

NORTH CAROLINA GENERAL ASSEMBLY



HOUSE SELECT COMMITTEE ON A COMPREHENSIVE RAIL SERVICE PLAN FOR NORTH CAROLINA

REPORT TO THE
2009 SESSION
of the
2009 GENERAL ASSEMBLY

TRANSMITTAL LETTER

January 26, 2009

The House Select Committee on a Comprehensive Rail Service Plan for North Carolina respectfully submits the following report.

Representative Ray Rapp
Co-Chair

Rep. Margaret Dickson
Co-Chair

COMMITTEE PROCEEDINGS

Below is a brief summary of the Committee's proceedings. A more detailed record of the Committee's work can be found in the Committee's notebook, located in the Legislative Library.

February 28 2008

The first meeting of the Committee was held February 28, 2008 at 1:00 p.m. in Room 1228/1327 of the Legislative Building. Following opening remarks by the co-chairs Rep. Ray Rapp and Rep. Margaret Dickson, the Committee heard remarks from Secretary Lindo Tippet of the North Carolina Department of Transportation concerning the importance of rail as part of the State's transportation system. The Committee heard from Bob Weiss, Fiscal Research Division. Mr. Weiss presented a brief overview of the work of the previous House Select Committee on Expanding Rail Service, and other recent rail developments.

The final speaker at the meeting was Pat Simmons, Director, North Carolina Department of Transportation Rail Division, who gave an overview of current rail activities of the Department, including the development of a new State rail plan.

April 17, 2008

The second meeting of the Committee was held April 17, 2008 at 9:00 a.m. in Room 1027/1128 of the Legislative Building. The Committee first heard a presentation from Scott Saylor, President of the North Carolina Railroad, who gave an overview of the North Carolina Railroad and its concerns about corridor encroachments. The Committee next heard from Mary Dillon, an attorney from Ellis and Winters, LLP, representing the Railroad, who explained draft legislation addressing railroad corridor management. The final speaker was Durwood Laughinghouse, Norfolk Southern, who gave his company's perspective on rail corridor encroachment issues and rail planning.

May 8, 2008

The third meeting of the Committee was held May 8, 2008 at 11:00 a.m. in Room 1228/1327 of the Legislative Building. The Committee continued its discussion of the proposed rail corridor management legislation. The Committee heard comments on the draft bill from Mary Dillon, Ellis and Winters LLP, representing the North Carolina Railroad, John Dillard, CSX Corporation, T. Jerry Williams, representing the Railway Association of North Carolina (short line railroads), Pat Simmons, Director, Rail Division, NC DOT, Andy Romanet, NC League of Municipalities, and Paul Meyer, Association of County Commissioners. Following extended discussion of the draft legislation, the Committee Cochairs agreed to appoint a subcommittee to work on the draft and report back to the full Committee at a later date.

August 26, 2008

The fourth meeting of the Committee was held August 26, 2008 at 3:00 p.m. in Room 1228/1327 of the Legislative Building. The Committee first heard a progress report from Rep. Ronnie Sutton on the work of the Subcommittee on Rail Corridor Management. Next, the Committee heard from Roberto Canales, Deputy Secretary, NC DOT, on the Department's reorganization and realignment and its impact on rail. Following Mr. Canales, Pat Simmons, Director, NC DOT Rail Division, presented an update on NC DOT's progress on developing a new State Rail Plan. He introduced Allen Rutter, Cambridge Systematics; NC DOT Contractor to assist in developing the new Rail Plan, who gave an overview of the Department's progress on developing the new plan. The next speaker was Shirley Williams, NC DOT, who spoke on the criteria for State railroad investment and the role of public private partnerships.

November 18, 2008

The fifth meeting of the Committee was held November 18, 2008 at 1:00 pm in Room 1027/1128 of the Legislative Building. The first speaker was Pat Simmons, Director, NC DOT Rail Division, who gave an update on recent federal rail-related legislation. Next, the Committee heard from Shirley Williams, NC DOT, who gave an update on the State Rail Plan. The Committee then heard from Scott Saylor, President of the NC Railroad, and Jim Kessler, a contractor of NCR, who made a presentation about their recently completed commuter rail capacity study. The final agenda item was a report from the Subcommittee on Rail Corridor Management. Rep. Ronnie Sutton and Mary Dillon, Ellis & Winters, LLP presented the draft legislation developed by the Subcommittee.

December 11, 2008

The sixth meeting of the Committee was held December 11, 2008 at 10:00 pm in Room 1228/1327 of the Legislative Building. The Committee first reviewed and revised its proposed recommendations. Next, the Committee continued its discussion and review of the draft rail corridor management legislation. The Committee also heard comments from William Caudle, a Harrisburg property owner, on the proposed legislation the Committee was considering. The Committee chairs endorsed Rep. Sutton's suggestion that a request should be made to the Speaker of the House to extend the Committee to January 28, 2009, to allow time to resolve remaining issues with the draft legislation.

January 14, 2009

The seventh meeting of the Committee was held on Wednesday, January 14, 2009 at 1:00 pm in Room 1228/1327 of the legislative building. The Committee first heard from Bob Weiss, Committee staff, Fiscal Research Division, who went over the Committee's proposed findings and recommendations. Mr. Weiss then discussed two issues addressed at the January 7, 2009 meeting of the Board of Transportation: the State Rail Plan, and potential Rail

Division federal economic stimulus projects. The Committee also heard from Giles S. Perry, Committee Staff, Research Division, who reviewed the latest version of the Rail Corridor management draft legislation.

January 26, 2009

The Committee met for the eight and final time on Monday, January 26, 2009 at 3:00 pm in Room 1228/1327 of the Legislative Building. The Committee reviewed and approved the findings and recommendations and draft legislation included in this report.

Subcommittee on Rail Corridor Management

On May 15, 2008, the Co-chairs of the Committee appointed a Subcommittee on Rail Corridor management. The Subcommittee was chaired by Rep. Ronnie Sutton, and included as members Representatives Carney, Ross, Stiller, and Barnhart. The Subcommittee was charged with working with all interested parties to develop draft rail corridor management legislation. The Committee met five times, on August 19, August 26, September 23, October 7, and October 23, 2008. The Committee endorsed a draft on October 23, 2008, which formed the basis for the draft bill included in this report.

FINDINGS AND RECOMMENDATIONS

The Committee recommends to the 2009 General Assembly:

1. **North Carolina should prepare to invest significant funds in improvement and expansion of rail network infrastructure. The Committee has identified the following needs and opportunities.**

- **Needs**

- **Rail capacity for economic development**

Rail is a crucial component of the State's economy and future growth, particularly for the manufacturing, agriculture, energy, and construction industries.

- **Better service for the military**

Particularly with Fort Bragg's role as a power projection platform, the State's military installations require rail service that is sufficient, secure, and dependable.

- **Better service for the ports**

Continued expansion of international trade is projected but the State's ports face major competition on the east coast. To participate fully in this expansion, the State's ports, including the planned International Port in Brunswick County, will require excellent and competitive rail access to and through the port cities.

- **Track upgrades to accommodate heavier rail cars (286,000 lb)**

Bridge and track and tie upgrades are still needed, particularly for the short lines.

- **Additional infrastructure to relieve current and expected levels of rail congestion**

Renewed economic growth and expansion will lead to greater rail congestion, more freight-passenger conflicts, and lower quality service.

- **Rail capacity to relieve highway congestion**

Highway congestion and maintenance costs can be alleviated by moving some freight from truck to rail.

- **Additional service for the growing number of rail passengers**

Passenger traffic has increased by 30 percent on the *Piedmont* and by 15 percent on the *Carolinian*, North Carolina's Amtrak intercity services. Passenger service is also needed in other areas of the state.

- **Additional transit systems to provide more transportation choices**
The State needs additional transit to allow greater choice for citizens and to allow its urban regions to grow more efficiently. Transit requires secure funding streams at the state and local level. The State needs to provide funding and to allow its cities and regions to develop revenue sources that will allow long term planning and commitment.

- **Opportunities**

- **The State should seize the opportunities provided by new federal funding**

The passage of P. L. 110-432, the Railroad Safety Enhancement Act of 2008, is expected to lead to major funding increases from the federal government. State matching funds will be required. DOT should identify projects that qualify for this funding and any infrastructure funding that becomes available.

