

## I. RIGHT-OF-WAY ALTERATION POLICY

### A. Purpose

The purpose of these regulations is to establish policies and procedures for accommodating alterations on the right-of-way of the County Highway System, which will provide public benefits consistent with the preservation of the integrity, safe usage, and visual qualities of the County Highway System. These regulations apply to all alterations on a highway right-of-way in which the County has an interest. Because it is impossible to anticipate all future highway needs or proposals, the County Engineer reserves the right to deny any application or modify these regulations without notice.

### B. Definitions

**Illinois Highway Code** - The Illinois Compiled Statutes Road and Bridges Illinois Highway Code, 605 ILCS 5/1-101 *et. seq.*

**Clear Zone** - The total roadside border area, starting at the edge of the pavement, 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 and speeds, and on the roadside geometry. Distances are specified in the AASHTO Roadside Design Guide (most recent publication).

### C. Permit Application Requirements

A Right-of-Way Alteration Permit will be required for any proposed change to the County right-of-way, unless the changes are included as part of one of the other permit types issued by the County Engineer. The following is a list of the most common changes to the right-of-way or the area adjacent to the right-of-way.

1. Earthen berm
2. Detention basins
3. Landscaping
4. Drainage ditch work or field tile replacement
5. Sidewalks and bike paths
6. Fences adjacent to the right-of-way
7. Noise-abatement barriers or retaining walls
8. Mailboxes and mailbox turnouts
9. De-watering operations
10. Other, within or adjacent to the County right-of-way

A permit is required for the construction or modification of any of the above-listed items or any other alteration to the right-of-way, as determined by the County Engineer. A permit **will not** be required for routine maintenance of any of these items if they exist in the right-of-way.

In addition to the permit application, plans, calculations, and reports may be required to evaluate the permit request. It is recommended that the nature and extent of the work be discussed with the Permit Section Staff prior to submitting an application to determine the submittal requirements.

**D. General Requirements**

**Authority of County**

A "permit" from the County Engineer grants permission to only undertake certain activities in accordance with these regulations in a County right-of-way and does not create a property right or grant authority to the Applicant to impinge on the rights of others who may have an interest in the right-of-way. Such others might include an owner of an underlying fee simple interest if the right-of-way is by grant of easement, an owner of an easement, or another Applicant. It is the responsibility of the Applicant to satisfy all owners of property within or adjacent to County right-of-way or highway easements.

**Written Consent**

Only a permit issued by the County Engineer under these regulations will satisfy the "written consent" requirements of the Illinois Highway Code.

**Compliance**

The Applicant shall comply with all other applicable laws. The issuance of a Right-of-way Alteration Permit by the County Engineer does not excuse the Applicant from complying with other requirements of the County Engineer (e.g., oversize and overweight vehicles) or the requirements of other local, state, or federal agencies.

**Compliance by Other Agencies**

State, County, township, municipalities, and other local units of government are subject to all the requirements of these regulations.

**Earthen Berm**

Earthen berms are not permitted within the right-of-way. Berms on property adjacent to the right-of-way, in accordance with the Illinois Highway Code, shall not be constructed with the toe of slope closer than 10 feet to the right-of-way line. The berm shall not block the natural drainage paths. The construction of the berms shall be in accordance with State Statutes and the exhibit for "Drainage Facilities and Earthen Berms Constructed Adjacent to Highway Right-of-Way" located at the end of this section.

### **Detention Basins**

Detention basins, or any part of them, are not permitted within the right-of-way. Detention basins on property adjacent to the County right-of-way, in accordance with the 605 ILCS 5/9-115.1, shall not be constructed within distances shown on the examples of "Drainage Facilities and Earthen Berms Constructed Adjacent to Highway Right-of-Way" included at the end of this section.

