



STATE OF NORTH CAROLINA  
OFFICE OF ADMINISTRATIVE HEARINGS

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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

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## REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Department of Transportation

RULE CITATION: 19A NCAC 02E .0201

**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:

*Throughout these Rules, please change "must" to "shall" for purposes of consistency.*

*Since you've used the Outdoor Advertising Control Act in your Rules, please consider defining it in this Rule it as Article 11 of Chapter 136 of the General Statutes.*

*In your History Note, G.S. 136-11 appears to have been repealed. Is this the statute that you intended to add? Please either remove this citation or provide the appropriate authority. Do you mean Article 11 or Chapter 136? If so, please don't include this in your History Note as the entire Chapter does not give you all authority. Instead, please provide each individual statute that provides authority for each rule.*

*In Item (3), please consider adding "that" in between "a sign structure" and "contains" so that it reads "a sign structure that contains..."*

*There is a lot of information in Item (4). Please provide some introductory information at the end of Item (4) to the Subitems. Please also change the semi-colon at the end (currently "classification") to a colon. An example of introductory language would be something like "that meets the following requirements:" I'm not sure that this language works here, but please provide a link between (4) and (4)(a) and (b). Alternatively, would it make sense to pull out "comprehensive plan" into its own definition? Another alternative, could you essentially combine (a) and (b) into (4), make (i), (ii), and (iii) into (a) through (c).*

*In Item (5), should "for" in "for the Rules of this Section" be "of the Rules of this Section"?*

*In Item (5), G.S. 136-11 has been repealed. I think you mean Article 11 of Chapter 136.*

*In Item (6), here, by "permitted", I assume that you mean something like "allowed" or "available"? I want to be sure that I understand that this is not "permitted" in accordance with the Rules of this Section.*

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

*In Item (8), please delete one of the “damage” so that it reads either “that has sustained damage by more than 50 percent as determined...” or “that has sustained more than 50 percent of damage as determined...”*

*In Item (9), change “which” to “that” on line 12.*

*In Item (10), would it make sense to pull the definition of “public service sign” and “public utility sign” as their own Items? If you keep them here (which I think is fine either way), please provide some introductory language to (10)(a) and (b). Perhaps something like “For purposes of this definition, the following shall apply:”?*

*What is the practical difference between “abandoned” and “discontinued”?*

*In Item (16), change “which” to “that” on line 26, page 3.*

*In Item (16), what are the “current standards”? Your Rules? The Act? Both?*

*In Item (17), capitalize “state”, assuming that you mean the State of North Carolina. Same for (10), (18), (22), (29), (30)*

*In Item (18), please consider deleting “but not limited to”*

*In Item (19), designated as such by whom?*

*In Item (20), since this is a definition, should “shall be” be “is”? Same question for Item (26) and (27).*

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

1 19A NCAC 02E .0201 is readopted as published in 34:13 NCR 1251-1253 with changes as follows:

2  
3 **19A NCAC 02E .0201 DEFINITIONS FOR OUTDOOR ADVERTISING CONTROL**

4 In addition to the definitions set forth in G.S. 136-128, the following definitions shall apply for purposes of ~~outdoor~~  
5 ~~advertising control: the Rules of this Section: A sign that is not being maintained as required by the rules in this~~  
6 ~~Section. The absence of a valid lease is one indication of an abandoned sign. An outdoor advertising sign structure~~  
7 ~~shall be considered to be abandoned if for a period of 12 months the sign has been without a message, contains obsolete~~  
8 ~~advertising matter, or is significantly damaged or dilapidated.~~

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

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

12 (b) does not have a lease; or

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

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

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

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

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

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

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

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

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

35 (5) Conforming Sign: A sign legally erected in a zoned or unzoned commercial or industrial area ~~which~~  
36 that meets all ~~current legal~~ requirements for the Rules of this Section and [Article 11 of Chapter 36  
37 of NC General Statutes ]G.S. 136-11 for erecting a new sign at that site.

