

Chapter 19 Streets and Sidewalks

Sec. 19-4. - Work within the right-of-way of public roads

This document sets forth requirements governing work within the right-of-way of public roads within the Town of Madison.

No person shall conduct work within the right-of-way of a public road within the Town of Madison until an encroachment permit has been obtained from the department of public works.

In addition, no person shall conduct work within a State highway within the Town of Madison that may affect public infrastructure maintained by the town under law, regulation, or agreement with the State of Connecticut until an encroachment permit has been obtained from the department of public works.

- (1) *Intent and Purpose.* Sections 19-4—19-6 have been enacted by the board of selectmen of the Town of Madison in the interest of public safety and convenience, and to protect and preserve the integrity, function, and operation of the right-of-way, public infrastructure, and utility facilities.

Work not specifically referenced or specified herein is intended by sections 19-4—19-6 to be performed in accordance with the Connecticut Department of Transportation Standard Specifications and Standard Drawings as may be amended from time to time.
- (2) *Authority.* The authority for establishment of sections 19-4—19-6 is set forth in the Connecticut General Statutes and the Charter of the Town of Madison.
- (3) *Severability.* If any court of competent jurisdiction finds any provision of sections 19-4—19-6 to be invalid or ineffective, in whole or in part, the effect of such decision shall be limited to the provision held to be invalid or ineffective and all other provisions of sections 19-4—19-6 shall be deemed to be in full force and effect.
- (4) *Application of article to public utilities.* Sections 19-4—19-6 shall apply and be effective as to public utilities in every respect, in accordance with G.S. 16-229 through 16-231, with the exception of:
 - a. Work associated with the placing or replacing of a utility pole and utility pole mounted equipment and cable; and
 - b. The cash deposit and performance bond requirements included herein in section 19-5.
- (5) *Exemptions.* Work performed or caused to be performed by the Town of Madison, Work deemed to be an emergency action by the town engineer or the assistant town engineer, or emergency work of a public utility shall be exempt from certain provisions of sections 19-4—19-6.
- (6) *Work governed by other authorities.* The issuance of an encroachment permit does not relieve the permittee or contractor from compliance with other regulations, codes, or ordinances of the Town of Madison, or the laws, regulations, or codes of state or federal regulatory authorities.
- (7) *Effective date.* The effective date of the ordinance from which sections 19-4—19-6 is derived shall be August 17, 2018.
- (8) *Revisions.* The Town of Madison may revise sections 19-4—19-6 from time to time as needed in order to ensure that the interests of the Town are being sufficiently met.
- (9) *Definitions.* The following words, phrases, and terms when used in sections 19-4—19-6 shall have the following meanings:

Agent shall mean individual or entity retained by the Town of Madison, Connecticut.

Applicant shall mean a person that has submitted an encroachment permit application under sections 19-4—19-6.

Assistant Town Engineer shall mean the assistant town engineer of the Town of Madison, Connecticut or his or her designated agent.

Call Before You Dig shall mean the Connecticut Call Before You Dig Central Clearinghouse established pursuant to G.S. § 16-348.

Contractor shall mean an individual, firm, corporation, limited liability company, partnership, association, or other entity performing work authorized under sections 19-4—19-6 as the permittee or on behalf of the permittee.

Department of police services shall mean the police department of the Town of Madison, Connecticut.

Department of public works shall mean the public works department of the Town of Madison, Connecticut.

Easement shall mean a right of the Town of Madison over privately owned land for access, construction, maintenance, drainage, or other purposes.

Emergency shall mean any event that may threaten public safety as determined by the town engineer or the assistant town engineer.

Emergency action shall mean an action deemed by the town engineer or the assistant town engineer to be necessary to protect public safety and convenience, and the preservation of the integrity, function, and operation of the right-of-way, and public infrastructure and utility facilities.

Encroachment permit shall mean a permit issued under sections 19-4—19-6 authorizing work within the right-of-way of a public road.

Encroachment permit form shall mean the form signed by the town engineer or the assistant town engineer documenting the issuance of an encroachment permit.

Excavation shall mean any opening or disturbance below the surface of the travel way, a sidewalk, or the ground or other surface, made within the right-of-way of a public road.

