

**An Ordinance to Amend the Code of the Town of Guilford  
Chapter 241, Streets and Sidewalks**

**Chapter 241, Article II, § 241-3**, is amended to further regulate the excavation of Town Highways.

**Article II**, is hereby titled: “Excavations; Driveways and Private Roads”

**§241-3**, is hereby titled: “**Excavations** and the provisions thereof are hereby omitted in their entirety and the following provisions shall be inserted in lieu thereof:

**§241-3. Excavations.**

No person shall make any opening or excavation or construct within, on, through, or under any Town street, public right of way or Town highway, including the entire width between street lines or right of way lines (collectively, Highway) located in the Town of Guilford (Town), for any purpose whatsoever, unless a license (License) has been obtained pursuant to Section 241-3.1, and a permit (Permit) has been obtained pursuant to Section 241-3.3 from the Town Engineer or his/her agent.

**3.1 License required.**

Prior to the commencement of any excavation work described in Section 241-3, the contractor shall obtain a License from the Town Engineer or his/her agent. Applications for a License may be obtained from the Engineering Department, on forms prescribed by the Town. The term of the License shall be from January 1 to December 31 each year. Applications for a License may be received throughout the calendar year, but shall expire on December 31 of the application year.

**3.2 Conditions for issuance of license.**

- a) The applicant shall be required to provide a certificate of insurance to the Town Engineer or his/her agent evidencing the following coverage as a condition to issuance of a License:

Contractor shall agree to maintain in force at all times during the contract the following minimum coverages and shall name the Town of Guilford as an Additional Insured on a primary and non-contributory basis to all policies except Workers Compensation. All policies should also include a Waiver of Subrogation. Insurance shall be written with Carriers approved in the State of Connecticut and with a minimum AM Best’s Rating of “A-“ VIII. In addition, all Carriers are subject to approval by the Town of Guilford.

		(Minimum Limits)
General Liability	Each Occurrence	\$1,000,000
	General Aggregate	\$2,000,000
	Products/Completed Operations Aggregate	\$2,000,000

Auto Liability	Combined Single Limit Each Accident	\$1,000,000
Umbrella (Excess Liability)	Each Occurrence Aggregate	\$1,000,000 \$1,000,000

If any policy is written on a “Claims Made” basis, the policy must be continually renewed for a minimum of two (2) years from the completion date of this contract. If the policy is replaced and/or the retroactive date is changed, then the expiring policy must be endorsed to extend the reporting period for claims for the policy in effect during the contract for two (2) years from the completion date.

Workers’ Compensation and Employers’ Liability	WC Statutory Limits EL Each Accident EL Disease Each Employee EL Disease Policy Limit	\$500,000 \$500,000 \$500,000
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Contractor agrees to provide replacement/renewal certificates at least 60 days prior to the expiration date of the policies.

- b) The applicant shall provide a surety in the form of an irrevocable letter of credit issued to the Town, on a form acceptable to the Town or a bank check made payable to the Town (collectively, Security), securing to the Town complete, competent and proper performance of the work. The bank check shall be deposited by the Town Finance Department. The Security shall cover the period from the date of licensure until one year after the permanent pavement repair is completed. The minimum amount of the Security is \$2,000. The Town Engineer reserves the right to increase the required amount of the Security on larger projects to cover the cost of the restoration of the integrity of the pavement. The Security is required to cover, among other costs, the cost of remedial permanent pavement repairs installed by the Town due to defective installation by the contractor and any additional repairs that may be necessary because of settlement of the trench within the one year period after the permanent repair is completed. One year after the permanent pavement repair is completed, an inspection will be performed by the Town Engineer or his/her agent and all funds remaining from the Security will be returned to the licensee.
  
- c) The applicant shall enter into an agreement with the Town conditioned substantially as follows: that the applicant shall indemnify and hold harmless the Town, its officers, servants, agents and employees, from any and all claims, suits, liability and actions which

arise on account of any injuries, loss, cost or damages received or sustained by any person, the applicant, his/her servants or agents, in connection with any opening, excavation, installation or other work performed on any such Highway, or as a result of the use of equipment belonging to the applicant or used by him/her in connection with excavation or installation, or from any negligence or omission in guarding the work or maintaining such work and its immediate area in a safe condition, or from any act or omission of the applicant, his/her servants or agents.

### **3.3 Permit required.**

Applications for permits to perform any work within the Highway must be submitted by a licensed contractor who is licensed under this Article. Applications for a permit may be obtained from the Engineering Department, on forms prescribed by the Town. The application shall include the following information and any additional information as may reasonably be required by the Town Engineer:

- a) The exact location of the proposed excavation.
- b) The purpose of the proposed excavation.
- c) An estimate of the pavement area to be disturbed.
- d) The date and time when the work will commence and the period within which the work will be completed.
- e) The name, address, license number and telephone number of the licensee.
- f) The names, addresses and telephone numbers of persons who may be contacted in case of emergency or after regular working hours.
- g) The application shall be accompanied by a processing fee of one hundred (\$100) dollars.

