

1 19A NCAC 02D .0404 is proposed for readoption without substantive changes as follows:

2
3 **19A NCAC 02D .0404 MAINTENANCE WITHIN MUNICIPALITIES**

4 (a) Definitions and Abbreviations. ~~The following is a listing of definitions to provide greater understanding of this~~
5 **Rule:**

- 6 (1) ~~Municipality~~ “Municipality” means an incorporated city or town within the State of North Carolina.
- 7 (2) ~~The State Highway System~~ highway system includes those streets and highways as described in
8 G.S. 136-44.1.
- 9 (3) ~~State Municipal System Street or Highway is~~ “State municipal system street” or “State municipal
10 street highway” mean any street or highway on the ~~state~~ State highway system within a municipality.
11 ~~Note: See G.S. 136-66.1(1)~~
- 12 (4) ~~Non-State System Municipal Street or Highway (Municipal System) is~~ “Non-State municipal street”
13 or “Non-State system Municipal Highway (municipal system) mean any street or highway accepted
14 by the municipality which is not a part of the ~~state~~ State highway system. ~~[Note: See G.S.~~
15 ~~136-66.1(2)]~~
- 16 (5) ~~A Rural Highway or Street is~~ “Rural highway” or “Rural street” means a highway or street on the
17 ~~state~~ State highway system outside the limits of a municipality.
- 18 (6) ~~Board~~ “Board” means the Board of Transportation.
- 19 (7) ~~Maintenance~~ “Maintenance” means routine care or upkeep to keep roads, ~~streets~~ streets, or highways
20 in the existing condition and with the existing traffic carrying capacity.
- 21 (8) ~~Pavements are~~ “Pavement” means the paved portion of streets including paved shoulders and ~~on~~
22 ~~street~~ on-street parking areas but does not include sidewalks and driveways.
- 23 (9) ~~Storm Drainage or Storm Sewers means~~ “Storm drainage” or “Storm sewers” mean a system of
24 underground pipes, culverts, conduits or tunnels including drop inlets and catch basins, designed to
25 convey water from surface areas to eventual disposal into outfall streams.
- 26 (10) ~~Open Drainage~~ “Open drainage” means drainage systems utilizing open side ditches, tail, lateral and
27 outfall ditches to convey surface water to outfall streams.
- 28 (11) ~~Cross Pipe Lines are~~ “Cross pipe lines” means pipe lines under the roadway surface, designed to
29 convey water from one side of a street or highway to the other.
- 30 (12) ~~Shoulder is~~ “Shoulder” means earthen, soil, clay, gravel or turf section of pavement support
31 extending from outer pavement edge to the bottom of side ditch, including shoulder sections which
32 are paved.
- 33 (13) ~~Sidewalk~~ “Sidewalk” means walkway, paved or unpaved, parallel to streets or highways.

34 ~~(b) Maintenance Responsibility.~~

- 35 (1) ~~The streets and highways comprising a part of the state highway system, at all times, are the~~
36 ~~responsibility of the Department of Transportation and this overall responsibility is not shifted to~~
37 ~~the municipality by reason of their assumption, under reimbursable contract, of maintenance,~~

1 construction, or improvement on behalf of the Department of Transportation as outlined in G.S.
2 136-66.1.

3 ~~(2) The cost of municipal maintenance is paid for out of funds allocated by the Board for this purpose.~~

4 ~~(3) The Department of Transportation within its discretion may enter into contracts with municipalities
5 for the purpose of maintenance, repair, construction, reconstructing, widening or improving state
6 system streets within municipalities.~~

7 ~~(4) The maintenance of state system streets may be performed by the municipality by a continuing
8 agreement with the Department of Transportation on a reimbursement basis. Such an agreement
9 may be executed covering all or part of maintenance operations on all or a part of the state system
10 streets within the limits of the municipality involved.~~

11 ~~(e) Policies and responsibilities.~~ (b) Responsibilities.

