

ENCROACHMENT AGREEMENT-
STANDARD PROVISIONS FOR UTILITY AND
NON-UTILITY INSTALLATION

Pre-Construction

Contact Offices & Outside Agency issues/contacts/info:

1. Approval may be rescinded upon failure to follow any of the provisions in this permit and may be considered a violation of the agreement.
2. The Encroaching party or their contractor shall provide the following notices prior to construction activity within the Town of Franklin:
 - a. The encroaching party shall notify the appropriate municipal office (Public Works) prior to beginning any work within the municipality's limits of jurisdiction. **Form is attached.** Contact should be made at least fourteen (14) days prior to project to ensure that Town is aware of the proposed project and to allow for input from the Town related to staging areas, timing of work and daily work notifications.
 - b. Prior to actual construction, three (3) business days advance by telephone or email to the Public Works Director, Bill Deal at 828-524-2516 x 402 or bdeal@franklinnc.com .

Failure to provide these notifications prior to beginning construction is subject to the Town Manager's discretion to cease construction activity within the town limits. The Town reserves the right to cease any construction or maintenance work associated with this installation by the encroaching party until the construction or maintenance meets the satisfaction of the Town Manager or their representative.

3. Prior to beginning work, it is the requirement of the Encroaching Party to contact the appropriate Utility Companies involved and make arrangements to adjust or relocate any utilities that conflict with the proposed work. Refer to NC 811 for more guidance (NC811.org).
4. It shall be the responsibility of the encroaching party to determine the location of utilities within the encroachment area. NCGS § 87-115 through § 87-130 of the Underground Utility Safety and Damage Prevention Act requires underground utilities to be located by calling NC 811 prior to construction. The encroaching party shall be responsible for notifying other utility owners and providing protection and safeguards to prevent damage or interruption to existing facilities and maintain access to them.
5. If this installation is within the NCDOT Right of Way, the appropriate encroachment agreement must be in place and encroaching party will adhere to the NCDOT ENCROACHMENT AGREEMENT DIVISION 14 STANDARD SPECIAL PROVISIONS FOR UTILITY AND NON-UTILITY INSTALLATION.
6. This agreement does not authorize installations within nor encroachment onto railroad rights of way. Permits for installations within railroad right of way must be obtained from the railroad and are the responsibility of the encroaching party. Contact NC Rail- Engineering Construction & Safety Branch at 919-707-4154 for guidance.
7. At the option of the Town, a preconstruction meeting including representatives of the Town, the encroaching party, contractors and NCDOT, if applicable, shall be required.

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8. At the discretion of the Town, the encroaching party (not the utility contractor) shall make arrangements to have a qualified inspector, under the supervision of a Professional Engineer registered in North Carolina, on site at all times during construction. The registered Professional Engineer shall be required to submit a signed and PE sealed certification that the utility was installed in accordance with the encroachment agreement.

Legal & Right-of-Way Issues

9. This approval and associated plans and supporting documents shall not be interpreted to allow any design change or change in the intent of the design by the Owner, Design Engineer, or any of their representatives. Any revisions or changes to these approved plans or intent for construction must be approved in writing by the Town prior to construction or during construction if an issue arises during construction to warrant changes.
10. The Town does not guarantee the right of way on this road, nor will it be responsible for any claim for damages brought about by any property owner by reason of this installation. It is the responsibility of the encroaching party to verify the right of way.
11. Encroaching party shall be responsible for obtaining all necessary permanent and/or temporary construction, drainage, utility and/or sight distance easements.
12. All Right of Way and easements necessary for construction and maintenance shall be dedicated to Town with proof of dedication furnished to the Town Manager prior to beginning work.
13. No commercial advertising shall be allowed within Town of Franklin Right of Way.
14. The encroaching party shall obtain proper approval from all affected pole owners prior to attachment to any pole.
15. The installation within the Control of Access fence shall not adversely affect the design, construction, maintenance, stability, traffic safety or operation of the roadway, and the utility must be serviced without access from the through-traffic roadways or ramps.

