

## Chapter 1

### Introduction

#### 1.1 *General Powers*

The North Carolina Department of Transportation (NCDOT) was created for the purpose of constructing and maintaining public highways ([De Bruhl v. State Highway and Public Works Commission, 1956](#)). The general powers of the NCDOT are listed in general statute [§136-18](#). As part of these general powers, the NCDOT has the authority to “make rules, regulations and ordinances for the use of, and to police traffic on, the State highways, and to prevent their abuse by individuals, corporations and public corporations, by trucks, tractors, trailers or other heavy or destructive vehicles or machinery, or by any other means whatsoever” ([§136-18, 5](#)).

General powers are, by definition, broad in their nature and may apply to a wide spectrum of issues and conditions. In the case of [§136-18 \(5\)](#), it is a requirement of the NCDOT to regulate traffic on the State Highway System, and the purpose of this regulation is not specified except as follows:

- Use of the system
- Police traffic on the system
- Prevent abuse of the system

The types and conditions of ordinances is not defined in [§136-18 \(5\)](#), and the only restrictions on ordinances is that (1) they do not conflict with any existing statute and (2) they do not conflict with any ordinance of an incorporated city/town. Therefore, the NCDOT (in general) is not prohibited from making any ordinances that regulate, restrict, or prohibit use of the State Highway System in any way as long as it meets the purpose for the creation of the NCDOT, it meets one of the purposes for regulation of the system, and it does not conflict with one of the two restrictions.

In some cases, other statutes have been enacted that define the general powers of the NCDOT under certain conditions. In these specific cases, the more defining statute would control over the general powers. However, where another statute does not specifically define a portion of the general powers, [§136-18 \(5\)](#) continues to provide broad latitude in regulating the State Highway System and traffic on it.

## **1.2 Ordinance Authority**

In general, the North Carolina Department of Transportation (NCDOT) has the authority to "make rules, regulations and ordinances for the use of, and to police traffic on, the State highways, and to prevent their abuse" ([§136-18, 5](#)). The Board of Transportation (BOT) has the power and duty to "promulgate rules, regulations, and ordinances concerning all transportation functions assigned to the Department" ([§143B-350, f, g](#)). The BOT has delegated to the Secretary of Transportation the authority to "adopt all necessary rules for the use of and to police traffic on state highways" ([19A:4A.0104, a](#)). The Secretary of Transportation has sub-delegated to the State Traffic Engineer (STE) the authority to "adopt all necessary rules for the use of and to police traffic on state highways, and to set, change or extend route numbers on the Primary highway system of North Carolina" ([19A:4A.0104, b](#)).

Pursuant to this authority, the State Traffic Engineer adopts and promulgates ordinances based on traffic and engineering studies performed by the Transportation Mobility and Safety Division (TMSD) and in accordance with North Carolina General Statutes (NCGS) and the North Carolina Administrative Code (NCAC). Ordinances are usually not required for conditions that are covered by general statute. However, ordinances are generally required where any of the following occur:

- a. An ordinance is required by general statute (such as speed zones),
- b. Municipal concurrence is required (such as a speed zone within an incorporated municipality),
- c. Clarification of a general statute is required (such as defining the speed limit of a speed zone),
- d. A traffic engineering investigation into the safety and/or operational conditions is required or necessary (such as reasonable access for STAA routes or a no parking, tow-away zone), or
- e. An inventory of a given condition is desired (such as right turn on red restrictions and public vehicle areas).

### ***1.3 Distance, Direction, Terminal Points, and High Order/Low Order Routes***

The distances, directions, and terminal (beginning and ending) points of all ordinances shall be based solely on the TEAAS feature report for the given road. Contact the Ordinance Program Administrator if a feature report is incorrect, incomplete, or does not exist.

Terminal points should only consist of state boundaries, county boundaries, or roads. Bridges, railroad crossings, and municipal boundaries should not be used for terminal points.

All ordinances should milepost. Therefore, features that have loop conditions present shall not be used as terminal points.

