purpose of this rule is to:
  - (a) maximize public safety;
  - (b) provide for efficient highway operations and maintenance of roadways;
  - (c) maximize aesthetic quality;
  - (d) minimize future conflicts between the highway system and utility companies serving the general public; and
  - (e) ensure that use and occupancy by utility companies do not impair or increase the cost of future highway construction, expansion, or maintenance or interfere with any right of way reserved for these purposes.
- (2) This rule prescribes conditions under which utility facilities may be accommodated on right of way and sets forth the state's regulations covering the placement and relocation of utility facilities in conflict with the construction and maintenance of highways. General installation requirements, general and definitive design requirements, and utility construction and inspection requirements apply to indirect and private facilities within the right of way. Within UDOT's sole discretion, indirect and private facilities may be allowed on UDOT's right-of-way by lease.
- (3) This rule should be interpreted to achieve maximum lawful public use of right of way for transportation purposes and to ensure that utility installations and operations affecting state right of way are accomplished in accordance with state and federal laws and regulations. It is in the public interest for utility facilities to be accommodated within rights of way when the accommodation does not adversely affect the integrity of highway features or occupy space within the right-of-way that conflicts with transportation purposes or future use of the highway. The permitted use and occupancy of right of way for non-highway purposes is subordinate to the primary and highest interest for transportation and safety of the traveling public. Utility facilities may be required to relocate outside of the right of way to accommodate UDOT's projects.
- (4) This rule is provided to facilitate the establishment of consistent expectations and effective working relationships between UDOT and utility companies through continuous communication, coordination and, cooperation.
- (5) Through the Code of Federal Regulations (23 CFR, Part 645.215(a)), the U.S. Department of Transportation requires each state to submit a statement to the Federal Highway Administration (FHWA) on the authority of utility companies to use and occupy the right of way of state highways, the state highway agency's power to regulate the use, and the policies the state employs or proposes to employ for accommodating utilities within the right of way of Federal-aid

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highways under its jurisdiction. This rule demonstrates compliance to FHWA.

### **R930-7-2. Authority and Source Documents.**

This rule is enacted under the authority of Section 72-6-116(2), wherein UDOT is authorized and given the responsibility to regulate and make rules for the installation, construction, maintenance, repair, renewal, system upgrade, and relocation of utility facilities within state administered highways, including ordering their relocation as may become necessary.

(1) Utah Code provides for the accommodation of utility facilities within the right of way and provides UDOT the authority to promulgate rules and regulations for administering those provisions. Accordingly, this rule has been developed pursuant to the following state and federal laws, codes, regulations, policies:

(a) Utah Code, Title 54, Public Utilities, Section 54-3-29;

(b) American Association of State Highway and Transportation Officials (AASHTO) publications, A Guide for Accommodating Utilities within Highway Right of Way and A Policy on the Accommodation of Utilities within Freeway Right of Way; and

(c) AASHTO publications, Roadside Design Guide and A Policy on Geometric -Design of Highways and Streets.

(2) This rule incorporates by reference 23 CFR Section 645, Subpart B, (November 22, 2000).

(3) UDOT has secured the authority from FHWA to issue permits for the use or occupancy of the right of way by utility facilities on Federal-aid highways. The use of Federal-aid highway right of way by utilities shall be in accordance with 23 CFR 645.215.

### **R930-7-3. Definitions.**

(1) "Abandoned facility" is a utility facility that is not in use, no longer actively providing a service and is physically disconnected from the operating facility that is still in use and still actively providing a service. Abandoned facilities remain the property of the utility company.

(2) "Access control" is the regulation of public access to and from properties abutting the highway facilities. The two basic types of access control are:

(a) "No access (NA)" means access to through-traffic lanes is not allowed except at interchanges. Crossings at grade and direct driveway connections are prohibited.

(b) "Limited access (LA)" means access to selected public roads may be provided. There may be some crossings at grade and some private driveway connections.

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(3) "Administrative citation" is a letter from UDOT to a utility company citing one or more non-compliance items and proper redress requirements such as action on the appropriate bond, revocation of permit, and revocation of a license agreement.

(4) "AASHTO" is the American Association of State Highway and Transportation Officials.

(5) "Backfill" means the replacement of soil removed during construction. It may also denote material placed over or around structures and utilities.

(6) "Bedding" means the composition and shaping of soil or other suitable material to support a pipe, conduit, casing, or utility tunnel.

(7) "Boring" means the operation by which carriers or casings are pushed or jacked under highways without disturbing the highway structure or prism. Bores are carved progressively ahead of the leading edge of the advancing pipe as soil is mucked back through the pipe.

(8) "Carrier" means a pipe directly enclosing a transmitted fluid (liquid, gas, or slurry).

(9) "Casing" is a larger pipe, conduit, or duct enclosing a carrier.

(10) "Clear Zone" means the total roadside border area, starting at the edge of the traveled way, available for safe use by errant vehicles. This area may consist of a shoulder, a recoverable slope, a non-recoverable slope, and a clear run-out area. The desired width is dependent upon traffic volumes, speeds, and roadside geometry.

(11) "Coating" is material applied to or wrapped around a pipe.

(12) "Conduit" is an enclosed tubular casing for the protection of wires and cables.

(13) "Depth of bury (cover)" means the depth from ground or roadway surface to top of pipe, conduit, casing, cable, utility tunnel, or similar facility.

(14) "Deviation" means a granted permission to depart from the standards and requirements of this rule.

(15) "Emergency work" is utility company work required to prevent loss of life or significant damage to property.

(16) "Encasement" is a structural element surrounding a carrier or casing.

(17) "Encroachment" means the unauthorized use of highway right of way.

(18) "Encroachment permit" is a document that specifies the requirements and conditions for performing work on the highway right of way.

(19) "Environmentally protected areas" are areas that include, but are not limited to, wetlands, flood plains, stream channels, rivers, threatened or endangered species, archaeological sites, and historic sites.

(20) "Expressway" is a divided arterial highway for through traffic with partial control of

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access and generally with grade separations at major intersections.

(21) "Federal-aid highways" are highways eligible to receive Federal-aid.

(22) "FHWA" is the Federal Highway Administration.

(23) "Flexible carrier pipe" is a plastic, fiberglass, or metallic pipe having a large diameter to wall thickness ratio and which can be deformed without undue stress.

(24) "Flowable fill" is low strength flowable concrete as defined in UDOT Standard Specification 03575.

(25) "Freeway" is an expressway with full control of access.

(26) "Frontage road" is a local street or road auxiliary to and located on the side of an arterial highway for service to abutting property and adjacent areas and for control of access.

(27) "Grade" is the rate or percent of change in slope, either ascending or descending, measured along the centerline of a roadway or access.

(28) "Grounded" means electrically connected to earth or to some extended conducting body that serves instead of the earth, whether the connection is intentional or accidental.

(29) "Grout" is a cement mortar or slurry of fine sand or clay.

(30) "Highway, street, or road" are general terms denoting a public way for the transportation of people, materials, and goods, but primarily for vehicular travel, including the entire area within the right of way.

(31) "Horizontal directional drilling" (HDD), also known as directional boring and directional drilling, is a method of installing underground pipes and conduits from the surface along a prescribed bore path. The process is used for installing telecommunications and power cable conduits, water lines, sewer lines, gas lines, oil lines, product pipelines, and casings used for environmental remediation. It is used for crossing waterways, roadways, congested areas, environmentally protected areas, and any area where other methods are not feasible.

(32) "Indirect facilities" are facilities owned by a utility company or entity that does not directly serve the public and the facilities provide services to or are rented to other utility companies.

(33) "Interstate highway system" (Interstate) is the Dwight D. Eisenhower National System of Interstate and Defense Highways as defined in the Federal-aid Highway Act of 1956 and any supplemental acts or amendments.

(34) "License Agreement or Statewide Utility License Agreement" is a document by which UDOT licenses the use and occupancy, with conditions, of highway rights of way for utility facilities.

