

1 19A NCAC 02E .0601 is readopted as published in 34:13 NCR 1251-1253 with changes as follows:

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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.]G.S. 136-93(b)~~. For purposes of selective vegetation removal ~~permitting~~ permitting, "business
9 facilities," hereinafter referred to as ~~facilities~~, facilities,"facilities." are defined as office, institutional, commercial,
10 and industrial buildings. In accordance with G.S. 136-93.3, ~~"agritourism activities"~~ agritourism activities, as defined
11 in ~~G.S. 99E-30~~ G.S. 99E-30, are considered ~~facilities~~ facilities under this Section. The following requirements apply
12 to ~~facilities~~ 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)~~, 136-
18 93(b) shall be performed by the permittee or his or her agent at no cost to the Department of
19 Transportation and shall comply with this Section.

20 ~~(b) For purposes of this Section, 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.~~

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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~~, 1982;
35 Readopted Eff. June 1, 2020.

1 19A NCAC 02E .0602 is readopted as published in 34:13 NCR 1251-1253 with changes as follows:

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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~~, Transportation (NCDOT), Division of Highways. Applications shall be submitted in both printed
8 and electronic form. Application submittal information for each county is found on the NCDOT Selective Vegetation

9 Removal website [https://connect.ncdot.gov/resources/roadside/Pages/Selective-Vegetation-Removal-](https://connect.ncdot.gov/resources/roadside/Pages/Selective-Vegetation-Removal-Permits.aspx)
10 Permits.aspx. Applications for selective vegetation removal permits shall include the following information:

- 11 (1) the applicant contact information;
- 12 (2) the name and location of the facility;
- 13 (3) the indication of request ~~being~~ for either a business facility or agritourism activity;
- 14 (4) a municipal review indication, if applicable;
- 15 (5) the requested use of and site access for power-driven equipment in accordance with Rule
16 ~~.0604(22)~~, .0604(21) of this Section;
- 17 (6) a performance bond or certified check or cashier's check pursuant to G.S. 136-93;
- 18 (7) if using a contractor for vegetation removal work, identify the contractor and their ~~his or her~~
19 qualifications if the contractor is not listed on the Department's website directory of qualified
20 transportation firms;
- 21 (8) a payment of non-refundable two hundred dollar ~~hundred dollar~~ (\$200.00) permit fee, pursuant to
22 G.S. 136-18.7;
- 23 (9) a certificate of ~~liability~~ liability, and proof of worker's compensation and vehicle liability insurance
24 coverage;
- 25 (10) a geographic information system document and property tax identification number to verify location
26 of the facility in relation to municipal limits;
- 27 (11) a verification of on-site marking and tree-tagging requirements;
- 28 (12) a sketch, or amended sketch of the requested cut zone and information about trees to be cut, thinned,
29 pruned, or removed in accordance with Rule ~~.0604(11)~~, .0604(10) of this Section;
- 30 (13) if applicable, certification that the applicant has permission from the adjoining landowner(s) to
31 access their private property ~~property~~, if applicable, for the purpose of conducting selective
32 vegetation removal permit activities;
- 33 (14) a certification that the facility qualifies as an agritourism activity as required ~~pursuant to~~ by G.S.
34 136-93.3; and
- 35 (15) the applicant's notarized signature.

36 (b) Selective vegetation cutting, thinning, pruning, or removal for opening views to facilities shall be permitted only
37 for the permittee's facilities adjacent to highway ~~right-of-way~~ right-of-way at locations where the ~~such~~ facilities have

1 been constructed or where agritourism activities are carried out as set forth in G.S. 136-93.3 and Rule .0601 of this
2 Section. Complete removal of all trees and other vegetation shall not be permitted. Dogwood trees and redbud trees
3 shall be preserved. Other trees ~~shall be preserved if they that~~ are not screening the facility from view ~~and are view,~~
4 ~~and when measured at six inches above the ground, [shall] equal four or more caliper inches and greater in diameter,~~
5 ~~diameter measured six inches from the ground, shall be preserved.~~ Trees, shrubs, and other vegetation less than four
6 caliper inches in diameter may be removed. Trees, shrubs, and other vegetation that are four or more caliper inches
7 ~~or greater in diameter~~ diameter, as measured ~~at six inches from above the ground~~ ground, and not to be preserved,
8 may be cut, thinned, pruned, or removed ~~according to if approved by the Division Engineer having jurisdiction or that~~
9 ~~Division Engineer's designee, approval of Department personnel designated by the Division Engineer.~~ All vegetation
10 cutting, thinning, pruning, or removal shall be in accordance with the current edition and subsequent amendments and
11 editions of the American National Standard for Arboricultural Operations-Safety Requirements ANSI Z133.1, Z133
12 approved by the American National Standards Institute and published by the International Society of Arboriculture
13 that is hereby incorporated, incorporated by reference, including subsequent amendments and editions. Copies of the
14 Standard are available for inspection in the office of the State Roadside Environmental Engineer, Division of
15 Highways, [1 S. Wilmington St.,]Raleigh, N.C. Copies of the Standard may be obtained from the International Society
16 of Arboriculture (ISA) for a twenty dollars (\$20.00) cost. The ISA may be contacted at P.O. Box 3129 Champaign,
17 Illinois 61826-270 Peachtree Street NW, Suite 1900, Atlanta, GA 30303 or by accessing ~~this the~~ website:
18 ~~http://www.isa-arbor.com/~~http://www.isa-arbor.com/store/product/122.

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

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

32 (e) In accordance with G.S. 136-93(d), if the application for vegetation cutting is for a site located within the corporate
33 limits of a municipality and the municipality has previously advised the Division Engineer in writing of its desire to
34 review such applications, the applicant shall deliver the application to the municipality at least 30 days prior to
35 submitting the application to the Department, so the municipality ~~shall~~ may be given the opportunity to review the
36 application. Information regarding whether a municipality desires to review vegetation removal applications may be

found on the ~~Department~~ Department's Selective Vegetation Removal website ~~www.nedot.gov~~ or by contacting the Division Engineer's office.

