

Article 3A.

Transportation Systems in and around Municipalities.

**§ 136-66.1. Responsibility for streets inside municipalities.**

Responsibility for streets and highways inside the corporate limits of municipalities is hereby defined as follows:

- (1) The State Highway System. – The State highway system inside the corporate limits of municipalities shall consist of a system of major streets and highways necessary to move volumes of traffic efficiently and effectively from points beyond the corporate limits of the municipalities through the municipalities and to major business, industrial, governmental and institutional destinations located inside the municipalities. The Department of Transportation shall be responsible for the maintenance, repair, improvement, widening, construction and reconstruction of this system. These streets and highways within corporate limits are of primary benefit to the State in developing a statewide coordinated system of primary and secondary streets and highways. Each highway division shall develop an annual work plan for maintenance and contract resurfacing, within their respective divisions, consistent with the needs, inasmuch as possible, as identified in the report developed in accordance with G.S. 136-44.3. In developing the annual work plan, the highway division shall give consideration to any special needs or information provided by the municipalities within their respective divisions. The plan shall be made available to the municipalities within the respective divisions upon request.
- (2) The Municipal Street System. – In each municipality the municipal street system shall consist of those streets and highways accepted by the municipality which are not a part of the State highway system. The municipality shall be responsible for the maintenance, construction, reconstruction, and right-of-way acquisition for this system.
- (3) Maintenance of State Highway System by Municipalities. – Any city or town, by written contract with the Department of Transportation, may undertake to maintain, repair, improve, construct, reconstruct or widen those streets within municipal limits which form a part of the State highway system, and may also, by written contract with the Department of Transportation, undertake to install, repair and maintain highway signs and markings, electric traffic signals and other traffic-control devices on such streets. All work to be performed by the city or town under such contract or contracts shall be in accordance with Department of Transportation standards, and the consideration to be paid by the Department of Transportation to the city or town for such work, whether in money or in services, shall be adequate to reimburse the city or town for all costs and expenses, direct or indirect, incurred by it in the performance of such work. The city or town under contract with the Department shall develop an annual work plan for maintenance of the State highway system consistent with the needs, inasmuch as possible, as identified in the report developed in accordance with G.S. 136-44.3. The annual work plan shall be submitted to the respective division engineers and shall be mutually agreeable to both parties.
- (4) If the governing body of any municipality determines that it is in the best interest of its citizens to do so, it may expend its funds for the purpose of making

any of the following improvements on streets that are within its corporate limits and form a part of the State highway system:

- a. Construction of curbing and guttering.
- b. Adding of lanes for automobile parking.
- c. Constructing street drainage facilities which may by reasonable engineering estimates be attributable to that amount of surface water collected upon and flowing from municipal streets which do not form a part of the State highway system.
- d. Constructing sidewalks.
- e. Intersection improvements, if the governing body determines that such improvements will decrease traffic congestion, improve safety conditions, and improve air quality.

In exercising the authority granted herein, the municipality may, with the consent of the Department of Transportation, perform the work itself, or it may enter into a contract with the Department of Transportation to perform such work. Any work authorized by this subdivision shall be financed entirely by the municipality and be approved by the Department of Transportation.

The cost of any work financed by a municipality under this subdivision may be assessed against the properties abutting the street or highway upon which such work was performed in accordance with the procedures of either Article 10 of Chapter 160A of the General Statutes or any charter provisions or local acts applicable to the particular municipality. (1959, c. 687, s. 1; 1969, cc. 798, 978; 1973, c. 507, s. 5; 1975, c. 664, s. 3; 1977, c. 464, s. 7.1; 1987, c. 747, s. 2; 1993 (Reg. Sess., 1994), c. 690, s. 1; 1995, c. 163, s. 14; 2005-382, s. 2.)