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(35) "Manhole" or "utility access hole" is an opening in an underground system that workers or others may enter for the purpose of making installations, removals, inspections, repairs, connections, and tests.

(36) "Median" is the portion of a divided highway separating the traveled ways for traffic in opposite directions.

(37) "MUTCD (Utah MUTCD)" means the current version of Utah Manual on Uniform Traffic Control Devices referenced in R920-1.

(38) "Pavement structure" is the combination of sub-base, base course, and surface course placed on a sub-grade to support the traffic load.

(39) "Permit" means encroachment permit.

(40) "Pipe" is a tubular product made as a production item for the transmission of liquid or gaseous substances. Cylinders formed from plate material in the fabrication of auxiliary equipment are not pipe as defined here.

(41) "Pipeline" is a continuous carrier used primarily for the transportation of liquids, gases, or solids from one point to another using either gravity or pressure flow.

(42) "Plowing" means the direct burial of utility lines by means of a mechanism that breaks the ground, places the utility line, and closes the break in the ground in a single operation.

(43) "Practicable" means reasonably capable of being accomplished or feasible as determined by UDOT.

(44) "Relocate" means the adjustment of utility facilities when found by UDOT to be necessary for construction or maintenance of a highway. It includes removing and reinstalling the facility, including necessary temporary facilities, acquiring the necessary right-of-way on the new location, moving, rearranging or changing the type of existing facilities and taking any necessary safety and protective measures. It also means constructing a replacement facility that is both functionally equivalent to the existing facility and necessary for continuous operation of the utility service, the project economy, or sequence of highway construction.

(45) "Right of way" is a general term denoting land, property, or interest therein, usually in a strip acquired for or devoted to transportation purposes.

(46) "Roadside" is a general term denoting the area between the outer edge of the roadway shoulder and the right of way limits.

(47) "Roadway" is the portion of a highway, including shoulders, for vehicular use. A divided highway has two or more roadways.

(48) "Slope" is the relative steepness of the terrain expressed as a ratio or percentage. Slopes may be categorized as positive or negative and as parallel or cross slopes in relation to the

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direction of traffic.

(49) "State highways" are those highways designated as State Highways in Title 72, Chapter 4, Designation of State Highways.

(50) "Structure" means any device used to convey vehicles, pedestrians, animals, waterways or other materials over highways, streams, canyons, or other obstacles. It also includes buildings, signs, and UDOT facilities with foundations.

(51) "Subsurface Utility Engineering (SUE)" is the management of certain risks associated with utility mapping at appropriate quality levels, utility coordination, utility relocation, communication of utility data, utility relocation cost estimates, implementation of utility accommodation policies, and utility design. SUE tools include traditional records, site surveys, and new technologies such as surface geophysical methods and non-destructive vacuum excavation, to provide quality levels of information. The SUE process for collecting and depicting information on existing subsurface Utility Facilities is described in ASCE Standard 38-02, Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data.

(52) "Trenched" means installed in a narrow open excavation.

(53) "Trenchless (Untrenched)" means installed without breaking the ground or pavement surface by a construction method such as directional drilling, boring, tunneling, jacking, or auguring.

(54) "UDOT" is the Utah Department of Transportation and where referenced to be contacted, submitted to, approved by, accepted by or otherwise engaged, means an authorized representative.

(55) "Utility" or "utility facility" means privately, publicly, cooperatively, or municipally owned pipelines, facilities, or systems for producing, transmitting, or distributing communications, power, electricity, light, heat, gas, oil, petroleum products, cable television, water, sewer, steam, waste, storm water not connected with highway drainage, and other similar commodities, which directly service the public.

(56) "Utility appurtenances" include but are not limited to pedestals, manholes, vents, drains, rigid markers, meter pits, sprinkler pits, valve pits, and regulator pits.

(57) "Utility company" is a privately, cooperatively, or publicly owned utility, including utilities owned by political subdivisions, and where referenced includes authorized representatives, contractors, and agents.

(58) "Vent" is an appurtenance designed to discharge gaseous contaminants from a casing.

### **R930-7-4. Scope.**

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(1) This rule supersedes portions of Manual of Accommodation of Utility Facilities and the Control and Protection of State Highway Rights of Way including Section 5 and portions relating to utility accommodation or that refer to utilities in the right of way or percent of reimbursement, which are part of R930-6 at the time of enactment of this rule.

(2) Regulations, laws, or orders of public authority or industry code prescribing a higher degree of protection or construction than provided by this rule shall govern.

### **R930-7-5. Application.**

(1) This rule applies to privately, cooperatively, and publicly owned utility companies, including utility companies owned by political subdivisions, and shall include telecommunication, gas, oil, petroleum, electricity, cable television, water, sewer, data and video transmission lines, drainage and irrigation systems, and other similar utilities to be located, accommodated, adjusted or relocated within, on, along, across, over, through, or under the highway right of way. This rule does not apply to utility facilities that are required for UDOT highway purposes. This rule applies to underground, surface, or overhead facilities, either singularly or in combination, including bridge attachments.

(2) This rule applies to Federal-aid highway projects including local government projects. In compliance with 23 CFR 645.209(g) local governments are required to enter into formal agreements with UDOT that provide for a degree of protection to the highway at least equal to the protection provided by this rule.

### **R930-7-6. General Installation Requirements.**

(1) General.

(a) Utility companies with facilities directly serving the public desiring to use right of way under the jurisdiction of UDOT for the installation or maintenance of any utility facility must be licensed to do so by entering into a Statewide Utility License Agreement with UDOT. This License Agreement sets forth the procedures and conditions for the issuance of encroachment permits for all installations statewide. Encroachment permits are not issued without a License Agreement first being executed. UDOT may impose additional restrictions or requirements for License Agreements or encroachment permits.

(b) A permitted facility shall, if necessary, be modified by the utility company to improve safety or facilitate alteration or maintenance of the right of way as determined by UDOT.

(c) Companies or entities that do not provide direct utility service to the public are prohibited from installing or constructing longitudinal facilities or site towers or poles within the right-of-way by permit. UDOT will not issue any permits for this type of facilities.



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### (2) License Agreements or Statewide Utility License Agreements.

(a) Agreements are executed by UDOT and utility companies to set forth the terms and conditions for the accommodation and maintenance of utility facilities within the right of way. A License Agreement is required for, but does not guarantee the approval of encroachment permits.

(b) As part of executing a License Agreement with UDOT, owners of facilities located in the right of way are required to post a continuous bond in the amount of \$100,000, naming UDOT as the insured, to guarantee satisfactory performance. The Statewide Utilities Engineer may approve a lesser amount.

(c) A public utility is exempt from the bond requirements described in this section if the public utility:

(i) is a member of the municipal insurance pool;

(ii) is a political subdivision; or

(iii) at UDOT's option carries liability insurance with minimum coverage of \$1,000,000 per occurrence and as more specifically described in its License Agreement.

(d) Upon discovery of utility caused damage to the highway or to the right of way, UDOT may opt to exercise its bonding rights in recovering costs incurred to restore the highway or right of way. The utility company is liable for all restoration costs incurred as a result of damages caused by its utility, and its liability is not limited to the amount of the bond.

(e) License agreements may be terminated at any time by either party upon 30 days advance written notice to the other. Permits previously issued and approved under a terminated agreement are not affected and remain in effect on the same terms and conditions set forth in the agreement and permits. The obligation to maintain the \$100,000 bond continues until the utility company's facilities are removed from UDOT's right of way.

### (3) Emergency Work.

(a) In all emergency work situations, the utility company or its representative shall contact UDOT immediately and on the first business day shall contact UDOT to complete a formal permit. Failure to contact UDOT for an emergency work situation and obtain an encroachment permit within the stated time period is considered to be a violation of the terms and conditions of the utility company's license agreement. At the discretion of the utility company, emergency work may be performed by a bonded contractor, public agency, or a utility company. None of the provisions of this rule are waived for emergency work except for the requirement of a prior permit.