### **Landscaping**

Landscaping features, including trees, shrubs, plants, decorative walls, accent lighting, and irrigation systems, may be allowed in the right-of-way. Each application will be reviewed on a case-by-case basis. Factors to be included in reviewing an application are: speed limit on the highway for determination of the required clear zone; clear zone; sight lines at intersections; and conflicts with utilities. The proposed landscaping plan must meet all KDOT's requirements or other requirements approved by the County Engineer. The Applicant will be responsible for maintenance of all items and materials installed within the right-of-way. The Applicant will also be responsible for moving or removing any landscape features that interfere with any improvements to the right-of-way to be made by the County.

### **Drainage Ditch Work or Field Tile Replacement**

Work within the right-of-way for ditches or the replacement or repair of field tiles will be allowed, provided there are no negative impacts to the County right-of-way, or violations of Illinois water law or the Kane County Storm Water Ordinance.

### **Sidewalks and Bike Paths**

Sidewalks and bike paths shall be kept out of the County right-of-way whenever possible. Permit applications including the construction of a sidewalk or a bike path within the right-of-way will be reviewed on a case-by-case basis. Factors to be included in reviewing an application are: logical terminus for the sidewalk or bike path; conformance to County standards; and an intergovernmental agreement or license agreement for the future maintenance of the facility. The Kane County Division of Transportation will not be responsible for maintaining any of these facilities.

### **Fences**

Fences are not allowed within the County right-of-way. Fences on property adjacent to the County right-of-way shall not restrict sight distance at any highway intersection.

### **Noise-abatement Barriers or Retaining Walls**

Noise-abatement barriers or retaining walls will not be allowed on the County right-of-way, unless they are installed as part of a County sponsored project. If an adjacent

property owner or owners desire to construct a noise-abatement barrier or retaining wall, it shall not be constructed on the County right-of-way and shall not be the County's maintenance responsibility. The plans must be submitted to the County Engineer for review if the improvements are within 10 feet of the right-of-way line.

### **Mailbox Turnout**

Mailbox turnouts shall be constructed to County standards. The County Engineer has adopted the Illinois Department of Transportation, Standard 406201 as the typical detail. A copy of this standard is included at the end of this section. The County Engineer shall approve the location of a mailbox turnout.

### **Temporary Dewatering for Construction Activities**

The County Engineer will permit the temporary discharge of water from dewatering activities associated with construction activities assuming the following criteria have been met.

1. The outlet velocity at the point of discharge must not cause scour or erosion within the right-of-way.
2. The downstream drainage systems must have the capacity to convey the dewatering flow as well as the ten-year storm for the tributary area.
3. Downstream right-of-way or off-site impacts are the responsibility of the Applicant.
4. The Applicant shall indemnify the County from impacts or damages to either the right-of-way or off site areas caused by the dewatering discharge.
5. All dewatering discharge shall be contained within a pipe system until discharge at a location approved by the County Engineer. The discharge point may be a significant distance from the dewatering activities due to a lack of a suitable discharge point.
6. A regional map will be required, showing the location of all drainage features, including ponds, ditches, storm sewers, etc., affected by the work. This exhibit shall also include sizes and elevations of all relevant features.

The County Engineer may require the assistance of a consultant to review the submittal to insure that there are no adverse impacts to the County right-of-way or off-site areas. The costs of this review shall be the responsibility of the permit Applicant.

At no time will the dewatering discharge system be located within any ditch in the right-of-way. The water will be conveyed off the right-of-way as far as is practical and then allowed to traverse the right-of-way in a manner that will not disrupt the normal use of the right-of-way to a suitable discharge point.

The permit will be revoked at any time should the County Engineer determine that there are any damages or adverse impacts to the County right of way or off-site areas.

#### **Damage to County Right-of-Way**

Those facilities and highway structures and appurtenances (i.e.: guardrails, street lights, etc.) within the highway right-of-way that are damaged as a result of the permit work shall be immediately reported to KDOT. Damaged items shall be replaced or repaired by the Applicant to the KDOT's satisfaction in a reasonable length of time as established by KDOT. Any signs damaged during emergency, maintenance or construction operations must be immediately repaired and/or replaced and erected. . The occurrence shall be immediately reported to KDOT.

