

1 19A NCAC 02E .0201 is proposed for readoption without substantive changes as follows:

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3 **19A NCAC 02E .0201 DEFINITIONS FOR OUTDOOR ADVERTISING CONTROL**

4 In addition to the definitions set forth in G.S. 136-128, the following definitions shall apply for purposes of outdoor  
5 advertising control:

- 6 (1) Abandoned Sign: A sign that is not being maintained as required by the rules in this Section. The  
7 absence of a valid lease is one indication of an abandoned sign. An outdoor advertising sign  
8 structure shall be considered to be abandoned if for a period of 12 months the sign has been without  
9 a message, contains obsolete advertising matter, or is significantly damaged or dilapidated.
- 10 (2) Automatic Changeable Facing Sign: A sign, display, or device which changes the message or copy  
11 on the sign facing electronically by movement or rotation of panels or slats, or by digital means.
- 12 (3) Blank Sign: A sign structure on which all faces contain no message, or which contains only a  
13 telephone number advertising its availability.
- 14 (4) Comprehensive Zoning: Zoning by local zoning authorities of each parcel of land under the  
15 jurisdiction of the local zoning authority placed in a zoning classification pursuant to a  
16 comprehensive plan, or reserved for future ~~classification.~~ classification:
- 17 (a) A comprehensive plan means a development plan which guides decisions by the local  
18 zoning authority relating to zoning and the growth and development of the ~~area.~~ area;
- 19 (b) Even if comprehensively enacted, the following criteria shall determine whether such  
20 zoning is enacted primarily to permit outdoor advertising:
- 21 (i) The zoning classification provides for limited commercial or industrial activity  
22 only incidental to other primary land uses;
- 23 (ii) The commercial or industrial activities are permitted only by variance or special  
24 exceptions; or
- 25 (iii) The zoning constitutes spot or strip zoning. "Spot zoning" or "strip zoning" is  
26 zoning designed primarily for the purpose of permitting outdoor advertising signs  
27 in an area which would not normally permit outdoor advertising.
- 28 (5) Conforming Sign: A sign legally erected in a zoned or unzoned commercial or industrial area which  
29 meets all current legal requirements for erecting a new sign at that site.
- 30 (6) Controlled Access Highway: A highway on which entrance and exit accesses are permitted only at  
31 designated points.
- 32 (7) Controlled Route: Any interstate or federal-aid primary highway as it existed on June 1, 1991, and  
33 any highway which is or becomes a part of the National Highway System (NHS).
- 34 (8) Destroyed Sign: A sign no longer in existence due to factors other than vandalism or other criminal  
35 or tortious acts. An example of a destroyed sign includes a sign which has been blown down by the  
36 wind and sustains damage in excess of 50 percent as determined by the criteria in 19A NCAC 02E  
37 .0225(f).

- 1 (9) Dilapidated Sign: A sign which is shabby, neglected, or in disrepair, or which fails to be in the same  
2 form as originally constructed, or which fails to perform its intended function of conveying a  
3 message. Characteristics of a dilapidated sign include, but are not limited to, structural support  
4 failure, a sign not supported as originally constructed, panels or borders missing or falling off,  
5 intended messages cannot be interpreted by the motoring public, or a sign which is blocked by  
6 overgrown vegetation outside the highway right of way.
- 7 (10) Directional Sign: A sign which contains directional information about public places owned or  
8 operated by federal, state, or local governments or their agencies; publicly or privately owned  
9 natural phenomena, historic, cultural, scientific, educational, and religious sites; and areas of natural  
10 scenic beauty or naturally suited for outdoor recreation, deemed to be in the interest of the traveling  
11 public. Directional and other official signs and notices include, but are not limited to, public utility  
12 signs, service club and religious notices, or public service signs.
- 13 (a) Public Service Sign: A sign located on a school bus stop shelter which meets all the  
14 following requirements:
- 15 (i) identifies the donor, sponsor or contributor of said shelter;
- 16 (ii) is located on a school bus shelter which is authorized or approved by city, county,  
17 or state law, regulation, or ordinance, and at places approved by the city, county,  
18 or state agency controlling the highway involved;
- 19 (iii) contains only safety slogans or messages which shall occupy not less than 60  
20 percent of the area of the sign;
- 21 (iv) does not exceed 32 square feet in area; and
- 22 (v) contains not more than one sign facing in any one direction.
- 23 (b) Public Utility Sign: A warning sign, informational sign, notice or other marker customarily  
24 erected and maintained by publicly or privately owned utilities, which are essential to their  
25 operations.
- 26 (c) Service Club and Religious Notices: Any sign or notice authorized by law which relates  
27 to meetings of nonprofit service clubs, charitable associations, or religious services. These  
28 signs shall not exceed eight square feet in area.
- 29 (11) Discontinued Sign: A sign no longer in existence. A discontinued sign includes a sign of which  
30 any part of a sign face is missing more than 180 days. In some cases, a sign may be both  
31 discontinued and dilapidated.
- 32 (12) Fully Controlled Access Highway: Freeway: A divided ~~arterial~~ highway for through traffic with full  
33 control of access.
- 34 (13) Highway: A highway that is designated as a part of the interstate or federal-aid primary highway  
35 system as of June 1, 1991, or any highway which is or becomes a part of the National Highway  
36 System. A highway shall be a part of the National Highway System on the date the location of the  
37 highway has been approved finally by the appropriate federal authorities.

- 1 (14) Lease: An agreement, in writing, by which possession or use of land or interests therein is given  
2 for a specified purpose and period of time, and which is a valid contract under North Carolina laws.
- 3 (15) Main Traveled Way or Traveled Way: Part of a highway on which through traffic is carried,  
4 exclusive of paved shoulders. In the case of a divided highway, the traveled way of each of the  
5 separated roadways for traffic in opposite directions is a traveled way. It does not include frontage  
6 roads, turning roadways, or parking areas.
- 7 (16) Nonconforming Sign: A sign which was lawfully erected but which does not comply with the  
8 provisions of State law or rules passed at a later date or which later fails to comply with State law  
9 or rules due to changed conditions. Also includes a sign legally erected prior to the effective date  
10 of the Outdoor Advertising Control Act or prior to the addition of a route to the interstate or federal-  
11 aid primary system or National Highway System in a zoned or unzoned commercial or industrial  
12 area which does not meet all current standards for erecting a new sign at that site. For purposes of  
13 the outdoor advertising rules, nonconforming signs also include those signs which have become  
14 nonconforming pursuant to 19A NCAC 02E .1002(d) on scenic byways which were part of the  
15 interstate or federal-aid primary highway system as of June 1, 1991, or which are or become a part  
16 of the National Highway System.
- 17 (17) Official Sign/Notice: A sign or notice erected and maintained by public officers or public agencies  
18 within their territorial or zoning jurisdictions and pursuant to and in accordance with federal, state,  
19 or local law for the purpose of carrying out an official duty or responsibility. Official signs and  
20 notices include, but are not limited to, historical markers authorized by state law and erected by state  
21 or local government agencies or nonprofit historical societies.
- 22 (18) On-premise/On-property Sign: A sign which advertises the sale or lease of property upon which it  
23 is located or which advertises an activity conducted or product for sale on the property upon which  
24 it is located. An on-premise sign may not be converted to a permitted outdoor advertising sign  
25 unless it meets all rules in effect at the time of the conversion request. An on-premise sign must be  
26 located on property contiguous to the property on which the activity is located. Tracts not  
27 considered to be contiguous include, but are not limited to:
- 28 (a) Tracts of land separated by a federal, state, city, or public access maintained road;  
29 (b) Tracts of land not under common ownership; or  
30 (c) Tracts of land held in different estates or interests.
- 31 (19) Parkland: Any publicly owned land which is designated or used as a public park, recreation area,  
32 wildlife or waterfowl refuge or historic site.
- 33 (20) Permit Holder: A permit holder shall be the sign owner, and for purposes of the rules in this Section  
34 the terms and definitions shall be interchangeable, unless the Department of Transportation, through  
35 the appropriate district office, has been notified in writing that the permit holder is a person or entity  
36 other than the actual owner of the sign. In this case, the actual sign owner's name, mailing address,  
37 and telephone number must be declared.

- 1 (21) Salvageable Sign Components: Components of the original sign structure prior to the damage that  
2 can be repaired or replaced on site by the use of labor only. If any materials, other than nuts, bolts,  
3 nails or similar hardware, are required in order to repair a component, the component is not  
4 considered to be salvageable.
- 5 (22) Scenic Area: Any area of particular beauty or historical significance as determined by the federal,  
6 state, or local official having jurisdiction thereof, and includes interests in land which have been  
7 acquired for the restoration, preservation and enhancement of beauty.
- 8 (23) Scenic Byway: A scenic highway or scenic byway designated by the Board of Transportation,  
9 regardless of whether the route so designated was part of the interstate or federal-aid primary  
10 highway system as of June 1, 1991, or any highway which is or becomes a part of the National  
11 Highway System.
- 12 (24) Sign: Any outdoor sign, sign structure, display, light, device, figure, painting, drawing, message,  
13 placard, poster, billboard, or other object which is designed, intended, or used to advertise or inform.  
14 A sign includes any of the parts or material of the structure, such as beams, poles, posts, and  
15 stringers, the only eventual purpose of which is to ultimately display a message or other information  
16 for public view. For purposes of these rules, the term "sign" and its definition shall be  
17 interchangeable with the following terms: outdoor advertising, outdoor advertising sign, outdoor  
18 advertising structure, outdoor advertising sign structure, sign structure, and structure.
- 19 ~~(25) Sign Conforming by Virtue of the "Grandfather Clause:" A sign legally erected prior to the effective~~  
20 ~~date of the Outdoor Advertising Control Act or prior to the addition of a route to the interstate or~~  
21 ~~federal aid primary system or NHS in a zoned or unzoned commercial or industrial area which does~~  
22 ~~not meet all current standards for erecting a new sign at that site.~~
- 23 ~~(26)~~(25) Sign Face: The part of the sign, including trim and background, which contains the message or  
24 informative contents. For purposes of measuring the maximum area or height of a sign,  
25 embellishments or extended advertising shall be excluded.
- 26 ~~(27)~~(26) Sign Location/Site: A sign location or site for purposes of these rules shall be ~~measured to the~~  
27 ~~closest 1/100th of a mile, in conformance with Department of Transportation methods of~~  
28 ~~measurement for all state roads.~~ the latitude and longitude as determined by recreational grade  
29 global position system (GPS) equipment. The location or site shall be determined and listed on each  
30 outdoor advertising permit application by DOT personnel.
- 31 ~~(28)~~(27) Sign Owner: A sign owner shall be the permit holder of record, and for purposes of the rules in this  
32 Section the terms and definitions shall be interchangeable, unless the Department of Transportation,  
33 through the appropriate district office, has been notified in writing that the sign owner is a person  
34 or entity other than the actual holder of the permit. In this case, the actual sign owner's name,  
35 mailing address, and telephone number must be declared.

1 ~~(29)~~(28)Significantly Damaged Sign: A sign which has been damaged or partially destroyed due to factors  
2 other than vandalism or other criminal or tortious acts to such extent that the damage to the sign is  
3 greater than fifty percent as determined by the criteria in 19A NCAC ~~02E .0225(f)~~ .0225(d).

4 ~~(30)~~(29)Unzoned Commercial or Industrial Area: An area which is not zoned by state or local law,  
5 regulation, or ordinance, and which is within 660 feet of the nearest edge of the right of way of the  
6 interstate or federal-aid primary system or NHS, in which there is at least one commercial or  
7 industrial activity that meets all requirements specified in 19A NCAC 02E .0203(5).

8 ~~(31)~~(30)Zoned Commercial or Industrial Area: An area which is zoned for business, industry, commerce,  
9 or trade pursuant to a state or local zoning ordinance or regulation. Local zoning action must be  
10 taken pursuant to the state's zoning enabling statute or constitutional authority in accordance  
11 therewith. Zoning which is not part of comprehensive zoning or which is created primarily to permit  
12 outdoor advertising structures shall not be recognized as valid zoning for purposes of the Outdoor  
13 Advertising Control Act and the rules promulgated thereunder, unless the land is developed for  
14 commercial or industrial activity as defined under 19A NCAC 02E .0203(5).

15  
16 *History Note:* Authority G.S. 136-130;  
17 Eff. July 1, 1978;  
18 Amended Eff. August 1, 2000; December 1, 1993; March 1, 1993; December 1, 1990; January 1,  
19 1984.  
20

1 19A NCAC 02E .0202 is proposed for re adoption without substantive changes as follows:

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3 **19A NCAC 02E .0202 AGREEMENT**

4 (a) The Department of Transportation has entered into an agreement with the United States Department of  
5 Transportation relating to the control of outdoor advertising in areas adjacent to the interstate and federal-aid primary  
6 highway systems or NHS in accordance with Section 131(b), and Section 104 of Title 23 of the United States Code  
7 and Part 750 of Title 23 of the Code of Federal Regulations. To the extent that these federal regulations and subsequent  
8 amendments and editions are more restrictive than North Carolina Department of Transportation rules, these federal  
9 regulations are expressly incorporated by reference as part of this section. Copies of Title 23 of the United States Code  
10 are available from the Superintendent of Documents, Mail Stop SSOP, Washington, D.C. 20402-9328. The Code of  
11 Federal Regulations, Title 23, is available from the same address.

12 (b) A copy of this agreement is on permanent file in the Office of the Chief Engineer.

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14 *History Note: Authority G.S. 136-138; 143B-350(f); 150B-21.6;*

15 *Eff. July 1, 1978;*

16 *Amended Eff. December 1, 2012; August 1, 2000; November 1, 1993; December 1, 1990; June 15,*  
17 *1981.*

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1 19A NCAC 02E .0203 is proposed for readoption without substantive changes as follows:

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3 **19A NCAC 02E .0203 OUTDOOR ADVERTISING ON CONTROLLED ROUTES**

4 The following standards shall apply to the erection and maintenance of outdoor advertising signs in all zoned and  
5 unzoned commercial and industrial areas located within 660 feet of the nearest edge of the right of way of the  
6 controlled route. The standards shall not apply to those signs enumerated in G.S. 136-129(1), (2), (2a) and (3), which  
7 are directional and other official signs and notices, signs advertising the sale or lease of property upon which they are  
8 located, signs advertising the sale of crops at roadside stands, and signs which advertise activities conducted on the  
9 property upon which they are located.

10 (1) Configuration and Size of Signs:

- 11 (a) The maximum area for any one sign shall be 1,200 square feet with a maximum height of  
12 30 feet and maximum length of 60 feet, inclusive of any border and trim but excluding the  
13 base or apron, embellishments, extended advertising space, supports, and other structural  
14 ~~members.~~ members;
- 15 (b) The area shall be calculated by measuring the outside dimensions of face, excluding any  
16 apron, embellishments, or extended advertising ~~space.~~ space;
- 17 (c) The maximum size limitations shall apply to each side of a sign structure; the signs may  
18 be placed back-to-back, side-by-side; or in V-type construction with not more than two  
19 displays to each facing, and such sign structure shall be considered as one ~~sign.~~ sign;
- 20 (d) Side-by-side signs shall be structurally tied together to be considered as one sign structure.
- 21 (e) V-type and back-to-back signs shall not be considered as one sign if located more than 15  
22 feet apart at their nearest ~~points.~~ points;
- 23 (f) The height of any portion of the sign structure, excluding cutouts or embellishments, as  
24 measured vertically from the adjacent edge of pavement of the main traveled way shall not  
25 exceed 50 ~~feet.~~ feet; and
- 26 (g) Double-decking of sign faces so that one is on top of the other is prohibited.