History Note: Authority G.S. 136-18(5); 136-18(7); 136-18(9); 136-18.7; 136-93; 136-93.3; ~~136-130;~~
Temporary Rule Eff. April 13, 1982 for a Period of 48 Days to Expire on June 1, 1982;
Eff. June 1, 1982;
Amended Eff. November 16, 1991; December 1, 1990; August 1, 1985; June 2, 1982;
Temporary Amendment Eff. November 16, 1999;
Amended Eff. August 1, 2000;
Temporary Amendment Eff. March 1, 2012;
Amended Eff. January 1, 2015; November 1, ~~2012~~, 2012;
Readopted Eff. June 1, 2020.

1 19A NCAC 02E .0603 is readopted as published in 34:13 NCR 1251-1253 with changes as follows:

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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 North Carolina Department of Transportation (NCDOT) in writing that it seeks to provide comments regarding
10 such applications. The applicant shall deliver the application to the municipality at least 30 days prior to submitting
11 the application to the Department. The list of municipalities requesting to review applications shall be maintained and
12 updated by the Department on the NCDOT Selective Vegetation Removal website
13 <https://connect.ncdot.gov/resources/roadside/Pages/Selective-Vegetation-Removal-Permits.aspx>.
14 ~~www.ncdot.gov. Upon receipt of the application, the Division Engineer shall have 30 days to approve or deny the~~
15 ~~application.~~ If written notice of approval or denial is not given to the applicant within the 30-day Department review
16 period, then the application shall be deemed approved. If the application is denied, the Division Engineer shall advise
17 the applicant, in writing, of the reasons for denial.

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

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

- (9) the applicant fails to complete ~~an application, as the requirements of the application as described set forth~~ in Rule .0602 of this ~~Section;~~ Section;
- (10) any cutting, thinning, pruning, or removal of vegetation encompassing the entirety of the maximum vegetation cutting or removal zone is prohibited due to ~~conservation easements or [easements,]~~ conditions affecting the ~~right of way~~ right-of-way to which the State is ~~subjected~~ subjected, written agreements, subjected or agrees in writing to subject itself, including conservation agreements, or due to the application at any time of State or [Federal] federal [rules,] rules, regulations, or statutes, including any conditions mandated as part of the issuance of a permit to the Department for a construction project by a State or federal agency with jurisdiction over the project; or [permits, or other restrictions;] ~~or agrees in writing to subject itself and other restrictions agreed upon by the State, in writing in the right of way; or State or Federal rules, statutes, or permits; or~~
- (11) an unlawful destruction or illegal cutting of vegetation has occurred within the highway right-of-way to create, increase, or improve a view to the facility from the travel way including acceleration and deceleration ramps. The Department shall not issue a selective vegetation removal permit at the requested site for a period of five years that shall begin on the date the Department resolves the "unlawful destruction" or "illegal cutting" incident by settlement agreement with ~~the responsible party~~ party, or the Department administratively closes the case. For the purposes of this Section, Subparagraph, unlawful, "unlawful destruction or illegal cutting-cutting" is defined as the destruction or cutting of trees, shrubs, or other vegetation on the State-owned or State-maintained rights-of-way by anyone other than the Department or its authorized agents, or without written permission of the Department.

History Note: Authority G.S. 99E-30; 136-18(5); 136-18(7); 136-18(9); 136-93; 136-93.3; 136-130; Temporary Rule Eff. April 13, 1982 for a Period of 48 Days to Expire on June 1, 1982; Eff. June 1, 1982; Amended Eff. August 1, 2000; November 1, 1991; December 1, 1990; August 1, 1985; June 2, 1982; Temporary Amendment Eff. March 1, 2012; Amended Eff. January 1, 2015; November 1, ~~2012~~ 2012; Readopted Eff. June 1, 2020.

19A NCAC 02E .0604 is readopted as published in 34:13 NCR 1251-1253 with changes as follows:

19A NCAC 02E .0604 CONDITIONS OF SELECTIVE VEGETATION REMOVAL PERMIT FOR FACILITIES

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

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

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

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

~~(5)~~(4) If the work is to be performed by any entity other than the permittee, either the permittee or the other entity shall furnish the Performance Bond, ~~or certified check check,~~ or cashier's check, as described in this Rule, for all work provided for and specified by the permit. Required forms for all bonds are available upon request from the Department and may be found on the NCDOT Selective Vegetation Removal Department's website website: www.ncdot.gov. <https://connect.ncdot.gov/resources/roadside/Pages/Selective-Vegetation-Removal-Permits.aspx>.

Bonds ~~are shall to be~~ furnished with the selective vegetation removal application ~~form form, and~~ to the official assigned to receive selective vegetation removal applications at the local North Carolina Department of Transportation, Division of Highways Office;

~~(6)~~(5) The permittee shall ~~also~~ provide proof of liability insurance coverage of five million dollars (\$5,000,000). Whoever performs the work, the permittee, his or her contractor, or agent, shall maintain workers' compensation and vehicle liability insurance coverage. The permittee, his or her

contractor, and agent ~~may shall~~ be liable for any losses due to the negligence or willful misconduct of his ~~or her~~ agents, assigns, and employees. The ~~permittee, permittee may,~~ in lieu of providing proof of liability insurance as described in this ~~Item, [Subparagraph,]~~ may be shown as an additional insured on the general liability policy of the approved contractor or agent to perform the permitted work ~~on condition that if the contractor or agent's policy is provides coverage of five million dollars (\$5,000,000) in coverage, and the permittee provides proof to the Department with proof of the coverage. The permittee or contractor permittee, contractor, or agent providing the coverage shall also name the Department as an additional insured on its general liability policy policy, and provide the Department with a copy of the certificate showing the Department named as an additional insured. Regardless of which entity provides the proof of general liability insurance, the~~ The required limit of insurance may be obtained by a single general liability ~~policy or policy,~~ the combination of a general liability and excess ~~liability liability,~~ or an umbrella policy;

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

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

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

(10)(9) The ~~[Pursuant to Rule .0602(b) of this Section, the]~~ permittee shall perform tagging of trees. The permittee shall tag with visible material or flagging any trees that screen the facility from view, have been requested to be cut, thinned, pruned, or removed within the maximum vegetation cut or removal zone, and have a diameter of four or more caliper inches, as measured at six inches above the ground and at the time of the application, ~~with visible material or flagging, trees, according to Rule .0602(b) of this Section, with a diameter of four caliper inches and larger, as measured six~~