#### **Duty to Correct Defects**

The Applicant shall guarantee the restoration of the County right-of-way for twelve (12) months following the issuance of the "Final Completion and Compliance Certificate" (included in Section 8). During the 12-month period, the Applicant shall, upon written notification from the County Engineer, correct all non-complying work using methods and materials required by the County Engineer. The corrective measures shall be completed within fourteen (14) calendar days of the receipt of written notice from the County Engineer, not including days during which work cannot be done due to circumstances constituting force majeure or of unseasonable or inclement weather. If corrective measures are not commenced within the length of time specified, the KDOT will take appropriate action to ensure completion of the work to the County Engineer's satisfaction at the expense of the Applicant.

#### **Inspection**

All improvements to a County highway shall be inspected by a representative of KDOT or one of the County's Consultants. The level of inspection will be determined by the County Engineer based on the complexity and magnitude of the improvements to the County highway. The level of inspection will be discussed at the Pre-construction Meeting.

#### **Enforcement**

If improvements to the County highway are not constructed in accordance with the approved design or made in accordance with the conditions of the permit, the County Engineer will issue a stop work order or revoke a permit as described below. If the Applicant does not correct any deficiencies or at a minimum contact the County Engineer to discuss the deficiencies within fourteen (14) calendar days after notification, the County Engineer has the right to correct the deficiencies either through the Letter of Credit or other security for the permit or as a bill submitted to the Applicant. In addition, the "Final Completion and Compliance Certificate" and/or "Certificate of Occupancy" will be withheld until the improvement conforms to the approved design.

### **Stop-Work Order/Revocation of Permit**

The County Engineer may issue a Stop-Work Order or suspend or revoke a permit for the following reasons:

- The work was started without a valid permit. In addition to the permit fee, a fine will be assessed in the amount equal to the appropriate permit fee.
- A material provision or condition of the permit was substantially breached.
- A material misrepresentation has been made in the application for a permit.
- The Applicant failed to maintain the required bonds or other security and insurance.
- The Applicant failed to complete the work within the time specified in the permit, unless the failure to complete the work is due to reasons beyond the Applicant's control.
- The Applicant failed, in a timely manner, to correct work that does not conform to applicable standards, conditions, or federal, state, or local laws, rules or regulations.
- An evasion or attempt to evade any material provision of the permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the County.
- The work poses a hazardous situation or constitutes a public nuisance, public emergency, or other threat to the public health, safety, or welfare.

If the Applicant does not correct any deficiencies or, at a minimum, contact the County Engineer to discuss the deficiencies within fourteen (14) calendar days, the County Engineer has the right to correct the deficiencies either through the bond or other security for the permit or as a bill submitted to the Applicant.

All conditions that pose a hazardous situation or constitute a public nuisance, public emergency, or other threat to the public health, safety, or welfare shall be corrected immediately by the Applicant.

### **Lifting of Stop-Work Order/Reinstatement of Permit**

The County Engineer may lift a Stop-Work Order or reinstate a permit if:

- A permit application and applicable fees and fines are paid and submitted, and the County Engineer has issued a permit.
- An amended application is submitted correcting any misrepresentations included in the original permit application.
- The Applicant provides proof that the required bonds or other security and insurances have been reinstated.
- After discussions with the County Engineer, the Applicant submits a revised schedule and completion date that is acceptable to the County Engineer.
- The Applicant corrects work that does not conform to applicable standards, conditions, or federal, state, or local laws.
- The Applicant agrees to follow all provisions of the permit and makes any reparations for the perpetration or attempt to perpetrate any fraud or deceit upon the County.

- The conditions posing a hazardous situation or constituting a public nuisance, public emergency, or other threat to the public health, safety, or welfare are corrected or removed.

