

Recommended Durham County Orphan Roads Policy

Principles:

- The County should not own or maintain public roads.
- The County can facilitate repairs to public roads and subsequent transfer of public roads to the North Carolina Department of Transportation (NCDOT) if certain criteria are met as required by North Carolina General Statute 153A-205.
- Property owners should be responsible for the cost to repair the roadway to meet NCDOT standards for acceptance.
- The County may only choose to participate financially in the repairs necessary to transfer roads to NCDOT if state or federal funding is available to use for this purpose but is not obligated to do so.

Definition of an Orphan Road

- Roadway is located in unincorporated Durham County.
- Roadway has a right of way recorded or construction started after October 1, 1975.
- Roadway is designated public on a recorded subdivision plat at the Durham County Register of Deeds.
- Roadway meets NCDOT's minimum requirement of homes occupied to enter the State Highway system (4 occupied homes per 0.2 mile), does not have any illegal encroachments, and meets any other NCDOT standards besides the condition of the roadway.

Requirements to qualify for the Orphan Road Program:

- Roadway is primarily residential and not in a commercial or industrial area.
- Roadway condition is a public safety hazard.
- Roadway was constructed as an asphalt or concrete road, not dirt or gravel.
- Roadway is not located in a Homeowner's Association.
- The County does not have a financial guarantee posted by the developer sufficient to pay for the repairs.
- It is not possible to hold the developer financially liable for the cost to repair the road to meet NCDOT standards.

Durham County Orphan Road Program:

- Preparation of the Cost Estimate
 - NCDOT will conduct a punch list of the deficient roadway items and develop a high-level cost estimate.
 - The subdivision is responsible for producing a detailed cost estimate to repair the road based on the NCDOT punch list from a licensed professional engineer. The detailed cost estimate should be submitted to NCDOT and Durham County for verification and approval.
- Petition
 - Durham County will consider petitions for County assistance to facilitate the transfer of public roads to NCDOT on a case-by-case basis in the order received.

- North Carolina General Statute 153A-205 requires that petitions must be signed by 75 percent of the owners of property to be assessed, who must represent at least 75 percent of all the lineal feet of frontage of the lands abutting the road.
- The petition will include the detailed cost estimate, the estimated assessment per lot, and the estimated maximum assessment period. The cost estimate is not a guaranteed maximum price.
- Petitions will be presented to the Board of Commissioners for a public hearing and consideration.
- There is no guarantee that petitions submitted to the County will be approved for County financing.
- Funding and Financing
 - A project will not move forward until all the funds needed for the road repair project are appropriated.
 - Projects that are approved by the Board of Commissioners to receive County financing will be done so in accordance with North Carolina State Law.
 - Durham County may only participate in funding the road repair project if state or federal funds are available for this purpose. Otherwise, 100 percent of the project cost will be required to be paid by property owners through an assessment.
 - If state or federal funding is available for the project, Durham County may accept and appropriate these funds towards the project cost. Property owners will be responsible for any remaining cost to repair the roadway to meet NCDOT standards.
 - The cost of County staff time and administrative costs for managing the construction project will not be considered in the assessment cost for residents. Only the directly contracted engineering and construction costs will be considered in the assessment.
 - North Carolina General Statute 153A-199 states that assessments must be paid within 30 days after the assessment roll is confirmed by the Board of Commissioners, unless the Board has provided the option to pay by annual installment, which may not exceed a period of ten years.
 - Durham County will use the following formula to establish the annual installment period: The estimated annual installment, per lot, shall be approximately equal to the average annual property tax of all the lots requesting County financing, for a period no more than ten years. Data from the Durham County Tax Administration Department will be used to determine the average annual property tax value. Durham County may apply a finance charge for the annual installment option.
- Construction Project
 - If approved for County financing, Durham County will manage the construction project and work with NCDOT to get the road accepted by the State.
 - As statutorily required, no project may be commenced unless it has been approved by the Department of Transportation
- Liability
 - Pursuant to N.C.G.S. 153A-205, by financing the improvements, Durham County does not acquire or assume any responsibility for the involved street(s).
 - Pursuant to N.C.G.S. 153A-205, no liability is created against Durham County from the construction of the improvements and/or maintenance of the involved street(s).