27 (2) Spacing of Signs:

- 28 (a) Signs may not be located in a manner to obscure, or otherwise physically interfere with the  
29 effectiveness of any official traffic sign, signal, or device, or to obstruct or physically  
30 interfere with the driver's view of approaching, merging, or intersecting ~~traffic.~~ traffic;
- 31 (b) Controlled Routes with Fully Controlled Access: ~~Access (Freeways):~~
- 32 (i) No two structures shall be spaced less than 500 feet ~~apart.~~ apart; and
- 33 (ii) Outside the corporate limits of towns and cities, no structure may be located  
34 within 500 feet of an interchange, collector distributor, ~~intersection at grade,~~  
35 safety rest area or information center regardless of whether the main traveled way  
36 is within or outside the town or city limits. The 500 feet spacing shall be measured  
37 from the point at which the pavement widens and the direction of measurement

1 shall be along the edge of pavement away from the interchange, collector  
2 distributor, ~~intersection at grade~~, safety rest area or information center. In those  
3 interchanges where a quadrant does not have a ramp, the 500 feet for the quadrant  
4 without a ramp shall be measured along the outside edge of main traveled way for  
5 ~~freeways~~ highways as follows:

6 (A) Where a route is bridged over a ~~freeway~~ fully controlled access highway,  
7 the 500 foot measurement shall begin on the outside edge of pavement  
8 of the ~~freeway~~ fully controlled access highway at a point directly below  
9 the edge of the bridge. The direction of measurement shall be along the  
10 edge of pavement away from the ~~interchange~~ interchange;

11 (B) Where a ~~freeway~~ fully controlled access highway is bridged over another  
12 route, the 500 foot measurement shall be made from the end of the bridge  
13 in the quadrant. The direction of measurement shall be along the edge  
14 of main traveled way away from the ~~bridge~~ bridge; and

15 (C) Where the routes involved are both ~~freeways~~ fully controlled access  
16 highways, measurements on both routes shall be made according to (A)  
17 or (B) of this Subitem, whichever applies.

18 Should there be a situation where there is more than one point at which  
19 the pavement widens along each road within a quadrant, the  
20 measurement shall be made from the pavement widening which is  
21 farthest from the intersecting roadways.

22 (c) Controlled Routes Without Fully Controlled Access:

23 (i) Outside of incorporated towns and cities --no two structures shall be spaced less  
24 than 300 feet ~~apart~~ apart; and

25 (ii) Within incorporated towns and cities --no two structures shall be spaced less than  
26 100 feet apart.

27 (d) The foregoing provisions for the spacing of signs do not apply to structures separated by  
28 buildings or other obstructions in such a manner that only one sign facing located within  
29 the above spacing distances is visible from the highway at any one ~~time~~ time;

30 (e) Official and "on-premise" signs, as permitted under the provisions of G.S. 136-129(1), (2),  
31 (2a) and (3), and structures that are not lawfully maintained shall not be included nor shall  
32 measurements be made from them for purposes of determining compliance with spacing  
33 ~~requirements~~ requirements; and

34 (f) The minimum distance between structures shall be measured along the nearest edge of the  
35 main traveled way between points directly opposite the signs along each side of the  
36 highway and shall apply only to structures located on the same side of the highways.

37 (3) Lighting of Signs; Restrictions:



- 1 (a) Signs which contain, include, or are illuminated by any flashing, intermittent, or moving  
2 light or lights including animated or scrolling advertising, are prohibited, unless expressly  
3 allowed under Item 4, of this rule except those giving public service information such as  
4 time, date, temperature, weather, or similar ~~information.~~ information.
- 5 (b) Signs which are not effectively shielded as to prevent beams or rays of light from being  
6 directed at any portion of the traveled ways of the controlled routes and which are of such  
7 intensity or brilliance as to cause glare or to impair the vision of the driver of any motor  
8 vehicle, or which otherwise interfere with the operation of a motor vehicle are ~~prohibited.~~  
9 prohibited:
- 10 (c) No sign shall be so illuminated that it interferes with the effectiveness of, or obscures an  
11 official traffic sign, device, or ~~signal.~~ signal:
- 12 (d) All such lighting shall be subject to any other provisions relating to lighting of signs  
13 presently applicable to all highways under the jurisdiction of the ~~state.~~ state; and
- 14 (e) Lighting shall not be added to or used to illuminate nonconforming ~~signs.~~ signs or signs  
15 ~~conforming by virtue of the grandfather clause.~~
- 16 (4) Automatic Changeable Facing Sign:
- 17 (a) Automatic changeable facing signs shall be permitted on the controlled routes under the  
18 following conditions:
- 19 (i) The sign does not contain or display flashing, intermittent, or moving lights,  
20 including animated or scrolling advertising;
- 21 (ii) The changeable facing remains in a fixed position for at least eight seconds;
- 22 (iii) If a message is changed electronically, it must be accomplished within an interval  
23 of two seconds or less;
- 24 (iv) The sign is not placed within 1,000 feet of another automatic changeable facing  
25 sign on the same side of the highway;
- 26 (v) The 1000-foot distance shall be measured along the nearest edge of the pavement  
27 and between points directly opposite the signs along each side of the highway;
- 28 (vi) A legally conforming structure may be modified to an automatic changeable  
29 facing upon compliance with these standards and approval by the Department.  
30 An application for an outdoor advertising alteration permit shall be made on  
31 NCDOT form OA-1A, which may be obtained at any District Office or the  
32 NCDOT website. ~~Nonconforming or grandfathered~~ structures shall not be  
33 modified to an automatic changeable facing;
- 34 (vii) The sign must contain a default design that will freeze the sign in one position if  
35 a malfunction occurs; and
- 36 (viii) The sign application meets all other permitting requirements.
- 37 (b) The outdoor advertising permit shall be revoked for failure to comply with this Item.

1 (5) Unzoned Commercial or Industrial Area Qualification for Signs:

2 (a) To qualify an area unzoned commercial or industrial for the purpose of outdoor advertising  
3 control, one or more commercial or industrial activities shall meet all of the following  
4 criteria prior to submitting an outdoor advertising permit application:

5 (i) The activity shall maintain all necessary business licenses as may be required by  
6 applicable state, county or local law or ordinances;

7 (ii) The property used for the activity shall be listed for ad valorem taxes with the  
8 county and municipal taxing authorities as required by law;

9 (iii) The activity shall be connected to basic utilities including but not limited to  
10 power, telephone, water, and sewer, or septic service;

11 (iv) The activity shall have direct or indirect vehicular access and be a generator of  
12 vehicular traffic;

13 (v) The activity shall have a building designed with a permanent foundation, built or  
14 modified for its current commercial or industrial use, and the building must be  
15 located within 660 feet from the nearest edge of the right of way of the controlled  
16 route. Where a mobile home or recreational vehicle is used as a business or office,  
17 the following conditions and requirements also apply;

18 (A) The mobile home unit or recreational vehicle shall meet the North  
19 Carolina State Building Code criteria for commercial or business use.

20 (B) A self-propelled vehicle shall not qualify for use as a business or office  
21 for the purpose of these rules.

22 (C) All wheels, axles, and springs shall be removed.

23 (D) The unit shall be permanently secured on piers, pad, or foundation.

24 (E) The unit shall be tied down in accordance with local, state, or county  
25 requirements;

26 (vi) The commercial or industrial activity must be in active operation a minimum of  
27 six months prior to the date of submitting an application for an outdoor advertising  
28 permit;

29 (vii) The activity shall be open to the public during hours that are normal and  
30 customary for that type of activity in the same or similar communities but not less  
31 than 20 hours per week;

32 (viii) One or more employees shall be available to serve customers whenever the  
33 activity is open to the public; and

34 (ix) The activity shall be visible and recognizable as commercial or industrial from  
35 the main traveled way of the controlled route. An activity is visible when that  
36 portion on which the permanent building designed, built, or modified for its  
37 current commercial use can be clearly seen twelve months a year by a person of

1 normal visual acuity while traveling at the posted speed on the main traveled way  
2 of the controlled route adjacent to the activity. An activity is recognizable as  
3 commercial or industrial when its visibility from the main traveled way of the  
4 controlled route is sufficient for the activity to be identified as commercial or  
5 industrial.

6 (b) Each side of the controlled route shall be considered separately. All measurements shall  
7 begin from the outer edges of regularly used buildings, parking lots, storage or processing  
8 areas of the commercial or industrial activity, not from the property line of the activity and  
9 shall be along the nearest edge of the main traveled way of the controlled route.

10 (c) The proposed sign location must be within 600 feet of the activity.

11 (d) To qualify an area as unzoned commercial or industrial for the purpose of outdoor  
12 advertising control, none of the following activities shall be recognized:

13 (i) Outdoor advertising structures;

14 (ii) On-premise or on-property signs defined by Rule .0201(18) of this Section if the  
15 on-premise/on-property sign is the only part of the commercial or industrial  
16 activity that is visible from the main-traveled way;

17 (iii) Agricultural, forestry, ranching, grazing, farming, and related activities,  
18 including, but not limited to temporary wayside fresh produce stands;

19 (iv) Transient or temporary activities;

20 (v) Activities not visible and recognizable as commercial or industrial from the traffic  
21 lanes of the main traveled way;

22 (vi) Activities more than 660 feet from the nearest edge of the right of way;

23 (vii) Activities conducted in a building principally used as a residence;

24 (viii) Railroad tracks and minor sidings;

25 (ix) Any outdoor advertising activity or any other business or commercial activity  
26 carried on in connection with an outdoor advertising activity; and

27 (x) Illegal junkyards, as defined in G.S. 136-146, and nonconforming junkyards as  
28 set out in G.S. 136-147;

29  
30 *History Note: Authority G.S. 136-130;*

31 *Eff. July 1, 1978;*

32 *Amended Eff. August 1, 2000; November 1, 1993; December 1, 1990; November 1, 1988.*

1 19A NCAC 02E .0204 is proposed for re adoption without substantive changes as follows:

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3 **19A NCAC 02E .0204 LOCAL ZONING AUTHORITIES**

4 Local zoning authorities may certify to the Board of Transportation when they have established effective control  
5 within zoned commercial and industrial areas, through regulations or ordinances with respect to size, lighting and  
6 spacing of outdoor advertising signs consistent with the intent of the Highway Beautification Act of 1965, Section  
7 131 of Title 23 of the United States Code, and with customary use. Upon authorization from the Chief Engineer to  
8 the local zoning authority, the size, lighting and spacing requirements set forth in G.S. 136 Articles 11 and 11A or  
9 19A NCAC 02E .0200, will not apply to those areas and the local zoning authority shall be authorized to issue permits  
10 for the erection and maintenance of outdoor advertising signs.

11

12 *History Note: Authority G.S. 136-130;*

13 *Eff. July 1, 1978;*

14 *Amended Eff. December 1, 2012; November 1, 1993.*

15

1 19A NCAC 02E .0206 is proposed for readoption without substantive changes as follows:

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3 **19A NCAC 02E .0206 APPLICATIONS**

4 (a) An application for an outdoor advertising permit shall be made on NCDOT form OA-1, which may be obtained  
5 at any District Office or the NCDOT website at [www.ncdot.gov](http://www.ncdot.gov). Upon completion, the application shall be submitted  
6 to the district office for the district where the proposed site is located. The application shall be submitted by Certified  
7 Mail and include the following attachments:

- 8 (1) A written lease or written proof of interest in the land where a sign is proposed to be constructed.  
9 An applicant may delete information pertaining to term and amount of lease;
- 10 (2) A right of entry form to provide the right of entry from the property owner or adjacent property  
11 owners to allow DOT personnel to enter upon property when necessary for the enforcement of the  
12 Outdoor Advertising Control Act or these rules;
- 13 (3) If zoned, a written statement from the local zoning authority indicating the present zoning of the  
14 parcel and its effective date. Upon request of the district engineer or designee, ~~engineer~~, the  
15 applicant shall submit copies of minutes from the appropriate zoning authority pertinent to the  
16 zoning action;
- 17 (4) If the area is an unzoned commercial or industrial area, a copy of the documentation confirming that  
18 the requirements under .19A NCAC 02E .0203(5)(a)(i) and (ii) have been met;
- 19 (5) A sign permit of zoning permit, if required by the local government having jurisdiction over the  
20 proposed location;
- 21 (6) A written certification from the sign owner indicating there has been no misrepresentation of any  
22 material facts regarding the permit application, or other information supplied to acquire a permit;  
23 and
- 24 (7) The initial nonrefundable permit fee.

25 (b) Any omission of attachments or certification required in Items (1) through (7) in this Rule may cause the rejection  
26 of the application. If the application is incomplete, the entire application package, including application fee, shall be  
27 returned to the applicant.

28  
29 *History Note: Authority G.S. 136-130;*  
30 *Eff. July 1, 1978;*  
31 *Amended Eff. August 1, 2000; November 1, 1993; December 1, 1990; June 15, 1981.*  
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1 19A NCAC 02E .0207 is proposed for readoption without substantive changes as follows:

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3 **19A NCAC 02E .0207 FEES AND RENEWALS**

4 (a) Initial and annual renewal fees shall be paid by the sign owners for each permit requested in order to defer the  
5 costs of the administrative and inspection expenses incurred by the Division of Highways of the Department of  
6 Transportation in administering the permit procedures.

7 (b) An initial nonrefundable fee of ~~one hundred and twenty dollars (\$120.00)~~ as defined in G.S. 136-133 per outdoor  
8 advertising structure shall be submitted with each permit application for a new permit and for an alteration permit and  
9 an annual nonrefundable renewal fee of ~~sixty dollars (\$60.00)~~ as defined in G.S. 136-133 per sign structure shall be  
10 paid by the sign owners on or before April 15 of each year to the appropriate District Engineer's office. ~~district~~  
11 ~~engineer.~~ Sign owners must return the information required under Paragraph (c) of this Rule with their annual renewal  
12 fees.

13 (c) The Division of Highways of the Department of Transportation shall send an invoice for the annual renewal fee  
14 to each sign owner/permit holder with a valid permit. For a renewal to be approved, the sign owner/permit holder  
15 must submit the signed invoice along with the renewal fee. If requested, the permit holder/sign owner shall provide a  
16 valid lease or other proof of interest in the land where the sign is located. Failure to submit this documentation within  
17 30 days of written request from the District Engineer's office ~~Engineer~~ by certified mail will subject the permit to  
18 revocation under 19A NCAC 2E .0210(4).

19

20 *History Note: Authority G.S. 136-130; 136-133;*  
21 *Eff. July 1, 1978;*  
22 *Amended Eff. November 1, 1993; October 1, 1991; December 1, 1990; July 1, 1986;*  
23 *Temporary Amendment Eff. November 16, 1999;*  
24 *Amended Eff. August 1, 2000.*

25

26

1 19A NCAC 02E .0208 is proposed for readoption without substantive changes as follows:

2  
3 **19A NCAC 02E .0208 PERMIT AND PERMIT EMBLEM**

4 (a) A permit shall be issued for lawful outdoor advertising structures by the Division of Highways of the Department  
5 of Transportation upon proper application, approval, and the payment of the nonrefundable initial permit fee.