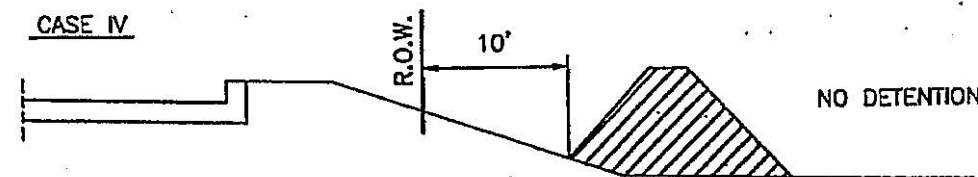
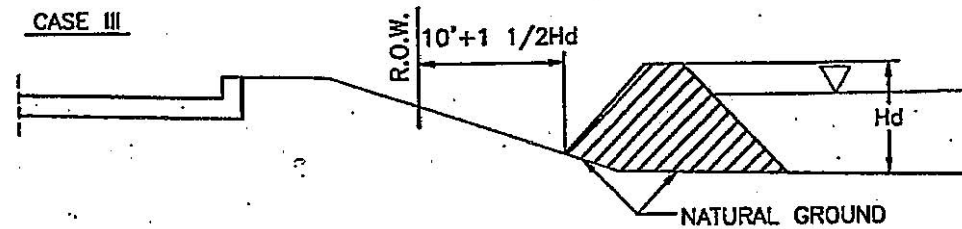
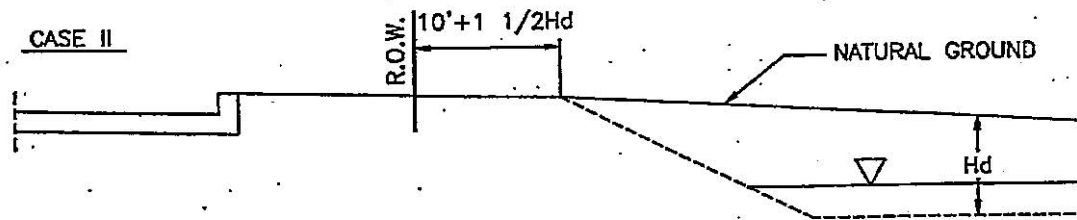
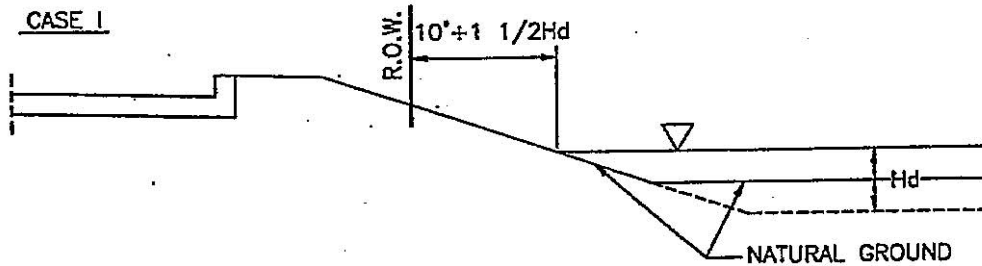
#### **Advance Public Notification**

Advance public notification may be required prior to commencing with the work. The advance public notification shall be by use of advance warning signs or message boards placed for each direction of traffic. With the issuance of the Right-of-way Alteration Permit, the advance notification shall be posted at least 72 hours prior to commencing the work. The message will be as specified by the County Engineer.

