

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1997

SESSION LAW 1998-184
SENATE BILL 1291

AN ACT TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION, REGIONAL PUBLIC TRANSPORTATION AUTHORITIES, AND REGIONAL TRANSPORTATION AUTHORITIES TO CREATE TRANSPORTATION CORRIDORS AND PROTECT THEM FROM DEVELOPMENT, AND TO INSURE PROPER NOTICE TO ALL PROPERTY OWNERS AFFECTED BY THE CORRIDORS.

The General Assembly of North Carolina enacts:

Section 1. Article 2E of Chapter 136 reads as rewritten:

"ARTICLE 2E.

"Roadway Transportation Corridor Official Map Act.

"§ 136-44.50. Roadway Transportation corridor official map act.

(a) A roadway-transportation corridor official map may be adopted or ~~amended~~ amended by any of the following:

- (1) by the ~~The~~ governing board of any city for any thoroughfare included as part of a comprehensive plan for streets and highways adopted pursuant to ~~G.S. 136-66.2 or G.S. 136-66.2~~ or for any proposed public transportation corridor included in the adopted long-range transportation plan.
- (2) by the ~~The~~ Board of Transportation for any portion of the existing or proposed State highway ~~system.~~ system or for any public transportation corridor, to include rail, that is in the Transportation Improvement Program.
- (3) Regional public transportation authorities created pursuant to Article 26 of Chapter 160A of the General Statutes or regional transportation authorities created pursuant to Article 27 of Chapter 160A of the General Statutes for any proposed public transportation corridor, or adjacent station or parking lot, included in the adopted long-range transportation plan.

Before a city adopts a ~~roadway-transportation~~ roadway-transportation corridor official map that extends beyond the extraterritorial jurisdiction of its building permit issuance and subdivision control ordinances, or adopts an amendment to a ~~roadway-transportation~~ roadway-transportation corridor official map outside the extraterritorial jurisdiction of its building permit issuance and subdivision control ordinances, the city ~~must~~ shall obtain approval from the Board of County Commissioners.

No ~~roadway~~ transportation corridor official map shall be adopted or amended, nor may any property be regulated under this Article until:

- (1) The governing board of the ~~city~~ city, the regional transportation authority, or the Department of Transportation ~~in each county affected by the map,~~ has held a public hearing in each county affected by the map on the proposed map or amendment. Notice of the hearing shall be provided:
 - a. By publication at least once a week for four successive weeks prior to the hearing in a newspaper having general circulation in the county in which the ~~roadway~~ transportation corridor to be designated is located.
 - b. By two week written notice to the Secretary of Transportation, the Chairman of the Board of County Commissioners, and the Mayor of any city or town through whose corporate or extraterritorial jurisdiction the ~~roadway~~ transportation corridor passes.
 - c. By posting copies of the proposed ~~roadway~~ transportation corridor map or amendment at the courthouse door for at least 21 days prior to the hearing date. The notice required in sub-subdivision a. above shall make reference to this posting.
 - d. By first-class mail sent to each property owner affected by the corridor. The notice shall be sent to the address listed for the owner in the county tax records.
 - (2) A permanent certified copy of the ~~roadway~~ transportation corridor official map or amendment has been filed with the register of deeds. The boundaries may be defined by map or by written description, or a combination thereof. The copy shall measure approximately 20 inches by 12 inches, including no less than one and one-half inches binding space on the left-hand side.
 - (3) The names of all property owners affected by the corridor have been submitted to the Register of Deeds.
- (b) ~~Roadway~~ Transportation corridor official maps and amendments shall be distributed and maintained in the following manner:
- (1) A copy of the official map and each amendment thereto shall be filed in the office of the city clerk and in the office of the district engineer.
 - (2) A copy of the official map, each amendment thereto and any variance therefrom granted pursuant to G.S. 136-44.52 shall be furnished to the tax supervisor of any county and tax collector of any city affected thereby. The portion of properties embraced within a ~~roadway~~ transportation corridor and any variance granted shall be clearly indicated on all tax maps maintained by the county or city for such period as the designation remains in effect.
 - (3) Notwithstanding any other provision of law, the certified copy filed with the register of deeds shall be placed in a book maintained for that

purpose and cross-indexed by number of road, street name, or other appropriate description. The register of deeds shall collect a fee of five dollars (\$5.00) for each map sheet or page recorded.

(4) The names submitted as required under subdivision (a)(3) of this section shall be indexed in the 'grantor' index by the Register of Deeds.

