

Thermal Belt Railroad Corridor Management

Policies for Encroachments and Crossings

Safety and Integrity of Corridor

The safety and security of the users of the Thermal Belt Rail Trail is of utmost importance to the Rutherford Rail Development Corporation (RRDC). In addition, the RRDC has a duty to protect and maintain the physical integrity of the Thermal Belt Rail Trail to preserve the corridor for future reactivation as a railroad line pursuant to the Notice of Exemption granted by the Surface Transportation Board. As a result, it is the RRDC's policy to minimize encroachments on the Thermal Belt Rail Trail corridor and to ensure that all necessary utility crossings conform to industry standards for active railroad corridors. In addition, it is the RRDC's goal to reduce the overall number of encroachments on the Thermal Belt Rail Trail corridor when encroachments are inconsistent with RRDC's policies, no longer serves their original intended purpose, or have been abandoned.

Grade Crossing Safety

The RRDC's obligation to preserve the Thermal Belt Rail Trail corridor for future reactivation as a railroad line requires the RRDC to minimize and reduce the number of at-grade crossings of the corridor for any purpose. The RRDC will seek opportunities to limit and reduce the overall number of at-grade crossings to improve safety and security for pedestrians and bicyclists on the Thermal Belt Trail and to minimize conflicts with motorized vehicles crossing the corridor.

Considerations for Encroachments and Crossings

The following factors will be considered with any permit application for a new or revised encroachment or grade crossing within or over the Thermal Belt Rail Trail corridor:

1. **Safety:** Does the proposed use pose a new or increased risk or danger to the safety or security of the users of the Thermal Belt Rail Trail or make it more difficult or costly for the RRDC to provide for the safety and security of trail users?
2. **Integrity:** Does the proposed use pose a new or increased threat to the physical integrity of the Thermal Belt Rail Trail, make it more difficult or costly for the RRDC to operate and maintain the corridor or to preserve the corridor for future railroad reactivation?
3. **Necessity:** Does the proposed use serve a reasonable and legitimate purpose for the applicant that cannot be served in a way that does not require encroaching on the corridor? For grade crossings, can access to the affected property be provided over an adjacent property(ies)?

4. **Duration:** How long will the proposed use exist within the corridor?
5. **Nature of encroachment:** Is the proposed use of a temporary or permanent nature? How easily can the use be removed, relocated, or modified to accommodate future use of the corridor for railroad purposes?
6. **Curvature and topography:** Will the proposed use obstruct or impair sight distances on the corridor?
7. **Visibility:** Will the proposed use obstruct sight distances on or alongside the trail?
8. **Conflicts:** Will the proposed use increase the likelihood of conflicts with pedestrians, bicyclists, and/or auto traffic today or increase the likelihood of conflicts with pedestrians, bicyclists, auto traffic, and/or railroad traffic in the future? Would the destructive consequences of an auto or future railroad accident (e.g., chemical spill) be amplified by permitting the proposed use?
9. **Environmental conditions:** Will the proposed use disturb an environmentally sensitive area on the corridor?
10. **Drainage:** How will the design and construction of the proposed use affect drainage patterns on and around the corridor?
11. **Vegetative cover:** Will the proposed use alter the vegetative cover along the corridor? Is the applicant proposing to plant new types of vegetation on the corridor?
12. **Plan consistency:** Is the proposed use consistent with the comprehensive plan and zoning of the local planning jurisdiction and any other public agencies with jurisdiction along or adjoining the corridor?

Procedures for Encroachment and Crossing Permits

1. **Temporary Entry.** If it is necessary to enter the RRDC's property to conduct a survey or other limited due diligence, an application for a Temporary Entry must be completed, signed, and submitted. The application must be accompanied by the application fee described below and a detailed description of the proposed work. Incomplete applications will not be reviewed or processed.
2. **Encroachment.** If the proposed use of the RRDC's property is for a longer duration than a Temporary Entry, an application for an Encroachment must be completed, signed, and submitted. The application must be accompanied by the application fee described below, a detailed description of the proposed encroachment, and complete plans describing the proposed encroachment or work. Incomplete applications will not be reviewed or processed.

3. **Crossing.** If a crossing of the RRDC property is proposed, an application for a Crossing must be completed, signed, and submitted. The application must be accompanied by the application fee described below, a detailed description of the proposed crossing, and complete engineering plans for the proposed crossing. Incomplete applications will not be reviewed or processed.
4. **Temporary Entry, Encroachment, and/or Crossing.** If the proposed entry into the RRDC's property is for one or more of the above purposes, a separate application must be submitted for each purpose in accordance with the above requirements, and each application must be accompanied by the applicable application fee described below.
5. **Application Fees.**

Temporary Entry: A non-refundable \$500 application fee must accompany each Temporary Entry permit application. In addition to the application fee, the applicant will reimburse the RRDC for all reasonable expenses and professional service fees incurred for review and processing of all applications. All expenses will be due and payable when billed. No agreement for a Temporary Entry will be issued until all amounts due are paid in full.

Encroachment: A non-refundable \$500 application fee must accompany each Encroachment permit application. In addition to the application fee, the applicant will reimburse the RRDC for all reasonable expenses and professional service fees incurred for review and processing of all applications. All expenses will be due and payable when billed. No agreement for an Encroachment will be issued until all amounts due are paid in full.

