

19A NCAC 02D .0404 MAINTENANCE WITHIN MUNICIPALITIES

(a) The definitions set forth in this Paragraph shall apply to this Rule.

- (1) "Board" means the Board of Transportation.
- (2) "Cross pipe lines" means pipe lines under the roadway surface, designed to convey water from one side of a street or highway to the other.
- (3) "Maintenance" means routine care or upkeep to keep roads, streets, or highways in the existing condition and with the existing traffic carrying capacity.
- (4) "Municipality" means an incorporated city or town within the State of North Carolina.
- (5) "Non-State municipal street" or "Non-State system municipal highway" (municipal system) mean any street or highway accepted by the municipality that is not a part of the State highway system.
- (6) "Open drainage" means drainage systems utilizing open side ditches, tail, lateral and outfall ditches to convey surface water to outfall streams.
- (7) "Pavement" means the paved portion of streets, including paved shoulders and on-street parking areas, but not including sidewalks and driveways.
- (8) "Rural highway" or "Rural street" means a highway or street on the State highway system outside the limits of a municipality.
- (9) "Shoulder" means earthen, soil, clay, gravel or turf section of pavement support extending from outer pavement edge to the bottom of side ditch, including shoulder sections which are paved.
- (10) "Sidewalk" means paved walkway, parallel to streets or highways.
- (11) The State highway system includes those streets and highways as described in G.S. 136-45.
- (12) "State municipal system street" or "State municipal street highway" mean any street or highway on the State highway system within a municipality.
- (13) "Storm drainage" or "Storm sewers" mean a system of underground pipes, culverts, conduits, or tunnels, including drop inlets and catch basins, designed to convey water from surface areas to eventual disposal into outfall streams.

(b) Responsibilities.

- (1) The Department shall patch and resurface pavement.
- (2) The municipality shall repair pavement cuts made for utility repair or other purposes under the control of the municipality. The Division of Highways District Engineer, or the District Engineer's designated representative shall be notified in writing 48 hours in advance of any pavement cut and approval must be obtained prior to making the cut. Pavement cuts due to emergencies may proceed as necessary with the Division of Highways District Engineer, or the District Engineer's designated representative being notified as soon as possible after the emergency is discovered and the pavement cut is made or anticipated.
- (3) If the maintenance of any State highway system street is performed by the municipality, then it shall be the responsibility of the municipality, subject to the approval and direction of the Department, to install and maintain signs, barricades, and other safety devices of like nature, and to furnish flagmen when necessary; all shall be performed in accordance with G.S. 136-130.
- (4) An encroachment agreement is required for the initial installation of any utility on the State highway system right-of-way by the municipality as well as by utility companies and individuals.
- (5) Drainage.
 - (A) The maintenance of roadway ditches including median drainage, where applicable, and cross drainage pipes, outfalls, and structures shall be the responsibility of Department within the highway right-of-way or within a drainage easement area.
 - (B) The maintenance of storm drainage and storm sewer systems draining State highway system streets within the highway right-of-way or within a drainage easement area shall be the responsibility of the Department. Where systems draining State highway system streets are enlarged and expanded to accommodate drainage from municipal streets, the initial cost and the maintenance cost shall be borne jointly by agreement.
 - (C) Attachments to drainage structures shall require the written approval of the Department prior to any utility or other attachment being made to any bridge or structure on the State highway system. Approval shall be required before turning any utility under or through a bridge or drainage structure on the State highway system. Approval is obtained through an encroachment agreement and dependent upon the complexity of the attachment.
- (6) The maintenance of sidewalks is a municipal responsibility.
- (7) Roadside Maintenance.

- (A) All planting, plant maintenance, mowing, erosion control, and litter pickup on freeways, interstate, and other controlled access highways shall be the responsibility of the Department, except as otherwise provided by this Rule.
 - (B) Non-controlled Access Surface Streets
 - (i) Erosion control, machine mowing, litter pickup, and the maintenance of trees over the entire width of right-of-way without sidewalk or pedestrian space, paved or unpaved, shall be the responsibility of the Department. Maintenance of shrubs or other planting over the entire width of right-of-way without sidewalk or pedestrian space, paved or unpaved, shall be the responsibility of the Department subject to the provision providing for specific planting projects as outlined in Part (7)(C) of this Paragraph.
 - (ii) The Department shall be responsible for the maintenance of the area outside of the curbs or within and beyond the sidewalk or pedestrian space, paved or unpaved. These areas are used almost exclusively for pedestrians, and the maintenance of such areas shall be the responsibility of the municipality.
 - (C) Should the municipality desire more extensive planting than is provided by the Department, a plan for such proposed planting shall be submitted to the Department and considered a construction or improvement item. An individual permit and agreement on Department and municipal responsibilities for planting and plant maintenance shall be required in each instance, covering not only financial responsibility but also the furnishing of personnel, equipment and materials for performing plant maintenance and associated hand mowing operations.
 - (D) Civic organizations desiring to provide more extensive planting of trees and shrubs in the municipality on Department right-of-way than is provided by the Department shall handle negotiations through the municipality as outlined in Part (7)(C) of this Paragraph.
- (8) Snow and Ice Control.
- (A) The responsibility for clearing State highway system streets shall be the responsibility of the Department; however, municipalities may, with the concurrence of the Division Engineer, execute an agreement with the Department providing for reimbursement by the Department to the municipality for the assumption of this responsibility.
 - (B) The removal of snow from sidewalk areas shall not be the responsibility of the Department.
- (9) The Department shall maintain, repair, and replace guard rail on the State highway system streets and highways.
- (10) Street Lighting.
- (A) The Department shall maintain street lighting on freeways, interstate systems, and other controlled access highways if determined to be for public safety.
 - (B) The maintenance and the electric current for lighting systems on streets or highways other than as referred to in Part (10)(A) of this Paragraph shall be the responsibility of the municipality, unless otherwise provided for by specific agreement.
 - (C) The installation of street lighting systems by the municipality on State highway system streets within the right-of-way may be allowed by the Department by encroachment agreement only.
- (11) The Department and the municipality shall ensure that traffic lanes are kept open. In the event that any traffic lanes are blocked for any reason, the Department and the municipality shall ensure that the blockage is signed or flagged.

*History Note: Authority G.S. 136-66.1; 136-93; 143B-346;
 Eff. July 1, 1978;
 Amended Eff. November 1, 1993;
 Readopted Eff. July 1, 2019.*