



STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

JOSH STEIN
GOVERNOR

DANIEL H. JOHNSON
SECRETARY

DATE: August 20, 2026

TO: NCDOT Division and Central Utilities Staff
NC Utility Providers

FROM: Keith T. Garry
State Utilities Manager

SUBJECT: Utility Cost Reimbursement Guidance in Accordance with N.C.GS 136-18 (10), amended
July 7, 2026

N.C.GS 136-18 (10) confirms the Department's authority to establish rules and regulations for the placement of utilities and non-utilities along its highway system. The Department recently collaborated with utility company partners to better define relocation cost reimbursement expectations associated with NCDOT highway improvement projects.

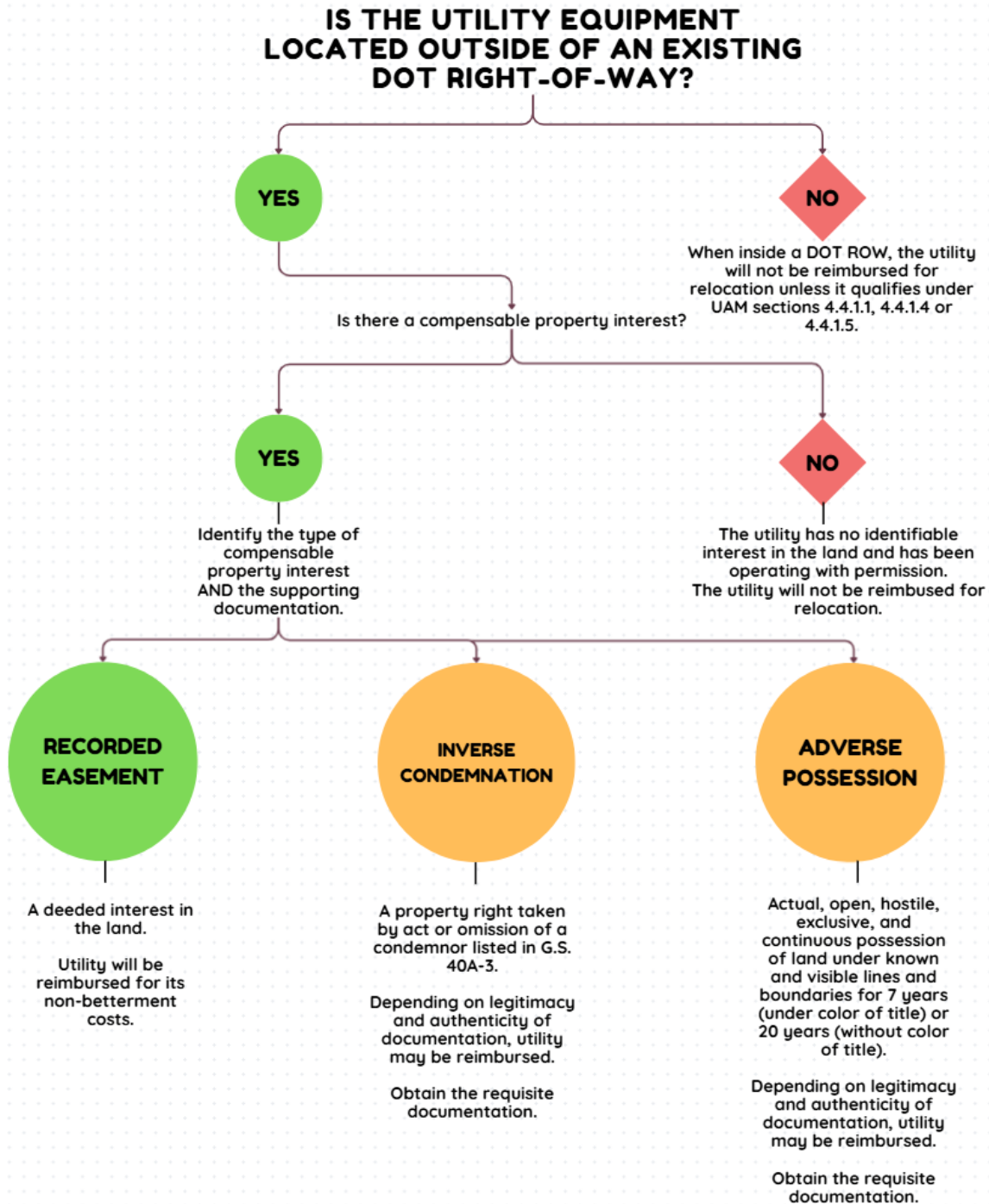
On July 7, 2026 Governor Stein signed House Bill 1094 into law. This Bill includes an amendment to N.C.GS 136-18 (10) that memorializes the cost reimbursement expectations referenced above. This guidance document is intended to provide both NCDOT and NC utility provider staff with clarity surrounding the recent amendment.

