

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 644  
Second Edition Engrossed 4/24/89

Short Title: Cities Not Close Streets in ETJ.

(Local)

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Sponsors: Senator Johnson of Wake.

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Referred to: Local Government and Regional Affairs.

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March 27, 1989

A BILL TO BE ENTITLED

1 AN ACT TO AMEND THE LAW CONCERNING THE PROCEDURE FOR  
2 PERMANENTLY CLOSING STREETS AND ALLEYS IN WAKE COUNTY BY  
3 DELETING THE AUTHORITY OF CITIES TO CLOSE STREETS AND  
4 ALLEYS LOCATED WITHIN THEIR EXTRATERRITORIAL JURISDICTION.  
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6 The General Assembly of North Carolina enacts:

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

8 "**§ 160A-299. Procedure for permanently closing streets and alleys.**

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

1 alley. A certified copy of the order (or judgment of the court) shall be filed in the office  
2 of the register of deeds of the county in which the street, or any portion thereof, is  
3 located.

4 (b) Any person aggrieved by the closing of any street or alley including the  
5 Department of Transportation if the street or alley is under its authority and control,  
6 may appeal the council's order to the General Court of Justice within 30 days after its  
7 adoption. The court shall hear the matter de novo, and shall have full jurisdiction to try  
8 the issues arising and to order the street or alley closed upon proper findings of fact by  
9 the jury. No cause of action or defense founded upon the invalidity of any proceedings  
10 taken in closing any street or alley may be asserted, nor shall the validity of the order  
11 be open to question in any court upon any ground whatever, except in an action or  
12 proceeding begun within 30 days after the order is adopted.

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

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

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

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

27 Sec. 2. This act applies only to the municipalities in Wake County.

28 Sec. 3. This act is effective upon ratification.