



# NCDOT

## Trail Encroachment Guidelines



Encroachment application considerations  
for permitting trails within highway facilities

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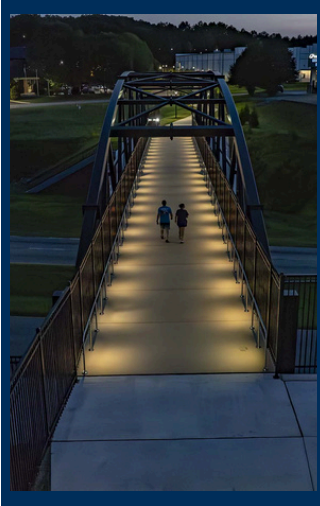
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# PURPOSE

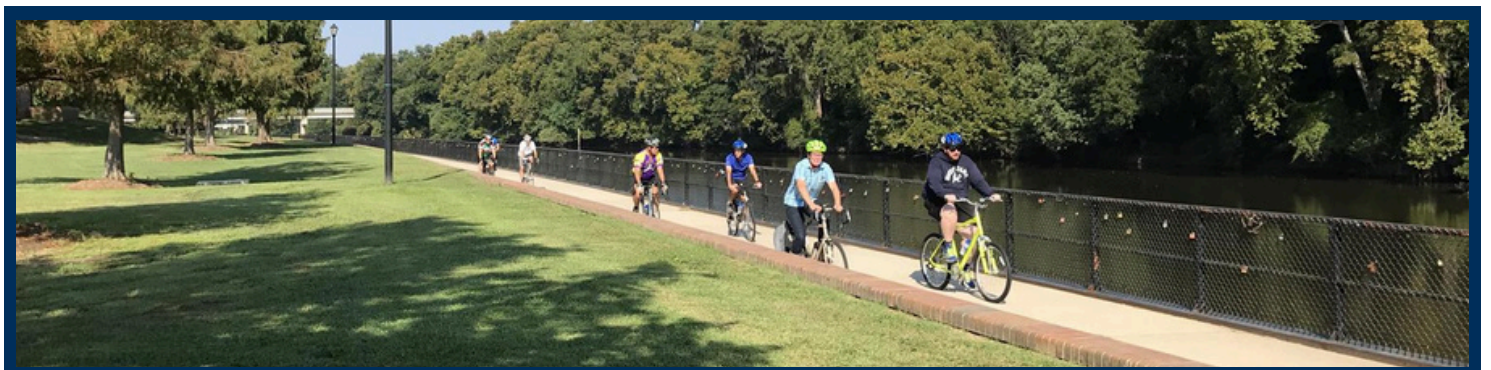
The North Carolina Department of Transportation (NCDOT) recognizes the vital role that trails play in enhancing mobility, connectivity, and quality of life for residents and visitors across the state. As part of its commitment to providing safe, well-planned, and accessible transportation options, NCDOT has developed these guidelines to safely integrate trails within the state highway system rights of way while ensuring consistent and clear expectations for all stakeholders. Alternative modes of transportation, including those that accommodate bicyclists, pedestrians, and other non-motorized options, are essential to improving mobility, promoting public health, and supporting tourism and economic growth. To ensure successful integration of trails within NCDOT facilities, it is critical to maintain cooperative partnerships with local governments, state agencies, nonprofit organizations, and private entities. The purpose of these guidelines is to assist applicants in the permitting process and NCDOT staff in the review and processing of encroachment applications for permitting trails within highway facilities.

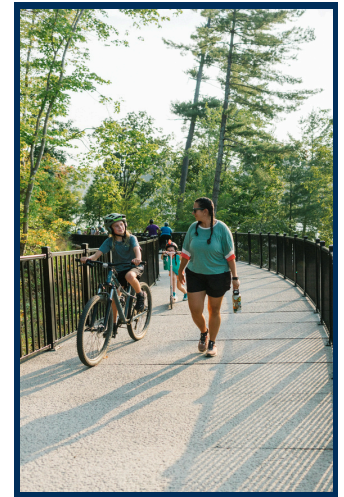
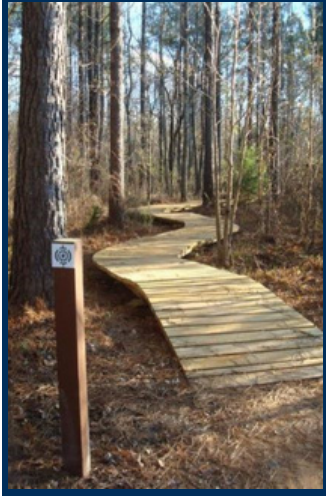