6 (b) The erection of new outdoor advertising structures shall not commence until a permit has been approved and the  
7 emblem issued. The outdoor advertising structure except all sign faces must be completely constructed and erected  
8 within 180 days from the date of approval of the permit and issuance of the emblem. If the outdoor advertising  
9 structure except sign faces is not constructed within 180 days from the date of approval of the permit and issuance of  
10 the emblem then any intervening rule change shall apply to the sign structure. During the 180 day period, the new  
11 outdoor advertising structure shall be considered in existence for the purpose of spacing of adjacent signs as set out in  
12 the rules in this Section.

13 (c) The permit holder/sign owner shall notify the appropriate Division of Highways ~~District Engineer's office district~~  
14 ~~engineer~~ by certified mail, return receipt requested, within 10 days after the outdoor advertising structure is completed  
15 that it is ready for final inspection.

16 (d) Prior to notifying the appropriate District ~~Engineer's office Engineer~~ that the structure has been completed, the  
17 sign owner shall place the emblem, which will have an identifying number, on the outdoor advertising structure in  
18 such a position as to be visible and readable from the main traveled way of the controlled route.

19 (e) Prior to notifying the appropriate District ~~Engineer's office Engineer~~ that the structure has been completed, the  
20 sign owner shall affix the name of the person, firm, or corporation owning or maintaining the outdoor advertising sign  
21 to the sign structure in sufficient size to be clearly visible from the main traveled way of the controlled route.

22 (f) Within 90 days after receiving notice that an outdoor advertising structure is complete, the appropriate District  
23 ~~Engineer's office Engineer~~ shall inspect the structure. If the structure fails to comply with the Outdoor Advertising  
24 Control Act or the rules in this Section, the District ~~Engineer's office Engineer~~ shall advise the permit holder/sign  
25 owner by certified mail of the manner in which the structure fails to comply and that the structure must be made to  
26 comply within 30 days of receipt of the notice or removed.

27 (g) Replacements for emblems that are missing or illegible may be obtained from the district engineer or designee by  
28 submitting a written request accompanied by a copy of the permit application which approved the original emblem.

29  
30 *History Note: Authority G.S. 136-130;*  
31 *Eff. July 1, 1978;*  
32 *Amended Eff. August 1, 2000; November 1, 1993; December 1, 1990.*  
33

1 19A NCAC 02E .0209 is proposed for readoption without substantive changes as follows:

2

3 **19A NCAC 02E .0209 TRANSFER OF PERMIT/CHANGE OF ADDRESS**

4 Within 30 days after ownership of a permitted outdoor advertising sign is transferred, the previous or new owner shall  
5 submit a written notice, signed by the transferring owner and notarized, to the ~~district engineer~~ District Engineer's  
6 office for the county in which the sign is located. A permit holder/sign owner must provide the appropriate ~~district~~  
7 ~~engineer~~ District Engineer's office with written notice of any change of address within 30 days of the address change.

8 Should a permit holder/sign owner fail to provide written notice of a transfer of permit or change of address, a  
9 revocation of a permit for one of the reasons specified in Rule .0210 of this Section shall stand and shall not be affected  
10 by failure to notify the ~~district engineer~~ District Engineer's office of such changes.

11

12 *History Note: Authority G.S. 136-130;*  
13 *Eff. July 1, 1978;*  
14 *Amended Eff. August 1, 2000; November 1, 1993.*

15



1 19A NCAC 02E .0210 is proposed for readoption without substantive changes as follows:

2  
3 **19A NCAC 02E .0210 REVOCATION OF OUTDOOR ADVERTISING PERMIT**

4 The appropriate ~~district engineer~~ District Engineer's office shall revoke a permit for a lawful outdoor advertising  
5 structure based on any of the following:

- 6 (1) mistake of facts by the issuing District ~~Engineer~~ Engineer's office for which had the correct facts  
7 been known, he would not have issued the outdoor advertising permit;
- 8 (2) misrepresentations of any facts made by the permit holder or sign owner and on which the District  
9 ~~Engineer~~ Engineer's office relied in approving the outdoor advertising permit application;
- 10 (3) misrepresentation of facts to any regulatory authority with jurisdiction over the sign by the permit  
11 holder or sign owner, the permit applicant or the owner of property on which the outdoor advertising  
12 structure is located;
- 13 (4) failure to pay annual renewal fees or provide the documentation requested under Rule .0207(c) of  
14 this Section;
- 15 (5) failure to construct the outdoor advertising structure except all sign faces within 180 days from the  
16 date of issuance of the outdoor advertising permit;
- 17 (6) a determination upon inspection of an outdoor advertising structure that it fails to comply with the  
18 Outdoor Advertising Control Act or the rules in this Section;
- 19 (7) any alteration of an outdoor advertising structure for which a permit has previously been issued  
20 which would cause that outdoor advertising structure to fail to comply with the provisions of the  
21 Outdoor Advertising Control Act or the rules adopted pursuant thereto;
- 22 (8) alterations to a nonconforming sign ~~or a sign conforming by virtue of the grandfather clause~~ other  
23 than reasonable repair and maintenance as defined in Rule .0225(c). For purposes of this Rule,  
24 alterations include:
  - 25 (a) enlarging a dimension of the sign facing or raising the height of the sign;
  - 26 (b) changing the material of the sign structure's support;
  - 27 (c) adding a pole or poles; or
  - 28 (d) adding illumination;
- 29 (9) failure to affix the emblem as required by Rule .0208 of this Section or failure to maintain the  
30 emblem so that it is visible and readable from the main-traveled way or controlled route;
- 31 (10) failure to affix the name of the person, firm, or corporation owning or maintaining the outdoor  
32 advertising sign to the sign structure in sufficient size to be visible as required by Rule .0208 of this  
33 Section;
- 34 (11) unlawful destruction or illegal cutting of trees, shrubs or other vegetation within the right-of-way of  
35 any State-owned or State-maintained highway as specified in G.S. 136-133.1(i);
- 36 (12) unlawful use of a controlled access facility for purposes of repairing, maintaining or servicing an  
37 outdoor advertising sign where an investigation reveals that the unlawful violation was conducted

1 actually or by design by the sign owner or permit holder, the lessee or advertiser employing the sign,  
2 the owner of the property upon which the sign is located, or any of their employees, agents, or  
3 assigns, including independent contractors hired by any of the above persons; and

4 (a) involved the use of highway right of way for the purpose of repairing, servicing, or  
5 maintaining a sign including stopping, parking, or leaving any vehicle whether attended or  
6 unattended, on any part or portion of the right of way except as authorized by the  
7 Department of Transportation, including activities authorized by the Department for  
8 selective vegetation removal pursuant to G.S. 136-131.1, G.S. 136-131.2 and G.S. 136-  
9 133.4. Access from the highway main travel way shall be allowed only for surveying or  
10 delineation work in preparation for and in the processing of an application for a selective  
11 vegetation removal permit; or

12 (b) involved crossing the control of access fence to reach the sign structure, except as  
13 authorized by the Department, including those activities referenced in Sub-Item (a) of this  
14 Item;

- 15 (13) maintaining a blank sign for a period of 12 consecutive months;
- 16 (14) maintaining an abandoned, dilapidated, or discontinued sign;
- 17 (15) a sign that has been destroyed or significantly damaged as determined by Rule .0201(8) and (29) of  
18 this Section;
- 19 (16) moving or relocating a nonconforming sign ~~or a sign conforming by virtue of the grandfather clause~~  
20 which changes the location of the sign; sign as determined by Rule .0201(27) of this Section;
- 21 (17) failure to erect, maintain, or alter an outdoor advertising sign structure in accordance with the North  
22 Carolina Outdoor Advertising Control Act, codified in G.S. 136, Article 11, and the rules adopted  
23 pursuant thereto; and
- 24 (18) willful failure to substantially comply with all the requirements specified in a vegetation removal  
25 permit if such willful failure meets the standards of G.S. 136-133.1(i) as specified in G.S. 136-  
26 133.4(e).

27  
28 *History Note: Authority G.S. 136-93; 136-130; 136-133; 136-133.1(i); 136-133.4(e);*  
29 *Eff. July 1, 1978;*  
30 *Amended Eff. August 1, 2000; May 1, 1997; November 1, 1993; March 1, 1993; October 1, 1991;*  
31 *December 1, 1990;*  
32 *Temporary Amendment Eff. March 1, 2012;*  
33 *Amended Eff. November 1, 2012.*  
34

1 19A NCAC 02E .0212 is proposed for re adoption without substantive changes as follows:

2

3 **19 NCAC 02E .0212 NOTICE GIVEN FOR REVOKING PERMIT**

4 (a) Prior to the revocation of an outdoor advertising permit, the ~~district engineer~~ District Engineer’s office shall notify  
5 the permit holder/sign owner by certified mail of the alleged violation under Rule .0210 of this Section. The permit  
6 holder/sign owner shall be given thirty (30) days in which to bring the sign into compliance, if permissible by these  
7 rules, or provide information concerning the alleged violation to the district engineer or designee to be considered  
8 prior to the actual revocation. The ~~district engineer~~ District Engineer’s office shall consider the information provided  
9 by the permit holder prior to any revocation of a permit.

10 (b) When, in the opinion of the District ~~Engineer~~, Engineer’s office, a violation of Rule .0210 of this Section has  
11 occurred, he shall so notify the permit holder/sign owner for the outdoor advertising structure by certified mail, return  
12 receipt requested, stating the factual and statutory or regulatory basis for the revocation, and include a copy of the  
13 Outdoor Advertising rules The notification shall also state that because the structure is in violation of the provisions  
14 of the Outdoor Advertising Control Act or the rules in this Section, the structure is unlawful and a nuisance and that  
15 if the structure is not removed or made to conform to the provisions of the act or the rules within 30 days after receipt  
16 of the notification, if permitted by these rules, the Department of Transportation or its agents shall, at the expense of  
17 the permit holder/sign owner, remove the outdoor advertising structure.

18 (c) An outdoor advertising structure cannot be made to conform to the Outdoor Advertising Control Act or these  
19 Rules when the permit is revoked under 19A NCAC 2E .0210 (2),(3),(11), or (12).

20

21 *History Note: Authority G.S. 136-130; 136-134;*  
22 *Eff. July 1, 1978;*  
23 *Amended Eff. August 1, 2000; November 1, 1993; December 1, 1990; June 15, 1981.*

24

1 19A NCAC 02E .0213 is proposed for readoption without substantive changes as follows:

2

3 **19A NCAC 02E.0213 APPEAL OF DECISION OF DISTRICT ~~ENGINEER~~ENGINEER'S OFFICE TO**  
4 **SEC. OF TRANS.**

5 (a) Should any permit applicant or permit holder/sign owner disagree with a decision of the appropriate ~~district~~  
6 ~~engineer~~District Engineer's office pertaining to the denial or revocation of a permit for outdoor advertising or the  
7 determination that an outdoor advertising structure is illegal, the permit applicant or permit holder/sign owner shall  
8 have the right to appeal to the Secretary of Transportation pursuant to the procedures hereinafter set out.

9 (b) Within 30 days from the time of the receipt of the decision of the ~~district engineer~~District Engineer's office  
10 permit applicant or permit holder/sign owner shall submit a written appeal to the Secretary of Transportation setting  
11 forth with particularity the facts and arguments upon which the appeal is based. The appeal shall be sent to the  
12 Secretary by certified mail, return receipt requested, with a copy to the ~~district engineer~~District Engineer's office.

13 (c) Upon receipt of the written appeal, the Secretary of Transportation shall review the written appeal and the District  
14 Engineer's office's decision, as well as any available documents, exhibits, or other evidence bearing on the appeal,  
15 and shall render the final agency decision, supported by findings of fact and conclusions of law. The final agency  
16 decision shall be served upon the appealing party by certified mail, return receipt requested, no later than 90 days after  
17 the Secretary receives the written appeal. A copy of the final agency decision shall also be mailed to the ~~district~~  
18 ~~engineer~~District Engineer's office.

19 (d) Judicial review of the final agency decision is governed by G.S. 136-134.1.

20

21 *History Note: Authority G.S. 136-130; 136-133; 136-134;*

22 *Eff. July 1, 1978;*

23 *Amended Eff. August 1, 2000; November 1, 1993; November 1, 1991; June 15, 1981.*

24

25

1 19A NCAC 02E .0214 is proposed for repeal through readoption as follows:

2  
3 **19A NCAC 02E. 0214 STANDARDS FOR DIRECTIONAL SIGNS**

4  
5 (a) General—For the purposes of this Section the following directional signs are prohibited:

- 6 (1) signs which are erected or maintained upon trees or painted or drawn upon rocks or other natural features;
- 7 (2) signs which move or have any animated or moving parts;
- 8 (3) signs located in rest areas, parklands or scenic areas.

9 (b) Size:

10 (1) No directional sign shall exceed the following limits:

11 Maximum area 150 square feet;

12 Maximum height 20 feet; and

13 Maximum length 20 feet.

14 (2) All dimensions include border and trim, but exclude supports.

15 (c) Lighting—Directional signs may be illuminated, subject to the following:

16 (1) Signs which contain, include, or are illuminated by any flashing, intermittent, or moving light or lights

17 are prohibited;

18 (2) Signs which are not effectively shielded so as to prevent beams or rays of light from being directed at any

19 portion of the traveled way of an interstate or primary highway or NHS route or which are of such intensity

20 or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle, or which otherwise

21 interfere with the operation of a motor vehicle are prohibited; and

22 (3) No sign may be so illuminated as to interfere with the effectiveness of or obscure an official traffic sign,

23 device, or signal.

24 (d) Spacing:

25 (1) Each location of a directional sign must be approved by the division of highways;

26 (2) No directional sign may be located within 2,000 feet of an interchange, or intersection at grade along the

27 interstate system or other controlled access highways (measured along the highway from the nearest point of

28 the beginning or ending of pavement widening at the exit from or entrance to the main traveled way);

29 (3) No directional sign may be located within 2,000 feet of a rest area, parkland, or scenic area;

30 (4) No two directional signs facing the same direction of travel shall be spaced less than one mile apart;

31 (5) Not more than three directional signs pertaining to the same activity and facing the same direction of

32 travel may be erected along a single route approaching the activity;

33 (6) Directional signs located adjacent to the interstate system shall be within 75 air miles of the activity; and

34 (7) Directional signs located adjacent to the primary system shall be within 50 air miles of the activity.

35 (e) Message Content.—The message on directional signs shall be limited to the identification of the attraction or

36 activity and directional information useful to the traveler in locating the attraction, such as mileage, route number, or

37 exit numbers.

