

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

S

1

SENATE BILL 772

Short Title: Durham City Street Closings.

(Local)

Sponsors: Senators Gulley; and Hunt.

Referred to: Local Government and Regional Affairs.

april 8, 1993

A BILL TO BE ENTITLED

1 AN ACT CLARIFYING THE AUTHORITY OF THE CITY OF DURHAM TO
2 PERMIT THE CLOSING OF UNOPENED STREETS, THE RETENTION OF
3 UTILITY EASEMENTS, AND THE DIVISION OF RIGHT-OF-WAY IN
4 TYPICAL STREET CLOSINGS, AND ESTABLISHING PROCEDURES FOR
5 APPEALS OF STREET CLOSINGS.
6

7 The General Assembly of North Carolina enacts:

8 Section 1. The Charter of the City of Durham, being Chapter 671, 1975
9 Session Laws, is amended by adding the following new sections:

10 "Sec. 51.3. Authority to Close Unopened Streets.

11 The provisions of G.S. 160A-299 authorizing the City of Durham to close existing
12 streets and alleys within its jurisdiction also extend to unopened streets that are shown
13 on plats but that have not been accepted or maintained by the City.

14 "Sec. 51.4. Reservation of Easements.

15 (a) The provisions of G.S. 160A-299(f) allowing reservation of utility easements
16 in street closings orders also extend to utility improvements or easements owned by
17 private utilities which at the time of the street closing have a utility agreement or
18 franchise with the City.

19 (b) The City also has the authority to retain utility easements, both public and
20 private, in cases of streets withdrawn under G.S. 136-96. To retain such easements, the
21 City Council shall, after public hearing, approve a 'declaration of retention of utility
22 easements' specifically describing such easements. Notice by certified or registered
23 mail shall be provided to the party withdrawing the street from dedication under G.S.
24 136-96 at least five days prior to the hearing. The declaration must be passed prior to

1 filing of any plat or map or declaration of withdrawal with the Register of Deeds. Any
2 property owner filing such plats, maps, or declarations shall include the City declaration
3 with the declaration of withdrawal and shall show the utilities retained on any map or
4 plat showing the withdrawal.

5 "Sec. 51.5. **Division of Right-of-Way.** The provisions of G.S. 160A-299 regarding
6 division of right-of-way in street closings may be altered by the assent of all property
7 owners taking title to a closed street by the filing of a plat which shows the street
8 closing and the portion of the closed street to be taken by each such owner. The plat
9 shall be signed by each property owner who, under G.S. 160A-299, has an ownership
10 right in the closed street.

11 "Sec. 51.6. **Judicial Appeals of Street Closings.** In appeals of streets closed under
12 G.S. 160A-299(b), all facts and issues shall be heard and decided by a judge sitting
13 without a jury. In addition to determining whether procedural requirements were
14 complied with, the court shall determine whether, on the record as presented to the City
15 Council, the Council's decision to close the street was in accordance with the statutory
16 standards of G.S. 160A-299(a) and any other applicable requirements of local law or
17 ordinance."

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