

May, Amber Cronk

From: McGrady, Charles W
Sent: Tuesday, December 8, 2020 8:46 PM
To: rrc.comments
Subject: 19A NCAC 02E .0200, Outdoor Advertising Rules

Honorable Commissioners,

I support the draft rules before you, as amended by the NC Department of Transportation in response to the public comments received. These draft rules follow the legislative intent as prescribed, and mirror the overwhelming tone of the public comments received during DOT's rule making process.

I served 5 terms in the North Carolina House of Representatives until my recent resignation. As a legislator, I was worked on negotiating Outdoor Advertising regulations with the interested parties and worked on billboard legislation almost every term. The weakening of local control over billboards, as proposed by the Outdoor Advertising Association, was considered by the Legislature each biennium, and the "legislative intent" was appropriately measured by the final outcome of those bills.

My perspective on these rules has another facet: my October resignation preceded my planned retirement from the North Carolina House of Representatives by just two months, and was hastened by the offer of appointment to the NC Board of Transportation by the Speaker of the House. NC DOT completed its work on these rules before I was sworn in, but I now have two unique perspectives for evaluating DOT's efforts against what I know certainly as the legislative intent.

The Outdoor Advertising Association is seeking an outcome here at the Rules Review Commission that is at odds with both the legislative intent and the public comments received by NCDOT. I urge you to approve these rules as drafted.

Sincerely,

/s/

Chuck McGrady

Member, North Carolina Board of Transportation Former Member, North Carolina House of Representatives

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From: Dale McKeel <dale_mckeel@yahoo.com>
Sent: Thursday, December 10, 2020 11:27 AM
To: rrc.comments
Cc: NCDOT Service Account - Rulemaking
Subject: [External] Comments for December 17 2020 RRC Meeting (19A NCAC 02E, Section .0200 Outdoor Advertising)

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Dear Commissioners,

I am writing to voice my support for the NC Department of Transportation's 19A NCAC 02E .0200 Outdoor Advertising rules that are before you. These rules have been amended in response to the more than [450 pages of comments](#) received last winter.

Specifically, I support the revised rules that respect local control over billboard height and the conversion of existing billboards to digital. I am concerned that in October, representatives of the billboard industry advocated using the rule-making process to allow billboard companies to ignore local ordinances that are more restrictive than state regulations, increase the height of existing billboards to 50 feet, add lighting, and make them digital.

Much of the debate over this rule change is centered around the meaning of NC General Statutes 136-131.1, which allows some billboards to be "modernized" by changing an existing multipole outdoor advertising structure to a new monopole structure. Please note that at the time the language in NCGS 136-131.2 was being debated by the NC House of Representatives, the bill sponsor, Rep. Tim Moffitt, stated that "the bill is not intended to allow an increase in the size of the sign" and "does not allow digitizing of signs." (Debate of Senate Bill 112 in the NC House on July 11, 2013). Furthermore, Representative Chuck McGrady on the same day offered an amendment to SB112 seeking to remove NCDOT as an "environmental agency" since the bill's text allowed any environmental agency to preempt all local government regulations, thus removing all local controls over billboards statewide. Representative Moffitt supported McGrady's amendment, and the amendment passed 112 to 0.

Please also note the following paragraph that was submitted in a comment to NCDOT in March by Karen Sindelar, former Senior Assistant City Attorney and City Attorney, City of Durham (retired):

GS 136-128(2a) defines a "nonconforming sign" as one which "was lawfully erected but which does not comply with the provisions of State law passed at a later date" "State law" is defined in NCGS 136-128(6) as incorporating not just statutes, but also state regulations, and local ordinances: "State law" is "a State constitutional provision or statute, or **an ordinance, rule or regulation enacted or adopted by a State agency or political subdivision of a State pursuant to a State Constitution or statute.**" (emphasis added) As cities and counties are political subdivisions of the State of North Carolina, and exercise zoning authority under NCGS 160A, Article 19, and NCGS 153A, Article 18, their ordinances regulating billboards are considered "state law" under the above definition. Under state statute, then, a billboard which was lawfully erected but which no longer complies with local ordinance is a "nonconforming sign." Appellate decisions have affirmed this conclusion – that billboards which do not conform with later enacted local ordinances are "nonconforming signs." They have