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

- (c) Service Club and Religious Notices: Any sign or notice ~~authorized by law which that~~ relates to meetings of nonprofit service clubs, charitable associations, or religious services. These signs shall not exceed eight square feet in area.
- (11) Discontinued Sign: A sign no longer in existence. A discontinued sign includes a sign of which any part of a sign face is missing more than 180 days. In some cases, a sign may be both discontinued and dilapidated.
- (12) ~~Fully Controlled Access Highway: Freeway:~~ A divided ~~arterial~~ highway for through traffic ~~with full control of access, that persons, including the owners or occupants of abutting lands have no right of access except at the points and in the manner determined by the Department of Transportation.~~
- (13) Highway: A highway that is designated as a part of the interstate or federal-aid primary highway system as of June 1, 1991, or any highway which is or becomes a part of the National Highway System. A highway shall be a part of the National Highway System on the date the location of the highway has been approved ~~finally by~~ **the appropriate** federal authorities.
- (14) Lease: An ~~agreement, in writing, agreement~~ by which possession or use of land or interests therein is given for a specified purpose and period of time, and which is a ~~valid~~ contract under North Carolina laws.
- (15) Main Traveled Way or Traveled Way: Part of a highway on which through traffic is carried, exclusive of paved shoulders. In the case of a divided highway, the traveled way of each of the separated roadways for traffic in opposite directions is a traveled way. It does not include frontage roads, turning roadways, or parking areas.
- (16) Nonconforming Sign: A non-conforming sign sign, as defined in G.S. 136-128 (2a), shall include which was lawfully erected but which does not comply with the provisions of State law or rules passed at a later date or which later fails to comply with State law or rules due to changed conditions. [Also includes] a sign legally erected prior to the effective date of the Outdoor Advertising Control Act or prior to the addition of a route to the interstate or federal-aid primary system or National Highway System in a zoned or unzoned commercial or industrial area which does not meet all current standards for erecting a new sign at that site. For purposes of the outdoor advertising rules, nonconforming signs also include those signs which have become nonconforming pursuant to 19A NCAC 02E .1002(d) on scenic byways which were part of the interstate or federal aid primary highway system as of June 1, 1991, or which are or become a part of the National Highway System.
- (17) ~~Official Sign/Notice:~~Official Sign or Notice: A sign or notice erected and maintained by public officers or public agencies within their territorial or zoning jurisdictions and pursuant to and in accordance with federal, state, or local law for the purpose of carrying out an official duty or responsibility. Official signs and notices ~~include, but are not limited to, include~~ historical markers authorized by state law and erected by state or local government agencies or nonprofit historical societies.

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

1 ~~(25) — Sign Conforming by Virtue of the "Grandfather Clause:" A sign legally erected prior to the effective~~  
2 ~~date of the Outdoor Advertising Control Act or prior to the addition of a route to the interstate or~~  
3 ~~federal aid primary system or NHS in a zoned or unzoned commercial or industrial area which does~~  
4 ~~not meet all current standards for erecting a new sign at that site.~~

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

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

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

18 ~~(29) (28) Significantly Damaged Sign: A sign which that has been damaged or partially destroyed due to~~  
19 ~~factors other than vandalism or other criminal or tortious acts to such extent that the damage to the~~  
20 ~~sign is greater than fifty-50 percent as determined by the criteria in 19A NCAC 02E .0225(f).Rule~~  
21 ~~.0225(f) of this Section. [0225(d).]~~

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

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

36 *History Note: Authority G.S. 136-11; 136-130;*  
37 *Eff. July 1, 1978;*



1                   *Amended Eff. August 1, 2000; December 1, 1993; March 1, 1993; December 1, 1990; January 1,*  
2                   *~~1984~~1984;*  
3                   *Readopted Eff. November 1, 2020.*  
4

## REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Department of Transportation

RULE CITATION: 19A NCAC 02E .0202

**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:

*What is intent of lines 4-5? Is there a federal requirement that you all tell your regulated public about this agreement?*

*Overall, what is the intent of this Rule? Is it essentially to say that if there are federal regulations that are more stringent than your Rules with regard to areas adjacent to interstate and federal aid primary highway systems or NHS, then the federal regulations apply? If so, please consider making that more clear.*

*Please incorporate the CFR in accordance with G.S. 150B-21.6. Please say whether you are intending to incorporate subsequent amendments and editions and the cost.*

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 .0202 is readopted as published in 34:13 NCR 1251-1253 without changes as follows:

2  
3 **19A NCAC 02E .0202 AGREEMENT**

4 ~~(a)~~—The Department of Transportation has entered into an agreement with the United States Department of  
5 Transportation relating to the control of outdoor advertising in areas adjacent to the interstate and federal-aid primary  
6 highway systems or NHS in accordance with Section 131~~(b)~~, and ~~Section 104(b)~~ of Title 23 of the United States Code  
7 and Part 750 of Title 23 of the Code of Federal Regulations. To the extent that these federal regulations and subsequent  
8 amendments and editions are more restrictive than North Carolina Department of Transportation rules, these federal  
9 regulations are expressly incorporated by reference as part of this section. A copy of this agreement may be obtained  
10 from the Office of the Chief Engineer. Copies of Title 23 of the ~~United States Code of Federal Regulations~~ are  
11 available at the following website: https://www.ecfr.gov/cgi-  
12 bin/textidx?SID=fb078583e8085ae794e5274e0ebf58e7&mc=true&node=sp23.1.750.g&rgn=div6. Copies of Title 23  
13 of the United States Code are available at the following website:  
14 https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title23-section131&num=0&edition=prelim. ~~from~~  
15 ~~the Superintendent of Documents, Mail Stop SSOP, Washington, D.C. 20402-9328. The Code of Federal Regulations,~~  
16 ~~Title 23, is available from the same address.~~

