



N.C. DEPARTMENT OF TRANSPORTATION

NCDOT Proposed Rules Changes

for Definitions for Outdoor Advertising Control, Agreement, Outdoor Advertising on Controlled Routes, Local Zoning Authorities, Applications, Fees and Renewals, Permit and Permit Emblem, Transfer of Permit/Change of Address, Revocation of Outdoor Advertising Permit, Notice Given for Revoking Permit, Appeal on Decision of District Engineer to Sec. of Trans., Standards for Directional Signs, Permits for Directional Signs, Scenic Byways, Repair/Maintenance/Alteration of Signs, Order to Stop Work on Unpermitted Outdoor Advertising, Selective Vegetation Removal Permit Required to Remove Vegetation from State Highway Right of Way, Requests for Selective Vegetation Removal Permits for a Facility, Issuance of Denial of Selective Vegetation Removal Permit for a Facility, Conditions of Selective Vegetation Removal Permit for Facilities, Requests for Selective Vegetation Removal Permits for Outdoor Advertising, Issuance or Denial or Selective Vegetation Removal Permit for Outdoor Advertising, Conditions of Selective Vegetation Removal Permit for Outdoor Advertising, and Beautification and Replanting Requirements for Selective Vegetation Removal Permits

North Carolina Administrative Code (NCAC)

19A NCAC 02E .0201, .0202, .0203, .0204, .0206, .0207, .0208, .0209, .0210, .0212, .0213, .0214, .0215, .0224, .0225, .0226, .0601, .0602, .0603, .0604, .0608, .0609, .0610, and .0611

Public Hearing

Thursday, February 20, 2020 3:00 PM

Greenfield Parkway Building

NCDOT Transportation Mobility and Safety Unit - Conference Room 161

750 N. Greenfield Parkway, Garner

PURPOSE OF PUBLIC HEARING

The public hearing is an opportunity for you, the public, to be involved in the rulemaking process, and is being held to solicit comments regarding the request to amend, adopt or repeal portions of the N.C. Administrative Code per the rules process.

YOUR PARTICIPATION

You are encouraged to participate by making your comments and/or questions a part of the public record. This can be done by having them recorded at the Formal Public Hearing or by providing them in writing. Several representatives of the N.C. Department of Transportation are present. They will be happy to talk with you and answer your questions. You may leave your written comments and/or questions with one of the representatives or submit them via mail or email by **March 5, 2020** to the following:

Attn: Jamille Robbins
NCDOT – Environmental Analysis Unit
1598 Mail Service Center
Raleigh, NC 27699-1598
Email: jarobbins@ncdot.gov

Everyone present is urged to participate in the proceedings. It is important, however, that **THE OPINIONS OF ALL INDIVIDUALS BE RESPECTED REGARDLESS OF HOW DIVERGENT THEY MAY BE FROM YOUR OWN**. Accordingly, debates are out of place at public hearings. Also, the public hearing is not to be used as a popular referendum to determine the location and/or design by a majority vote of those present.

WHAT IS DONE WITH THE INPUT?

All input received through the public hearing process will be reviewed by the Administrative and Engineering staff of the Division of Highways prior to adoption of the proposed permanent rules. The Department will then submit the adopted proposed permanent rules to the Rules Review Commission with the Office of Administrative Hearings for review.

FOR MORE INFORMATION

Please go to <https://www.ncdot.gov/about-us/how-we-operate/policy-process/rules/> for more information about the rules change process.

REASON FOR PROPOSED RULES CHANGES

Pursuant to G.S. 150B-21.3A, Periodic Review and Expiration of Existing Rules, all rules are reviewed at least every 10 years or they shall expire. As a result of the periodic review of Subchapter 19A NCAC 02E these proposed rules were determined as “Necessary With Substantive Public Interest” thus necessitating readoption.

Upon review for the readoption process, the agency deemed the following rules to be necessary without substantive changes and are recommended for readoption: 19A NCAC 02E 0201, .0202, .0203, .0204, .0206, .0207, .0208, .0209, .0210, .0212, .0213, .0214, .0215, .0224, .0601, .0602, .0603, .0604, .0608, .0609, .0610, and .0611.

Upon review for the readoption process, the agency deemed the following rule to be necessary with substantive changes and is recommended for readoption: 19A NCAC 02E .0225.

Upon review for the readoption process, the agency deemed the following rule to be unnecessary and is recommended for repeal through readoption: 19A NCAC 02E .0226.

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

2
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: the Rules of this Section: A sign that is not being maintained as required by the rules in this~~
6 ~~Section. The absence of a valid lease is one indication of an abandoned sign. An outdoor advertising sign structure~~
7 ~~shall be considered to be abandoned if for a period of 12 months the sign has been without a message, contains obsolete~~
8 ~~advertising matter, or is significantly damaged or dilapidated.~~

9 (1) Abandoned Sign: An outdoor advertising sign structure shall be considered abandoned if it meets
10 one of the following criteria:

11 (a) is not maintained in accordance with the Rules of this Section;

12 (b) does not have a lease; or

13 (c) is without a message, contains out-of-date advertising matter, or is significantly damaged
14 for a period of 12 months.

15 (2) Automatic Changeable Facing Sign: A sign, display, or device ~~which~~ that changes the message or
16 copy on the sign facing electronically by digital means or movement or rotation of panels or slats.
17 ~~slats, [or by digital means.]~~

18 (3) Blank Sign: A sign structure ~~on which all faces contain~~ contains no ~~message,~~ message or ~~which~~
19 ~~contains~~ only a telephone number advertising its availability.

20 (4) Comprehensive Zoning: Zoning by local zoning authorities of each parcel of land under the
21 jurisdiction of the local zoning authority placed in a zoning classification pursuant to a
22 comprehensive plan, or reserved for future ~~classification.~~ classification;

23 (a) A comprehensive plan means a development plan ~~which~~ that guides decisions by the local
24 zoning authority relating to zoning and the growth and development of the ~~area~~ area;

25 (b) Even if comprehensively enacted, the following criteria shall determine whether ~~such a~~
26 zoning is enacted ~~primarily~~ to permit outdoor advertising:

27 (i) ~~The~~ the zoning classification provides for ~~limited~~ commercial or industrial
28 activity only incidental to other primary land uses;

29 (ii) ~~The~~ the commercial or industrial activities are permitted only by variance or
30 special exceptions; or

31 (iii) ~~The~~ the zoning constitutes spot or strip zoning. "Spot zoning" or "strip zoning" is
32 zoning designed primarily for the purpose of permitting outdoor advertising signs
33 in an area ~~which~~ that would not ~~normally~~ otherwise permit outdoor advertising.

34 (5) Conforming Sign: A sign legally erected in a zoned or unzoned commercial or industrial area ~~which~~
35 that meets all ~~current legal~~ requirements for the Rules of this Section and Article 11 of Chapter 36
36 of NC General Statutes for erecting a new sign at that site.