1 ~~(f) Selection Criteria:~~

2 ~~(1) Privately owned activities or attractions eligible for directional signing are limited to the following:~~  
3 ~~natural phenomena, scenic attractions; historic, educational, cultural, scientific, and religious sites; and~~  
4 ~~outdoor recreational areas.~~

5 ~~(2) Privately owned attractions or activities must be nationally or regionally known. For purposes of this rule~~  
6 ~~the following meanings shall apply:~~

7 ~~(A) Nationally known means the attraction has drawn attention through various forms of media~~  
8 ~~within the continental United States; and~~

9 ~~(B) Regionally known means the attraction is known in a specific region of the state such as the~~  
10 ~~mountains, piedmont, or coastal region, through published articles or paid advertisements available~~  
11 ~~to a regional audience.~~

12

13 *History Note:* Authority *G.S. 136-130; 136-129; 150B-21.3A;*

14 *Eff. July 1, 1978;*

15 *Amended Eff. August 1, 2000; November 1, ~~1993~~, 1993;*

16 *Repealed Eff. \_\_\_\_\_*

17

1 19A NCAC 02E .0215 is proposed for readoption without substantive changes as follows:

2

3 **19A NCAC 02E .0215 PERMITS FOR DIRECTIONAL SIGNS**

4 ~~A permit shall be required for the construction or maintenance of any directional sign permitted by Rule .0214 of this~~  
5 ~~Subchapter, except that no permit shall be required to erect or maintain directional signs to religious sites or for the~~  
6 ~~construction and maintenance of official signs and notices, public utility signs, service club and religious notices, and~~  
7 ~~public service signs, as defined by Rule .0201 (10)(a), (b), (c), and (18) of this Subchapter. An initial fee of forty~~  
8 ~~dollars (\$40.00) shall be paid with each application for a permit. An annual renewal of each permit, along with a~~  
9 ~~renewal fee of thirty dollars (\$30.00), shall be required in order to maintain such directional signs. Permit and renewal~~  
10 ~~of the permits may be obtained from the district engineer.~~

11

12 *History Note: Authority G.S. 136-130; 136-133;*  
13 *Eff July 1, 1978;*  
14 *Amended Eff. November 1, 1993; July 1, 1986, March 1, 1983, June 15, 1981;*  
15 *Temporary Amendment Eff. November 1, 1999;*  
16 *Amended Eff. August 1, 2000.*  
17 *Repealed Eff. \_\_\_\_\_*

18

1 19A NCAC 02E .0224 is proposed for adoption without substantive changes as follows:

2

3 **19A NCAC 02E .0224 SCENIC BYWAYS**

4 (a) Outdoor advertising is prohibited adjacent to any highway designated as a scenic byway by the Board of  
5 Transportation after the date of the designation as scenic, regardless of the highway classification, except for outdoor  
6 advertising permitted in G.S. 136-129 (1), (2), (2a) or (3).

7 (b) All lawfully erected outdoor advertising signs adjacent to a Scenic Byway that is on a controlled route for outdoor  
8 advertising shall become nonconforming signs and shall be subject to all applicable outdoor advertising regulations  
9 provided in 19A NCAC 02E.0200. Any sign erected on a controlled route adjacent to a Scenic Byway after the date  
10 of official designation shall be an illegal sign as defined in G.S. 136-128 and G.S. 136-134.

11 (c) Permits shall not be required for signs adjacent to scenic byways which were not on a controlled route for outdoor  
12 advertising. The department shall maintain an inventory of signs that were in existence at the time the route was  
13 designated a Scenic byway. Any sign erected after its designation as a Scenic Byway, except for outdoor advertising  
14 permitted in G.S. 136-129(1), (2), or (3), shall be an illegal sign as defined by G.S. 136-128 and G.S. 136-134.

15 (d) Outdoor advertising signs adjacent to Scenic Byways that are not required to obtain permits are nonetheless  
16 governed by the rules in this section.

17

18 *History Note: Authority G.S. 136-129.2;*

19 *Eff. August 1, 2000.*

20

21



1 19A NCAC 02E .0225 is proposed for re adoption with substantive changes as follows:

2  
3 **19A NCAC 02E .0225 REPAIR/MAINTENANCE/ALTERATION/RECONSTRUCTION OF**  
4 **CONFORMING SIGNS AND REPAIR AND MAINTENANCE OF NON-**  
5 **CONFORMING SIGNS**

6 (a) Signs may not be serviced from or across the right of way of interstates and fully controlled access primary routes  
7 ~~freeways~~ or from ~~or~~ across controlled access barriers or fences of controlled routes. An application for an outdoor  
8 advertising alteration permit shall be made on NCDOT form OA-1A, which may be obtained at any District Office or  
9 the NCDOT website at [www.ncdot.gov](http://www.ncdot.gov).

10 (b) Conforming signs may be altered within the limits of the rules in this Section.

11 (1) A conforming sign that has been destroyed or significantly damaged may be reconstructed within  
12 the limits of the rules in this Section. ~~Section by notifying the district engineer in writing of any~~  
13 ~~substantial changes that would affect the original dimensions of the initial permit application.~~

14 (2) Conforming sign structures may be reconstructed so long as the reconstruction does not conflict  
15 with any applicable ~~state, state or federal or local~~ rules, regulations or ordinances.

16 (3) A nonrefundable alteration permit fee is required with the application.

17 (4) The alteration of a conforming outdoor advertising structure shall not commence until an alteration  
18 permit has been issued. The outdoor advertising structure except all sign faces must be completely  
19 constructed and erected within 180 days from the date of the issuance of the alteration permit. If  
20 the outdoor advertising structure except sign faces is not constructed within 180 days of issuance of  
21 the alteration permit then any intervening rule change shall apply to the sign structure. During the  
22 180 day period, the altered outdoor advertising structure shall be considered in existence for the  
23 purpose of spacing of adjacent signs.

24 (c) Alteration to a nonconforming sign ~~or sign conforming by virtue of the grandfather clause~~ is prohibited.  
25 Reasonable repair and maintenance are permitted including changing the advertising message or copy. The following  
26 activities are considered to be reasonable repair and maintenance:

27 (1) Change of advertising message or copy on the sign face;

28 (2) Replacement of border and trim;

29 (3) Repair and replacement of a structural member, including a pole, stringer, or panel, with like  
30 material;

31 (4) Alterations of the dimensions of painted bulletins incidental to copy change; and

32 (5) Any net decrease in the outside dimensions of the advertising copy portion of the sign; but if the  
33 sign face or faces are reduced they may not thereafter be increased beyond the size of the sign on  
34 the date it became nonconforming.

35 (d) The addition of lighting or illumination to existing nonconforming signs ~~or signs conforming by virtue of the~~  
36 ~~grandfather clause~~ is specifically prohibited as reasonable maintenance; however, such lighting may be permanently  
37 removed from such sign structure.

1 (e) A nonconforming sign ~~or sign conforming by virtue of the grandfather clause~~ may continue as long as it is not  
2 abandoned, destroyed, discontinued, or significantly damaged.

3 (f) When the combined damage to the face and support poles appears to be significant, as defined in 19A NCAC 02E  
4 ~~.0201(29), .0201(28)~~, the sign owner may request the Department to review the damaged sign, including salvageable  
5 sign components, prior to repairs being made. Should the sign owner perform repairs without notification to the  
6 Department, and the Department later determines the damage is greater than 50% of the combination of the sign face  
7 and support pole(s), the permit may be revoked. To determine the percent of damage to the sign structure, the only  
8 components to be used to calculate this value are the sign face and support pole(s). The percent damage shall be  
9 calculated by dividing the unsalvageable sign components by the original sign structure component quantities, using  
10 the following criteria:

- 11 (1) Outdoor Advertising on Wooden Poles: The percentage of damage attributable to poles shall be  
12 50% and the percentage of damage attributable to sign face shall be 50%;
- 13 (2) Outdoor Advertising on Steel Poles or Beams: The percentage of damage attributable to poles shall  
14 be 80% and the percentage of damage attributable to sign face shall be 20%; and
- 15 (3) Outdoor Advertising on Monopoles: The percentage of damage attributable to poles shall be 80%  
16 and the percentage of damage attributable to sign face shall be 20%.

17  
18 *History Note:* Authority *G.S. ~~136-89.58; 136-30; 136-131.2; 136-130; 136-89.58;~~*  
19 *Eff. August 1, 2000;*  
20 *Amended Eff. August 1, 2000.*

1 19A NCAC 02E .0226 is proposed for readoption without substantive changes as follows:

2

3 **19A NCAC 02E .0226 ORDER TO STOP WORK ON UNPERMITTED OUTDOOR ADVERTISING**

4

5

6 (a) If outdoor advertising is under construction and the Department determines that a permit has not been issued for  
7 the outdoor advertising as required under the provisions of this Chapter, the District Engineer or his designee may  
8 require that all work on the sign cease until the sign owner shows that the sign does not violate the provisions of this  
9 chapter. The order to cease work shall be in writing and prominently posted on the outdoor advertising structure, and  
10 no further notice of the stop work order is required. The failure of a sign owner to comply immediately with the stop  
11 work order shall subject the outdoor advertising structure to removal by the Department of Transportation or its agents.

12 (b) For purposes of this rule only, outdoor advertising is under construction when it is in any phase of construction  
13 prior to the attachment and display of the advertising message in final position for viewing by the traveling public.

14 (c) The cost of removing outdoor advertising by the Department of Transportation or its agents shall be assessed  
15 against the sign owner.

16 (d) No stop work order may be issued when the Department of Transportation process agent has been served with a  
17 court order allowing the sign to be constructed. The District Engineer or his designee shall consult with the Outdoor  
18 Advertising coordinator to determine whether such an order has been served on the Department.

19

20 *History Note: Authority G.S. 136-130; 136-133;*  
21 *Temporary Adoption Eff. November 16, 1999;*  
22 *Eff. August 1, 2000.*

23

1 19A NCAC 02E .0601 is proposed for readoption without substantive changes as follows:

2  
3 **19A NCAC 02E .0601 SELECTIVE VEGETATION REMOVAL PERMIT REQUIRED TO REMOVE**  
4 **VEGETATION FROM STATE HIGHWAY ~~RIGHT-OF-WAY~~ RIGHT-OF-WAY**

5 (a) Selective cutting, thinning, pruning, or removal of vegetation within highway ~~rights of way~~ rights-of-way may be  
6 permitted only for opening views to business facilities and legally erected forms of outdoor advertising that are located  
7 adjacent to State highway rights-of-way, as described in ~~G.S. 136-93(b)~~, that are located adjacent to State highway  
8 rights-of-way. ~~G.S. 136-93(b)~~. For purposes of selective vegetation removal ~~permitting~~ permitting, "business  
9 facilities," hereinafter referred to as ~~facilities~~, facilities, are defined as office, institutional, commercial, and industrial  
10 buildings. In accordance with G.S. 136-93.3, ~~"agritourism activities"~~ agritourism activities, as defined in ~~G.S. 99E-30~~  
11 G.S. 99E-30, are considered ~~facilities~~ facilities under this Section. The following requirements apply to ~~facilities~~  
12 facilities under this Section:

- 13 (1) all facilities, except for agritourism ~~activities~~ activities, shall include at least one permanent  
14 structural building;
- 15 (2) the building shall have all required local and State permits, be related to the facility's function, and  
16 be open and operational on a year-round basis; and
- 17 (3) any cutting, thinning, pruning, or removal of vegetation allowed pursuant to G.S. 136-93(b), shall  
18 be performed by the permittee or his agent at no cost to the Department of Transportation and shall  
19 comply with this Section.

20 (b) For purposes of this Section, ~~agritourism activities~~ agritourism activities include any activity carried out on a farm  
21 or ranch that allows members of the general public, for recreational, entertainment, or educational purposes, to view  
22 or enjoy rural activities, including farming, ranching, historic, cultural, harvest-your-own activities, or natural  
23 activities and attractions. The following requirements apply to ~~agritourism activities~~ agritourism activities under this  
24 Section:

- 25 (1) the agritourism activities shall be open for business at least four days per week, with a minimum of  
26 32 hours per week, and at least 10 months of the year; and
- 27 (2) the applicant shall certify that the activities for a selective vegetation removal permit qualify as an  
28 agritourism activity. The Department may require additional documentation from the applicant if  
29 the requested site's compliance as eligible agritourism activities remains in question.

30  
31 *History Note: Authority G.S. 136-18(5); 136-18(7); 136-18(9); 136-93(b); 136-93.3;*  
32 *Temporary Rule Eff. April 13, 1982 for a Period of 48 Days to Expire on June 1, 1982;*  
33 *Eff. June 1, 1982;*  
34 *Amended Eff. January 1, 2015; November 1, 2012; June 2, 1982.*  
35

1 19A NCAC 02E .0602 is proposed for readoption without substantive changes as follows:

2  
3 **19A NCAC 02E .0602 REQUESTS FOR SELECTIVE VEGETATION REMOVAL PERMITS FOR A**  
4 **FACILITY**

5 (a) Applications for selective vegetation cutting, thinning, pruning, or removal (exclusive of grasses) at a facility shall  
6 be made by the owner of the facility and sent to the appropriate Division Engineer of the North Carolina Department  
7 of Transportation, Division of Highways. Applications shall be submitted in both printed and electronic form.  
8 Applications for selective vegetation removal permits shall include the following information:

- 9 (1) applicant contact information;
- 10 (2) name and location of the facility;
- 11 (3) indication of request ~~being~~ for either a business facility or agritourism activity;
- 12 (4) municipal review indication, if applicable;
- 13 (5) requested use of and site access for power-driven equipment in accordance with Rule .0604(22) of  
14 this Section;
- 15 (6) performance bond or certified check or cashier's check pursuant to G.S. 136-93;
- 16 (7) if using a contractor for vegetation removal work, identify the contractor and their qualifications if  
17 the contractor is not listed on the Department's website directory of qualified transportation firms;
- 18 (8) payment of non-refundable two ~~hundred-dollar~~ hundred-dollar (\$200.00) permit fee, pursuant to  
19 G.S. 136-18.7;
- 20 (9) certificate of ~~liability~~ liability, and proof of worker's compensation and vehicle liability insurance  
21 coverage;
- 22 (10) geographic information system document and property tax identification number to verify location  
23 of facility in relation to municipal limits;
- 24 (11) verification of on-site marking and tree-tagging requirements;
- 25 (12) sketch, or amended sketch of the requested cut zone and information about trees to be cut, thinned,  
26 pruned, or removed in accordance with Rule .0604(11) of this Section;
- 27 (13) if applicable, certification that the applicant has permission from the adjoining landowner(s) to  
28 access their private property, ~~if applicable~~, for the purpose of conducting selective vegetation  
29 removal permit activities;
- 30 (14) certification that the facility qualifies as an agritourism activity as required ~~pursuant to~~ by G.S. 136-  
31 93.3; and
- 32 (15) applicant's notarized signature.

