

19A NCAC 02B .0153 NEW AT-GRADE CROSSING

(a) It shall be unlawful to construct a railroad track across any portion of the State highway system without the Secretary of Transportation or the Secretary's designee providing a written statement of approval. The Secretary or designee's determination shall consider rail crossing engineering standards for safety, location, sight lines, traffic volume, grade, horizontal alignment, curvature, cant and the number of traffic lanes.

(b) A crossing agreement shall be required for any construction or relocation of railroad track across the State highway system, and any construction or relocation of the State highway system across already existing railroad track. The crossing agreement shall list the construction, maintenance, safety device installation, and funding responsibilities of each party.

(c) Where the construction of a new road or the relocation of an existing road involves an additional or a new crossing and does not involve the elimination of an existing crossing, the railroad shall not be required to bear any costs of signalization or separation, either at the time of the initial construction or within a 20-year period from the execution of the Crossing Agreement if the Department determines during that 20-year period that a signalization or a separation structure shall be required.

(d) If a crossing in existence prior to December 3, 1966 shall be eliminated by the relocation of an existing road, Rule .0155 of this Section shall apply.

(e) The following shall be required for the construction of a new municipal street across an already existing railroad track, or railroad tracks across the municipal street system.

- (1) If a municipality and railroad seek to enter into an agreement for the construction of a new municipal street, meaning a street forming a part of the municipal street system consisting of those streets or highways that are not a part of the State highway system, across a railroad track, at-grade, the municipality or public authority responsible for the maintenance, construction, reconstruction, and right-of-way acquisition for the municipal street system shall provide the Rail Division Director with 60-days' notice prior to the execution of the agreement. If the municipality anticipates there to be less than 60 days between the negotiations and execution of the agreement, the municipality shall notify the Director upon commencement of agreement negotiations.
- (2) If a municipality and railroad seek to enter into an agreement for the construction of a new railroad track across the municipal street system, at-grade, the municipality or public authority responsible for the maintenance, construction, reconstruction, and right-of-way acquisition for the municipal street system shall provide the Rail Division Director with 60-days' notice prior to the execution of the agreement. If the municipality anticipates there to be less than 60 days between the negotiations and execution of the agreement, the municipality shall notify the Director upon commencement of agreement negotiations.
- (3) If a private developer and a railroad seek to enter into an agreement for the construction of a railroad track across the municipal street system, at-grade, or a new municipal street across a railroad track, at-grade, the private developer shall provide the Rail Division Director with 60-days' notice prior to the execution of the agreement. If the private developer anticipates there to be less than 60 days between the negotiations and execution of the agreement, the private developer shall notify the Director upon commencement of agreement negotiations.
- (4) Notice shall be in writing and shall be effective upon receipt by the Rail Division Director. Notice may be delivered personally, by email, sent by overnight courier with recipient's signature or other electronic acknowledgement of receipt from the recipient requested, or by certified or registered mail, postage prepaid. Please address all physical copies of the required notice to the Rail Division Director at 1553 Mail Service Center, Raleigh, NC 27699-1553. The Rail Division Director's email address may be found, free of charge, at <https://apps.ncdot.gov/dot/directory/authenticated/UnitPage.aspx?id=3393>.
- (5) Notice shall include the following information:
 - (A) the name, address, telephone number, and email address of the entity submitting the notice;
 - (B) a description of the anticipated crossing, including whether the agreement is for the construction of a railroad track across the municipal street system, or the construction of a municipal street across an already existing railroad track;
 - (C) the county, city, or political subdivision where the crossing will be located;
 - (D) the railroad milepost number, if an already existing railroad track; and
 - (E) the State maintained road number or name, if an already existing road.

*History Note: Authority G.S. 136-18(5); 136-18(11); 136-20; 136-20.1; 136-66.1; 136-195;
Eff. July 1, 1978;
Amended Eff. December 1, 1993;
Readopted Eff. June 1, 2019.*