(c) Repealed by Session Laws 1989, c. 595, s. 1.

(d) Within one year following the establishment of a ~~roadway-transportation~~ corridor official map or amendment, work shall begin on an environmental impact statement or preliminary engineering. The failure to begin work on the environmental impact statement or preliminary engineering within the one-year period shall constitute an abandonment of the corridor, and the provisions of this Article shall no longer apply to properties or portions of properties embraced within the ~~roadway-transportation~~ corridor. A city may prepare environmental impact studies and preliminary engineering work in connection with the establishment of a ~~roadway-transportation~~ corridor official map or amendments to a ~~roadway-transportation~~ corridor official map. When a city prepares a ~~roadway-transportation~~ corridor official map for a street or highway that has been designated a State responsibility pursuant to G.S. 136-66.2, the environmental impact study and preliminary engineering work shall be reviewed and approved by the Department of Transportation. An amendment to a corridor shall not extend the two-year period provided by this section unless it establishes a substantially different corridor in a primarily new location.

(e) The term 'amendment' for purposes of this section includes any change to a transportation corridor official map, including:

(1) Failure of the Department of Transportation, a city, or a regional transportation authority to begin work on an environmental impact statement or preliminary engineering as required by this section; or

(2) Deletion of the corridor from the transportation corridor official map by action of the Board of Transportation, or deletion of the corridor from the long-range transportation plan of a city or regional transportation authority by action of the city or regional transportation authority governing Board.

(f) The term 'transportation corridor' as used in this Article does not include bikeways or greenways.

"§ 136-44.51. Effect of ~~roadway-transportation~~ corridor official map.

(a) After a ~~roadway-transportation~~ corridor official map is filed with the register of deeds, no building permit shall be issued for any building or structure or part thereof located within the ~~roadway-transportation~~ corridor, nor shall approval of a subdivision, as defined in G.S. 153A-335 and G.S. 160A-376, be granted with respect to property within the ~~roadway-transportation~~ corridor. The ~~district engineer of the Highway District in which the roadway corridor is located~~ Secretary of Transportation or his designee, the director of a regional public transportation authority, or the director of a regional transportation authority, as appropriate, shall be notified within 10 days of all requests for building permits or subdivision approval within the ~~roadway-transportation~~ corridor. The provisions of this section shall not apply to valid building permits issued

prior to August 7, 1987, or to building permits for buildings and structures which existed prior to the filing of the ~~roadway-transportation~~ corridor provided the size of the building or structure is not increased and the type of building code occupancy as set forth in the North Carolina Building Code is not changed.

(b) ~~No~~ In any event, no application for building permit issuance or subdivision plat approval for a tract subject to a valid transportation corridor official map shall be delayed by the provisions of this section for more than three years from the date of its original submittal.

"§ 136-44.52. Variance from ~~roadway-transportation~~ corridor official map.

(a) The Department of ~~Transportation or~~ Transportation, the regional public transportation authority, the regional transportation authority, or the city which initiated the ~~roadway-transportation~~ corridor official map shall establish procedures for considering petitions for variance from the requirements of G.S. 136-44.51.

(b) The procedure established by the State shall provide for written notice to the Mayor and Chairman of the Board of County Commissioners of any affected city or county, and for the hearing to be held in the county where the affected property is located.

(c) Cities may provide for petitions for variances to be heard by the board of adjustment or other boards or commissions which can hear variances authorized by G.S. 160A-388. The procedures for boards of adjustment shall be followed except that no vote greater than a majority shall be required to grant a variance.

(c1) The procedure established by a regional public transportation authority or a regional transportation authority pursuant to subsection (a) of this section shall provide for a hearing de novo by the Department of Transportation for any petition for variance which is denied by the regional public transportation authority or the regional transportation authority. All hearings held by the Department of Transportation under this subsection shall be conducted in accordance with procedures established by the Department of Transportation pursuant to subsection (a) of this section.

(d) A variance may be granted upon a showing that:

- (1) Even with the tax benefits authorized by this Article, no reasonable return may be earned from the land; and
- (2) The requirements of G.S. 136-44.51 result in practical difficulties or unnecessary hardships.

"§ 136-44.53. Advance acquisition of right-of-way within the ~~roadway-transportation~~ corridor.