- 1 (6) Controlled Access Highway: A highway on which entrance and exit accesses are permitted only at
2 designated points.
- 3 (7) Controlled Route: Any interstate or federal-aid primary highway as it existed on June 1, 1991, and
4 any highway ~~which~~ that is or becomes a part of the National Highway System (NHS).
- 5 (8) Destroyed Sign: A sign that has sustained damage by more than 50 percent of damage as determined
6 by the criteria set forth in 19A NCAC 02E .0225(f) by factors other than tortious or criminal acts,
7 including vandalism, no longer in existence due to factors other than vandalism or other criminal or
8 tortious acts. An example of a destroyed sign includes a sign damaged which has been blown down
9 by the wind wind, and sustains damage in excess of 50 percent as determined by the criteria in 19A
10 NCAC 02E .0225(f).
- 11 (9) Dilapidated Sign: A sign ~~which is shabby, neglected, or in disrepair, or which~~ that fails to be in the
12 same form as originally constructed, or which fails to perform its intended function of conveying a
13 message. Characteristics of a dilapidated sign ~~include, but are not limited to,~~ include structural
14 support failure, a sign not supported as originally constructed, panels or borders missing or falling
15 off, intended messages cannot be interpreted by the motoring public, or a sign ~~which~~ that is blocked
16 by overgrown vegetation outside the highway right of way.
- 17 (10) Directional Sign: A sign ~~which~~ that contains ~~directional-~~ navigational information about public
18 places owned or operated by federal, state, or local governments or their agencies; publicly or
19 privately owned natural phenomena, historic, cultural, scientific, educational, and religious sites;
20 and areas of natural scenic beauty or naturally suited for outdoor ~~recreation, deemed to be in the~~
21 ~~interest of the traveling public.~~ recreation. Directional and other official signs and notices ~~include,~~
22 ~~but are not limited to,~~ include public utility signs, service club and religious notices, or public service
23 signs.
- 24 (a) Public Service Sign: A sign located on a school bus stop shelter ~~which~~ that meets all the
25 following requirements:
- 26 (i) identifies the donor, sponsor or contributor of ~~said a~~ shelter;
- 27 (ii) is located on a school bus shelter ~~which~~ that is authorized or approved by city,
28 county, or state law, regulation, or ordinance, and at places approved by the city,
29 county, or state agency controlling the highway involved;
- 30 (iii) contains only safety slogans ~~or messages which~~ that shall occupy not less than 60
31 percent of the area of the sign;
- 32 (iv) does not exceed 32 square feet in area; and
- 33 (v) contains not more than one sign facing in any one direction.
- 34 (b) Public Utility Sign: A warning sign, informational sign, notice or other marker ~~customarily~~
35 erected and maintained by publicly or privately owned ~~utilities, which are essential to their~~
36 ~~operations.~~ utilities.

1 (c) Service Club and Religious Notices: Any sign or notice ~~authorized by law which that~~
2 relates to meetings of nonprofit service clubs, charitable associations, or religious services.

3 These signs shall not exceed eight square feet in area.

4 (11) Discontinued Sign: A sign no longer in existence. A discontinued sign includes a sign of which
5 any part of a sign face is missing more than 180 days. In some cases, a sign may be both
6 discontinued and dilapidated.

7 (12) ~~Fully Controlled Access Highway: Freeway:~~ A divided ~~arterial~~ highway for through traffic ~~with full~~
8 ~~control of access that persons, including the owners or occupants of abutting lands have no right of~~
9 ~~access except at the points and in the manner determined by the Department of Transportation.~~

10 (13) Highway: A highway that is designated as a part of the interstate or federal-aid primary highway
11 system as of June 1, 1991, or any highway which is or becomes a part of the National Highway
12 System. A highway shall be a part of the National Highway System on the date the location of the
13 highway has been approved ~~finally~~ by the appropriate federal authorities.

14 (14) Lease: An ~~agreement, in writing, agreement~~ by which possession or use of land or interests therein
15 is given for a specified purpose and period of time, and which is a ~~valid~~ contract under North
16 Carolina laws.

17 (15) Main Traveled Way or Traveled Way: Part of a highway on which through traffic is carried,
18 exclusive of paved shoulders. In the case of a divided highway, the traveled way of each of the
19 separated roadways for traffic in opposite directions is a traveled way. It does not include frontage
20 roads, turning roadways, or parking areas.

21 (16) Nonconforming Sign: A ~~non-conforming sign sign, as defined in G.S. 136-128 (2a), shall include~~
22 ~~which was lawfully erected but which does not comply with the provisions of State law or rules~~
23 ~~passed at a later date or which later fails to comply with State law or rules due to changed conditions.~~
24 ~~[Also includes] a sign legally erected prior to the effective date of the Outdoor Advertising Control~~
25 ~~Act or prior to the addition of a route to the interstate or federal-aid primary system or National~~
26 ~~Highway System in a zoned or unzoned commercial or industrial area which does not meet all~~
27 ~~current standards for erecting a new sign at that site. For purposes of the outdoor advertising rules,~~
28 ~~nonconforming signs also include those signs which have become nonconforming pursuant to 19A~~
29 ~~NCAC 02E .1002(d) on scenic byways which were part of the interstate or federal aid primary~~
30 ~~highway system as of June 1, 1991, or which are or become a part of the National Highway System.~~

31 (17) ~~Official Sign/Notice:~~ Official Sign or Notice: A sign or notice erected and maintained by public
32 officers or public agencies within their territorial or zoning jurisdictions and pursuant to and in
33 accordance with federal, state, or local law for the purpose of carrying out an official duty or
34 responsibility. Official signs and notices ~~include, but are not limited to,~~ include historical markers
35 authorized by state law and erected by state or local government agencies or nonprofit historical
36 societies.

- 1 (18) ~~On-premise/On property Sign:~~On-premise: A sign which advertises the sale or lease of property
2 upon which it is located or ~~which~~ that advertises an activity conducted or product for sale on the
3 property upon which it is located. An on-premise sign may not be converted to a permitted outdoor
4 advertising sign unless it meets all rules in effect at the time of the conversion request. An on-
5 premise sign ~~must~~ shall be located on property contiguous to the property on which the activity is
6 located. Tracts not considered to be contiguous include, but are not limited to:
- 7 (a) ~~Tracts~~ tracts of land separated by a federal, state, city, or public access maintained road;
 - 8 (b) ~~Tracts~~ tracts of land not under common ownership; or
 - 9 (c) ~~Tracts~~ tracts of land held in different estates or interests.
- 10 (19) Parkland: Any publicly owned land ~~which~~ that is designated or used as a public park, recreation
11 area, wildlife or waterfowl refuge or historic site.
- 12 (20) Permit Holder: A permit holder shall be the sign owner, ~~and for purposes of the rules in this Section~~
13 ~~the terms and definitions shall be interchangeable, unless the Department of Transportation, through~~
14 ~~the appropriate district office, has been notified in writing that the permit holder is a person or entity~~
15 ~~other than the actual owner of the sign. In this case, the actual sign owner's~~ owner and the entity
16 whose name, name is on the approved outdoor advertising permit application as "Permit
17 Holder/Sign Owner", mailing address, and telephone number must be declared.
- 18 (21) Salvageable Sign Components: Components of the original sign structure prior to the damage that
19 can be repaired or replaced on site by the use of labor only. If any materials, other than nuts, bolts,
20 nails or similar hardware, are required in order to repair a component, the component is not
21 considered to be salvageable.
- 22 (22) Scenic Area: Any area of particular beauty or historical significance as determined by the federal,
23 state, or local official having jurisdiction thereof, and includes interests in land which have been
24 acquired for the restoration, preservation and enhancement of beauty.
- 25 (23) Scenic Byway: A scenic ~~highway~~ byway or scenic byway designated by the Board of
26 Transportation, regardless of whether the route so designated was part of the interstate or federal-
27 aid primary highway system as of June 1, 1991, or any highway ~~which~~ that is or becomes a part of
28 the National Highway System.
- 29 (24) Sign: Any outdoor sign, sign structure, display, light, device, figure, painting, drawing, message,
30 placard, poster, billboard, or other object which is designed, intended, or used to advertise or inform.
31 A sign includes any of the parts or material of the structure, such as beams, poles, posts, and
32 stringers, the only eventual purpose of which is to ~~ultimately~~ display a message or other information
33 for public view. For purposes of these rules, the term "sign" and its definition shall be
34 interchangeable with the following terms: outdoor advertising, outdoor advertising sign, outdoor
35 advertising structure, outdoor advertising sign structure, sign structure, and structure.
- 36 ~~(25) Sign Conforming by Virtue of the "Grandfather Clause:" A sign legally erected prior to the effective~~
37 ~~date of the Outdoor Advertising Control Act or prior to the addition of a route to the interstate or~~