12 (1) Patching and resurfacing of pavements ~~is~~ are the responsibility of the ~~Department.~~ Department of
13 Transportation.

14 (2) Repairs for pavement cuts for utility repair and other purposes by or under the control of the
15 municipality shall be the responsibility of the municipality. The Division of Highways ~~district~~
16 ~~engineer, or his designated representative, District Engineer, or the District Engineer's designated~~
17 representative shall be notified in writing 48 hours in advance of any pavement cut and approval
18 must be obtained prior to making the cut. Pavement cuts due to emergencies ~~shall~~ may proceed as
19 necessary with the Division of Highways ~~district engineer~~ District Engineer, or the District
20 Engineer's designated representative being notified as soon as possible after the emergency is
21 discovered and the pavement cut is made or anticipated.

22 ~~Note: See G.S. 136-93.~~

23 (3) If the maintenance of any ~~state~~ State highway system street is performed by the municipality, then
24 it shall be the responsibility of the municipality, subject to the approval and direction of the
25 ~~Department of Transportation, Department,~~ Department, to install and maintain proper signs, ~~barricades~~
26 barricades, and other safety devices of like ~~nature~~ nature, and to furnish flagmen when necessary;
27 all shall be performed in accordance with G.S. 136-130, ~~the Manual for Uniform Traffic Control~~
28 Devices (MUTCD).

29 (4) An encroachment agreement is required for the initial installation of any utility on the ~~state~~ State
30 highway system ~~right of way~~ right-of-way by the municipality as well as by utility companies and
31 individuals.

32 (5) ~~Drainage:~~ Drainage.

33 (A) The maintenance of roadway ditches including median drainage, where applicable, and
34 cross drainage pipes, ~~outfalls~~ outfalls, and structures ~~is~~ shall be the responsibility of
35 ~~Department of Transportation~~ within the highway ~~right of way~~ right-of-way or within a
36 drainage easement area.

1 (B) The maintenance of storm drainage and storm sewer systems draining ~~state~~ State highway
2 ~~system streets is within the highway right-of-way or within a drainage easement area shall~~
3 ~~be the responsibility of the Department of Transportation, within the highway~~
4 ~~right of way or within a drainage easement area.~~ Where systems draining ~~state~~ State
5 highway system streets are enlarged and expanded to accommodate drainage from
6 municipal streets, the initial cost and the maintenance cost shall be borne jointly by
7 agreement.

8 (C) Attachments to drainage structures—~~Written~~ shall require the written approval of the
9 ~~Department of Transportation is required~~ prior to any utility or other attachment being
10 made to any bridge or structure on the ~~state~~ State highway system. Approval ~~is also~~
11 ~~necessary~~ shall be required before turning any utility under or through a bridge or drainage
12 structure on the State highway system. ~~Highway System.~~

13 (6) ~~Sidewalks.~~ The maintenance of sidewalks is a municipal responsibility.

14 (7) ~~Roadside Maintenance.~~ Roadside Maintenance.

15 (A) ~~Freeways, interstate and other controlled access highways.~~—All planting, plant
16 maintenance, mowing, erosion control, and litter pickup ~~are~~ on freeways, interstate, and
17 other controlled access highways shall be the responsibility of the Department, ~~Department~~
18 ~~of Transportation,~~ except as otherwise provided herein.

19 (B) Non-controlled Access Surface Streets

20 (i) ~~Without sidewalk or pedestrian space (paved or unpaved).~~—Erosion control,
21 machine mowing, ~~litter pickup~~ litter pickup, and the maintenance of trees over the
22 entire width of ~~right of way~~ right-of-way without sidewalk or pedestrian space,
23 paved or unpaved, shall be the responsibility of the Department, ~~Department of~~
24 ~~Transportation.~~ Maintenance of shrubs or other planting ~~is also~~ over the entire
25 width of right-of-way without sidewalk or pedestrian space, paved or unpaved,
26 shall be the responsibility of the ~~Department of Transportation~~ subject to the
27 provision providing for specific planting projects as outlined in Part (7)(C) of this
28 Paragraph.