#### **§ 136-66.2. Development of a coordinated transportation system and provisions for streets and highways in and around municipalities.**

(a) Each municipality, not located within a metropolitan planning organization (MPO) as recognized in G.S. 136-200.1, with the cooperation of the Department of Transportation, shall develop a comprehensive transportation plan that will serve present and anticipated travel demand in and around the municipality. The plan shall be based on the best information available including, but not limited to, population growth, economic conditions and prospects, and patterns of land development in and around the municipality, and shall provide for the safe and effective use of the transportation system. In the development of the plan, consideration shall be given to all transportation modes including, but not limited to, the street system, transit alternatives, bicycle, pedestrian, and operating strategies. The Department of Transportation may provide financial and technical assistance in the preparation of such plans. Each MPO, with cooperation of the Department of Transportation, shall develop a comprehensive transportation plan in accordance with 23 U.S.C. § 134. In addition, an MPO may include projects in its transportation plan that are not included in a financially constrained plan or are anticipated to be needed beyond the horizon year as required by 23 U.S.C. § 134. For municipalities located within an MPO, the development of a comprehensive transportation plan will take place through the metropolitan planning organization. For purposes of transportation planning and programming, the MPO shall represent the municipality's interests to the Department of Transportation.

(b) After completion and analysis of the plan, the plan shall be adopted by both the governing body of the municipality or MPO and the Department of Transportation as the basis for

future transportation improvements in and around the municipality or within the MPO. The governing body of the municipality and the Department of Transportation shall reach agreement as to which of the existing and proposed streets and highways included in the adopted plan will be a part of the State highway system and which streets will be a part of the municipal street system. As used in this Article, the State highway system shall mean both the primary highway system of the State and the secondary road system of the State within municipalities.

(b1) The Department of Transportation may participate in the development and adoption of a transportation plan or updated transportation plan when all local governments within the area covered by the transportation plan have adopted land development plans within the previous five years. The Department of Transportation may participate in the development of a transportation plan if all the municipalities and counties within the area covered by the transportation plan are in the process of developing a land development plan. The Department of Transportation may not adopt or update a transportation plan until a local land development plan has been adopted. A qualifying land development plan may be a comprehensive plan, land use plan, master plan, strategic plan, or any type of plan or policy document that expresses a jurisdiction's goals and objectives for the development of land within that jurisdiction. At the request of the local jurisdiction, the Department may review and provide comments on the plan but shall not provide approval of the land development plan.

(b2) The municipality or the MPO shall provide opportunity for public comments prior to adoption of the transportation plan.

(b3) Each county, with the cooperation of the Department of Transportation, may develop a comprehensive transportation plan utilizing the procedures specified for municipalities in subsection (a) of this section. This plan may be adopted by both the governing body of the county and the Department of Transportation. For portions of a county located within an MPO, the development of a comprehensive transportation plan shall take place through the metropolitan planning organization.

(b4) To complement the roadway element of the transportation plan, municipalities and MPOs may develop a collector street plan to assist in developing the roadway network. The Department of Transportation may review and provide comments but is not required to provide approval of the collector street plan.

(c) From and after the date that the plan is adopted, the streets and highways designated in the plan as the responsibility of the Department of Transportation shall become a part of the State highway system and all such system streets shall be subject to the provisions of G.S. 136-93, and all streets designated in the plan as the responsibility of the municipality shall become a part of the municipal street system.

(d) For municipalities not located within an MPO, either the municipality or the Department of Transportation may propose changes in the plan at any time by giving notice to the other party, but no change shall be effective until it is adopted by both the Department of Transportation and the municipal governing board. For MPOs, either the MPO or the Department of Transportation may propose changes in the plan at any time by giving notice to the other party, but no change shall be effective until it is adopted by both the Department of Transportation and the MPO.

(e) Until the adoption of a comprehensive transportation plan that includes future development of the street system in and around municipalities, the Department of Transportation and any municipality may reach an agreement as to which existing or proposed streets and

highways within the municipal boundaries shall be added to or removed from the State highway system.

(f) Streets within municipalities which are on the State highway system as of July 1, 1959, shall continue to be on that system until changes are made as provided in this section.