### (4) One Call Requirements.

(a) Underground facilities are not permitted within the right of way unless the utility company subscribes to Blue Stakes of Utah and other appropriate "call-before-you-dig" systems, or otherwise provides utility plans as detailed in Section R930-7-11(6)(a) of this rule.

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### (5) Preservation of New Pavement.

(a) Cuts or open excavations on newly constructed, paved, or overlaid highways are not allowed for two years. If an emergency cut or excavation occurs, the responsible utility company shall comply with any special conditions imposed by UDOT regarding restoration of the roadway.

### (6) Encroachment Permits.

#### (a) Encroachment Permits on State Highways.

Utility companies shall obtain an encroachment permit from UDOT for the installation and maintenance of utility facilities on the right of way. Encroachment permits are approved or disapproved by UDOT. Applications for encroachment permits are submitted to the Region Permits Officers by the utility company or its contractor. No utility company or utility company contractor shall begin any utility work on the right of way until an approved encroachment permit is issued by UDOT and the utility company is authorized to proceed in writing. Prior to the issuance of encroachment permits, fees are assessed to cover related costs incurred by UDOT including costs for planning, coordination, and utility plan review.

If the utility company expects work to significantly impact travel lane capacity, UDOT recommends the utility company contact the appropriate Region Permit Office to discuss concepts in advance of submitting an encroachment permit application.

Utility companies shall submit two sets of plans depicting the proposed installation. The plans shall be sized as required by UDOT and include utility company identification, work location, utility type and size, type of construction, vertical and horizontal location of facilities relative to the centerline of road, location of all appurtenances, trench details, right of way limits, and traffic control plans. Traffic control plans shall conform to the Utah MUTCD as outlined in Section R930-7-7(1)(d), are mandatory for each instance of utility construction or maintenance, and shall be attached to each permit application.

Utility companies may authorize their contractors to obtain permits on their behalf. All terms and conditions set forth in the License Agreement apply. The utility company's construction forces or the utility contractor shall carry a copy of the approved permit at all times while working on the right of way.

#### (b) Bonding and Liability Insurance Requirements.

(i) Individual (one-time use) Encroachment Permit Bonding Requirements. As authorized by Sub-section 72-7-102(3)(b)(i) this rule requires encroachment permit applicants to post a Performance and Warranty Bond, using UDOT's approved bond form, for a period of three years from the date of beginning of work or two years from the end of work, whichever provides the longer period of coverage. A separate Performance and Warranty Bond is required for each individual encroachment permit. Political subdivisions of the state are not required to post a bond unless the political subdivision fails to meet the terms and conditions of previous permits issued as

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determined by UDOT. The amount of the bond is determined by the UDOT Region Permits Officer based on the scope of work being performed but will not be less than \$10,000.

(ii) Statewide (multiple use) Encroachment Permit Bonding Option. In lieu of posting multiple individual one-time use bonds, encroachment permit applicants who routinely acquire encroachment permits may elect to post a statewide performance and warranty bond, using UDOT's approved bond form. A statewide bond satisfies bonding requirements for work in all UDOT Regions. The bond amount is determined by UDOT but will not be less than \$100,000. This bond is in addition to the bond for the License Agreement.

(iii) Inspection Bond. UDOT may require an additional inspection bond to ensure payment for UDOT field review and inspection costs before an encroachment permit is granted.

(iv) Proceeds Against the Bond. UDOT may proceed against the bond to recover all expenses incurred if payment is not received from the permit applicant within 45 calendar days of receiving an invoice. Upon discovery of utility caused damage to the highway or to the right of way, UDOT may opt to exercise its bonding rights in recovering costs incurred to restore the highway or right of way due to utility caused damages. Failure by the utility company to maintain a valid bond in the amounts required shall be cause for denying issuance of future permits and for the removal of the utility from the right of way.

(v) Liability Insurance Requirements. Permit applicants are also required to provide a certificate of liability insurance in the minimum amounts of \$1,000,000 per occurrence and \$2,000,000 in aggregate. Failure to meet this requirement will result in application denial. Liability insurance coverage is required throughout the life of the permit and cancellation will result in permit revocation.

(vi) Information about bond forms and liability insurance requirements are available on UDOT's website at: <http://www.udot.utah.gov/go/encroachmentpermit>

(c) Assignment of Permits. Permits shall not be assigned without the prior written consent of UDOT. All assignees shall be required to execute a License Agreement.

(d) Indemnification. Permit holders performing utility work on the right of way shall, at all times, indemnify and hold harmless UDOT, its employees, and the State of Utah from responsibility for any damage or liability arising from their construction, maintenance, repair, or any other related operation during the work or as a result of the work. Permit holders shall also be responsible for the completion, restoration, and maintenance of any excavation for a period of three years unless UDOT requires a longer period of indemnification due to specific or unique circumstances.

(e) Cancellation of Permits and Termination of License Agreement. The following situations will cause the cancellation of permits and/or termination of the License Agreement:

(i) A utility company's failure to maintain a valid bond in the amount required;

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(ii) A utility company's failure to comply with the terms and conditions of the License Agreement;

(iii) A utility company's failure to comply with the requirements of the encroachment permit; and

(iv) A utility company's failure to pay any sum of money for costs incurred by UDOT in association with installation or construction review, inspection, reconstruction, repair, or maintenance of the utility facilities.

When the permit is canceled, UDOT also may remove the facilities and restore the highway and right of way at the sole expense of the utility company. Prior to any cancellation, UDOT shall notify the utility company in writing, setting forth the violations, and will provide the utility company a reasonable time to correct the violations to the satisfaction of UDOT. UDOT may also not issue any further permits to utility companies that do not comply with this rule, permit requirements, or the License Agreement.

### **R930-7-7. General Design Requirements.**

(1) General.

(a) Joint use of state right of way may impact both the highway and the utility. Each utility company requesting the use of right of way for the accommodation of its facilities is responsible for the proper planning, engineering, design, construction, and maintenance of proposed installations. The utility company shall coordinate with UDOT and develop its projects to meet design standards and to optimize safety, cost effectiveness, and efficiency of operations for both the utility company and the state. Utility companies are directed to the following AASHTO publications for assistance:

(i) Roadside Design Guide;

(ii) A Policy on Geometric Design of Highways and Streets;

(iii) A Guide for Accommodating Utilities within Highway Right of Way; and

(iv) A Policy on the Accommodation of Utilities within Freeway Right of Way.

(b) The utility company is responsible for the design, construction, and maintenance of its facilities installed within the right of way. All elements of these facilities including materials used, installation methods, and locations shall be subject to review and approval by UDOT.

(c) Plans, Drawings and Specifications. The utility company shall provide UDOT with comprehensive plans, drawings and specifications as may be required for all proposed utility facilities within the right of way. Utility plan submittals shall contain physical features of the utility site including, but not limited to the following:

(i) highway route number;

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- (ii) highway mile post locations;
- (iii) map with route and site location;
- (iv) existing features such as manholes, structures, drainage facilities, other utilities, access controlled and right of way lines, center line of highway relative to the utility facility location, and relevant vertical information;
- (v) plan and drawing scales; and
- (vi) legend including definition of symbols used.

The plans, drawings, and specifications shall also contain administrative information, identification and type of materials to be used, relevant information on adjacent land classification and ownership, related permits and approvals if required, and identification of the responsible Engineer of Record.

(d) Traffic Control Plans. The utility company shall provide traffic control plans (TCP) that conform to the current Utah MUTCD and UDOT Traffic Control Standards and Specification.

(e) The utility company is responsible to ensure compliance with industry codes and standards, the conditions and special provisions specified in the permit, and applicable laws, rules and regulations of the State of Utah and the Code of Federal Regulations.

(f) All utility facility installations located in, on, along, across, over, through, or under the surface of the right of way, including attachments to highway structures, are the responsibility of the utility company and, as a minimum, shall meet the following utility industry and governmental requirements.

(i) Electric power and communications facilities shall conform to the current applicable National Electric Safety Code.

(ii) Water, sewage and other effluent lines shall conform to the requirements of the American Public Works Association or the American Water Works Association.