1 federal aid primary system or NHS in a zoned or unzoned commercial or industrial area which does
2 not meet all current standards for erecting a new sign at that site.

3 ~~(26)-(25)~~ Sign Face: The part of the sign, including trim and background, ~~which~~ that contains the message
4 or informative contents. ~~For purposes of measuring the maximum area or height of a sign,~~
5 ~~embellishments or extended advertising shall be excluded.~~

6 ~~(27)-(26)~~ Sign Location/Site: Sign Location: A sign location ~~or site~~ for purposes of these rules shall be
7 measured to the closest 1/100th of a mile, in conformance with Department of Transportation
8 methods of measurement for all state roads. ~~the latitude and longitude as determined by recreational~~
9 ~~grade global position system (GPS) equipment.~~ The location ~~or site~~ shall be determined and listed
10 on each outdoor advertising permit application by DOT personnel.

11 ~~(28)-(27)~~ Sign Owner: A sign owner shall be the owner of the physical sign structure. ~~permit holder of record,~~
12 ~~and for purposes of the rules in this Section the terms and definitions shall be interchangeable, unless~~
13 ~~the Department of Transportation, through the appropriate district office, has been notified in writing~~
14 ~~that the sign owner is a person or entity other than the actual holder of the permit. In this case, the~~
15 ~~actual sign owner's name, mailing address, and telephone number must be declared.~~

16 ~~(29)-(28)~~ Significantly Damaged Sign: A sign ~~which~~ that has been damaged ~~or partially destroyed~~ due to
17 factors other than vandalism or other criminal or tortious acts to such extent that the damage to the
18 sign is greater than fifty percent as determined by the criteria in 19A NCAC 02E .0225(f). ~~[-0225(d)-]~~

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

23 ~~(31)~~ (30) Zoned Commercial or Industrial Area: An area ~~which~~ that is zoned for business, industry,
24 commerce, or trade pursuant to a state or local zoning ordinance or regulation. Local zoning action
25 ~~must~~ shall be taken pursuant to the state's zoning enabling statute or constitutional ~~authority in~~
26 ~~accordance therewith~~ authority. Zoning ~~which~~ that is not part of comprehensive zoning or ~~which~~
27 ~~that~~ is created primarily to permit outdoor advertising structures shall not be recognized as valid
28 zoning for purposes of the Outdoor Advertising Control Act and the rules promulgated thereunder,
29 unless the land is developed for commercial or industrial activity as defined ~~under~~ in accordance
30 with 19A NCAC 02E .0203(5).

31
32 *History Note: Authority G.S. 136-130;*
33 *Eff. July 1, 1978;*
34 *Amended Eff. August 1, 2000; December 1, 1993; March 1, 1993; December 1, 1990; January 1,*
35 *1984.*
36

1 19A NCAC 02E .0202 is proposed for reoption 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~~(b)~~ 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. A copy of this agreement may be obtained
10 from the Office of the Chief Engineer. Copies of Title 23 of the ~~United States Code of Federal Regulations~~ are
11 available at the following website: [https://www.ecfr.gov/cgi-](https://www.ecfr.gov/cgi-bin/textidx?SID=fb078583e8085ae794e5274e0ebf58e7&mc=true&node=sp23.1.750.g&rgn=div6)
12 [bin/textidx?SID=fb078583e8085ae794e5274e0ebf58e7&mc=true&node=sp23.1.750.g&rgn=div6](https://www.ecfr.gov/cgi-bin/textidx?SID=fb078583e8085ae794e5274e0ebf58e7&mc=true&node=sp23.1.750.g&rgn=div6). Copies of Title 23
13 of the United States Code are available at the following website:
14 <https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title23-section131&num=0&edition=prelim> ~~from~~
15 ~~the Superintendent of Documents, Mail Stop SSOP, Washington, D.C. 20402-9328. The Code of Federal Regulations,~~
16 ~~Title 23, is available from the same address.~~

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

18

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

20 *Eff. July 1, 1978;*

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

22 *1981.*

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

10 (1) ~~Configuration and Size of Signs:~~ Signs shall be configured and sized as follows:

11 (a) ~~The the~~ maximum area for any one sign shall be 1,200 square feet with a maximum height
12 of 30 feet and maximum length of 60 feet, ~~inclusive of~~. All measurements shall include
13 any border and ~~trim-trim~~, but ~~excluding shall exclude~~ the base or apron, embellishments,
14 ~~extended~~ embellished advertising space,—supports, and other structural ~~members.~~
15 members;

16 (b) ~~The area shall be calculated by measuring the outside dimensions of face, excluding any~~
17 ~~apron, embellishments, or extended advertising space.~~

18 (e)(b) ~~The the~~ maximum size limitations shall apply to each side of a sign ~~structure;~~ structure.
19 ~~The signs~~ Signs may be placed back-to-back, side-by-side; ~~side-to-side~~, or in V-type
20 construction with ~~not no~~ more than two displays to each ~~facing~~, and such sign structure
21 facing shall be considered as one sign. The maximum size limitations shall apply to each
22 facing of a sign structure.

23 (d)(c) ~~Side-by-side~~ Side-by-side signs shall be structurally tied together to be considered as one
24 sign structure.

25 (e)(d) ~~V-type~~ V-type and back-to-back signs shall not be considered as one sign if located more
26 than 15 feet apart at their nearest ~~points;~~ points;

27 (f)(e) ~~The the~~ height of any portion of the sign structure, excluding cutouts or embellishments,
28 as measured vertically from the adjacent edge of pavement of the main traveled way shall
29 not exceed 50 ~~feet.~~ feet; and

30 (g)(f) ~~Double-decking~~ Double-decking of sign faces so that one is on top of the other is
31 prohibited.