1 inches above ground level at the time of the application that are screening the facility from view and
2 are requested to be cut, thinned, pruned, or removed within the maximum vegetation cut or removal
3 zone. Trees tagged for cutting, thinning, pruning, or removal shall match with the trees shown on
4 the required sketch of the requested vegetation cut or removal zone;

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

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

- 27 (a) If applicable easements, rules, regulations, statutes, or permits conservation easements, or
28 conditions affecting the right of way to which the State is subjected or agrees in writing to
29 subject itself and other restrictions agreed upon by the State in writing in the right of way,
30 State or Federal rules, statutes, or permits allow certain degrees and methods of cutting,
31 thinning, pruning, or removal for portions of vegetation, the permittee shall comply with
32 applicable easements, State or Federal federal rules, regulations, statutes, or permits
33 permits, including equipment type specifications for those portions of vegetation.
34 [vegetation; vegetation; and
- 35 (b) Portions of the maximum cutting or removal zone not within an easement, nor applicable
36 to rules, regulations, statutes, or permits a conservation easement nor applicable to
37 conditions affecting the right of way to which the State is subjected or agrees in writing to

1 subject itself and other restrictions agreed upon by the State in writing in the right of way,
2 nor regulated by State or Federal rules, statutes, or permits regulating vegetation removal
3 removal, and other activities shall be governed by standards set out in G.S. 136-93;

4 ~~(13)~~(12) The permittee shall adhere to erosion control requirements, according pursuant to ~~[Article 4 of]~~ G.S.
5 ~~113, Article 4: [§ 113A,]~~ the North Carolina General Statutes, Article 4, Chapter 113A entitled:
6 ~~Sedimentation Pollution Control Act of 1973;~~

7 ~~(14)~~(13) A Division of Highways Inspector may be present while work is underway. The presence or absence
8 of a Division of Highways inspector at the work site does not lessen the permittee's responsibility
9 for conformity with the requirements of the permit. ~~When~~ If a present inspector fails to point out
10 ~~acknowledge or identify~~ work that does not conform with the requirements, ~~it this failure shall does~~
11 not prevent later notification to the permittee that the work is ~~noncompliant not in compliance~~ with
12 the permit;

13 ~~(15)~~(14) A selective vegetation removal permit shall be secured for each applicable facility prior to
14 performing any vegetation removal work. The ~~Permittee permittee, or its contractor~~ contractor, or
15 agent shall have a copy of the selective vegetation removal permit on the work site at all ~~times~~
16 ~~times,~~ during any phase of selective vegetation cutting, thinning, trimming, pruning, removal, or
17 planting operations;

18 ~~(16)~~(15) ~~When~~ If the Division Engineer ~~("Engineer")~~ or his ~~or her~~ representative observes unsafe operations,
19 activities, or conditions, ~~he~~ the Engineer shall suspend work. Work shall not resume until the unsafe
20 operations, activities, or conditions have been eliminated or corrected. Failure to comply with any
21 of the ~~federal [Federal]~~ and State laws, ordinances, ~~rules, and or~~ regulations governing safety and
22 traffic control shall result in suspension of work. The permittee shall adhere to safety requirements,
23 ~~according pursuant~~ to the ~~[Article 16 of]~~ G.S. ~~[§ 95,]~~ 95, Article 16, North Carolina G.S. 95, Article
24 16, ~~entitled: Occupational Safety and Health Act of North Carolina.~~ Traffic control shall be in
25 accordance with G.S. 136-30 and 19A NCAC 02B .0208;

26 ~~(17)~~(16) The ~~permittee or permittee, its contractor~~ contractor, or agent shall take measures to locate and
27 protect utilities located within the highway right-of-way and within the work area of the selective
28 vegetation removal zone. The permittee may be responsible for restoration of any losses or damages
29 to ~~utilities~~ ~~utilities,~~ caused by any actions of the ~~permittee or permittee, its contractors~~ contractors,
30 or ~~agents~~ agents, and to the satisfaction of the utility owner;

31 ~~(18)~~(17) Permits are valid for a period of one year and the permittee may cut, thin, prune, or remove
32 vegetation more than one time during the permit year. If the applicant applies for and is approved
33 for another permit at the same site during an existing permit year, the previous permit shall become
34 null and void at the same time the new permit is issued;

35 ~~(19)~~(18) The permittee shall provide to the Department a 48-hour notification before entering the right-of-
36 way for any work covered by the conditions of the permit. The permittee shall schedule all work
37 with the Department. The permittee shall notify the Department in advance of work scheduled for

nights, weekends, and State holidays. The Department may modify the permittee's work schedule for nights, weekends, and State holidays. When the Department restricts construction in work zones for the safety of the traveling public, the Department shall deny access to the right-of-way for selective vegetation removal;

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

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

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

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

~~(24)~~~~(23)~~~~(22)~~ The height of stumps remaining after tree removal shall not exceed four inches above the surrounding ground level. At the end of each workday, all vegetation that has been cut, thinned, or pruned at the site shall be ~~The work site shall be left with all vegetation cut, thinned, or pruned at the site either removed or chipped and spread in accordance with G.S. 136-133.4; and 136-133.4 at the end of each workday;~~

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

~~(26)~~~~(25)~~~~(23)~~ Upon completion of all work, the Department shall notify the permittee in writing of acceptance, terminate the permit, and return the Performance Bond, or certified check, certified, or cashier's check to the permittee. For replanting work, a different bond release schedule shall be

1 applicable~~[applicable,]~~ according to Rule .0611 of this Section. The permittee may terminate the
2 permit at any time and request that the Department return ~~of~~ the Performance Bond, ~~or~~ certified
3 check, [certified,] or cashier's check. The termination and request for return of the Performance
4 Bond, ~~or~~ certified check, [certified,] or cashier's check shall be made in writing and sent to the
5 Division Engineer.