(iii) Pressure pipelines shall conform to the current applicable sections of the standard code of pressure piping of the American National Standards Institute, 49 CFR 192, 193 and 195, and applicable industry codes.

(iv) Liquid petroleum pipelines shall conform to the current applicable recommended practice of the American Petroleum Institute for pipeline crossings under railroads and highways.

(v) Any pipelines carrying hazardous materials shall conform to the rules and regulations of the U.S. Department of Transportation governing the transmission of the materials.

(vi) Telecommunications with longitudinal installations within Interstate, Freeway and other Access Controlled Highway right of way shall conform to R907-64.

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### (2) Subsurface Utility Engineering.

(a) The use of Subsurface Utility Engineering (SUE) shall be required as an integral part of the design for new utility facility installations on the right of way when determined by UDOT to be warranted.

### **R930-7-8. Definitive Design Requirements.**

#### (1) Location Requirements.

(a) Longitudinal Installations. The type of utility construction, vertical clearances, lateral location of poles and down guys, and related ground mounted utility facilities along roadways are factors of major importance in preserving a safe traffic environment, the appearance of the highway, and the efficiency and economy of highway construction and maintenance. Longitudinal utility facilities shall be located on a uniform alignment and as close to the right of way line as practicable. The joint use of pole lines is acceptable and encouraged; however, all installations shall be located so that all servicing may be performed with minimal traffic interference. The following additional requirements apply to longitudinal installations.

(i) Utility facilities shall be located so as to minimize the need for future utility relocations due to highway improvements, avoid risks to the highway, and not adversely impact environmentally protected areas.

(ii) The location of utility installations along urban streets with closely abutting structures such as buildings and signs generally requires special considerations. These considerations shall be resolved in a manner consistent with the prevailing limitations and as approved by UDOT.

(iii) The location of utility facilities and associated appurtenances shall be in accordance with the Americans with Disabilities Act.

(iv) The horizontal location of utility facilities and appurtenances within the right of way shall conform to the current edition of the AASHTO Roadside Design Guide.

(v) Adequate warning devices, barricades, and protective devices must be used to prevent traffic hazards. Where circumstances necessitate the excavation closer to the edge of pavement than established above, concrete barriers or other UDOT approved devices shall be installed for protection of traffic in accordance with UDOT Traffic Control Standards and UDOT's Supplemental Drawings.

(vi) There are greater restrictions on the accommodation of utility facilities within interstate, freeway, and other access controlled highway right of way. See Section R930-7-10 for details.

#### (b) Overhead Installations.

(i) Minimal vertical clearances for installed overhead lines are 18 feet for crossings and

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longitudinal installations, and 23 feet for intersections. In addition, the vertical clearance for overhead lines above the highway and the vertical and lateral clearance from bridges and above ground UDOT facilities shall meet or exceed the current edition of the National Electrical Safety Code. Where overhead lines cross UDOT above ground facilities, including but not limited to signs, traffic signal heads, poles, and mast arms, vertical and lateral clearance shall meet OSHA working clearances for electrical lines in effect at the time of the installation which will accommodate maintenance work by UDOT personnel without having to discharge or shield the lines.

(ii) Utility companies planning to attach cable to other utility company poles shall obtain approval from the owner of the poles prior to a permit being issued by UDOT.

(iii) The utility facility shall conform to the current edition of the AASHTO Roadside Design Guide. Where there are existing curbed sections, utility facilities shall be located as far as practicable behind the face of curbs and, where feasible, behind sidewalks at locations that will not interfere with adjacent property use. In all cases there shall be a minimum of two feet clearance behind the face of the curb. All cases shall be resolved in a manner consistent with prevailing limitations and conditions.

(iv) Before locating a utility facility at other than the right of way line, consideration shall be given to designs using self-supporting, armless single pole construction, with vertical alignment of wires or cables, or other techniques permitted by government or industry codes that provide a safe traffic environment. Deviations from required clearances may be made where poles and guys can be shielded by existing traffic barriers or placed in areas that are inaccessible to vehicular traffic.

(v) Where irregular shaped portions of the right of way extend beyond or do not reach the normal right of way limits, variances in the location of utility facilities may be allowed to maintain a reasonably uniform alignment and thereby reduce the need for guys and anchors between poles and roadway.

### (c) Subsurface Installations.

(i) Underground utilities may be placed longitudinally outside of the pavement by plowing or open trench method. Underground utilities shall be located on a uniform alignment and as near as practicable to the right of -way line to provide a safe environment for traffic operations, preserve the integrity of the highway, and preserve space for future highway improvements or other utility facility installations. The allowable distance from the right of way line will generally depend upon the terrain and obstructions such as trees and other existing underground and overhead objects. On highways with frontage roads, longitudinal installations shall be located between the frontage roads and the right of way lines. Utility companies shall include the placement of markers referenced in Section R930-7-11(5).

(ii) Unless UDOT grants a deviation, underground utility installations across existing roadways shall be performed by trenchless method in accordance with UDOT requirements and

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casings may be required. Pits shall be located outside of the clear zone and at least 30 feet from the edge of the nearest through traffic lane and at least 20 feet from the edge of pavement on ramps. On low traffic roadways and frontage roads, as determined by UDOT, bore pits shall be at least ten feet from the edge of pavement, five feet beyond toe of slope under fill sections and at least five feet from the face of curb and meet clear zone requirements from the edge of the traveled way whichever is greater. Bore pits shall be located and constructed so as to eliminate interference with highway structural footings. Shoring shall be used where necessary.

TABLE 1

### Bore Pit Locations

Bore Pit Set Back	Outside Clear Zone
At least ten feet from the edge of pavement, five feet beyond toe of slope under fill sections and at least five feet from the face of curb	At least 30 feet from the edge of the nearest through traffic lane and at least 20 feet from the edge of pavement on ramps.

(iii) The depth of bury for all utility facilities under pavement shall be a minimum of four feet below the top of pavement or existing grade including open drainage features. Where utility facilities are installed within 20 feet from the edge of pavement, the depth of bury shall be a minimum of five feet below top of grade so as to allow for installation of UDOT signs or delineators. Utility facilities under sidewalks shall be installed a minimum of three feet below the top of sidewalk.

(iv) Utility facilities installed greater than 20 feet from the edge of pavement shall be installed a minimum depth of three feet below grade. Specific types of facilities such as high pressure gas lines or petroleum lines may require additional cover.

(v) All underground utilities installed in the right of way must meet the minimum standards for compaction as outlined in the current edition of the UDOT Standards and Specifications for Road and Bridge Construction.

(vi) Where minimum depth of bury is not feasible, the facility shall be rerouted or, if permitted by UDOT, protected with a casing, encasement, concrete slab, or other suitable protective



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measures.

TABLE 2

SUMMARY OF UDOT DEFINITIVE UTILITY REQUIREMENTS

MINIMUM DEPTH OF BURY

Longitudinal and Crossing Installations

All underground utilities (cased and uncased)

Under Pavement Surface	Under Sidewalks	Under Ditch	Less than 20 ft. from edge of pavement	Greater than 20 ft. from edge of pavement
Min. of four ft. below top of pavement	Min. of three ft. below top of sidewalk ditch	Min. of three ft. below low point of	Min. of five ft. below natural grade	Min. of three ft. below natural grade

(d) Crossings.

(i) Utility crossings shall be at 90 degrees unless a deviation is approved by UDOT. Crossing installations under paved surfaces shall be by trenchless methods. Jetting by means of water or compressed air is not permitted.

(ii) Utility crossings shall be avoided in deep roadway cuts, near bridge footings, near retaining and noise walls, at highway cross drains where flow of water may be obstructed, in wet or rocky terrain where it is difficult to attain minimum cover, and through slopes under structures.

(e) Median Installations.

(i) Overhead utility facilities such as poles, guys, or other related facilities shall not be located in highway medians. Deviations may be considered for crossings where wide medians

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provide for sufficient space to meet clear zone requirements from the edges of the travelled ways.