Facility or *facilities* shall mean any wire, cable, pipe, conduit, vault, handhole, structure, or similar property or equipment owned by a public utility.

HMA shall mean hot-mixed asphalt.

MUTCD shall mean the Federal Highway Administration Manual on Uniform Traffic Control Devices, latest revision.

OSHA shall mean the United States Department of Labor Occupational Safety and Health Administration.

Permittee shall mean a person that has been issued an encroachment permit under sections 19-4—19-6.

Person shall mean any individual, firm, corporation, limited liability company, partnership, association, or other legal entity, any governmental entity, or public utility.

Private road shall mean any highway, street, or road within the corporate limits of the Town of Madison that is not a state highway and is not maintained by the town.

Public road shall mean any highway, street, or road within the corporate limits of the Town of Madison maintained by the town.

Public utility shall mean a public utility as defined in G.S. § 16-345.

Right-of-way shall mean the area on, below, or above a public road, or within an easement associated with a public road, in which the Town of Madison has an interest.

Standard drawings shall mean the State of Connecticut Department of Transportation Highway Standard Drawings and Traffic Standard Drawings, latest revisions.

Standard specifications shall mean the State of Connecticut Standard Specifications for Roads, Bridges and Incidental Construction, Form 817, 2016, and all supplements thereto.

State shall mean the State of Connecticut.

State highway shall mean any highway, street, or road within the corporate limits of the Town of Madison maintained by the Connecticut Department of Transportation.

Subcontractor shall mean a contractor to whom any portion of the work has been assigned by the contractor performing work authorized under sections 19-4—19-6.

Town shall mean the Town of Madison, Connecticut.

Town engineer shall mean the town engineer of the Town of Madison, Connecticut, or his or her designated agent.

Travel way shall mean the full width of the paved or otherwise improved portion of the right-of-way assigned to vehicular traffic, usually the paved portion from curb to curb, or edge of pavement to edge of pavement.

Work shall mean any construction including excavation, or any occupation of the right-of-way of a public road for these purposes.

Sec. 19-5. - Permit application procedure and policies.

- (a) *Application.* An application for an encroachment permit shall be made on the form provided by the department of public works. The application form may also be accessed on the Town of Madison Department of Public Works website at: <http://www.madisonct.org>.

All applications shall include the ticket number provided by the Call Before You Dig Central Clearinghouse, certificate of insurance, policy endorsements and hold harmless agreement form. Depending upon the type of proposed work, applications may be required to include a cash deposit and/or performance bond as directed by the town engineer or the assistant town engineer.

All applications shall include a diagram describing the location of the proposed work, the existing conditions within the right-of-way, the scope of the proposed work, and the materials to be furnished or installed.

The diagram shall depict the major features of the right-of-way including highway or street lines, boundary markers, pavement lines, curbing, driveways, sidewalks, bridges, culverts, storm drainage pipes, catch basins, manholes, underdrains, castings, pavement markings, vehicle indication loop detectors, utility structures, poles, guys, mains, services, handholes, valves, irrigation lines and sprinklers, pet fence lines, signs, mailboxes, walls, fences, trees, tree grates, shrubs, and landscaping.

The diagram shall depict the existing conditions and the proposed work in sufficient detail to allow the town engineer or the assistant town engineer to determine conformance with the requirements of sections 19-4—19-6 and accepted engineering and construction practices.

The town engineer or the assistant town engineer, at his or her discretion, may require mapping associated with the proposed work to be prepared by a licensed land surveyor, and plans and specifications for the work to be prepared by a licensed professional engineer.

- (b) *Work within a state highway.* All work within a state highway requires the approval of the Connecticut Department of Transportation through its permit process.

In addition, an application for an encroachment permit shall also be submitted to the department of public works when work within a state highway may affect public infrastructure maintained by the Town of Madison under law, regulation, or agreement with the State of Connecticut.