- **The State rail program should complement the renewed investment spending of the freight railroads**

During recent periods of a strong economy the Class I railroads have become profitable enough to make investments in expanding their capabilities and improving service.

- **The State should continue its support of the Short lines**

The State has an active short line railroad industry that has invested in infrastructure. The NC DOT Rail Division has a program to support these investments.

- **The State should fund more frequent Amtrak service and seek federal funds to complement state funds for passenger service from Salisbury to Asheville and from Raleigh to Wilmington through Fayetteville and Goldsboro**

DOT should continue its studies of the feasibility and potential of these routes and apply for federal funds as available.

- **The State should be aggressive in its support of local transit initiatives**

Success of the first Charlotte transit project, with ridership strongly exceeding projections, is encouraging other regions to plan for transit.

2. **North Carolina should develop and use measures to quantify the benefits of various rail projects and investments**

The magnitude of the needs and opportunities that have been identified will give the state many choices for the use of limited funds. NC DOT is developing quantitative measures for its State Rail Plan update that will give the Department the ability to choose projects based on their costs and potential benefits.

3. **The General Assembly should update its statutes where necessary concerning the relationships between rail and transit and land use**
With proper planning, rail and transit can have a major positive impact on the growth and development of the State's cities and towns. High density transit-oriented development will require new methods of accommodating transit, rail, commerce and housing in compact areas.
4. **The Committee has developed and recommends passage of the DRAFT Railroad Corridor Management Act (attached) to allow more efficient development and use in and near railroad corridors**
5. **The General Assembly should create a joint committee on development of a comprehensive rail service plan to complete and extend the work of the House Select Committee. The Committee's charge should include the examination of sources of dedicated funding for rail and transit projects in the long term**

AUTHORIZATION LETTER



Office of Speaker Joe Hackney
North Carolina House of Representatives
Raleigh, North Carolina 27601-1096

HOUSE SELECT COMMITTEE ON A COMPREHENSIVE RAIL SERVICE PLAN FOR NORTH CAROLINA

TO THE HONORABLE MEMBERS OF THE
NORTH CAROLINA HOUSE OF REPRESENTATIVES

Section 1. The **House Select Committee on a Comprehensive Rail Service Plan for North Carolina** (hereinafter "Committee") is established by the Speaker of the House of Representatives pursuant to G.S. 120-19.6 and Rule 26(a) of the Rules of Representatives of the 2007 General Assembly.

Section 2. The Committee consists of the 20 members listed below, appointed by the Speaker of the House of Representatives. Members serve at the pleasure of the Speaker of the House. The Speaker of the House may dissolve the Committee at any time.

Representative Margaret H. Dickson, Co-Chair	Representative Bruce Goforth
Representative Ray Rapp, Co-Chair	Representative Melanie Wade Goodwin
Representative Cary D. Allred	Representative Mark K. Hilton
Representative Jeff Barnhart	Representative Daniel F. McComas
Representative Becky Carney	Representative Earline W. Parmon
Representative Lorene Coates	Representative Louis M. Pate, Jr.
Representative Nelson Cole	Representative Deborah K. Ross
Representative Jerry C. Dockham	Representative Fred F. Steen, II
Representative Beverly M. Earle	Representative Bonner L. Stiller
Representative Jean Farmer-Butterfield	Representative Ronnie Sutton

Section 3. The Committee shall study the following:

1. Development of a comprehensive plan for freight and passenger rail service for the State, in coordination with federal rail service plans, and the existing national rail system.
2. The estimated cost of a comprehensive rail plan, and appropriate mechanisms, including federal, State, and local and private funding sources and bonds, to finance its implementation.
3. The benefits of expanding and upgrading rail passenger and freight service, the effect expanded service would have on economic development, tourism, and job creation, and the importance of rail expansion to the State ports, and across the State.
4. The cost and benefits of expanding passenger and freight rail service to the western and eastern areas of the State.
5. The need for more efficient, accessible and reliable rail service to military bases in the State.
6. The role and impact of short line railroads in the overall comprehensive rail plan of the State.
7. Ways to utilize and preserve unused or abandoned rail corridors for future rail needs.
8. The feasibility, cost, and benefits of establishing commuter rail service in the major urban areas of the State.
9. Issues related to the corridor to the North Carolina Railroad, and land and business owners located adjacent to the corridor.
10. Other passenger and freight related rail issues that the Committee identifies in the course of its study.

Section 4. The Committee shall meet upon the call of its Co-chairs. A quorum of the Committee shall be a majority of its members.

Section 5. The Committee, while in discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and Article 5A of Chapter 120 of the General Statutes.

Section 6. Members of the Committee shall receive per diem, subsistence, and travel allowance as provided in G.S. 120-3.1.

Section 7. The expenses of the Committee including per diem, subsistence, travel allowances for Committee members, and contracts for professional or consultant services shall be paid upon the written approval of the Speaker of the House of

Representatives pursuant to G.S. 120-32.02(c) and G.S. 120-35 from funds available to the House of Representatives for its operations.

Section 8. The Legislative Services Officer shall assign professional and clerical staff to assist the Committee in its work. The House of Representatives' Director of Legislative Assistants shall assign clerical support staff to the Committee.

Section 9. The Committee may meet at various locations around the State in order to promote greater public participation in its deliberations.

Section 10. The Committee may submit an interim report on the results of the study, including any proposed legislation, on or before May 1, 2008, by filing a copy of the report with the Speaker's Office, the House Principal Clerk, and the Legislative Library. The report of the Committee shall also be submitted to the Environmental Review Commission for its review and comment. The Committee shall submit a final report on the results of its study, including any proposed legislation, to the members of the House of Representatives on or before December 31, 2008, by filing the final report with the Speaker's Office, the House Principal Clerk, and the Legislative Library. The Committee terminates on December 31, 2008, or upon the filing of its final report, whichever occurs first.

Effective this 17th day of January 2008.



Joe Hackney
1/17/2008 2:04 PM

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SUMMARY OF PROPOSED LEGISLATION

ISSUE: ADVERSE POSSESSION OF RR RIGHT-OF-WAY CLARIFICATION

Section 1 of the draft amends **G.S. 1-44** to provide that RR right-of-way shall not be presumed to have been conveyed by acts constituting estoppel or waiver.

ISSUE: PRESUMPTION OF ABANDONMENT OF RAIL CORRIDOR

Section 2 of the draft amends **G.S. 1-44.1** to provide that on or after January 1, 2010, a RR shall not be presumed to have abandoned a right-of-way that it holds by easement unless the RR first records a certificate of abandonment in the office of the Register of Deeds for the county where the right-of-way is located. This section also provides that a RR shall not be found to have abandoned a right-of-way held in fee.

ISSUE: TIME LIMITS FOR CERTAIN ACTIONS AGAINST A RR

Section 3 of the draft amends **G.S. 1-51**, to provide that no suit may be brought against a RR for use or occupancy of lands by a RR, or for damages caused by construction of a RR, unless the suit is brought within two years.

ISSUE: PROCEDURE FOR PROPERTY OWNER SUBJECT TO RR TAKING

Section 4 of the draft amends **G.S. 40A-51(a)** to clarify the applicable statutory procedure for a property owner subject to a taking by a RR to use to file suit for damages, where no declaration of taking has been filed by the RR.

ISSUE: CLARIFICATION OF RR RESPONSIBILITIES WHEN CROSSING ROADS

Section 5 of the draft amends **G.S. 136-192**, to clarify that the responsibilities of a RR set out in this statute when crossing a road apply to lawfully established public roads.

ISSUE: RAIL CROSSINGS AND CATTLE GUARDS ON ENCLOSED LANDS

Section 6 of the draft repeals **G.S. 136-194**, which requires RRs to maintain crossings and cattle guards on enclosed lands.

ISSUE: FILING OF RR CORRIDOR MAPS

Section 7 of the draft adds a new section G.S. 136-199 authorizing RRs to file RR corridor maps with the Department of Transportation Rail Division. If a RR files a map pursuant to this section, it will be required to file a notice with the Register of Deeds in the county where the RR corridor is located, and send a copy of the map to the North Carolina Society of Surveyors.