Work Zone Traffic

16. Traffic control shall be coordinated with the Public Works Department prior to any construction commencing. See the Manual / Uniform Traffic Control Devices (MUTCD) for reference.
17. WORK ZONE TRAFFIC CONTROL QUALIFICATIONS AND TRAINING PROGRAM

All personnel performing any activity inside the right of way are required to be familiar with the NCDOT Maintenance / Utility Traffic Control Guidelines (MUTCG); these are the standards utilized by the Town. No specific training course or test is required for qualification in the Maintenance /Utility Traffic Control Guidelines (MUTCG).

All flagging, spotting, or operating Automated Flagger Assist Devices (AFAD) inside the right of way requires qualified and trained Work Zone Flaggers. Training for this certification is provided by NCDOT approved training resources and by private entities that have been pre-approved to train themselves.

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All personnel involved with the installation of Work Zone Traffic Control devices inside the highway right of way are required to be qualified and trained Work Zone Installers. Training for this certification is provided by NCDOT approved training resources and by private entities that have been pre-approved to train themselves.

All personnel in charge of overseeing work zone Temporary Traffic Control operations and installations inside the highway right of way are required to be qualified and trained Work Zone Supervisors. Training for this certification is provided by NCDOT approved training resources and by private entities that have been pre-approved to train themselves.

18. The party of the second part shall employ traffic control measures that are in accordance with the prevailing federal, state, local, and NCDOT policies, standards, and procedures. These policies, standards, and procedures include, but are not limited to the following:
 - a. Manual on Uniform Traffic Control Devices (MUTCD) – North Carolina has adopted the MUTCD to provide basic principles and guidelines for traffic control device design, application, installation, and maintenance. North Carolina uses the MUTCD as a minimum requirement where higher supplemental standards specific to North Carolina are not established. Use fundamental principles and best practices of MUTCD (Part 6, Temporary Traffic Control).
 - b. NCDOT Maintenance / Utility Traffic Control Guidelines (MUTCG) – This document enhances the fundamental principles and best practices established in MUTCD Part 6, Temporary Traffic Control, incorporating NCDOT-specific standards and details. It also covers important safety knowledge for a wide range of work zone job responsibilities.
19. Ingress and egress shall be maintained to all businesses and dwellings affected by the project. Special attention shall be paid to police, EMS and fire stations, fire hydrants, secondary schools, and hospitals.
20. Traffic shall be maintained at all times. All lanes of traffic are to be open, when possible, during the hours of 7:00 A.M. to 9:00 A.M. and from 3:00 P.M. to 5:00 P.M. Monday through Friday, during any time of inclement weather, **or as directed by the Town**. Any violation of these hours will result in ceasing any further construction by the Encroaching Party or their contractor.
21. Nighttime and weekend operations will NOT be allowed unless written approval is received from the the Town. If nighttime or weekend work is allowed or required, all signs must be retro- reflective, and a work zone lighting plan must be submitted for approval prior to construction.
22. Traffic shall not be rerouted or detoured without the prior written approval from the Town. No utility work will be allowed on holidays observed by the Town or during local events without prior approval from the Town. If the construction is within 1000 feet of a school location or on a designated bus route, the construction shall be coordinated with the school start and end times to avoid traffic delays.
23. Work requiring lane or shoulder closures shall not be performed on both sides of the road simultaneously within the same area.
24. Any work requiring equipment or personnel within 5 feet of the edge of any travel lane of an undivided facility and within 10 feet of the edge of any travel lane of a divided facility shall require a lane closure with appropriate tapers per current *NCDOT Roadway Standard Drawings* or *MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES*.

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25. Temporary and final pavement markings are the responsibility of the encroaching party. Final pavement markings and sign plans shall be submitted prior to construction.
26. Any pavement markings that are damaged or obliterated shall be restored by the encroaching party at no expense to the Town.
27. Sidewalk closures shall be installed as necessary. Pedestrian traffic shall be detoured around these closures and shall be signed appropriately and in accordance with The American with Disabilities Act Accessibility Guidelines. The encroaching party must adhere to the guidelines for accommodating pedestrians in encroachment work zones as described in the NCDOT Pedestrian Work Zone Accommodations Training found at <https://www.youtube.com/watch?v=AOuYa5IW3dg&feature=youtu.be>
28. Sidewalks that are damaged during construction shall be restored by the encroaching party at no expense to the Town and within 30 days of the initial disturbance.

