

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001

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HOUSE BILL 1328

Short Title: Airport Corridor Official Map Act.

(Public)

Sponsors: Representative Blust.

Referred to: Transportation.

April 12, 2001

A BILL TO BE ENTITLED

AN ACT TO ENACT THE AIRPORT CORRIDOR OFFICIAL MAP ACT.

The General Assembly of North Carolina enacts:

**SECTION 1.** Chapter 63 of the General Statutes is amended by adding a new Article to read:

"Article 10.

"Airport Corridor Official Map Act.

**"§ 63-95. Airport Corridor Official Map Act.**

(a) An airport corridor official map may be adopted or amended by any of the following:

(1) The governing board of any city or county for any existing or planned airport as part of a comprehensive plan for development of an airport included in an adopted long-range transportation plan.

(2) A regional airport authority created by statute for any existing or planned airport in an adopted long-range transportation plan.

Before a city adopts an airport corridor official map that extends beyond the extraterritorial jurisdiction of its building permit issuance and subdivision control ordinances or adopts an amendment to an airport corridor official map outside the extraterritorial jurisdiction of its building permit issuance and subdivision control ordinances, the city shall obtain approval from the board of county commissioners.

No airport 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, county, or the regional airport authority has held a public hearing in each county affected by the map on the proposed map or amendment. Notice of the hearing shall be provided:

a. By publication at least once a week for four successive weeks prior to the hearing in a newspaper having general circulation in

- 1                   the county in which the transportation corridor to be designated  
2                   is located.
- 3                   b.   By two-week written notice to the Secretary of Transportation,  
4                   the chairman of the board of county commissioners, and the  
5                   mayor of any city or town through whose corporate or  
6                   extraterritorial jurisdiction the transportation corridor passes.
- 7                   c.   By posting copies of the proposed transportation corridor map  
8                   or amendment at the courthouse door for at least 21 days prior  
9                   to the hearing date. The notice required in sub-subdivision a. of  
10                  this subsection shall make reference to this posting.
- 11                  d.   By first-class mail sent to each property owner affected by the  
12                  corridor. The notice shall be sent to the address listed for the  
13                  owner in the county tax records.
- 14                  (2)   A permanent certified copy of the airport corridor official map or  
15                  amendment has been filed with the register of deeds. The boundaries  
16                  may be defined by map or by written description, or a combination  
17                  thereof. The copy shall comply with the register of deeds filing  
18                  requirements.
- 19                  (3)   The names of all property owners affected by the corridor have been  
20                  submitted to the register of deeds.
- 21                  (b)   Airport corridor official maps and amendments shall be distributed and  
22                  maintained in the following manner:
- 23                       (1)   A copy of the official map and each amendment thereto shall be filed  
24                       in the office of the city or county clerk and in the office of the district  
25                       transportation engineer.
- 26                       (2)   A copy of the official map, each amendment thereto, and any variance  
27                       therefrom granted pursuant to G.S. 63-97 shall be furnished to the tax  
28                       supervisor of any county and tax collector of any city or county  
29                       affected thereby. The portion of properties embraced within an airport  
30                       corridor and any variance granted shall be clearly indicated on all tax  
31                       maps maintained by the county or city for such period as the  
32                       designation remains in effect.
- 33                       (3)   Notwithstanding any other provision of law, the certified copy filed  
34                       with the register of deeds shall be placed in a book maintained for that  
35                       purpose and cross-indexed by number of road, street name, or other  
36                       appropriate description. The register of deeds shall collect a fee of five  
37                       dollars (\$5.00) for each map sheet or page recorded.
- 38                       (4)   The names submitted as required under subdivision (a)(3) of this  
39                       section shall be indexed in the "grantor" index by the register of deeds.
- 40                  (c)   Within one year following the establishment of an airport corridor official  
41                  map or amendment, work shall begin on an environmental impact statement or  
42                  preliminary engineering. The failure to begin work on the environmental impact  
43                  statement or preliminary engineering within the one-year period shall constitute an  
44                  abandonment of the corridor, and the provisions of this Article shall no longer apply to

1 properties or portions of properties embraced within the airport corridor. A city, county,  
2 or airport authority may prepare environmental impact studies and preliminary  
3 engineering work in connection with the establishment of an airport corridor official  
4 map or amendments to an airport corridor official map. When a city prepares an airport  
5 corridor official map for a street or highway that has been designated a State  
6 responsibility pursuant to G.S. 136-66.2, the environmental impact study and  
7 preliminary engineering work shall be reviewed and approved by the Department of  
8 Transportation. An amendment to a corridor shall not extend the two-year period  
9 provided by this section unless it establishes a substantially different corridor in a  
10 primarily new location.