done so after explicit analysis of the issue (see *Lamar OCI v Stanly County Zoning Board*, 186 NC App 44, 50-51 (2007)) as well as implicitly through application of DOT's "nonconforming sign" provisions to billboards that did not conform with local ordinances (see *Morris Communications Corp. v. Board of Adjust. of Gastonia*, 159 N.C. App. 598, 604, 583 S.E.2d 419, 423 (2003), reh'g denied, 358 N.C. 155, 592 S.E.2d 690 (2004)).

These comments counter many of the billboard industry's arguments opposing the rule change. In 2019 the billboard industry sought in House Bill 645 to change the definition of "nonconforming sign" to remove the reference to "State law." HB 645 passed the General Assembly but was vetoed by the Governor and did not become law. Here is the excerpt from HB 645:

~~(2a)~~(2b) ~~"Nonconforming sign" shall mean a~~Nonconforming sign. – A sign which
was lawfully erected but which does not comply with the provisions of State
~~law~~customary use or State rules adopted and regulations passed by the
Department of Transportation at a later date or which in accordance with this
Article, or which, due to changed conditions, later fails to comply with State
~~law~~customary use or State rules adopted or regulations ~~due to changed~~
~~conditions. Illegally erected or maintained passed by the Department of~~
Transportation in accordance with this Article. Illegal signs are not
nonconforming signs.

A poll of North Carolina voters conducted in May 2019 found that 66 percent were opposed or strongly opposed to taking control of billboards away from local government and 68 percent were opposed or strongly opposed to allowing billboard owners to build more digital billboards. Results are below.

Q1 State lawmakers have introduced a bill to loosen restrictions on billboards along North Carolina's roads and highways. This bill may take control over billboards from local government and give it to the state government, allowing new billboards to be built in areas where they currently are not allowed. Do you strongly support, somewhat support, somewhat oppose or strongly oppose taking control of billboards away from local government?

<i>Strongly support</i>	11%
<i>Somewhat support</i>	16%
<i>Somewhat oppose</i>	27%
<i>Strongly oppose</i>	39%
<i>Not sure</i>	7%

Q2 This bill may allow existing billboard signs to be replaced with electronic digital billboards that can change messaging frequently, adding another distraction for drivers, even in areas where local governments forbid digital billboards. Do you strongly support, somewhat support, somewhat oppose or strongly oppose allowing billboard owners to build more digital billboards?

<i>Strongly support</i>	15%
<i>Somewhat support</i>	13%
<i>Somewhat oppose</i>	26%
<i>Strongly oppose</i>	42%
<i>Not sure</i>	3%

Thank you for your service to the state and your consideration of these comments. Please approve the NCDOT proposed rules.

Sincerely,

/s/

Dale McKeel
Board member, Scenic North Carolina
3559 Hamstead Court
Durham, NC 27707
dale_mckeel@yahoo.com

Sent via e-mail to: rrc.comments@oah.nc.gov and Rulemaking@ncdot.gov

From: Elizabeth Teague <eteague@waynesvillenc.gov>
Sent: Friday, December 4, 2020 10:48 AM
To: rrc.comments; NCDOT Service Account - Rulemaking
Cc: NCBOT Chuck McGrady; Rob Hites; Gary Caldwell; Dale McKeel; Burch, Brian C; 'Tristan Winkler'; Lynn Collins
Subject: [External] Comments for Rules Review Commission regarding billboards

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To Whom It May Concern:

I believe that North Carolina should be proud and protective of our Highways. NCDOT's efforts in Divisions 13 and 14 to promote roadway beautification and enhancements, wildflowers, stormwater management, visitor friendly rest areas, and highway safety and roadway improvements are greatly appreciated. I-40, I-26 and the Great Smoky Mountains Expressway and other state roads, particularly in the way of pull outs for viewsheds, rest areas, and roadway engineering, are investments not just in transportation, but also in tourism and adjacent land value. Our local communities depend much on the beauty of the mountains and the views from our major highways and secondary state roadways.