#### **Permit Working Hours**

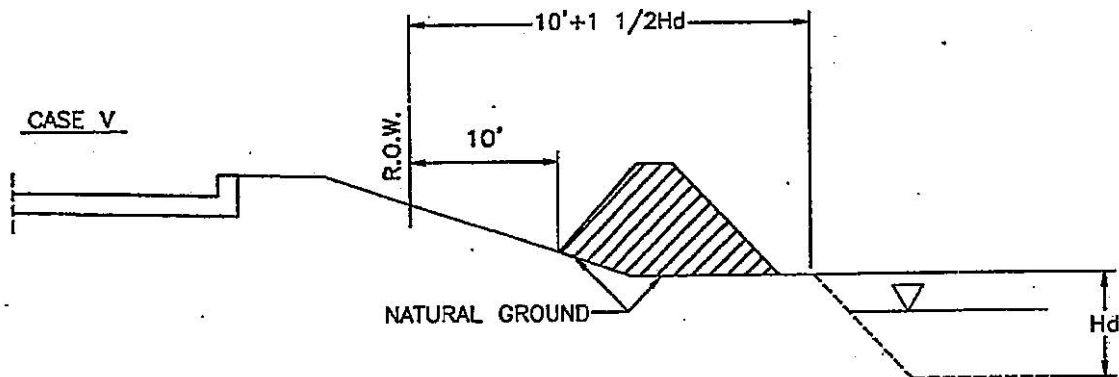
For a highway identified as a County freeway, the permit working hours shall be from 9:00 a.m. to 3:00 p.m., unless extended hours are approved by the County. All other County highways, the working hours shall be as directed by the Permit Section Staff, but generally are considered 8:00 am to 4:00 pm.

# DRAINAGE FACILITIES & EARTHEN BERM CONSTRUCTED ADJACENT TO THE HIGHWAY R.O.W.

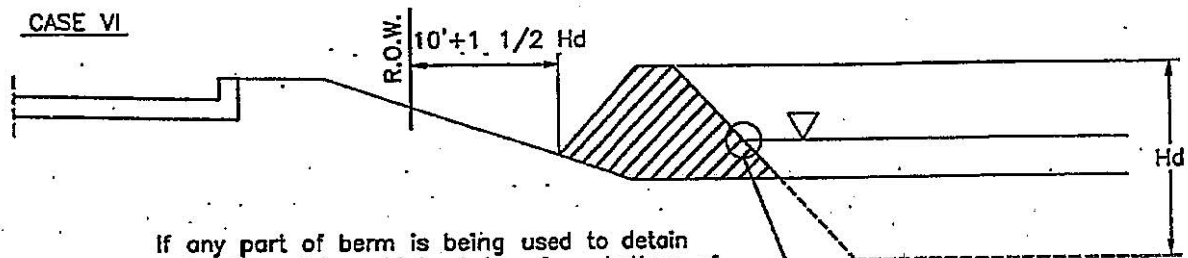




## DRAINAGE FACILITIES & EARTHEN BERM CONSTRUCTED ADJACENT TO THE HIGHWAY R.O.W.



Combination: Berm with no drainage function adjacent to excavation for detention. Both distance criteria are to be applied independently.

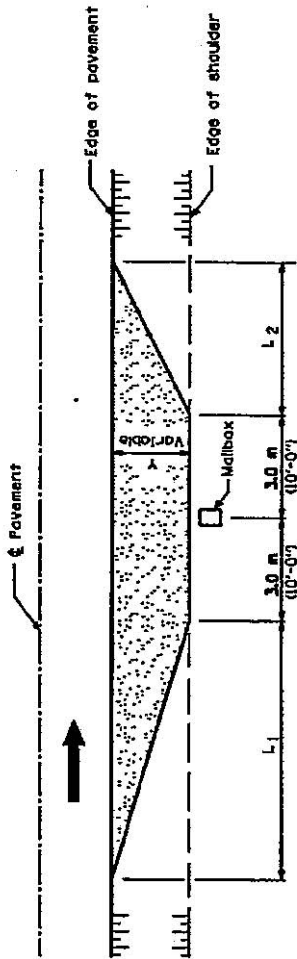


If any part of berm is being used to detain water then Hd would be taken from bottom of basin to top of berm and  $10 + 1/2 Hd$  applied to the toe of berm, adjacent to R.O.W.