(1) *State highways within the Town of Madison:*

Highway	From	To
Boston Post Road (U.S. Route One)	Guilford Town Line	Clinton Town Line
Durham Road (State Route 79)	U.S. Route One	Durham Town Line
Old Toll Road (State Route 80)	Guilford Town Line	Killingworth Town Line
Duck Hole Road (Special Service Road 450)	U.S. Route One	Horsepond Road
Horsepond Road (Special Service Road 450)	Duck Hole Road	State Route 79

(2) *Locations of public infrastructure maintained by the town within state highways:*

Downtown Center	Boston Post Road (U.S. Route One) between State Route 79 Meigs Avenue and Wall Street-Samson Rock Drive
Birnbaum Lane	Boston Post Road (U.S. Route One) between Samson Rock Drive and East Wharf Road
Salt Meadow Park Entrance	1362 Boston Post Road (U.S. Route One)

(c) *Emergency work of a public utility.* In the event of emergency work required to be performed by a public utility, the public utility shall notify the town engineer or the assistant town engineer prior to conducting such emergency work. Within seventy-two (72) hours of such notification, the public utility shall submit an application for an encroachment permit to the department of public works.

(d) *Major work of public utilities.* Prior to the submission of an encroachment permit, application for major or large scale projects of a public utility such as neighborhood wide utility pole replacements or utility main extensions, the public utility shall contact the department of public works to schedule a coordination meeting with town staff including the department of police services.

Public utilities are requested to submit long range plans for major or large scale projects to the department of public works as far in advance as possible to assist the town in planning its annual pavement management program.

(e) *Assignment of utilities.* The department of public works shall reserve the right to specify the horizontal location, and the elevation of utility facilities within the right-of-way of public roads.

- (f) *Issuance of permit.* The department of public works shall issue an encroachment permit for applications that have been approved by the department. A permit shall not be valid until an encroachment permit form signed by the town engineer or the assistant town engineer is issued to the permittee.
- (g) *Special Condition Permit.* The Town of Madison Department of Public Works reserves the right to issue a special condition permit for non-emergency applications under which certain provisions of sections 19-4-19-6 may not be applicable.

Permits to be issued as a special condition will be reviewed and deemed appropriate by the town engineer or the assistant town engineer.

- (h) *Permits issued for driveway construction.* All encroachment permits issued by the department of public works authorizing driveway or driveway apron construction shall be conditioned to indicate that the Town of Madison shall not be responsible for damage during winter season snow and ice control operations or any other maintenance operations of the town, to any driveway or driveway apron materials with the exception of HMA pavement.
- (i) *Permit available at work site.* A copy of the issued encroachment permit shall be maintained at the site of the work at all times during the progress of the work.
- (j) *Non-approval of application.* The town engineer or the assistant town engineer may deny an application for work that is deemed to create a potential traffic or other safety hazard, compromise the integrity, function, or operation of the right-of-way or public infrastructure or utility facilities, or prohibit or limit the towns ability to make improvements or conduct maintenance operations.
- (k) *Winter moratorium.* No encroachment permit shall be issued for work that requires the excavation or disturbance of pavements during the winter moratorium period of November 15th through April 15th unless an emergency action is deemed necessary. A special condition permit may be approved during this time period for proposed work based upon winter weather conditions, weather forecasts and the availability of hot mix asphalt.
- (l) *Duration of permit.* Encroachment permits shall remain open and valid until the end of the warranty period after the completion and acceptance by the Town of Madison of all work authorized under the permit.

The contractor performing the work authorized under the encroachment permit shall maintain the insurance and performance bond required by sections 19-4—19-6 in full force and effect for the duration of the permit.

- (m) *Revocation of a permit.* An encroachment permit may be revoked by written notice from the town engineer or the assistant town engineer to the permittee at any time should all or any portion of the work be deemed not in compliance with sections 19-4—19-6.
- (n) *Non-transfer of permit.* No encroachment permit shall be transferred to any other party. In the event of a requested transfer, the original permit shall be deemed revoked by the department of public works and a new encroachment permit application shall be required to be filed.
- (o) *Failure to obtain a permit.* Any person conducting work governed by sections 19-4—19-6 without having first obtained an encroachment permit shall be ordered by written notice issued by the town engineer or the assistant town engineer to immediately stabilize any disturbance, remove equipment and materials from the right-of-way as deemed necessary, and cease all work until an encroachment permit has been issued by the department of public works.

The written notice issued by the town engineer or the assistant town engineer shall include a reasonable time limit for the satisfactory completion of the above requirements.

Any person who fails to comply with the requirements of such written notice within the time specified therein shall be fined not more than one hundred dollars (\$100.00) per day thereafter until such requirements have been completed.