A change in NCDOT signage policies would be a detrimental to our highway system and our local economies. The NCDOT rule change would override local ordinances and allow billboards with a state permit to be converted to digital signage and/or raise the height of allowable signage. The Town of Waynesville and other western North Carolina towns enacted rules to protect the night sky. These rules limit the height of parking lot and street lighting, require cut-off and/or directed fixtures in all development and signs, and prohibit digital billboards of any kind within our jurisdiction. This office gets complaints from residents whenever lighting is mis-directed and impacts their residences. Many people live in this area to get away from urban characteristics - including lighting and signage. Lighting and signage ordinances and policies were adopted on a local basis in response to public input, adopted Comprehensive Land Use Plans, and text amendments implemented through public hearings and local zoning legislation procedures. In supporting the wishes of outdoor advertising interests, NCDOT would be undermining the past work and public will of the people - those who pay property and sales taxes as well as gas taxes.

Even if local ordinances are not in place to guard against such signage, allowing digital billboards and increasing signage height, will impede residents and visitors' views and negatively impact their experience. Digital signs would have negative impacts on those who live near these roadways, those who choose to enjoy the views or recreate from the Blue Ridge Parkway and other destinations or local roadways, and negatively affect the hotels, small businesses and downtowns that depend on tourism for their survival. Signage creates visual clutter. Signs are designed to draw attention, detracting from the landscape and distracting drivers. Environmentally, light pollution from digital billboards would not be welcome by our residents or visitors. Many mammals, birds, reptiles and insects are naturally photoperiodic, and their growth, development, reproduction, eating and locomotion of these animals depend on the balance between day and night and the introduction of artificial light can be detrimental

The signage lobby will argue for short term, private, economic opportunity and their perceived "need" to advertise local businesses. However, in western North Carolina, this argument is counter to the reality of our local communities and the type of tourism and visitor we depend upon. There is no added value in opening up our roadways to look like every other urbanized, cluttered, and lit-up area of the U.S. Instead, the real added value in our roadway system, is in being distinctive from those areas, providing a roadway system that both connects and respects the landscape and the communities it serves.

Thank you for the opportunity to comment on this possible rule change. Please do not harm our State highway system by allowing private sign companies to devalue the scenery, environment and adjacent land values of our transportation corridors.

Elizabeth Teague, AICP, CTP, CFM | Development Services Director

Town of Waynesville, NC

9 S. Main Street | PO Box 100 | Waynesville, NC 28786

(o) 828.456.2004 | (f) 828.452.1492

eteague@waynesvillenc.gov | www.waynesvillenc.gov



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May, Amber Cronk

From: Bill Johnson <williamdjohnson@rocketmail.com>
Sent: Monday, December 7, 2020 10:04 AM
To: rrc.comments
Subject: [External] NCDOT Rule Changes for Billboards

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This correspondence is in support of local governments maintaining control over billboards in their jurisdiction as a part of the DOT rules associated with G.S.136-131.1. However this is to strongly oppose raising billboards to 50 ft. in height or to digitize and allow electronic changeable message billboards in any jurisdiction including DOT's.

Why in the world would we as a state allow motorists to drive 70 to 80 mph on a controlled access highway and try to read a lighted digital changeable message billboard? Can we think of anything much less safe for the traveling public than that?

Billboards in N.C have been given by far enough allowances now. Greater than 2/3 of the existing billboards on controlled access highways are owned by out-of-state mega corporations. These out-of-state corporations are allowed to cut 500 ft. of our roadside tress that belong to all North Carolina citizens--this is over a football field and a half long of our trees and they pay nothing.

Please leave local governments in control of billboards in their jurisdiction and do not allow reconstructed billboards to be 50ft. in height anywhere. Please do not allow digitized lighted changeable message billboards, a 70-80 mph disaster, anywhere under any jurisdiction in our great state.

