

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 639
Second Edition Engrossed 4/24/89

Short Title: Street Closings Validated.

(Public)

Sponsors: Senator Marvin.

Referred to: Local Government and Regional Affairs.

March 27, 1989

1 A BILL TO BE ENTITLED
2 AN ACT TO VALIDATE ORDINANCES CLOSING STREETS AND ALLEYS
3 NOTWITHSTANDING A FAILURE TO SEND NOTICE BY REGISTERED OR
4 CERTIFIED MAIL.

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 160A-299 reads as rewritten:

7 "**§ 160A-299. Procedure for permanently closing streets and alleys.**

8 (a) When a city proposes to permanently close any street or public alley, the
9 council shall first adopt a resolution declaring its intent to close the street or alley and
10 calling a public hearing on the question. The resolution shall be published once a week
11 for four successive weeks prior to the hearing, a copy thereof shall be sent by registered
12 or certified mail to all owners of property adjoining the street or alley as shown on the
13 county tax records, and a notice of the closing and public hearing shall be prominently
14 posted in at least two places along the street or alley. If the street or alley is under the
15 authority and control of the Department of Transportation, a copy of the resolution shall
16 be mailed to the Department of Transportation. At the hearing, any person may be heard
17 on the question of whether or not the closing would be detrimental to the public interest,
18 or the property rights of any individual. If it appears to the satisfaction of the council
19 after the hearing that closing the street or alley is not contrary to the public interest, and
20 that no individual owning property in the vicinity of the street or alley or in the
21 subdivision in which it is located would thereby be deprived of reasonable means of
22 ingress and egress to his property, the council may adopt an order closing the street or
23 alley. A certified copy of the order (or judgment of the court) shall be filed in the office

1 of the register of deeds of the county in which the street, or any portion thereof, is
2 located.

3 (b) Any person aggrieved by the closing of any street or alley including the
4 Department of Transportation if the street or alley is under its authority and control,
5 may appeal the council's order to the General Court of Justice within 30 days after its
6 adoption. The court shall hear the matter **de novo**, and shall have full jurisdiction to try
7 the issues arising and to order the street or alley closed upon proper findings of fact by
8 the jury. No cause of action or defense founded upon the invalidity of any proceedings
9 taken in closing any street or alley may be asserted, nor shall the validity of the order be
10 open to question in any court upon any ground whatever, except in an action or
11 proceeding begun within 30 days after the order is adopted. The failure to send notice
12 by registered or certified mail shall not invalidate any ordinance adopted prior to
13 January 1, 1989.

14 (c) Upon the closing of a street or alley in accordance with this section, subject to
15 the provisions of subsection (f) of this section, all right, title, and interest in the right-of-
16 way shall be conclusively presumed to be vested in those persons owning lots or parcels
17 of land adjacent to the street or alley, and the title of such adjoining landowners, for the
18 width of the abutting land owned by them, shall extend to the centerline of the street or
19 alley.

20 (d) This section shall apply to any street or public alley within a city or its
21 extraterritorial jurisdiction that has been irrevocably dedicated to the public, without
22 regard to whether it has actually been opened.

23 (e) No street or alley under the control of the Department of Transportation may
24 be closed unless the Department of Transportation consents thereto.

25 (f) A city may reserve its right, title, and interest in any utility improvement or
26 easement within a street closed pursuant to this section. Such reservation shall be stated
27 in the order of closing."

28 Sec. 2. This act is effective upon ratification.