Roadside Environmental

29. The encroaching party shall comply with all applicable Federal, State and local environmental regulations and shall obtain all necessary Federal, State and local environmental permits, including but not limited to, those related to sediment control, stormwater, wetland, streams, endangered species and historical sites.
30. When surface area in excess of one acre will be disturbed, the Encroacher shall submit a Sediment and Erosion Control Plan attached with the plan submittal which has been approved by the appropriate regulatory agency or authority prior to beginning any work on the Right of Way. Failure to provide this information shall be grounds for suspension of operations. Proper temporary and permanent measures shall be used to control erosion and sedimentation in accordance with the approved sediment and erosion control plan.
31. All erosion control devices and measures shall be constructed, installed, maintained, and removed by the Encroacher in accordance with all applicable Federal, State, and Local laws, regulations, ordinances, and policies. Permanent vegetation shall be established on all disturbed areas in accordance with the recommendations of the Town. All areas disturbed (shoulders, ditches, removed accesses, etc.) shall be graded and seeded in accordance with the latest *NCDOT Standards Specifications for Roads and Structures* and within 15 calendar days with an approved NCDOT seed mixture (all lawn type areas shall be maintained and reseeded as such). Seeding rates per acre shall be applied according to the Division Roadside Environmental Engineer. Any plant or vegetation in the NCDOT planted sites that is destroyed or damaged as a result of this encroachment shall be replaced with plants of like kind or similar shape.
32. No trees within right of way shall be cut without authorization from the Town.
33. Prior to installation, the Encroaching Party shall contact the Town to discuss any environmental issues associated with the installation to address concerns related to the root system of trees impacted by boring or non-utility construction of sidewalk, etc.

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34. The applicant is responsible for identifying project impacts to waters of the United States (wetlands, intermittent streams, perennial streams and ponds) located within the right-of-way. The discharge of dredged or fill material into waters of the United States requires authorization from the United States Army Corps of Engineers (USACE) and certification from the North Carolina Division of Water Quality (NCDWQ). The applicant is required to obtain pertinent permits or certification from these regulatory agencies if construction of the project impacts waters of the United States within the NCDOT right-of-way. The applicant is responsible for complying with any river or stream Riparian Buffer Rule as regulated by the NCDWQ. The Rule regulates activity within a 50-foot buffer along perennial streams, intermittent streams and ponds. Additional information can be obtained by contacting the NCDWQ or the USACE.
35. The contractor shall not begin the construction until after the traffic control and erosion control devices have been installed to the satisfaction of the Town.
36. The contractor shall perform all monitoring and record keeping and any required maintenance of erosion and sediment control measures to maintain compliance with stormwater regulations.

Construction

General

37. An executed copy of the encroachment agreement, provisions and approved plans shall be always present at the construction site. If safety or traffic conditions warrant such an action, the Town reserves the right to further limit, restrict or immediately suspend operations within the right of way.
38. The Encroaching Party and/or their Contractor shall comply with all OSHA requirements. If OSHA visits the work area associated with this encroachment, the Town shall be notified by the encroaching party immediately if any violations are cited.
39. All disturbed areas are to be fully restored to current NCDOT minimum roadway standards or as directed by the Town. Disturbed areas within Right-of- Way include, but not limited to, any excavation areas, pavement removal, drainage, or other features.
40. The encroaching party shall notify the Town immediately in the event any drainage structure is blocked, disturbed, or damaged. All drainage structures disturbed, damaged or blocked shall be restored to its original condition as directed by the Town.
41. A minimum of 5 feet clearance is required for utility installations beneath or near drainage pipes, headwalls, and a minimum of two-foot clearance below the flowline of streams. If directional drilling, a minimum ten (10) foot clearance distance is required from drainage structures and a minimum of 5 feet below flowline of streams.
42. At points where the utility is placed under existing storm drainage, the trench will be backfilled with excavatable flowable fill up to the outside diameter of the existing pipe or to the satisfaction of the Town.

