

1 19A NCAC 02E .0204 is readopted as published in 34:13 NCR 1251-1253 with changes as follows:

2  
3 **19A NCAC 02E .0204 LOCAL ZONING AUTHORITIES**

4 (a) Local-A local zoning authorityauthorities may [request from] become certified to control outdoor advertising  
5 within its jurisdiction. In accordance with 23 CFR 750.706(c), the local zoning authority must demonstrate to the  
6 Chief Engineer that it has [control of ]certify [submit ]to the Board of Transportation when they have established  
7 effective control within zoned commercial and industrial areas, through regulations or ordinances with respect to size,  
8 lighting and spacing of outdoor advertising signs in commercial and industrial zones [in accordance with 23 CFR  
9 750.706(c) when they have established effective control within commercial and industrial zones, through regulations  
10 or ordinances with respect to size, lighting and spacing of outdoor advertising signs]consistent with the intent of as  
11 allowed under the Highway Beautification Act of 1965, Section 131 of Title 23 of the United States Code, and with  
12 customary use. Upon authorization from the Chief Engineer to the local zoning authority, the size, lighting and spacing  
13 requirements set forth in G.S. 136 Articles 11 and 11A or 19A NCAC 02E .0200, will not apply to those areas and the  
14 local zoning authority shall be authorized to issue permits for the erection and maintenance of outdoor advertising  
15 signs.

16 (b) Upon authorization from the Chief Engineer to the local zoning authority, the size, lighting and spacing  
17 requirements set forth in this Section shall not apply to those areas and the local zoning authority shall be authorized  
18 to issue permits for the erection and maintenance of outdoor advertising signs, subject to G.S. 136-131.2.[signs.] A  
19 permit issued by a local zoning authority shall be accepted in lieu of a state permit issued by the Department of  
20 Transportation.

21 (c) The Chief Engineer shall notify the Federal Highway Administration in writing of those zoning jurisdictions  
22 wherein local control applies.

23 (d) Nothing contained herein shall relieve the State of the responsibility of limiting signs within controlled areas  
24 to commercial and industrial zones. Where a local zoning authority fails to satisfy its obligations for maintaining local  
25 control, the local zoning authority may be decertified.

26 (e) Outdoor advertising signs with a valid Department of Transportation permit are subject to the limitations set  
27 forth in G.S. 136-131.2.

28  
29 *History Note:* Authority G.S. 136-130; 136-131.2; 136-138;  
30 Eff. July 1, 1978;  
31 Amended Eff. December 1, 2012; November 1, 1993, 1993;  
32 Readopted Eff. March 1, 2021.  
33

19A NCAC 02E .0206 is readopted as published in 34:13 NCR 1251-1253 with changes as follows:

### 19A NCAC 02E .0206 APPLICATIONS

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

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

(b) The application shall include the following attachments:

- (1) a written lease or written proof of interest in the land where a sign is proposed to be constructed. An applicant may redact information pertaining to term and amount of lease;
- (2) a right of entry form to provide the right of entry from the property owner or adjacent property owners to allow DOT personnel to enter upon property when necessary for the enforcement of the Outdoor

Advertising Control Act of these Rules:

~~(3-)~~(3) if zoned, a written statement from the local zoning authority indicating the present zoning of the parcel and its effective date. Upon request of the District Engineer's Office the applicant shall submit copies of minutes from the zoning authority pertinent to the zoning action;

~~(4-)~~(4) if the area is an unzoned commercial or industrial area, a copy of the documentation confirming that the requirements Rule .0203(5)(a)(i) and (ii) of this Section have been met;

~~(5-)~~(5) a sign permit or zoning permit, if required by the local government having jurisdiction over the proposed location;

~~(6-)~~(6) a written certification from the permit applicant indicating there has been no misrepresentation of any facts regarding the permit application, or other information supplied to acquire a permit; and

~~(7-)~~(7) the initial permit fee of \$120.00.