6
7 *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);~~*
8 *Temporary Rule Eff. April 13, 1982 for a Period of 48 Days to Expire on June 1, 1982;*
9 *Eff. June 1, 1982;*
10 *Amended Eff. January 1, 2015; November 1, 2012; August 1, 2000; November 1, 1991; August 1,*
11 *1985; August 1, 1982; June 2, ~~1982, 1982;~~*
12 *Readopted Eff. June 1, 2020.*

1 19A NCAC 02E .0608 is readopted as published in 34:13 NCR 1251-1253 with 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,~~
8 Transportation (NCDOT), Division of Highways. Applications shall be submitted in both printed and electronic form.
9 Application submittal information for each county is found on the NCDOT Selective Vegetation Removal website:
10 <https://connect.ncdot.gov/resources/roadside/Pages/Selective-Vegetation-Removal-Permits.aspx>. For sites
11 within the corporate limits of a municipality that has previously advised the Department in writing that it seeks to
12 review such applications, the applicant shall deliver the application to the municipality at least 30 days prior to
13 submitting the application to the Department. Applications for selective vegetation removal permits shall include the
14 following information consistent with G.S. 136-133.1:

- 15 (1) the applicant contact information;
- 16 (2) the outdoor advertising permit tag number and location of the sign;
- 17 (3) ~~for a if the sign is located on a ramp, the application shall indicate whether cut zone is modified or~~
18 ~~normal; indication of application being for a modified cut zone or normal cut zone;~~
- 19 (4) ~~for applications if an application is eligible for municipal review, and as a prerequisite to municipal~~
20 ~~review submittal, the application shall indicate the year an indication of the year the sign was~~
21 ~~erected; erected. Upon request, the Department shall furnish the year of sign erection to the applicant.~~
22 The Department may require additional proof if the year of the sign erection remains in question;
- 23 (5) an indication of appropriate maximum cutting distance;
- 24 (6) the applicant's desire to remove existing trees, if present, ~~[present; and]~~ and ~~if [if]~~ existing trees are to
25 be removed, such trees require compensation by either monetary ~~reimbursement or reimbursement,~~
26 removal of two nonconforming outdoor advertising signs, or a beautification and replanting plan as
27 set out in Rule .0611 of this ~~Section~~ Section, and by submitting the Existing Tree Compensation
28 Agreement form found on the ~~Department web site [site:]~~ NCDOT Selective Vegetation Removal
29 website; www.ncdot.gov;
- 30 (7) the site plan, if existing trees are to be cut, thinned, pruned, or removed;
- 31 (8) if existing trees are to be cut, thinned, pruned, or removed, the additional required form includes
32 applicant contact information, permit tag number, sign location, ~~the number and number,~~ caliper
33 ~~inches inches,~~ and monetary value of existing trees to be cut, thinned, pruned, or removed, as
34 determined by G.S. 136-93.2, and indication of compensatory ~~choice; choice:~~
- 35 (9) the additional form for existing tree removal, based on the compensatory choice made, also requires
36 submittal of either a payment check in the amount of the tree loss monetary value, ~~or~~ indication of
37 the two nonconforming outdoor advertising signs to be surrendered, or agreement to submit a

beautification replanting plan to the Department. Compliance with the compensatory choice shall be required before the selective vegetation removal permit can be approved;

- (10) a municipal review indication, if applicable;
- (11) the requested use of and site access for power-driven equipment in accordance with ~~Rule .0610(24)~~ Rule .0610(23) of this Section;
- (12) the performance bond or certified check or cashier's check pursuant to G.S. 136-93;
- (13) if using a contractor for vegetation removal work, identify the contractor and their-his or her qualifications if the contractor is not listed on the Department's website directory of qualified transportation firms;
- (14) a payment of the non-refundable two hundred dollar[hundred-dollar] (\$200.00) permit fee, pursuant to G.S. 136-18.7;
- (15) the certificate of liability, liability[,] and proof of worker's workers' compensationcompensation, and vehicle liability insurance coverage;
- (16) the geographic information system ~~document and document,~~ property tax identification number to verify location of sign in relation to municipal ~~limits~~ limits, and territorial jurisdiction boundary;
- (17) a verification of on-site marking and tree-tagging requirements;
- (18) if the cutting request is for a modified cut zone along a highway ramp, a diagram of the cut zone is required unless the diagram is included on a site ~~plan plan,~~ and calculations are required comparing the modified cut zone to the normal cut zone;
- (19) if the Department disputes the site plan, the Department may request additional information ~~per~~ pursuant to G.S. 136-133.1(c);
- (20) if applicable, certification that the applicant has permission from the adjoining landowner(s) to access their private property for the purpose of conducting selective vegetation removal permit activities; and
- (21) the applicant's notarized signature.

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

~~(e)(b)~~ The selective vegetation removal request may be reviewed on site by Department personnel and a representative of the applicant.

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);~~ 136-130; 136-133.1; 136-133.2;

Temporary Adoption Eff. March 1, 2012;

Eff. November 1, 2012;

Amended Eff. January 1, ~~2015-2015;~~

1 19A NCAC 02E .0609 is readopted as published in 34:13 NCR 1251-1253 with changes as follows:

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

5 (a) Pursuant to G.S. 136-133.2, within ~~Within~~ 30 days following receipt of the application for a selective vegetation
6 removal permit for outdoor advertising, including the fee set out in G.S. 136-18.7, the Division Engineer shall approve
7 or deny the application.