If there are any questions please do not hesitate to contact me (ktgarry@ncdot.gov) or Kyle Pleasant, Deputy State Utilities Manager (kpleasant@ncdot.gov).

Cc: Chief Engineer's Office
Division Engineers
Division Project Delivery Engineers
Project Management Unit
Roadway Design Unit
Alternative Delivery Unit
NC Turnpike Authority
Rail Division

Guide to N.C. Gen. Stat. § 136-18 (10)

This statute addresses non-betterment cost reimbursement to utilities when the equipment requested to be relocated is situated outside of an existing DOT right-of-way and the utility demonstrates a valid compensable property interest. The following flow chart and descriptive information below serves as a condensed resource for beginning an in-field determination regarding potential reimbursement for a request for relocation.



- Generally, utilities are responsible for the expense required for relocation when its equipment is located within an existing DOT right-of-way. This accepted common law doctrine is recognized both by North Carolina case and statutory law. There are limited exceptions, notably where the utility has contributed to the cost of the acquisition of the property within the right-of-way. (See N.C. Gen. Stat. 136-19.5(c)).
- However, when equipment is located outside of a right-of-way, DOT may be responsible for the non-betterment expense where the utility can establish a valid compensable property interest.
- A valid compensable property interest may be established via a recorded easement, inverse condemnation, or adverse possession. While an easement is a recorded interest, and presents a clear case for reimbursement, inverse condemnation and adverse possession may represent unrecorded interests, and require more investigation to establish. Below are some basic guidelines that would begin the process of determining the nature of a valid compensable property interest.

Purported Property Interest	Definition	Establishing the Property Interest	Action Items
Recorded Easement	A property interest recorded at the Register of Deeds. An express easement must be in writing pursuant to the Statute of Frauds and be sufficiently certain to permit the identification and location of the easement with reasonable certainty.	This interest will be recorded. There will be a deed or map evidencing the easement.	Obtain the recorded documentation to confirm the existence of the easement. Utility will be reimbursed for its non-betterment costs.
Inverse Condemnation which creates an easement (may be recorded or unrecorded)	When an entity, such as a utility, with condemnation powers effectuates taking an easement without initiating a formal condemnation proceeding, the aggrieved property owner may only obtain just compensation through an action in inverse condemnation.	This interest can be recorded but may be unrecorded. Evidence helpful to establishing an interest: --An affidavit describing that the entity is a valid condemnor under N.C. Gen. Stat. § 40A-3 (which	Obtain any and all possible documentation. Do not make statements in the affirmative or negative regarding reimbursement to the utility.

	Under § 40A-51(a), this action must be brought within 2 years of either (1) the alleged taking or (2) the completion of construction of the taking, whichever is later. Otherwise, the landowners are barred from recovering the land and the condemnor obtains an easement interest in the property by operation of law.	specifies the qualifications for private and public condemnors), and when the taking occurred, with evidence that the equipment or lines were serviced during that period, with the passage of time being +2 years --Other credible document evidencing the taking (utility construction contracts or plans, maps, utility as-builts) --Witness statements	
Adverse Possession	A taking through: • actual, open, hostile, exclusive, and continuous possession of the land claimed • for the prescriptive period (7 years under color of title or 20 years without) • under known & visible lines & boundaries • See memorandum on adverse possession, distributed on October 14, 2025.	This interest will likely be unrecorded. Evidence helpful to establishing an interest: --Affidavit or other documentation re: the time the property has been held --Photos of any distinctive markings on trees; visible metal, wood, or other boundary markers; a map showing the boundaries --Photos of any significant differences in the maintenance of the claimed property (landscaping, mowing) or other visible property alterations --Documented maintenance --Documents or other evidence that the owner had notice of a claim	Obtain any and all possible documentation. Do not make statements in the affirmative or negative regarding reimbursement to the utility.

- Joint use agreements, pole attachment agreements, customer service agreements, utility occupancy agreements, or any other type of permissive use agreement, does not convey a real compensable property interest as it relates to N.C. Gen. Stat. 136-18 (10).