32 (2) ~~Spacing of Signs:~~ Signs shall be spaced as follows:

33 (a) Signs may not be located in a manner to obscure, or otherwise physically interfere with the
34 effectiveness of any ~~official~~ traffic sign, signal, or device, or to obstruct or physically
35 interfere with ~~the a~~ driver's view of approaching, merging, or intersecting ~~traffic;~~ traffic;

36 (b) Controlled Routes with Fully Controlled ~~Access:~~ Access (Freeways):

37 (i) ~~No~~ No two structures shall be spaced less than 500 feet ~~apart;~~ apart; and

1 (ii) ~~Outside~~ Outside the corporate limits of towns and cities, no structure may be
2 located within 500 feet of an interchange, collector distributor, ~~intersection at~~
3 ~~grade~~, safety rest area or information center regardless of whether the main
4 traveled way is within or outside the town or city limits. The 500 feet spacing
5 shall be measured from the point at which the pavement widens for a ramp and
6 the direction of measurement shall be along the edge of pavement away from the
7 interchange, collector distributor, ~~intersection at grade~~, safety rest area or
8 information center. In those interchanges where a quadrant does not have a ramp,
9 the 500 feet for the quadrant without a ramp shall be measured along the outside
10 edge of main traveled way for ~~freeways~~ highways as follows:

11 (A) ~~Where a route is bridged over a freeway the 500 foot measurement shall~~
12 ~~begin on the outside edge of pavement of the freeway at a point directly~~
13 ~~below the edge of the bridge. The direction of measurement shall be~~
14 ~~along the edge of pavement away from the interchange.~~

15 (iii) Where a route is bridged over a fully controlled access highway, the 500 foot
16 measurement shall begin on the outside edge of pavement of the fully controlled
17 access highway at a point below the edge of the bridge. The direction of
18 measurement shall be along the edge of pavement away from the interchange;

19 (B) ~~Where a freeway is bridged over another route, the 500 foot~~
20 ~~measurement shall be made from the end of the bridge in the quadrant.~~
21 ~~The direction of measurement shall be along the edge of main traveled~~
22 ~~way away from the bridge.~~

23 (iv) Where a fully controlled access highway is bridged over another route, the 500
24 foot measurement shall be made from the end of the bridge in the quadrant. The
25 direction of measurement shall be along the edge of main traveled way away from
26 the bridge; and

27 (C) ~~Where the routes involved are both freeways, measurements on both~~
28 ~~routes shall be made according to (A) or (B) of this Subitem, whichever~~
29 ~~applies.~~

30 ~~Should there be a situation where there is more than one point at which~~
31 ~~the pavement widens along each road within a quadrant, the~~
32 ~~measurement shall be made from the pavement widening which is~~
33 ~~farthest from the intersecting roadways.~~

34 (v) Where the routes involved are both fully controlled access highways,
35 measurements on both routes shall be made according to (A) or (B) of this
36 Subitem, whichever applies. Should there be a situation where there is more than
37 one point at which the pavement widens along each road within a quadrant, the

1 measurement shall be made from the pavement widening which is farthest from
2 the intersecting roadways.

3 (c) Controlled Routes Without Fully Controlled Access:

4 (i) ~~Outside~~ outside of incorporated towns and ~~cities~~ cities no two structures shall be
5 spaced less than 300 feet ~~apart~~ apart; and

6 (ii) ~~Within~~ within incorporated towns and ~~cities~~ cities no two structures shall be
7 spaced less than 100 feet apart.

8 (d) ~~The foregoing provisions for the spacing of signs does~~ rules of this section regarding
9 spacing between sign structures shall not apply to structures separated by buildings or other
10 obstructions in such a manner that only one sign facing located within the above spacing
11 distances is visible from the highway at any one ~~time~~ time;

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

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

19 (3) ~~Lighting of Signs; Restrictions:~~ Signs shall meet the following lighting requirements:

20 (a) ~~Signs which~~ No sign shall contain, include, or are illuminated by any flashing, intermittent,
21 or moving light or ~~lights~~ lights, including animated or scrolling ~~advertising, are prohibited,~~
22 ~~unless expressly~~ advertising except as allowed under by Item 4, (4) of this Rule rule except
23 ~~those~~ or it is giving public service information ~~information~~, such as time, date, temperature,
24 ~~or weather, weather, or similar information.~~

25 (b) ~~Signs which are not effectively shielded as to prevent beams or rays of light from being~~
26 ~~directed at any portion of the traveled ways of the controlled routes and which are of such~~
27 No light emitted or reflected off of a sign shall be of an intensity or brilliance as to cause
28 glare or to impair the vision of the ~~driver of any motor vehicle, driver,~~ driver, or which otherwise
29 interfere with the operation of a motor ~~vehicle are prohibited.~~ vehicle.

30 (c) No sign shall be so illuminated that it interferes with the effectiveness of, or obscures an
31 ~~official~~ traffic sign, device, or signal ~~signal~~;

32 (d) All such lighting shall be subject to any other provisions relating to lighting of signs
33 presently applicable to all highways under the jurisdiction of the ~~state~~ state; and

34 ~~(e) Lighting shall not be added to or used to illuminate nonconforming signs or signs~~
35 ~~conforming by virtue of the grandfather clause.~~

36 (4) ~~Automatic Changeable Facing Sign:~~ changeable facing signs shall meet the following requirements:

- 1 (a) Automatic changeable facing signs shall be permitted on ~~the~~ controlled routes under the
 2 following conditions:
- 3 (i) ~~The the~~ sign does not contain or display flashing, intermittent, or moving lights,
 4 including animated or scrolling advertising;
- 5 (ii) ~~The the~~ changeable facing remains in a fixed position for at least eight seconds;
- 6 (iii) ~~If if~~ a message is changed electronically, it must be accomplished within an
 7 interval of two seconds or less;
- 8 (iv) ~~The the~~ sign is not placed within 1,000 feet of another automatic changeable
 9 facing sign on the same side of the highway;
- 10 (v) ~~The the~~ 1000-foot distance ~~shall be~~ is measured along the nearest edge of the
 11 pavement and between points ~~directly~~ opposite the signs along each side of the
 12 highway;
- 13 (vi) ~~A a~~ legally conforming structure may be modified to an automatic changeable
 14 facing upon compliance with ~~these standards~~ this Sub-Item and approval by the
 15 Department. An application for an outdoor advertising alteration permit shall be
 16 made on NCDOT form OA-1A, which may be obtained at any District Office or
 17 the NCDOT website. Nonconforming ~~or grandfathered~~ structures shall not be
 18 modified to an automatic changeable facing;
- 19 (vii) ~~The the~~ sign must contain a default design that will freeze the sign in one position
 20 if a malfunction occurs; and
- 21 (viii) ~~The the~~ sign application meets all other permitting requirements.
- 22 (b) The outdoor advertising permit shall be revoked for failure to comply with this Item.
- 23 (5) ~~Unzoned Commercial or Industrial Area Qualification for Signs;~~ commercial or industrial area
 24 qualification for signs shall meet the following requirements:
- 25 (a) To qualify an area unzoned commercial or industrial for the purpose of outdoor advertising
 26 control, one or more commercial or industrial activities shall meet all of the following
 27 criteria prior to submitting an outdoor advertising permit application:
- 28 (i) The activity shall maintain all necessary business licenses as may be required by
 29 applicable state, county or local law or ordinances;
- 30 (ii) The property used for the activity shall be listed for ad valorem taxes with the
 31 county and municipal taxing authorities as required by law;
- 32 (iii) The activity shall be connected to ~~basic utilities~~ utilities, including ~~but not limited~~
 33 ~~to~~ power, telephone, water, and sewer, or septic service;
- 34 (iv) The activity shall have ~~direct or indirect~~ vehicular access and ~~be a generator of~~
 35 ~~vehicular traffic;~~ generate traffic;
- 36 (v) The activity shall have a building designed with a permanent foundation, built or
 37 modified for its current commercial or industrial use, and the building must be