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

- 9 (1) the application is for an outdoor advertising location where the outdoor advertising permit is less
10 than two years old pursuant to G.S. 136-133.2;
- 11 (2) the application is for the opening of a view to a sign that has been declared illegal, illegal, or pursuant
12 to G.S. 136-134, whose permit has been ~~revoked~~ ~~revoked~~, or is currently involved in litigation with
13 the Department;
- 14 (3) it is determined by Department personnel that removal of vegetation shall diminish a planting
15 installed for headlight screening and affect the safety of the traveling public;
- 16 (4) the application is for the removal of vegetation planted in accordance with a local, state, State, or
17 federal beautification project prior to September 1, 2011 or prior to the issuance of an outdoor
18 advertising permit for the erection of the applicable outdoor advertising structure, whichever date is
19 later, unless a mitigating replanting plan related to the site for which the vegetation permit request
20 is ~~made~~ ~~made~~, as set forth in Rule .0611 of this Section, except for the provisions in Paragraph (d)
21 and Subparagraph (g)(11); and is agreed upon in writing by the applicant, the Department, and, if
22 applicable, the Federal Highway Administration;
- 23 (5) on two previous occasions, the applicant has failed to meet the requirements of a selective vegetation
24 removal permit, unless the applicant engages a landscape contractor to perform the current work;
- 25 (6) the application is for removal of vegetation that will open views to junkyards;
- 26 (7) the requested site is subject to a five-year moratorium for willful failure to substantially comply with
27 all requirements specified in a prior selective vegetation removal permit pursuant to G.S. 136-
28 133.4(e);
- 29 (8) the applicant fails to complete an application, the requirements of the application as set forth
30 described in Rule .0608 of this Section;
- 31 (9) any cutting, thinning, pruning, or removal of vegetation encompassing the entirety of the maximum
32 vegetation cutting or removal zone is prohibited due to conditions affecting the ~~right-of-way~~ right-
33 of-way to which the State is subjected or agrees in writing to subject itself, including conservation
34 agreements, prior to September 1, 2011 or prior to the issuance of an outdoor advertising permit for
35 the erection of the applicable outdoor advertising structure, whichever date is later, or due to the
36 application at any time of State statutes or rules or federal ~~Federal~~ statutes or regulations, rules,
37 including any conditions mandated as part of the issuance of a permit to the Department for a

1 construction project by a ~~Federal~~-federal or State agency with jurisdiction over the construction
2 project. The Department may mitigate within the ~~right-of-way~~-right-of-way in the cut zone of a
3 permitted outdoor advertising structure so long as trees and other plant materials for mitigation may
4 not be of a projected mature height to decrease the visibility of a sign face, and such mitigation
5 vegetation may not be cut or removed pursuant to a selective vegetation removal permit; or
6 (10) a modified vegetation removal zone application request along acceleration or deceleration ramps is
7 not in accordance with G.S. 136-133.1(a1) or Rule .0612 of this Section.
8

9 *History Note:* Authority G.S. 136-18(5); 136-18(7); 136-18(9); ~~136-93~~; 136-130; ~~136-133.1(a1)~~; 136-133.1(a1);
10 136-133.2; 136-133.3; 136-133.4; ~~136-93~~; 136-134;
11 *Temporary Adoption Eff. March 1, 2012;*
12 *Eff. February 1, 2013;*
13 *Amended Eff. January 1, 2015-2015;*
14 *Readopted Eff. June 1, 2020.*

1 19A NCAC 02E .0610 is readopted as published in 34:13 NCR 1251-1253 with 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 (NCDOT) for the sum of two thousand
10 dollars (\$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 ~~run~~
14 be paid with the application before each permit to cut vegetation is issued. The Performance bond,
15 certified check, or cashier's check shall run concurrently with the permit. The ~~bond-Performance~~
16 Bond, certified check, or cashier's check shall be released after a final inspection of the work by the
17 Department reveals that all work provided for and specified by the permit is found to be completed
18 and-and, if damage is caused by the permittee or the permittee's agent, all damages to the right-of-
19 way, including damage to fencing and other structures within the right-of-way, have been repaired
20 or ~~restored; restored to the condition prior to the occurrence of the damage caused by the permittee~~
21 ~~or the permittee's agent;~~
- 22 (3) Companies that plan to apply for two or more permits may provide continuing bonds for the sum of
23 one hundred thousand dollars (\$100,000) and that type of bond shall be kept on file by the Utilities
24 Unit of the Department;
- 25 (4) If the work is to be performed by any entity other than the sign owner or permittee, either the
26 permittee or the other entity shall furnish the Performance Bond, ~~or certified check-check,~~ or
27 cashier's ~~check-check,~~ as described in this Rule, for all work provided for and specified by the
28 permit. Required forms for all bonds are available upon request from the Department, or on the
29 NCDOT Selective Vegetation Removal Department's website—website: www.ncdot.gov.
30 [https://connect.ncdot.gov/resources/roadside/Pages/Selective-Vegetation-Removal-](https://connect.ncdot.gov/resources/roadside/Pages/Selective-Vegetation-Removal-Permits.aspx)
31 [Permits.aspx](https://connect.ncdot.gov/resources/roadside/Pages/Selective-Vegetation-Removal-Permits.aspx). Bonds ~~are to~~ shall be furnished with the selective vegetation removal application
32 form to the official assigned to receive selective vegetation removal applications at the local North
33 Carolina Department of Transportation, Division of Highways Office;
- 34 (5) The permittee shall ~~also~~ provide proof of liability insurance coverage of five million dollars
35 (\$5,000,000). Whoever performs the work, the permittee, his or her contractor, or agent shall
36 maintain ~~worker's workers'~~ compensation and vehicle liability insurance coverage. The permittee,
37 his or her contractor, and or agent, agent may shall be liable for any losses due to the negligence or

willful misconduct of ~~his or her [the permittee's]~~ agents, assigns, ~~and~~ or employees. The ~~permittee,~~
~~permittee may,~~ in lieu of providing proof of liability insurance as described in this ~~Item,~~
~~[Subparagraph,]~~ may be shown as an additional insured on the general liability policy of the
approved contractor or agent to perform the permitted work ~~on condition that if~~ the contractor or
agent's policy ~~is for a minimum coverage of provides~~ five million dollars (\$5,000,000) ~~in coverage,~~
and the permittee provides ~~proof to~~ the Department ~~with proof~~ of the coverage. The ~~permittee~~
~~permittee, or contractor contractor,~~ or agent providing the coverage shall also name the Department
as an additional insured on its general liability ~~policy policy,~~ and provide the Department with a
copy of the certificate showing the Department named as an additional insured. ~~Regardless of which~~
~~entity provides the proof of general liability insurance, the~~ The required limit of insurance may be
obtained by a single general liability ~~policy policy,~~ or the combination of a general liability and
excess ~~liability liability,~~ or an umbrella policy;