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

18  
19 *History Note: Authority G.S. 136-138; 143B-350(f); 150B-21.6;*

20 *Eff. July 1, 1978;*

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

22 *~~1981, 1981;~~*

23 *Readopted Eff. November 1, 2020.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Department of Transportation

RULE CITATION: 19A NCAC 02E .0203

**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:

*On line 4, please correct the cross-referenced statute from "G.S. 129" to "G.S. 136-129"*

*Please end (1)(b) and (c) with semi-colons, rather than periods.*

*In (1)(b), I don't understand the comma behind "back -to-back", then a semi-colon after "side-by-side." It appears that these should be consistent with each other.*

*In (1)(c), what does it mean to be "structurally tied together"?*

*In (2)(a), by "may not", do you mean "shall not"*

*Delete the "and" at the end of (2)(b)(i) (but see my note on (2)(b)(ii)).*

*(2)(b)(ii) end with "as follows:" but does not provide any additional information. Should (iii), (iv), and (v) be (A), (B), and (C)? I think so. If this is correct, do not delete "and" at the end of (2)(b)(i). Also, change the cross-reference in (2)(b)(v).*

*In (2)(d), what are the "above spacing requirements"? Do you mean the "spacing requirements set forth in Subitem (2)(c)?"*

*Given that you've already exempted these at the beginning of this Rule, do you need (2)(e)?*

*In (3)(a), change "are" to "be"*

*In (3)(b), change "the driver" to "a driver" for consistency.*

*In (3)(c), change "an" to "a" I note that you have deleted "official"; but since this term is defined in .0201, do you want to keep it? If you decide to keep "official", don't change "an" to "a"*

*End (3)(c) with a semi-colon and an "and"*

Amber May

Commission Counsel

Date submitted to agency: September 25, 2020

*In (3)(d), what is “such lighting”? Do you mean “sign lighting”?*

*In (3)(d), delete “presently”*

*In (3)(d), capitalize “state”, delete the “and”, and change the semi-colon to a period (this should be in (3)(c)).*

*In (3)(d), what are “any other provisions relating to lighting of signs...”? What could this be? Beyond your rules, I’m really not sure. Please provide some additional information.*

- *In (4)(a)(viii), what are “other permitting requirements”? Will these be set forth in the permit itself?*

*Given G.S. 136-133 and .0210 of this Section, which allows revocation for failure to comply with your Rules, (4)(b) appears to be unnecessary.*

*In (5)(a)(iii), delete the comma after “sewer”*

*End (5)(a)(v) with a colon, rather than a semi-colon.*

*I believe that (5)(a)(vii) has either leftover language or it is missing some language.*

*(5)(b) also appears to be missing a word. Should “including” be in between “conducted” and “regularly”*

*In (5)(b), delete or define “regularly” in “regularly used”*

*Begin (5)(d)(iv) with a lower case letter.*

*In (5)(d)(iv), what are transient or temporary activities? Those that have not been in operation for 6 months as required by (5)(a)(vi)? Please provide some additional information.*

*In (5)(d)(vi), what is considered to be “principally used as a residence”? Delete or define “principally”*

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

1 19A NCAC 02E .0203 is readopted as published in 34:13 NCR 1251-1253 with changes as follows:

2  
3 **19A NCAC 02E .0203 OUTDOOR ADVERTISING ON CONTROLLED ROUTES**

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

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

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

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

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

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

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

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

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

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

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

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

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

- (ii) ~~Outside~~ Outside the corporate limits of towns and cities, no structure may be located within 500 feet of an interchange, collector distributor, ~~intersection at grade~~, safety rest area or information center regardless of whether the main traveled way is within or outside the town or city limits. The 500 feet spacing shall be measured from the point at which the pavement widens for a ramp and the direction of measurement shall be along the edge of pavement away from the interchange, collector distributor, ~~intersection at grade~~, safety rest area or information center. In those interchanges where a quadrant does not have a ramp, the 500 feet for the quadrant without a ramp shall be measured along the outside edge of main traveled way for ~~freeways~~ highways as follows:
- (A) ~~Where a route is bridged over a freeway the 500 foot measurement shall begin on the outside edge of pavement of the freeway at a point directly below the edge of the bridge. The direction of measurement shall be along the edge of pavement away from the interchange.~~
- (iii) Where a route is bridged over a fully controlled access highway, the 500 foot measurement shall begin on the outside edge of pavement of the fully controlled access highway at a point below the edge of the bridge. The direction of measurement shall be along the edge of pavement away from the interchange;
- (B) ~~Where a freeway is bridged over another route, the 500 foot measurement shall be made from the end of the bridge in the quadrant. The direction of measurement shall be along the edge of main traveled way away from the bridge.~~
- (iv) Where a fully controlled access highway is bridged over another route, the 500 foot measurement shall be made from the end of the bridge in the quadrant. The direction of measurement shall be along the edge of main traveled way away from the bridge; and
- (C) ~~Where the routes involved are both freeways, measurements on both routes shall be made according to (A) or (B) of this Subitem, whichever applies.~~
- ~~Should there be a situation where there is more than one point at which the pavement widens along each road within a quadrant, the measurement shall be made from the pavement widening which is farthest from the intersecting roadways.~~
- (v) Where the routes involved are both fully controlled access highways, measurements on both routes shall be made according to (A) or (B) (ii) or (iii) of this Subitem, whichever applies. Should there be a situation where there is more than one point at which the pavement widens along each road within a quadrant,

- 1                    the measurement shall be made from the pavement widening which is farthest  
2                    from the intersecting roadways.
- 3            (c)    Controlled Routes Without Fully Controlled Access:
- 4                    (i)    ~~Outside~~ outside of incorporated towns and ~~cities~~ cities no two structures shall be  
5                    spaced less than 300 feet ~~apart~~ apart; and
- 6                    (ii)   ~~Within~~ within incorporated towns and ~~cities~~ cities no two structures shall be  
7                    spaced less than 100 feet apart.
- 8            (d)    ~~The foregoing provisions for the spacing of signs does~~ rules of this section regarding  
9                    spacing between sign structures shall not apply to structures separated by buildings or other  
10                  obstructions in such a manner that only one sign facing located within the above spacing  
11                  distances is visible from the highway at any one ~~time~~ time;
- 12            (e)    Official signs, and "on-premise" ~~on-premise~~ signs, ~~as permitted under the provisions of~~  
13                  G.S. 136-129(1), (2), (2a) and (3), ~~and or~~ structures that are not lawfully maintained shall  
14                  not be ~~included~~ included, nor shall measurements be made from them for purposes of  
15                  determining compliance with spacing ~~requirements~~ requirements; and
- 16            (f)    The minimum distance between structures shall be measured along the nearest edge of the  
17                  main traveled way between points ~~directly~~ opposite the signs along each side of the  
18                  highway and shall apply only to structures located on the same side of the highways.
- 19    (3)    ~~Lighting of Signs; Restrictions~~ Signs shall meet the following lighting requirements:
- 20                  (a)    ~~Signs which~~ No sign shall contain, include, or are illuminated by any flashing, intermittent,  
21                  or moving light or ~~lights~~ lights, including animated or scrolling ~~advertising~~ advertising, ~~are prohibited,~~  
22                  ~~unless expressly~~ advertising except as allowed under by Item 4, (4) of this Rule ~~rule except~~  
23                  ~~those or it is giving public service information~~ information, such as time, date, temperature,  
24                  or ~~weather~~ weather; ~~weather~~ weather, or similar information.
- 25                  (b)    ~~Signs which are not effectively shielded as to prevent beams or rays of light from being~~  
26                  ~~directed at any portion of the traveled ways of the controlled routes and which are of such~~  
27                  No light emitted or reflected off of a sign shall be of an intensity or brilliance as to cause  
28                  glare or to impair the vision of the ~~driver of any motor vehicle~~ driver, or which otherwise  
29                  interfere with the operation of a motor ~~vehicle~~ vehicle. ~~vehicle~~ vehicle;
- 30                  (c)    No sign shall be so illuminated that it interferes with the effectiveness of, or obscures an  
31                  official traffic sign, device, or ~~signal~~ signal;
- 32                  (d)    All such lighting shall be subject to any other provisions relating to lighting of signs  
33                  presently applicable to all highways under the jurisdiction of the ~~state~~ state; and
- 34                  ~~(e) — Lighting shall not be added to or used to illuminate nonconforming signs or signs~~  
35                  ~~conforming by virtue of the grandfather clause.~~
- 36    (4)    ~~Automatic Changeable Facing Sign~~ changeable facing signs shall meet the following requirements:



- (a) Automatic changeable facing signs shall be permitted on ~~the~~ controlled routes under the following conditions:
- (i) ~~The the~~ sign does not contain or display flashing, intermittent, or moving lights, including animated or scrolling advertising;
  - ~~(i)(ii)~~ ~~The the~~ changeable facing remains in a fixed position for at least eight seconds;
  - (iii) ~~If if~~ a message is changed electronically, it must be accomplished within an interval of two seconds or less;
  - (iv) ~~The the~~ sign is not placed within 1,000 feet of another automatic changeable facing sign on the same side of the highway;
  - (v) ~~The the~~ 1000-foot distance ~~shall be is~~ measured along the nearest edge of the pavement and between points ~~directly~~ opposite the signs along each side of the highway;
  - (vi) ~~A a~~ legally conforming structure may be modified to an automatic changeable facing structure as set forth in .0225 of this Section. ~~upon compliance with these standards and approval by the Department. [An application for an outdoor advertising alteration permit shall be made on NCDOT form OA-1A, obtained at any District Office on the NCDOT website.]~~ Nonconforming or grandfathered structures shall not be modified to an automatic changeable facing;
  - (vii) ~~The the~~ sign must contain a default design that will freeze the sign in one position if a malfunction occurs; and
  - (viii) ~~The the~~ sign application meets all other permitting requirements.
- (b) The outdoor advertising permit shall be revoked for failure to comply with this Item.
- (5) ~~Unzoned Commercial or Industrial Area Qualification for Signs;~~ commercial or industrial area qualification for signs shall meet the following requirements:
- (a) To qualify an area unzoned commercial or industrial for the purpose of outdoor advertising control, one or more commercial or industrial activities shall meet all of the following criteria prior to submitting an outdoor advertising permit application:
    - (i) The activity shall maintain all necessary business licenses as may be required by applicable state, county county, or local law or ordinances;
    - (ii) The property used for the activity shall be listed for ad valorem taxes with the county and municipal taxing authorities as required by law;
    - (iii) The activity shall be connected to ~~basic utilities~~ utilities, including ~~but not limited to~~ power, telephone, water, and sewer, or septic service;
    - (iv) The activity shall have ~~direct or indirect~~ vehicular access and ~~be a generator of vehicular traffic;~~ generate traffic;
    - (v) The activity shall have a building designed with a permanent foundation, built or modified for its current commercial or industrial use, and the building must be

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

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

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

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

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

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

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

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

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

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

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

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

- (d) To qualify an area as unzoned commercial or industrial for the purpose of outdoor advertising control, none of the following activities shall be recognized:
- (i) ~~Outdoor~~ outdoor advertising structures;
  - (ii) ~~On-premise~~ on-premise or on-property signs defined by Rule .0201(18) of this Section if the ~~on-premise/on-property~~ on-premise sign is the only part of the commercial or industrial activity that is visible from the main-traveled way;
  - (iii) ~~Agricultural, agricultural,~~ forestry, ranching, grazing, farming, and related activities, ~~including, but not limited to~~ including temporary wayside fresh produce stands;
  - (iv) Transient or temporary activities;
  - (v) ~~Activities not visible and recognizable as commercial or industrial from the traffic lanes of the main-traveled way;~~
  - (vi)(v) ~~Activities~~ activities more than 660 feet from the nearest edge of the right of way;
  - (vii)(vi) ~~Activities~~ activities conducted in a building principally used as a residence;
  - (viii)(vii) ~~Railroad~~ railroad tracks and minor sidings;
  - (ix)(viii) ~~Any~~ any outdoor advertising activity or any other business or commercial activity carried on in connection with an outdoor advertising activity; and
  - (x)(ix) ~~Illegal~~ illegal junkyards, as defined in G.S. 136-146, and nonconforming junkyards as set out in G.S. 136-147;136-147.