1 located within 660 feet from the nearest edge of the right of way of the controlled
2 route. Where a mobile home or recreational vehicle is used as a business or office,
3 the following conditions and requirements also apply;

4 (A) ~~The the~~ mobile home unit or recreational vehicle shall meet the North
5 Carolina State Building Code criteria for commercial or business
6 ~~use-use;~~

7 (B) ~~A a~~ self-propelled vehicle shall not qualify for use as a business or office
8 for the purpose of these ~~rules-rules;~~

9 (C) ~~All-all~~ wheels, axles, and springs shall be ~~removed-removed;~~

10 (D) ~~The-the~~ unit shall be permanently secured on piers, pad, or
11 ~~foundation-foundation; and~~

12 (E) ~~The-the~~ unit shall be tied down in accordance with local, state, or county
13 ~~requirements;requirements.~~

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

17 (vii) The activity shall be open to the public during hours ~~that are normal and~~
18 ~~eustomary~~ for that type of activity in the same or similar ~~communities~~
19 communities, but not less than 20 hours per week;

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

22 (ix) The activity shall be visible and recognizable as commercial or industrial from
23 the main ~~traveled-travel~~ way of the controlled route. ~~An activity is visible when~~
24 ~~that portion on which the permanent building designed, built, or modified for its~~
25 ~~current commercial use can be clearly seen twelve months a year by a person of~~
26 ~~normal visual acuity while traveling in a vehicle traveling at the posted speed on~~
27 ~~the main traveled way of the controlled route for 12 months of a year adjacent to~~
28 ~~the activity. An activity is recognizable as commercial or industrial when its~~
29 ~~visibility from the main traveled way of the controlled route is sufficient for the~~
30 ~~activity to be identified as commercial or industrial.~~

31 (b) Each side of the controlled route shall be considered separately. All measurements shall
32 begin from the outer edges of buildings where business is conducted, ~~regularly used~~
33 ~~buildings, parking lots, storage or processing areas of the commercial or industrial activity,~~
34 ~~not from the property line of the activity and shall be along the nearest edge of the main~~
35 ~~traveled way of the controlled route.~~

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

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

3 (i) ~~Outdoor~~ outdoor advertising structures;

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

7 (iii) ~~Agricultural, agricultural,~~ forestry, ranching, grazing, farming, and related
8 activities, ~~including, but not limited to~~ including temporary wayside fresh
9 produce stands;

10 (iv) Transient or temporary activities;

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

13 (vi)(v) ~~Activities~~ activities more than 660 feet from the nearest edge of the right of way;

14 (vii)(vi) ~~Activities~~ activities conducted in a building principally used as a residence;

15 (viii)(vii) ~~Railroad~~ railroad tracks and minor sidings;

16 (ix)(viii) ~~Any~~ any outdoor advertising activity or any other business or commercial activity
17 carried on in connection with an outdoor advertising activity; and

18 (x)(ix) ~~Illegal~~ illegal junkyards, as defined in G.S. 136-146, and nonconforming
19 junkyards as set out in G.S. 136-147;

20
21 *History Note: Authority G.S. 136-130;*
22 *Eff. July 1, 1978;*
23 *Amended Eff. August 1, 2000; November 1, 1993; December 1, 1990; November 1, 1988.*
24

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

2

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

4 (a) Local zoning authorities may certify to the Board of Transportation when they have established effective
5 control within zoned commercial and industrial areas, through regulations or ordinances with respect to size, lighting
6 and 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 (b) Upon authorization from the Chief Engineer to the local zoning authority, the size, lighting and spacing
12 requirements set forth in this Section shall not apply to those areas and the local zoning authority shall be authorized
13 to issue permits for the erection and maintenance of outdoor advertising signs.

14

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

16 *Eff. July 1, 1978;*

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

18

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

2
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 at any
5 District Office or the NCDOT website at www.ncdot.gov. Upon completion, the application shall be submitted to the
6 district office for the district where the proposed site is located. The application shall be submitted by Certified Mail and
7 include the following attachments:

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

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

27
28 *History Note: Authority G.S. 136-130;*
29 *Eff. July 1, 1978;*
30 *Amended Eff. August 1, 2000; November 1, 1993; December 1, 1990; June 15, 1981.*

1 19A NCAC 02E .0207 is proposed for reoption without substantive changes as follows:

2
3 **19A NCAC 02E .0207 FEES AND RENEWALS**

4 (a) Initial and ~~annual renewal alteration~~ fees shall be paid by the ~~sign owners permit holders~~ for each permit requested.
5 ~~requested in order to defer the costs of the administrative and inspection expenses incurred by the Division of Highways~~
6 ~~of the Department of 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 new permit application and each alteration permit application. ~~and an~~
9 ~~annual nonrefundable renewal fee of sixty dollars (\$60.00) per sign structure shall be paid by the sign owners on or before~~
10 ~~April 15 of each year to the appropriate district engineer. Sign owners must return the information required under Paragraph~~
11 ~~(e) of this Rule with their annual renewal fees.~~

12 (c) An annual non-refundable renewal fee as defined in G.S. 136-133 per sign structure shall be paid by the permit holders
13 on or before April 15 of each year to the local District Engineer's office. ~~The Division of Highways of the Department of~~
14 ~~Transportation shall send an invoice for the annual renewal fee to each sign owner/permit holder with a valid permit. For~~
15 ~~a renewal to be approved, the sign owner/permit holder must submit the signed invoice along with the renewal fee. If~~
16 ~~requested, the permit holder/sign owner shall provide a valid lease or other proof of interest in the land where the sign is~~
17 ~~located. Failure to submit this documentation within 30 days of written request from the District [Engineer's office~~
18 ~~]Engineer by certified mail will subject the permit to revocation under 19A NCAC 2E .0210(4).~~

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

24
25
26 *History Note: Authority G.S. 136-130; 136-133;*
27 *Eff. July 1, 1978;*
28 *Amended Eff. November 1, 1993; October 1, 1991; December 1, 1990; July 1, 1986;*
29 *Temporary Amendment Eff. November 16, 1999;*
30 *Amended Eff. August 1, 2000.*

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~~Permits shall be issued for signs that are in compliance with any Federal, State, or local laws ~~lawful~~pertaining
5 to outdoor advertising structures by the Division of Highways of the Department of Transportation upon proper application,
6 approval, and the payment of the nonrefundable initial permit fee.

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

14 (c) The permit ~~holder/sign holder owner~~ shall notify the appropriate Division of Highways District Engineer's office
15 district engineer by certified mail, return receipt requested, within 10 days after the outdoor advertising structure is
16 ~~completed that it is ready for final inspection-completed.~~ Upon completion of the construction and prior to notifying the
17 appropriate District Engineer's Office, the permit holder shall affix the following information to the outdoor advertising
18 structure in a position as to be visible from the main-traveled way of the controlled route:

19 (1) the emblem, with a Department-issued identification number; and

20 (2) the name of the person, firm or corporation owning or maintaining the outdoor advertising structure.