(f) Appurtenances.

(i) Utility appurtenances shall be located outside the clear zone and as close to the right of way line as practicable. Where these requirements cannot be met and no feasible alternative exists, a deviation to locate appurtenances within the clear zone in areas that are shielded by traffic barriers may be considered after the utility company provides written justification for such location for UDOT review. Cabinets, regulator stations, and other similar utility components shall not be located on the right of way unless they are determined by UDOT to be sufficiently small to allow a deviation.

(ii) Manholes, valve pits, and similar appurtenances shall be installed so that their uppermost surfaces are flush with the adjacent undisturbed surface.

(iii) Utility access points and valve covers shall be located outside the roadway where practicable. In urbanized areas where no feasible alternative to locating utility access points and valve covers outside of the roadway exists, the utility company must coordinate with UDOT to meet safety, operational, and maintenance requirements of both the utility company and UDOT.

(iv) Utility companies shall avoid placing manholes in the pavement of high speed and high volume highways. Deviations may be considered after written justification for such location is submitted by the utility company and reviewed and approved by UDOT. New manhole installations shall be avoided at highway intersections and within the wheel path of traffic lanes.

(v) Vents, drains, markers, utility access holes, shafts, shut-offs, cross-connect boxes, pedestals, pad-mounted devices, and similar appurtenances shall be located along or across highway rights of way in accordance with the provisions of the Americans With Disabilities Act.

(2) Environmental Compliance.

(a) The utility company shall comply with all applicable state and federal environmental laws and regulations, and shall obtain necessary permits. Environmental requirements include but are not limited to the following.

(i) Water Quality. A "Storm Water General Permit for Construction Activities" is required from the Utah Division of Water Quality for disturbances of one or more acres of ground surface.

(ii) Wetlands and Other Waters of the U.S. A "Section 404 Permit" is required from the U.S. Army Corps of Engineers for any impact to a wetland or water of the U.S.

(iii) Threatened or Endangered (T and E) Species. Comply with the Endangered Species Act; avoid impacts to T and E species or obtain a Permit from the U. S. Fish and Wildlife Service.

(iv) Historic and Archaeological Resources. Comply with the "National Historic Preservation Act"; avoid impacts to historic and archaeological resources. If resources could be impacted, contact the Utah State Historic Preservation Office.

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(b) The utility company is responsible for environmental impacts and violations resulting from construction activities performed by the utility company or its contractors.

(c) If UDOT discovers or is made aware of a violation by the utility company or a failure to comply with state and federal environmental laws, regulations and permits, UDOT may revoke the permit, notify appropriate agencies, or both.

### (3) Installation of Utilities in Scenic Areas.

(a) The type, size, design, and construction of utility facilities in areas of natural beauty shall not materially alter the scenic quality, appearance, and views from the highway or roadsides. These areas include scenic strips, overlooks, rest areas, recreation areas, adjacent rights of way and highways passing through public parks, recreation areas, wildlife and waterfowl refuges, and historic sites. Utility installations in these areas shall not be permitted. Deviation from this requirement may be allowed if there is no reasonable or feasible alternative as determined by UDOT based on written justification submitted by the utility company. On Federal-aid highways, all decisions related to utility installations within these areas shall be subject to the provisions detailed in 23 CFR 645.209(h).

(i) New underground utility installations may be permitted within scenic strips, overlooks, scenic areas, or in the adjacent rights of way, when they do not require extensive removal, or alteration of trees, and other shrubbery visible to the highway user, or do not impair the scenic appearance of the area.

(ii) New overhead installations of communication and electric power lines are not permitted in such locations unless there is no feasible and reasonable alternative as determined by UDOT. Overhead installations shall be justified to UDOT by demonstrating that other locations are not available and that underground facilities are not technically feasible, economical or are more detrimental to the scenic appearance of the area.

Any installation of overhead facilities shall be made at a location and in a manner that will not detract from the scenic quality of the area being traversed. The installation shall utilize a suitable design and use materials aesthetically compatible to the scenic area, as approved by UDOT.

### (4) Casing and Encasement Requirements.

(a) General. A carrier pipe is sometimes installed inside of a larger diameter pipe defined as a casing. Casings are typically used to provide complete independence of the carrier pipe from the surrounding roadway structure, and to provide adequate protection to the roadway from leakage of a carrier pipeline. It also provides a means for insertion and replacement of carriers without access or disturbance to through-traffic roadways.

(b) Casing requirements for crossing installations.

(i) All pipelines under pressure crossing under the roadbed of highways shall be in casings

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unless the pipeline is welded steel, meets industry corrosion protection standards, complies with federal and state requirements, and meets accepted industry standards regarding wall thickness and operating stress levels. In some cases UDOT may require a casing regardless of these exceptions if needed to protect the roadway, maintain public safety, or both.

(ii) In urban areas where space is limited for venting or where small pipelines are crossing, specifically intermediate high pressure lines, deviations for casing may be granted by UDOT.

(iii) Where a casing is required, it must be provided under medians, from top of back-slope to top of back-slope for cut sections, five feet beyond toe of slope under fill sections, five feet beyond face of curb in urban sections and all side streets, and five feet beyond any structure where the line passes under or through the structure. Deviations must be approved by UDOT. On freeways, expressways, and other access controlled highways, casings shall extend to the access control lines.

(iv) Utility installations by trenchless technologies, such as jacking, boring, or horizontal directional drilling methods, may be placed under highways without a casing pipe if approved by a UDOT representative.

(v) Where minimum bury is not feasible, the facility shall be rerouted or protected with a casing, concrete slab, or other suitable measures as determined by UDOT.

(c) Casings shall be considered for the following conditions:

(i) as an expediency in the insertion, removal, replacement, or maintenance of carrier pipe crossings of freeways, expressways, and other access controlled highways, and at other locations where it is necessary to avoid trenched construction;

(ii) as protection for carrier pipe from external loads or shock either during or after construction of the highway; and

(iii) as a means of conveying leaking fluids or gases away from the area directly beneath the roadway to a point of venting at or near the right of way line, or to a point of drainage in the highway ditch or a natural drainage way.

(d) UDOT may require casings for pressurized carriers or carriers of a flammable, corrosive, expansive, energized, or unstable material.

(e) Trenchless installations of coated carrier pipes shall be cased. Permission to deviate from this requirement may be granted where assurance is provided against damage to the protective coating.

(f) Encasement or other suitable protections shall be considered for pipelines with less than minimum cover, such as those near bridge footings or other highway structures, or across unstable or subsiding ground, or near other locations where hazardous conditions may exist.

(g) Rigid encasement or suitable bridging shall be used where support of pavement

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structure may be impaired by depression of flexible carrier pipe. Casings shall be designed to support the load of the highway and superimposed loads thereon and, as a minimum, shall be equal to or exceed the structural requirements of UDOT highway culverts in the UDOT Bridge Design Manual.

(h) Casings shall be sealed at the ends using suitable material to prevent water and debris from entering the annular space between the casing and the carrier. Such installations shall include necessary appurtenances, such as vents and markers.

### (5) Mechanical and Other Protective Measures for Uncased Installation.

(a) When highway pipeline crossings are installed without casings or encasement, the following are suggested controls for providing mechanical or other protection.

(i) The carrier pipe shall conform to utility material and design requirements and utility industry and government codes and standards. The carrier pipe shall be designed to support the load of the highway plus superimposed loads operating under all ranges of pressure from maximum internal to zero pressure. Such installations shall use a higher factor of safety in the design, construction, and testing than would normally be required for cased construction.

(ii) Suitable bridging, concrete slabs, or other appropriate measures shall be used to protect existing uncased pipelines which may be vulnerable to damage from construction or maintenance operations. Construction or maintenance activities shall not proceed until protective measures are approved by UDOT.

(b) Uncased crossings of welded steel pipelines carrying flammable, corrosive, expansive, energized, or unstable materials may be permitted if additional protective measures are taken in lieu of encasement. Such measures shall use a higher factor of safety in the design, construction, and testing of the uncased carrier pipe, including thicker wall pipe, radiograph testing of welds, hydrostatic testing, coating and wrapping, and cathodic protection.