- (6) The permittee shall provide a document verifying the requested selective vegetation removal site
location in relationship to corporate limits of a municipality, ~~per~~ pursuant to G.S. 136-133.1(a)(5).
The document shall be a current geographic information system map of the nearest municipality,
with color-coded boundary ~~lines lines,~~ and a corresponding key or legend indicating corporate ~~limit~~
~~[limit,] limits,~~ and territorial jurisdiction ~~boundaries boundaries,~~ and indicating the precise location
of the outdoor advertising structure. The permittee shall ~~also~~ provide the property tax identification
number for the parcel ~~on which where~~ the outdoor advertising structure is located. The Department
may require additional information if the boundary or sign location remains in question;
- (7) The permittee shall perform site marking of the maximum vegetation cut or removal zone. The
applicant shall mark the proper permitted cutting distances according to G.S. 136-133.1(a)(1) – (6).
Points A & B along the right-of-way boundary (or fence if there is a control of access fence) shall
be marked with visible flagging tape. Points C, D, ~~& and~~ E along the edge of the pavement of the
travel way shall be marked with spray paint, including the actual distances. If the sign is located at
an acceleration or deceleration ramp, points C, D, ~~& and~~ E shall be marked along the edge of the
pavement of the travel way of the ramp instead of the mainline of the roadway;
- (8) The permittee shall perform tagging of trees. The permittee shall tag with a visible material or
flagging all trees, including existing trees and other trees that are, at the time of the selective
vegetation removal application, greater than ~~four inches four inches~~ in diameter as measured six
inches from the ground and requested to be cut, thinned, pruned, or removed. The applicant shall
tag the existing trees (the exact same existing trees as on the site plan) that are desired to be cut,
thinned, pruned, or removed with visible material or ~~contrasting colored flagging, flagging of a~~
~~contrasting color.~~ The permittee shall denote on the site plan or ~~on the~~ application the colors of
flagging used to mark each category of trees;

- (9) If there are existing trees requested to be removed, for removal, the permittee shall satisfy the following before any work can be performed: ~~performed under a selective vegetation removal permit the permittee shall:~~
- (a) submit the reimbursement to the Department pursuant to G.S. 136-133.1(d) in a cashier's check 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) (c), 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, reasons in this Item, [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, federal statutes, or rules, rules, or regulations, including any conditions mandated as part of the issuance of a permit to the Department for a construction project by a Federal—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, of this Item, 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 Sub-items {Subparagraph} (12)(a), (b) and (c) of this Rule shall be governed by standards set out in G.S. ~~136-93~~ 136-93;

(13) The permittee shall adhere to erosion control requirements, according pursuant to General Statutes, Article 4, Chapter 113A. [Article 4 of]G.S. [§]113A, Article 4; entitled: Sedimentation Pollution Control Act of 1973;

(14) A Division of Highways Inspector may be present while work is underway. The presence or absence of a Division of Highways inspector at the work site does not lessen the permittee's responsibility for conformity with the requirements of the permit. ~~When If~~ When If a present inspector fails to point out acknowledge or identify work that does not conform with [to] the requirements, ~~it does [such a] this~~ failure shall not prevent later notification [from the Department] to the permittee that the work is not in compliance-noncompliant with the permit;

(15) A selective vegetation removal permit shall be secured for each applicable outdoor advertising site prior to performing any vegetation removal work;

(16) ~~When If~~ When If the Division Engineer ("Engineer") or his or her representative observes unsafe operations, activities, or conditions, ~~he the Engineer~~ shall suspend work. Work shall not resume until the unsafe operations, activities, or conditions have been eliminated or corrected. Failure to comply with any of the federal and State laws, ordinances, rules, and regulations governing safety and traffic control shall result in suspension of work. The permittee shall adhere to safety requirements, ~~according pursuant to [Article 16 of]G.S. [§]95, Article 16, 16, entitled: Occupational Safety and Health Act of North Carolina.~~ Traffic control shall be in accordance with G.S. [§]136-30 and 19A NCAC 02B .0208;

(17) The applicant shall certify that he or she has permission from the adjoining landowner(s) to access ~~their~~ the private property for the purpose of conducting activities related to the selective vegetation removal permit application;

(18) The ~~permittee or permittee,~~ its contractor contractor, or agent shall have a copy of the selective vegetation removal permit on the work site at all times during any phase of selective vegetation cutting, thinning, trimming, pruning, removal, or planting operations;

(19) The ~~permittee or permittee,~~ its contractor contractor, or agent shall take measures to locate and protect utilities within the highway right-of-way and within the work area of the selective vegetation removal zone. The permittee may be responsible for restoration of any losses or damages to utilities

- caused by any actions of the ~~permittee or permittee,~~ its ~~contractors~~ ~~contractors,~~ or ~~agents~~ ~~agents,~~ and to the satisfaction of the utility owner;
- (20) Permits are valid for a period of one year and the permittee may cut, thin, prune, or remove vegetation more than one time during the permit year. If the applicant applies for and is approved for another ~~selective vegetation removal~~ permit at the same site during an existing permit year, the previous permit shall become null and void at the same time the new permit is issued;
- (21) The permittee shall provide to the Department a 48-hour notification before entering the right-of-way for any work covered by the conditions of the permit. The permittee shall schedule all work with the Department. The permittee shall notify the Department in advance of work scheduled for nights, weekends and State holidays. The Department may modify the permittee's work schedule for nights, weekends, and State holidays. When the Department restricts construction in work zones for the safety of the traveling public, the Department shall deny access to the right-of-way for selective vegetation removal;
- (22) If work is planned in an active work zone, the permittee shall receive written permission from the contractor or the Department if the Department's employees are performing the work. The permittee shall provide the Division Engineer with a copy of the written permission;
- (23) An applicant shall be allowed to use individual and manual-operated power equipment and hand held tools at any site during initial cutting or removal of vegetation or while maintaining a site during the duration of a selected vegetation removal permit. The Department may allow use of power-driven vegetation removal equipment (such as excavator-based land clearing attachments, skid-steer cutters, and bucket trucks) if the Department determines that the use of such equipment will not cause ~~undue~~ safety hazards, any erosion, or ~~unreasonable~~ damage to the right-of-way, and may allow access from the private property side to the right-of-way. Tree removal that presents a hazard from falling tree parts shall be performed in accordance with the current edition ~~and subsequent amendments and editions~~ of the American National Standard for Arboricultural Operations-Safety Requirements ANSI ~~Z133;Z133.1, approved by the American National Standards Institute and published by the International Society of Arboriculture that is hereby incorporated. Copies of the Standard are available for inspection in the office of the State Roadside Environmental Engineer, Division of Highways, Raleigh, N.C. Copies of the Standard may be obtained from the International Society of Arboriculture (ISA) for a twenty dollars (\$20.00) cost. The ISA can may be contacted at P.O. Box 3129 Champaign, Illinois 61826 or by accessing this website: <http://www.isa-arbor.com/>;~~
- ~~(24)~~ The Department shall determine the traffic control signage that shall be required. The permittee shall ~~furnish, erect, and maintain the required signs as directed by the Department;~~
- ~~(25)~~(24) The height of stumps remaining after tree removal shall not exceed four inches above the surrounding ground level. ~~At the end of [the]each workday,[work day,]The the~~ work site shall be left with all vegetation cut, thinned, or pruned at the site either removed or chipped and spread in accordance with G.S. ~~136-133.4; and136-133.4 at the end of each workday; and~~