*History Note: Authority G.S. 136-130;*  
*Eff. July 1, 1978;*  
*Amended Eff. August 1, 2000; November 1, 1993; December 1, 1990; November 1, 1988, 1988;*  
*Readopted Eff. November 1, 2020.*

## 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 .0207

**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 (b) and (c), the fee is not set forth in 136-133. G.S. 136-133 says that the fee "shall not exceed" \$120 and \$60. Here, do you mean something like "the maximum fee allowed by G.S. 136-133." Please provide the actual fee, rather than a cross-reference to the statute. The statute simply gives you the maximum amount it could be, it does not provide what the fee is.*

*In (b), what is "an alteration permit addendum"? 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. Is this a new fee?*

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 .0207 is readopted as published in 34:13 NCR 1251-1253 with changes as follows:

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

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

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

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

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

24  
25 *History Note: Authority G.S. 136-130; 136-133;*

26 *Eff. July 1, 1978;*

27 *Amended Eff. November 1, 1993; October 1, 1991; December 1, 1990; July 1, 1986;*

28 *Temporary Amendment Eff. November 16, 1999;*

29 *Amended Eff. August 1, ~~2000-2000~~;*

30 *Readopted Eff. November 1, 2020.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Department of Transportation

RULE CITATION: 19A NCAC 02E .0208

**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 "any ... laws" do you mean "all... laws"*

*Also in (a), line 6 says that the initial permit fee is "nonrefundable", which I would think would be under any circumstances, but .0206(b) says it could be if the application is returned. Could you delete "nonrefundable" here since it's already in .0207?*

*Please provide a cross-reference to the fee. I believe that it is "Rule .0207 of this Section"*

*In (b), how will it be determined whether a permit is approved? Is this set forth elsewhere? I assume that it would be if it complies with your Rules, just make sure that this information is somewhere.*

*In (b), line 13, are the spacing requirements set forth anywhere other than in Rule .0203? Please provide the specific cross-reference.*

*In (c), who is the "appropriate... office"? I realize that this language is used throughout your rules and I think, given the context, that it depends upon the region in which the sign is placed. Please provide some meaning somewhere in your rules. Would it make sense to add this as a definition in .0201?*

*Please correct the lettering (f) and (g). They should be (d) and (e).*

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 .0208 is readopted as published in 34:13 NCR 1251-1253 without changes as follows:

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

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

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

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

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

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

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

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

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

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

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

1                   *Eff. July 1, 1978;*  
2                   *Amended Eff. August 1, 2000; November 1, 1993; December 1, ~~1990~~ 1990;*  
3                   *Readopted Eff. November 1, 2020.*  
4

## REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Department of Transportation

RULE CITATION: 19A NCAC 02E .0209

**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:

*I'm not sure that I understand the last line of this Rule. Is this intended to say if a permit is revoked as set forth in rule .0210 of this Section, and the owner or permit holder does not receive notice of it because it has failed to notify you all of the change, then that's not appealable? Please review and revise. Also, I think that this may be missing a word ("shall not be affected to notify...")*

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 .0209 is readopted as published in 34:13 NCR 1251-1253 without changes as follows:

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

4 (a) Within 30 days after ownership of a permitted outdoor advertising sign is transferred, the previous or new owner shall  
5 submit a written notice, signed by the transferring owner and notarized, to the ~~district engineer~~ District Engineer's office  
6 for the county in which the sign is located. ~~A permit holder/sign owner must provide the appropriate district engineer with~~  
7 ~~written notice of any change of address within 30 days of the address change. Should a permit holder/sign owner fail to~~  
8 ~~provide written notice of a transfer of permit or change of address, a revocation of a permit for one of the reasons specified~~  
9 ~~in Rule .0210 of this Section shall stand and shall not be affected by failure to notify the district engineer office of such~~  
10 ~~changes.~~

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

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

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

18 *Eff. July 1, 1978;*

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

20 *Readopted Eff. November 1, 2020.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Department of Transportation

RULE CITATION: 19A NCAC 02E .0210

**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:

*What is your authority to revoke based upon Item (1)? G.S. 136-133 says that permits can be revoked for failure to comply with the Act or your Rules. What if there is a mistake by the issuing office that does not result in failure to comply?*

*In Item (3), who is the "regulatory authority with jurisdiction"? Is this a local zoning authority? Please be consistent in your language where you can.*

*In Item (3), please add a comma after "permit applicant"*

*In Item (6), please capitalize "rules" in "rules of this Section"*

*In Item (7), on line 20 please change "that" back to "which" to go with the "for" Change the "which" to "that" on line 21.*

*In Item (12), what is considered to be "unlawful use"?*

*In (12)(a), since you've already said "repairing, maintaining, or servicing" on line 1-2, do you need "involved the use of highway right of way for the purpose of repairing, servicing, or maintaining a sign"? Could you just start (12)(a) with "included stopping..."*

*In (17), please change this to be consistent with Item (6) and say "the North Carolina Outdoor Advertising Act and the Rules of this Section", rather than "the rules adopted pursuant thereto."*

*In Item (18), please delete or define "willful" on line 28 since this is provided in G.S. 136-133.*

