

1 19A NCAC 02E. 0609 is proposed for amendment as follows:

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

5 (a) Within 30 days following receipt of the application for a selective vegetation removal permit for outdoor
6 advertising, including the fee set out in G.S. 136-18.7, ~~G.S. 136-18.7 and all required documentation set out in G.S.~~
7 ~~136-133.2 and these rules~~, the Division Engineer shall approve or deny the application. The applicant, as part of the
8 application, shall state in writing the date that he or she ~~has~~ delivered a copy of the application with required
9 attachments to a municipality which has previously advised the Department in writing that it seeks to review such
10 applications. The applicant shall deliver the application to the municipality at least 30 days prior to submitting the
11 application to the Department. Once all required documentation has been received by the Department, the Division
12 Engineer shall have 30 days to approve or deny the application. If written notice of approval or denial is not given to
13 the applicant within the 30-day Department review period, then the application shall be deemed approved. If the
14 application is denied, the Division Engineer shall advise the applicant, in writing, of the reasons for denial.

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

- 16 (1) ~~The~~ the application is for an outdoor advertising location where the outdoor advertising permit is
17 less than two years old pursuant to G.S. 136-133.2;
- 18 (2) ~~The~~ the application is for the opening of a view to a sign ~~which~~ that has been declared illegal, or
19 whose permit has been revoked or is currently involved in litigation with the Department;
- 20 (3) ~~Removal of vegetation will adversely affect the safety of the traveling public; it is determined by~~
21 Department personnel that removal of vegetation may adversely affect the safety of the traveling
22 public;
- 23 (4) ~~The~~ the application is for the removal of vegetation planted in accordance with a local, state, or
24 Federal beautification project prior to September 1, 2011 or prior to the issuance of an outdoor
25 advertising permit for the erection of the applicable outdoor advertising structure, whichever date
26 is later, unless a mitigating replanting plan related to the site for which the vegetation permit
27 request is made as set forth in ~~19A NCAC 02E .0611, Rule .0611 of this Subchapter~~, except for
28 the provisions in Paragraphs (d) and (g)(11); and is approved agreed upon in writing by the
29 applicant, the Department, and, if applicable, the Federal Highway Administration;
- 30 (5) ~~On~~ on two previous occasions, the applicant has failed to meet the requirements of a selective
31 vegetation removal permit. ~~This is not cause for denial if the applicant~~ permit, unless the applicant
32 engages a landscape contractor to perform the current work;
- 33 (6) ~~It involves opening of views to junkyards; the application is for removal of vegetation that will~~
34 open views to junkyards;
- 35 (7) ~~The~~ the requested site is subject to a five-year moratorium for willful failure to substantially
36 comply with all requirements specified in a prior selective vegetation removal permit pursuant to
37 G.S. 136-133.4(e);

1 (8) ~~The~~ the applicant fails to provide a completed application, as described in Rule .0608 of this
2 Subchapter all documentation required in applicable General Statutes and rules;

3 (9) ~~Any~~ any cutting, thinning, pruning, or removal of vegetation encompassing the entirety of the
4 maximum vegetation cutting or removal zone is prohibited due to conditions affecting the right of
5 way to which the State is subjected or agrees in writing to subject itself, including conservation
6 agreements, prior to September 1, 2011 or prior to the issuance of an outdoor advertising permit
7 for the erection of the applicable outdoor advertising structure, whichever date is later, or due to
8 the application at any time of State statutes or Federal statutes or rules, including any conditions
9 mandated as part of the issuance of a permit to the Department for a construction project by a
10 Federal or State agency with jurisdiction over the construction project. The Department may
11 mitigate within the right of way in the cut zone of a permitted outdoor advertising structure so
12 long as trees and other plant materials for mitigation may not be of a projected mature height to
13 decrease the visibility of a sign face, and such mitigation vegetation may not be cut or removed
14 pursuant to a selective vegetation removal ~~permit.~~ permit; or

15 (10) a modified vegetation removal zone application request along acceleration or deceleration ramps is
16 not in accordance with G.S. 136-133.1(a1) or Rule .0612 of this Subchapter.

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18 *History Note:* Authority G.S. 136-18(5); 136-18(7); 136-18(9); 136-130; 136-133.1 (a1), 136-133.2; 136-133.3;
19 136-133.4, 136-93;
20 Temporary Adoption Eff. March 1, 2012;
21 Eff. February 1, 2013.
22 Amended Eff. January 1, 2015.