*Drone photos courtesy  
of Chad Austin*

This document was developed through a collaborative effort with trail advocacy groups, North Carolina State Parks, Federal Highway Administration, and NCDOT management staff. The group's mission was to establish procedures for the NCDOT to evaluate and permit the placement of trails within its right of way. Furthermore, the NCDOT has coordinated development of these guidelines with the Federal Highway Administration (FHWA) as the Code of Federal Regulations, 23 CFR 1.23, which requires all real property, including air space, within the rights of way of federally aided highway projects, to be devoted exclusively to public highway purposes. However, the FHWA Administrator may approve a non-highway use based on a determination that it is in the public interest and will not impair or interfere with the free and safe flow of traffic on the highway.

These guidelines are not intended to replace or supersede the requirements of the NCDOT Utility Accommodation Manual (UAM) as it pertains to non-utility encroachments. The NCDOT recognizes this guidance is needed to ensure safety, maintenance, and liability responsibilities are considered and addressed during the permit review process. Definitions for some of the terms used in this document may be found at the end.





# PROPOSAL CONSULTATION

The NCDOT recommends an early consultation between the encroaching party and the local District Engineer. The permit applicant must be aware of crossing multiple NCDOT jurisdictions as well, and plan to coordinate with each. The respective District Engineers should be able to assist in this effort. The purpose of this consultation is for both parties to understand the proposed trail project concept and NCDOT requirements for approval of a trail within the right of way. The consultation **does not** guarantee the final product will be approved by the NCDOT.



# GENERAL REQUIREMENTS

## Encroachment Requirements

Trails located within NCDOT rights of way must be designed, constructed, and maintained by a local government agency (such as a city or county), a state or federal agency, a tribal government, or an accredited land trust or conservancy. Any trails constructed on highway rights of way must be permitted through the encroachment permit process.

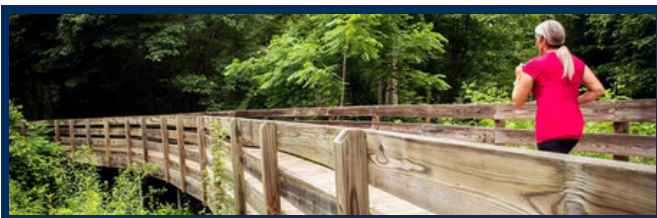
The permit application must be submitted by the responsible public agency or accredited land trust or conservancy representing the communities where the trail will be established. Nonprofit organizations and private entities may participate through a Third-Party Encroachment Agreement with a governmental agency or accredited land trust or conservancy. Requests from nonprofits and private entities without third-party support will be considered case by case and will require additional review.

The NCDOT will require the encroaching party to assume financial responsibility for the construction and maintenance of the proposed trail.

The encroaching party may be required to provide a bond as a guarantee to indemnify NCDOT for any damage to the roadway or highway facility resulting from the construction activities. See the UAM, Section 2.7.6 Bonding.



**No Guarantee of Right of Way** - NCDOT does not guarantee the ownership or accuracy of the right of way in which the encroaching party desires to place trail facilities. It is the encroaching party's responsibility to perform adequate property research to confirm the nature and extent to which right of way exists. There exist three types of right of way as it pertains to this section: fee simple, easement, and maintenance limits. NCDOT will not be responsible for any claim for damages brought about by any property owner by reason of an encroaching party's installation.



## Trail Placement

Trails located within the right of way may be within the clear recovery zone if they meet requirements of the [NCDOT Roadway Design Manual](#). They should be located along the perimeter of the right of way and as far from travel lanes as possible. Clear zone setbacks shall be determined using appropriate American Association of State Highway and Transportation Officials (AASHTO) standards from the most current edition of the [AASHTO Roadside Design Guide](#), [NCDOT Roadway Design Manual](#), and [NCDOT Complete Streets Guidance](#).