### **R930-7-9. Utilities on Highway Structures.**

#### (1) General.

(a) The installation of utility facilities on highway structures can adversely impact the integrity and capacity of the structure, the safe operation of traffic, maintenance efficiency, and the aesthetic appeal of the structure. Utility facilities shall not be installed on highway structures except in extreme cases. When installation of utilities at an alternate location exceeds the cost of attaching to the structure by four times, UDOT will consider such an installation. The utility company shall submit documentation requesting installation on highway structures to the UDOT Structures Division for review and approval. Attachment of a utility facility will only be considered if the structure is adequate to support the additional load. This adequacy must be verified by a load rating

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completed by the utility company following UDOT's Load Rating Policies and Procedures, submitted to UDOT along with the necessary documentation including calculations and a load rating model.

Installing utility facilities within 50 feet of structures may impact the design, installation, operation, maintenance and safety of the structures, and the utility facilities. Utility companies shall address potential impacts when projects are proposed to ensure compatibility between utility facilities and UDOT structures and to assure all relevant utility industry codes and UDOT structural requirements are adequately addressed.

### (2) Installation on Highway Structures.

(a) If UDOT allows a structure installation, it shall be at a location and of a design subject to review and approval by UDOT's Structures Department. Utility installations on structures shall not be considered unless the structure is of a design that is adequate to support the additional load and can accommodate the utility without compromising highway features. In addition, the utility installation shall be subject to the following requirements.

(i) Due to variations in highway structure designs, site-specific conditions, and other considerations, there is no standardized method by which utilities are installed on structures. Therefore, each proposed installation shall be considered on its individual merits and shall be individually designed for the specific structure.

(ii) Where installations of pipelines carrying hazardous materials are allowed, the pipeline shall be cased. The casing shall be open or vented at each end so as to prevent possible build-up of pressure and to detect leakage. Where located near streams, casings shall be designed and installed so that leakage does not compromise the stream. If a deviation is allowed for no casing, additional protective measures shall be used including higher standards for design, safety, construction and testing of the pipeline than would normally be required for cased construction.

(iii) All pipeline installations carrying gas or liquid under pressure which by their nature may cause damage or injury if leaked, shall be installed with emergency shutoff valves. Such valves shall be placed within an effective distance on each side of the structure, as approved by UDOT, and shall be automatic if required by UDOT.

(iv) Utility installations on highway structures shall not reduce vertical clearances above rivers, streams, roadway surfaces or rails. Installations should be designed to occupy a position beneath the deck in an interior bay of a girder or beam, or within a cell of a box girder bridge. Installations shall always be above the bottom of girders on a girder bridge or above the bottom of the bottom cord of a truss bridge. Utility installations outside of a bridge structure are unsightly and susceptible to damage and will only be approved by UDOT if there is no reasonable alternative.

(v) All utility facilities installed on highway structures shall be constructed of durable materials, designed with a long life expectancy, and must be installed in a manner that will minimize

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routine servicing and maintenance.

(vi) Utility facility mountings shall be of sufficient strength to carry the weight of the utility and shall be of a design and type that will not rattle or loosen due to vibrations caused by vehicular traffic. Acceptable utility installation methods are hangers or roller assemblies suspended either from inserts from the underside of the bridge floor or from hanger rods clamped to the flange of a superstructure member. Bolting through the bridge floor is not permitted. Where there are transverse floor beams sufficiently removed from the underside of the deck, the utility placement shall allow adequate clearance to enable full inspection of both the deck and the utility line. UDOT may consider a proposal to support the utility line on top of the floor beams.

(vii) Communication and electric power line installations shall be suitably insulated, grounded, and preferably carried in protective conduit or pipe from the point of exit from the ground to re-entry. Cable shall be carried to a manhole located beyond the back-wall of the structure. Access manholes are not allowed in a bridge deck.

(viii) Utility installations shall provide for lineal expansion and contraction due to temperature variations in conjunction with bridge movement.

(ix) All utility facility clearances from structure members must conform to all governing codes and shall not render any portion of the structure inaccessible for maintenance purposes.

(x) The utility company shall be responsible for restoration or repair of any portion of a structure or highway damaged by utility facility installation or use.

(xi) The expansion of an existing utility facility carried by an existing structure may be permitted if the expansion does not adversely impact the performance and load carrying capacity of the structure and otherwise complies with this rule.

### (3) Utility Company Responsibilities.

(a) It is the responsibility of the utility company to obtain approval for a highway structure installation. The utility company shall ascertain the extent of UDOT's requirements prior to initiating the design for installation. A Utah registered Professional or Structural Engineer shall be responsible for the design if the installation is allowed. The utility company must prepare and submit complete design documents showing all details of the proposed work. These documents shall include plans, calculations, updated load rating with a Virtis load rating model, the permit application, and any other necessary information. The utility company shall be responsible for protecting, maintaining or relocating its utility installation, including the arrangement of service interruptions, to accommodate future UDOT structure work.

(b) All materials incorporated in the design must be certifiable for quality and strength and full specifications must be provided in support of the design.

(c) Adequate written justification must support the need for installing the utility facility on

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the structure and demonstrate that there is no viable cost-effective alternative.

(d) All components of the utility attachment shall be protected from corrosion. Steel components shall be stainless, galvanized or painted in accordance with the current UDOT Standard Specifications for Highway and Bridge Construction.

### **R930-7-10. Utilities within Interstate, Freeway and Access Controlled Right-of-Way.**

(1) General Provisions. There are two basic types of access control.

No Access - does not allow access to the through-traffic lanes except at interchanges. Crossings at grade and direct driveway connections are prohibited. Access is controlled by fencing. This is typical of interstates and freeways.

Limited Access - provides access to selected roads. There may be some crossings at grade and some private driveway connections. This is typical of expressways and certain other highways.

(2) Factors UDOT may consider for allowing accommodation include distance between distribution points, terrain, cost, and prior existence.

(3) Longitudinal telecommunication installations may be allowed under Rule R907-64.

(4) Pursuant to FHWA regulations, UDOT may allow longitudinal accommodation of utility facilities but with greater restrictions within no access and limited access highway right of way as follows:

(a) No access: longitudinal installations on highways with no access are not permitted except in cases where no other feasible location exists and under strictly controlled circumstances. FHWA approval is required for installations on interstate facilities. Longitudinal telecommunication facilities are allowed pursuant to Utah Code Section 72-7-108; and

(b) Limited Access: longitudinal installations on highways with limited access are generally not permitted.

(5) Utility facilities are allowed to cross no access and limited access highway right-of-way but with additional requirements as noted below in Section R930-7-10(7).

(6) Longitudinal Utility Facilities.

(a) In addition to the requirements in Section R930-7-8(1)(a), the following requirements apply.

(i) Service connections are not permitted within no access highway right of way. Service connections are not permitted within limited access highway right of way unless no reasonable alternative exists as demonstrated by the utility company and as reviewed and approved by UDOT.

(ii) Service, maintenance, and operation of utilities installed along and within no access



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highway right of way may not be conducted from the through-traffic roadways or ramps. All maintenance activities must be accessed from a point approved by UDOT and FHWA.

(iii) An existing utility facility within the right of way acquired for an interstate, freeway, or access controlled highway project may remain if it can be serviced, maintained, and operated without access from the through-traffic roadways or ramps, and it does not adversely affect the safety, design, construction, operation, maintenance, or stability of the interstate, freeway, or access controlled highway. Otherwise, it shall be relocated.

(iv) Where approval for installation is permitted, utility installations and related components shall be buried parallel to the interstate, freeway, or access controlled highway and shall be located within five feet of the outer most right of way limits. Utility appurtenances shall be located as close as possible to the right of way line.

(v) An existing utility carried on an interstate, freeway, or access controlled highway structure crossing a major valley or river may be permitted by UDOT to continue to be carried at the time the route is improved if the utility facility is serviced without interference to the traveling public.