~~(c)(b)~~ Any omission of ~~attachments-attachments, information,~~ or certification required in this Rule ~~Items [Subparagraphs (a)(1)](1) through (7) in this Rule~~ may ~~may~~ shall cause the rejection and return of the application and fee. ~~application. If the application is incomplete, the entire application package, including application fee, shall be returned to the applicant.~~

~~(d)~~ The act of reconstruction or relocation of a conforming sign within the permitted parcel boundaries as authorized in Rule .0225 of this Section is not the erection of a new sign and does not require a new permit; only an alteration permit addendum to the existing permit shall be necessary.

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

*Eff. July 1, 1978;*

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

*Readopted Eff. March 1, 2021.*

1 19A NCAC 02E .0225 is readopted as published in 34:13 NCR 1251-1253 with changes as follows:

2  
3 **19A NCAC 02E .0225 REPAIR/MAINTENANCE/ALTERATION/RECONSTRUCTION OF**

4 **~~{CONFORMING} SIGNS~~ AND REPAIR AND MAINTENANCE OF NON-**  
5 **CONFORMING SIGNS**

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

8 (b) ~~Subject to G.S. 136-131.2, conforming~~ Conforming signs may be altered ~~within the limits of~~ in accordance with the  
9 following rules in [Rules of] this Section.

10 (1) A conforming sign that has been destroyed or significantly damaged may be reconstructed ~~within the~~  
11 ~~limits of~~ in accordance with this Rule and Rule .0203 of this Section. ~~the rules in [Rules of] this [Section.]~~  
12 ~~Section by notifying the district engineer in writing of any substantial changes that would affect the~~  
13 ~~original dimensions of the initial permit application.~~ [ Conforming sign structures may be reconstructed  
14 so long as the reconstruction does not conflict with any applicable state or federal rules, regulations, or  
15 ordinances.]

16 (2) Conforming sign structures may be reconstructed so long as the reconstruction does not conflict with  
17 any applicable [state,] [State,] [State or federal] State rules or statutes or Federal regulations. [local rules,  
18 regulations or ordinances.]

19 (3) A nonrefundable alteration permit fee is required with the application. Any alteration beyond reasonable  
20 repair and maintenance, reconstruction, or relocation of a conforming sign structure shall not commence  
21 until the District Engineer's office receives from the permit holder [submits] a written notice [to the  
22 District Engineer's office] detailing the proposed alteration and the schedule for the alteration work. The  
23 written notice shall include the sign owner's name, the permit number, and the proposed sign  
24 configuration. This written notice shall be attached to the sign permit as an alteration permit addendum.  
25 The sign structure, except sign faces, shall be completed within 180 days from the date of the receipt  
26 [issuance] of the alteration permit addendum. If the sign structure, except sign faces, is not constructed  
27 within 180 days of receipt [issuance] of the alteration permit addendum then any intervening rule change  
28 shall apply to the sign structure.

29 (4) Conforming sign structures shall not be changed from a static face to an automatic changing face, nor  
30 shall the sign height be increased without receipt [issuance] of an alteration permit addendum. [local  
31 approval.] Local approval may also be required if required by the local government having jurisdiction  
32 over the sign location. Any change to a sign that is not considered reasonable repair or reconstruction  
33 as defined by this Rule shall obtain local approval before receiving an alteration permit addendum if  
34 required by the local government having jurisdiction over the sign location.

35 (4)(2)(5) Conforming signs that are altered, reconstructed, or relocated shall not require a new permit unless the  
36 sign is relocated outside of the parcel boundary of the sign location. Conforming signs may be relocated  
37 [on] within the same parcel boundary of the [shall have their] sign location. Conforming signs relocated

on the same parcel shall have their sign location updated after the alteration, reconstruction, or relocation work is completed. The new location shall be listed on the permit addendum by Department of Transportation personnel. The alteration of a conforming outdoor advertising structure shall not commence until an alteration application has been submitted to the District Engineer's office. An application for an outdoor advertising alteration permit shall be made on NCDOT form OA-1A, which may be obtained at any District Office or the NCDOT website at [www.ncdot.gov](http://www.ncdot.gov). The outdoor advertising structure, except sign faces, shall be completed within 180 days from the date of the issuance of the alteration permit. If the outdoor advertising structure, except sign faces, is not constructed within 180 days of issuance of the alteration permit then any intervening rule change shall apply to the sign structure. During the 180-day period, the altered outdoor advertising structure shall be considered in existence for the purpose of spacing of adjacent signs. A nonrefundable alteration permit fee is required with the application.