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

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

27 (f) Within 90 days after receiving notice that an outdoor advertising structure is complete, the appropriate District
28 Engineer's office Engineer shall inspect the structure. If the structure fails to comply with the Outdoor Advertising Control
29 Act or the rules in this Section, the District Engineer's office Engineer shall advise the permit ~~holder/sign owner holder~~ by
30 certified mail of the manner in which the structure fails to ~~comply and that the structure must be made to comply within~~
31 ~~30 days of receipt of the notice or removed-comply.~~ The permit holder shall have 30 days from receipt of the notice to
32 either bring the structure into compliance or have it removed.

33 (g) Replacements for emblems that are missing or illegible may be obtained from the ~~district engineer~~ district engineer's
34 office by submitting a written request accompanied by a copy of the permit application ~~which-that~~ approved the original
35 emblem.

36
37 *History Note: Authority G.S. 136-130; 136-133;*

1 *Eff. July 1, 1978;*
2 *Amended Eff. August 1, 2000; November 1, 1993; December 1, 1990.*
3

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

2
3 **19A NCAC 02E .0209 TRANSFER OF PERMIT/CHANGE OF ADDRESS**

4 (a) 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 office
6 for the county in which the sign is located. ~~A permit holder/sign owner must provide the appropriate district engineer with~~
7 ~~written notice of any change of address within 30 days of the address change. Should a permit holder/sign owner fail to~~
8 ~~provide written notice of a transfer of permit or change of address, a revocation of a permit for one of the reasons specified~~
9 ~~in Rule .0210 of this Section shall stand and shall not be affected by failure to notify the district engineer office of such~~
10 ~~changes.~~

11 (b) A permit holder must provide the appropriate District Engineer's office with written notice of any change of address
12 within 30 days of the address change.

13 (c) Should a permit holder fail to provide written notice of a transfer of permit or change of address, a revocation of a
14 permit for one of the reasons specified in Rule .0210 of this Section shall stand and shall not be affected to notify the
15 District Engineer's office of the changes.

16
17 *History Note: Authority G.S. 136-130;*
18 *Eff. July 1, 1978;*
19 *Amended Eff. August 1, 2000; November 1, 1993.*
20

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~~, holder, the permit ~~applicant~~ applicant, or the owner of property on which the
12 outdoor advertising structure is located;
- 13 (4) failure to pay annual renewal fees or provide the documentation requested under Rule ~~.0207(e)~~ .0207
14 of this Section;
- 15 (5) failure to construct the outdoor advertising ~~structure~~ structure, except all sign ~~faces~~ faces, within
16 180 days from the date of issuance of the outdoor advertising ~~permit~~ in accordance with Rule .0208
17 of this Section;
- 18 (6) a determination upon inspection of an outdoor advertising structure that it fails to comply with the
19 Outdoor Advertising Control Act or the rules in this Section;
- 20 (7) any alteration of an outdoor advertising structure for ~~which that~~ a permit has previously been issued
21 which would cause that outdoor advertising structure to fail to comply with the provisions of the
22 Outdoor Advertising Control Act or the ~~rules adopted pursuant thereto~~ Rules of this Section;
- 23 (8) alterations to a nonconforming sign ~~or a sign conforming by virtue of the grandfather clause~~ other
24 than reasonable repair and maintenance as defined in Rule ~~.0225(e)~~ .0225(c) of this Section. For
25 purposes of this Rule, alterations include:
- 26 (a) enlarging a dimension of the sign facing or raising the height of the sign;
- 27 (b) changing the material of the sign structure's support;
- 28 (c) adding a pole or poles; or
- 29 (d) adding illumination;
- 30 (9) failure to affix the emblem as required by Rule .0208 of this Section or failure to maintain the
31 emblem so that it is visible ~~and readable~~ from the main-traveled way or controlled route;
- 32 (10) failure to affix the name of the person, firm, or corporation owning or maintaining the outdoor
33 advertising sign to the sign structure in sufficient size to be visible as required by Rule .0208 of this
34 Section;
- 35 (11) unlawful destruction or illegal cutting of trees, shrubs or other vegetation within the right-of-way of
36 any State-owned or State-maintained highway as specified in G.S. 136-133.1(i);

- 1 (12) unlawful use of a controlled access facility for purposes of repairing, ~~maintaining~~ maintaining, or
 2 servicing an outdoor advertising sign where ~~an investigation reveals that~~ the unlawful violation was
 3 conducted actually or by design by the ~~sign owner or permit holder~~, the lessee or advertiser
 4 employing the sign, the owner of the property upon which the sign is located, or any of their
 5 employees, agents, or assigns, including independent contractors hired by any of the above ~~persons~~;
 6 and meets either of the following; and
- 7 (a) involved the use of highway right of way for the purpose of repairing, servicing, or
 8 maintaining a sign including stopping, parking, or leaving any vehicle whether attended or
 9 unattended, on any part or portion of the right of way except as authorized by the
 10 Department of Transportation, including activities authorized by the Department for
 11 selective vegetation removal pursuant to G.S. 136-131.1, G.S. 136-131.2 and G.S. 136-
 12 133.4. Access from the highway main travel way shall be allowed only for surveying or
 13 delineation work in preparation for and in the processing of an application for a selective
 14 vegetation removal permit; or
- 15 (b) involved crossing the control of access fence to reach the sign structure, except as
 16 authorized by the Department, including those activities referenced in Sub-Item (a) of this
 17 Item;
- 18 (13) maintaining a blank sign for a period of 12 consecutive months;
- 19 (14) maintaining an abandoned, dilapidated, or discontinued sign;
- 20 (15) a sign that has been destroyed or significantly damaged as determined by Rule .0201(8) and (29) of
 21 this Section;
- 22 (16) moving or relocating a nonconforming sign ~~or a sign conforming by virtue of the grandfather clause~~
 23 ~~which that changes the location of the sign; sign as determined by Rule .0201(27) of this Section;~~
- 24 (17) failure to erect, maintain, or alter an outdoor advertising sign structure in accordance with the North
 25 Carolina Outdoor Advertising Control Act, codified in G.S. 136, Article 11, and the rules adopted
 26 pursuant thereto; and
- 27 (18) ~~willful failure to substantially~~ comply with all the requirements specified in a vegetation removal
 28 permit if such willful failure meets the standards of G.S. ~~136-133.1(i) as specified in G.S. 136-~~
 29 ~~133.4(e).~~ 136-133.1(i).

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

1 19A NCAC 02E .0212 is proposed for readoption 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 the
5 permit holder/sign holder owner by certified mail of the alleged violation under Rule .0210 of this Section. The permit
6 holder/sign holder owner shall be given thirty (30) days in which to bring the sign into compliance, if permissible by these
7 rules, compliance within 30 days of receipt of the notification, the permit holder shall either bring the sign into compliance
8 if permissible by these rules or provide information concerning the alleged violation to the ~~district engineer~~ District
9 Engineer's office to be considered prior to the actual revocation. The ~~district engineer~~ District Engineer's office shall
10 consider the information provided by the permit holder prior to any revocation of a permit.