1 ~~(26)~~(25) Upon completion of all work, the Department shall notify the permittee in writing of acceptance,
2 terminate the permit, and return the Performance Bond, ~~or~~ certified ~~check-check~~, or cashier's check
3 to the permittee. For replanting work, a different bond release schedule shall be applicable according
4 to Rule .0611 of this Section. The permittee may terminate the permit at any time and request that
5 the Department return of the Performance Bond, ~~or~~ certified ~~check-check~~, or cashier's check. The
6 termination and request for return of the Performance Bond, ~~or~~ certified check, or cashier's check
7 shall be made in writing and sent to the Division Engineer.
8

9 *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;*
10 *~~136-133.1(a1);~~ 136-133.2; 136-133.3; 136-133.4; 136-133.5;*
11 *Temporary Adoption Eff. March 1, 2012;*
12 *Eff. February 1, 2013;*
13 *Amended Eff. January 1, 2015-2015;*
14 *Readopted Eff. June 1, 2020.*

1 19A NCAC 02E .0611 is readopted as published in 34:13 NCR 1251-1253 with 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-one-for-one basis. All requests for plant substitutions shall be approved by the Department and installed according
10 to the rules 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
15 advertising ~~site-site,~~ and from which existing trees are requested to be removed. If the caliper inches of existing trees
16 from the site plan exceed the density of the ~~Departments-Department's~~ replanting site design, the excess caliper inches
17 of trees shall be delivered by the applicant to the Department according to the schedule described in Subparagraph
18 (g)(6) of this Rule. If plant material other than trees is proposed, the Department may consider such substitution for
19 the required caliper 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-provides~~ comments
25 on a beautification and replanting plan, the Department shall take the comments into consideration. If the local
26 government does not make ~~appropriate-a~~ request for a review, the criteria stated in the rules in this Section shall be
27 followed for 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, approval~~
32 ~~shall be~~ based on-upon the current edition ~~and subsequent amendments and editions~~ of the American Standard for
33 Nursery Stock ANSI Z60.1 ~~approved by the American National Standards Institute and published by the American~~
34 ~~Horticulture Association that is hereby incorporated~~ for a minimum of a 1.5 caliper inch replanted tree, of the
35 beautification, replanting, and maintenance plan shall allow the applicant to proceed with requested vegetation cutting,
36 thinning, pruning, or removal at the site. If plant material other than trees is proposed, the Department may consider
37 such substitution for the required caliper inches. Copies of the Standard are available for inspection in the office of

1 the State Roadside Environmental Engineer, Division of Highways, 1 S. Wilmington St., Raleigh, N.C. The American
2 Standard for Nursery Stock ANSI Z60.1, approved by the American National Standards Institute and published by the
3 American Horticulture Association is hereby incorporated by reference, including subsequent amendments and
4 editions. The document may be accessed at no cost at americanhort.org/page/standards. Copies of the Standard may
5 be obtained free of charge from this website of the American Horticulture Association: www.americanhort.org. The
6 mailing address for AmericanHort is 2130 Stella Ct, Columbus, OH 43215.

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

12 (1) The work for initial plantings and all future replacements by the permittee or any of their employees,
13 agents, or assigns shall be in accordance with the current edition and subsequent amendments and
14 editions of the American National Standard for Tree Care Operations-Transplanting ANSI A300
15 (Part 6), Planting and Transplanting approved by the American National Standards Institute and
16 published by the Tree Care Industry Association, Inc. that is hereby incorporated, Association, Inc.,
17 except as stipulated in this Rule, the rules in this Section. Copies of the Standard are available for
18 inspection in the office of the State Roadside Environmental Engineer, Division of Highways, 1 S.
19 Wilmington St., Raleigh, N.C. The American National Standard for Tree Care Operations-
20 Transplanting ANSI A300 (Part 6), approved by the American National Standards Institute and
21 published by the Tree Care Industry Association, Inc. is hereby incorporated by reference, including
22 subsequent amendments and editions. Copies of the Standard may be obtained from the Tree Care
23 Industry Association, Inc. for a twenty dollars (\$20.00) cost. The Tree Care Industry Association,
24 Inc. (TCIA) can be contacted at 136 Harvey Road, Suite 101 Londonberry, NH 03053-670 North
25 Commercial Street, Suite #201, Manchester, NH 03101 or at this website:
26 www.tcia.org, www.tcia.org/TCIA/SHOP. Initial and replacement planting may be considered
27 acceptable if the plants have been placed in the plant hole, backfilled, watered, mulched, staked, and
28 guyed. All plants of one species that are shown on the plans to be planted within a bed, shall be
29 planted concurrently and the entire group shall be completed before any plant therein is considered
30 acceptable. Replacement planting consists of replacing those plants that are not in a living and
31 healthy condition as defined in these Rules; Subparagraph (7) of this Paragraph;