## Facility Specifications and Dimensions

Trails designated as recreational trails will follow [US Access Board Outdoor Developed Areas \(USABODA\)](#) guidelines for accessibility requirements.

Trails designated as shared use paths proposed to be located within NCDOT's rights of way shall be designed in accordance with design standards as published in the [NCDOT Roadway Design Manual \(RDM\)](#) unless otherwise approved by the Chief Engineer. These references are listed in the NCDOT's [Complete Streets Project Evaluation Methodology](#) and can be found in the [RDM](#), Part 1 Chapter 4.

- Sidewalks and Berms (Part 1, Chapter 4, Section 4.14.1)
- Shared-Use Paths, Sidepaths, and Greenways (Part 1, Chapter 4, Section 4.14.1.1)
- Shared Lanes (Part 1, Chapter 4, Section 4.15.1)
- Bicycle Lanes (Section 4.15.3)
- Buffered Bicycle Lanes (Part 1, Chapter 4, Section 4.15.4)
- Separated Bicycle Lanes (Part 1, Chapter 4, Section 4.15.5)
- Shoulder Widths (Part 1, Chapter 4, Section 4.4.1)



## Accessibility Guidelines

The following information is provided for clarification purposes as to the Federal government's requirements for accessibility standards regarding recreational trails and shared use paths located within governmental property.

**Shared Use Paths:** If the trail functions as a shared use path for pedestrians and bicyclists in a location that provides connectivity with transportation intent and purpose, it should follow U.S. Access Board Public Right of Way Accessibility Guidelines (PROWAG) section on shared use paths. PROWAG requires a firm and stable surface but does not require pavement.

**Recreational Trails:** If the trail is for purely recreational purposes, there are allowances for flexibility on design guidance for accessibility.

For example:

- Where recreational trails tie into shared use paths or sidewalks, PROWAG guidance is recommended to the extent feasible. The United States Access Board provides alternative design criteria in the USABODA guidelines. In either case, the encroaching party will be required to provide documentation or justification when the design deviates from the PROWAG guidelines.
- Recreational trails that do not connect to other shared use paths or sidewalks may use USABODA guidelines.
- Equestrian trails guidance can be found in the Equestrian and Other Nonmotorized Use on Bicycle and Pedestrian Facilities link, and the Equestrian Design Guidebook for Trails, Trailheads, and Campgrounds link on FHWA's website.

**At-Grade Crossings with NCDOT state system highways:**

- PROWAG guidelines should be followed for at-grade crossings. However, USABODA guidelines may be used where PROWAG is not feasible. If PROWAG guidelines are not followed, the encroaching party will be required to provide documentation or justification when the design deviates from the PROWAG guidelines.
- Ensure NCDOT Trail Crossing Guidance is followed.
- Equestrian crossings should follow Equestrian Design Guidebook for Trails, Trailheads, and Campgrounds – At Grade Road Crossings

**Bridge Crossings and Underpasses:**

- Use the NCDOT Roadway Design Manual and NCDOT Structures Management Unit Manual guidelines for pedestrians and bicyclists on bridges.
- Ensure sufficient vertical clearance at underpasses of at least 8 feet, with 10 feet vertical clearance preferred.
- Follow Equestrian Design Guidebook for Trails, Trailheads, and Campgrounds – Chapter 5 Designing Trail Crossings and Structures.

Several other resources may be found at:

[https://www.fhwa.dot.gov/environment/recreational\\_trails/guidance/](https://www.fhwa.dot.gov/environment/recreational_trails/guidance/)

Several US Forest Service guidelines may be found at:

[https://www.fhwa.dot.gov/environment/recreational\\_trails/publications/](https://www.fhwa.dot.gov/environment/recreational_trails/publications/)





# PERMIT SUBMITTAL

Encroachment permit requests must be submitted through the NCDOT [Online Encroachment Submittals Portal](#). Each request is assigned to the appropriate NCDOT [District Engineer](#).

Encroachment requests will be evaluated under the non-utility process outlined in the [UAM](#) and these guidelines. See the Trail Encroachment Process Flow Chart in the Addendum.

The [UAM](#) provides a list of items the encroaching party will need to submit in order to be considered a complete application.