33 (b) Selective vegetation cutting, thinning, pruning, or removal for opening views to facilities shall be permitted only  
34 for the permittee's facilities adjacent to highway ~~right-of-way~~ right-of-way at locations where such facilities have been  
35 constructed or where agritourism activities are carried out as set forth in G.S. 136-93.3 and Rule .0601 of this Section.  
36 Complete removal of all trees and other vegetation shall not be permitted. Dogwood trees and redbud trees shall be  
37 preserved. Other trees shall be preserved if they ~~that~~ are not screening the facility from ~~view and are~~ view, and when

1 ~~measured at six inches above the ground, shall equal four or more caliper inches and greater in diameter,~~  
2 ~~diameter, measured six inches from the ground, shall be preserved.~~ Trees, shrubs, and other vegetation less than four  
3 caliper inches in diameter may be removed. Trees, shrubs, and other vegetation that are four or more caliper inches  
4 ~~or greater in diameter~~ diameter, as measured ~~at six inches from above the ground~~ ground, and not to be preserved,  
5 may be cut, thinned, pruned, or removed ~~according to if approved by the Division Engineer having jurisdiction or that~~  
6 ~~Division Engineer's designee, approval of Department personnel designated by the Division Engineer.~~ All vegetation  
7 cutting, thinning, pruning, or removal shall be in accordance with the current edition and subsequent amendments and  
8 editions of the American National Standard for Arboricultural Operations-Safety Requirements ANSI Z133.1,  
9 approved by the American National Standards Institute and published by the International Society of Arboriculture  
10 that is hereby incorporated. Copies of the Standard are available for inspection in the office of the State Roadside  
11 Environmental Engineer, Division of Highways, 1 S. Wilmington St., Raleigh, N.C. Copies of the Standard may be  
12 obtained from the International Society of Arboriculture (ISA) for a twenty dollars (\$20.00) cost. The ISA may be  
13 contacted at P.O. Box 3129 Champaign, Illinois 61826 or by accessing this website: <http://www.isa-arbor.com/>.

14 (c) Applications shall be accompanied by a sketch showing the requested limits of the selective cutting, thinning,  
15 pruning, or removal of vegetation. For facilities, the limits of selective cutting, thinning, pruning, or removal shall be  
16 restricted to one area of right-of-way adjacent to frontage property of the ~~facility~~ facility, but not to exceed 1,000  
17 contiguous linear feet. Facilities with frontage property on opposite sides of the State highway right-of-way may split  
18 the maximum vegetation removal distance between the two sides of the highway, resulting in a total of two contiguous  
19 cutting or removal distances along frontage property, with the total of the two sides not exceeding 1,000 linear feet.  
20 The permitted limits of the selective vegetation removal permit shall not be altered for subsequent applications. The  
21 applicant shall also include on the sketch the location, species, and caliper inches of all trees desired for cutting,  
22 thinning, pruning, or removal, that have ~~with~~ a diameter of four or more caliper inches and greater, inches, as measured  
23 six inches above ground level, at the time of the application ~~and desired to be cut, thinned, pruned, or removed.~~

24 (d) The selective vegetation removal request may be reviewed on site by Department personnel and a representative  
25 of the applicant.

26 (e) In accordance with G.S. 136-93(d), if the application for vegetation cutting is for a site located within the corporate  
27 limits of a municipality and the municipality has previously advised the Division Engineer in writing of its desire to  
28 review such applications, the applicant shall deliver the application to the municipality at least 30 days prior to  
29 submitting the application to the Department, so the municipality ~~shall~~ may be given the opportunity to review the  
30 application. Information regarding whether a municipality desires to review vegetation removal applications may be  
31 found on the ~~Department~~ Department's website [www.ncdot.gov](http://www.ncdot.gov) or by contacting the Division Engineer's office.

32  
33 *History Note: Authority G.S. 136-18(5); 136-18(7); 136-18(9); 136-18.7; 136-93; 136-93.3; 136-130;*  
34 *Temporary Rule Eff. April 13, 1982 for a Period of 48 Days to Expire on June 1, 1982;*  
35 *Eff. June 1, 1982;*  
36 *Amended Eff. November 16, 1991; December 1, 1990; August 1, 1985; June 2, 1982;*  
37 *Temporary Amendment Eff. November 16, 1999;*

1                    *Amended Eff. August 1, 2000;*  
2                    *Temporary Amendment Eff. March 1, 2012;*  
3                    *Amended Eff. January 1, 2015; November 1, 2012.*  
4

1 19A NCAC 02E .0603 is proposed for readoption without substantive changes as follows:

2  
3 **19A NCAC 02E .0603 ISSUANCE OR DENIAL OF SELECTIVE VEGETATION REMOVAL PERMIT**  
4 **FOR A FACILITY**

5 (a) Pursuant to G.S. 136-133.2, within 30 days following receipt of the application for a selective vegetation removal  
6 permit for a facility, including the fee set out in G.S. 136-18.7, the Division Engineer shall approve or deny the  
7 application. The applicant, as part of the application, shall state in writing the date that he or she has delivered a copy  
8 of the ~~application~~ application, with required ~~attachments~~ attachments, to a municipality that has previously advised  
9 the Department in writing that it seeks to provide comments regarding such applications. The applicant shall deliver  
10 the application to the municipality at least 30 days prior to submitting the application to the Department. The list of  
11 municipalities requesting to review applications shall be maintained and updated by the Department on the website  
12 www.ncdot.gov. Upon receipt of the application, the Division Engineer shall have 30 days to approve or deny the  
13 application. If written notice of approval or denial is not given to the applicant within the 30-day Department review  
14 period, then the application shall be deemed approved. If the application is denied, the Division Engineer shall advise  
15 the applicant, in writing, of the reasons for denial.

16 (b) The application shall be denied by the Division Engineer if:

- 17 (1) the application is for the opening of view to a facility that does not meet the requirements of Rule  
18 .0601 of ~~the~~ this Section;
- 19 (2) it is determined by ~~Departmental~~ Department personnel that the facility is not screened from view;
- 20 (3) the application is for the opening of view to undeveloped property or to a facility that, due to  
21 obstructions off the ~~right-of-way~~, right-of-way, is screened from view from the travel way regardless  
22 of the presence or absence of trees and other vegetation on the highway ~~right-of-way~~; right-of-way;
- 23 (4) it is determined by Department personnel that removal of vegetation shall diminish a planting  
24 installed for headlight screening and affect the safety of the traveling public;
- 25 (5) the application is solely for providing visibility to on-premise signs;
- 26 (6) the application is for the removal of vegetation planted in accordance with a local, State, or federal  
27 beautification project. However, this section Subparagraph shall not apply if a mitigation replanting  
28 plan ~~that is~~ related to the site for which the vegetation permit request is made (as set forth in 19A  
29 NCAC 02E .0611 except for the provisions in Paragraph (d) and Subparagraph (g)(11)) is agreed  
30 upon in writing by the applicant, the Department, ~~and~~ and, if applicable, the Federal Highway  
31 ~~Administration, then this subsection does not apply;~~ Administration;
- 32 (7) on two previous occasions, the applicant has failed to meet the requirements of a selective vegetation  
33 removal permit, unless the applicant engages a landscape contractor to perform the current work;
- 34 (8) the application is for removal of vegetation that will open views to junkyards;
- 35 (9) the applicant fails to complete an application, as described in Rule .0602 of this ~~Section~~; Section;
- 36 (10) any cutting, thinning, pruning, or removal of vegetation encompassing the entirety of the maximum  
37 vegetation cutting or removal zone is prohibited due to conservation ~~easements~~ or easements,



1 conditions affecting the ~~right-of-way~~ right-of-way to which the State is ~~subjected~~ subjected, written  
2 agreements, State or Federal rules, statutes, permits, or other restrictions; ~~or agrees in writing to~~  
3 ~~subject itself and other restrictions agreed upon by the State, in writing in the right of way; or State~~  
4 ~~or Federal rules, statutes, or permits; or~~

- 5 (11) an unlawful destruction or illegal cutting of vegetation has occurred within the highway right-of-  
6 way to create, increase, or improve a view to the facility from the travel way including acceleration  
7 and deceleration ramps. The Department shall not issue a selective vegetation removal permit at the  
8 requested site for a period of five years that shall begin on the date the Department resolves the  
9 "unlawful destruction" or "illegal cutting" incident by settlement agreement with the responsible  
10 ~~party party~~, or the Department administratively closes the case. For the purposes of this Section,  
11 unlawful destruction or illegal cutting is defined as the destruction or cutting of trees, shrubs, or  
12 other vegetation on the State-owned or State-maintained rights-of-way by anyone other than the  
13 Department or its authorized agents, or without written permission of the Department.

14  
15 *History Note: Authority G.S. 99E-30; 136-18(5); 136-18(7); 136-18(9); 136-93; 136-93.3; 136-130;*  
16 *Temporary Rule Eff. April 13, 1982 for a Period of 48 Days to Expire on June 1, 1982;*  
17 *Eff. June 1, 1982;*  
18 *Amended Eff. August 1, 2000; November 1, 1991; December 1, 1990; August 1, 1985; June 2, 1982;*  
19 *Temporary Amendment Eff. March 1, 2012;*  
20 *Amended Eff. January 1, 2015; November 1, 2012.*

21

1 19A NCAC 02E .0604 is proposed for readoption without substantive changes as follows:

2  
3 **19A NCAC 02E .0604 CONDITIONS OF SELECTIVE VEGETATION REMOVAL PERMIT FOR**  
4 **FACILITIES**

5 The following apply to the conditions of selective vegetation removal permit for facilities:

6 (1) Selected vegetation, within the approved limits as set forth in Rule .0602(c) of this Section may be  
7 cut, thinned, pruned, or removed by the permittee in accordance with the standards set out in G.S.  
8 136-133.4;

9 ~~(3)~~(2) The permittee shall furnish a Performance Bond, ~~or certified check check,~~ or cashier's check made  
10 payable to North Carolina Department of Transportation for the sum of two thousand dollars  
11 (\$2,000). The Performance Bond, ~~or certified check check,~~ or cashier's check shall cover all  
12 restoration of the ~~right of way right-of-way~~ to the condition prior to the occurrence of the damage  
13 caused by the permittee or the permittee's agent, if damage occurs during the permitted selective  
14 vegetation removal. The Performance Bond, ~~or certified check check,~~ or cashier's check shall be  
15 paid with the application before each permit to cut vegetation is issued. The Performance Bond, ~~or~~  
16 certified ~~check check,~~ or cashier's check shall run concurrently with the permit. The Performance  
17 Bond, ~~or certified check check,~~ or cashier's check shall be released after a final inspection of the  
18 work by the Department reveals that all work provided for and specified by the permit is found to  
19 be completed ~~and and, if damage shall be caused by the permittee or the permittee's agent,~~ all  
20 damages to the ~~right of way, right-of-way,~~ including damage to fencing and other structures within  
21 the right-of-way, have been repaired ~~or restored to the condition prior to the occurrence of the~~  
22 ~~damage caused by the permittee or the permittee's agent;~~ restored;

23 ~~(4)~~(3) Companies that plan to apply for two or more permits may provide continuing bonds for the sum of  
24 one hundred thousand dollars (\$100,000) and that type of bond shall be kept on file by the Utilities  
25 Unit of the Department;

26 ~~(5)~~(4) If the work is to be performed by any entity other than the permittee, either the permittee or the other  
27 entity shall furnish the Performance Bond, ~~or certified check check,~~ or cashier's check, as described  
28 in this Rule, for all work provided for and specified by the permit. Required forms for all bonds are  
29 available upon request from the Department and may be found on the Department's ~~website~~ website:  
30 www.ncdot.gov. Bonds ~~are shall to be~~ furnished with the selective vegetation removal application  
31 ~~form form,~~ and to the official assigned to receive selective vegetation removal applications at the  
32 local North Carolina Department of Transportation, Division of Highways Office;

33 ~~(6)~~(5) The permittee shall ~~also~~ provide proof of liability insurance coverage of five million dollars  
34 (\$5,000,000). Whoever performs the work, the permittee, his contractor, or agent, shall maintain  
35 workers' compensation and vehicle liability insurance coverage. The permittee, his contractor, and  
36 agent may be liable for any losses due to the negligence or willful misconduct of his agents, assigns,  
37 and employees. The permittee ~~may,~~ in lieu of providing proof of liability insurance as described in

1 this ~~Item, Subparagraph,~~ may be shown as an additional insured on the general liability policy of  
2 the approved contractor or agent to perform the permitted work ~~on condition that~~ if the contractor  
3 or agent's policy is provides coverage of five million dollars (\$5,000,000) in coverage, and the  
4 permittee provides ~~proof to the Department~~ with proof of the coverage. ~~The permittee or contractor~~  
5 permittee, contractor, or agent providing the coverage shall also name the Department as an  
6 additional insured on its general liability ~~policy policy,~~ and provide the Department with a copy of  
7 the certificate showing the Department named as an additional insured. ~~Regardless of which entity~~  
8 ~~provides the proof of general liability insurance, the~~ The required limit of insurance may be obtained  
9 by a single general liability ~~policy or policy,~~ the combination of a general liability and excess  
10 ~~liability liability,~~ or an umbrella policy;

11 ~~(7)(6)~~ The permittee shall provide a document verifying the requested selective vegetation removal site  
12 location in relationship to corporate limits of a municipality. The document shall be a current  
13 geographic information system map of the nearest municipality, with color-coded boundary ~~lines~~  
14 lines, and a corresponding key or legend indicating corporate ~~limit limits~~ and territorial jurisdiction  
15 boundaries boundaries, and indicating the precise location of the business facility. The permittee  
16 shall also provide the property tax identification number for the parcel on which the facility is  
17 located. The Department may require additional information if the boundary or facility location  
18 remains in question;

19 ~~(8)(7)~~ Access from the highway main travel way shall be allowed only for surveying or delineation work  
20 in preparation for and ~~in the~~ processing of an application for a selective vegetation removal permit;

21 ~~(9)(8)~~ The permittee shall perform site marking of the maximum vegetation cut or removal zone. The  
22 applicant shall mark the permitted cutting distances according to Rule .0602(c) of this Section. The  
23 two maximum points along the right-of-way boundary (or fence if there is a control of access fence)  
24 shall be marked with visible flagging tape. The two maximum points, corresponding to the  
25 beginning point and the ending point along the edge of the pavement of the travel way, perpendicular  
26 to the maximum points marked along the right-of-way boundary, shall be marked with spray paint.  
27 If the facility is located next to an acceleration or deceleration ramp, the two corresponding  
28 maximum points shall be marked along the edge of the pavement of the travel way of the ramp  
29 instead of the mainline of the roadway;

30 ~~(10)(9)~~ The Pursuant to Rule .0602(b) of this Section, the permittee shall tag with visible material or  
31 flagging any trees that screen the facility from view, have been requested to be cut, thinned, pruned,  
32 or removed within the maximum vegetation cut or removal zone, and have a diameter of four or  
33 more caliper inches, as measured at six inches above the ground and at the time of the application.  
34 ~~with visible material or flagging, trees, according to Rule .0602(b) of this Section, with a diameter~~  
35 ~~of four caliper inches and larger, as measured six inches above ground level at the time of the~~  
36 ~~application that are screening the facility from view and are requested to be cut, thinned, pruned, or~~  
37 ~~removed within the maximum vegetation cut or removal zone. Trees tagged for cutting, thinning,~~

1 pruning, or removal shall match ~~with~~ the trees shown on the required sketch of the requested  
2 vegetation cut or removal zone;

