



Rail Division - Facilities and Operations Branch

Rail Corridor Preservation Policy



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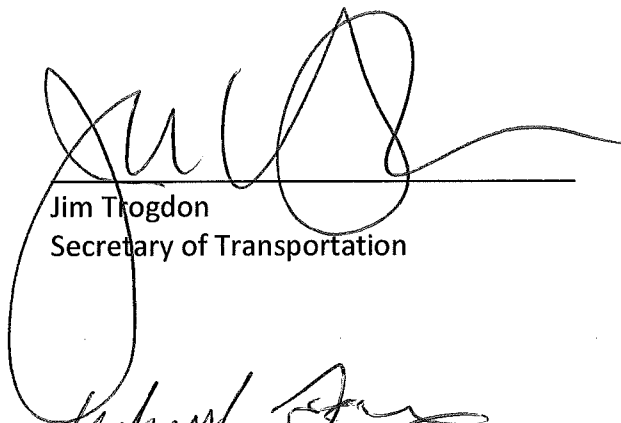
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For more information on rail corridor preservation or to obtain an encroachment agreement with the Department of Transportation for use of rail right of way contact:

NCDOT Rail Division
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1553 Mail Service Center
Raleigh, NC 27699-1553
919-707-4708

Forward

As an aid in preserving North Carolina Department of Transportation's rail corridors, this policy sets forth the guidelines for preserving the inactive rail corridor right of ways. This policy also includes the legal basis for the exercise of this authority and the procedures to be followed when applying for a rail corridor encroachment agreement.

I. Background

Pursuant to [N.C. Gen. Stat. § 136-44.36A](#), "the North Carolina Department of Transportation is authorizedto preserve rail transportation corridors and permit interim compatible uses of such corridors." Further, "[p]reservation of railroad corridors for interim trail and future transportation use requires that the integrity of the rights of way be maintained" pursuant to the North Carolina Board of Transportation acceptance of this policy. Therefore, the Rail Division must develop a systematic approach to oversee the public's requests to use the right of way in lieu of the return of the corridor to active rail or other transportation uses.

II. Encroachments

Agreements

The Department will allow compatible interim use of the corridor right of way until such time that it is returned to active rail or other transportation use. Compatible use shall be documented in the form of an encroachment or other agreement between the Department and the agreement applicant.

Customer Service

All agreements will be handled in a manner to ensure a high level of customer service.

The Department has responsibility to the public to maintain rail right of way in such a manner to allow for the ultimate return of the property to transportation use. Department corridor management includes activities such as signing, vegetation control, means of limiting the state's liability, track maintenance standards and needs, the development of an annual railroad corridor maintenance budget, and management of encroachments.

Reimbursable Costs

Expenses incurred by the Department to reach an agreement shall be borne by the encroachment agreement applicant. This could include, but not be limited to, survey, rent study, or appraisal actual costs.

Performance and indemnity (P&I) bonds may be required from the applicant of an encroachment agreement or the applicant's contractor for construction on the railroad corridor right of way. The Rail Division will follow the existing bond requirement guidelines used by the Division of Highways as stated

in the [Policies and Procedures for Accommodating Utilities on Highway Rights-of-Ways](#) when requiring a bond.

Removal

In instances of an unauthorized encroachment where an agreement cannot be reached with a property owner, the Department may take steps necessary to remove the encroachment. However, all efforts will be made to obtain an encroachment. Expenses incurred by the Department during the removal process will be borne by the party encroaching on the right of way and legal action may be taken to recover documented costs.

At such time as the rail corridor is returned to active transportation use, any existing encroachments interfering with the intended transportation use shall be removed, relocated or adjusted as stipulated in the agreement. The Department will provide a minimum of 120 working days written notice for encroachment removal or adjustment.

III. **Private Use**

In general, the property owner adjacent to the preserved rail corridor where track has been removed will be allowed to use and maintain the corridor in a manner consistent with the interim use with the intent to preserve the corridor for future transportation use. If the track is still in place, the adjacent property owner may use and maintain the Department's right of way up to a point at least 15 feet from the centerline of the track. No structures are to be allowed within fee simple the Department owned property. No structures are to be allowed within 25 feet from the centerline of the tracks on easement owned, Department Right-of-way.

IV. **Commercial Use**

Assignments

Historically, railroads have allowed the use of their property for private and commercial use. Commercial use of rail property will be handled by the Department in a commercially acceptable manner using rental or lease agreements. Once the Department assumes ownership of the corridor from a railroad company, any existing agreements may be assigned to the Department.