(g) The street and highway elements of the plans developed pursuant to G.S. 136-66.2 shall serve as the plan referenced in G.S. 136-66.10(a). (1959, c. 687, s. 2; 1969, c. 794, s. 3; 1973, c. 507, s. 5; 1977, c. 464, s. 7.1; 2001-168, s. 1.)

### **§ 136-66.3. Local government participation in improvements to the State transportation system.**

(a) **Municipal Participation Authorized.** – A municipality may, but is not required to, participate in the right-of-way and construction cost of a State transportation improvement approved by the Board of Transportation under G.S. 143B-350(f)(4) that is located in the municipality or its extraterritorial jurisdiction.

(b) **Process for Initiating Participation.** – A municipality interested in participating in the funding of a State highway improvement project may submit a proposal to the Department of Transportation. The Department and the municipality shall include their respective responsibilities for a proposed municipal participation project in any agreement reached concerning participation.

(c) **Type of Participation Authorized.** – A municipality is authorized and empowered to acquire land by dedication and acceptance, purchase, or eminent domain, and make improvements to portions of the State transportation system lying within or outside the municipal corporate limits utilizing local funds that have been authorized for that purpose. All improvements to State transportation systems shall be done in accordance with the specifications and requirements of the Department of Transportation.

(c1) Repealed by Session Laws 2013-183, s. 4.5, effective July 1, 2013.

(c2) **Distribution of State Funds Made Available by County or Municipal Participation.** – Any State or federal funds allocated to a project that are made available by county or municipal participation in a project contained in the Transportation Improvement Program under G.S. 143B-350(f)(4) shall be subject to G.S. 136-189.11.

(c3) Repealed by Session Laws 2013-183, s. 4.5, effective July 1, 2013.

(c4) **Pedestrian Safety Improvements.** – The Department of Transportation shall accept and use any funding provided by a municipal government for a pedestrian safety improvement project on a State road within the municipality's limits, provided the municipality funds one hundred percent (100%) of the project and the Department of Transportation retains the right to approve the design and oversee the construction, erection, or installation of the pedestrian safety improvement.

(d) **Authorization to Participate in Development-Related Improvements.** – When in the review and approval by a local government of plans for the development of property abutting a State transportation system it is determined by the municipality that improvements to the State highway system are necessary to provide for the safe and orderly movement of traffic, the local government is authorized to construct, or have constructed, said improvements to the State transportation system in vicinity of the development. For purposes of this section, improvements include but are not limited to additional travel lanes, turn lanes, curb and gutter, drainage facilities, and other transportation system improvements. All improvements to a State transportation system shall be constructed in accordance with the specifications and requirements of the Department of Transportation and be approved by the Department of Transportation.

(e) Authorization to Participate in Project Additions. – Pursuant to an agreement with the Department of Transportation, a county or municipality shall reimburse the Department of Transportation for the cost of all improvements requested by the county or municipality, including additional rights-of-way, streets, highway improvement projects, or other transportation system improvements approved by the Board of Transportation under G.S. 143B-350(f)(4), that are in addition to those improvements that the Department of Transportation would normally include in the project. Requests for safety enhancements or efforts to facilitate the flow of traffic shall not be considered improvements under this subsection unless the enhancement or effort is in excess of the standard required by law.

(e1) Reimbursement Procedure. – Upon request of the county or municipality, the Department of Transportation shall allow the local government a period of not less than three years from the date construction of a project undertaken under subsection (e) of this section is initiated to reimburse the Department their agreed upon share of the costs necessary for the project. The Department of Transportation shall not charge a local government any interest during the initial three years.

(f) Report to General Assembly. – The Department shall report in writing, on an annual basis, to the Joint Legislative Transportation Oversight Committee on all agreements entered into between counties, municipalities and the Department of Transportation. The report shall state in summary form the contents of the agreements. The information in the report required by this subsection shall be set forth separately for each division of the Department of Transportation.