3 ~~(11)~~(10) The Department may disapprove the requested cutting, thinning, pruning, or removal of selected  
4 trees that do not screen the facility from view from the roadway, and have a diameter of four or  
5 more caliper inches, as measured at six inches above the ground, at the time of the application. ~~of~~  
6 ~~four caliper inches or greater in diameter, as measured six inches above ground level that are not~~  
7 ~~screening the facility from view from the roadway.~~ The Department shall make this determination  
8 by allowing selective thinning of tree density that opens the view to the facility or agritourism  
9 activities across the entire length of the maximum cut or removal zone, without complete removal  
10 of all trees and other vegetation. The Department shall disapprove cutting, thinning, pruning, or  
11 removal of dogwood and redbud trees that may have been tagged in error. If trees are disapproved  
12 for cutting, thinning, pruning, or removal, the Department shall specify those trees to the applicant  
13 during the site review. The applicant shall remove the tree flagging for the disapproved trees and  
14 submit to the ~~Department~~ Department, by electronic means ~~(including electronic mail or facsimile)~~  
15 (including electronic mail or facsimile), an amended version of the original sketch of the ~~site~~ by site,  
16 indicating the changes on the ~~sketch and initializing sketch, initialing,~~ and dating the changes  
17 thereon;

18 ~~(12)~~(11) If any cutting, thinning, pruning, ~~or~~ or removal of vegetation from any portion of ~~but less than~~ the  
19 entirety of the maximum vegetation cutting or removal zone is prohibited due to conservation  
20 easements, ~~conditions~~ or conditions, other restrictions affecting the ~~right of way~~ right-of-way to  
21 which the State is ~~subjected or agrees in writing to subject itself,~~ subjected, written agreements, ~~or~~  
22 State or Federal rules, statutes, or permits, the permittee shall comply with applicable easements,  
23 rules, statutes, or permits for those portions of vegetation;

24 (a) If applicable easements, rules, statutes, or permits ~~conservation easements, or conditions~~  
25 ~~affecting the right of way to which the State is subjected or agrees in writing to subject~~  
26 ~~itself and other restrictions agreed upon by the State in writing in the right of way, State or~~  
27 ~~Federal rules, statutes, or permits~~ allow certain degrees and methods of cutting, thinning,  
28 pruning, or removal for portions of vegetation, the permittee shall comply with applicable  
29 easements, State or Federal rules, statutes, or ~~permits~~ permits, including equipment type  
30 specifications for those portions of ~~vegetation.~~ vegetation;

31 (b) Portions of the maximum cutting or removal zone not within an easement, nor applicable  
32 to rules, statutes, or permits ~~a conservation easement nor applicable to conditions affecting~~  
33 ~~the right of way to which the State is subjected or agrees in writing to subject itself and~~  
34 ~~other restrictions agreed upon by the State in writing in the right of way, nor regulated by~~  
35 ~~State or Federal rules, statutes, or permits~~ regulating vegetation ~~removal~~ removal, and other  
36 activities shall be governed by standards set out in G.S. 136-93;

- 1 ~~(13)~~(12) The permittee shall adhere to erosion control requirements, ~~according pursuant to Article 4 of G.S.~~  
2 ~~§ 113A, the North Carolina General Statutes, Article 4, Chapter 113A~~ entitled: Sedimentation  
3 Pollution Control Act of 1973;
- 4 ~~(14)~~(13) A Division of Highways Inspector may be present while work is underway. The presence or absence  
5 of a Division of Highways inspector at the work site does not lessen the permittee's responsibility  
6 for conformity with the requirements of the permit. ~~When~~ If a present inspector fails to ~~point out~~  
7 ~~acknowledge or identify~~ work that does not conform with the requirements, ~~it this failure shall does~~  
8 not prevent later notification to the permittee that the work is noncompliant ~~not in compliance~~ with  
9 the permit;
- 10 ~~(15)~~(14) A selective vegetation removal permit shall be secured for each applicable facility prior to  
11 performing any vegetation removal work. ~~The Permittee permittee, or its contractor~~ contractor, or  
12 agent shall have a copy of the selective vegetation removal permit on the work site at all ~~times~~ times,  
13 during any phase of selective vegetation cutting, thinning, trimming, pruning, removal, or planting  
14 operations;
- 15 ~~(16)~~(15) ~~When~~ If the Division Engineer ("Engineer") or his representative observes unsafe operations,  
16 activities, or conditions, ~~he~~ the Engineer shall suspend work. Work shall not resume until the unsafe  
17 operations, activities, or conditions have been eliminated or corrected. Failure to comply with any  
18 of the ~~federal~~ Federal and State laws, ordinances, ~~and~~ or regulations governing safety and traffic  
19 control shall result in suspension of work. The permittee shall adhere to safety requirements,  
20 according to ~~the Article 16 of G.S. § 95, North Carolina G.S. 95, Article 16~~, entitled: Occupational  
21 Safety and Health Act of North Carolina. Traffic control shall be in accordance with G.S. 136-30  
22 and 19A NCAC 02B .0208;
- 23 ~~(17)~~(16) ~~The permittee or permittee, its contractor~~ contractor, or agent shall take measures to locate and  
24 protect utilities located within the highway right-of-way and within the work area of the selective  
25 vegetation removal zone. The permittee may be responsible for restoration of any losses or damages  
26 to ~~utilities~~ utilities, caused by any actions of the ~~permittee or permittee, its contractors~~ contractors,  
27 or ~~agents~~ agents, and to the satisfaction of the utility owner;
- 28 ~~(18)~~(17) Permits are valid for a period of one year and the permittee may cut, thin, prune, or remove  
29 vegetation more than one time during the permit year. If the applicant applies for and is approved  
30 for another permit at the same site during an existing permit year, the previous permit shall become  
31 null and void at the same time the new permit is issued;
- 32 ~~(19)~~(18) The permittee shall provide to the Department a 48-hour notification before entering the right-of-  
33 way for any work covered by the conditions of the permit. The permittee shall schedule all work  
34 with the Department. The permittee shall notify the Department in advance of work scheduled for  
35 nights, weekends, and holidays. The Department may modify the permittee's work schedule for  
36 nights, weekends, and holidays. When the Department restricts construction in work zones for the

1 safety of the traveling public, the Department shall deny access to the right-of-way for selective  
2 vegetation removal;

3 ~~(20)~~(19) If work is planned in an active work zone, the permittee shall receive written permission from the  
4 contractor or the ~~Department~~ Department, if the Department's employees are performing the work.  
5 The permittee shall provide the Division Engineer with a copy of the written permission;

6 ~~(21)~~(20) Sites with vegetation not presenting a hazard from falling tree parts and follow-up work shall be  
7 restricted to individual and manual-operated power equipment and hand-held tools;

8 ~~(22)~~(21) The Department may allow use of power-driven vegetation removal equipment (such as excavator-  
9 based land clearing attachments, skid-steer cutters, and bucket trucks) if the Department determines  
10 that the use of such equipment will not cause undue safety hazards, any erosion, or unreasonable  
11 damage to the right-of-way, and may allow access from the private property side to the right-of-  
12 way. Tree removal that presents a hazard from falling tree parts shall be performed in accordance  
13 with the current edition and subsequent amendments and editions of the American National Standard  
14 for Arboricultural Operations-Safety Requirements ANSI Z133.1, approved by the American  
15 National Standards Institute and published by the International Society of Arboriculture that is  
16 hereby incorporated. Copies of the Standard are available for inspection in the office of the State  
17 Roadside Environmental Engineer, Division of Highways, Raleigh, N.C. Copies of the Standard  
18 may be obtained from the International Society of Arboriculture (ISA) for a twenty dollars (\$20.00)  
19 cost. The ISA can be contacted at P.O. Box 3129 Champaign, Illinois 61826 or by accessing this  
20 website: <http://www.isa-arbor.com/>;

21 ~~(23)~~(22) The Department shall determine the required traffic control signage ~~that shall be required~~. The  
22 permittee shall furnish, erect, and maintain the required signs as directed by the ~~Department~~  
23 Department, and in accordance with G.S. 136-30;

24 ~~(24)~~(23) The height of stumps remaining after tree removal shall not exceed four inches above the  
25 surrounding ground level. At the end of each workday, all vegetation that has been cut, thinned, or  
26 pruned at the site shall be ~~The work site shall be left with all vegetation cut, thinned, or pruned at~~  
27 ~~the site either~~ removed or chipped and spread in accordance with G.S. 136-133.4 at the end of each  
28 workday;

29 ~~(25)~~(24) An applicant for a selective vegetation removal permit for a facility or agritourism activities issued  
30 pursuant to Rule .0602 of this Section may appeal a decision of the Department pertaining to the  
31 denial or conditioning of a permit for selective vegetation removal in accordance with the provisions  
32 of G.S. 136-133.3; and

33 ~~(26)~~(25) Upon completion of all work, the Department shall notify the permittee in writing of acceptance,  
34 terminate the permit, and return the Performance Bond, ~~or certified certified,~~ or cashier's check to  
35 the permittee. For replanting work, a different release schedule shall be ~~applicable~~ applicable,  
36 according to Rule .0611 of this Section. The permittee may terminate the permit at any time and  
37 request that the Department ~~return of the~~ Performance Bond, ~~or certified certified,~~ or cashier's check.

1                   The termination and request for return of the Performance Bond, ~~or certified~~ certified, or cashier's  
2                   check shall be made in writing and sent to the Division Engineer.

3  
4    *History Note:*     *Authority 136-18(5); 136-18(7); 136-18(9); 136-30; 136-93; 136-93.3; 136-133.4; ~~136-133.4(e);~~*  
5                    *Temporary Rule Eff. April 13, 1982 for a Period of 48 Days to Expire on June 1, 1982;*  
6                    *Eff. June 1, 1982;*  
7                    *Amended Eff. January 1, 2015; November 1, 2012; August 1, 2000; November 1, 1991; August 1,*  
8                    *1985; August 1, 1982; June 2, 1982.*

9

1 19A NCAC 02E .0608 is proposed for readoption without substantive changes as follows:

2  
3 **19A NCAC 02E .0608 REQUESTS FOR SELECTIVE VEGETATION REMOVAL PERMITS FOR**  
4 **OUTDOOR ADVERTISING**

5 (a) Applications for selective vegetation cutting, thinning, pruning, or removal (exclusive of grasses) shall be made  
6 by the owner of an outdoor advertising sign, pursuant to ~~permitted under G.S. 136-129(4) or (5)~~ G.S. 136-129(4)  
7 or (5), to the applicable county's Division Engineer of the North Carolina Department of Transportation, Division of  
8 Highways. Applications shall be submitted in both printed and electronic form. For sites within the corporate limits  
9 of a municipality that has previously advised the Department in writing that it seeks to review such applications, the  
10 applicant shall deliver the application to the municipality at least 30 days prior to submitting the application to the  
11 Department. Applications for selective vegetation removal permits shall include the following information consistent  
12 with G.S. 136-133.1:

- 13 (1) applicant contact information;
- 14 (2) outdoor advertising permit tag number and location of the sign;
- 15 (3) ~~for a if the sign is located on a ramp, the application shall indicate whether cut zone is modified or~~  
16 ~~normal; indication of application being for a modified cut zone or normal cut zone;~~  
for a if the sign is located on a ramp, the application shall indicate whether cut zone is modified or
- 17 (4) ~~for applications if an application is eligible for municipal review, the application shall indicate the~~  
18 ~~year an indication of the year the sign was erected;~~  
for applications if an application is eligible for municipal review, the application shall indicate the
- 19 (5) indication of appropriate maximum cutting distance;
- 20 (6) applicant's desire to remove existing trees, ~~if present, present; and if existing trees are to be~~  
21 ~~removed, such trees require compensation by either monetary reimbursement or reimbursement,~~  
22 ~~removal of two nonconforming outdoor advertising signs, or a beautification and replanting plan as~~  
23 ~~set out in Rule .0611 of this Section Section, and by submitting the Existing Tree Compensation~~  
24 ~~Agreement form found on the Department web-site site: www.ncdot.gov;~~  
25 (7) site plan, if existing trees are to be cut, thinned, pruned, or removed;
- 26 (8) if existing trees are to be cut, thinned, pruned, or removed, the additional required form includes  
27 applicant contact information, permit tag number, sign location, ~~the number and number,~~ caliper  
28 ~~inches inches,~~ and monetary value of existing trees to be cut, thinned, pruned, or removed, and  
29 indication of compensatory choice;
- 30 (9) the additional form for existing tree removal, based on the compensatory choice made, also requires  
31 submittal of either a payment check in the amount of the tree loss monetary value, ~~or~~ indication of  
32 the two nonconforming outdoor advertising signs to be surrendered, or agreement to submit a  
33 beautification replanting plan to the Department. Compliance with the compensatory choice shall  
34 be required before the selective vegetation removal permit can be approved;
- 35 (10) municipal review indication, if applicable;
- 36 (11) requested use of and site access for power-driven equipment in accordance with ~~Rule .0610(24)~~  
37 Rule .0610(23) of this Section;



- 1 (12) performance bond or certified check or cashier's check pursuant to G.S. 136-93;
- 2 (13) if using a contractor for vegetation removal work, identify the contractor and their qualifications if
- 3 the contractor is not listed on the Department's website directory of qualified transportation firms;
- 4 (14) payment of non-refundable two-~~hundred-dollar~~ hundred-dollar (\$200.00) permit fee, pursuant to
- 5 G.S. 136-18.7;
- 6 (15) certificate of liability, ~~and proof of worker's~~ workers' compensation, and vehicle liability insurance
- 7 coverage;
- 8 (16) geographic information system-~~document and~~ document, property tax identification number to
- 9 verify location of sign in relation to municipal ~~limits~~ limits, and territorial jurisdiction boundary;
- 10 (17) verification of on-site marking and tree-tagging requirements;
- 11 (18) if cutting request is for a modified cut zone along a highway ramp, a diagram of the cut zone is
- 12 required unless the diagram is included on a site ~~plan~~ plan, and calculations are required comparing
- 13 the modified cut zone to the normal cut zone;
- 14 (19) if the Department disputes the site plan, the Department may request additional information-~~per~~
- 15 pursuant to G.S. 136-133.1(c);
- 16 (20) certification that the applicant has permission from the adjoining landowner(s) to access their private
- 17 property for the purpose of conducting selective vegetation removal permit activities; and
- 18 (21) applicant's notarized signature.

19 (b) For signs eligible for municipal review, the applicant shall include on the ~~application~~ application, and, as a  
20 prerequisite to applicable municipal review submittal, the year the outdoor advertising sign was originally erected.  
21 Upon request, the Department shall furnish the year of sign erection to the applicant. The Department may require  
22 additional proof if the year of the sign erection remains in question.

23 (c) The selective vegetation removal request may be reviewed on site by Department personnel and a representative  
24 of the applicant.

25  
26 *History Note: Authority G.S. 136-18(5); 136-18(7); 136-18(9); 136-18.7; 136-93; 136-129(4); 136-129(5); 136-*  
27 *130; 136-133.1; 136-133.2;*  
28 *Temporary Adoption Eff. March 1, 2012;*  
29 *Eff. November 1, 2012;*  
30 *Amended Eff. January 1, 2015.*

31

1 19A NCAC 02E .0609 is proposed for readoption without substantive changes as follows:

2  
3 **19A NCAC 02E .0609 ISSUANCE OR DENIAL OF SELECTIVE VEGETATION REMOVAL PERMIT**  
4 **FOR OUTDOOR ADVERTISING**

5 (a) Within 30 days following receipt of the application for a selective vegetation removal permit for outdoor  
6 advertising, including the fee set out in G.S. 136-18.7, the Division Engineer shall approve or deny the application.