11 (d) The term "amendment", for purposes of this section, includes any change to  
12 an airport corridor official map, including:

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

16 (2) Deletion of the corridor from the transportation corridor official map  
17 by action of the Board of Transportation, or deletion of the corridor  
18 from the long-range transportation plan of a city, county, or airport  
19 authority by action of the city, county, or airport authority governing  
20 Board.

21 **"§ 63-96. Effect of airport corridor official map.**

22 (a) After an airport corridor official map is filed with the register of deeds, no  
23 building permit shall be issued for any building or structure or part thereof located  
24 within the airport corridor, nor shall approval of a subdivision, as defined in G.S. 153A-  
25 335 and G.S. 160A-376, be granted with respect to property within the airport corridor.  
26 The provisions of this section shall not apply to valid building permits issued prior to  
27 the filing of the airport corridor official map provided the size of the building or  
28 structure is not increased and the type of building code occupancy as set forth in the  
29 North Carolina Building Code is not changed.

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

34 **"§ 63-97. Variance from transportation corridor official map.**

35 (a) The city, county, or airport authority which initiated the airport corridor  
36 official map shall establish procedures for considering petitions for variance from the  
37 requirements of G.S. 63-96.

38 (b) The procedure established shall provide for written notice to the mayor and  
39 chairman of the board of county commissioners of any affected city or county, and for  
40 the hearing to be held in the county where the affected property is located.

41 (c) Cities may provide for petitions for variances to be heard by the board of  
42 adjustment or other boards or commissions which can hear variances authorized by G.S.  
43 160A-388. The procedures for boards of adjustment shall be followed except that no  
44 vote greater than a majority shall be required to grant a variance.

1       (d) The procedure established by an airport authority pursuant to subsection (a)  
2 of this section shall provide for a hearing de novo by the Department of Transportation  
3 for any petition for variance that is denied by the airport authority. All hearings held by  
4 the Department of Transportation under this subsection shall be conducted in  
5 accordance with procedures established by the Department of Transportation pursuant  
6 to subsection (a) of this section.

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

8           (1) Even with the tax benefits authorized by this Article, no reasonable  
9 return may be earned from the land; and

10          (2) The requirements of G.S. 63-96 result in practical difficulties or  
11 unnecessary hardships.

12 **"§ 63-98. Advance acquisition of right-of-way within the transportation corridor.**

13       (a) After an airport corridor official map is filed with the register of deeds, a  
14 property owner has the right of petition to the filer of the map for acquisition of the  
15 property due to an imposed hardship. The city, county, or airport authority which  
16 initiated the airport corridor official map may make advanced acquisition of specific  
17 parcels of property when that acquisition is determined by the respective governing  
18 board to be in the best public interest to protect the airport corridor from development or  
19 when the airport corridor official map creates an undue hardship on the affected  
20 property owner. The procedure established by an airport authority pursuant to  
21 subsection (b) of this section shall provide for a hearing de novo by the Department of  
22 Transportation for any request for advance acquisition due to hardship that is denied by  
23 an authority. All hearings held by the Department under this subsection shall be  
24 conducted in accordance with procedures established by the Department pursuant to  
25 subsection (b) of this section. Any decision of the Department pursuant to this  
26 subsection shall be final and binding. Any property determined eligible for hardship  
27 acquisition shall be acquired within three years of the finding, or the restrictions of the  
28 map shall be removed from the property.

29       (b) Prior to making any advanced acquisition of right-of-way under the authority  
30 of this Article, a city, county, or airport authority that initiated the airport corridor  
31 official map shall develop and adopt appropriate policies and procedures to govern the  
32 advanced acquisition of right-of-way and to assure that the advanced acquisition is in  
33 the best overall public interest.

34       (c) In exercising the authority granted by this section, a municipality is  
35 authorized to expend municipal funds for the protection of airport corridors on a duly  
36 adopted airport corridor official map whether the right-of-way to be acquired is located  
37 inside or outside the municipal corporate limits."

38           **SECTION 2.** This act becomes effective December 1, 2001.