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

21 (1) the factual and statutory or regulatory basis for the revocation;

22 (2) a copy of the Rules of this Section; and

23 (3) a statement that is unlawful and a nuisance in accordance with G.S. 136-134.

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

26 (c) Upon receipt of the notice of revocation, the permit holder shall either remove or bring the outdoor advertising
27 structure into compliance with the Outdoor Advertising Act and Rules of this Section within 30 days. If the permit holder
28 or site owner fails to do so, the Department shall remove the outdoor advertising structure at the expense of the permit
29 holder.

30 (d) An outdoor advertising structure cannot be made to conform to the Outdoor Advertising Control Act or these
31 Rules when the permit is revoked under 19A NCAC 02E .0210 (2), (3), (11), or (12).

32
33 *History Note: Authority G.S. 136-130; 136-134;*

34 *Eff. July 1, 1978;*

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

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 SEC.**
4 **OF TRANS.**

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

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

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

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

22
23 *History Note: Authority G.S. 136-130; 136-133; 136-134;*

24 *Eff. July 1, 1978;*

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

1 19A NCAC 02E .0214 is proposed for readoption without substantive changes as follows:

2
3 **19A NCAC 02E. 0214 STANDARDS FOR DIRECTIONAL SIGNS**
4

5 (a) ~~General~~ For the purposes of this ~~Section~~ Section, the following directional signs ~~are~~ shall be prohibited:

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

10 (b) ~~Size~~ For the purposes of this Section, the following size requirements shall be permissible:

- 11 (1) No directional sign shall exceed the following limits:
12 (a) ~~Maximum~~ maximum area 150 square feet;
13 (b) ~~Maximum~~ maximum height 20 feet; and
14 (c) ~~Maximum~~ maximum length 20 feet.
15 (2) ~~All~~ all dimensions include border and trim, but exclude supports.

16 (c) ~~Lighting~~ Directional signs may be illuminated, subject to the following:

- 17 (1) ~~Signs which signs that~~ signs that contain, include, or are illuminated by any flashing, intermittent, or moving
18 light or lights ~~are~~ shall be prohibited;
19 (2) ~~Signs which signs that~~ signs that are not effectively shielded so as to prevent beams or rays of light from being
20 directed at any portion of the traveled way of an interstate or primary highway or ~~NHS~~ National
21 Highway System (NHS) route or ~~which that~~ are of such intensity or brilliance as to cause glare or
22 to impair the vision of the driver of any motor vehicle, or ~~which that~~ otherwise interfere with the
23 operation of a motor vehicle ~~are~~ shall be prohibited; and
24 (3) ~~No~~ no sign may be so illuminated as to interfere with the effectiveness of or obscure an official
25 traffic sign, device, or signal.

26 (d) ~~Spacing~~ The spacing of signs shall be determined as follows:

- 27 (1) ~~Each~~ each location of a directional sign must be approved by the ~~division of highways;~~ District
28 Engineer's office;
29 (2) ~~No~~ no directional sign may be located within 2,000 feet of an interchange, or intersection at grade
30 along the interstate system or other controlled access highways (measured along the highway from
31 the nearest point of the beginning or ending of pavement widening at the exit from or entrance to
32 the main-traveled way);
33 (3) ~~No~~ no directional sign may be located within 2,000 feet of a rest area, parkland, or scenic area;
34 (4) ~~No~~ no two directional signs facing the same direction of travel shall be spaced less than one mile
35 apart;
36 (5) ~~Not~~ No more than three directional signs pertaining to the same activity and facing the same
37 direction of travel may be erected along a single route approaching the activity;

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

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

5 (e) ~~Message Content.~~—The message on directional signs shall be limited to the identification of the attraction or
6 activity and directional information useful to the traveler in locating the attraction, such as mileage, route number, or
7 exit numbers.

8 (f) ~~Selection Criteria.~~The selection criteria shall be as follows:

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

12 (2) ~~Privately owned~~privately-owned attractions or activities must be nationally or regionally known.
13 For purposes of this ~~rule~~Rule, the following meanings shall apply:

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

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

19

20 *History Note:* *Authority G.S. 136-130; 136-129;*
21 *Eff. July 1, 1978;*
22 *Amended Eff. August 1, 2000; November 1, ~~1993~~, 1993;*

23

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

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

12

13

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

15 *Eff July 1, 1978;*

16 *Amended Eff. November 1, 1993; July 1, 1986, March 1, 1983, June 15, 1981;*

17 *Temporary Amendment Eff. November 1, 1999;*

18 *Amended Eff. August 1, 2000.*

19

1 19A NCAC 02E .0224 is proposed for reoption 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

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

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

5 (a) Signs may not be serviced from or across the ~~right-of-way~~ right-of-way, or the right-of-way of interstates and fully
6 controlled access primary routes ~~freeways~~ or from or across controlled access barriers or fences of controlled routes.

7 (b) Conforming signs may be altered ~~within the limits of~~ in accordance with the rules in ~~Rules of~~ Rules of this Section.

8 (1) A conforming sign that has been destroyed or significantly damaged may be reconstructed ~~within the~~
9 ~~limits of in accordance with the rules in~~ Rules of this Section. ~~Section by notifying the district engineer~~
10 ~~in writing of any substantial changes that would affect the original dimensions of the initial permit~~
11 ~~application.~~ Conforming sign structures may be reconstructed so long as the reconstruction does not
12 conflict with any applicable state or federal rules, regulations, or ordinances.

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

15 ~~[(3) A nonrefundable alteration permit fee is required with the application.]~~

16 ~~[(4)]~~ (2) The alteration of a conforming outdoor advertising structure shall not commence until an alteration
17 application has been submitted to the District Engineer's office. An application for an
18 outdoor advertising alteration permit shall be made on NCDOT form OA-1A, which may be obtained at
19 any District Office or the NCDOT website at www.ncdot.gov. The outdoor advertising
20 structure, except sign faces, shall be completed within 180 days from the date of the issuance of the
21 alteration permit. If the outdoor advertising structure, except sign faces, is not constructed within 180
22 days of issuance of the alteration permit then any intervening rule change shall apply to the sign structure.
23 During the 180 day period, the altered outdoor advertising structure shall be considered in existence for
24 the purpose of spacing of adjacent signs. A nonrefundable alteration permit fee is required with the
25 application.

26 (c) ~~Alteration to a nonconforming sign or sign conforming by virtue of the grandfather clause is prohibited. Nonconforming~~
27 ~~signs shall not be altered, except that reasonable repairs and maintenance shall be permitted or to bring the sign into~~
28 ~~conformance of the Rules of this Section and the Outdoor Advertising Control Act. Reasonable repair and maintenance~~
29 ~~are permitted~~ including changing the advertising message or copy. The following activities are considered to be reasonable
30 repair and maintenance:

31 (1) ~~Change~~ change of advertising message or copy on the sign face;

32 (2) ~~Replacement~~ replacement of border and trim;

33 (3) ~~Repair~~ repair and replacement of a structural member, including a pole, stringer, or panel, with like
34 material;

35 (4) ~~Alterations~~ alterations of the dimensions of painted bulletins incidental to copy change; and

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

4 (d) The addition of lighting or illumination either affixed or adjacent to existing nonconforming signs ~~or signs conforming~~
5 ~~by virtue of the grandfather clause~~ is specifically prohibited as reasonable maintenance; however, ~~such the~~ lighting may
6 be permanently removed from such sign structure.-

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

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

17 (1) Outdoor Advertising on Wooden Poles: The percentage of damage attributable to poles shall be 50%
18 and the percentage of damage attributable to sign face shall be 50%;

19 (2) Outdoor Advertising on Steel Poles or Beams: The percentage of damage attributable to poles shall be
20 80% and the percentage of damage attributable to sign face shall be 20%; and

21 (3) Outdoor Advertising on Monopoles: The percentage of damage attributable to poles shall be 80% and
22 the percentage of damage attributable to sign face shall be 20%.