29 (ii) ~~With sidewalk or pedestrian space (paved or unpaved).~~ ~~Since the~~ The area outside
30 of the curbs or within and beyond the sidewalk or pedestrian ~~space~~ space, paved
31 or unpaved, is used almost exclusively for pedestrians, and the maintenance of
32 such areas ~~is~~ shall be the responsibility of the municipality.

33 (C) ~~Specific planting projects on state highway system right of way.~~—Should the municipality
34 desire more extensive planting than is provided by the Department, ~~Department of~~
35 ~~Transportation,~~ a plan for such proposed planting shall be submitted to the ~~Department of~~
36 ~~Transportation~~ and ~~shall be~~ considered a construction or improvement item. An individual
37 permit and agreement on ~~Department of Transportation~~ and municipal responsibilities for

1 planting and plant maintenance ~~will~~ shall be required in each instance, covering not only
2 financial responsibility but also the furnishing of personnel, equipment and materials for
3 performing plant maintenance and associated hand mowing operations.

4 (D) ~~Proposed planting by civic organizations.~~ Civic organizations desiring to provide more
5 extensive planting of trees and shrubs in the municipality on ~~Department of Transportation~~
6 ~~right of way~~ right-of-way than is provided by the ~~Department of Transportation~~ shall
7 handle negotiations through the municipality as outlined in Part (7)(C) of this Paragraph.

8 (8) ~~Snow and Ice Control.~~ Snow and Ice Control.

9 (A) The responsibility for clearing ~~state~~ State highway system streets ~~is~~ shall be the
10 responsibility of the ~~Department.~~ ~~Department of Transportation;~~ however, municipalities
11 may, with the concurrence of the ~~Division Engineer.~~ ~~division engineer,~~ execute an
12 agreement with the ~~Department of Transportation~~ providing for reimbursement by the
13 ~~Department of Transportation~~ to the municipality for the assumption of this responsibility.

14 (B) The removal of snow from sidewalk areas ~~is~~ shall not be the responsibility of the
15 ~~Department.~~ ~~Department of Transportation.~~

16 (9) ~~Guard Rail.~~ The maintenance, ~~repair~~ repair, and replacement of guard rail on ~~Highway System~~ State
17 highway system streets and highways ~~is~~ shall be the responsibility of the ~~Department.~~ ~~Department~~
18 ~~of Transportation.~~

19 (10) ~~Street Lighting.~~ Street Lighting.

20 (A) ~~Freeways — Interstate System and Other Controlled Access Highways.~~ Where in the
21 judgment of the ~~Department of Transportation~~ street lighting on freeways, interstate
22 system, and other controlled access highways is necessary, the maintenance and the electric
23 current necessary for the operation of the lighting system shall be the responsibility of the
24 ~~Department.~~ ~~Department of Transportation.~~

25 (B) ~~Other System Streets.~~ The maintenance and the electric current for lighting systems on
26 streets or highways other than as referred to in Part (10)(A) of this Paragraph ~~is~~ shall be
27 the responsibility of the municipality, unless otherwise provided for by specific agreement.

28 (C) The installation of street lighting systems by the municipality on ~~state~~ State highway
29 system streets within the ~~right of way~~ right-of-way may be allowed by the ~~Department of~~
30 ~~Transportation~~ by encroachment agreement only.

31 (11) ~~Blocking of Traffic Lanes.~~ In order to provide for the safe movement of traffic, it ~~is~~ shall be a joint
32 responsibility between the ~~Department of Transportation~~ and the municipality to insure that traffic
33 lanes be kept open and if blocked at any time for any reason that such blockage is properly signed
34 or flagged.

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36 *History Note:* Authority G.S. 136-66.1; 136-93; 143B-346; 143B-350(f); 143B-350(g);
37 Eff. July 1, 1978;

