

GENERAL ASSEMBLY OF NORTH CAROLINA
1989 SESSION

CHAPTER 595
HOUSE BILL 403

AN ACT TO MODIFY THE LAW CONCERNING ROADWAY CORRIDOR
OFFICIAL MAPS, MUNICIPAL PARTICIPATION IN IMPROVEMENTS TO
THE STATE HIGHWAY SYSTEM, AND DEDICATION OF RIGHT-OF-WAY
WITH DENSITY OR DEVELOPMENT RIGHTS TRANSFER.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-44.50 reads as rewritten:

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

(a) A roadway corridor official map may be adopted or amended by the governing board of any city ~~within its corporate limits and the extraterritorial jurisdiction of its building permit issuance and subdivision control ordinances for any thoroughfare included as part of a comprehensive plan for streets and highways adopted pursuant to G.S. 136-66.2~~ or by the Board of Transportation for any portion of the existing or proposed State highway system. Before a city adopts a roadway 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 corridor official map outside the extraterritorial jurisdiction of its building permit issuance and subdivision control ordinances, the city must obtain approval from the Board of County Commissioners. No roadway 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 or the Department of Transportation in each county affected by the map, has held a public hearing 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 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 corridor passes.
 - c. By posting copies of the proposed roadway 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.

- (2) A permanent certified copy of the roadway 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.

(b) Roadway 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 ~~for municipal adopted maps, or and~~ in the office of the district engineer ~~for State adopted maps.~~
- (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 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.

~~(c) No roadway corridor or any portion thereof placed on an official map shall be effective unless:~~

- ~~(1) The roadway corridor or a portion thereof appears on the Transportation Improvement Program adopted by the Board of Transportation under G.S. 143B-350(f)(4); or~~
- ~~(2) The roadway corridor or a portion thereof appears on the street system plan adopted pursuant to G.S. 136-66.2, and the adopting city or town has adopted a capital improvements plan of 10 years or shorter duration which shows the estimated cost of acquisition and construction of the designated roadway corridor and the anticipated financing for that project.~~

(d) Within one year following the establishment of a roadway corridor official map or amendment, work shall begin on an environmental impact statement or preliminary engineering. The failure to begin work 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 corridor. A city may prepare environmental impact studies and preliminary engineering work in connection with the establishment of a roadway corridor official map or amendments to a roadway corridor official map. When a city prepares a roadway 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."

Sec. 2. G.S. 136-66.3(c) reads as rewritten:

"(c) A municipality is authorized to make improvements to portions of the State highway system lying within the municipal corporate limits utilizing local funds that have been authorized for that purpose by a vote of the citizens of the municipality.—A municipality is authorized and empowered to acquire land by dedication and acceptance, purchase, or eminent domain, and make improvements to portions of the State highway system lying within or outside the municipal corporate limits utilizing local funds that have been authorized for that purpose by a vote of the citizens of the municipality. The governing body of the municipality may call a special referendum at any time to allow this use of funds. The total cost of the improvements authorized by this subsection shall be the responsibility of the municipality and shall not be participated in by the Department of Transportation, nor shall the construction of improvements be a consideration for any other project by the Department of Transportation. All improvements to the State highway system shall be done in accordance with the specifications and requirements of the Department of Transportation and shall be set forth in an agreement entered into between the municipality and the Department. The Board of Transportation shall not give consideration to or credit for such locally financed improvements in the Transportation Improvement Program under G.S. 143B-350(f)(4)."

Sec. 3. G.S. 136-66.3(f) reads as rewritten:

"(f) Municipalities having a population of less than 10,000 according to the most recent annual estimates of population as certified to the Secretary of Revenue by the State Budget Officer shall not participate in the right-of-way and construction costs of any State highway system improvement project approved by the Board of Transportation under G.S. 143B-350(f)(4).

Municipalities having a population of 10,000 or more according to the most recent annual estimates of population as certified to the Secretary of Revenue by the State Budget Officer may, but shall not be required by the Department or Board of Transportation, participate up to a maximum percentage as shown below in the cost of rights-of-way of the portion of any transportation improvement project approved by the Board of Transportation under G.S. 143B-350(f)(4) that is located within the municipal corporate limits:

Municipal Population	Maximum Participation In Right-of-Way Costs
10,000 - 25,000	5%
25,001 - 50,000	10%
50,001 - 100,000	15%
over 100,000	25%

This authority to allow a municipality to participate in the right-of-way costs of any transportation improvement project approved by the Board of Transportation under G.S.

143B-350 (f)(4) that is located within the municipal corporate limits shall expire on ~~June 30, 1990~~ June 30, 1992.

Any participation shall be set forth in an agreement between the municipality and the Department of Transportation. Upon request of the municipality, the Department of Transportation shall allow the municipality a period of not less than three years from the date construction of the project is initiated to reimburse the Department their agreed upon share of the costs of rights-of-way necessary for the project. The Department of Transportation shall not charge a municipality any interest on its agreed upon share of rights-of-way costs. The Secretary shall report in writing, on a monthly basis, to the Joint Legislative Commission on Governmental Operations on all agreements entered into between municipalities and the Department of Transportation. The report shall state in summary form the contents of such agreements."

Sec. 4. G.S. 136-66.10(a) reads as rewritten:

"(a) Whenever a tract of land located within the territorial jurisdiction of a city or county's zoning or subdivision control ordinance or any other land use control ordinance authorized by local act is proposed for subdivision or for use pursuant to a zoning or building permit, and a portion of it is embraced within a corridor for a street or highway on a plan established and adopted pursuant to G.S. 136-66.2 ~~for a street or highway that is included in the Department of Transportation's "Transportation Improvement Program"~~, a city or county zoning or subdivision ordinance may provide for the dedication of right-of-way within that corridor pursuant to any applicable legal authority, or:

- (1) A city or county may require an applicant for subdivision plat approval or for a special use permit, conditional use permit, or special exception, or for any other permission pursuant to a land use control ordinance authorized by local act to dedicate for street or highway purpose, the right-of-way within such corridor if the city or county allows the applicant to transfer density credits attributable to the dedicated right-of-way to contiguous land owned by the applicant. No dedication of right-of-way shall be required pursuant to this subdivision unless the board or agency granting final subdivision plat approval or the special use permit, conditional use permit, special exception, or permission shall find, prior to the grant, that the dedication does not result in the deprivation of a reasonable use of the original tract and that the dedication is either reasonably related to the traffic generated by the proposed subdivision or use of the remaining land or the impact of the dedication is mitigated by measures provided in the local ordinance.
- (2) If a city or county does not require the dedication of right-of-way within the corridor pursuant to subdivision (1) of this subsection or other applicable legal authority, but an applicant for subdivision plat approval or a zoning or building permit, or any other permission pursuant to a land use control ordinance authorized by local act elects to dedicate the right-of-way, the city or county may allow the applicant

to transfer density credits attributable to the dedicated right-of-way to contiguous land that is part of a common development plan or to transfer severable development rights attributable to the dedicated right-of-way to noncontiguous land in designated receiving districts pursuant to G.S. 136-66.11."

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 7th day of July,
1989.