### **3.4 Permit not transferable; additional work.**

No permit issued under this Article is transferable. The applicant for a permit shall be that person, firm or corporation doing or performing the actual excavating work or activity. If any additional work or repairs not designated in the original permit must be done at the same location, the permittee shall apply for an authorization to extend the permit area from the Town Engineer or his/her agent.

### **3.5 General conditions for performance of excavation work.**

- a) No work shall commence or be continued unless the permit is posted by the permittee or his/her agent at the location of the work and must be displayed to all authorized persons upon request.
- b) One-way traffic shall be maintained in the Highway at all times throughout the excavation work, except as otherwise permitted hereunder. If the permittee's work requires the closing or obstruction of any Highway and/or sidewalks, or a portion thereof, for any period of time, the permittee shall notify the Police Department at least twenty-four (24) hours prior to such closure and obtain the prior approval of the Police Department. The Town Engineer and the Police Department may determine the need for any such closing or obstruction of any streets or a portion thereof on their own initiative, and may require the work or work method to be so altered as to provide for traffic flow. The permittee shall further provide prior notice of any Highway closing, or portion

thereof, to the Fire Department, Public Works Department and First Selectman, which notice shall include the location and approximate duration of such closing. The permittee shall further notify these departments when the highway is reopened to traffic. A police officer or certified traffic person, as required by the Police Department, shall be provided at the permittee's expense when less than two lanes of traffic are maintained or when necessary or advisable in the opinion of the Police Department.

- c) Adequate barricades and advisory signage shall be erected and maintained in the Highway until all work is completed.
- d) The permittee shall schedule all work during normal business hours, so that the work may be inspected by Town officials. When work is required to be done outside of normal business hours, the permittee shall obtain the prior approval of the Town Engineer and pay for any overtime inspection costs. The permittee shall give the Town Engineer, the Public Works Department, the Police Department and the Fire Department at least twenty- four (24) hours notice before any work is to begin; except in the case of an emergency.
- e) All work performed under the provisions of this Article shall be in accordance with all local, state and federal laws, including DOT Standard Specifications for Roads, Bridges and Incidental Construction Form 816, as amended.
- f) The Town Engineer or his/her agent is authorized to inspect all excavations for workmanship, materials and compliance with the provisions of this Article. The permittee shall provide safe access for such inspection. The permittee shall correct that portion of the work which does not pass inspection. Failure of the Town to give notice that repairs are needed shall not relieve the permittee of any of the duties set forth herein. There will be a one hundred dollar (\$100) re-inspection fee if the permittee fails to meet the requirements of this Article as reasonably determined by the Town Engineer.
- g) The permittee shall pay all costs to repair any and all damage to curbs, sidewalks, highways or property of the Town caused by the permittee, his agents and/or employees in the performance of the work. All repairs to damage shall be done to the reasonable satisfaction of the Town Engineer or his/her agent.
- h) If in the performance of the work any property marker, highway bound or control point is disturbed or destroyed it shall be replaced at the expense of the permittee by a land surveyor certified to practice in the State of Connecticut.
- i) Upon completion of the excavation work, the permittee shall remove all excess material from the excavation site including any equipment, materials or trash so as to leave the site in a neat and clean condition and in substantially the same condition as it was prior to the excavation work.

### **3.6 Technical specifications for performance of excavation work.**

- a) The pavement surface shall only be disturbed within the area requiring excavation. This area shall be saw cut in straight lines with ninety (90) degree angles at the point of intersection wherever possible.
- b) The permittee shall obtain a permit from the Fire Marshall prior to any required blasting activities. Blasting work shall only be performed by persons qualified to do this work in

the State of Connecticut. Blasting shall be done only with such quantities and strengths of explosives and in such manner as will break the rock approximately to the intended line and grades. The permittee shall be liable for any injury to existing pipes or other structures above or property above or below ground. The rock shall be covered with mats where required. Sufficient warning shall be given to all persons in the vicinity of the work before a charge is exploded.