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 .0210 is readopted as published in 34:13 NCR 1251-1253 with changes as follows:

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

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

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



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

*History Note: Authority G.S. 136-93; 136-130; 136-133; 136-133.1(i); 136-133.4(e); Eff. July 1, 1978; Amended Eff. August 1, 2000; May 1, 1997; November 1, 1993; March 1, 1993; October 1, 1991; December 1, 1990; Temporary Amendment Eff. March 1, 2012; Amended Eff. November 1, 2012; Readopted Eff. November 1, 2020.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Department of Transportation

RULE CITATION: 19A NCAC 02E .0212

**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), I realize that the permit holder is the owner, by definition in .0201, but in (a), will this be sent to the holder or the owner? I note that in (b), it's being sent to the owner.*

*In (a), by "if permissibly by these Rules", do you mean "except as provided by Paragraph (d) of this Rule"? It looks to me like it's always fixable, except for those violations referenced in (d).*

*Just to be clear, G.S. 136-134 says that only 5 days is required for portable outdoor advertising. Is this Rule not applicable to portable outdoor advertising?*

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 .0212 is readopted as published in 34:13 NCR 1251-1253 without changes as follows:

2  
3 **19 NCAC 02E .0212 NOTICE GIVEN FOR REVOKING PERMIT**

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

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

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

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

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

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

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

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

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

34 *Eff. July 1, 1978;*

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

36 *Readopted Eff. November 1, 2020.*

1 19A NCAC 02E .0213 is readopted as published in 34:13 NCR 1251-1253 without changes as follows:

2  
3 **19A NCAC 02E.0213 APPEAL OF DECISION OF DISTRICT ~~ENGINEER~~ ENGINEER'S OFFICE TO SEC.**  
4 **OF TRANS.**

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

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

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

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

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

24 *Eff. July 1, 1978;*

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

26 *Readopted Eff. November 1, 2020.*  
27

## REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Department of Transportation

RULE CITATION: 19A NCAC 02E .0214

**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:

*Please consider reviewing this Rule in light of the revisions made to .0203.*

*In (a)(1), please add a comma following "parklands"*

*In (c)(2), delete or define "effectively." I note that you have deleted this language in .0203(3)(b).*

*In (d)(1), how is this approval to be requested and how is the District Engineer's Office to determine whether to grant approval? Will the request be approved if the sign conforms to this Rule? If so, please say that.*

*In (f), the selection criteria for what? Is this more what signs fall into this category? If so, would it make sense to provide this information at the beginning of this Rule?*

*If (f)(2)(A) and (B), how are these determined? What is considered sufficient to "draw attention"? Also, what does it mean to be "known in a specific region"?*

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

*Please put the authority in the History Note in numerical order.*

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 .0214 is readopted as published in 34:13 NCR 1251-1253 without changes as follows:

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

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

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

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

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

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

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

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

- 26 (1) ~~Each~~ each location of a directional sign must be approved by the ~~division of highways~~ District  
27 Engineer's office;  
28 (2) ~~No~~ no directional sign may be located within 2,000 feet of an interchange, or intersection at grade  
29 along the interstate system or other controlled access highways (measured along the highway from  
30 the nearest point of the beginning or ending of pavement widening at the exit from or entrance to  
31 the main-traveled way);  
32 (3) ~~No~~ no directional sign may be located within 2,000 feet of a rest area, parkland, or scenic area;  
33 (4) ~~No~~ no two directional signs facing the same direction of travel shall be spaced less than one mile  
34 apart;  
35 (5) ~~Not~~ No more than three directional signs pertaining to the same activity and facing the same  
36 direction of travel may be erected along a single route approaching the activity;  
37 (6) ~~Directional~~ directional signs located adjacent to the interstate system shall be within 75 air miles of

- 1 the activity; and
- 2 (7) ~~Directional~~directional signs located adjacent to the primary system shall be within 50 air miles of
- 3 the activity.
- 4 (e) ~~Message Content.~~—The message on directional signs shall be limited to the identification of the attraction or
- 5 activity and directional information useful to the traveler in locating the attraction, such as mileage, route number, or
- 6 exit numbers.
- 7 (f) ~~Selection Criteria.~~The selection criteria shall be as follows:
- 8 (1) ~~Privately owned~~privately-owned activities or attractions eligible for directional signing are limited
- 9 to the following: natural phenomena, scenic attractions; historic, educational, cultural, scientific,
- 10 and religious sites; and outdoor recreational areas.
- 11 (2) ~~Privately owned~~privately-owned attractions or activities must be nationally or regionally known.
- 12 For purposes of this ~~rule~~Rule, the following meanings shall apply:
- 13 (A) ~~Nationally~~national known means the attraction has drawn attention through various forms
- 14 of media within the continental United States; and
- 15 (B) ~~Regionally~~regionally known means the attraction is known in a specific region of the state
- 16 such as the mountains, piedmont, or coastal region, through published articles or paid
- 17 advertisements available to a regional audience.
- 18