Additionally, the following minimum guidelines must be met before the request can be considered. See the Trail Encroachment Submittal Checklist in the Addendum.



## Design Requirements

The encroaching party shall provide design plans, drawings, or other details of the proposed project. Site plans should include specifics concerning construction materials to be used, project dimensions, site placement and layout, site alterations such as impacts to structures, existing topography or vegetation, and other pertinent information that will provide sufficient details for the NCDOT to analyze the trail's impact on traffic safety, aesthetics, and maintenance requirements. While trail designs do not specifically require a licensed Professional Engineer, trail crossings of existing roadways, and proposed structures or modifications to existing NCDOT structures may require engineering plans sealed by a licensed Professional Engineer.

## Construction and Safety Requirements

Trail construction activities shall comply with all applicable Federal, State, and local laws, ordinances and regulations governing safety, health, environment and sanitation.

The encroaching party shall provide details concerning construction techniques, equipment and manpower requirements, staging areas, construction schedules (beginning and completion dates), traffic control plans, erosion control plans, utility conflicts and resolutions, and contact information for who will maintain operational control of site activities.

During construction and any subsequent maintenance, the encroaching party shall use proper traffic control procedures and provide proper traffic control devices that are in conformance with the latest Manual on Uniform Traffic Control Devices (MUTCD) Part 6, NCDOT Roadway Standard Drawings Division 11 – Work Zone Traffic Control, or NCDOT Maintenance/Utility Traffic Control Guidelines. The District Engineer or designated representative reserves the right to stop any work for noncompliance with safety standards.

If the construction is conducted by volunteers or non-prequalified contractors, then the participants shall receive appropriate work zone safety training. (video pending)





## **Maintenance Requirements**

As part of the permit request to construct a trail in NCDOT rights of way, the encroaching party shall submit a maintenance plan including necessary traffic control measures appropriate for maintaining the trail. The maintenance plan should provide that the trail will not be allowed to deteriorate, become visually unsightly, or lose its intended functionality, and the encroaching party will remove it if not properly maintained.

The plan will outline the trail inspection schedule along with details on how the encroaching party will conduct maintenance and repair activities including removal of storm debris within NCDOT right of way. Any structure located within the right of way will be inspected and maintained on a frequency determined by the encroaching party and approved by NCDOT.

Any structure that meets FHWA's definition as a bridge (i.e. more than 20 feet in length) as defined in [23 CFR Part 650.305](#) located within NCDOT right of way shall be inspected at least every 2 years in accordance with FHWA and NCDOT requirements.

## **Utilities**

The encroaching party shall be responsible for locating utilities within the project area and shall be responsible for damages to any such utilities and/or making satisfactory arrangements with the utility owner to adjust the utilities in conflict. This provision may require the encroaching party to negotiate a special provision to the utility owner's existing encroachment agreement. Encroaching parties are encouraged to consult NCDOT regarding these requirements. NC811 shall be notified before any excavation or demolition activities in accordance with state law. See [UAM Section 3.6.1 North Carolina 811](#).

## **Environmental Permits and State Historic Preservation Office (SHPO) Approval**

The encroaching party will be responsible for securing all environmental permits, including SHPO if applicable, from all federal, state, and local governments as required for the trail and will be required to submit appropriate documentation certifying the applicable permits and approval have been secured.

## **Permit Evaluation**

After receipt of a completed encroachment agreement request, the proposed trail project will be reviewed by the local [District Engineer](#) based on the criteria specified in the [UAM](#), this document, and applicable Federal, State, and local regulations.



## Appeal Process

Should the encroachment be denied by the District Engineer, the encroaching party may appeal to the respective Division Engineer. Should the Division Engineer deny the permit, the encroachment party has a right to appeal to the Right of Way Trail Encroachment Committee, as designated by the Secretary of Transportation. The Committee will review the proposed encroachment under the criteria established by these guidelines and the UAM and may take the following actions:



1. Approve the encroachment.
2. Approve the encroachment conditioned on specified revisions.
3. Request more information from the respective Division Engineer and/or encroachment requester.
4. Disallow the encroachment.

The Right of Way Trail Encroachment Committee will consist of representatives designated by the Secretary of Transportation and established to review and evaluate trail encroachments that have been denied by the Division.