ISSUE: DEFINITIONS

Section 8 of the draft amends **Chapter 153A of the General Statutes, Counties**, to provide a definition of "Railroad corridor".

ISSUE: RAIL CORRIDOR AS OPEN SPACE

Section 9 of the draft amends **G.S. 153A-331, Contents and requirements of ordinance**, by adding a new subdivision to that section providing that, if a RR company has filed RR corridor maps pursuant to Section 9 of the bill, county subdivision control ordinances shall not allow the dedication or reservation of recreation areas or open spaces within any rail corridor unless the applicant first obtains written approval from the applicable railroad company. The railroad company would have 60 days to approve, deny with an explanation, or respond with its requirements to the request for a recreation area or open space dedication or reservation within its corridor. Failure of the RR company to respond shall be deemed approval. The county is authorized to rely on the applicant's submission, and is held harmless.

ISSUE: ACCESS TO DEVELOPMENT THROUGH A RAIL CORRIDOR

Section 10 of the draft creates a new **G.S. 153A-336, Access to development within a State-owned railroad corridor**, providing that, if a RR company has filed RR corridor maps pursuant to Section 9 of the bill, a county shall not approve any development plan where the only access is in a RR rail corridor unless the applicant first obtains written approval from the RR. The RR would have 60 days to approve, deny with an explanation, or respond with its requirements to the request for access through its corridor. Failure of the RR company to respond shall be deemed approval. The county is authorized to rely on the applicant's submission, and is held harmless.

ISSUE: RAIL CORRIDOR AS OPEN SPACE

Section 11 of the draft amends **G.S. 153A-340, Grants of Power**, by adding a new subdivision to that section providing that, if a RR company has filed RR corridor maps pursuant to Section 9 of the bill, counties shall not allow the dedication or reservation of recreation areas or open spaces within any rail corridor unless the applicant first obtains written approval from the applicable railroad company. The railroad company would have 60 days to approve, deny with an explanation, or respond with its requirements to

the request for a recreation area or open space dedication or reservation within its corridor. Failure of the RR company to respond shall be deemed approval. The county is authorized to rely on the applicant's submission, and is held harmless.

ISSUE: BUILDING PERMITS FOR CONSTRUCTION IN A RAIL CORRIDOR

Section 12 of the draft amends **G.S. 153A-357, Permits**, to require, if a RR company has filed RR corridor maps pursuant to Section 9 of the bill, an applicant to notify a RR prior to the issuance of building, plumbing, electrical, and HVAC permits for activity in a RR corridor. The RR would have 60 days from receipt of notice of the permit application to approve, deny with an explanation, or respond with its requirements. Failure of the RR company to respond shall be deemed approval. The county is authorized to rely on the applicant's submission, and is held harmless. The RR is designated as an aggrieved party for the purpose of appealing permitting decisions inconsistent with its ownership rights. This section would not apply to the issuance of permits for repair of existing building and mechanical systems.

ISSUE: DEFINITIONS

Section 13 of the draft amends **Chapter 160A of the General Statutes, Cities and Towns**, to provide a definition of "Railroad corridor".

ISSUE: NEW ROADS CROSSING RAIL CORRIDORS

Section 14 of the draft amends **G.S. 160A-296, Establishment and control of streets; center and edge lines**, to provide that, if a RR company has filed RR corridor maps pursuant to Section 9 of the bill, municipalities shall not establish or accept for dedication any new street, sidewalk, alley, bridge or crossing within a RR corridor unless the applicant first obtains written consent of the RR. The RR would have 60 days to approve, deny with an explanation, or respond with its requirements to the request for a new crossing. Failure of the RR company to respond shall be deemed approval. The city is authorized to rely on the applicant's submission, and is held harmless.

ISSUE: ACCESS TO DEVELOPMENT THROUGH A RAIL CORRIDOR

Section 15 of the draft creates new **G.S. 160A-368, Access to development within a State-owned railroad corridor**, providing that, if a RR company has filed RR corridor maps pursuant to Section 9 of the bill, a municipality shall not approve any development plan where the only access is in a RR rail corridor unless the applicant first obtains written approval from the RR. The RR would have 60 days to approve, deny with an explanation, or respond with its requirements to the request for access through its corridor. Failure of the RR company to respond shall be deemed approval. The city is authorized to rely on the applicant's submission, and is held harmless.

ISSUE: RAIL CORRIDOR AS OPEN SPACE

Section 16 of the draft amends **G.S. 160A-372, Contents and requirements of ordinance**, by adding a new subdivision to that section providing that, if a RR company has filed RR corridor maps pursuant to Section 9 of the bill, municipal subdivision control ordinances shall not allow the dedication or reservation of recreation areas or open spaces within any rail corridor unless the applicant first obtains written approval from the RR company. The RR Company would have 60 days to approve, deny with an explanation, or respond with its requirements to the request for a recreation area or open space dedication or reservation within its corridor. Failure of the RR company to respond shall be deemed approval. The city is authorized to rely on the applicant's submission, and is held harmless.

ISSUE: RAIL CORRIDOR AS OPEN SPACE

Section 17 of the draft amends **G.S. 160A-381, Grant of Power**, by adding a new subdivision to that section providing that, if a RR company has filed RR corridor maps pursuant to Section 9 of the bill, municipalities shall not allow the dedication or reservation of recreation areas or open spaces within any rail corridor unless the applicant first obtains written approval from the applicable railroad company. The railroad company would have 60 days to approve, deny with an explanation, or respond with its requirements to the request for a recreation area or open space dedication or reservation within its corridor. Failure of the RR company to respond shall be deemed approval. The city is authorized to rely on the applicant's submission, and is held harmless.

ISSUE: BUILDING PERMITS FOR CONSTRUCTION IN A RAIL CORRIDOR

Section 18 of the draft amends **G.S. 160A-417, Permits**, to require notification of the NCRR prior to the issuance of building, plumbing, electrical, and HVAC permits for activity in a NCRR corridor. The NCRR would have 60 days from receipt of notice of the permit application to submit objections, and would be designated as an aggrieved party for the purpose of appealing permitting decisions inconsistent with its ownership rights. Failure of the RR company to respond shall be deemed approval. The city is authorized to rely on the applicant's submission, and is held harmless. This section would not apply to the issuance of permits for repair of existing building and mechanical systems.

EFFECTIVE DATE

Section 19 provides that bill becomes effective on October 1, 2010. Sections 9, 10, 11, 12, 14, 15, 16, 17, and 18 of the bill would apply to actions taken by city, or county entities on or after October 1, 2010.

PROPOSED LEGISLATION

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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BILL DRAFT 2009-RWz-2 [v.6] (01/02)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
1/28/2009 1:58:50 PM

Short Title: Railroad Corridor Management.

(Public)

Sponsors: Representative.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT CONCERNING MANAGEMENT AND PROTECTION OF RAILROAD
3 CORRIDORS, AS RECOMMENDED BY THE HOUSE SELECT COMMITTEE ON A
4 COMPREHENSIVE RAIL SERVICE PLAN FOR NORTH CAROLINA.

5
6 The General Assembly of North Carolina enacts:

7 SECTION 1. G.S. 1-44 reads as rewritten:

8 "§ 1-44. No title by possession of right-of-way.

9 No railroad, plank road, turnpike or canal company may be barred of, or presumed to
10 have conveyed, any real estate, right-of-way, easement, leasehold, or other interest in the
11 soil which has been condemned, or otherwise obtained for its use, as a right-of-way,
12 depot, station house or place of landing, by any statute of limitation or by occupation of
13 the same by any person ~~whatever, whatever, or by any act or acts constituting estoppel or~~
14 ~~waiver.~~"

15 SECTION 2. G.S. 1-44.1 reads as rewritten:

16 "§ 1-44.1. Presumption of abandonment of railroad right-of-way.