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43. Unless specified otherwise, during non-working hours, equipment shall be located away from the job site or parked as close to the right of way line as possible and be properly barricaded. Also, during non-working hours, no parking or material storage shall be allowed along the shoulders of any state-maintained roadway.
44. Guardrail removed or damaged during construction shall be replaced or repaired to its original condition, meeting current NCDOT standards or as directed by the Town.
45. The resetting of the Control of Access fence shall be in accordance with the applicable NCDOT standards and as directed by the Town.
46. All Traffic signs moved during construction shall be reinstalled as soon as possible to the satisfaction of the Town.
47. Any utility markers, cabinets, pedestals, meter bases and services for meter reading required shall be as close to the Right of Way line as possible. If it is not feasible to install at or near Right of Way line, then written approval shall be obtained from the Town prior to installation.
48. Detection tape, where required by NCGS § 87-115 through § 87-130 of the Underground Utility Safety and Damage Prevention Act, shall be buried in the trench approximately 1 foot above the installed facility. Where conduit is installed in the right of way and is not of ferrous material, locating tape or detection wire shall be installed with the conduit.
49. All driveways disturbed during construction shall be returned to a state comparable with the condition of the driveways prior to construction.
50. Conformance with driveway permit review should be required in conjunction with this encroachment agreement. In the event there is a conflict between the driveway permit and the encroachment agreement, the Town Planner should resolve the conflict and notify the parties involved.
51. If the approved method of construction is unsuccessful and other means are required, prior approval for plan changes must be obtained through the Town before construction may continue.

Engineering

52. All traffic control, asphalt mixes, structures, construction, workmanship and construction methods, and materials shall be in compliance with the most-recent versions of the following resources: *ASTM Standards*, *Manual on Uniform Traffic Control Devices*, *NCDOT Utilities Accommodations Manual*, *NCDOT Standard Specifications for Roads and Structures*, *NCDOT Roadway Standard Drawings*, *NCDOT Asphalt Quality Management System manual*, **and the approved plans**.
53. Prior approval for any blasting must be obtained from the Town and any other entities required.
54. Non-Utility Communication and Data Transmission installations (ground mounted type or Small Cell pole-mounted type) must adhere to guidelines in the Utilities Accommodations Manual and, when located within municipal jurisdictions, are subject to review and approval by municipal ordinances and any additional municipal approval for proximity to historic districts and landmarks. All wiring and related telecommunications work shall conform to the latest regulations by the Federal Communications Commission.

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55. All wiring and related electrical work shall conform to the latest edition of the National Electrical Safety Code.

Location within R/W

56. All utility access points, such as manholes, vaults, handholes, splice boxes and junction boxes shall be located as close to the right of way line as possible and shall not be placed in the ditch line, side slopes of the ditches or in the pavement. All manholes, handholes, splice boxes, junction boxes and vaults and covers shall be flush with the ground when located within the vehicle clear zone. Slack loops for telecommunications in industry standard housing units shall be buried a minimum of 18 inches when buried or meet minimum NCDOT vertical and horizontal clearances when installed aerially.
57. Fire Hydrants shall be of the breakaway type. Hydrants shall be placed near the right of way line. In curb and gutter sections with written approval from the Town, the hydrants may be placed at 6' behind the back of the curb or minimum 2' back of sidewalk.
58. Luminaire and/or utility poles and guy wires shall be set as close to the Right of Way line as practical and outside the Clear Zone in accordance with the latest version of the AASHTO Roadside Design Guide utilized by NCDOT or made breakaway in accordance with the requirements of NCHRP Report 350. Any relocation of the utility poles from the original design due to Clear Zone requirements shall require a re-submittal for the utility design.
59. Luminaire and/or utility poles shall be set a minimum of 5'-6" behind face of any guardrail or otherwise sufficiently protected. However, standard placement may be reduced to 3'-6" behind face of guardrail when posts are spaced 3'-1 1/2", or where speed limit is less than 55 MPH.
60. Hot box (aka ASSE 1060) or Safe-T-Cover type enclosures covering utility main pipe joints, backflow preventers, valves, vent pipes, cross connections, pumps, grinders, irrigation assemblies, transformers, generators, and other similar large appurtenances shall be located outside sight distance triangles and off of the Right-of-Way.
61. Sprinkler heads shall be located a minimum of 10 feet from the edge of pavement, edge of shoulder, or back of curb whichever is greater and shall be directed so that water does not spray or drain on the roadway surface, sidewalk, or passing vehicles at any time. Upon completion of the installation and prior to activation of the system, the Encroacher shall contact the Town to schedule a test of the system to verify the spray pattern. Sprinkler systems shall not be operated during periods of high wind or freezing weather, or to the extent that the subgrade adjacent to the pavement structure becomes saturated. The Town reserves the right to require immediate termination and removal of any sprinkler system which in its judgement and opinion adversely affects safety, maintenance, or operation of the roadway.