### (7) Utility Crossings.

(a) In addition to the requirements in Section R930-7-8(1)(d), the following requirements apply.

(i) A utility following a crossroad or street which is carried over or under an interstate, freeway, or access controlled highway must cross the interstate, freeway, or access controlled highway at the location of the crossroad or street in such a manner that the utility can be serviced without access from the through-traffic roadways or ramps.

(ii) Overhead utility lines crossing an interstate, freeway, or access controlled highway shall be adjusted so that supporting structures are located outside access control lines. In no case shall the supporting poles be placed within the clear zone. Where required for support, intermediate supporting poles may be placed in medians of sufficient width that provide the clear zone from the edges of both travelled ways. If additional lanes are planned, the clear zone shall be determined from the ultimate edges of the travelled way. When right of way lines and access control lines are not the same, such as when frontage roads are provided, supporting poles may be located in the area between them.

(iii) At interchange areas, supports for overhead utility facilities will be permitted only if located beyond the clear zone of traffic lanes or ramps, sight distance is not impaired, and can be safely accessed.

(iv) Manholes and other points of access to underground utilities may be permitted within the right of way of an interstate, freeway, or access controlled highway if they can be serviced or maintained without access from the through-traffic roadways or ramps. When right of way lines

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and access control lines are not the same, such as when frontage roads are provided, manholes and other points of access may be located in the area between them.

(v) Where a casing is not otherwise required, it shall be considered as expedient in the insertion, removal, replacement, or maintenance of carrier pipes crossing interstate, freeways, or access controlled highways. Casings shall extend to the access control lines. See Section R930-7-8(4).

(8) Longitudinal Telecommunications Installation.

(a) Installation must comply with R907-64.

(9) Wireless Telecommunications Facilities.

(a) Facilities must comply with R907-64.

### **R930-7-11. Utility Construction and Inspection.**

(1) General Provisions.

(a) The method used for utility work is generally determined by local conditions. The location, terrain, obstructions, soil conditions, topography, and UDOT standards to maintain the integrity and safety of the right of way and roadway are important considerations for the proper placing of utilities. Familiarity and compliance with this rule will facilitate the construction process for utility companies.

(b) UDOT may perform routine inspection of utility construction work to monitor compliance with the license agreement, encroachment permit and with state and federal regulations. A permit may be revoked for cause if a utility company or contractor is not complying with the terms and limitations of the permit which will require a new permit at the contractor's expense to proceed with the work.

(c) Costs associated with the inspection are the responsibility of the utility company. Failure to pay inspection invoices issued by UDOT may result in revocation of the permit and may require the posting of an inspection bond on future permit applications.

(2) Utility Construction and Maintenance.

(a) No utility construction work by a utility company or a utility company's contractor may begin until a written encroachment permit has been issued to the utility company by UDOT.

(b) Traffic control for utility construction and maintenance operations shall conform to UDOT's current accepted Utah MUTCD or UDOT Traffic Control Plans, whichever is more restrictive. All utility construction and maintenance operations shall be planned to keep interference with traffic to an absolute minimum. On heavily traveled highways, utility operations interfering with traffic shall not be conducted during periods of peak traffic flow. This work shall be planned

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so that closures of intersecting streets, road approaches, or other access points are held to a minimum.

(c) The utility company shall not begin any work on UDOT right of way until the permit is issued and notice to proceed is given to the utility company by UDOT. After notice to proceed is received, the utility company shall complete construction in accordance with UDOT requirements.

(d) When highway utility construction or maintenance activities involve existing underground utility facilities, utility company or contractor shall comply with Title 54, Chapter 8a, Damage to Underground Utility Facilities.

(e) Utility work shall be completed within the number of days specified in the approved permit. When the work is not completed within the specified time UDOT has the option of extending the time or revoking the permit and acting on the appropriate bond to pay for completion of the work. All time extensions granted by UDOT shall be in writing.

(f) Disturbance of areas within highway right-of-way during utility construction shall be kept to a minimum and all right of way shall be restored to the satisfaction of UDOT. All utility construction methods used within the highway right of way shall be performed in accordance with current Standard Specifications for Highway and Bridge Construction, UDOT Permit Excavation Handbook, the provisions of this rule, and encroachment permit requirements. Unsatisfactory construction work, as determined by UDOT's inspector, shall promptly be corrected to comply with appropriate standards and specifications. UDOT may issue written notification that identifies the deficiencies and the period of time to cure or correct the deficiencies. If the restoration is not performed within the specified time, UDOT may perform or have performed the corrective work and the utility company shall be responsible for all costs incurred.

(g) The utility company shall avoid disturbing or damaging existing highway drainage facilities and is responsible for repairs, including restoration of ditch flow lines. Wherever necessary, the utility company shall provide drainage away from its own facilities to avoid damage to the highway.

(h) The utility company is prohibited from spraying, cutting or trimming trees or other landscape elements unless specific written permission is obtained from UDOT. The approval of an encroachment permit does not include approval of such work unless the cutting, spraying, and trimming is clearly indicated on the permit application. In general, when permission is given, only light trimming will be permitted. When tree removal is approved, the stump shall be removed and the hole properly backfilled to natural ground density or restored as otherwise approved by UDOT. The work site shall be left clean and trash free. All debris shall be removed. Reseeding shall be performed in accordance with UDOT's approved schedule.

(i) UDOT may require that any abandoned utility pipe or conduit be removed, capped, or filled with an appropriate material acceptable to UDOT.

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(j) All utility facilities located on rights of way shall be adequately maintained. Any physical modifications, relocations, additions, excavations, or impedance of traffic within the right of way shall require the submittal of a new encroachment permit application. No work may begin until the new encroachment permit is approved.

(k) Restoration of the highway right of way disturbed by excavation, grading work, or other activities shall include reseeding and restoration of existing landscaping. All areas which are denuded of vegetation as a result of construction or maintenance shall be reseeded which is subject to inspection and acceptance by UDOT.

### (3) Open Trench Construction Traversing Highways.

(a) Open trench utility installations are not permitted unless an acceptable trenchless method is unfeasible such as in unsuitable soil conditions or extremely difficult rock. UDOT may also grant a deviation from requiring trenchless construction where older pavement is severely deteriorated.

(b) Open trench construction on highways is limited to areas where traffic impacts are minimal. Any pavement structure broken, disturbed, cut or otherwise damaged in any way shall be removed and replaced to a design equal to or greater than the surrounding undisturbed pavement structure, or as otherwise determined by UDOT.

(c) For open trench installations, the utility company is responsible for the restoration and maintenance of the pavement structure for three years as outlined in Section R930-7-6(6)(b), unless a deviation is granted by UDOT. When the utility company or its contractor performing the work is not equipped to or fails to properly repair the damage to the pavement structure, UDOT will repair the damage and bill the utility company for the actual costs incurred, including any administrative costs. All pavement restoration work performed by the utility company shall be completed within 48 hours after completion of the excavation and backfill.

(d) All open trench utility installations shall conform to the applicable provisions of the current UDOT Standard Specifications for Road and Bridge Construction.

(e) It is the utility company's responsibility to restore the structural integrity of the road bed, secure the utility facility against deformation and leakage, assure that the utility trench does not become a drainage channel, and that the backfilled trench doesn't impede or alter road drainage.

(f) Trenches shall be cut to have vertical faces. Maximum width shall be two feet or the outside diameter of the pipe plus one and one-half feet on each side. All trenches shall be shored where necessary and shall meet OSHA requirements.

(g) Bedding shall be provided to a depth of one-half the diameter of the pipe and shall consist of granular material, free from rocks, lumps, clods, cobbles, or frozen materials, and shall be graded to a firm surface without abrupt change in bearing value. Unstable soils and rock ledges shall be sub-excavated from beneath the bedding zone and replaced with suitable granular material.

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(h) Backfill shall meet the current UDOT Standard Specification 02056 Embankment, Borrow and Backfill and 03575 Flowable Fill. Additional specifications may be required by UDOT.