Agreements

It is the general policy of the Department that real property owned by the Department or any state agency may not be sold, leased, or rented at less than fair market value to any private entity that operates, or is established to operate as a "for profit" entity. Therefore, if a Department owned corridor property is being used for commercial ventures, it will be necessary to execute an agreement based on current fair market value. A minimum yearly rate of \$120 will be charged for any commercial encroachment. Rates will be based on comparable industry standards and land values in the areas adjoining the rail corridors. The Department will periodically review and assess its existing commercial agreements and accordingly adjust the rates charged based on fair market value.

V. **Adjacent Property Development**

Residential development along a corridor shall not interfere with the ultimate purpose of the corridor. Commercial and industrial development along a preserved corridor shall not adversely impact the rail corridor. The Department will coordinate with local planning agencies to encourage land development and comply with local zoning ordinances, which will be harmonious with the development of the preserved rail corridors and future transit options. No structures are to be allowed within fee simple Department owned property. No structures are to be allowed or located within 25 feet of the centerline of track on Department owned easements or right-of-way which are owed primarily for railroad purposes or that would interfere with the ultimate purpose of the corridor.

VI. **Crossings**

The safety of the traveling public, whether by foot, bike, motor vehicle or transit use is of utmost importance. While the Department will not land lock property owners, it does have the responsibility of making travel-ways as safe as possible. The Department will discourage new at-grade street and driveway crossings of Department-owned preserved rail corridors and request that local governments along these corridors discourage new crossings in adopted plans, zoning changes, site plan approvals, and building construction approvals. The Department encourages the consolidation and closure of crossings where possible.

The Department District Engineers will be responsible for limiting at-grade crossings when issuing driveway permits and installing driveway pipe that access property along preserved rail corridors and shall consult the Rail Division about such activities along preserved rail corridors. Driveways along preserved rail corridors shall not be installed by Division of Highways personnel without obtaining prior approval from the Rail Division.

VII. **Corridors Acquired With Federal Funds**

Rail corridors purchased with federal funds must follow federal guidelines for right of way disposition. Applicants for agreements will be responsible for all administrative, appraisal and any federal fees associated with the review of potential new at-grade crossings, leases, licenses or utility encroachments of Department owned rail corridors. The Department Right of Way Disposal and Control of Access Committee will review and make recommendations for new crossing applications on these rail corridors.

VIII. **Trail Use**

The Department may allow interim compatible trails on suitable inactive rail corridors; however, trails shall be built to minimize impacts along Department owned corridors. All interim rail trails on preserved corridors must follow the requirements of all applicable laws.

Local governments leasing the corridor for interim trail use are charged with the responsibility of following the procedures outlined in this policy. All construction or modifications on the American Tobacco Trail (ATT) corridor property boundaries to provide access shall meet the requirements of Engineering Specifications for Rail/Trail Connectors. The Department may impose engineering specifications on other rail corridors.

Lease Agreements

Use of a corridor for interim use as a recreational trail typically requires a local governing entity to enter into a lease agreement with the Department. This lease agreement contains additional responsibilities necessary to manage and maintain the corridor. The lessee has the responsibility of, among other things, maintenance, security, providing routine observation of the leased corridor, and alerting Rail Division staff to unauthorized encroachments. Rail Division staff maintains responsibility for evaluating each application for all trail access connectors, and for inspecting the completed construction for compliance with the approved design.

IX. Clearing of the Railroad Right of Way

No unauthorized clearing of the rail corridor right of way will be permitted. Should the inactive corridor be leased for interim trail use, clearing of the right of way for trail use shall be kept to a minimum.

The Department will provide for mowing of the corridor or other vegetation control in municipal areas, parcels where track is maintained in place, or as requested by individuals on a case by case basis.

Timbering of the rail corridor is prohibited without proper legal authorization. Any construction or like activities adjacent to the rail corridor shall keep debris out of adjoining ditches. All debris from construction operations obstructing the corridor shall be cleaned up by the construction company. Ditches and drainage pipes shall be returned to working order after construction.

X. Removal of Materials

Removal of railroad ballast or other track materials from inactive rail corridors will not be permitted without authorization from the Department. Theft of railroad materials shall be prosecuted to the fullest extent of the law. All material removed from the corridor without authorization shall be replaced or compensation paid based on current market value of the material.

XI. Hazardous Material and Dumping

Disposal or storage of hazardous material on the corridor is strictly prohibited.

Any party disposing or storing hazardous material shall be responsible for any cleanup to the satisfaction of the Department and will hold the Department harmless from all costs, fees, fines or assessments incurred or imposed as a result of the spill.

The North Carolina Board of Transportation fully endorses the policy proposed by the North Carolina Department of Transportation for the preservation of railroad corridors