- (p) *Insurance.* The contractor performing the work authorized under the encroachment permit shall procure and maintain insurance of the types and in the minimum amounts as determined to be appropriate by the town engineer or the assistant town engineer.

(1) *General provisions.*

- a. All insurance shall remain in effect for the duration of the encroachment permit until the end of the warranty period after the completion and acceptance by the Town of Madison of all work authorized under the permit.
- b. All insurance shall be obtained from insurance companies that are duly licensed or authorized in the State of Connecticut to issue insurance policies for the required limits and coverages. All companies that provide insurance policies shall have an A.M. Best rating of A-VII or better.
- c. All insurance required herein shall:
 1. Include the coverages determined by the town engineer or the assistant town engineer.
 2. Be written for not less than the limits of liability determined by the town engineer or the assistant town engineer, or required by laws or regulations, whichever is greater.
 3. Contain a provision or endorsement that the coverage afforded will not be canceled, materially changed, or renewal refused until at least thirty (30) days prior written notice has been given to the contractor. Within three (3) days of receipt of any such written notice, the contractor shall provide a copy of the notice to the Town of Madison and each other insured under the policy.
 4. Be appropriate for the work being performed and provide protection from claims that may arise out of or result from the contractors performance of the work, whether it is to be performed by the contractor, any subcontractor or supplier, or by anyone directly or indirectly employed by any of them to perform any of the work, or by anyone for whose acts any of them may be liable.
 5. The coverage requirements for specific policies of insurance must be met by such policies, and not by reference to excess or umbrella insurance provided in other policies.
- d. Certificates of insurance:
 1. The contractor shall deliver to the Town of Madison, certificates of insurance establishing that the contractor has obtained and is maintaining the policies, coverages, and endorsements required. Upon request by the Town of Madison, the contractor shall also furnish other evidence of such required insurance, including but not limited to copies of policies and endorsements, and documentation of applicable self-insured retentions and deductibles.
 2. Certificates of insurance may be filed annually by contractors regularly performing work within the Town of Madison provided that such certificates of insurance shall not be limited to a specific project and shall be applicable to all instances of work governed by sections 19-4—19-6 performed by the contractor or public utility.

- e. Policy endorsements:
 - 1. Additional insureds: The contractor shall provide to the Town of Madison a copy of the contractor's policy endorsement naming the Town of Madison as an additional insured.
 - 2. Waiver of subrogation: The contractor shall provide to the Town of Madison a copy of the contractor's policy endorsement indicating that the contractor shall waive all rights of recovery under subrogation or otherwise, against the Town of Madison. The contractor shall require of each subcontractor, by appropriate written agreements, similar waivers, each in favor of all parties enumerated in this section.
 - 3. The contractor's insurance shall be primary and non-contributory.
- (q) *Indemnification and hold harmless agreement.* Prior to the issuance of an encroachment permit, using the indemnification and hold harmless agreement form included herein at Appendix B, to the fullest extent permitted by laws and regulations, the permittee shall agree to indemnify, defend, and hold harmless, the Town of Madison and its agents, servants, representatives, and employees from and against any and all claims, liabilities, damages, losses, costs, expenses (including attorney's fees), judgments, subrogations or other damages arising directly or indirectly, in connection with any injuries, losses, costs, expenses, or damages received or sustained by the permittee, or his or her agents, or any person, in connection with the issuance of an encroachment permit, any work authorized under the permit, or by reason of any act or omission of the permittee.

Editor's note— Appendix B was not included in the codification of this section and can be found in the office of the department of public works.

- (r) *Approval of materials.* The town engineer or the assistant town engineer shall reserve the right to approve all materials to be used in the work authorized under an encroachment permit.
- (s) *Permanent pavement restoration.* Where work authorized under an encroachment permit requires the excavation or disturbance of pavement, the permittee shall be required to complete the temporary repair of the excavated or disturbed pavement in accordance with the standard pavement restoration details issued by the department of public works.

After an adequate setting period as determined by the town engineer or the assistant town engineer, the Town of Madison shall cause to have the temporary pavement removed and replaced with permanent pavement in accordance with the standard pavement restoration details.