17 (a) A railroad shall not be found to have abandoned a right-of-way or any parcel
18 of land in which it holds an easement interest unless the railroad first records a certificate
19 of abandonment in the office of the Register of Deeds for the county where the
20 right-of-way is located. Upon the filing of the certificate of abandonment, the
21 right-of-way or parcel of land is deemed abandoned. Nothing herein shall be construed to
22 affect or revive a previously abandoned right-of-way or corridor. ~~Any railroad which has~~
23 ~~removed its tracks from a right of way and has not replaced them in whole or in part~~
24 ~~within a period of seven (7) years after such removal and which has not made any~~

1 railroad use of any part of such right of way after such removal of tracks for a period
2 of seven (7) years after such removal, shall be presumed to have abandoned the railroad
3 right of way.

4 (b) The provisions of subsection (a) of this section shall become effective on or after
5 January 1, 2010. Prior to January 1, 2010, any railroad which has removed its tracks from
6 a right-of-way and has not replaced them in whole or in part within a period of seven
7 years after such removal and which has not made any railroad use of any part of such
8 right-of-way after such removal of tracks for a period of seven years after such removal,
9 shall be presumed to have abandoned the railroad right-of-way.

10 (c) Notwithstanding the provisions of subsections (a) and (b) of this section, a railroad
11 shall not be found to have abandoned a right-of-way held in fee under any
12 circumstances."

13 SECTION 3. G.S. 1-51 reads as rewritten:

14 "§ 1-51. ~~Five~~ Two years.

15 Within ~~five~~ two years –

16 (1) No suit, action or proceeding shall be brought or maintained against a
17 railroad company owning or operating a railroad for damages or
18 compensation for right-of-way or use and occupancy of any lands by
19 the company for use of its railroad unless the action or proceeding is
20 commenced within ~~five~~ two years after the lands have been entered
21 upon for the purpose of constructing the road, or within two years after
22 it is in ~~operation~~ operation, whichever shall occur earlier.

23 (2) No suit, action or proceeding shall be brought or maintained against a
24 railroad company for damages caused by the construction of the road,
25 or the repairs thereto, unless such suit, action or proceeding is
26 commenced within ~~five~~ two years after the cause of action accrues,
27 and the jury shall assess the entire amount of damages which the party
28 aggrieved is entitled to recover by reason of the trespass on his
29 property."

30 SECTION 4. G.S. 40A-51(a) reads as rewritten:

31 "(a) If property has been taken by an act or omission of a condemnor listed in
32 ~~G.S. 40A-3(b) or (c)~~ G.S. 40A-3(a)(4), (b), or (c) or a railroad pursuant to G.S. 40A-3(a)
33 (1) and no complaint containing a declaration of taking has been filed the owner of the
34 property, may initiate an action to seek compensation for the taking. The action may be
35 initiated within 24 months of the date of the taking of the affected property or the
36 completion of the project involving the taking, whichever shall occur later. The complaint
37 shall be filed in the superior court and shall contain the following: the names and places
38 of residence of all persons who are, or claim to be, owners of the property, so far as the
39 same can by reasonable diligence be ascertained; if any persons are under a legal
40 disability, it must be so stated; a statement as to any encumbrances on the property; the
41 particular facts which constitute the taking together with the dates that they allegedly
42 occurred, and; a description of the property taken. Upon the filing of said complaint
43 summons shall issue and together with a copy of the complaint be served on the
44 condemnor. The allegations of said complaint shall be deemed denied; however, the
45 condemnor within 60 days of service summons and complaint may file answer thereto. If
46 the taking is admitted by the condemnor, it shall, at the time of filing the answer, deposit

1 with the court the estimated amount of compensation for the taking. Notice of the
2 deposit shall be given to the owner. The owner may apply for disbursement of the deposit
3 and disbursement shall be made in accordance with the applicable provisions of
4 G.S. 40A-44. If a taking is admitted, the condemnor shall, within 90 days of the filing of
5 the answer to the complaint, file a map or plat of the property taken. The procedure
6 hereinbefore set out in this Article and in Article 4 shall be followed for the purpose of
7 determining all matters raised by the pleadings and the determination of just
8 compensation."

9 **SECTION 5.** G.S. 136-192 reads as rewritten:

10 "**§ 136-192. Obstructing highways; defective crossings; notice; failure to repair**
11 **after notice misdemeanor.**

12 (a) Whenever, in their construction, the works of any railroad corporation shall
13 cross lawfully established public roads or ways, the corporation shall so construct its
14 works as not to impede the passage or transportation of persons or property along the
15 same. If any railroad corporation shall so construct its crossings with public streets,
16 thoroughfares or highways, or keep, allow or permit the same at any time to remain in
17 such condition as to impede, obstruct or endanger the passage or transportation of persons
18 or property along, over or across the same, the governing body of the county, city or
19 town, or other public road authority having charge, control or oversight of such roads,
20 streets or thoroughfares may give to such railroad notice, in writing, directing it to place
21 any such crossing in good condition, so that persons may cross and property be safely
22 transported across the same.

23 (b) The notice may be served upon the agent of the offending railroad located
24 nearest to the defective or dangerous crossing about which the notice is given, or it may
25 be served upon the section master whose section includes such crossing. Such notice may
26 be served by delivering a copy to such agent or section master, or by registered or
27 certified mail addressed to either of such persons.

28 (c) If the railroad corporation shall fail to put such crossing in a safe condition for
29 the passage of persons and property within 30 days from and after the service of the
30 notice, it shall be guilty of a Class 1 misdemeanor. Each calendar month which shall
31 elapse after the giving of the notice and before the placing of such crossing in repair shall
32 be a separate offense.

33 (d) This section shall in nowise be construed to abrogate, repeal or otherwise
34 affect any existing law now applicable to railroad corporations with respect to highway
35 and street crossings; but the duty imposed and the remedy given by this section shall be
36 in addition to other duties and remedies now prescribed by law."

37 **SECTION 6.** G.S. 136-194 is repealed.

38 **SECTION 7.** Chapter 136 of the General Statutes is amended to add a new
39 section to read:

40 "**§ 136-199 . Filing of railroad corridor maps.**

41 (a) A railroad company may cause to be filed railroad corridor maps and any
42 revisions thereto showing existing railroad corridors and other railroad property with the
43 Department of Transportation Rail Division. Railroad corridor maps filed pursuant to this
44 subsection shall be filed electronically and made publicly available on a website
45 maintained by the Department of Transportation Rail Division. When a railroad company
46 files the railroad corridor maps pursuant to this subsection, the maps shall be

1 conspicuously stamped or marked "For Informational Purposes Only, Pursuant to
2 G.S. 136-199" and shall identify the name of the railroad company that owns, and if
3 different, operates the railroad corridor, including trade names. Information included in
4 the maps is for informational purposes only and shall not result in a presumption of
5 ownership in the railroad company or any other party.

6 (b) When a railroad company files railroad corridor maps pursuant to subsection (a)
7 of this section, the railroad company shall file a "Notice of Filing Railroad Corridor
8 Maps" ("Notice") with the Register of Deeds in the county where the railroad corridor
9 and other railroad property is located. This Notice shall identify that the railroad corridor
10 maps have been filed under subsection (a). For purposes of indexing with the Register of
11 Deeds only, the railroad company(s) shown on the Notice as filing the Notice shall be
12 listed under both the "Grantor" and "Grantee."

13 (c) When a railroad company files railroad corridor maps pursuant to subsection (a)
14 of this section, a copy of the railroad corridor maps, and any revisions thereto, provided
15 under subsection (a) of this section also shall be furnished to the North Carolina Society
16 of Surveyors pursuant to a license agreement for use by the North Carolina Society of
17 Surveyors. Maps provided to the North Carolina Society of Surveyors pursuant to this
18 subsection shall be for informational purposes only and shall not result in a presumption
19 of ownership in the railroad company or any other party."

20 **SECTION 8.** G.S. 153A-1 reads as rewritten:

21 **§ 153A-1. Definitions.**

22 Unless otherwise specifically provided, or unless otherwise clearly required by the
23 context, the words and phrases defined in this section have the meaning indicated when
24 used in this Chapter.

