

1 19 NCAC 02E .0211 is repealed as published in 27:02 NCR 2012 as follows:
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3 **19A NCAC 02E.0211 DENIAL OF PERMIT**

4 ~~(a) Should the appropriate district engineer determine that a proposed outdoor advertising structure would not~~
5 ~~conform to the standards of outdoor advertising as set out in the Outdoor Advertising Control Act or the rules in this~~
6 ~~Section, the district engineer shall refuse to issue a permit for that proposed outdoor advertising structure.~~

7 ~~(b) When such noncompliance of the Outdoor Advertising Control Act or these Rules has been determined, the~~
8 ~~district engineer shall notify the permit applicant by certified mail, return receipt requested, in the form of a letter~~
9 ~~setting forth the factual and statutory or regulatory basis for the denial, and include a copy of the Act and rules.~~

10 ~~(c) The Department of Transportation shall not issue permits for new outdoor advertising signs at a sign location (as~~
11 ~~defined by Rule .0201 of this Section) as follows:~~

12 ~~(1) for a period of five years where the unlawful destruction or illegal cutting of vegetation has~~
13 ~~occurred within 500 feet on either side of the proposed sign location, and as measured along the~~
14 ~~edge of pavement of the main traveled way of the nearest controlled route. For purposes of this~~
15 ~~paragraph only:~~

16 ~~(A) "Unlawful destruction or illegal cutting" is the destruction or cutting of trees, shrubs, or~~
17 ~~other vegetation on the state owned or maintained right of way which was conducted by a~~
18 ~~person or persons other than the Department of Transportation or its authorized agents or~~
19 ~~without the permission of the Department of Transportation;~~

20 ~~(B) The Department of Transportation's investigation shall reveal some evidence that the~~
21 ~~unlawful destruction or illegal cutting would create, increase, or improve a view to a~~
22 ~~proposed outdoor advertising sign from the main traveled way of the nearest controlled~~
23 ~~route;~~

24 ~~(C) The five year period shall run from the date on which the Department of Transportation~~
25 ~~has actual knowledge of the unlawful destruction or illegal cutting to be documented by~~
26 ~~the appropriate district engineer;~~

27 ~~(D) The five year prohibition period for a new sign permit shall apply equally to all sign~~
28 ~~locations including the following examples:~~

29 ~~(i) sign locations where the unlawful destruction or illegal cutting of vegetation~~
30 ~~occurs prior to the time the location becomes a conforming location;~~

31 ~~(ii) sign locations where a revocation of an existing permit has been upheld and a~~
32 ~~sign has been removed;~~

33 ~~(iii) sign locations where the unlawful destruction or illegal cutting occurs prior to~~
34 ~~receipt of an outdoor advertising permit application; and~~

35 ~~(iv) sign locations where the unlawful destruction or illegal cutting occurs following~~
36 ~~receipt of an outdoor advertising permit application, but prior to final issuance~~
37 ~~of the permit by the Department of Transportation.~~

1 ~~(2) Where existing trees, if they were to reach the average mature size for that species, would make~~
2 ~~the proposed sign faces, when erected, not completely visible from the viewing zone. For~~
3 ~~purposes of this subsection only:~~

4 ~~(A) "Existing trees" are those trees four inches or greater in diameter measured six inches~~
5 ~~from the ground;~~

6 ~~(B) "Average mature size" shall be determined by reference to the most recent edition of~~
7 ~~*Hortus 3rd, A Concise Dictionary of Plants Cultivated in the United States and Canada,*~~
8 ~~McMillan Publishing Co., Inc., New York, NY, published in 1976 or *Manual of Woody*~~
9 ~~*Landscape Plants,* Michael Dirr, Stipes Publishing Company.~~

10 ~~(C) Viewing Zone is the area which is 500 feet as measured along the edge of the main~~
11 ~~traveled way of the controlled route on each side of the proposed sign structure which~~
12 ~~will have a sign face.~~

13 ~~(3) Where the zoning is not part of comprehensive zoning or was zoned primarily to permit outdoor~~
14 ~~advertising structures or constitutes spot zoning or strip zoning as defined in 19 NCAC 2E~~
15 ~~.0201(4)(b)(iii).~~

16 ~~(4) For a period of 12 months prior to the proposed letting of a new construction contract that may~~
17 ~~affect the spacing or location requirements for an outdoor advertising structure until the project is~~
18 ~~completed.~~

19 ~~(5) On a route designated as a scenic byway.~~

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21 *History Note: Authority G.S. 136-130*
22 *Eff. July 1, 1978;*
23 *Temporary Repeal Eff. March 1, 2012;*
24 *Amended Eff. August 1, 2000; November 1, 1993; December 1, 1990; June 15, 1981.*
25 *Repealed Eff. November 1, 2012*