(c) Alteration to a nonconforming sign or sign conforming by virtue of the grandfather clause is prohibited. ~~Nonconforming Subject to G.S. 136-131.2, signs not conforming to State standards shall not be [altered,] altered beyond reasonable repair and maintenance, reconstructed, or relocated unless the sign structure becomes a conforming sign. [except that reasonable repairs and maintenance shall be permitted or to bring the sign into conformance of the Rules of this Section and the Outdoor Advertising Control Act,] Reasonable repair and maintenance are permitted including changing the advertising message or copy. The following activities are considered to be reasonable repair and maintenance:~~

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

(2) — Replacement ~~[replacement]~~ of border and trim;

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

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

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

(d) The addition of lighting or illumination ~~[either affixed or adjacent]~~ to existing ~~nonconforming~~ signs ~~not conforming to State standards~~ or signs conforming by virtue of the grandfather clause is specifically prohibited as reasonable maintenance; however, ~~such the~~ lighting may be permanently removed from such sign structure.

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

(f) When the combined damage to the face and support poles ~~of a sign not conforming to State standards~~ appears to be significant, as defined in 19A NCAC 02E .0201(29), .0201(28), the ~~sign owner permit holder~~ may request the Department to review the damaged sign, including salvageable sign components, prior to repairs being ~~made~~ made to determine the extent or percentage of the damage. Should the ~~sign owner permit holder~~ perform repairs without notification to the Department, and the Department later determines the damage is greater than ~~50%~~ 50 percent of the combination of the sign face and support ~~pole(s), poles~~, the permit ~~shall may~~ be revoked. To determine the percent of damage to the sign structure,

the only components to be used to calculate this value are the sign face and support ~~pole(s)-poles~~. The percent damage shall be calculated by dividing the unsalvageable sign components by the original sign structure component quantities, using the following criteria:

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

(g) For the purposes of this Rule, the following activities are considered to be reasonable repair and maintenance:

- (1) change of advertising message or copy on the sign face;
- (2) replacement of border and trim;
- (3) repair and replacement of a structural member, including a pole, stringer, or panel, with like material;
- (4) alterations of the dimensions of painted bulletins incidental to copy change; and
- (5) any net decrease in the outside dimensions of the advertising copy portion of the sign; but if the sign face or faces of a Sign Not Conforming to State Standards are reduced they shall not thereafter be increased beyond the size of the sign on the date it became a Sign Not Conforming to State Standards.

(h) For the purposes of this Rule and G.S. 136-131.2, "reconstruction" means the rebuilding of a sign and shall include the changing of an existing multipole outdoor advertising structure to a new monopole structure. "Reconstruction" shall not include the changing of a static face to an automatic changing face nor increasing the sign height.

*History Note: Authority G.S. 136-89.58; 136-30; 136-131.2; ~~136-130; 136-89.58;~~*  
*Eff. August 1, 2000;*  
*Amended Eff. August 1, ~~2000-2000;~~*  
*Readopted Eff. March 1, 2021.*



**STATE OF NORTH CAROLINA  
OFFICE OF ADMINISTRATIVE HEARINGS**

January 5, 2021

Helen Landi  
Rulemaking Coordinator, North Carolina Department of Transportation  
**Sent via email only: [hlandi@ncdot.gov](mailto:hlandi@ncdot.gov)**

Re: Objection to Rules 19A NCAC 02E .0204, .0206, and .0225

Dear Ms. Landi:

At its December 17, 2020 meeting, the Rules Review Commission objected to the above-referenced Rules in accordance with G.S. 150B-21.10.

The Commission objected to 19A NCAC .0204, .0206, and .0225 for lack of statutory authority, finding that as written the Rules conflict with G.S. 136-131.1 and 136-131.2. Specifically, the Commission found that requiring local approval or transferring regulatory oversight to local governments as provided in these Rules is beyond the authority of the agency.

Please respond to this letter in accordance with the provisions of G.S. 150B-21.12. If you have any questions regarding the Commission's actions, please let me know.