Thanking all for their service,

William D. Johnson

May, Amber Cronk

From: Alisha Goldstein <aeg2107@gmail.com>
Sent: Wednesday, December 9, 2020 10:26 PM
To: NCDOT Service Account - Rulemaking; rrc.comments
Subject: [External] NCDOT rule change for billboards

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To the Rules Review Commission,

I am writing to voice support for local communities to retain control over billboard height. Local communities should be able to decide for themselves an issue such as this that affects their visual environment. Community members spend countless volunteer hours serving on advisory boards or being paid minimally to be on Council to shape the direction of their neighborhoods. Community members should be the one deciding the size, height, and look of billboards. This is not an issue that needs to be taken up by the state. State responsibilities should be to ensure healthcare funding, enforce safe working conditions, promote economic activities among other tasks that ensure the public welfare of its citizens. If one were to think of billboards from a public safety vantage point, they are detrimental by distracting drivers' attention off the road. There is enough distraction already with cellular devices. Please remember that residents are counting on you to perform your job for the betterment of its citizens and sometimes decisions are best left to local communities to decide.

Best regards,
Alisha

May, Amber Cronk

From: Arielle Schechter <acsarchitect@icloud.com>
Sent: Friday, December 4, 2020 4:17 PM
To: rrc.comments
Subject: [External] Comment on outdoor Advertising

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One of the best things about NC is that we have many highways without hideous and tacky billboards. Also, billboards are also distracting and therefore dangerous for drivers who are already distracted nowadays.

Please do NOT allow any new billboards!!

Arielle Schechter, Architect, PLLC
440 Bayberry Dr
Chapel Hill, NC. 27517

May, Amber Cronk

From: Cassie Gavin <cassie.gavin@sierraclub.org>
Sent: Wednesday, October 28, 2020 12:45 PM
To: rrc.comments
Subject: [External] NCDOT 19A NCAC 02E .0200 Modernization of outdoor advertising rules

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Good morning,

Below are NC Sierra Club's comments on the NCDOT proposed revisions to 19A NCAC 02E .0200 Modernization of outdoor advertising rules. Thank you for your consideration.

The NC Chapter of the Sierra Club represents over 100,000 members and supporters in the state who care about the environment and maintaining North Carolina's scenic roads. We find that DOT's proposed rules strike the right balance at this time and follow legislative intent.

We oppose any changes to the rules that would limit local ordinances and allow billboards with a state permit to be converted to digital or raised in height.

Billboards are ads that all drivers are forced to see, whether they want to read or not. Digital billboards are like giant television screens, distracting to drivers, a nuisance to residents, and an eyesore damaging to the scenic beauty of North Carolina.

Regarding legislative intent, based on the House debate, the bill sponsors clearly did not intend for the 2013 bill (N.C.G.S. 136-131.2, Session Law 2013-413) to allow a billboard to be made larger or to allow a billboard to be digitized.

We wish to protect the ability of local communities to control billboards, especially tall, digitized billboards that impact the scenic beauty of North Carolina and can be a distraction to drivers.

--

Cassie Gavin, Senior Director of Government Relations
NC Sierra Club
cassie.gavin@sierraclub.org
19 W. Hargett Street, Suite 210
Raleigh, NC 27601
Phone: 919.833.8467 x 104
Mobile: 919.360.8803
<https://www.linkedin.com/in/cassiegavin>

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Sent from Gmail Mobile

May, Amber Cronk

From: Will Wilson <willwilsn@gmail.com>
Sent: Friday, November 6, 2020 11:05 AM
To: rrc.comments
Cc: William Wilson
Subject: [External] billboard rules

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Dear Committee,

The billboard association, in comments to public comments and the rules that your committee came up with, claimed that said rules were vague and need to be revisited. I commend the committee on the rules they came up with, and in my reading as a layperson, didn't find them to be terribly vague. Instead, it seems that the association did not get everything they wanted, and want to relitigate the issue. What they want is their way on every point, and, particularly, lax billboard standards across the entire state without any local input on local wishes.