19 *History Note: Authority G.S. 136-130; 136-129;*

20 *Eff. July 1, 1978;*

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

22 *Readopted Eff. November 1, 2020.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Department of Transportation

RULE CITATION: 19A NCAC 02E .0215

**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:

*Except for the fee, is the process to obtain a permit and a renewal for directional signs the same as for other outdoor advertising? Please make the process as to how to obtain these clear. I would suggest just providing a cross-reference to the application and the renewal rules if the process is in fact the same.*

*Please consider breaking this Rule up into separate Paragraphs and make the information regarding the fee separate.*

*What is meant by the last line of "Permit and renewal of the permits may be obtained from the District Engineer"? Please review and clarify.*

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 .0215 is readopted as published in 34:13 NCR 1251-1253 without changes as follows:

2  
3 **19A NCAC 02E .0215 PERMITS FOR DIRECTIONAL SIGNS**

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

12  
13  
14 *History Note: Authority G.S. 136-130; 136-133;*

15 *Eff July 1, 1978;*

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

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

18 *Amended Eff. August 1, 2000-2000;*

19 *Readopted Eff. November 1, 2020.*  
20

## REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Department of Transportation

RULE CITATION: 19A NCAC 02E .0224

**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, I'm having a hard time understanding this Rule. What is the overall intent of this Rule? G.S. 136-129.2 and 136-133.5 prohibit outdoor advertising on any scenic byways; however, this Rules appears to allow some. Am I misunderstanding? If my understanding is correct, I have authority concerns regarding this Rule. If I am misunderstanding, please review and clarify this Rule.*

*If you do have authority for this Rule, what is the intent of Paragraph (b)? Please review and revise for clarity.*

*In (b), change "19A NCA 02E .0200" to "this Section"*

*In (c), change "which" to "that"*

*If you do have authority for this Rule, what is the intent of Paragraph (c)? Please review and revise for clarity.*

*In (d), please change "are nonetheless governed by the Rules of this Section" to "shall comply with the Rules of this Section."*

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 .0224 is readopted as published in 34:13 NCR 1251-1253 without changes as follows:

2  
3 **19A NCAC 02E .0224 SCENIC BYWAYS**

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

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

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

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

17  
18 *History Note: Authority G.S. 136-129.2;*

19 *Eff. August 1, ~~2000~~:2000;*

20 *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

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

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

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

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

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

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

21 ~~(4)(2)(5)~~ The alteration of a conforming {outdoor advertising} sign structure shall not commence until [an  
22 alteration application has been submitted to the District Engineer's office. An application for an outdoor  
23 advertising alteration permit shall be made on NCDOT form OA-1A, which may be obtained at any  
24 District Office or the NCDOT website at www.ncdot.gov.] the permit holder provides written notice to  
25 the North Carolina Department of Transportation stating the proposed alteration and the schedule for  
26 alteration work. This documentation will be attached to the sign permit as an alteration permit addendum.  
27 The {outdoor advertising} sign structure, except sign faces, shall be completed within 180 days from the  
28 date of the issuance of the alteration {permit.} addendum. If the {outdoor advertising} sign structure,  
29 except sign faces, is not constructed within 180 days of issuance of the alteration permit addendum then  
30 any intervening rule change shall apply to the sign structure. During the 180-day period, the altered  
31 {outdoor advertising} sign structure shall be considered in existence for the purpose of spacing of  
32 adjacent signs. A nonrefundable alteration permit addendum fee is required with the {application.}  
33 submittal.

34 (c) ~~Alteration to a nonconforming sign or sign conforming by virtue of the grandfather clause is prohibited. Nonconforming~~  
35 ~~signs shall not be altered, or reconstructed, [except that reasonable repairs and maintenance shall be permitted or to bring~~  
36 ~~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.*

1 19A NCAC 02E .0226 is repealed through readoption as published in 34:13 NCR 1251-1253 without changes as follows:

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

4  
5 *History Note: Authority G.S. 136-130; 136-133;*

6 *Temporary Adoption Eff. November 16, 1999;*

7 *Eff. August 1, ~~2000~~2000;*

8 *Repealed Eff. November 1, 2020.*