Sincerely,

  
Amber May  
Commission Counsel

cc: Hannah Jernigan

**Julian Mann, III**, Director  
Chief Administrative Law Judge

**Fred G. Morrison, Jr.**  
Senior Administrative Law Judge

**Linda T. Worth**  
Deputy Director

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1 19A NCAC 02E .0204 is readopted as published in 34:13 NCR 1251-1253 with changes as follows:

2  
3 **19A NCAC 02E .0204 LOCAL ZONING AUTHORITIES**

4 (a) Local zoning authorities may request from the Chief Engineer control of ~~certify [submit ] to the Board of~~  
5 ~~Transportation when they have established effective control within zoned commercial and industrial areas, through~~  
6 ~~regulations or ordinances with respect to~~ size, lighting and spacing of outdoor advertising signs ~~in commercial and~~  
7 ~~industrial zones in accordance with 23 CFR 750.706(c) when they have established effective control within~~  
8 ~~commercial and industrial zones, through regulations or ordinances with respect to size, lighting and spacing of~~  
9 ~~outdoor advertising signs~~ consistent with the intent of the Highway Beautification Act of 1965, Section 131 of Title  
10 23 of the United States Code, and with customary use. ~~Upon authorization from the Chief Engineer to the local zoning~~  
11 ~~authority, the size, lighting and spacing requirements set forth in G.S. 136 Articles 11 and 11A or 19A NCAC 02E~~  
12 ~~.0200, will not apply to those areas and the local zoning authority shall be authorized to issue permits for the erection~~  
13 ~~and maintenance of outdoor advertising signs.~~

14 (b) Upon authorization from the Chief Engineer to the local zoning authority, the size, lighting and spacing  
15 requirements set forth in this Section shall not apply to those areas and the local zoning authority shall be authorized  
16 to issue permits for the erection and maintenance of outdoor advertising signs, subject to G.S. 136-131.2. ~~[signs.]~~

17 (c) The Chief Engineer shall notify the Federal Highway Administration in writing of those zoning jurisdictions  
18 wherein local control applies.

19 (d) Nothing contained herein shall relieve the State of the responsibility of limiting signs within controlled areas  
20 to commercial and industrial zones.

21  
22 *History Note:* Authority G.S. 136-130; 136-131.2; 136-138;  
23 *Eff. July 1, 1978;*  
24 *Amended Eff. December 1, 2012; November 1, ~~1993~~, 1993;*  
25 *Readopted Eff. January 1, 2021.*  
26



19A NCAC 02E .0206 is readopted as published in 34:13 NCR 1251-1253 with changes as follows:

### 19A NCAC 02E .0206 APPLICATIONS

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

(1) The applicant's contact information; A ~~a~~ written lease or written proof of interest in the land where a sign is proposed to be constructed. An applicant may delete ~~redact~~ information pertaining to term and amount of lease;

~~(2)~~ ~~a notarized statement from the property owner and adjacent property owners if the sign can only be accessed from the adjacent property providing the right of entry allowing DOT personnel to enter upon property when necessary for the enforcement of the Outdoor Advertising Control Act or these rules;~~ A ~~a~~ right of entry form to provide the right of entry from the property owner or adjacent property owners to allow DOT personnel to enter upon property when necessary for the enforcement of the Outdoor Advertising Control Act or these rules;

~~(2)(3)~~ Configuration and description of sign structure; and ~~If~~ ~~if~~ zoned, a written statement from the local zoning authority indicating the present zoning of the parcel and its effective date. Upon request of the district engineer, ~~District Engineer's Office~~ the applicant shall submit copies of minutes from the appropriate zoning authority pertinent to the zoning action;

~~(3)(4)~~ The applicant's signature. ~~If~~ ~~if~~ the area is an unzoned commercial or industrial area, a copy of the documentation confirming that the requirements under 19A NCAC 02E ~~Rule~~ .0203(5)(a)(i) and (ii) of this Section have been met;

~~(5)~~ A ~~a~~ sign permit of ~~or~~ zoning permit, if required by the local government having jurisdiction over the proposed location;

~~(6)~~ A ~~a~~ written certification from the sign owner ~~permit applicant~~ indicating there has been no misrepresentation of any material facts regarding the permit application, or other information supplied to acquire a permit; and

~~(7)~~ The ~~the~~ initial nonrefundable permit fee.

