

1 19A NCAC 02E. 0603 is proposed for amendment as follows:

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3 **19A NCAC 02E .0603 ISSUANCE OR DENIAL OF SELECTIVE VEGETATION REMOVAL PERMIT FOR**
4 **A FACILITY**

5 ~~(a) The applicant, as part of the application, shall state in writing the date that he or she has delivered a copy of the~~
6 ~~completed application with required attachments to a municipality pursuant to G.S. 136-93(d), which has that previously~~
7 ~~advised the Department in writing that it seeks to review such applications. After the 30-day municipal review period has~~
8 ~~concluded and all required documentation has been received by the Department, including the fee set out in G.S. 136-~~
9 ~~18.7, the Division Engineer shall have 30 days to approve or deny the application. At the expiration of the 30-day~~
10 ~~municipality review and comment period, the Division Engineer shall review the application. The Division Engineer shall~~
11 ~~not review the application if the fee set out in G.S. 136-18.7 has not been paid. The Division Engineer shall have 30 days~~
12 ~~to approve or deny the application. If written notice of approval or denial is not given to the applicant within the 30-day~~
13 ~~Department review period, the application shall be deemed approved. If the application is denied, the Division Engineer~~
14 ~~shall advise the applicant, in writing, of the reasons for denial.~~

15 (a) Pursuant to G.S. 136-133.2, within 30 days following receipt of the application for a selective vegetation removal
16 permit for a facility, including the fee set out in G.S. 136-18.7, the Division Engineer shall approve or deny the
17 application. The applicant, as part of the application, shall state in writing the date that he or she has delivered a copy of
18 the application with required attachments to a municipality that has previously advised the Department in writing that it
19 seeks to provide comments regarding such applications. The applicant shall deliver the application to the municipality at
20 least 30 days prior to submitting the application to the Department. The list of municipalities requesting to review
21 applications shall be maintained and updated by the Department on the website www.ncdot.gov. Upon receipt of the
22 completed application, the Division Engineer shall have 30 days to approve or deny the application. If written notice of
23 approval or denial is not given to the applicant within the 30-day Department review period, then the application shall be
24 deemed approved. If the application is denied, the Division Engineer shall advise the applicant, in writing, of the reasons
25 for denial.

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

- 27 (1) ~~The~~ the application is for the opening of view to a facility that does not meet the requirements of Rule
28 .0601 of the Subchapter; which that has been declared illegal or is currently involved in litigation with
29 Local, State, or Federal governments;
- 30 (2) ~~It~~ it is determined by Departmental personnel that the facility is not screened from view;
- 31 (3) ~~The~~ the application is for the opening of view to undeveloped property or to a facility that, due to
32 obstructions off the right of way, is screened from view from the travel way regardless of the presence
33 or absence of trees and other vegetation on the highway right of way;
- 34 (4) ~~Removal~~ it is determined by Department personnel that removal of vegetation ~~will~~ may adversely
35 affect the safety of the traveling public;
- 36 (5) ~~The~~ the application is solely for providing visibility to on-premise signs;

- 1 (6) ~~The~~ the application is for the removal of vegetation planted in accordance with a local, State, or
2 Federal beautification project. However, if a mitigation replanting plan ~~which that~~ is related to the site
3 for which the vegetation permit request is made (as set forth in 19A NCAC 02E .0611 except for the
4 provisions in Paragraph (d) and Subparagraph (g)(11)) is ~~approved~~ agreed upon in writing by the
5 applicant, the Department, and if applicable, the Federal Highway ~~Administration~~ Administration, then
6 this subsection does not apply;
- 7 (7) ~~On~~ on two previous occasions, the applicant has failed to meet the requirements of a selective
8 vegetation removal ~~permit. This is not cause for denial if~~ permit, unless the applicant engages a
9 landscape contractor to perform the current work;
- 10 (8) ~~If~~ the application is for removal of vegetation that will open ~~involves opening of~~ views to junkyards;
- 11 (9) ~~The~~ the applicant fails to ~~provide complete an application, as described in Rule .0602 of this~~
12 Subchapter; all documentation required by statute and rule;
- 13 (10) ~~If~~ any cutting, thinning, pruning, or removal of vegetation encompassing the entirety of the maximum
14 vegetation cutting or removal zone is prohibited due to conservation easements or conditions affecting
15 the right of way to which the State is subjected or agrees in writing to subject itself and other
16 restrictions agreed upon by the State in writing in the right of way; or State or Federal rules, statutes,
17 or permits; or
- 18 (11) ~~If~~ an unlawful destruction or illegal cutting of vegetation has occurred within the highway right-of-way
19 to create, increase, or improve a view to the facility from the travel way including acceleration and
20 deceleration ~~ramps, ramps, the~~ The Department shall not issue a selective vegetation removal permit at
21 the requested site for a period of ~~five years, years that shall begin on the date the Department resolves~~
22 the unlawful destruction or illegal cutting incident by settlement agreement with responsible party or
23 the Department administratively closes the case. For the purposes of this Section, unlawful destruction
24 or illegal cutting is defined as the destruction or cutting of trees, shrubs, or other vegetation on the
25 State-owned or State-maintained rights-of-way by anyone other than the Department or its authorized
26 agents, or without written permission of the Department.

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