(a) After a ~~roadway-transportation~~ corridor official map is filed with the register of deeds, ~~the deeds,~~ a property owner has the right of petition to the filer of the map for acquisition of the property due to an imposed hardship. The Department of ~~Transportation or~~ Transportation, the regional public transportation authority, the regional transportation authority, or the city which initiated the ~~roadway-transportation~~ corridor official map is authorized to ~~may~~ make advanced acquisition of specific parcels of property when ~~such that~~ that acquisition is determined by the respective governing board to be in the best public interest to protect the ~~roadway-transportation~~ corridor from development or when the ~~roadway-transportation~~ corridor official map creates an undue

hardship on the affected property owner. The procedure established by a regional public transportation authority or a regional transportation authority pursuant to subsection (b) of this section shall provide for a hearing de novo by the Department of Transportation for any request for advance acquisition due to hardship that is denied by an authority. All hearings held by the Department under this subsection shall be conducted in accordance with procedures established by the Department pursuant to subsection (b) of this section. Any decision of the Department pursuant to this subsection shall be final and binding. Any property determined eligible for hardship acquisition shall be acquired within three years of the finding or the restrictions of the map shall be removed from the property.

(b) Prior to making any ~~such~~ advanced acquisition of right-of-way under the authority of this Article, the Board of Transportation or the respective ~~municipal~~ governing board which initiated the ~~roadway-transportation~~ corridor official map shall develop and adopt appropriate policies and procedures to govern ~~such~~ the advanced acquisition of right-of-way and to assure ~~such~~ that the advanced acquisition is in the best overall public interest.

(c) When a city makes an advanced right-of-way acquisition of property within a ~~roadway-transportation~~ corridor official map for a street or highway that has been determined to be a State responsibility pursuant to the provisions of G.S. 136-66.2, the Department of Transportation shall reimburse the city for the cost of ~~such~~ any advanced right-of-way acquisition at the time the street or highway is constructed. The Department of Transportation shall have no responsibility to reimburse a municipality for any advanced right-of-way acquisition for a street or highway that has not been designated a State responsibility pursuant to the provisions of G.S. 136-66.2 prior to the initiation of the advanced acquisition by the city. The city shall obtain the concurrence of the Department of Transportation in all instances of advanced acquisition.

(d) In exercising the authority granted by this section, a municipality is authorized to expend municipal funds for the protection of rights-of-way shown on a duly adopted ~~roadway-transportation~~ corridor official map whether the right-of-way to be acquired is located inside or outside the municipal corporate limits.

"§ 136-44.54. Standard for appraisal of right-of-way within corridor.

The Department shall utilize the criteria contained in 49 C.F.R. § 24.103 (1997) when appraising right-of-way in a transportation corridor designated under this Article."

Section 2. G.S. 105-277.9 reads as rewritten:

"§ 105-277.9. Taxation of property inside certain roadway corridors.

Real property that lies within a ~~roadway-transportation~~ corridor marked on an official map filed under Article 2E of Chapter 136 of the General Statutes is designated a special class of property under Article V, Sec. 2(2) of the North Carolina Constitution and is taxable at twenty percent (20%) of the general tax rate levied on real property by the taxing unit in which the property is situated if:

- (1) As of January 1, no building or other structure is located on the property; and
- (2) The property has not been subdivided, as defined in G.S. 153A-335 or G.S. 160A-376, since it was included in the corridor."

Section 3. G.S. 136-102.6(j) reads as rewritten:

"(j) The Division of Highways and district engineers of the Division of Highways of the Department of Transportation shall issue a certificate of approval for any subdivision affected by a ~~roadway~~-transportation corridor official map established by the Board of Transportation only if the subdivision conforms to Article 2E of this Chapter or conforms to any variance issued in accordance with that Article."

Section 4. G.S. 160A-458.4 reads as rewritten:

"§ 160A-458.4. Designation of ~~roadway~~-transportation corridor official maps.

Any city may establish ~~roadway~~-transportation corridor official maps and may enact and enforce ordinances pursuant to Article 2E of Chapter 136 of the General Statutes."

Section 5. G.S. 161-14 is amended by adding a new subsection to read:

"(c) Transportation corridor official maps authorized under Article 2E of Chapter 136 shall be registered and indexed by the end of the third business day after the business day the map is presented to the Register of Deeds."

Section 6. This act becomes effective November 1, 1998, and applies to transportation corridor official maps, or amendments to those maps, adopted on or after the effective date of this act.

In the General Assembly read three times and ratified this the 6th day of October, 1998.

s/ Dennis A. Wicker
President of the Senate

s/ Harold J. Brubaker
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 9:15 a.m. this 16th day of October, 1998