(b) The application shall include the following attachments:

~~(1-)~~ (1) a written lease or written proof of interest in the land where a sign is proposed to be constructed. An applicant may redact information pertaining to term and amount of lease;

~~(2-)~~ (2) a right of entry form to provide the right of entry from the property owner or adjacent property owners to allow DOT personnel to enter upon property when necessary for the enforcement of the Outdoor Advertising Control Act of these Rules;

1 ~~(3-)~~(3) if zoned, a written statement from the local zoning authority indicating the present zoning of  
2 the parcel and its effective date. Upon request of the District Engineer's Office the applicant  
3 shall submit copies of minutes from the zoning authority pertinent to the zoning action;

4 ~~(4-)~~(4) if the area is an unzoned commercial or industrial area, a copy of the documentation confirming  
5 that the requirements Rule .0203(5)(a)(i) and (ii) of this Section have been met;

6 ~~(5-)~~(5) a sign permit or zoning permit, if required by the local government having jurisdiction over the  
7 proposed location;

8 ~~(6-)~~(6) a written certification from the permit applicant indicating there has been no misrepresentation  
9 of any facts regarding the permit application, or other information supplied to acquire a permit;  
10 and

11 ~~(7-)~~(7) the initial permit fee of \$120.00.

12 ~~(c)(b)~~ Any omission of ~~attachments-attachments, information,~~ or certification required in ~~this Rule Items [Subparagraphs~~  
13 ~~(a)(1)](1) through (7) in this Rule may shall~~ cause the rejection ~~and return~~ of the ~~application and fee. application.~~ If the  
14 application is incomplete, the entire application package, including application fee, shall be returned to the applicant.

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

17 Eff. July 1, 1978;

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

19 Readopted Eff. January 1, 2021.

1 19A NCAC 02E .0225 is readopted as published in 34:13 NCR 1251-1253 with changes as follows:

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

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

8 (b) Subject to G.S. 136-131.2, conforming ~~Conforming~~ signs may be altered ~~within the limits of~~ in accordance with the  
9 following rules in [Rules of] this Section.

10 (1) A conforming sign that has been destroyed or significantly damaged may be reconstructed ~~within the~~  
11 ~~limits of~~ in accordance with this Rule and Rule .0203 of this Section. ~~the rules in [Rules of] this [Section.]~~  
12 ~~Section by notifying the district engineer in writing of any substantial changes that would affect the~~  
13 ~~original dimensions of the initial permit application.~~ [ Conforming sign structures may be reconstructed  
14 so long as the reconstruction does not conflict with any applicable state or federal rules, regulations, or  
15 ordinances.]

16 (2) Conforming sign structures may be reconstructed so long as the reconstruction does not conflict with  
17 any applicable [state,] State, federal or local rules, regulations or ordinances.

18 (3) A nonrefundable alteration permit fee is required with the application. Any alteration beyond reasonable  
19 repair and maintenance, reconstruction, or relocation of a conforming sign structure shall not commence  
20 until the permit holder submits a written notice to the District Engineer's office detailing the proposed  
21 alteration and the schedule for the alteration work. The written notice shall include the sign owner's  
22 name, the permit number, and the proposed sign configuration. This written notice shall be attached to  
23 the sign permit as an alteration permit addendum. The sign structure, except sign faces, shall be  
24 completed within 180 days from the date of the issuance of the alteration addendum. If the sign structure,  
25 except sign faces, is not constructed within 180 days of issuance of the alteration permit addendum then  
26 any intervening rule change shall apply to the sign structure.

27 (4) Conforming sign structures shall not be changed from a static face to an automatic changing face, nor  
28 shall the sign height be increased without local approval.

