

1 19A NCAC 02E. 0611 is proposed for amendment as follows:

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3 **19A NCAC 02E .0611 REQUIREMENTS FOR BEAUTIFICATION AND REPLANTING**  
4 **REQUIREMENTS FOR CONDITIONS OF SELECTIVE VEGETATION REMOVAL**  
5 **PERMITS FOR OUTDOOR ADVERTISING AND BUSINESS FACILITIES**

6 (a) Any site with a valid selective vegetation removal permit issued pursuant to G.S. 136-93(b) qualifies for a  
7 beautification and replanting ~~plan.~~ plan as set forth in G.S. 136-133.1 (e).

8 (b) For future selective vegetation removal applications at replanted sites, replanted materials may be removed only if  
9 partially blocking the view to a sign face. In this case, the Department ~~will~~ shall require plant substitutions on a one for  
10 one basis. All requests for plant substitutions shall be approved by the Department and installed according to the rules in  
11 this Section.

12 (c) Submittal of a ~~selective vegetation removal application~~ site plan shall be in accordance with G.S. 136.133.1(c).

13 (d) This Paragraph applies to all replanting plans except mitigating replanting plans as specified in ~~19A NCAC 02E~~  
14 Rules .0603(b)(6) and .0609(b)(4) of this Subsection. ~~.0609(b)(4).~~ The caliper inches of existing trees to be removed,  
15 according to the applicant's site plan shall equal the caliper inches to be replanted by the applicant at the outdoor  
16 advertising site from which existing trees are requested to be removed. If the caliper inches of existing trees from the site  
17 plan exceed the density of the Departments replanting site design, the excess caliper inches of trees shall be delivered by  
18 the applicant to the Department according to the schedule described in Subparagraph (g)(6) of this Rule. If plant material  
19 other than trees is proposed, the Department may consider such substitution for the required caliper inches. ~~The excess~~  
20 ~~trees shall be planted and maintained by the Department at sites to be determined by the Department.~~

21 (e) For sites that qualify according to the replanting criteria described in this Rule, the Department shall consult with the  
22 applicant and any local government that has requested to review and provide comments on selective vegetation removal  
23 applications pursuant to G.S. 136-93(d) or has notified the Department of its desire to review and provide comments on  
24 beautification and replanting plans. The local government shall be given 15 days to review and provide comments on  
25 beautification and replanting plans. If the local government does provide comments on a beautification and replanting  
26 plan, the Department shall take the comments into consideration. If the local government does not make appropriate  
27 request for a review, the criteria stated in the rules in this ~~section~~ Section shall be followed for replanting determination.

28 (f) In consideration of differences in outdoor advertising sign structure heights, business facilities, or agritourism  
29 activities, the Department shall maintain on file regionalized landscape design plans and plant lists as a guide for  
30 applicants. The applicant may submit one of the Department's plans or a proposed beautification and replanting plan  
31 prepared and sealed by a North Carolina licensed landscape architect. The Department's written approval, based on the  
32 current edition and subsequent amendments and editions of the American Standard for Nursery Stock ANSI Z60.1  
33 approved by the American National Standards Institute and published by the American Horticulture Association for a  
34 minimum of a 1.5 caliper inch replanted tree, of the beautification, replanting, and maintenance plan shall allow the  
35 applicant to proceed with requested vegetation cutting, thinning, pruning or removal at the ~~outdoor advertising~~ site. If  
36 plant material other than trees is proposed, the Department may consider such substitution for the required caliper inches.  
37 Copies of the Standard are available for inspection in the office of the State Roadside Environmental Engineer, Division

1 of Highways, Raleigh, N.C. Copies of the Standard may be obtained free of charge from this website of the American  
2 Horticulture Association: [www.americanhort.org](http://www.americanhort.org). The mailing address for AmericanHort is 2130 Stella Ct, Columbus,  
3 OH 43215

4 (g) The approved beautification and replanting plan becomes a part of the selective vegetation removal permit pursuant  
5 to G.S. 136-93(b) and 136-133.1(e). All ~~applicable permit requirements of the permit, including the performance bond~~  
6 ~~and insurance~~, shall continue to apply until all replanting and establishment requirements are satisfied and accepted in  
7 writing by the Department. The Department shall approve the replanting portion of the selective vegetation removal  
8 permit in writing ~~detailing~~ and detail the requirements of the beautification and replanting plan. The requirements  
9 include the following:

10 (1) The work for initial plantings and all future replacements ~~must shall be adhered to~~ by the permittee or  
11 any or their employees, agents, or assigns ~~according to~~ shall be in accordance with the current edition  
12 and subsequent amendments and editions of the American National Standard for Tree Care  
13 Operations-Transplanting ANSI A300 (Part 6), approved by the American National Standards Institute  
14 and published by the Tree Care Industry Association, Inc., International Society of Arboriculture  
15 ~~standards~~ except as stipulated in the rules in this Section. Copies of the Standard are available for  
16 inspection in the office of the State Roadside Environmental Engineer, Division of Highways, Raleigh,  
17 N.C. Copies of the Standard may be obtained from the Tree Care Industry Association, Inc. for a  
18 \$20.00 cost. The Tree Care Industry Association, Inc. (TCIA) can be contacted at 136 Harvey Road,  
19 Suite 101 Londonberry, NH 03053 or at this website: [www.tcia.org](http://www.tcia.org). Initial and replacement planting  
20 ~~will~~ may be considered acceptable ~~when~~ if the plants have been placed in the plant hole, backfilled,  
21 watered, mulched, staked, and guyed. All plants of one ~~species that species, which~~ are shown on the  
22 plans to be planted within a bed, shall be planted concurrently and the entire group shall be completed  
23 before any plant therein is considered acceptable. Replacement planting consists of replacing those  
24 plants ~~which that~~ are not in a living and healthy condition as defined in these Rules;