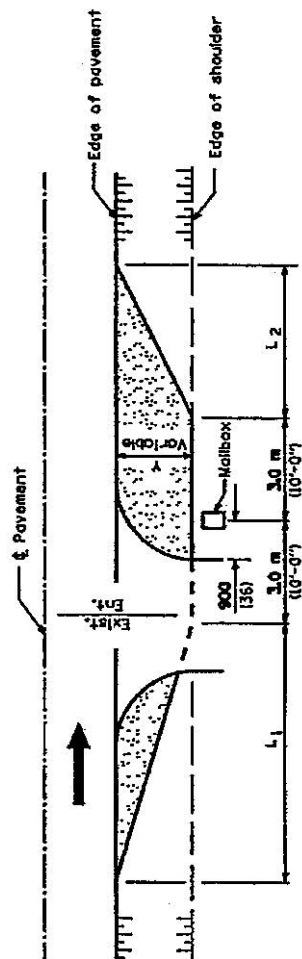
605 ILCS 5/9-115.1 [CONSTRUCTION OF DRAINAGE FACILITIES AND EARTHEN BERMS]

SEC. 9-115.1. IT IS UNLAWFUL FOR ANY PERSON TO CONSTRUCT OR CAUSE TO BE CONSTRUCTED ANY DRAINAGE FACILITY FOR THE PURPOSE OF THE DETENTION OR RETENTION OF WATER WITHIN A DISTANCE OF 10 FEET PLUS ONE AND ONE-HALF TIMES THE DEPTH OF ANY DRAINAGE FACILITY ADJACENT TO THE RIGHT-OF-WAY ANY PUBLIC HIGHWAY WITHOUT THE WRITTEN PERMISSION OF THE HIGHWAY AUTHORITY HAVING JURISDICTION OVER THE PUBLIC HIGHWAY.

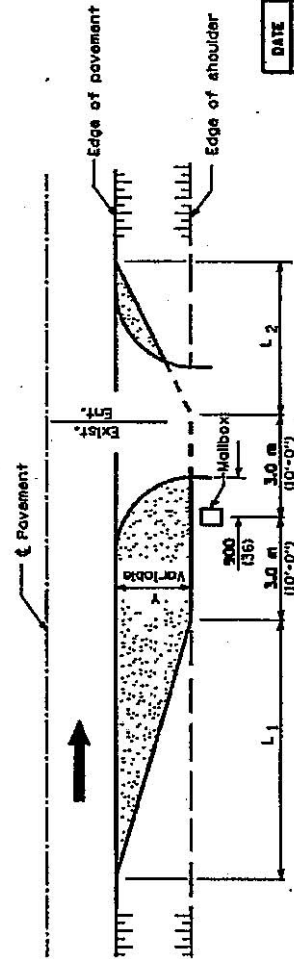
IT IS UNLAWFUL FOR ANY PERSON TO CONSTRUCT OR CAUSE TO BE CONSTRUCTED ANY EARTHEN BERM SUCH THAT THE TOE OF SUCH BERM WILL BE NEARER THAN 10 FEET TO THE RIGHT-OF-WAY OF ANY PUBLIC HIGHWAY WITHOUT THE WRITTEN PERMISSION OF THE HIGHWAY AUTHORITY HAVING JURISDICTION OVER THE PUBLIC HIGHWAY.



**TYPICAL APPLICATION**



**MAILBOX ON FAR SIDE OF ENTRANCE**



**MAILBOX ON NEAR SIDE OF ENTRANCE**

| DIMENSIONS - (ft., m)   |                |
|-------------------------|----------------|
| Width of Shoulder (4-8) | 3.0 (10)       |
| Width of Turnout (7)    | 2.4-3.0 (8-10) |
| L1                      | 9.5 (32)       |
| L2                      | 6.0 (20)       |

**GENERAL NOTES**

Mailboxes shall be mounted such that the face of the mailbox is 150 mm (6") to 300 mm (12") and the post a minimum of 600 mm (24") from the edge of the turnout sur-roading.  
 All dimensions are in millimeters (inches) unless otherwise shown.

| DATE    | REVISIONS                                     |
|---------|---|
| 1-1-97  | Revised Standard 2171-1.                      |
|         | Deleted note regarding Township & Dist. roads |
| 8-15-94 | Initially revised.                            |
|         | Added metric.                                 |

**MAILBOX TURNOUT**

**STANDARD 406201**

Made Department of Transportation  
 1977  
 1977  
 1-1-97

## II. PERMIT APPLICATION AND FEES

**Right-of-way Alteration Permit** – The Kane County Division of Transportation **will** charge an application fee for this work. Standard application fee is \$450.00.