- 25 (1) "City" means a city as defined by G.S. 160A-1(2), except that it does
26 not include a city that, without regard to its date of incorporation,
27 would be disqualified from receiving gasoline tax allocations by
28 G.S. 136-41.2(a).
- 29 (2) "Clerk" means the clerk to the board of commissioners.
- 30 (3) "County" means any one of the counties listed in G.S. 153A- 10.
- 31 (4) "General law" means an act of the General Assembly that applies to all
32 units of local government, to all counties, to all counties within a class
33 defined by population or other criteria, to all cities, or to all cities
34 within a class defined by population or other criteria, including a law
35 that meets the foregoing standards but contains a clause or section
36 exempting from its effect one or more counties, cities, or counties and
37 cities.
- 38 (5) "Local act" means an act of the General Assembly that applies to one
39 or more specific counties, cities, or counties and cities by name.
40 "Local act" is interchangeable with the terms "special act," "special
41 law," "public-local act," and "private act," is used throughout this
42 Chapter in preference to those terms, and means a local act as defined
43 in this subdivision without regard to the terminology employed in local
44 acts or other portions of the General Statutes.

1 (6) "Publish," "publication," and other forms of the verb "to publish"
2 mean insertion in a newspaper qualified under G.S. 1- 597 to publish
3 legal advertisements in the county.

4 (7) "Railroad corridor" means, for purposes of Article 18 of this Chapter,
5 any railroad real property, including but not limited to a railroad
6 right-of-way, whether held in fee or easement, regardless of the means
7 by which title was acquired, and regardless of whether railroad tracks
8 are located on the land. The term also includes rail-related real
9 property owned by a Regional Public Transportation Authority
10 organized pursuant to Article 26 of Chapter 160A of the General
11 Statutes, the Charlotte Area Transit System, and the Department of
12 Transportation."

13 **SECTION 9.** G.S. 153A-331 is amended by adding a new subsection to read:

14 "(a1) When a railroad company has filed railroad corridor maps pursuant to G.S.
15 136-199, then the following provisions in subsections (a1) and (a2) of this section shall
16 apply. A subdivision control ordinance shall not allow the dedication or reservation of
17 recreation areas serving residents of the immediate neighborhood of the subdivision, or of
18 any other dedication or reservation of open spaces or open areas within a railroad corridor
19 without first obtaining the written consent of the railroad company. For purposes of this
20 subsection, the county planning board, commission or other department with jurisdiction
21 over subdivision control ordinances shall require any applicant seeking dedication or
22 reservation to obtain written consent of the railroad company by contacting the railroad
23 company, by certified mail, return receipt requested, through its current registered agent
24 at the address on file with the North Carolina Department of Secretary of State. The
25 railroad company shall have 60 days from receipt of a request for written consent made
26 under this section to approve, deny with an explanation or respond with its requirements.
27 Failure to respond to the request for written consent within 60 days shall be deemed to be
28 approval of the request for written consent by the railroad company unless the railroad
29 owns the railroad corridor in fee simple. Nothing herein shall be construed to alter or
30 affect the property rights of the railroad or adjacent or underlying landowners.

31 (a2) The applicant shall provide directly to the county planning board, commission or
32 other department with jurisdiction over subdivision control ordinances the written
33 consent of the railroad obtained under subsection (a1) of this section. Receipt by the
34 county planning board, commission or other department with jurisdiction over
35 development plans from the applicant of either of the following may be relied upon in all
36 respects by the county in determining whether to allow the dedication or reservation of
37 recreation areas or of open spaces or open areas in accordance with subsection (a1), and
38 the county shall have no liability whatsoever resulting from reliance thereon:

39 (1) a copy of the railroad's written consent obtained under subsection (a1);
40 or

41 (2) a certification that that no consent of a railroad is required under
42 subsection (a1) because the dedication or reservation sought does not
43 fall within a railroad corridor according to railroad maps filed pursuant
44 to G.S.136-199. The certification provided under this subsection shall
45 be signed by the applicant under penalty of perjury."

1 **SECTION 10.** Chapter 153A of the General Statutes is amended by adding a
2 new section to read:

3 **"§ 153A-336. Access to development within a railroad corridor.**

4 (a) When a railroad company has filed railroad corridor maps pursuant to
5 G.S.136-199, then the following provisions in subsections (a) and (b) of this section shall
6 apply. A county shall not approve any development plan where the sole means of ingress
7 to and egress from the property being developed is a roadway that encroaches upon a
8 railroad corridor without first obtaining the written consent of the railroad company. For
9 purposes of this section, the county planning board, commission or other department with
10 jurisdiction over development plans shall require any applicant for a development plan to
11 obtain the written consent of the railroad company by contacting the railroad company,
12 by certified mail, return receipt requested, through its current registered agent at the
13 address on file with the North Carolina Department of Secretary of State. The railroad
14 company shall have 60 days from receipt of a request for written consent made under this
15 section to approve, deny with an explanation or respond with its requirements. Failure to
16 respond to the request for written consent within 60 days shall be deemed to be approval
17 of the request for written consent by the railroad company unless the railroad owns the
18 railroad corridor in fee simple. Nothing herein shall be construed to alter or affect the
19 property rights of the railroad or adjacent or underlying landowners. Nothing herein shall
20 apply to railroad crossings.

21 (b) The applicant shall provide directly to the county the written consent of the
22 railroad obtained under subsection (a) of this section. Receipt by the county from the
23 applicant of either of the following may be relied upon in all respects by the county in
24 determining whether to approve any development plan under subsection (a), and the
25 county shall have no liability whatsoever resulting from reliance thereon:

26 (1) a copy of the railroad's written consent obtained under subsection (a);
27 or

28 (2) a certification that that no consent of a railroad is required under
29 subsection (a) because the development plan sought does not fall
30 within a railroad corridor according to railroad maps filed pursuant to
31 G.S.136-199. The certification provided under this subsection shall be
32 signed by the applicant under penalty of perjury.

33 **SECTION 11.** G.S. 153A-340 is amended by adding a new subsection to
34 read:

35 "(j) When a railroad company has filed railroad corridor maps pursuant to
36 G.S. 136-199 then the following provisions in subsections (j) and (k) of this subsection
37 shall apply. A county shall not permit any land located within a railroad corridor to be
38 dedicated or reserved as open space or open area without first obtaining the written
39 consent of the railroad company. For purposes of this subsection, the county planning
40 board, commission or other department with jurisdiction over development plans shall
41 require any applicant seeking dedication or reservation to obtain the written consent of
42 the railroad company by contacting the railroad company, by certified mail, return receipt
43 requested, through its current registered agent at the address on file with the North
44 Carolina Department of Secretary of State. The railroad company shall have 60 days from
45 receipt of a request for written consent made under this section to approve, deny with an
46 explanation or respond with its requirements. Failure to respond to the request for written

1 consent within 60 days shall be deemed to be approval of the request for written
2 consent by the railroad company unless the railroad owns the railroad corridor in fee
3 simple. Nothing herein shall be construed to alter or affect the property rights of the
4 railroad or adjacent or underlying landowners.

5 (k) The applicant shall provide directly to the county planning board, commission or
6 other department with jurisdiction over development plans the written consent of the
7 railroad obtained under subsection (j) of this section. Receipt by the county planning
8 board, commission or other department with jurisdiction over development plans from
9 the applicant of either of the following may be relied upon in all respects by the county in
10 determining whether to allow the dedication or reservation of recreation areas or of open
11 spaces or open areas in accordance with subsection (j), and the county shall have no
12 liability whatsoever resulting from reliance thereon:

- 13 (1) a copy of the railroad's written consent obtained under subsection (j);
14 or
15 (2) a certification that that no consent of a railroad is required under
16 subsection (j) because the dedication or reservation sought does not
17 fall within a railroad corridor according to railroad maps filed pursuant
18 to G.S. 136-199. The certification provided under this subsection shall
19 be signed by the applicant under penalty of perjury."