Excavation

62. Excavation material shall not be placed on pavement and a spoil pile area noted.
63. It is the responsibility of the encroaching party or their contractor to prevent any mud/dirt from tracking onto the roadway. Any dirt which may collect on the roadway pavement from equipment and/or truck traffic on site shall be immediately removed to avoid any unsafe traffic conditions.

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64. Open trench requiring shoring methods shall be installed in accordance with OSHA standards and may be inspected by the Town prior to individuals entering the trench. Situations where this 1:1 slope is not recommended include groundwater depth is above bottom of excavation or excavation is deeper than 10 feet or in Type B or C soils as defined by OSHA Technical Manual. Temporary shoring may be avoided by locating trenches, bore pits, and other excavations far enough away from the open travel lane, edge of pavement and any existing structure, support, utility, property, etc. to be protected.
65. All material to a depth of 8 inches below the finished surface of the subgrade shall be compacted to a density equal to at least 100% of that obtained by compacting a sample of the material in accordance with AASHTO T99. The subgrade shall be compacted at a moisture content which is approximately that required to produce the maximum density indicated by the above test method. The contractor shall dry or add moisture to the subgrade when required to provide a uniformly compacted and acceptable subgrade.

Directional bore

66. Boring equipment will be provided of a type and size to facilitate boring in the local geologic conditions and shall be able to facilitate the encroachment work.
67. When Horizontal Directional Drilling (HDD) is used, the following stipulations apply:
- a. Use drilling fluids as appropriate for the type soils but use of water alone is prohibited. Pump drilling fluids only while drilling or reaming. Directional boring using jetting with a Bentonite (or equivalent material) slurry is recommended. Monitor flow rates to match the amount leaving the bore hole and do not increase pressure or flow to free stuck drill heads, reamers or piping. Open cutting to retrieve stuck drill heads is not allowed without prior permission from the District Engineer.
 - b. The minimum depth shall adhere to the table below for transverse (under non-controlled access, partial controlled access, or limited controlled access roadway) installations and refers to maximum diameter of hole drilled and not the dimension of the carrier or encasement pipe.

<u>Diameter of Drilled Hole</u> <u>(Backream)</u>	<u>Minimum Depth of Cover</u>
2" to 6"	5 feet
>6" to 15"	12 times hole diameter (e.g. 6-inch hole means 6 feet minimum depth)
>15" to 36"	15 feet or greater

- c. Under fully controlled access roadway installations, the minimum depth for transverse crossings shall be 15 feet under any pavement (ramps or thru lanes)
- d. An overbore (backream diameter) shall not be more than 1.5 times the outside diameter of the pipe or encasement under any highway for pipes 12 inches in diameter or less. For pipes with outer diameter larger than 12 inches, the overbore may be no larger than outer diameter of pipe plus 6 inches. An overbore exceeding 1.5 times greater than the outside diameter of the pipe or encasement may be considered if the encroachment agreement includes a statement signed and sealed by a licensed North Carolina Professional Engineer indicating that an overbore in excess of 1.5 times the outside diameter of the pipe or encasement will appropriately arch and no damage will be done to the pavement or sub-grade.
- e. Directional boring is allowed beneath embankment material in naturally occurring soil.
- f. Any parallel installation utilizing the directional boring method shall be made at a minimum depth of three (3') feet (cover) below the ground surface and outside the theoretical 1:1 slope

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- g. from the existing edge of pavement except where the parallel installation crosses a paved roadway.
- h. All directional bores shall maintain ten (10) feet minimum (clear) distance from the nearest part of any structure, including but not limited to bridges, footings, pipe culverts or box culverts. Directional bores are not allowed beneath bridge footings, culvert wingwall footings, slope protection or retaining walls.
- i. The tip of the drill string shall have a cutter head.
- j. Detection wire shall be installed with non-ferrous material.
- k. HDPE pipe installed by directional boring shall not be connected to existing pipe or fittings for one (1) week from the time of installation to allow tensional stresses to relax.