Many people see billboards as a blight on the local landscape that inhibits the creation of jobs by making places less desirable, and, in particular, see the billboard industry as preventing the creation of more jobs than the very few it creates.

I urge you all to ensure that local wishes are reflected in the limitations placed on billboard regulations.

Thank you,
Will Wilson
16 Sunny Oaks Pl
Durham, NC 27712

May, Amber Cronk

From: Cheryl Buchanan <cbuchanan@townofbannerelk.org>
Sent: Friday, December 4, 2020 12:10 PM
To: rrc.comments; NCDOT Service Account - Rulemaking
Cc: Rick Owen
Subject: [External] Digital Billboards

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As the Zoning Administrator for the Town of Banner Elk, I feel qualified to speak on the Town's behalf regarding the attempt to overrule local ordinances in order to serve certain special interests. It is my opinion that billboards serve a purpose and there are places where they benefit the greater public. However, Banner Elk is a small mountain town where the majority of its revenue comes from tourism. One of the draws to our area is the pristine views and natural landscapes we maintain for our visitors to enjoy. By the time a tourist arrives in Banner Elk, they have already made plans to get to their destination. For those few who haven't; Banner Elk offers free downtown wi-fi to assist visitors in locating anything they might need. The Town of Banner Elk greatly opposes having their local ordinance overridden by those who do not have a vested interest in our community. Please reconsider overruling local ordinance in any situation. Thank you in advance for your kind consideration. Cheryl Buchanan, Zoning Administrator

Cheryl L. Buchanan, Tax Collector/Zoning Administrator/Town Clerk
Town of Banner Elk
PO Box 2049
Banner Elk, NC 28604
200 Park Avenue
Banner Elk, NC 28604
828.898.5398 Ext. 227 Fax: 828.898.4568
cbuchanan@townofbannerelk.org <http://www.townofbannerelk.org>
Town of Banner Elk is a Municipality in Western North Carolina.



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May, Amber Cronk

From: Pat Carstensen <pats1717@hotmail.com>
Sent: Tuesday, October 27, 2020 6:25 AM
To: rrc.comments
Subject: [External] North Carolina Department of Transportation's (NCDOT) 19A NCAC 02E .0200 Outdoor Advertising

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NC DOT's rules on outdoor advertising reflect the law and what the public wants and should be allowed to stand.

Thank you, Patricia Carstensen, 58 Newton Drive, Durham, NC 27707, 919-4901566

From: Tom Riggins <oopstom@gmail.com>
Sent: Friday, December 4, 2020 4:17 PM
To: rrc.comments
Subject: [External] Outdoor advertising

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I believe billboards are a blight on the landscape--so nice to drive on the BRP without billboards. If I had my way --all billboards would be removed ! Regards , Tom Riggins 710 Bayshore dr Wilmington NC 28411

--

Regards , Tom Riggins

May, Amber Cronk

From: John Schelp <bwatu@yahoo.com>
Sent: Tuesday, October 27, 2020 9:10 AM
To: rrc.comments
Subject: [External] Pls don't change Billboard rules

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DOT's proposed billboard rules are not vague. They reflect the law. This is what we want to see.
The vast majority of North Carolinians support restrictions on billboards. Please don't let the billboard industry, again, try to circumvent the will of the people.
With appreciation,
John Schelp
Durham, NC

May, Amber Cronk

From: Susan Sewell <mssewell2009@gmail.com>
Sent: Tuesday, October 27, 2020 12:25 PM
To: rrc.comments
Subject: [External] Billboard regulations response

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As I told you in my comments in the spring, I opposed the original over lenient billboard regulations. So did many other people and you backed off on the worst parts. Now I understand you have push back.

Please stand firm. The modified regulations proposed rules are not vague, reflect the law, and are what we citizens want to see. We like our County options and do not want you to override them.

Mary Sewell
2904 Legion Ave
Durham, NC 27707