20 **SECTION 12.** G.S. 153A-357 reads as rewritten:

21 **"§ 153A-357. Permits.**

22 (a) No person may commence or proceed with:

- 23 (1) The construction, reconstruction, alteration, repair, movement to
24 another site, removal, or demolition of any building;
25 (2) The installation, extension, or general repair of any plumbing system;
26 (3) The installation, extension, alteration, or general repair of any heating
27 or cooling equipment system; or
28 (4) The installation, extension, alteration, or general repair of any
29 electrical wiring, devices, appliances, or equipment

30 without first securing from the inspection department with jurisdiction over the site of the
31 work each permit required by the State Building Code and any other State or local law or
32 local ordinance or regulation applicable to the work. A permit shall be in writing and
33 shall contain a provision that the work done shall comply with the State Building Code
34 and all other applicable State and local laws and local ordinances and regulations.
35 Nothing in this section shall require a county to review and approve residential building
36 plans submitted to the county pursuant to Section R-110 of Volume VII of the North
37 Carolina State Building Code; provided that the county may review and approve such
38 residential building plans as it deems necessary. No permit may be issued unless the
39 plans and specifications are identified by the name and address of the author thereof; and
40 if the General Statutes of North Carolina require that plans for certain types of work be
41 prepared only by a registered architect or registered engineer, no permit may be issued
42 unless the plans and specifications bear the North Carolina seal of a registered architect
43 or of a registered engineer. If a provision of the General Statutes of North Carolina or of
44 any ordinance requires that work be done by a licensed specialty contractor of any kind,
45 no permit for the work may be issued unless the work is to be performed by such a duly
46 licensed contractor. No permit issued under Articles 9 or 9C of G.S. Chapter 143 shall be

1 required for any construction, installation, repair, replacement, or alteration costing five
2 thousand dollars (\$5,000) or less in any single-family residence or farm building unless
3 the work involves: the addition, repair or replacement of load bearing structures; the
4 addition (excluding replacement of same size and capacity) or change in the design of
5 plumbing; the addition, replacement or change in the design of heating, air conditioning,
6 or electrical wiring, devices, appliances, or equipment; the use of materials not permitted
7 by the North Carolina Uniform Residential Building Code; or the addition (excluding
8 replacement of like grade of fire resistance) of roofing. Violation of this section
9 constitutes a Class 1 misdemeanor.

10 (b) No permit shall be issued pursuant to subsection (a) of this section for any
11 land-disturbing activity, as defined in G.S. 113A-52(6), for any activity covered by
12 G.S. 113A-57, unless an erosion and sedimentation control plan has been approved by the
13 Sedimentation Pollution Control Commission pursuant to G.S. 113A-54(d)(4) or by a
14 local government pursuant to G.S. 113A-61 for the site of the activity or a tract of land
15 including the site of the activity.

16 (c) When a railroad company has filed railroad corridor maps pursuant to
17 G.S. 136-199, then the following provisions shall apply. To preserve and protect railroad
18 corridors for safety and future use and recognizing the right of the railroad to use its
19 corridors at any time in the future, no permit shall be issued pursuant to subsection (a) of
20 this section for activity within a railroad corridor before the inspection department with
21 jurisdiction over the site of the work or activity has verified that written consent has been
22 obtained from the railroad company as required by this subsection. The provisions of this
23 subsection shall not apply to permits issued under subsection (a) of this section solely for
24 repairs of existing buildings, plumbing systems, heating or cooling equipment systems, or
25 electrical wiring, devices or appliances and equipment.

26 (1) For those permit applications for work or activity within a railroad
27 corridor, the inspection department with jurisdiction over the site of
28 the work or activity shall require as a condition of granting a permit
29 that the permit applicant obtain the written consent of the railroad
30 company by contacting the railroad company, by certified mail, return
31 receipt requested, through its current registered agent at the address on
32 file with the North Carolina Department of Secretary of State.

33 (2) The railroad company shall have 60 days from receipt of the request
34 for written consent made under this subsection to approve, deny with
35 an explanation or respond with its requirements. Failure to respond to
36 the request for written consent within 60 days shall be deemed to be
37 approval of the request for written consent by the railroad company
38 unless the railroad owns the railroad corridor in fee simple. Nothing
39 herein shall be construed to alter or affect the property rights of the
40 railroad or adjacent or underlying landowners.

41 (3) A railroad company is a party aggrieved for the purpose of appealing
42 any permitting decision by the inspection department with jurisdiction
43 over the site of the work or activity that is inconsistent with the
44 railroad company's property rights or its right to use the property for
45 railroad purposes.

1 (4) The applicant shall provide directly to the inspection department with
2 jurisdiction over the site of the work or activity the written consent of
3 the railroad obtained this subsection. Receipt by the inspection
4 department from the applicant of either of the following may be relied
5 upon in all respects by the inspection department in determining
6 whether to issue the permit in accordance with the subsection, and the
7 inspection department shall have no liability whatsoever resulting from
8 its reliance thereon:

9 a. a copy of the railroad's written consent obtained under this
10 subsection; or

11 b. a certification that that no consent of a railroad is required
12 under this subsection because the permit sought does not fall
13 within a railroad corridor according to railroad maps filed
14 pursuant to G.S. 136-199. The certification provided under this
15 subsection shall be signed by the applicant under penalty of
16 perjury.

17 (5) Nothing herein shall be construed to alter or affect the existing
18 property rights of the railroad."

19 **SECTION 13.** G.S. 160A-1 reads as rewritten:

20 **§ 160A-1. Application and meaning of terms.**

21 Unless otherwise specifically provided, or unless otherwise clearly required by the
22 context, the words and phrases defined in this section shall have the meaning indicated
23 when used in this Chapter.

24 (1) "Charter" means the entire body of local acts currently in force
25 applicable to a particular city, including articles of incorporation
26 issued to a city by an administrative agency of the State, and any
27 amendments thereto adopted pursuant to 1917 Public Laws, Chapter
28 136, Subchapter 16, Part VIII, sections 1 and 2, or Article 5, Part 4, of
29 this Chapter.

30 (2) "City" means a municipal corporation organized under the laws of this
31 State for the better government of the people within its jurisdiction and
32 having the powers, duties, privileges, and immunities conferred by law
33 on cities, towns, and villages. The term "city" does not include
34 counties or municipal corporations organized for a special purpose.
35 "City" is interchangeable with the terms "town" and "village," is used
36 throughout this Chapter in preference to those terms, and shall mean
37 any city as defined in this subdivision without regard to the
38 terminology employed in charters, local acts, other portions of the
39 General Statutes, or local customary usage. The terms "city" or
40 "incorporated municipality" do not include a municipal corporation
41 that, without regard to its date of incorporation, would be disqualified
42 from receiving gasoline tax allocations by G.S. 136-41.2(a), except
43 that the end of status as a city under this sentence shall not affect the
44 levy or collection of any tax or assessment, or any criminal or civil
45 liability, and shall not serve to escheat any property until five years

1 after the end of such status as a city, or until September 1, 1991, whichever
2 comes later.

3 (3) "Council" means the governing board of a city. "Council" is
4 interchangeable with the terms "board of aldermen" and "board of
5 commissioners," is used throughout this Chapter in preference to those
6 terms, and shall mean any city council as defined in this subdivision
7 without regard to the terminology employed in charters, local acts,
8 other portions of the General Statutes, or local customary usage.

9 (4) "General law" means an act of the General Assembly applying to all
10 units of local government, to all cities, or to all cities within a class
11 defined by population or other criteria, including a law that meets the
12 foregoing standards but contains a clause or section exempting from its
13 effect one or more cities or all cities in one or more counties.

14 (5) "Local act" means an act of the General Assembly applying to one or
15 more specific cities by name, or to all cities within one or more
16 specifically named counties. "Local act" is interchangeable with the
17 terms "special act," "public-local act," and "private act," is used
18 throughout this Chapter in preference to those terms, and shall mean a
19 local act as defined in this subdivision without regard to the
20 terminology employed in charters, local acts, or other portions of the
21 General Statutes.

22 (6) "Mayor" means the chief executive officer of a city by whatever title
23 known.

24 (7) "Publish," "publication," and other forms of the verb "to publish"
25 mean insertion in a newspaper qualified under G.S. 1-597 to publish
26 legal advertisements in the county or counties in which the city is
27 located.

28 (7a) "Railroad corridor" means, for purposes of Article 19 of this Chapter,
29 any railroad real property, including but not limited to a railroad
30 right-of-way, whether held in fee or easement, regardless of the means
31 by which title was acquired, and regardless of whether railroad tracks
32 are located on the land. The term also includes rail-related real
33 property owned by a Regional Public Transportation Authority
34 organized pursuant to Article 26 of this Chapter, the Charlotte Area
35 Transit System, and the Department of Transportation.

