



ALAN WILSON
ATTORNEY GENERAL

October 07, 2021

Mr. Michael D. Smith
Town Administrator
Town of Cheraw
P.O. Box 219
Cheraw, SC 29520

Dear Mr. Smith:

Attorney General Alan Wilson has referred your letter to the Opinions section. The letter states the following:

The Town of Cheraw has been approached by a family about concerns of tractor-trailers or eighteen wheelers traveling down a stretch of roads that lead pass by their residence. The husband/wife who moved to Cheraw less than three years ago live on Market Street which is also part of SC Highway 9, US 1 and US 52 Highways. They are concerned with the trucks traveling down Market Street and point out that the Town has a ban on these trucks traveling down certain streets of Cheraw and the Town is not enforcing the ordinance. I have attached a copy of our ordinance of prohibition of truck traffic in residential areas.

Years ago the Town did have a by-pass built to eliminate truck traffic coming down Market Street, but several industries in the area complained about the number of their trucks that would have to go out of their way and cost the companies more in travel expenses and as a result the Town Council voted to allow exceptions.

...

I reached out to an attorney and he felt the Town had a pretty restrictive truck ordinance and a total ban of trucks might be in conflict with interstate commerce and be viewed as a "taking" of the trucking companies' right to travel down a state or federal owned road.

Although there is an existing "alternate truck route" that does go around Cheraw and it has been used by trucks and effectively reduced the number of trucks

traveling down Market Street by a great amount I have no idea if the complete banning of trucks traveling on state and federal roads is legal.

The attachments to your letter included section 10-7 of the Code of Ordinances, Town of Cheraw, South Carolina (the "Ordinance") which is titled "Prohibition of truck traffic in residential areas." The Ordinance defines "No truck zone" as "an area comprised of all roads within the town limits of Cheraw Trucks ... are not allowed in the no truck zone unless they are delivering to or taking on freight from a business located within the no truck zone." Id. The Ordinance also establishes an alternate truck route¹ and lists exceptions for deliveries or pick up from businesses located within town limits.²

Law/Analysis

It is this Office's opinion that local authorities are authorized to prohibit the operation of specified classes or sizes of motor vehicle, trailer or semitrailer on highways within their jurisdictions subject to the limitations described below. See S.C. Code Ann. §§ 56-5-4210, -4220.³ Chapter 5, of Title 56 of the South Carolina Code of Laws defines "local authorities" as "[e]very county and municipality in this State and any other local board or body having authority to maintain any public highways or to regulate the traffic thereon, but not including the Department of Public Safety." S.C. Code Ann. § 56-5-380. Section 56-5-4210 allows a local authority to regulate or prohibit:

the operation of any specified class or size of motor vehicle, trailer or semitrailer on any highways or specified parts thereof under its jurisdiction, whenever in its judgment, such regulation or prohibition is necessary to provide for the public safety and convenience on such highways or parts thereof by reason of traffic density, intensive use thereof by the traveling public or other reasons of public safety and convenience.

¹ Code of Ordinances § 10-7(c).

All trucks traveling through the Cheraw area to destinations outside of the no truck zone are prohibited from entering the no truck zone. All such trucks shall instead use the truck route, which is comprised of Highway 9, Highway 52 and Highway 1, as well as the truck route connecting Highway 9 to Highway 52 along the western side of Cheraw, and the truck route along the eastern side of Cheraw connecting Highway 1 and Highway 52 to a point where those highways rejoin Highway 1 and 52 and Highway 9.

² Code of Ordinances § 10-7(d) ("Trucks making deliveries or pickups inside no truck zone. Trucks are allowed to enter the no truck zone to deliver to or pick up freight from businesses located within the zone. Such trucks must have a bill of lading which verifies the point of delivery or pickup.").

³ See also S.C. Code § 56-5-710(A)(7) (stating that the provisions of this chapter are not intended "to prevent local authorities with respect to streets and highways under their jurisdiction and within the reasonable exercise of the police power from ... restricting the use of highways as authorized in Sections 56-5-4210 and 56-5-4220.").

However, section 56-5-4220 cautions that local authorities cannot establish restrictions “that would interfere with or interrupt traffic as authorized hereunder over state highways, including officially established detours for such highways ...unless such limitations and further restrictions shall have first been approved by the Department of Transportation.” S.C. Code Ann. § 56-5-4220 (emphasis added).

The Department of Transportation issued guidance outlining the process for local authorities to follow when requesting truck routes prohibitions.

1. A local government would request the section of roadway where they want to restrict through truck traffic (local truck traffic and deliveries must still be allowed) and must also recommend truck routing to bypass the restriction.

2. These requests will be handled at the District level with Headquarters Traffic Engineering providing assistance upon request from the District. District staff should review the requested truck routing to determine the feasibility of the truck restriction on the roadway segment and the alternate truck route. ... The South Carolina Truck Network should be included in the review as well to verify that there are no conflicts with the requested prohibition or alternate route. Truck prohibitions will not be allowed on any route on the South Carolina Truck Network.

...

4. If the review reveals that routing is feasible, SCDOT will request that the local government pass an ordinance for the restriction of the through truck traffic on the specified segment of roadway. This gives a legal description to the restriction and provides concurrence from the local government that will be responsible for enforcement of the restriction. This ordinance should also include or reference a description of the type of trucks prohibited which is typically a vehicle with greater than 6 wheels. This description permits small delivery trucks such as UPS/FedEx to operate without restriction and would not create issues with residents that drive dual-wheel pickup trucks.

...

S.C.D.O.T. Traffic Engineering Guidelines- TG-37 (emphasis added). If a highway is part of the South Carolina Truck Network, the local authority responsible for maintenance of the road can nominate it for deletion from the network. S.C. Code Ann. Regs. 63-394. Such nominations must be submitted in writing to the S.C.D.O.T.’s Director of Traffic Engineering. Id. Finally, if a local government seeks a prohibition on a highway that is federally designated, the Governor can petition the Secretary of Transportation of the United States for the removal of the designation. S.C. Code Ann. § 56-5-4075.

Conclusion


As discussed above, it is this Office's opinion that local authorities are authorized to prohibit the operation of specified classes or sizes of motor vehicle, trailer or semitrailer on highways within their jurisdictions subject to the limitations described above. See S.C. Code Ann. §§ 56-5-4210, -4220. The Department of Transportation has issued guidance outlining the process for local authorities to follow when requesting truck routes prohibitions. See S.C.D.O.T. Traffic Engineering Guidelines- TG-37.

Sincerely,



Matthew Houck
Assistant Attorney General

REVIEWED AND APPROVED BY:


Robert D. Cook
Solicitor General