32 (2) The permittee shall adhere to erosion control requirements, according to North Carolina General
33 Statutes, Article 4, Chapter 113A [of] G.S. [§] 1113A, Article 4; entitled: Sedimentation Pollution
34 Control Act of 1973;

35 (3) All plant materials shall be approved in writing by the Department prior to arrival at the site or prior
36 to excess trees being furnished and delivered to the Department. The approval shall be based on the
37 current edition and subsequent amendments and editions of the American Standard for Nursery

Stock ANSI ~~Z60.1~~ ~~Z60.1~~, approved by the American National Standards Institute and published by the American Nursery and Landscape Association Horticulture Association that is hereby incorporated;

- (4) All work is subject to Division of Highways ~~inspection, inspection and~~ shall be scheduled with the Department. A minimum 48-hour notification shall be provided to the Department by the permittee before entering the right-of-way for any beautification and replanting plan requirements;
- (5) Grinding or other mechanical removal of all cut stumps (to a minimum depth of four inches below ground level) shall be completed in the area of replanting during the preparation of the site, prior to initial planting;
- (6) All initial and replacement plantings shall be installed during the first planting season (November 1 to March 15) contemporaneous with or following the selective vegetation removal. If replanting cannot be completed by the March 15 deadline, the replanting shall occur during the next planting season. The same dates (November 1 to March 15) shall apply when the permittee provides the Department with excess plant material at a site where existing caliper inches exceeds the site design capacity;
- (7) The permittee shall contact the Department to schedule a final replanting acceptance inspection upon completion of any plant material installation. For one year from the date of the initial planting acceptance for the entire replanting plan, ~~and~~ the permittee shall establish all plant materials according to these provisions. Establishment for all initial or replacement plants shall begin after they are planted. The permittee shall be responsible for the area around plantings for a distance of six feet beyond the outside edges of the mulch. Establishment shall ~~include include:~~ cutting of grass and weeds; watering; replacement of mulch; repair or replacement of guy stakes, guy wires, and water rings; and other work to encourage the survival and growth of plant material. The permittee shall remove and dispose of dead plants from the replanting plan site during the establishment period. Prior to the end of the one-year establishment period, the permittee is responsible for contacting the Department to schedule a site meeting with Departmental officials to identify plants to be replaced that are not in a living and healthy condition. Plants do not meet the living and healthy condition requirement and need replacement if 25 percent or more of the crown is dead, if the main leader is dead, or if an area of the plant has died leaving the character of its form compromised, lopsided, or disfigured. The permittee shall replace, during the planting period, plant material needed to restore the planting to the original quantity, size, and species of plant material. Any desired changes in plant material proposed by the permittee shall be requested in writing to the Department. The Department shall notify the permittee in writing of the approved changes to the replacement plantings;
- (8) At the conclusion of the one-year establishment period, the Department shall issue a written acceptance of the permittee's work and release the bond. Then a one-year observation period shall begin during which the permittee shall maintain stability of the original and replacement plantings

to promote their continued livability and healthy growth. The permittee is responsible for replacement of plants not meeting the living and healthy condition requirement during the observation period. Replacement shall occur in accordance with the dates of planting as stated in the rules in this Section; Subparagraph (6) of this Paragraph;

- (9) After the one-year observation period concludes, the Department shall notify the permittee if the permit requirement conditions have been met successfully;
- (10) Replanted materials may be pruned according to the current edition and subsequent amendments and editions of the American National Standard for Tree Care Operations-Pruning ANSI A300 (Part 1) – Planting and Transplanting; (Part 1), approved by the American National Standards Institute and published by the Tree Care Industry Association Inc. that is hereby incorporated, Association Inc., however, topping of trees or other vegetation is not allowed;
- (11) This Paragraph applies to all replanting plans except mitigating replanting plans as specified in Rule Rules .0603(b)(6) and .0609(b)(4) of this Section. Excess plants or trees furnished and delivered to the Department, Department shall receive care and handling in accordance with digging, loading, transporting, unloading, planting, or otherwise handling plants, and plants. The the permittee shall exercise care to prevent prevent windburn; injury to or drying out of the trunk, branches, or roots; and to prevent or freezing of the plant roots. The solidity of the plant ball shall be preserved. Delivery of excess plant material shall be scheduled with the Department, allowing a minimum three days notification for each delivery. The permittee's responsibility for the furnished excess plants or trees ends at the time the plant material is delivered to, inspected by, and accepted by the Department;
- (12) For mitigating replanting plans according to Rule .0609(b)(4) of this Section, trees and other plant material for a proposed beautification and replanting plan taken from the Department's landscape design plans and plant lists or prepared and sealed by a North Carolina licensed landscape architect, may be of a projected mature height to reduce visibility limitations to outdoor advertising sign faces. As an alternative to replanting, mitigation by pruning for vegetative crown reduction at an existing beautification project may be allowed, if mutually agreed upon in writing by the Department and permittee. All pruning shall be performed by removing the fewest number of branches necessary to accomplish the desired objective but in consideration of normal seasonal regrowth for the type of vegetation. All pruning for purposes of mitigation shall be in accordance with the current edition and subsequent amendments and editions of the American National Standards for Tree Care Operations-Pruning ANSI A300 (Part 1) – Planting and Transplanting; (Part 1), approved by the American National Standards Institute and published by the Tree Care Industry Association, Inc. In the case of vegetation mortality caused by pruning, replacement plantings shall be required according to this Rule;
- (13) Should the outdoor advertising structure related to the selective vegetation permit be sold or transferred, the new owner or permit holder is subject to the requirements in the General Statutes

1 and rules in this Section, including those regarding planting, establishment, replacement or
2 renovation plantings, minimum living and healthy condition, and observation; and

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

5
6 *History Note:* Authority G.S. 99E-30; 136-93; ~~136-93(b)~~; 136-93.3; 136-130; 136-133.1; 136-133.4; ~~136-93.3~~;
7 *Temporary Adoption Eff. March 1, 2012;*
8 *Eff. November 1, 2012;*
9 *Amended Eff. January 1, ~~2015~~2015;*
10 *Readopted Eff. June 1, 2020.*