7 (b) The application shall be denied by the Division Engineer if:

- 8 (1) the application is for an outdoor advertising location where the outdoor advertising permit is less  
9 than two years old pursuant to G.S. 136-133.2;
- 10 (2) the application is for the opening of a view to a sign that has been declared illegal, or whose permit  
11 has been ~~revoked~~revoked, or is currently involved in litigation with the Department;
- 12 (3) it is determined by Department personnel that removal of vegetation shall diminish a planting  
13 installed for headlight screening and affect the safety of the traveling public;
- 14 (4) the application is for the removal of vegetation planted in accordance with a local, state, or federal  
15 beautification project prior to September 1, 2011 or prior to the issuance of an outdoor advertising  
16 permit for the erection of the applicable outdoor advertising structure, whichever date is later, unless  
17 a mitigating replanting plan related to the site for which the vegetation permit request is ~~made~~made,  
18 as set forth in Rule .0611 of this Section, except for the provisions in Paragraph (d) and  
19 Subparagraph (g)(11); and is agreed upon in writing by the applicant, the Department, and, if  
20 applicable, the Federal Highway Administration;
- 21 (5) on two previous occasions, the applicant has failed to meet the requirements of a selective vegetation  
22 removal permit, unless the applicant engages a landscape contractor to perform the current work;
- 23 (6) the application is for removal of vegetation that will open views to junkyards;
- 24 (7) the requested site is subject to a five-year moratorium for willful failure to substantially comply with  
25 all requirements specified in a prior selective vegetation removal permit pursuant to G.S. 136-  
26 133.4(e);
- 27 (8) the applicant fails to complete an application, as described in Rule .0608 of this Section;
- 28 (9) any cutting, thinning, pruning, or removal of vegetation encompassing the entirety of the maximum  
29 vegetation cutting or removal zone is prohibited due to conditions affecting the ~~right-of-way~~ right-  
30 of-way to which the State is subjected or agrees in writing to subject itself, including conservation  
31 agreements, prior to September 1, 2011 or prior to the issuance of an outdoor advertising permit for  
32 the erection of the applicable outdoor advertising structure, whichever date is later, or due to the  
33 application at any time of State statutes or Federal statutes or rules, including any conditions  
34 mandated as part of the issuance of a permit to the Department for a construction project by a Federal  
35 or State agency with jurisdiction over the construction project. The Department may mitigate within  
36 the ~~right-of-way~~ right-of-way in the cut zone of a permitted outdoor advertising structure so long as  
37 trees and other plant materials for mitigation may not be of a projected mature height to decrease

1 the visibility of a sign face, and such mitigation vegetation may not be cut or removed pursuant to  
2 a selective vegetation removal permit; or  
3 (10) a modified vegetation removal zone application request along acceleration or deceleration ramps is  
4 not in accordance with G.S. 136-133.1(a1) or Rule .0612 of this Section.

5  
6 *History Note: Authority G.S. 136-18(5); 136-18(7); 136-18(9); 136-93; 136-130; 136-133.1(a1), 136-133.2; 136-*  
7 *133.3; 136-133.4; ~~136-93~~;*  
8 *Temporary Adoption Eff. March 1, 2012;*  
9 *Eff. February 1, 2013;*  
10 *Amended Eff. January 1, 2015.*

11

1 19A NCAC 02E .0610 is proposed for readoption without substantive changes as follows:

2  
3 **19A NCAC 02E .0610 CONDITIONS OF SELECTIVE VEGETATION REMOVAL PERMITS FOR**  
4 **OUTDOOR ADVERTISING**

5 The following apply to the conditions of selective vegetation removal permits for outdoor advertising:

- 6 (1) Selected vegetation, as defined in G.S. 136-133.1(b), may be cut, thinned, pruned, or removed in  
7 accordance with the standards set out in G.S. 136-133.4;
- 8 (2) The permittee shall furnish a Performance Bond, ~~or certified check-check,~~ or cashier's check made  
9 payable to North Carolina Department of Transportation for the sum of two thousand dollars  
10 (\$2,000). The Performance Bond, ~~or certified check-check,~~ or cashier's check shall cover all  
11 restoration of the ~~right-of-way-right-of-way~~ to the condition prior to the occurrence of the damage  
12 caused by the permittee or the permittee's agent, if damage occurs during the permitted selective  
13 vegetation removal. The Performance Bond, ~~or certified check-check,~~ or cashier's check shall be  
14 paid with the application before each permit to cut vegetation is issued. The bond shall run  
15 concurrently with the permit. The bond shall be released after a final inspection of the work by the  
16 Department reveals that all work provided for and specified by the permit is found to be completed  
17 and all damages to the right-of-way, including damage to fencing and other structures within the  
18 right-of-way, have been repaired or restored; ~~restored to the condition prior to the occurrence of the~~  
19 ~~damage caused by the permittee or the permittee's agent~~;
- 20 (3) Companies that plan to apply for two or more permits may provide continuing bonds for the sum of  
21 one hundred thousand dollars (\$100,000) and that type of bond shall be kept on file by the Utilities  
22 Unit of the Department;
- 23 (4) If the work is to be performed by any entity other than the sign owner or permittee, either the  
24 permittee or the other entity shall furnish the Performance Bond, ~~or certified check-check,~~ or  
25 cashier's ~~check-check,~~ as described in this Rule, for all work provided for and specified by the  
26 permit. Required forms for all bonds are available upon request from the Department, or on the  
27 Department's ~~website-website:~~ [www.ncdot.gov](http://www.ncdot.gov). Bonds ~~are to~~ shall be furnished with the selective  
28 vegetation removal application form to the official assigned to receive selective vegetation removal  
29 applications at the local North Carolina Department of Transportation, Division of Highways  
30 Office;
- 31 (5) The permittee shall ~~also~~ provide proof of liability insurance coverage of five million dollars  
32 (\$5,000,000). Whoever performs the work, the permittee, ~~his~~ contractor, or agent shall maintain  
33 ~~worker's~~ workers' compensation and vehicle liability insurance coverage. The permittee, ~~his~~  
34 contractor, or ~~agent-agent~~ may be liable for any losses due to the negligence or willful misconduct  
35 of ~~his~~ the permittee's agents, assigns, ~~and or~~ employees. The permittee ~~may~~, in lieu of providing  
36 proof of liability insurance as described in this ~~Item, Subparagraph,~~ may be shown as an additional  
37 insured on the general liability policy of the approved contractor or agent to perform the permitted

1 work on condition that the contractor or agent's policy is for a minimum coverage of five million  
2 dollars (\$5,000,000) and the permittee provides proof to the Department of the coverage. The  
3 ~~permittee permittee, or contractor contractor,~~ or agent providing the coverage shall also name the  
4 Department as an additional insured on its general liability policy and provide the Department with  
5 a copy of the certificate showing the Department named as an additional insured. ~~Regardless of~~  
6 ~~which entity provides the proof of general liability insurance, the~~ The required limit of insurance  
7 may be obtained by a single general liability ~~policy policy,~~ or the combination of a general liability  
8 and excess ~~liability liability,~~ or an umbrella policy;

9 (6) The permittee shall provide a document verifying the requested selective vegetation removal site  
10 location in relationship to corporate limits of a municipality, ~~per pursuant to~~ G.S. 136-133.1(a)(5).  
11 The document shall be a current geographic information system map of the nearest municipality,  
12 with color-coded boundary ~~lines lines,~~ and a corresponding key or legend indicating corporate ~~limit~~  
13 ~~limit,~~ and territorial jurisdiction ~~boundaries boundaries,~~ and indicating the precise location of the  
14 outdoor advertising structure. The permittee shall ~~also~~ provide the property tax identification  
15 number for the parcel on which the outdoor advertising structure is located. The Department may  
16 require additional information if the boundary or sign location remains in question;

17 (7) The permittee shall perform site marking of the maximum vegetation cut or removal zone. The  
18 applicant shall mark the proper permitted cutting distances according to G.S. 136-133.1(a)(1) – (6).  
19 Points A & B along the right-of-way boundary (or fence if there is a control of access fence) shall  
20 be marked with visible flagging tape. Points C, D, & E along the edge of the pavement of the travel  
21 way shall be marked with spray paint, including the actual distances. If the sign is located at an  
22 acceleration or deceleration ramp, points C, D, & E shall be marked along the edge of the pavement  
23 of the travel way of the ramp instead of the mainline of the roadway;

24 (8) The permittee shall perform tagging of trees. The permittee shall tag with a visible material or  
25 flagging all trees, including existing trees and other trees that are, at the time of the selective  
26 vegetation removal application, greater than four-inches in diameter as measured six inches from  
27 the ground and requested to be cut, thinned, pruned, or removed. The applicant shall tag the existing  
28 trees (the exact same existing trees as on the site plan) that are desired to be cut, thinned, pruned, or  
29 removed with visible material or contrasting colored flagging. ~~flagging of a contrasting color.~~ The  
30 permittee shall denote on the site plan or ~~on the~~ application the colors of flagging used to mark each  
31 category of trees;

32 (9) If there are existing trees requested ~~to be removed,~~ for removal, the permittee shall satisfy the  
33 following before any work ~~can~~ may be performed: ~~performed under a selective vegetation removal~~  
34 ~~permit the permittee shall:~~

35 (a) submit the reimbursement to the Department pursuant to G.S. 136-133.1(d) in a cashier's  
36 or certified check;

- 1 (b) fully disassemble two non-conforming outdoor advertising ~~signs—signs,~~ and their  
2 supporting ~~structures—structures,~~ and return the outdoor advertising permits tags to the  
3 Department pursuant to G.S. 136-133.1(d); or
- 4 (c) obtain Departmental approval for the replanting plan in accordance with G.S. 136-133.1(e)  
5 and Rule .0611 of this Section;
- 6 (10) Should the vegetation removal permit be approved and tree removal is scheduled, the sign owner  
7 shall cut for all disputed trees the sign owner shall cut such tree stumps in a level, horizontal ~~manner~~  
8 manner, uniformly across the ~~stump-stump,~~ and at a four inch height, so that tree rings ~~can~~ may be  
9 ~~counted—counted,~~ by the applicant or the ~~Department—Department,~~ to determine the age of the tree;
- 10 (11) After a tree is removed and the applicant or the Department discovers, based on the number of rings  
11 in the tree stump, an error in the tree survey report or site plan, the Department shall request an  
12 amendment to the tree survey report or site plan, ~~and a redetermination shall be made by the~~  
13 Department, pursuant to G.S. 136-133.1(d) and ~~(e)—(e), shall be made by the Department~~ and the  
14 applicant shall be subject to that redetermination;
- 15 (12) For purposes of this Rule, the portion of the cut or removal zone means that the cut or removal zone  
16 shall be less than the entirety of the cut or removal zone. Where any portion of the cut or vegetation  
17 removal zone is restricted for the following reasons, set forth below, ~~The~~ the permittee shall comply  
18 with applicable conditions, mitigation requirements, rules, statutes, or permit requirements related  
19 to cutting, thinning, pruning, or removal of vegetation within the right-of-way; ~~right of way, where~~  
20 ~~any portion of the cut or vegetation removal zone is restricted for the following reasons set forth~~  
21 ~~below;~~
- 22 (a) the State ~~is~~ subjected to or agrees in writing to subject itself to conditions affecting the  
23 right-of-way, including conservation agreements, prior to September 1, 2011, or prior to  
24 the issuance of an outdoor advertising permit for the erection of the applicable outdoor  
25 advertising structure, whichever date is later;
- 26 (b) applicable State or Federal statutes or rules, including any conditions mandated as part of  
27 the issuance of a permit to the Department for a construction project by a Federal or State  
28 agency with jurisdiction over the construction project prohibit vegetation removal; ~~or~~
- 29 (c) mitigation within the right-of-way in the cut zone of a permitted outdoor advertising  
30 structure prohibits vegetation ~~removal,~~ removal; however, trees and other plant materials  
31 for mitigation may not be of a projected mature height to decrease the visibility of a sign  
32 face; or
- 33 (d) ~~If the reasons set forth in Sub items~~ Subparagraphs (12)(a), (b), and (c) of this Rule allow  
34 certain degrees and methods of cutting, thinning, pruning, or removal for portions of  
35 vegetation, the permittee shall comply with the conditions set forth above, including  
36 equipment type for those portions of the cutting or removal zone. Vegetation removal for  
37 portions of the maximum cutting or removal zone not affected by the reasons set forth in

1                   ~~Sub items~~ Subparagraph (12)(a), (b) and (c) of this Rule shall be governed by standards set  
2                   out in G.S. ~~136-93-136-93~~;

- 3                   (13) The permittee shall adhere to erosion control requirements, according to ~~General Statutes, Article~~  
4                   ~~4, Chapter 113A~~ Article 4 of G.S. § 113A, entitled: Sedimentation Pollution Control Act of 1973;
- 5                   (14) A Division of Highways Inspector may be present while work is underway. The presence or absence  
6                   of a Division of Highways inspector at the work site does not lessen the permittee's responsibility  
7                   for conformity with the requirements of the permit. ~~When~~ If a present inspector fails to point out  
8                   work that does not conform ~~with~~ to the requirements, ~~it does~~ such a failure shall not prevent later  
9                   notification from the Department to the permittee that the work is not in compliance with the permit;
- 10                  (15) A selective vegetation removal permit shall be secured for each applicable outdoor advertising site  
11                  prior to performing any vegetation removal work;
- 12                  (16) When the Division Engineer ("Engineer") or his representative observes unsafe operations,  
13                  activities, or conditions, ~~he~~ the Engineer shall suspend work. Work shall not resume until the unsafe  
14                  operations, activities, or conditions have been eliminated or corrected. Failure to comply with any  
15                  of the federal and State laws, ordinances, and regulations governing safety and traffic control shall  
16                  result in suspension of work. The permittee shall adhere to safety requirements, ~~according pursuant~~  
17                  to Article 16 of G.S. § 95, ~~Article 16~~, entitled: Occupational Safety and Health Act of North  
18                  Carolina. Traffic control shall be in accordance with G.S. § 136-30 and 19A NCAC 02B .0208;
- 19                  (17) The applicant shall certify that he or she has permission from the adjoining landowner(s) to access  
20                  ~~their~~ the private property for the purpose of conducting activities related to the selective vegetation  
21                  removal permit application;
- 22                  (18) The permittee or its contractor or agent shall have a copy of the selective vegetation removal permit  
23                  on the work site at all times during any phase of selective vegetation cutting, thinning, trimming,  
24                  pruning, removal, or planting operations;
- 25                  (19) The permittee or its contractor or agent shall take measures to locate and protect utilities within the  
26                  highway right-of-way within the work area of the selective vegetation removal zone. The permittee  
27                  may be responsible for restoration of any losses or damages to utilities caused by any actions of the  
28                  permittee or its contractors or ~~agents~~ agents, to the satisfaction of the utility owner;
- 29                  (20) Permits are valid for a period of one year and the permittee may cut, thin, prune, or remove  
30                  vegetation more than one time during the permit year. If the applicant applies for and is approved  
31                  for another selective vegetation removal permit at the same site during an existing permit year, the  
32                  previous permit shall become null and void at the same time the new permit is issued;
- 33                  (21) The permittee shall provide to the Department a 48-hour notification before entering the right-of-  
34                  way for any work covered by the conditions of the permit. The permittee shall schedule all work  
35                  with the Department. The permittee shall notify the Department in advance of work scheduled for  
36                  nights, weekends and holidays. The Department may modify the permittee's work schedule for  
37                  nights, weekends, and holidays. When the Department restricts construction in work zones for the