The Committee will be chaired by the respective Deputy Chief Engineer, consist of NCDOT staff, and will also include one representative from FHWA. The respective Division Engineer may attend as a non-voting member to provide information. NCDOT staff representing the following business units may serve on the committee:

- Deputy Chief Engineer (Chair)
- Division Engineer (independent of the request)
- Deputy Secretary for Multi-Modal Transportation
- Roadway Design Unit
- Transportation and Mobility Safety
- Integrated Mobility Division
- Right of Way
- Roadside Environmental
- Structure Design
- FHWA Representative



## Approval

Upon approval, the NCDOT shall issue a signed encroachment agreement for the project, including any required revisions, changes, or modifications.

Further, the encroachment agreement and/or addendum shall contain an indemnification clause requiring the sponsoring governmental agency and encroaching party to hold harmless and indemnify the NCDOT from liability for any personal injury or property damage proximately caused by the trail project, including damages to highway structures or damage to the trail caused by runoff from existing NCDOT facilities or activities. This indemnification clause shall further require the sponsoring government agency to defend the NCDOT in any claim for personal injuries or property damage filed in any forum, including the Industrial Commission, if called upon to do so by the Secretary of Transportation or the Attorney General.

## Other Requirements

If the proposed trail is not included in an adopted plan by the state or local government, the permit applicant must obtain a letter of support from the local government and submit it to NCDOT. In cases where the trail crosses multiple jurisdictions, applicants should obtain support from all affected local governments.

Trail encroachments on highway structures must not impair the structural integrity nor impede the NCDOT in its ability to inspect and repair a structure.

Trail encroachments cannot create a negative impact on roadway drainage. Ditches, swales, and outfalls must be protected. If trails are located downstream of NCDOT drainage structures, any proposed pipes or channels may need to be designed by a professional engineer to maintain effective roadway drainage and avoid any adverse effects on NCDOT highways. It may be acceptable to build around the drainage structure or sufficiently harden the trail surface to achieve the same outcome.

NCDOT reserves the right to require the removal of permitted trails from right of way due to safety concerns, failure to provide proper maintenance, deterioration, or future highway construction and maintenance activities. Unless critical safety concerns warrant its immediate removal, the NCDOT will provide the local agency with written notification along with a reasonable time to remove the trail. If the trail is not removed within established timelines, the NCDOT reserves the right to remove the trail and bill the encroaching party for costs associated with removal.



Trailheads and parking facilities shall not be permitted within NCDOT Right of Way, as the primary purpose of this space is for travel safety, rather than parking. However, special circumstances may be reviewed and approved case by case. Access to adjacent trailheads or parking areas will require a driveway permit from the District Engineer.

All trails shall be marked with the name of the trail and contact information for trail related issues when the trail enters NCDOT right of way. If the trail meanders in and out of the right of way, reasonable signage shall be included to ensure trail issues are routed to the appropriate trail partners. It is not the intent to place signs at every location where the trail enters the right of way.





# SPECIAL CASES

The NCDOT realizes there will be instances where the requested trail will not conform within these guidelines nor the UAM. Some examples of these are:

- Trails within an active TIP project.
- Trails within a Controlled Access (CA) Highway (Requires review by the CA Review Committee.)
- Trails encroaching on adjacent property owned by another governmental agency, i.e., Federal or State agencies.
- Nonprofit and private party encroachment requests without third-party support from a governmental agency or accredited land trust or conservancy.
- Any other situations which do not fall within these guidelines.

In these cases, the Division Engineer will coordinate with the Chief Engineer's office for guidance.

## DEFINITIONS

**Accredited Land Trust or Conservancy:** A land trust or conservancy in North Carolina is a nonprofit organization that protects land and water through acquisition and stewardship. Land trusts can be local, state, or regional in scope, and they work with private landowners and community partners. The accreditation of a land trust or conservancy is a mark of distinction in land conservation. It is awarded to land trusts or conservancies meeting the highest national standards for excellence and conservation permanence. Each accredited land trust completes a rigorous review process and joins a network of organizations united by strong ethical practices.

**Buffer:** A strip of land that separates the sidewalk, or other facilities, from the street to improve the active traveler's level of comfort.