29 (4)(2)(5) Conforming signs that are altered, reconstructed, or relocated shall not require a new permit unless the  
30 sign is relocated outside of the parcel boundary of the sign location. Conforming signs relocated on the  
31 same parcel shall have their sign location updated after the alteration, reconstruction, or relocation work  
32 is completed. The new location shall be listed on the permit addendum by Department of Transportation  
33 personnel. The alteration of a conforming outdoor advertising structure shall not commence until an  
34 alteration application has been submitted to the District Engineer's office. An application for an  
35 outdoor advertising alteration permit shall be made on NCDOT form OA 1A, which may be obtained at  
36 any District Office or the NCDOT website at [www.ncdot.gov](http://www.ncdot.gov). The outdoor advertising  
37 structure, except sign faces, shall be completed within 180 days from the date of the issuance of the

alteration permit. If the outdoor advertising structure, except sign faces, is not constructed within 180 days of issuance of the alteration permit then any intervening rule change shall apply to the sign structure. During the 180 day period, the altered outdoor advertising structure shall be considered in existence for the purpose of spacing of adjacent signs. A nonrefundable alteration permit fee is required with the application.

(c) Alteration to a nonconforming sign or sign conforming by virtue of the grandfather clause is prohibited. Nonconforming Subject to G.S. 136-131.2, signs not conforming to State standards shall not be ~~altered,~~ altered beyond reasonable repair and maintenance, reconstructed, or relocated unless the sign structure becomes a conforming sign. ~~except that reasonable repairs and maintenance shall be permitted or to bring the sign into conformance of the Rules of this Section and the Outdoor Advertising Control Act,~~ Reasonable repair and maintenance are permitted including changing the advertising message or copy. The following activities are considered to be reasonable repair and maintenance:

- (1) ~~Change~~ ~~change~~ of advertising message or copy on the sign face;
- (2) ~~Replacement~~ ~~replacement~~ of border and trim;
- (3) ~~Repair~~ ~~repair~~ and replacement of a structural member, including a pole, stringer, or panel, with like material;
- (4) ~~Alterations~~ ~~alterations of the dimensions of painted bulletins incidental to copy change; and~~
- (5) ~~Any~~ ~~any~~ net decrease in the outside dimensions of the advertising copy portion of the sign; but if the sign face or faces are reduced they may not thereafter be increased beyond the size of the sign on the date it became nonconforming.

(d) The addition of lighting or illumination ~~either affixed or adjacent~~ to existing nonconforming signs not conforming to State standards or signs conforming by virtue of the grandfather clause is specifically prohibited as reasonable maintenance; however, such the lighting may be permanently removed from such sign structure.

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

(f) When the combined damage to the face and support poles of a sign not conforming to State standards appears to be significant, as defined in 19A NCAC 02E .0201(29), .0201(28), the sign owner permit holder may request the Department to review the damaged sign, including salvageable sign components, prior to repairs being made made to determine the extent or percentage of the damage. Should the sign owner permit holder perform repairs without notification to the Department, and the Department later determines the damage is greater than 50%50 percent of the combination of the sign face and support pole(s), poles, the permit shall may be revoked. To determine the percent of damage to the sign structure, the only components to be used to calculate this value are the sign face and support pole(s), poles. The percent damage shall be calculated by dividing the unsalvageable sign components by the original sign structure component quantities, using the following criteria:

- (1) Outdoor Advertising on Wooden Poles: The percentage of damage attributable to poles shall be 50%50 percent and the percentage of damage attributable to sign face shall be 50%;50 percent;
- (2) Outdoor Advertising on Steel Poles or Beams: The percentage of damage attributable to poles shall be 80%80 percent and the percentage of damage attributable to sign face shall be 20%;20 percent; and

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

(g) For the purposes of this Rule, the following activities are considered to be reasonable repair and maintenance:

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

(2) replacement of border and trim;

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

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

(5) any net decrease in the outside dimensions of the advertising copy portion of the sign; but if the sign face or faces of a Sign Not Conforming to State Standards are reduced they shall not thereafter be increased beyond the size of the sign on the date it became a Sign Not Conforming to State Standards.