36 (8) "Rural Fire Department" means, for the purpose of Articles 4A or 14
37 of this Chapter, a bona fide department which, as determined by the
38 Commissioner of Insurance, is classified as not less than class "9" in
39 accordance with rating methods, schedules, classifications,
40 underwriting rules, bylaws or regulations effective or applied with
41 respect to the establishment of rates or premiums used or charged
42 pursuant to Article 36 or Article 40 of Chapter 58 of the General
43 Statutes, and which operates fire apparatus and equipment of the value
44 of five thousand dollars (\$5,000) or more; but it does not include a
45 municipal fire department."

46 **SECTION 14.** G.S. 160A-296 reads as rewritten:

1 **§ 160A-296. Establishment and control of streets; center and edge lines.**

2 (a) A city shall have general authority and control over all public streets,
3 sidewalks, alleys, bridges, and other ways of public passage within its corporate limits
4 except to the extent that authority and control over certain streets and bridges is vested in
5 the Board of Transportation. General authority and control includes but is not limited to
6 all of the following:

- 7 (1) The duty to keep the public streets, sidewalks, alleys, and bridges in
8 proper repair.
- 9 (2) The duty to keep the public streets, sidewalks, alleys, and bridges open
10 for travel and free from unnecessary obstructions.
- 11 (3) The power to open new streets and alleys, and to widen, extend, pave,
12 clean, and otherwise improve existing streets, sidewalks, alleys, and
13 bridges, and to acquire the necessary land therefor by dedication and
14 acceptance, purchase, or eminent domain.
- 15 (4) The power to close any street or alley either permanently or
16 temporarily.
- 17 (5) The power to regulate the use of the public streets, sidewalks, alleys,
18 and bridges.
- 19 (6) The power to regulate, license, and prohibit digging in the streets,
20 sidewalks, or alleys, or placing therein or thereon any pipes, poles,
21 wires, fixtures, or appliances of any kind either on, above, or below the
22 surface. To the extent a municipality is authorized under applicable
23 law to impose a fee or charge with respect to activities conducted in its
24 rights-of-way, the fee or charge must apply uniformly and on a
25 competitively neutral and nondiscriminatory basis to all comparable
26 activities by similarly situated users of the rights-of-way.
- 27 (7) The power to provide for lighting the streets, alleys, and bridges of the
28 city.
- 29 (8) The power to grant easements in street rights-of-way as permitted by
30 G.S. 160A-273.

31 (a1) A city with a population of 250,000 or over according to the most recent
32 decennial federal census may also exercise the power granted by subdivision (a)(3) of
33 this section within its extraterritorial planning jurisdiction. Before a city makes
34 improvements under this subsection, it shall enter into a memorandum of understanding
35 with the Department of Transportation to provide for maintenance.

36 (b) Repealed by Session Laws 1991, c. 530, s. 6, effective January 1, 1992.

37 (c) When a railroad company has filed railroad corridor maps pursuant to
38 G.S. 136-199, then the following provisions in this subsection and subsection (d) of this
39 section shall apply. In exercising the power granted under subsection (a) of this section, a
40 city shall not establish or accept for dedication any new public street, sidewalk, alley,
41 bridge, crossing or other ways of public passage within a railroad corridor as defined in
42 G.S. 160A-1(7a) without first requiring any applicant to obtain the written consent of the
43 railroad company. For purposes of this subsection, the city shall require any applicant
44 seeking dedication or reservation to obtain written consent of the railroad company by
45 contacting the railroad company, by certified mail, return receipt requested, through its
46 current registered agent at the address on file with the North Carolina Department of

1 Secretary of State. The railroad company shall have 60 days from receipt of a request
2 for written consent made under this section to approve, deny with an explanation or
3 respond with its requirements. Failure to respond to the request for written consent within
4 60 days shall be deemed to be approval of the request for written consent by the railroad
5 company unless the railroad owns the railroad corridor in fee simple. Nothing herein shall
6 be construed to alter or affect the property rights of the railroad or adjacent or underlying
7 landowners.

8 (d) The applicant shall provide directly to the city the written consent of the
9 railroad obtained under subsection (c). Receipt by the city from the applicant of either of
10 the following may be relied upon in all respects by the city in determining whether to
11 establish or accept for dedication or reservation any new public passage under subsection
12 (c), and the city shall have no liability whatsoever resulting from reliance thereon:

- 13 (1) a copy of the railroad's written consent obtained under subsection (c);
14 or
15 (2) a certification that that no consent of a railroad is required under
16 subsection (c) because the dedication or reservation sought does not
17 fall within a railroad corridor according to railroad maps filed pursuant
18 to G.S. 136-199. The certification provided under this subsection shall
19 be signed by the applicant under penalty of perjury."

20 **SECTION 15.** Chapter 160A of the General Statutes is amended by adding a
21 new section to read:

22 **"§ 160A-368. Access to development within a railroad corridor.**

23 (a) When a railroad company has filed railroad corridor maps pursuant to
24 G.S. 136-199, then the following provisions in subsections (a) and (b) of this section shall
25 apply. A city shall not approve any development plan where the sole means of ingress to
26 and egress from the property being developed is a roadway that encroaches upon a
27 railroad corridor without first obtaining the written consent of the railroad company. For
28 purposes of this section, the city shall require as a condition of approving a development
29 plan that any applicant obtain written consent of the railroad company by contacting the
30 railroad company, by certified mail, return receipt requested, through its current
31 registered agent at the address on file with the North Carolina Department of Secretary of
32 State. The railroad company shall have 60 days from receipt of a request for written
33 consent made under this section to approve, deny with an explanation or respond with its
34 requirements. Failure to respond to the request for written consent within 60 days shall be
35 deemed to be approval of the request for written consent by the railroad company unless
36 the railroad owns the railroad corridor in fee simple. Nothing herein shall be construed to
37 alter or affect the property rights of the railroad or adjacent or underlying landowners.
38 Nothing herein shall apply to railroad crossings.

39 (b) The applicant shall provide directly to the city the written consent of the railroad
40 obtained under subsection (a). Receipt by the city from the applicant of either of the
41 following may be relied upon in all respects by the city in determining whether to
42 approve any development plan under subsection (a), and the city shall have no liability
43 whatsoever resulting from reliance thereon:

- 44 (1) a copy of the railroad's written consent obtained under subsection (a);
45 or

1 (2) a certification that that no consent of a railroad is required under
2 subsection (a) because the development plan sought does not fall
3 within a railroad corridor according to railroad maps filed pursuant to
4 G.S. 136-199. The certification provided under this subsection shall be
5 signed by the applicant under penalty of perjury."

6 **SECTION 16.** G.S. 160A-372 is amended by adding a new subsection to
7 read:

8 "(a1) When a railroad company has filed railroad corridor maps pursuant to
9 G.S. 136-199, then the following provisions in this subsection and subsection (a2) of this
10 section shall apply. A subdivision control ordinance shall not allow the dedication or
11 reservation of recreation areas serving residents of the immediate neighborhood of the
12 subdivision or of any other dedication or reservation of open spaces or open areas within
13 a railroad corridor without first obtaining the written consent of the railroad company.
14 For purposes of this subsection, the city planning board, commission or other department
15 with jurisdiction over subdivision control ordinances shall require any applicant seeking
16 dedication or reservation to obtain written consent of the railroad company by contacting
17 the railroad company, by certified mail, return receipt requested, through its current
18 registered agent at the address on file with the North Carolina Department of Secretary of
19 State. The railroad company shall have 60 days from receipt of a request for written
20 consent made under this section to approve, deny with an explanation or respond with its
21 requirements. Failure to respond to the request for written consent within 60 days shall be
22 deemed to be approval of the request for written consent by the railroad company unless
23 the railroad owns the railroad corridor in fee simple. Nothing herein shall be construed to
24 alter or affect the property rights of the railroad or adjacent or underlying landowners.