In the instance of an encroachment permit issued to a public utility or contractor working on behalf of a public utility, after an adequate setting period as determined by the town engineer or the assistant town engineer, such public utility shall be required to remove the temporary pavement and replace it with permanent pavement in accordance with the standard pavement restoration details.

The limits of the permanent pavement repair shall be based on the condition of the pavement in the area of the work prior to the commencement of work authorized under the encroachment permit. The town engineer or assistant town engineer shall make a determination as to the required limits of the permanent pavement repair based on a visual observation of the pavement condition, and may rely on pavement condition indices maintained by the department of public works as part of its pavement management program.

Where the excavation or disturbance of pavement damages or disturbs vehicle indication loop detectors or pavement markings, the Town of Madison shall cause to have the vehicle indication loop detectors or pavement markings reinstalled in accordance with the requirements of the Connecticut Department of Transportation and the standard specifications and standard drawings as may be amended from time to time.

- (t) *Cash Deposit.* Prior to the issuance of an encroachment permit, the applicant, with the exception of a public utility or contractor working on the behalf of the public utility may be required to furnish a cash deposit to the town to cover the costs of permanent pavement repair, disturbed vehicle indication loop detectors and pavement marking reinstallation. The town engineer or the assistant town engineer shall establish the cash deposit amount based on an opinion of probable costs for the various types of repair work. If a balance remains from the cash deposit after the completion of the repair work, the remaining amount shall be released to the permittee.

The cash deposit shall be a check or money order to be held by the office of the director of finance of the Town of Madison.

The cash deposit shall be withheld until after the completion and acceptance by the Town of Madison of all repair work associated with the encroachment permit.

Cash deposits may be filed annually by an individual, firm, corporation, limited liability company, partnership, association, or other legal entity, or any governmental entity, regularly performing work within the Town of Madison provided that such cash deposits shall not be limited to a specific project and shall be applicable to all instances of work governed by sections 19-4-19-6 and performed by the permittee.

Annual cash deposit amounts shall be determined by the town engineer or the assistant town engineer. In no case shall an annual cash deposit be in an amount less than ten thousand (\$10,000) dollars. The amount of an annual cash deposit may be required to be updated each year.

- (u) *Performance bond.* Prior to the issuance of an encroachment permit, the applicant, with the exception of a public utility or contractor working on the behalf of the public utility may be required to furnish a performance bond to the Town as security for the faithful performance and completion of the work authorized under the permit.

The performance bond shall be a surety bond to be held by the office of the director of finance of the Town of Madison. Such bond shall be issued by a surety company licensed to do business in the State of Connecticut.

The town engineer or the assistant town engineer shall establish the performance bond amount based on an opinion of probable costs that the Town would incur to complete the work authorized under the encroachment permit should all or any portion of the work not be completed by the permittee in accordance with the requirements in sections 19-4-19-6.

The performance bond shall be maintained in full force and effect for the full warranty period of one (1) year after the completion and acceptance by the Town of Madison of all work authorized under the encroachment permit.

- (v) *Warranty of work.* The permittee shall warranty that the work authorized under the encroachment permit shall be performed in conformance with sections 19-4—19-6, and that all materials furnished or installed are free from defects and flaws, and shall be installed in conformance with sections 19-4—19-6.

The warranty period shall be one (1) year from and after the date of completion of the work and acceptance of the work by the Town of Madison.

If a performance bond is required by the department of public works under sections 19-4-19-6, the permittee shall maintain the performance bond in full force and effect for the warranty period.

If at any time during the warranty period, any portion of the work requires, repair, correction, or replacement, the town engineer or the assistant town engineer shall notify the permittee in writing to

make the required repairs, corrections, or replacements. The commencement date of the warranty period shall be revised to begin upon the completion of the repair, correction, or replacement work and acceptance of such work by the Town of Madison. If a performance bond and/or cash deposit was required under the encroachment permit, the performance bond shall be maintained in full force and effect and/or cash deposit withheld for the revised warranty period.

In the event that the permittee does not make the required repair, correction, or replacement, the Town of Madison shall cause to have such work made, and shall withhold such sums from the cash deposit and/or lay claim against the performance bond amount adequate to pay for the costs of such work.

Sec. 19-6. - Prosecution and progress of work.