*History Note: Authority G.S. ~~136-89.58; 136-30; 136-131.2; 136-130; 136-89.58;~~  
Eff. August 1, 2000;  
Amended Eff. August 1, ~~2000-2000;~~  
Readopted Eff. January 1, 2021.*



STATE OF NORTH CAROLINA  
OFFICE OF ADMINISTRATIVE HEARINGS

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1711 New Hope Church Rd  
Raleigh, NC 27609-6285

October 15, 2020

Helen Landi, Rulemaking Coordinator  
Department of Transportation  
**Sent via email only to: rulemaking@ncdot.gov**

Re: Extension of the Period of Review 19A NCAC 02E .0201, .0202, .0203, .0204, .0206, .0207, .0208, .0209, .0210, .0212, .0213, .0214, .0215, .0224, .0225, and .0226

Dear Ms. Landi:

At its meeting this morning, the Rules Review Commission extended the period of review for the above-captioned rules in accordance with G.S. 150B-21.10. They did so in response to a request from the Department of Transportation to extend the period in order to allow the agency additional time to address the written comments submitted to the Rules Review Commission in accordance with 26 NCAC 05 .0103.

Pursuant to G.S. 150B-21.13, when the Commission extends the period of review, it is required to approve or object to the rules or call a public hearing on the same within 70 days.

If you have any questions regarding the Commission's actions, please let me know.

Sincerely,

Amber May  
Commission Counsel

Administration  
919/431-3000  
fax: 919/431-3100

Rules Division  
919/431-3000  
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## REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Department of Transportation

RULE CITATION: 19A NCAC 02E .0204

**DEADLINE FOR RECEIPT: Friday, October 9, 2020**

**PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*Overall, what is the intent of this Rule? Is this essentially saying that a local zoning authority can come up with different criteria with respect to sizing, lighting, and spacing if approved by the Chief Engineer? If that's correct, does G.S. 131.2 have any applicability? Would this only apply to non-permitted outdoor advertising?*

*In (a), what is meant by "local zoning authorities may certify to the Board of Transportation"? What are they certifying? Since there appears to be an approval component here, do you mean something like "may request approval" or "may submit"?*

*Also, by "may" on line 4, do you mean "shall"? I read this as providing the option for local zoning authorities, but not that they have to do this. If that's correct, I think this is fine as written.*

*In (a), what is "effective control"? Is this defined elsewhere? Is it a term of art in this industry?*

*In (a), what is "customary use"? Is this defined elsewhere? Is it a term of art in this industry?*

*In (b), how is authorization sought and determined?*

*Where specifically in this Section can the sizing, lighting, and spacing requirements be found? Is this Rule .0203?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May  
Commission Counsel  
Date submitted to agency: September 25, 2020

1 19A NCAC 02E .0204 is readopted as published in 34:13 NCR 1251-1253 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, 1993;*  
18 *Readopted Eff. November 1, 2020.*  
19



## REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Department of Transportation

RULE CITATION: 19A NCAC 02E .0206

**DEADLINE FOR RECEIPT: Friday, October 9, 2020**

**PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (a), are the substantive requirements of the OA-1 set forth elsewhere in rule or statute? If not, please provide the information. If you need to add it here, I would suggest listing the requirements of the form in (a), then picking up the other required attachments and make them (b).*

*In (a)(2), what is a right of entry form? Is it anything other than granting DOT permission to enter? If so, are the substantive requirements set forth elsewhere in rule or statute?*

*In (a)(7), what is the "initial nonrefundable permit fee"? Please provide the appropriate cross-reference.*

*In (b), given the second sentence, do you need the first? Here, do you mean something like "If the application is incomplete or missing the requirements set forth in Subparagraphs (a)(1) through (7) of this Rule..."?*

*In (b), add (a) before (1).*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May  
Commission Counsel  
Date submitted to agency: September 25, 2020

1 19A NCAC 02E .0206 is readopted as published in 34:13 NCR 1251-1253 with 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 Rule .0203(5)(a)(i) and (ii) of this Section have been met;
- 18 (5) ~~A~~a sign permit ~~of 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, 1981;*

31 *Readopted Eff. November 1, 2020.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Department of Transportation