1 safety of the traveling public, the Department shall deny access to the right-of-way for selective  
2 vegetation removal;

3 (22) If work is planned in an active work zone, the permittee shall receive written permission from the  
4 contractor or the Department if the Department's employees are performing the work. The permittee  
5 shall provide the Division Engineer with a copy of the written permission;

6 (23) An applicant shall be allowed to use individual and manual-operated power equipment and hand  
7 held tools at any site during initial cutting or removal of vegetation or while maintaining a site during  
8 the duration of a selected vegetation removal permit. The Department may allow use of power-  
9 driven vegetation removal equipment (such as excavator-based land clearing attachments, skid-steer  
10 cutters, and bucket trucks) if the Department determines that the use of such equipment will not  
11 cause undue safety hazards, any erosion, or unreasonable damage to the right-of-way, and may allow  
12 access from the private property side to the right-of-way. Tree removal that presents a hazard from  
13 falling tree parts shall be performed in accordance with the current edition and subsequent  
14 amendments and editions of the American National Standard for Arboricultural Operations-Safety  
15 Requirements ANSI Z133.1, approved by the American National Standards Institute and published  
16 by the International Society of Arboriculture that is hereby incorporated. Copies of the Standard are  
17 available for inspection in the office of the State Roadside Environmental Engineer, Division of  
18 Highways, Raleigh, N.C. Copies of the Standard may be obtained from the International Society of  
19 Arboriculture (ISA) for a twenty dollars (\$20.00) cost. The ISA ~~can~~ may be contacted at P.O. Box  
20 3129 Champaign, Illinois 61826 or by accessing this website: <http://www.isa-arbor.com/>;

21 (24) The Department shall determine the traffic control signage that shall be required. The permittee shall  
22 furnish, erect, and maintain the required signs as directed by the Department;

23 (25) The height of stumps remaining after tree removal shall not exceed four inches above the  
24 surrounding ground level. At the end of the work day, ~~The the~~ work site shall be left with all  
25 vegetation cut, thinned, or pruned at the site either removed or chipped and spread in accordance  
26 with G.S. 136-133.4 at the end of each workday; and

27 (26) Upon completion of all work, the Department shall notify the permittee in writing of acceptance,  
28 terminate the permit, and return the Performance Bond, ~~or certified check-check,~~ or cashier's check  
29 to the permittee. For replanting work, a different bond release schedule shall be applicable according  
30 to Rule .0611 of this Section. The permittee may terminate the permit at any time and request return  
31 of the Performance Bond, ~~or certified check-check,~~ or cashier's check. The termination and request  
32 for return of the Performance Bond, ~~or certified check,~~ or cashier's check shall be made in writing  
33 and sent to the Division Engineer.

34  
35 *History Note:* Authority G.S. 136-18(5); 136-18(7); 136-18(9); 136-93; 136-93.2; 136-127; 136-130; 136-133.1;  
36 ~~136-133.1(a1);~~ 136-133.2; 136-133.3; 136-133.4; 136-133.5;  
37 *Temporary Adoption Eff. March 1, 2012;*



- 1 *Eff. February 1, 2013;*
- 2 *Amended Eff. January 1, 2015.*
- 3

1 19A NCAC 02E .0611 is proposed for readoption without substantive changes as follows:

2  
3 **19A NCAC 02E .0611 BEAUTIFICATION AND REPLANTING REQUIREMENTS FOR SELECTIVE**  
4 **VEGETATION REMOVAL PERMITS**

5 (a) Any site with a valid selective vegetation removal permit issued pursuant to G.S. 136-93(b) qualifies for a  
6 beautification and replanting plan as set forth in G.S. 136-133.1(e).

7 (b) For future selective vegetation removal applications at replanted sites, replanted materials may be removed only  
8 if partially blocking the view to a sign face. In this case, the Department shall require plant substitutions on a one for  
9 one basis. All requests for plant substitutions shall be approved by the Department and installed according to the rules  
10 in this Section.

11 (c) Submittal of a site plan shall be in accordance with G.S. 136.133.1(c).

12 (d) This Paragraph applies to all replanting plans except mitigating replanting plans as specified in Rules .0603(b)(6)  
13 and .0609(b)(4) of this Section. The caliper inches of existing trees to be removed, according to the applicant's site  
14 ~~plan-plan,~~ shall equal the caliper inches to be ~~replanted-replanted,~~ by the ~~applicant-applicant,~~ at the outdoor advertising  
15 ~~site-site, and~~ from which existing trees are requested to be removed. If the caliper inches of existing trees from the  
16 site plan exceed the density of the Departments replanting site design, the excess caliper inches of trees shall be  
17 delivered by the applicant to the Department according to the schedule described in Subparagraph (g)(6) of this Rule.  
18 If plant material other than trees is proposed, the Department may consider such substitution for the required caliper  
19 inches.

20 (e) For sites that qualify according to the replanting criteria described in this Rule, the Department shall consult with  
21 the applicant and any local government that has requested to review and provide comments on selective vegetation  
22 removal applications pursuant to G.S. ~~136-93(d)~~ 136-93(d), or has notified the Department of its desire to review and  
23 provide comments on beautification and replanting plans. The local government shall be given 15 days to review and  
24 provide comments on beautification and replanting plans. If the local government does provide comments on a  
25 beautification and replanting plan, the Department shall take the comments into consideration. If the local government  
26 does not make appropriate request for a review, the criteria stated in the rules in this Section shall be followed for  
27 replanting determination.

28 (f) In consideration of differences in outdoor advertising sign structure heights, business facilities, or agritourism  
29 activities, the Department shall maintain on file regionalized landscape design plans and plant lists as a guide for  
30 applicants. The applicant may submit one of the Department's plans or a proposed beautification and replanting plan  
31 prepared and sealed by a North Carolina licensed landscape architect. The Department's written approval, based on  
32 the current edition and subsequent amendments and editions of the American Standard for Nursery Stock ANSI Z60.1  
33 approved by the American National Standards Institute and published by the American Horticulture Association that  
34 is hereby incorporated for a minimum of a 1.5 caliper inch replanted tree, of the beautification, replanting, and  
35 maintenance plan shall allow the applicant to proceed with requested vegetation cutting, thinning, pruning, or removal  
36 at the site. If plant material other than trees is proposed, the Department may consider such substitution for the required  
37 caliper inches. Copies of the Standard are available for inspection in the office of the State Roadside Environmental

1 Engineer, Division of Highways, 1 S. Wilmington St., Raleigh, N.C. Copies of the Standard may be obtained free of  
2 charge from this website of the American Horticulture Association: [www.americanhort.org](http://www.americanhort.org). The mailing address for  
3 AmericanHort is 2130 Stella Ct, Columbus, OH 43215.

4 (g) The approved beautification and replanting plan becomes a part of the selective vegetation removal permit  
5 pursuant to G.S. 136-93(b) and 136-133.1(e). All permit requirements shall continue to apply until all replanting and  
6 establishment requirements are satisfied and accepted in writing by the Department. The Department shall approve  
7 the replanting portion of the selective vegetation removal permit in writing and detail the requirements of the  
8 beautification and replanting plan. ~~The following shall be required. requirements include the following:~~

- 9 (1) The work for initial plantings and all future replacements by the permittee or any of their employees,  
10 agents, or assigns shall be in accordance with the current edition and subsequent amendments and  
11 editions of the American National Standard for Tree Care Operations-Transplanting ANSI A300  
12 (Part 6), approved by the American National Standards Institute and published by the Tree Care  
13 Industry Association, Inc. that is hereby incorporated, Association, Inc., except as stipulated in the  
14 rules in this Section. Copies of the Standard are available for inspection in the office of the State  
15 Roadside Environmental Engineer, Division of Highways, 1 S. Wilmington St., Raleigh, N.C.  
16 Copies of the Standard may be obtained from the Tree Care Industry Association, Inc. for a twenty  
17 dollars (\$20.00) cost. The Tree Care Industry Association, Inc. (TCIA) can be contacted at 136  
18 Harvey Road, Suite 101 Londonberry, NH 03053 or at this website: [www.tcia.org](http://www.tcia.org). Initial and  
19 replacement planting may be considered acceptable if the plants have been placed in the plant hole,  
20 backfilled, watered, mulched, staked, and guyed. All plants of one species that are shown on the  
21 plans to be planted within a bed, shall be planted concurrently and the entire group shall be  
22 completed before any plant therein is considered acceptable. Replacement planting consists of  
23 replacing those plants that are not in a living and healthy condition as defined in these Rules;
- 24 (2) The permittee shall adhere to erosion control requirements, according to ~~North Carolina General~~  
25 ~~Statutes, Article 4, Chapter 113A of G.S. § 113A,~~ entitled: Sedimentation Pollution Control Act of  
26 1973;
- 27 (3) All plant materials shall be approved in writing by the Department prior to arrival at the site or prior  
28 to excess trees being furnished and delivered to the Department. The approval shall be based on the  
29 current edition and subsequent amendments and editions of the American Standard for Nursery  
30 Stock ANSI Z60.1 approved by the American National Standards Institute and published by the  
31 American Nursery and Landscape Association Horticulture Association that is hereby incorporated;
- 32 (4) All work is subject to Division of Highways inspection and ~~shall be~~ scheduled with the Department.  
33 A minimum 48-hour notification shall be provided to the Department by the permittee before  
34 entering the right-of-way for any beautification and replanting plan requirements;
- 35 (5) Grinding or other mechanical removal of all cut stumps (to a minimum depth of four inches below  
36 ground level) shall be completed in the area of replanting during the preparation of the site, prior to  
37 initial planting;

- 1 (6) All initial and replacement plantings shall be installed during the first planting season (November 1  
2 to March 15) contemporaneous with or following the selective vegetation removal. If replanting  
3 cannot be completed by the March 15 deadline, the replanting shall occur during the next planting  
4 season. The same dates (November 1 to March 15) shall apply when the permittee provides the  
5 Department with excess plant material at a site where existing caliper inches exceeds the site design  
6 capacity;
- 7 (7) The permittee shall contact the Department to schedule a final replanting acceptance inspection  
8 upon completion of any plant material installation. For one year from the date of the initial planting  
9 acceptance for the entire replanting plan, and the permittee shall establish all plant materials  
10 according to these provisions. Establishment for all initial or replacement plants shall begin after  
11 they are planted. The permittee shall be responsible for the area around plantings for a distance of  
12 six feet beyond the outside edges of the mulch. Establishment shall include cutting of grass and  
13 weeds; watering; replacement of mulch; repair or replacement of guy stakes, guy wires, and water  
14 rings; and other work to encourage the survival and growth of plant material. The permittee shall  
15 remove and dispose of dead plants from the replanting plan site during the establishment period.  
16 Prior to the end of the one-year establishment period, the permittee is responsible for contacting the  
17 Department to schedule a site meeting with Departmental officials to identify plants to be replaced  
18 that are not in a living and healthy condition. Plants do not meet the living and healthy condition  
19 requirement and need replacement if 25 percent or more of the crown is dead, if the main leader is  
20 dead, or if an area of the plant has died leaving the character of its form compromised, lopsided, or  
21 disfigured. The permittee shall replace, during the planting period, plant material needed to restore  
22 the planting to the original quantity, size, and species of plant material. Any desired changes in  
23 plant material proposed by the permittee shall be requested in writing to the Department. The  
24 Department shall notify the permittee in writing of the approved changes to the replacement  
25 plantings;
- 26 (8) At the conclusion of the one-year establishment period, the Department shall issue a written  
27 acceptance of the permittee's work and release the bond. Then a one-year observation period shall  
28 begin during which the permittee shall maintain stability of the original and replacement plantings  
29 to promote their continued livability and healthy growth. The permittee is responsible for  
30 replacement of plants not meeting the living and healthy condition requirement during the  
31 observation period. Replacement shall occur in accordance with the dates of planting as stated in  
32 the rules in this Section;
- 33 (9) After the one-year observation period concludes, the Department shall notify the permittee if the  
34 permit requirement conditions have been met successfully;
- 35 (10) Replanted materials may be pruned according to the current edition and subsequent amendments  
36 and editions of the American National Standard for Tree Care Operations-Pruning ANSI A300 (Part  
37 1), approved by the American National Standards Institute and published by the Tree Care Industry

1 Association Inc. that is hereby incorporated, Association Inc., however, topping of trees or other  
2 vegetation is not allowed;

3 (11) This Paragraph applies to all replanting plans except mitigating replanting plans as specified in Rule  
4 .0609(b)(4) of this Section. Excess plants or trees furnished and delivered to the Department, shall  
5 receive care and handling in accordance with digging, loading, transporting, unloading, planting, or  
6 otherwise handling plants, and the permittee shall exercise care to prevent windburn; injury to or  
7 drying out of the trunk, branches, or roots; and to prevent freezing of the plant roots. The solidity  
8 of the plant ball shall be preserved. Delivery of excess plant material shall be scheduled with the  
9 Department, allowing a minimum three days notification for each delivery. The permittee's  
10 responsibility for the furnished excess plants or trees ends at the time the plant material is delivered  
11 to, inspected by, and accepted by the Department;

12 (12) For mitigating replanting plans according to Rule .0609(b)(4) of this Section, trees and other plant  
13 material for a proposed beautification and replanting plan taken from the Department's landscape  
14 design plans and plant lists or prepared and sealed by a North Carolina licensed landscape architect,  
15 may be of a projected mature height to reduce visibility limitations to outdoor advertising sign faces.  
16 As an alternative to replanting, mitigation by pruning for vegetative crown reduction at an existing  
17 beautification project may be allowed, if mutually agreed upon in writing by the Department and  
18 permittee. All pruning shall be performed by removing the fewest number of branches necessary to  
19 accomplish the desired objective but in consideration of normal seasonal regrowth for the type of  
20 vegetation. All pruning for purposes of mitigation shall be in accordance with the current edition  
21 and subsequent amendments and editions of the American National Standards for Tree Care  
22 Operations-Pruning ANSI A300 (Part 1), approved by the American National Standards Institute  
23 and published by the Tree Care Industry Association, Inc. In the case of vegetation mortality caused  
24 by pruning, replacement plantings shall be required according to this Rule;

25 (13) Should the outdoor advertising structure related to the selective vegetation permit be sold or  
26 transferred, the new owner or permit holder is subject to the requirements in the General Statutes  
27 and rules in this Section, including those regarding planting, establishment, replacement or  
28 renovation plantings, minimum living and healthy condition, and observation; and

29 (14) Willful failure to substantially comply with the requirements of this Rule for the beautification and  
30 replanting plan shall subject the permittee to penalties prescribed in G.S. 136-133.4.

31  
32 *History Note: Authority G.S. 99E-30; 136-93; ~~136-93(b)~~; 136-93.3; 136-130; 136-133.4; ~~136-93.3~~;*  
33 *Temporary Adoption Eff. March 1, 2012;*  
34 *Eff. November 1, 2012;*  
35 *Amended Eff. January 1, 2015.*  
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