25 (2) The permittee ~~must shall~~ adhere to erosion control requirements, according to North Carolina General  
26 Statutes, Article 4, Chapter 113A entitled: Sedimentation Pollution Control Act of 1973;

27 (3) All plant materials shall be approved in writing by the Department prior to arrival at the ~~outdoor~~  
28 ~~advertising~~ site or prior to excess trees being furnished and delivered to the Department. The approval  
29 shall be based on the current edition and subsequent amendments and editions of the American  
30 Standard for Nursery Stock; Stock ANSI Z60.1 approved by the American National Standards Institute  
31 and published by the American Nursery and Landscape Association Horticulture Association. Copies  
32 of the Standard are available for inspection in the office of the State Roadside Environmental  
33 Engineer, Division of Highways, Raleigh, N.C. Copies of the Standard may be obtained free of charge  
34 from this website of the American Horticulture Association: [www.americanhort.org](http://www.americanhort.org). The mailing  
35 address for AmericanHort is 2130 Stella Ct, Columbus, OH 43215;

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

- 1 (9) After the one-year observation period concludes, the Department shall notify the ~~sign owner~~ permittee  
2 if the permit requirement conditions have been met successfully;
- 3 (10) Replanted materials may be pruned according to the current edition and subsequent amendments and  
4 editions of the American National Standard for Tree Care Operations-Pruning ANSI A300 (Part 1),  
5 approved by the American National Standards Institute and published by the Tree Care Industry  
6 Association Inc., however, topping of trees or other vegetation is not allowed. Copies of the Standard  
7 are available for inspection in the office of the State Roadside Environmental Engineer, Division of  
8 Highways, Raleigh, N.C. Copies of the Standard may be obtained from the Tree Care Industry  
9 Association, Inc. for a \$20.00 cost. The Tree Care Industry Association, Inc. (TCIA) can be contacted  
10 at 136 Harvey Road, Suite 101 Londonberry, NH 03053 or at this website: [www.tcia.org](http://www.tcia.org);
- 11 (11) This Paragraph applies to all replanting plans except mitigating replanting plans as specified in Rule  
12 .0609(b)(4) of this Subchapter. ~~19A NCAC 02E .0609(b)(4)~~. Excess plants or trees furnished and  
13 delivered to the Department, shall receive care and handling in accordance with ~~the following:~~ ~~In~~  
14 digging, loading, transporting, unloading, planting, or otherwise handling plants, the permittee shall  
15 exercise care to prevent windburn; injury to or drying out of the trunk, branches, or roots; and to  
16 prevent freezing of the plant roots. The solidity of the plant ball shall be preserved. Delivery of  
17 excess plant material shall be scheduled with the Department, allowing a minimum three days  
18 notification for each delivery. The permittee's responsibility for the furnished excess plants or trees  
19 ends at the time the plant material is delivered to, inspected by, and accepted by the Department;
- 20 (12) For mitigating replanting plans according to ~~19A NCAC 02E Rule .0609(b)(4) of this Subchapter,~~  
21 trees and other plant material for a proposed beautification and replanting plan taken from the  
22 Department's landscape design plans and plant lists or prepared and sealed by a North Carolina  
23 licensed landscape architect, may be of a projected mature height to reduce visibility limitations to  
24 outdoor advertising sign ~~faces:~~ faces. As an alternative to replanting, mitigation by pruning for  
25 vegetative crown reduction at an existing beautification project may be allowed, if mutually agreed  
26 upon in writing by the Department and permittee. All pruning shall be performed by removing the  
27 fewest number of branches necessary to accomplish the desired objective but in consideration of  
28 normal seasonal regrowth for the type of vegetation. All pruning for purposes of mitigation shall be in  
29 accordance with the current edition and subsequent amendments and editions of the American National  
30 Standards for Tree Care Operations-Pruning ANSI A300 (Part 1), approved by the American National  
31 Standards Institute and published by the Tree Care Industry Association, Inc. Copies of the Standard  
32 are available for inspection in the office of the State Roadside Environmental Engineer, Division of  
33 Highways, Raleigh, N.C. Copies of the Standard may be obtained from the Tree Care Industry  
34 Association, Inc. for a \$20.00 cost. The Tree Care Industry Association, Inc. (TCIA) can be contacted  
35 at 136 Harvey Road, Suite 101 Londonberry, NH 03053 or at this website: [www.tcia.org](http://www.tcia.org). In the case  
36 of vegetation mortality caused by pruning, replacement plantings shall be required according to Rule  
37 .0611 of this subchapter;

1 (13) Should the outdoor advertising structure related to the selective vegetation permit be sold or  
2 transferred, the new owner or permit holder is subject to the requirements in the General Statutes and  
3 rules in this ~~section~~, Section, including those regarding planting, establishment, replacement or  
4 renovation plantings, minimum living and healthy condition, and observation; and

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

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8 *History Note: Authority G.S. 99E-30; 136-93; 136-93 (b); 136-130; 136-133.4; 136-93.3;*

9 *Temporary Adoption Eff. March 1, 2012;*

10 *Eff. November 1, 2012.*

11 *Amended Eff. January 1, 2015.*

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