The highest order route shall always be used for ordinances with the following exceptions:

- STAA National Network ordinances (type 43) shall conform to the Code of Federal Regulations
- STAA Designation ordinances (types 44, 45, and 46) shall conform to North Carolina Board of Transportation authorization
- Route Change ordinances (type 22) shall be written for all affected routes

### ***1.4 Overlaps***

Overlaps exist when two or more ordinances, at least in part, cover the same section of road. In some cases this is not a problem because the condition remains unchanged (such as two no parking ordinances overlapping each other) or the ordinances represent non-competitive conditions (such as a no parking ordinance overlapping a truck route).

However, in many cases an overlap causes a problem because a conflict of conditions exist (such as a truck route overlapping a truck prohibited route, or a rural speed limit overlapping a municipal speed limit). New ordinances with problematic overlaps are not allowed into the ordinance system. Existing ordinances with problematic overlaps should be corrected through the repeal/approval process.

### **1.5 *Additional Information and/or Justification***

The State Traffic Engineer requires additional information and/or justification for several new ordinances as follows...

- Municipal ordinances shall have an original signed and notarized municipal approval certificate prior to approval
- Work zone ordinances shall have a work zone justification package (including drawings)
- No parking, tow-away ordinances shall have a map and justification
- Movement restrictions shall have justification
- Truck restrictions or prohibitions shall have appropriate justification
- Route changes shall have maps, request forms, and resolutions (MPO/RPO and/or municipality)
- Temporary vehicle restrictions or prohibitions shall have appropriate justification
- Passenger bus prohibitions shall have justification
- Public vehicular area shall have plats and Division approval
- Low speed vehicle prohibitions shall have justification

### **1.6 *Repealing Ordinances***

Municipal ordinances recommended for repeal shall have an original signed and notarized municipal repeal certificate sent to the Ordinance Program Administrator prior to repeal.

### **1.7 *Certificate of Rulemaking***

The signed Certificate of Rulemaking (COR) is the official record of legally enacted and rescinded ordinances. A certificate exists for each date where ordinances were enacted or rescinded.

### **1.8 *Controlled Access Facility***

A controlled access facility means a facility with [full, partial, or limited access control](#).

## **1.9 Penalties**

The penalty for violating an ordinance should be specified in the general statute the ordinance is based on or specified in the article within which the general statute resides.

The violation of any ordinance based on [§136-18\(5\)](#) constitutes a Class 1 misdemeanor (general statute and Attorney General’s Office advisory ruling, September 11, 1998).

## **1.10 Acronyms**

BOT	-	Board of Transportation
CFR	-	Code of Federal Regulations
COR	-	Certificate of Rulemaking
FHWA	-	Federal Highway Administration
HOV	-	High Occupancy Vehicle
HTO	-	Highway Traffic Ordinance (old COR)
I	-	Interstate
MPO	-	Municipal Planning Organization
MSIS	-	Mobility and Safety Information Section
NC	-	North Carolina Route
NCAC	-	North Carolina Administrative Code(s)
NCDOT	-	North Carolina Department of Transportation
NCGS	-	North Carolina General Statute(s)
NCTN	-	North Carolina Truck Network
NHS	-	National Highway System
NN	-	National Network
PVA	-	Public Vehicular Area
RPO	-	Rural Planning Organization
RV	-	Recreational Vehicle
SHS	-	State Highway System
SR	-	Secondary Route
STAA	-	Surface Transportation Assistance Act
STE	-	State Traffic Engineer
STIP	-	State Transportation Improvement Program
STOC	-	Statewide Traffic Operations Center
TEAAS	-	Traffic Engineering Accident Analysis System
TEPPL	-	Traffic Engineering Policies, Practices and Legal Authority
TIP	-	Transportation Improvement Program
TMSD	-	Transportation Mobility and Safety Division
TSU	-	Traffic Safety Unit
TTDT	-	Truck Tractor Double Trailer (semi-trailer and trailer)
TTST	-	Truck Tractor Semi-Trailer
US	-	United States Route
USC	-	United States Code