**Clear Zone:** The Clear zone is a term defined in the AASHTO Roadside Design Guide as the traversable area beyond the edge of the travel way for the recovery of errant vehicles. It can include shoulders, bike lanes, and auxiliary lanes.

**District Engineer:** Within the context of this document, the District Engineer is the responsible NCDOT representative for receiving and reviewing encroachment permits and driveway permits and has the administrative responsibility for typically one to four counties.

**Division Engineer:** Within the context of this document, the Division Engineer is the NCDOT responsible party for two or three District offices on average and has the administrative responsibility for all transportation issues within a geographic area of the state. In North Carolina, there are fourteen Division Engineers responsible for all 100 counties.

**Encroaching Party (Permittee):** The entity requesting permission to use a portion of NCDOT right of way for a trail facility.

**Encroachment Agreement:** A formal document establishing an agreement between the NCDOT and an external party that gives permission for the use of NCDOT right of way. Once signed by both parties, it is considered an executed agreement.

**Indemnification Clause:** Agreements determining which party (encroaching party) will assume liability and reimburse the other party (NCDOT) for a loss, also known as a "hold harmless" clause.

**Non-Utility Encroachment Agreement:** Formal agreement between the NCDOT and an external party that gives permission for various types of aboveground facilities to be placed within NCDOT right of way.

**PROWAG** (Public Right of way Accessibility Guidelines): Federal rule that provides minimum guidelines for all newly constructed pedestrian facilities and altered portions of existing pedestrian facilities for pedestrian circulation and use in the public right of way.

**Recreational Trail:** The term 'recreational trail' means a thoroughfare or track used for recreational purposes such as:

- A. Pedestrian activities, including wheelchair use
- B. Bicycling or use of other human-powered vehicles, including adaptive bicycles
- C. Equestrian activities
- D. Skating or skateboarding – this is not a common use on natural surface trails







**Right of Way – Easement:** This type of right of way gives the NCDOT the right to use the property for transportation purposes, however the underlying fee is owned by someone else.

**Right of Way – Fee Simple:** This type of right of way is owned completely, without any limitations or conditions, by the NCDOT.

**Right of Way – Maintenance Limits:** This type of right of way is when there is no deed or agreement to describe the right of way in legal terms. The right of way width is normally considered to be from the back of ditch on one side of the road to the back of ditch on the other side of the road, including any area that is being mowed or maintained by the NCDOT.

**Shared Use Path:** A multiuse path designed primarily for use by bicyclists, pedestrians, and other authorized motorized and nonmotorized users, for transportation purposes, and that may also be used for recreation. Transportation purpose means observed or anticipated demand to walk or bike to get to key destinations. Shared use paths are physically separated from motor vehicle traffic by an open space or barrier and are either within the highway or other public right of way. Any trail plan on a route that has pedestrian facilities in an approved, adopted transportation plan, should be considered a shared use path.

**Third-Party Encroachment Agreement:** Formal agreement between the NCDOT and two other parties, whereby in general one is a governmental agency or accredited land trust or conservancy, and the other one is a non-governmental entity such as a nonprofit or private party.

**Two-Party Encroachment Agreement:** Formal agreement between the NCDOT and the facility owner or maintainer (Second Party) that gives permission to use NCDOT right of way.

**Trail:** A linear corridor on land or water, protected from motor vehicles, providing public access for recreation or transportation. (Ref G.S. 143B-135.94 Definitions)

**Trailhead:** A trailhead is the primary access point to a shared use path. It may have parking and other amenities at the terminus.



# SUBMITTAL CHECKLIST

## North Carolina Department of Transportation Trail Encroachment and Plan Checklist

### Intent

This checklist is not all inclusive of the requirement for other agencies. The Applicant shall comply with all applicable local, state, and federal environmental regulations, and shall obtain all necessary local, state, and federal environmental permits associated with this installation. This checklist aids in promoting consistency in submittals and reviews and in expediting the process by understanding the requirements and providing sufficient information.

### General

Submit only properly formatted, complete drawings with sufficient, applicable information with encroachment requests. If proper plans are not submitted, encroachment requests may be returned to the Applicant and encroachment review will not begin until proper plans are resubmitted. Large encroachments which span multiple Districts shall be separated by County and by Encroachment Agreement Type.