- (a) *Prompt completion of work.* The permittee shall carry out with due diligence, all work authorized under an encroachment permit, and shall complete all work as promptly as is practicable so as to not obstruct or impede the convenience of the public and the operation of the right-of-way more than is reasonably necessary.
- (b) *Work hours.* Work authorized under an encroachment permit shall only be conducted Monday through Saturday between the hours of 7:00 a.m. and 5:00 p.m., unless other periods are authorized by the town engineer or the assistant town engineer.

No work shall be conducted on legal holidays that may occur within the above authorized periods.

The town engineer or the assistant town engineer may limit work during morning and afternoon weekday school bus operation periods, or during other periods when deemed necessary for the safe operation of the right-of-way.

- (c) *Observation of the work.* The permittee shall notify the department of public works at least seventy-two (72) hours prior to commencing work authorized under an encroachment permit to allow for the scheduling of observations of the work by the department.

Observation of work by the department of public works shall be made solely to insure conformance with the requirements of sections 19-4—19-6.

The town engineer or the assistant town engineer may require that a pre-construction meeting be held with town staff including the department of police services prior to beginning work authorized under an encroachment permit.

- (d) *Police dispatch center notification.* The permittee shall be responsible for notifying the Town of Madison Police Dispatch Center (203-245-2721) of the location and description of the work to be conducted a minimum of seventy-two (72) hours prior to commencing work authorized under an encroachment permit.
- (e) *Utility notification and coordination.* The contractor shall be responsible for compliance with the provisions of section 16-345-4 of the Regulations of Connecticut State Agencies, Excavation Near Underground Utility Facilities, regarding the notification of the Call Before You Dig Central Clearinghouse prior to the commencement of any excavation near the location of public utility facilities.

In addition, the permittee shall be responsible for the coordination with public utility companies of any required temporary support or bracing of utility facilities, or adjustment, or relocation of such facilities.

- (f) *Safety.* The contractor shall be responsible for the safety of work forces. Work authorized under an encroachment permit shall be conducted in conformance with all applicable laws, regulations, codes, and ordinances, including OSHA Standard 29 CFR 1926 Subpart P Excavations regarding trenching and excavation safety.

- (g) *Maintenance and protection of traffic.* The contractor shall be responsible for the safety and protection of pedestrian, cyclist, and vehicular traffic including the establishment of temporary work zones, and the erection of signs, barricades, traffic drums and cones, warning lights, and other traffic safety devices conforming to the requirements of the MUTCD.

Traffic flag persons shall be utilized for the maintenance and protection of traffic through and in the vicinity of temporary work zones. The town engineer or the assistant town engineer may order the use of uniformed police officers in lieu of or in addition to traffic flag persons where deemed necessary for the protection of public safety. The costs associated with the use of uniformed police officers shall be the responsibility of the permittee.

Temporary partial lane closures may be allowed subject to notification of the department of public works. The contractor shall at all times maintain a minimum lane width of ten (10) feet, and an alternating one-lane traffic pattern in the vicinity of the temporary work zone.

When a temporary driveway closure is required, the permittee shall notify the affected property and/or business owner, a minimum of twenty-four (24) hours in advance of the closure and shall minimize to the extent practicable, the length of time of the closure.

- (h) *Temporary road closures.* When deemed necessary by the town engineer or the assistant town engineer, a temporary road closure may be allowed subject to coordination with the department of police services. The contractor shall be responsible for the erection and maintenance of signed detour routes approved by the town engineer or the assistant town engineer.
- (i) *Conditions during the progress of the work.* The contractor shall be responsible for maintaining pavements in a broom swept condition, and the removal of debris and unnecessary materials from the right-of-way at the end of each day.

The contractor shall be responsible for preventing the tracking of earth and other materials onto pavements outside of the work area.

The contractor shall be responsible for the control of dust through the application of water or calcium chloride during the progress of the work, and for cleaning all pavements, and removing all trash or debris at the end of each day.

- (j) *Protection of existing facilities.* The contractor shall be responsible for the protection of existing facilities within the right-of-way and the protection of property adjoining the right-of-way. The costs of restoration or replacement of damaged or disturbed existing facilities or property shall be the responsibility of the permittee.