(i) Pavement replacement may be performed by either the utility company or a contractor engaged by the utility company. The Region Permits Officer will determine pavement replacement requirements. The utility company is liable for three years from the date of completion of the pavement replacement for the cost of repairs if the backfill subsides or the patched pavement fails.

(j) Where a utility company fails to properly repair any damage to the pavement structure, UDOT may repair the damage and the costs, including administrative costs, will be the responsibility of the utility company.

### (4) Trenchless Utility Construction.

(a) Trenchless utility installations are required for all utility crossings of highways or roadways, where practicable. This construction method is required to avoid disturbing the pavement surface, particularly where underground utilities exist on major highways, expressways, or freeways. Only UDOT approved methods may be used to install a utility under a highway.

(b) All trenchless pipeline installations shall extend under and across the entire roadway prism to a point five feet beyond the toes of the fore-slopes, borrow ditch bottom, or across the access controlled right of way lines, but never less than 15 feet from the edge of pavement or a ramp.

(c) Water jetting or tunneling may not be used. Water-assisted or wet boring may be permitted if the utility company can demonstrate to UDOT that the operation will not adversely impact the roadway and sub-grade.

(d) The size of a trenchless operation shall be restricted to the minimum size necessary for the utility installation and shall not exceed the utility facility diameter by more than 5% unless otherwise required based on equipment and product manufacturer's specifications. Grout or flowable fill backfill shall be used for carriers or casings and for over-breaks, unused holes or abandoned carriers or casings. The composition of the grout shall be cement mortar, a slurry of fine sand or other fine granular materials.

(e) Portals including surface openings and bore pits shall be established safely beyond the highway surface and the clear zone so as to avoid impairing the roadway during installation of the pipeline.

(f) Where a bulkhead seals the pipeline portal, the portal shall be suitably offset from the surfaced area of the highway. Shoring and bulkheading shall conform to applicable federal, state, and local jurisdiction construction and safety standards. Where a bulkhead is not installed in the pipeline, the portal shall be offset no less than the vertical difference in elevation between the surfaced area of the highway and the bottom of the bore pit.

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(g) The utility company shall follow manufacturer's guidelines and industry standards for equipment set-up and operation. The utility company shall assess soil conditions to determine the most appropriate installation technique. Subsurface bore paths shall be tracked and recorded by the utility company, and all failed bores shall be appropriately abandoned and backfilled by the utility company.

(h) Drilling fluids shall be prepared and used according to fluid and drilling equipment manufacturer's guidelines. The utility company shall use fluid containment pits at both bore entry and exits points, and shall use appropriate operational controls so as to avoid heaving or loss of drilling fluids from the bore. Antifreeze additives shall be non-toxic and biodegradable products.

(i) The utility company shall dispose of drilling fluids and other materials in permitted facilities that accept the types of chemicals and wastes used in the trenchless operations.

### (5) Utility Markers.

(a) The location of utility facilities within highway right of way presents certain risks to construction and maintenance activities, construction personnel, and to the facility itself when work in and around the area of the utility facility is in progress. To minimize risk and maximize safety, it is the utility company's responsibility to provide identification markers and tracer wire or detectable warning tape for all buried facilities located within the right of way.

(b) A trace wire, metallic tape, or other accepted industry material approved by UDOT for locating utilities with geophysical equipment shall be properly installed with all non-metallic underground lines.

(c) The utility company shall place permanent markers identifying the location of underground utility facilities, whether they are crossing the highway or installed longitudinally along the highway. Markers shall not interfere with highway safety and maintenance operations. Preferably, markers are to be located at the right of way line if that location will provide adequate warning. The telephone number for one-call notification services to request marking the line location prior to excavation, and for emergency response, shall appear on the marker.

(d) The utility company shall maintain its markers in good condition. Color faded markers shall be replaced as necessary so that their visibility to maintenance crews and others is not impaired.

### (6) GPS Requirements.

(a) It is the responsibility of the utility company to produce and maintain a set of certified reproducible plans and an electronic file showing the location of all its facilities in the right of way including overhead facilities and crossing points. The utility company is responsible to maintain an accurate file to be used by UDOT for future planning to avoid utility conflicts. These plans shall also include appropriate vertical and horizontal ties to the highway survey control.

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(b) For new facility installations, the utility company shall use a survey grade Global Positioning System (GPS) to survey their facility locations and submit an electronic file to UDOT. Specific requirements for survey data will be determined by UDOT. The location survey points shall include major junction points, manholes, valves, changes in line or grade, and any other significant feature that will facilitate installation approval and future planning activities.

(c) If the utility company fails to provide UDOT with a set of plans and files showing the surveyed utility locations upon request then the utility company is required to secure the actual locations of their facilities at no cost to UDOT. If the utility company fails to provide the utility location information requested within ten days, UDOT may hire a Subsurface Utility Engineering (SUE) consultant to locate the utilities at the utility company's expense.

### **R930-7-12. Maintenance Responsibility.**

The utility company is responsible for maintenance and liability of its utility facilities and appurtenances on UDOT right of way or on UDOT property including facilities installed without a Statewide Utility License Agreement or permit, whether operational, out of service, or abandoned.

### **R930-7-13. Deviations.**

(1) Deviations from provisions of this rule may be allowed if they do not violate state and federal statutes, law, or regulations and UDOT has determined the use of the right of way will be for the public good without compromising the transportation purposes of the right of way.

(2) Requests for deviations with limited impact may be considered by UDOT on an individual basis, upon justification submitted by the utility company. UDOT will not consider cost to the utility company as the primary deciding factor in granting a deviation.

(3) Requests for significant deviations must demonstrate extreme hardship and unusual conditions and provide justification for the deviation. Requests must demonstrate that alternative measures can be specified and implemented and still fulfill the intent of state and federal statute and regulations. Requests for these deviations must include the following:

(a) formal request by the utility company; and

(b) an evaluation of the direct and indirect design, safety, environmental, and economic impacts associated with granting a deviation.

(4) In order for UDOT to grant a significant deviation the following approvals are necessary:

(a) formal recommendation for approval by the UDOT Region Permits Officer or the officer's supervisor;

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- (b) formal recommendation for approval from the UDOT Region Director;
- (c) concurrence of the UDOT Statewide Utilities Engineer; and
- (d) FHWA concurrence if the deviation applies to a utility facility located within a Federal-aid highway right of way.

(5) For UDOT projects that are solely state funded, UDOT may deviate from the utility relocation regulations contained in the Code of Federal Regulations by reimbursing a utility company for replacement of existing buildings with functionally equivalent buildings, if the following requirements are met:

- (a) the utility company owns the property in fee that UDOT needs to acquire for its project;
- (b) the utility company owns operational facilities located upon, below or above the property;
- (c) the utility company owns a building on the property that provides maintenance services for the utility facility;
- (d) a property purchase in accordance with 49 CFR 24 will not adequately compensate the utility company's costs to relocate and functionally re-establish the maintenance facility; and
- (e) the deviation promotes the public interest.

### **R930-7-14. Enforcement.**

(1) This rule is subject to enforcement pursuant to and as provided for in Utah Code, and may include, but not be limited to the following:

- (a) administrative citations, in letter form, citing non-compliance items and proper redress requirements, including notice that UDOT may take whatever action is necessary to rectify the situation and subsequently submit a claim against the appropriate bond to recover from the utility company actual costs incurred by UDOT;
- (b) increased bonding levels to recoup potential restoration costs on current or future utility projects;
- (c) denial of future permits until past non-compliance is resolved;
- (d) termination of the License Agreement; and
- (e) legal action to secure reimbursement from the utility company for costs incurred by UDOT due to damages to the right of way or noncompliance with the permit, rule or License Agreement.



**Utah Department of Transportation Administrative Code**

**KEY: right-of-way, utilities, utility accommodation**

**Date of Enactment or Last Substantive Amendment: October 24, 2016**

**Authorizing, and Implemented or Interpreted Law: 72-6-116(2)**