### General Requirements and Design Information

#### Cover Letter

- ☐ Contact Person / Designer / Engineering Firm (if applicable)
- ☐ Phone Number with Area Code
- ☐ Email Address
- ☐ Applicant Project Name / Information / Number
- ☐ County
- ☐ Proposed Schedule
- ☐ Trail located in an approved / adopted plan, or letter of support from local government included
- ☐ Maintenance plan included
- ☐ Right of Way Encroachment Agreement Form signed and attached (16.1A, 16.2, 16.6, 16.6A, or 16.7)

#### Plan Format

- ☐ Plans should be legible
- ☐ Plans should show the entire project limits regardless of size, but this submittal is only for one county
- ☐ Plan sheet size to scale of 11"x17" or 8.5"x11" is preferred. Submit full size plan sheets only if requested
- ☐ Submit only applicable plan and detail sheets. Remove plan sheets and details for work outside of NCDOT right of way, including work on city and non-NCDOT maintained roadways from the submittal



### Plan Title Sheet

- ☐ Location / Vicinity Map: Include a vicinity map in the submittal to provide a quick and easy reference to the location of the proposed work. Include the following aspects in the vicinity map:

- North arrow
- Label roads (I, US, NC, or SR route number)
- Label proposed work area

- ☐ County name

- ☐ Contact information: This information should consist of names, telephone numbers, and email addresses of key people involved in encroachment plan development and encroachment construction and should, whenever possible, include a 24-hour contact to address issues during construction

- ☐ Engineering Firm information (applicable for trail crossings of existing roadways, and proposed structures or modifications to existing NCDOT structures, unless waived by the District Engineer)

### General Notes

If applicable, general notes should reflect NCDOT requirements.

### Legend / Symbology

All features shown within the plan set should have a corresponding symbol. The legend should include all applicable symbols and line styles.

### Detail Sheets

Include NCDOT standard details, if applicable. If no standard details are applicable, provide site-specific details.

- ☐ Aerial detail with minimum vertical clearance if trail bridge crossing over NCDOT roadway, or trail crossing under NCDOT bridge
- ☐ Road crossing detail for controlled access and/or non-controlled access roadways, depending on which is applicable
- ☐ Erosion Control Plan approved by NC DEQ (if 1 acre or more is disturbed) OR Letter of Intent to install proper erosion control measures (if less than 1 acre is disturbed)  
**NOTE:** *Encroaching party may elect to delay development of the erosion control plan until the District Engineer gives tentative approval of the permit.*
- ☐ Culvert crossing detail if applicable
- ☐ Other utility details as applicable
- ☐ Traffic control plans or details if applicable
- ☐ Staging or laydown area identified if on NCDOT right of way
- ☐ Temporary construction access details

### General Plan View

- ☐ North arrow
- ☐ State routes labeled with route number and name
- ☐ Scale / Dimension. All plans should either be to scale or properly and accurately dimensioned:
  - Scale should be shown
  - Scale should be no greater than 1" = 100'
- ☐ Facility details:
  - Length, size, material, type of encroachment
  - Installation method
- ☐ Existing Roadway Details with proposed facility offsets (provide dimensions):
  - Edge of pavement and/or back of curb, with roadway width
  - Right of way line and/or control of access line, with right of way width
  - Guardrail
  - Storm drainage features (e.g. drainage pipes and structures), with culvert diameters
  - Ditch line and/or toe of fill
  - Structure
- ☐ Existing Utilities. Show and dimension all existing utility features near to or impacted by the proposed encroachment

### General Profile View

A profile view is only required when crossing a roadway or other NCDOT structure.

- ☐ Installation method
- ☐ Prominent features
- ☐ Roadway
- ☐ Right of way limits
- ☐ The entire crossing section through the right of way
- ☐ Minimum required vertical dimensions over roadway or structure
- ☐ Elevations, sizes, and materials for potential utility conflicts
- ☐ Scale of profile view

### Submittal Acknowledgement

- ☐ I have reviewed all policies and guidelines, and this submittal package is in compliance



# ACKNOWLEDGMENTS

## 2024-2025 - Work Group Members/Contributors

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TRAIL ENCROACHMENT  
GUIDELINES PROCESS MAP

