

19A NCAC 02C .0108 ACQUISITION OF RIGHT OF WAY FOR SECONDARY ROADS

(a) For the improvement or paving of unpaved secondary roads, the property owners shall dedicate, at no cost to the Department of Transportation, adequate right of way for construction and maintenance. As an exception, the Department of Transportation may acquire by purchase, donation or condemnation, such right of way as may be determined necessary to make safety improvements to unpaved secondary roads, or to construct, improve, or replace structures thereon, to protect the safety of the traveling public. This Section shall not be construed to limit the authority of the Department of Transportation to exercise its power of eminent domain.

(b) With respect to paved roads on the state maintained secondary road system, the Department of Transportation may acquire by purchase, donation, or condemnation, such right of way as may be determined necessary to make improvements to protect the safety of the traveling public. The terms of Paragraphs (d) and (e) of this Rule shall not apply to this Paragraph.

(c) On existing secondary roads which are part of the state highway system and have been approved for paving or general improvement, the Department of Transportation may pay for the cost of moving any existing fences or buildings within the rights of way.

(d) If one or more property owners refuse to dedicate the necessary right of way in order to pave a secondary road, the Department of Transportation may allow the remaining property owners to post a bond to cover condemnation costs incurred by the Department of Transportation. The Department of Transportation may then condemn the right of way necessary for paving the road.

(e) The amount of the bond to be posted by the property owners that are willing to give the right of way free of cost to the Department of Transportation may be determined in the following manner: The Department of Transportation may require up to two thousand five hundred dollars (\$2,500) for each parcel to be condemned based upon costs incurred for such condemnations during the previous one-year period in the county involved. If no condemnation precedents have occurred in the previous one-year period in that county, the department shall use the latest condemnation cost for the county involved. In addition, the Department of Transportation may require that the estimated amount of funds for appraised damages, if any, be posted along with the amount to cover court costs. For example, if in a previous one-year period, cost incurred in a particular county for condemning one parcel of property is two thousand one hundred dollars (\$2,100), the amount of two thousand one hundred dollars (\$2,100) may be required per parcel. If cost incurred is three thousand dollars (\$3,000) per parcel, two thousand five hundred dollars (\$2,500) may be required for each parcel to be condemned. If the damages for a parcel are one thousand dollars (\$1,000), a total of three thousand one hundred dollars (\$3,100) may be required for that one parcel. If there are two parcels, one having one thousand dollars (\$1,000) damages and the other having two hundred dollars (\$200.00) damages, three thousand one hundred dollars (\$3,100) may be required for one parcel and two thousand three hundred dollars (\$2,300) may be required for the other.

History Note: Authority G.S. 136-18(26); 136-44.1; 136-44.8; 136-44.16; 136-182; Eff. July 1, 1978; Amended Eff. January 1, 2004; December 1, 1994; December 29, 1993; October 1, 1982; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.