(g) Local Government Acquisition of Rights-of-Way. – In the acquisition of rights-of-way for any State street, highway, or other transportation project, the county or municipality shall be vested with the same authority to acquire such rights-of-way as is granted to the Department of Transportation in this Chapter. In the acquisition of such rights-of-way, counties and municipalities may use the procedures provided in Article 9 of this Chapter, and wherever the words "Department of Transportation" appear in Article 9 they shall be deemed to include "county," "municipality" or local governing body, and wherever the words "Administrator," "Administrator of Highways," "Administrator of the Department of Transportation," or "Chairman of the Department of Transportation" appear in Article 9 they shall be deemed to include "county or municipal clerk". It is the intention of this subsection that the powers herein granted to municipalities for the purpose of acquiring rights-of-way shall be in addition to and supplementary to those powers granted in any local act or in any other general statute, and in any case in which the provisions of this subsection or Article 9 of this Chapter are in conflict with the provisions of any local act or any other provision of any general statute, then the governing body of the county or municipality may in its discretion proceed in accordance with the provisions of such local act or other general statute, or, as an alternative method of procedure, in accordance with the provisions of this subsection and Article 9 of this Chapter.

(h) Department Authority Concerning Rights-of-Way. – In the absence of an agreement, the Department of Transportation shall retain authority to pay the full cost of acquiring rights-of-way where the proposed project is deemed important to a coordinated State transportation system.

(i) Changes to Local Government Participation Agreement. – Either the local government or the Department of Transportation may at any time propose changes in the agreement setting forth their respective responsibilities by giving notice to the other party, but no change shall be effective until it is adopted by both the municipal governing body and the Department of Transportation.

(j) Local Governments Party to Rights-of-Way Proceeding. – Any municipality that agrees to contribute any part of the cost of acquiring rights-of-way for any State transportation system shall be a proper party in any proceeding in court relating to the acquisition of such rights-of-way.

(k) Repealed by Session Laws 2008-180, s. 6, effective August 4, 2008. (1959, c. 687, s. 3; 1965, c. 867; 1967, c. 1127; 1973, c. 507, s. 5; 1977, c. 464, s. 7.1; 1987, c. 747, s. 3; 1989, c. 595, ss. 2, 3; 1991, c. 21, s. 1; 2000-188, s. 1; 2001-245, s. 2; 2008-180, s. 6; 2009-266, s. 23; 2010-37, s. 1; 2013-183, s. 4.5; 2015-241, ss. 29.5(a), 29.12(f).)

#### **§ 136-66.4. Rules and regulations; authority of municipalities.**

The Department of Transportation shall have authority to adopt such rules and regulations as are necessary to carry out the responsibilities of the Department of Transportation under this Article, and municipalities shall have and may exercise such authority as is necessary to carry out their responsibilities under this Article. (1959, c. 687, s. 4; 1973, c. 507, s. 5; 1977, c. 464, s. 7.1.)

#### **§ 136-66.5. Improvements in urban areas to reduce traffic congestion.**

(a) The Department of Transportation is authorized to enter into contracts with municipalities for improvement projects which are a part of an overall plan authorized under the provisions of section 135 of Title 23 of the United States Code, the purpose of which is to facilitate the flow of people and goods in urban areas. In connection with these contracts, the Department of Transportation and the municipalities are authorized to enter into contracts for improvement projects on the municipal system of streets, and pursuant to contract with the municipalities, the Department of Transportation is authorized to construct or to let to contract the said improvement projects on streets on the municipal street system or other transportation system; provided that no portion of the cost of the improvements made on the municipal system shall be paid from Department of Transportation funds except the proportionate share of funds received from the United States Department of Transportation and allocated for the purposes set out in section 135 of Title 23 of the United States Code. Pursuant to contract with the Department of Transportation, the municipalities may construct or let to contract the said improvement projects on the municipal system and the Department of Transportation is authorized to pay over to the municipalities the proportionate share of funds received pursuant to section 135 of Title 23 of the United States Code; provided that no portion of the costs of the improvements made on the municipal system shall be paid for from the State Highway Fund except those received from the United States Department of Transportation and allocated for the purpose set out in section 135 of Title 23 of the United States Code.