RULE CITATION: 19A NCAC 02E .0225

**DEADLINE FOR RECEIPT: Friday, October 9, 2020**

**PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (a), by "may", do you mean "shall"?*

*In (b), line 8, rather than "the Rules of this Section", do you mean "the following:"? Otherwise, there is no link between (b) and (b)(1) through (5) and I don't quite understand how they go together.*

*In (b)(1), what specific rule?*

*In (b)(2), capitalize "state" if you mean the State of North Carolina*

*In (b)(4), by "may not" and "cannot", do you mean "shall not"?*

*In (b)(5), change "will be" to "shall be"*

*In (b)(5), what is your authority for a "alteration permit addendum fee"? The only fees I see that you have authority for is the initial application and the renewal fee. If you do have authority for this fee, what is it?*

*In (c), remove the comma after "altered"*

*In (c)(3), what is meant by "like material"? Is this like material to that which is permitted?*

*In (c)(5), by "they may not", do you mean "they shall not"?*

*In (f), line 21, how will it be determined whether the permit will be revoked?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May  
Commission Counsel  
Date submitted to agency: September 25, 2020

19A NCAC 02E .0225 is readopted as published in 34:13 NCR 1251-1253 with changes as follows:

**19A NCAC 02E .0225 REPAIR/MAINTENANCE/ALTERATION/RECONSTRUCTION OF**

**~~{CONFORMING} SIGNS~~ AND REPAIR AND MAINTENANCE OF NON-  
CONFORMING SIGNS**

(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 controlled access primary routes ~~freeways~~ or from or across controlled access barriers or fences of controlled routes.

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

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

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

(3) ~~A nonrefundable alteration permit fee is required with the application.~~ Conforming sign structures may be reconstructed by changing an existing multi-pole structure to a monopole structure so long as the square footage of the advertising surface area is not increased.

(4) Conforming sign structures may not be changed from a static face to an automatic changing face, and the sign height cannot be increased without local approval.

~~(4)(2)(5)~~ The alteration of a conforming ~~{outdoor advertising}~~ sign structure shall not commence until ~~{an~~ alteration application has been submitted to the District Engineer's office. An application for an outdoor advertising alteration permit shall be made on NCDOT form OA-1A, which may be obtained at any District Office or the NCDOT website at [www.ncdot.gov](http://www.ncdot.gov). ~~{the permit holder provides written notice to the North Carolina Department of Transportation stating the proposed alteration and the schedule for alteration work. This documentation will be attached to the sign permit as an alteration permit addendum. The {outdoor advertising} sign structure, except sign faces, shall be completed within 180 days from the date of the issuance of the alteration {permit.} addendum. If the {outdoor advertising} sign structure, except sign faces, is not constructed within 180 days of issuance of the alteration permit addendum then any intervening rule change shall apply to the sign structure. During the 180-day period, the altered {outdoor advertising} sign structure shall be considered in existence for the purpose of spacing of adjacent signs. A nonrefundable alteration permit addendum fee is required with the {application.} submittal.~~

(c) ~~Alteration to a nonconforming sign or sign conforming by virtue of the grandfather clause is prohibited. Nonconforming signs shall not be altered, or reconstructed, {except that reasonable repairs and maintenance shall be permitted or to bring the sign into conformance of the Rules of this Section and the Outdoor Advertising Control Act,} Reasonable repair repairs~~

and maintenance are ~~shall be permitted, permitted including changing the advertising message or copy.~~ The following activities are considered to be reasonable repair and maintenance:

- (1) ~~Change~~ change of advertising message or copy on the sign face;
- (2) ~~Replacement~~ replacement of border and trim;
- (3) ~~Repair~~ repair and replacement of a structural member, including a pole, stringer, or panel, with like material;
- (4) ~~Alterations~~ alterations of the dimensions of painted bulletins incidental to copy change; and
- (5) ~~Any~~ any net decrease in the outside dimensions of the advertising copy portion of the sign; but if the sign face or faces are reduced they may not thereafter be increased beyond the size of the sign on the date it became nonconforming.

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

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

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

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

*History Note: Authority G.S. 136-89.58; 136-30; 136-131.2; 136-130; 136-89.58;  
Eff. August 1, 2000;  
Amended Eff. August 1, 2000-2000;  
Readopted Eff. November 1, 2020.*