

Rail Corridor Preservation Policy



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Rail Division
Engineering & Safety Branch



N.C. Department
of Transportation

Rail Corridor Preservation Policy

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Rail Corridor Preservation Policy

The “preservation of rail corridors, through...State acquisition of strategic corridors, is in the public interest and is an integral and necessary part of a balanced transportation system....” [N.C.G.S. 143B-361].

I.Background

Pursuant to N.C.G.S. 136-44.36A, “the North Carolina Department of Transportation is authorized ...to preserve rail transportation corridors and permit interim compatible uses of such corridors” (see Appendix A). “Preservation of railroad corridors for interim trail and future transportation use requires that the integrity of the rights of way be maintained” (see Appendix B). 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

NCDOT 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 (see Appendix C).

Customer Service

All agreements will be handled in a manner to ensure that NCDOT’s customer service values are met or exceeded.

NCDOT has the responsibility to the public to maintain rail rights of way in such a manner as to allow for the ultimate return of the property to transportation use. The Department will develop a rail corridor maintenance and management plan. This plan will include signing, vegetation control, means of limiting the state’s liability, track maintenance standards and needs, and the development of an annual railroad corridor maintenance budget.

Reimbursable Costs

Any unusual expense incurred by NCDOT 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 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, NCDOT will take any and all steps necessary to remove the encroachment. NCDOT forces may assist in the removal if necessary. Any expense incurred by NCDOT during the removal process will be borne by the party encroaching on the right of way and legal action may be taken to recover costs.

At such time as the rail corridor is returned to active transportation use, any existing encroachments interfering with the intended 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 to the centerline of the right of way for private, noncommercial use. No reimbursement of costs will be required except the standard application amount. 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 not to exceed 15 feet from the centerline of the track.

IV.Commercial Use

Assignments

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

Agreements

It is the general policy of the State that real property owned by the State 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 for profit. Therefore, if State 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 \$100 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. All funds collected shall be earmarked for corridor management and maintenance.

NCDOT 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. NCDOT will coordinate with local planning agencies to encourage land development which will be harmonious with the development of the preserved rail corridors and future transit options.

VI.Crossings

The safety of the traveling public, whether by foot, bike, motor vehicle or transit use is of utmost importance. While NCDOT will not land lock property owners, it does have the responsibility of making travelways as safe as possible. “The Department will discourage new at-grade street and driveway crossings of State-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” (see Appendix B). NCDOT encourages the consolidation and closure of crossings where possible.

NCDOT 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. Driveways along preserved rail corridors shall not be installed by Division of Highways personnel without obtaining prior approval from the Rail Division.

VII.Federal Enhancement Corridors

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 enhancement fees associated with the review of potential new at-grade crossings, leases, licenses or utility encroachments of State-owned rail corridors” (see Appendix B). The NCDOT 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

NCDOT will allow interim compatible trails on suitable inactive rail corridors. All interim rail trails on preserved corridors must follow the requirements of N.C.G.S. 136.44.36D (see Appendix A).

Local governments leasing the corridor for interim trail use are charged with the responsibility of following the procedures outlined in the January 9, 1998 “Resolution to Facilitate the Protection of Rail Corridors Preserved by the Department of Transportation and Other Public Bodies in North Carolina” (see Appendix B).

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. NCDOT is establishing a small wildlife habitat area plot approximately every 20 miles on the Interstate system because of a decline in several species of songbirds in the state. The Rail Division will work to improve wildlife areas by preserving the existing natural corridor vegetation buffers in order to enhance wildlife and fauna.

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 authorization. Companies harvesting timber adjacent to the rail corridor will be responsible for keeping debris out of adjoining ditches. All debris from logging operations obstructing the corridor shall be cleaned up by the timber company. Ditches and drainage pipes shall be returned to working order after logging. A nominal maintenance charge will be imposed for use of the corridor for logging transportation operations or a bond may be required depending upon the situation.

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

Disposal of hazardous material on the corridor is strictly prohibited. Storing of hazardous material on the right of way is discouraged and will only be allowed by written agreement under monitored conditions. A bond will be required for storing of hazardous material.

Should a spill occur, the applicant will be responsible for cleanup of any hazardous material to the satisfaction of NCDOT and will hold NCDOT harmless from all costs, fees, fines or assessments incurred or imposed as a result of the spill.

XII. Dumping

No dumping will be permitted on the rail corridor. Any individuals or other parties discovered dumping on the right of way will be prosecuted to the fullest extent of the law. The party responsible for unauthorized dumping of materials will be liable for the cleanup. All costs associated with the cleanup will be borne by the responsible party.

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

Adopted, this the second day of October, 1998.

E. Norris Tolson
Secretary of Transportation

ATTEST:

Secretary to the Board of Transportation
and Custodian of the Seal of the Department
of Transportation