Aerial clearances

- 68. Vertical clearance of overhead power and communication lines shall meet the National Electrical Safety Code requirements except the minimum vertical clearance shall be 18' for crossings over Town and/or NCDOT roadways (24' over Fully Controlled Access roadways) and 16' for parallel installations.

Pavement Detail and Repair

- 69. The paving of this roadway shall be in accordance with the latest version of NCDOT Standard Specifications, Sections 610, 1012 and 1020. The Contractor must adhere to all testing requirements and quality control requirements specified. The Contractor shall contact the Town prior to producing plant mix and make the Town aware that the mix is being produced. Only NCDOT approved mix designs will be acceptable. A Quality Control Plan shall be submitted to the Town.
- 70. "Potholing" pavement cores to expose existing utilities shall be made with an 18" diameter keyhole pavement core. Pavement core locations shall not be placed in the wheel path whenever possible. Vacuum excavation shall be utilized to expose underground utilities. Pavement cores shall be repaired within the same working day. The pavement core shall be retained and reused to fill the core hole.

The excavation shall be backfilled and compacted with select material to the bottom of the existing pavement structure or as indicated by the Town. The retained core shall be placed in the hole and secured with a waterproof, mechanical joint. If the pavement core is damaged and cannot be re-used, the asphalt patch shall match the thickness of the existing asphalt or four inches, whichever is greater. All materials must be listed on the NCDOT Approved Products List (APL).
- 71. Pavement cuts shall be repaired the same day the cuts are made unless an asphalt patch cannot be accomplished the same day due to material availability or time restrictions. If same day repairs cannot be made, the contractor shall coordinate with the Town to ensure that proper filling and or marking of the area has been completed to ensure both vehicular and pedestrian safety.
- 72. Any pavement damaged because of settlement of the pavement or damaged by equipment used to perform encroachment work, shall be re-surfaced to the satisfaction of the Town. All pavement work and pavement markings (temporary and final) are the responsibility of the Encroaching Party.

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Post Construction

Close out/ Inspection

73. The Encroaching party shall notify the Town within 2 business days after construction is complete. The Town may perform a construction inspection. Any deficiencies may be noted and reported to the encroaching party to make immediate repairs or resolve any issues to restore the right-of-way to a similar condition prior to construction, including pavement, signage, pavement markings, drainage, structures/pipes, or other highway design features.
74. At the discretion of the Town, a final inspection report may be provided to the encroaching party upon satisfactory completion of the work.
75. If the actual construction differs from the approved plans associated with this encroachment, a copy of “as-built” plans shall be submitted to the Town in a PDF format and in a current ESRI GIS format within 4 weeks of construction.

Communication

76. The Encroaching Party and contractors should provide daily communication via email with the Town outlining the proposed project area and tasks for the day. There will be no boring or drilling or excavating allowed after 4:00 PM without prior approval from the Town.
77. Work is only allowed between the hours of 7:00 a.m. and 4:00 p.m. on days when the Town offices are in operation. There should be no working on weekends, holidays or after 4:00 p.m., except for clean-up, without written authorization from the Town.

TOWN OF FRANKLIN

NOTIFICATION FOR UTILITY / NON-UTILITY ENCROACHMENT WITHIN ROW

Instructions for use:

This form must be completed in its entirety and submitted directly to the Town via email, fax or hand delivery a minimum of 14 days prior to construction for the encroachment. Information should be submitted to Bill Deal, Public Works Director.

Date: _____

Submitted by Name: _____

To: Bill Deal, Public Works Director Email: bdeal@franklinnc.com

Fax No.: 828-524-4540

This notification is to inform you that we (encroaching party or their contractor) will begin construction work on the following project in a minimum of one week.

Construction start date: _____

Approximate ending date: _____

Contact Bill Deal, Public Works Director inspector a minimum of 72 hours (three days) in advance to set-up Preconstruction meeting at a location as directed by the Town.

Preconstruction meeting date & time: _____

Preconstruction meeting address: _____

Type of project: _____
[Examples: power, telecommunication, water, sewer, gas, petroleum, other (describe)]

Contact Information for this project:

Contractor Company Name: _____

Contractor Contact Name: _____

Contractor Phone Number: _____

Contractor Email: _____