Crossing: A non-refundable \$2,000 application fee must accompany each Crossing permit application. In addition to the application fee, the applicant will reimburse the RRDC for all reasonable expenses and professional service fees incurred for review and processing of all applications. All expenses will be due and payable when billed. No agreement for a Crossing will be issued until all amounts due are paid in full.

6. Engineering plans must be completed in accordance with the RRDC's encroachment and crossing standards and policies and/or pipeline and wireline standards and procedures, as applicable and as amended from time to time. Failure to do so will delay the review process. Any application not conforming to RRDC's minimum standards will delay processing. Any request for a variance to the RRDC's standards must be accompanied by satisfactory evidence and a clear explanation demonstrating all the following:

- Application of the standards creates a hardship on the applicant that is impracticable or impossible to avoid or mitigate through other means or approaches.
- The hardship results from conditions that are peculiar to the property.
- The hardship is not a self-created hardship.

In addition, the applicant must show that the variance will:

- Be consistent with the intent of the standards.
- Preserve safety on the RRDC's property.

Increased costs to the applicant for compliance will not be considered a hardship.

Failure to satisfy the above requirements will result in the rejection of the application or the return of the application for further explanation.

7. Each application must provide a city, county, or topographical map of the area, showing the proposed encroachment or crossing. When using a street name on the application that has been changed, include the current name as well as any previous known street name.
8. The permit application processing time will be approximately 30-60 days. If a permit application is approved, an additional 30-60 days will be required for agreement preparation. Please allow sufficient lead time for document handling prior to desired construction date. **A permit application must be approved and an agreement must be executed by the applicant (licensee) and contractor before any entry onto RRDC's property is permitted and before any approved work may begin. Verbal authorizations will not be permitted or granted. A recurring license fee may be required in the applicable agreement for ongoing administration, monitoring, and review of the permitted work or improvements.**
9. In addition to the application fee, expense reimbursements, and license fee, the applicant may be required by the RRDC to post a payment and/or performance bond in an amount sufficient to guarantee completion of all work proposed on the RRDC's property.
10. Public entity partners of RRDC, including the Broad River Water Authority, shall be exempt from any application fee, recurring license fee, and bonding requirement, unless otherwise agreed by RRDC and the applicable public entity.
11. Every applicant who is approved for an agreement shall be required to obtain and maintain in place and in full force during the life of the agreement Commercial

General Liability, Automotive Liability, and Worker' Compensation and Employer's Liability in amounts required by the RRDC or provide equivalent insurance coverage to RRDC's satisfaction.

12. Before performing any work on the RRDC's property, each applicant will have all utilities located within the affected area and will confirm the location of such utilities with the RRDC at least ten (10) working days prior to start of work.

Minimum Stipulations and Requirements for Encroachments and Crossings

For the reasons cited above, the RRDC requires every entity - public or private - exhaust all options before applying for a new encroachment or grade crossing on the Thermal Belt Rail Trail corridor, including considering parallel or other roads leading to existing crossings, as well as access from other directions and over adjacent properties not owned by the applicant.

If the RRDC approves any encroachment or crossing, the following minimum terms and conditions will apply to the permit:

1. All construction and maintenance work must be performed in accordance with standards and processes required by the RRDC at applicant's sole expense, regardless of the cost of such standards and processes.
2. All grading and drainage work on roadway approaches or along encroachment areas, including the maintenance thereof, will be the responsibility of applicant at applicant's sole expense.
3. All relocation of utilities due to construction (if any) will be at applicant's sole expense.
4. Any maintenance and repair work performed by the RRDC will be at applicant's sole expense.
5. Any current or future warning devices required for a crossing (passive or active) will be installed and maintained by the RRDC or its contractors at applicant's sole expense.
6. No improvements or alterations of a permanent nature will be permitted as an encroachment. Each agreement for an encroachment will be terminable by the RRDC at any time, and applicant will be required to remove the encroachment at its sole cost upon the expiration or termination of the agreement.
7. Any approved grade crossing will be subject to removal, relocation, or grade separation at applicant's sole cost upon the reactivation of the Thermal Belt Rail Trail corridor for railroad use.
8. All agreements granted for encroachments and grade crossings will be non-possessory license permits, will be non-assignable without the RRDC's prior written consent, and

will not grant any right or interest in real property in or over the Thermal Belt Rail Trail corridor.

9. All liability for accidents or injuries that arise because of the construction, maintenance, and use of a crossing or encroachment will be assumed by applicant, regardless of fault or cause.
10. At a minimum, the applicant will be required to provide insurance coverage in the following amounts for the uses indicated, however, the RRDC will base the insurance requirements for each encroachment or grade crossing on the risk and circumstances of each crossing, in the RRDC's sole discretion:
 - a. New residential private crossings and encroachments: General Public Liability providing \$2 million for each occurrence and general aggregate limit of \$2 million; Automobile Public Liability providing \$1 million for each occurrence.
 - b. Commercial and industrial crossings and encroachments and contractors' private crossings and encroachments: General Public Liability providing \$3 million for each occurrence and general aggregate limit of \$5 million; Automobile Public Liability providing \$1 million for each occurrence; Worker's Compensation covering the statutory liability determined by state law.