**Permit Renewal or Extension** – The Kane County Department of Transportation **will** charge a fee for the renewal or extension of any permit. The standard fee is \$100.

Fees in the form of a check made payable to the Kane County Division of Transportation shall be included with all application.

**Review Cost** - This permit may require additional pass-through consultant-review cost. Permit fees that include a base fee plus other costs must be discussed with the Permit Section Staff to determine the total fee.

**Fines** - In addition to the permit application fee, a fine will be assessed when work, event or activity within the County right-of-way has commenced without a permit. The fine will be assessed in the amount equal to the applicable permit fee.

### III. RIGHT-OF-WAY ALTERATION PERMIT REVIEW PROCESS

1. The process begins with the Applicant submitting the application and fees to the Permit Section Staff. This is illustrated on the flowchart included at the end of this section. The Permit Section Staff shall coordinate with the Planning Division as required.
2. The Permit Section Staff reviews the application for completeness and determines if the review is to be performed by in-house staff or a consultant.
3. If a consultant is required, the Permit Section Staff will require a Design Review Letter of Credit. The review will not begin until the Letter of Credit is submitted and approved.
4. The Permit Section Staff selects the consultant(s) and enters into a contract(s). At this point, the Applicant must also sign an agreement to pay the consultant(s) for the review fees. See exhibits for each of the agreements in Section 8.
5. The application will then be logged into a master tracking system to show all stages from the application to the issuance of the Certificate of Compliance and Final Completion for the development. A hard-copy central file system shall also be started at this point.
6. The Permit Section Staff shall review other County projects and other permit projects for coordination. The Permit Section Staff will notify the Applicant if coordination with these other projects is required.
7. The Applicant shall submit the required items to the Permit Section Staff, including the application form signed by the Applicant and his engineer.
8. The Permit Section Staff shall review the submittal for completeness and forward it to all appropriate KDOT departments or the consultant(s) for review.
9. KDOT staff or the consultant shall review the submittal and return it with written comments to the Permit Section Staff. The Required Information Checklist will be utilized, but only as a guide. The checklist is included in the packet. The reviewer shall also utilize his/her own knowledge and expertise to ensure a thorough review.
10. The Permit Section Staff shall review all the comments and forward them to the Applicant. The Permit Section Staff will also address any questions or special requests from the Applicant.

11. The Applicant shall furnish to the Permit Section Staff a revised submittal that includes a written disposition of all comments from KDOT staff and the consultant(s), which is signed by the Applicant and Applicant's engineer.
12. The Permit Section Staff shall follow the same procedures outlined above for the revised submittal. The process shall continue until the Applicant has satisfactorily addressed all comments.
13. Once the Applicant meets or exceeds the requirements of the KDOT Permit Regulations, the Permit Section Staff shall be responsible for the issuance of a Right-of-Way Alteration Permit.
14. Once the permit has been issued, a pre-construction meeting will be required prior to starting construction. A Construction and Observation Compliance Letter of Credit shall be submitted. The Permit Section Staff shall ensure the amount of the Letter of Credit is adequate, including the costs for a consultant for construction observation, if required. Certificates of Insurance for the Applicant, contractor, and any subcontractors shall be provided prior to the start of construction. At the pre-construction meeting the progress schedule and the phone numbers (24-hour) for the Applicant, the contractor, and any subcontractors shall be provided.
15. If consultant assistance is required during construction, the Permit Section Staff shall be responsible for contracting with the consultant. The consultant shall attend the pre-construction meeting and any subsequent construction meetings to ensure coordination and compliance of the permit. The Standard Contract For Construction Observation is found in Section 8 of this manual.
16. The person performing the site-observation tasks shall ensure that the permitted plans are utilized in the field. This is critical to ensure all the work that went into the review is carried out in the field. The cover sheet of the plans shall be stamped "Approved by KDOT For Construction".