(b) The municipalities are authorized to enter into contracts with the Department of Transportation for improvement projects which are a part of an overall plan authorized under the provisions of section 135 of Title 23 of the United States Code, the purpose of which is to facilitate the flow of traffic in urban areas, on the State highway system streets within the municipalities with the approval of the United States Department of Transportation. Pursuant to contract for the foregoing improvement projects, the municipalities are authorized to construct or let to contract the said improvement projects and the Department of Transportation is authorized to reimburse the municipalities for the cost of the construction of the said improvement projects.

(c) The municipalities in which improvements are made pursuant to section 135 of Title 23 of the United States Code shall provide proper maintenance and operation of such completed projects and improvements on the municipal system streets and other transportation infrastructure or will provide other means for assuring proper maintenance and operation as is required by the

Department of Transportation. In the event the municipality fails to maintain such project or provide for their proper maintenance, the Department of Transportation is authorized to maintain the said projects and improvements and deduct the cost from allocations to the municipalities made under the provisions of G.S. 136-41.1. (1969, c. 794, s. 1; 1973, c. 507, ss. 5, 19; 1977, c. 464, s. 7.1; 2009-266, s. 24.)

**§ 136-66.6. Arrangements in a consolidated city-county.**

The provisions of this Article applying to municipalities apply to each consolidated city-county with respect to each urban service district defined by its governing board that includes the total area of a previously existing municipality in the same manner as if the urban service district were a municipality. The provisions of this Article do not apply to any consolidated city-county with respect to an urban service district defined by its governing board within previously unincorporated areas of the county unless the governing board determines that street services are to be provided within such urban service district. (1973, c. 537, s. 7.)

**§ 136-66.7. Authority to include a Municipal Street System street in right-of-way of State Highway System.**

(a) Notwithstanding any other provisions of Article 3A of Chapter 136, the provisions of Article 15 of Chapter 160A, or of any other statute, the Department of Transportation may include all or part of a Municipal Street System street as part of the right-of-way of a State Highway System street, highway, or bridge whenever the Board of Transportation determines that inclusion of the Municipal Street System street is necessary to improve, relocate, or construct a State Highway System street, highway, or bridge.

(b) Beginning January 1, 1985, the Department may not exercise such authority unless 90 days written notice to the governing body of the affected municipality is provided; and the Department shall hold a public hearing on the issue with 30 days published notice upon the written official request of the governing body received by the Department no less than 45 days after receipt of the notice to the governing body. (1983 (Reg. Sess., 1984), c. 1020.)

**§ 136-66.8. Agreements with units of local government to expedite projects.**

(a) Agreements Authorized. – The Department of Transportation may enter into agreements with units of local government for either of the following purposes:

- (1) Expediting transportation projects currently programmed in the Transportation Improvement Program.
- (2) Funding preliminary engineering for projects not currently programmed in the Transportation Improvement Program but programmed in the immediately preceding Transportation Improvement Program.

(b) Form of Project Agreements. – The agreements authorized by subdivision (1) of subsection (a) of this section shall be between the Department of Transportation and units of local government. The agreements may authorize units of local government to construct projects scheduled in the Transportation Improvement Program more than two years from the date of the agreement. The units of local government shall fund one hundred percent (100%) of the project at current prices. In a future year, when the project is funded from State and federal sources, the units of local government shall be reimbursed an appropriate share of the funds, at the future programmed project funding amount, as identified and scheduled in the Transportation Improvement Program.

(b1) Form of Preliminary Engineering Agreement. – The agreements authorized by subdivision (2) of subsection (a) of this section shall be between the Department of Transportation and units of local government. The units of local government shall fund one hundred percent (100%) of the preliminary engineering funding at current prices. In a future year, when the project is funded from State and federal sources, the units of local government shall be reimbursed for the amount expended in accordance with the agreement.

(c) Report. – The Department of Transportation shall annually report to the Joint Legislative Transportation Oversight Committee by December 1 on any agreements executed with units of local government pursuant to this section. (2006-135, s. 3; 2017-57, s. 34.12C.)

**§ 136-66.9. Reserved for future codification purposes.**