23
24 *History Note: Authority G.S. 136-89.58; 136-30; 136-131.2;~~136-130; 136-89.58;~~*
25 *Eff. August 1, 2000;*
26 *Amended Eff. August 1, 2000.*
27

1 19A NCAC 02E .0226 is proposed for repeal through readoption as follows:

2
3 **19A NCAC 02E .0226 ORDER TO STOP WORK ON UNPERMITTED OUTDOOR ADVERTISING**

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

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

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

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

17
18 *History Note: Authority G.S. 136-130; 136-133;*
19 *Temporary Adoption Eff. November 16, 1999;*
20 *Eff. August 1, ~~2000-2000~~;*
21 *Repealed Eff: _____.*
22
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.*

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 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.*

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.*

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.*

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 ~~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;
- 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;
- 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.*

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.*

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. 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;

- (b) fully disassemble two non-conforming outdoor advertising ~~signs—signs,—and~~ their supporting ~~structures—structures,~~ and return the outdoor advertising permits tags to the Department pursuant to G.S. 136-133.1(d); or
- (c) obtain Departmental approval for the replanting plan in accordance with G.S. 136-133.1(e) and Rule .0611 of this Section;

(10) Should the vegetation removal permit be approved and tree removal is scheduled, the sign owner shall cut for all disputed trees the sign owner shall cut such tree stumps in a level, horizontal ~~manner~~ manner, uniformly across the ~~stump-stump,~~ and at a four inch height, so that tree rings ~~can~~ may be ~~counted—counted,~~ by the applicant or the ~~Department—Department,~~ to determine the age of the tree;

(11) After a tree is removed and the applicant or the Department discovers, based on the number of rings in the tree stump, an error in the tree survey report or site plan, the Department shall request an amendment to the tree survey report or site plan, ~~and a redetermination shall be made by the Department,~~ pursuant to G.S. 136-133.1(d) and ~~(e)—(e), shall be made by the Department~~ and the applicant shall be subject to that redetermination;

(12) For purposes of this Rule, the portion of the cut or removal zone means that the cut or removal zone shall be less than the entirety of the cut or removal zone. Where any portion of the cut or vegetation removal zone is restricted for the following reasons, set forth below, ~~The~~ the permittee shall comply with applicable conditions, mitigation requirements, rules, statutes, or permit requirements related to cutting, thinning, pruning, or removal of vegetation within the right-of-way; ~~right-of-way, where any portion of the cut or vegetation removal zone is restricted for the following reasons set forth below;~~

- (a) the State ~~is~~ subjected to or agrees in writing to subject itself to conditions affecting the right-of-way, including conservation agreements, prior to September 1, 2011, or prior to the issuance of an outdoor advertising permit for the erection of the applicable outdoor advertising structure, whichever date is later;
- (b) applicable State or Federal statutes or rules, including any conditions mandated as part of the issuance of a permit to the Department for a construction project by a Federal or State agency with jurisdiction over the construction project prohibit vegetation removal; ~~or~~
- (c) mitigation within the right-of-way in the cut zone of a permitted outdoor advertising structure prohibits vegetation ~~removal,—removal;~~ however, trees and other plant materials for mitigation may not be of a projected mature height to decrease the visibility of a sign face; or
- (d) ~~If the reasons set forth in—Sub items~~ Subparagraphs (12)(a), (b), and (c) of this Rule allow certain degrees and methods of cutting, thinning, pruning, or removal for portions of vegetation, the permittee shall comply with the conditions set forth above, including equipment type for those portions of the cutting or removal zone. Vegetation removal for 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.*

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. 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. 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.*

TITLE VI PUBLIC INVOLVEMENT FORM

Completing this form is **completely** voluntary. You are not required to provide the information requested in order to participate in this meeting.

Meeting Type: Rules Changes Public Hearing	Date: February 20, 2020
Location: Greenfield Parkway Building, Garner	
TIP No.:	
Project Description:	

In accordance with Title VI of the Civil Rights Act of 1964 and related authorities, the N.C. Department of Transportation assures that no person(s) shall be excluded from participation in, denied the benefits of, or subjected to discrimination under any of the Department's programs, policies, or activities, based on their race, color, national origin, disability, age, income, or gender.

Completing this form helps meet our data collection and public involvement obligations under Title VI and NEPA, and will improve how we serve the public. Please place the completed form in the designated box on the sign-in table, hand it to an NCDOT official or mail it to the Environmental Analysis Unit, 1598 Mail Service Center, Raleigh, NC 27699-1598.

All forms will remain on file at the NCDOT as part of the public record.

Zip Code: _____	Gender: <input type="checkbox"/> Male <input type="checkbox"/> Female
Street Name: (i.e. Main Street) _____	Age: <input type="checkbox"/> Less than 18 <input type="checkbox"/> 45-64 <input type="checkbox"/> 18-29 <input type="checkbox"/> 65 and older <input type="checkbox"/> 30-44
Total Household Income: <input type="checkbox"/> Less than \$12,000 <input type="checkbox"/> \$47,000 – \$69,999 <input type="checkbox"/> \$12,000 – \$19,999 <input type="checkbox"/> \$70,000 – \$93,999 <input type="checkbox"/> \$20,000 – \$30,999 <input type="checkbox"/> \$94,000 – \$117,999 <input type="checkbox"/> \$31,000 – \$46,999 <input type="checkbox"/> \$118,000 or greater	Have a Disability: <input type="checkbox"/> Yes <input type="checkbox"/> No
Race/Ethnicity: <input type="checkbox"/> White <input type="checkbox"/> Black/African American <input type="checkbox"/> Asian <input type="checkbox"/> American Indian/Alaskan Native <input type="checkbox"/> Native Hawaiian/Pacific Islander <input type="checkbox"/> Hispanic/Latino <input type="checkbox"/> Other (please specify): _____	National Origin: (if born outside the U.S.) <input type="checkbox"/> Mexican <input type="checkbox"/> Central American: _____ <input type="checkbox"/> South American: _____ <input type="checkbox"/> European: _____ <input type="checkbox"/> Chinese <input type="checkbox"/> Vietnamese <input type="checkbox"/> Korean <input type="checkbox"/> Other (please specify): _____

How did you hear about this meeting? (newspaper advertisement, flyer, and/or mailing) _____

For more information regarding Title VI or this request, please contact the NCDOT Title VI Nondiscrimination Program at (919) 508-1808 or toll free at 1-800-522-0453, or by email at titleVI@ncdot.gov. Thank you for your participation!



**NCDOT- Environmental Analysis Unit
Attn: Jamille Robbins
1598 Mail Service Center
Raleigh, NC 27699-1598**



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