- b) Dewatering of excavations shall be done in a manner which will cause the minimum disturbance to the surrounding area. Hoses, pipes or channels shall direct the water being disposed of to a suitable point of discharge and proper steps taken to prevent siltation and erosion.
- c) The permittee shall minimize the creation and dispersion of dust in the performance of the excavation activities. The Town Engineer or his/her agent may require the use calcium chloride, or the sprinkling or sweeping of streets for effective dust control.
- d) Backfilling shall be done with ¾" processed stone only. Excavated material shall be removed from the job site. Compaction shall be performed in eight inch layers.
- e) After all damaged pavement has been removed and all edges have a clean cut vertical face, a temporary pavement two inches thick shall be installed in accordance with the attached Trench Details, Figure 1 entitled "Temporary Pavement Trench Detail". At the discretion of the Town Engineer cold patch may be used for temporary patching where less than ten (10) square feet of pavement is disturbed. A two inch course of cold patch Class 5 shall be used during the time of year in which the asphalt plants are closed.
- f) Prior to installation of the "Permanent Patch", if there is evidence of excessive trench settlement or deterioration of pavement surrounding the limits of the excavation, the Town Engineer may direct the permittee to again place a temporary pavement. The permittee shall be responsible for repairing any trench settlement until the permanent patch is installed.
- g) The permanent patch shall be performed in accordance with the attached Trench Detail, Figure 2 titled "Permanent Pavement Trench Detail." The permittee shall continue to be responsible for trench settlement for a period of one year from the completion of the permanent pavement.
- h) When a permittee under this Article excavates fifty (50) percent or more of the width of the existing paved surface of a street, or if the integrity of the remaining road surface is compromised by the excavation, the Town Engineer or his/her agent may direct that the entire area of the existing pavement be milled and/or resurfaced. The expense of such work by the Town or its agents shall be collected from the permittee or its surety by any proper action.

### **3.7 Public Service Companies.**

Nothing in this Article shall be construed to prevent the making of any necessary emergency excavation or the performance of any work related thereto by any public service company; as such companies are defined in the Connecticut General Statutes (C.G.S.). In the event of an emergency, the public service company shall notify the Town Engineer, the Police Department, the Fire Department and the First Selectman's office immediately or if after hours, the start of the next Town Hall business day, at which time application for license and permit shall be made.

Any public service company which has complied with the provisions of C.G.S. §16-230 shall be exempted from the requirement of posting a Security as hereinbefore set forth, and may be further exempted from certain provisions in this Article, if required by state or federal law.

### **3.8 Call before you dig.**

**C.G.S. §16-345 through 16-355** describes contractor responsibility with respect to any proposed excavation, discharge of explosives or demolition at or near the location of any public utility facility. The contractor should call 1-800-922-4455 or otherwise notify the State Department of Public Utility Control at least forty-eight (48) hours, excluding Saturdays, Sundays, and holiday of said excavation, explosion or demolition, but not more than one month before commencing same.

### **3.9 Penalties for violations.**

- a) Any violation of the provision of Section 241-3 is subject to a municipal citation in an amount up to the maximum permitted under state statute, which shall be imposed by the Town Engineer for each violation of this Article, as provided in C.G.S. § 7-148(c) (10) (A), provided, however, that the violator has first been issued a warning for said violation by the Town Engineer or his/her agent. Each day of violation shall be considered a separate offense and subject to separate citations.
- b) In addition to the citation, upon a second violation, the Town Engineer or his/her agent shall have the authority to suspend any license and/or permit issued pursuant to this Section 241-3 for thirty (30) days.
- c) In addition to the citations, upon a third violation, the Town Engineer or his/her agent shall have the authority to suspend any license and/or permit issued pursuant to Section 241-3 for sixty (60) days.
- d) The licensee /permittee may not reapply for a license or permit during any such suspended period.
- e) Repeated violations of the provisions of Section 241-3 may, after due notice, result in revocation of the license/permit issued hereunder and/or the commencement of such legal proceedings as may be necessary to enforce such obligations.
- f) The provisions of this Section are in addition to and do not supersede any penalties resulting from simultaneous violations of state or federal laws, to the extent permitted by law.

**Section 241-4.** is amended by inserting the following sentence at the end of this Section:

“ Any person, firm or corporation violating any provision of the Section 241-4 shall be issued a citation by the Town Engineer of not more than one hundred dollars(\$100), provided, however, that the violator has first been issued a warning for said violation by the Town Engineer.”

**Section 241-5.** is hereby deleted in its entirety and the following is inserted in lieu thereof:

**241-5. Hearing procedure for citations.**

Any person issued a municipal citation pursuant to Section 241-3 or 241-4 shall be entitled to a hearing to contest the citation. The Town hereby specifically adopts the provisions of C.G.S. § 7-152c for the establishment of a citation hearing process to contest citations issued pursuant to Section 241-3 and Section 241-4. The procedures for notice, hearing, disposition, appeal and enforcement shall be as set forth in C.G.S. § 7-152c. The citation hearing process shall not apply to those violations which are otherwise governed by state statute.

**241-6. Conflict with statutory provisions.**

Should any provisions of this Article be found with finality by a court of competent jurisdiction to be prohibited by the Connecticut General Statutes, the provisions of such statutes shall prevail.