25 (a2) The applicant shall provide directly to the city planning board, commission or
26 other department with jurisdiction over subdivision control ordinances the written
27 consent of the railroad obtained under subsection (a1). Receipt by the city planning
28 board, commission or other department with jurisdiction over development plans from
29 the applicant of either of the following may be relied upon in all respects by the city in
30 determining whether to allow the dedication or reservation of recreation areas or of open
31 spaces or open areas in accordance with subsection (a1), and the city shall have no
32 liability whatsoever resulting from reliance thereon:

33 (1) a copy of the railroad's written consent obtained under subsection (a1);
34 or

35 (2) a certification that that no consent of a railroad is required under
36 subsection (a1) because the dedication or reservation sought does not
37 fall within a railroad corridor according to railroad maps filed pursuant
38 to G.S. 136-199. The certification provided under this subsection shall
39 be signed by the applicant under penalty of perjury."

40 **SECTION 17.** G.S. 160A-381 is amended by adding a new subsection to
41 read:

42 "(g1) When a railroad company has filed railroad corridor maps pursuant to
43 G.S. 136-199, then the following provisions in this subsection and subsection (g2) of this
44 section shall apply. A city shall not permit any land located within a railroad corridor to
45 be dedicated or reserved as open space or open area without first obtaining the written
46 consent of the railroad company. For purposes of this subsection, the city planning board,

1 commission or other department with jurisdiction over development plans shall
2 require any applicant seeking dedication or reservation to obtain written consent of the
3 railroad company by contacting the railroad company, by certified mail, return receipt
4 requested, through its current registered agent at the address on file with the North
5 Carolina Secretary of State's Office. The railroad company shall have 60 days from
6 receipt of a request for written consent made under this section to approve, deny with an
7 explanation or respond with its requirements. Failure to respond to the request for written
8 consent within 60 days shall be deemed to be approval of the request for written consent
9 by the railroad company unless the railroad owns the railroad corridor in fee simple.
10 Nothing herein shall be construed to alter or affect the property rights of the railroad or
11 adjacent or underlying landowners.

12 (g2) The applicant shall provide directly to the city planning board, commission or
13 other department with jurisdiction over development plans the written consent of the
14 railroad obtained under subsection (g1). Receipt by the city planning board, commission
15 or other department with jurisdiction over development plans from the applicant of either
16 of the following may be relied upon in all respects by the city in determining whether to
17 permit the dedication or reservation of open space or open area in accordance with
18 subsection (g1), and the city shall have no liability whatsoever resulting from reliance
19 thereon:

- 20 (1) a copy of the railroad's written consent obtained under subsection (g1);
21 or
22 (2) a certification that that no consent of a railroad is required under
23 subsection (g1) because the dedication or reservation sought does not
24 fall within a railroad corridor according to railroad maps filed pursuant
25 to G.S. 136-199. The certification provided under this subsection shall
26 be signed by the applicant under penalty of perjury."

27 **SECTION 18.** G.S. 160A-417 reads as rewritten:
28 **"§ 160A-417. Permits.**

29 (a) No person shall commence or proceed with:

- 30 (1) The construction, reconstruction, alteration, repair, movement to
31 another site, removal, or demolition of any building or structure,
32 (2) The installation, extension, or general repair of any plumbing system,
33 (3) The installation, extension, alteration, or general repair of any heating
34 or cooling equipment system, or
35 (4) The installation, extension, alteration, or general repair of any
36 electrical wiring, devices, appliances, or equipment,

37 without first securing from the inspection department with jurisdiction over the site of the
38 work any and all permits required by the State Building Code and any other State or local
39 laws applicable to the work. A permit shall be in writing and shall contain a provision
40 that the work done shall comply with the State Building Code and all other applicable
41 State and local laws. Nothing in this section shall require a city to review and approve
42 residential building plans submitted to the city pursuant to Section R-110 of Volume VII
43 of the North Carolina State Building Code; provided that the city may review and
44 approve such residential building plans as it deems necessary. No permits shall be issued
45 unless the plans and specifications are identified by the name and address of the author
46 thereof, and if the General Statutes of North Carolina require that plans for certain types

1 of work be prepared only by a registered architect or registered engineer, no permit shall
2 be issued unless the plans and specifications bear the North Carolina seal of a registered
3 architect or of a registered engineer. When any provision of the General Statutes of North
4 Carolina or of any ordinance requires that work be done by a licensed specialty contractor
5 of any kind, no permit for the work shall be issued unless the work is to be performed by
6 such a duly licensed contractor. No permit issued under Articles 9 or 9C of Chapter 143
7 shall be required for any construction, installation, repair, replacement, or alteration
8 costing five thousand dollars (\$5,000) or less in any single family residence or farm
9 building unless the work involves: the addition, repair or replacement of load bearing
10 structures; the addition (excluding replacement of same size and capacity) or change in
11 the design of plumbing; the addition, replacement or change in the design of heating, air
12 conditioning, or electrical wiring, devices, appliances, or equipment; the use of materials
13 not permitted by the North Carolina Uniform Residential Building Code; or the addition
14 (excluding replacement of like grade of fire resistance) of roofing. Violation of this
15 section shall constitute a Class 1 misdemeanor.

16 (b) No permit shall be issued pursuant to subsection (a) of this section for any
17 land-disturbing activity, as defined in G.S. 113A-52(6), for any activity covered by
18 G.S. 113A-57, unless an erosion and sedimentation control plan has been approved by the
19 Sedimentation Pollution Control Commission pursuant to G.S. 113A-54(d)(4) or by a
20 local government pursuant to G.S. 113A-61 for the site of the activity or a tract of land
21 including the site of the activity

22 (c) When a railroad company has filed railroad corridor maps pursuant to
23 G.S. 136-199, then the following provisions of this subsection shall apply. To preserve
24 and protect railroad corridors for safety and future use and recognizing the right of the
25 railroad to use its corridors at any time in the future, no permit shall be issued pursuant to
26 subsection (a) of this section for activity within a railroad corridor before the inspection
27 department with jurisdiction over the site of the work or activity has verified that written
28 consent has been obtained from the railroad company as required by this subsection. The
29 provisions of this subsection shall not apply to permits issued under subsection (a) of this
30 section solely for repairs of existing buildings, plumbing systems, heating or cooling
31 equipment systems, or electrical wiring, devices or appliances and equipment.

32 (1) For those permit applications for work or activity within a railroad
33 corridor, the inspection department with jurisdiction over the site of
34 the work or activity shall require as a condition of granting a permit
35 that the permit applicant obtain the written consent of the railroad
36 company by contacting the railroad company, by certified mail, return
37 receipt requested, through its current registered agent at the address on
38 file with the North Carolina Department of Secretary of State.

39 (2) The railroad company shall have 60 days from receipt of the request
40 for written consent made under this subsection to approve, deny with
41 an explanation or respond with its requirements. Failure to respond to
42 the request for written consent within 60 days shall be deemed to be
43 approval of the request for written consent by the railroad company
44 unless the railroad owns the railroad corridor in fee simple. Nothing
45 herein shall be construed to alter or affect the property rights of the
46 railroad or adjacent or underlying landowners.

1 (3) A railroad company is a party aggrieved for the purpose of appealing
2 any permitting decision by the inspection department with jurisdiction
3 over the site of the work or activity that is inconsistent with the
4 railroad company's property rights or its right to use the property for
5 railroad purposes.

6 (4) The applicant shall provide directly to the inspection department with
7 jurisdiction over the site of the work or activity the written consent of
8 the railroad obtained under this subsection. Receipt by the inspection
9 department from the applicant of either of the following may be relied
10 upon in all respects by the inspection department in determining
11 whether to issue the permit in accordance with the subsection, and the
12 inspection department shall have no liability whatsoever resulting from
13 its reliance thereon:

14 a. a copy of the railroad's written consent obtained under
15 this subsection; or

16 b. a certification that that no consent of a railroad is
17 required under this subsection because the permit
18 sought does not fall within a railroad corridor according
19 to railroad maps filed pursuant to G.S. 136-199. The
20 certification provided under this subsection shall be
21 signed by the applicant under penalty of perjury.

22 (5) Nothing herein shall be construed to alter or affect the existing
23 property rights of the railroad."

24 **SECTION 19.** This act becomes effective on October 1, 2010. Sections 9,
25 10, 11, 12, 14, 15, 16, 17, and 18 of this act apply to actions taken by city, or county
26 entities on or after October 1, 2010.