The contractor shall protect all storm drain inlets located within and adjacent to the work so as to prevent the discharge of sediment, debris, and other pollutants into any municipal or state storm drainage system.

Any highway line, street line, or private boundary marker disturbed by the operations of the contractor shall be reset by a licensed land surveyor. The land surveyor shall submit a written certification to the town indicating that such marker has been reset.

- (k) *Rock removal by blasting.* Where blasting operations are required for the removal of rock within the right-of-way, the contractor shall be responsible for obtaining all required approvals and permits from the Town of Madison Fire Marshal, and conducting such operations in accordance with applicable state laws, regulations and codes.
- (l) *Tree removal and pruning.* Prior to the removal or pruning of any tree or shrub within the right-of-way, the contractor shall notify the Town of Madison Tree Warden in accordance with the provisions of G.S. § 23-65.

No such tree or shrub shall be removed or pruned until the tree or shrub has been posted by the town tree warden for the required ten (10) day notice period and the permittee has then been notified to proceed by the tree warden with such removal or pruning.

- (m) *Excavation, backfilling, and temporary surfacing requirements.* Pavements shall be saw cut in a neat line for the full depth of the pavement prior to making excavations in order to limit and confine the disturbance to existing pavement. Saw cut lines shall be generally parallel or normal to trench excavations and limited to the extent of pavement removal reasonably necessary to perform the work.

The use of pavement breakers, excavators, or milling or cold planning equipment shall not be allowed to make initial excavations.

Pavement shall be removed over undermined areas or over-breaks areas.

Excavations shall be made in conformance with OSHA Standard 29 CFR 1926 Subpart P Excavations.

Where sheeting and bracing of excavations is required, the town engineer or the assistant town engineer may require that the design for such sheeting and bracing be prepared by a licensed professional engineer.

Where sheeting and bracing of excavations is required, the town engineer or the assistant town engineer may order such sheeting and bracing to be left in place in order to protect pavements, infrastructure or facilities or limit further disturbance within the right-of-way.

Where deemed appropriate with regard to minimizing disturbance to pavements, sidewalks, other public infrastructure, and utility facilities, the town engineer or the assistant town engineer may prohibit open-cut excavation and require the use of jacking, boring, drilling, or tunneling methods for the installation of pipes or utility facilities.

Under no circumstances, shall an open excavation be left unattended by either traffic flag persons or uniformed police officers during the progress of the work.

Under no circumstances, shall an excavation be left open at the end of a day or during a period when active work has been suspended.

Excavations shall be backfilled at the end of each day or prior to suspending active work. The backfilled excavation shall be adequately compacted and the surface of the backfilled excavation shall be brought to match the surface of adjoining pavement surface to provide an adequate temporary surface allowing for the safe passage of pedestrian, cyclist, and vehicular traffic as deemed acceptable to the town engineer or the assistant town engineer.

The town engineer or the assistant town engineer may direct that temporary bituminous concrete pavement be installed when work will be suspended for an extended period of time or when conditions warrant as determined by the town engineer or the assistant town engineer.

- (n) *Temporary pavement markings.* The permittee shall be responsible for the installation of temporary pavement markings where the excavation or disturbance of pavement causes damage to or disturbs pavement markings, or when as determined by the town engineer or the assistant town engineer, temporary pavement markings are required for traffic safety.

The use of painted temporary pavement markings during the progress of the work shall be allowed. Upon completion of the work, the installation of temporary thermoplastic pavement markings may be required.

- (o) *Restoration.* The permittee shall be responsible for the restoration of all existing conditions and features disturbed by the work authorized under an encroachment permit.

- (p) *Removal of Call Before You Dig markings.* The town engineer or the assistant town engineer may require the removal of flagged and painted Call Before You Dig markings upon completion of work authorized under sections 19-4—19-6.

The removal of Call Before You Dig markings shall be mandatory within the towns historic center and downtown center areas within the U.S. Route One highway lines, and within the right-of-ways of Academy Street, Bradley Road, Meetinghouse Lane, Meigs Avenue, Samson Rock Drive, School Street, and Wall Street.

The means and methods used to remove painted Call Before You Dig markings shall be approved by the town engineer or the assistant town engineer.

Secs. 19-7—19-20. - Reserved.