

SECTION .0600 - SELECTIVE VEGETATION REMOVAL POLICY

19A NCAC 02E .0601 SELECTIVE VEGETATION REMOVAL PERMIT REQUIRED TO REMOVE VEGETATION FROM STATE HIGHWAY RIGHT-OF-WAY

Selective cutting, thinning, pruning, or removal of vegetation within highway rights-of-way may be permitted only for opening views to business facilities and legally erected forms of outdoor advertising that are located adjacent to State highway rights-of-way, as described in G.S. 136-93(b). For purposes of selective vegetation removal permitting, "business facilities," hereinafter referred to as "facilities," are defined as office, institutional, commercial, and industrial buildings. In accordance with G.S. 136-93.3, agritourism activities, as defined in G.S. 99E-30, are considered facilities under this Section. The following requirements apply to facilities under this Section:

- (1) all facilities, except for agritourism activities, shall include at least one permanent structural building;
- (2) the building shall have all required local and State permits, be related to the facility's function, and be open and operational on a year-round basis; and
- (3) any cutting, thinning, pruning, or removal of vegetation allowed pursuant to G.S. 136-93(b) shall be performed by the permittee or his or her agent at no cost to the Department of Transportation and shall comply with this Section.

*History Note: Authority G.S. 136-18(5); 136-18(7); 136-18(9); 136-93(b); 136-93.3;
Temporary Rule Eff. April 13, 1982 for a Period of 48 Days to Expire on June 1, 1982;
Eff. June 1, 1982;
Amended Eff. January 1, 2015; November 1, 2012; June 2, 1982;
Readopted Eff. June 1, 2020.*

19A NCAC 02E .0602 REQUESTS FOR SELECTIVE VEGETATION REMOVAL PERMITS FOR A FACILITY

(a) Applications for selective vegetation cutting, thinning, pruning, or removal (exclusive of grasses) at a facility shall be made by the owner of the facility and sent to the Division Engineer of the North Carolina Department of Transportation (NCDOT), Division of Highways. Applications shall be submitted in both printed and electronic form. Application submittal information for each county is found on the NCDOT Selective Vegetation Removal website <https://connect.ncdot.gov/resources/roadside/Pages/Selective-Vegetation-Removal-Permits.aspx>. Applications for selective vegetation removal permits shall include the following information:

- (1) the applicant contact information;
- (2) the name and location of the facility;
- (3) the indication of request for either a business facility or agritourism activity;
- (4) a municipal review indication, if applicable;
- (5) the requested use of and site access for power-driven equipment in accordance with Rule .0604(21) of this Section;
- (6) a performance bond or certified check or cashier's check pursuant to G.S. 136-93;
- (7) if using a contractor for vegetation removal work, identify the contractor and his or her qualifications if the contractor is not listed on the Department's website directory of qualified transportation firms;
- (8) a payment of non-refundable two hundred dollar (\$200.00) permit fee, pursuant to G.S. 136-18.7;
- (9) a certificate of liability, and proof of worker's compensation and vehicle liability insurance coverage;
- (10) a geographic information system document and property tax identification number to verify location of the facility in relation to municipal limits;
- (11) a verification of on-site marking and tree-tagging requirements;
- (12) a sketch, or amended sketch of the requested cut zone and information about trees to be cut, thinned, pruned, or removed in accordance with Rule .0604(10) of this Section;
- (13) if applicable, certification that the applicant has permission from the adjoining landowner(s) to access their private property for the purpose of conducting selective vegetation removal permit activities;
- (14) a certification that the facility qualifies as an agritourism activity as required by G.S. 136-93.3; and
- (15) the applicant's notarized signature.

(b) Selective vegetation cutting, thinning, pruning, or removal for opening views to facilities shall be permitted only for the permittee's facilities adjacent to highway right-of-way at locations where the facilities have been constructed or where agritourism activities are carried out as set forth in G.S. 136-93.3 and Rule .0601 of this Section. Complete removal of all trees and other vegetation shall not be permitted. Dogwood trees and redbud trees shall be preserved. Other trees shall be preserved if they are not screening the facility from view, and when measured at six inches above the ground, equal four or more caliper inches in diameter. Trees, shrubs, and other vegetation less than four caliper inches in diameter may be removed. Trees, shrubs, and other vegetation that are four or more caliper inches in diameter, as measured at six inches above the ground, and not to be preserved, may be cut, thinned, pruned, or removed if approved by the Division Engineer having jurisdiction or that Division Engineer's designee. All vegetation cutting, thinning, pruning, or removal shall be in accordance with the current edition of the American National Standard for Arboricultural Operations-Safety Requirements ANSI Z133 that is hereby incorporated by reference, including subsequent amendments and editions. Copies of the Standard may be obtained from the International Society of Arboriculture (ISA) for a twenty dollars (\$20.00) cost. The ISA may be contacted at 270 Peachtree Street NW, Suite 1900, Atlanta, GA 30303 or by accessing the website: <http://www.isa-arbor.com/store/product/122>.

(c) Applications shall be accompanied by a sketch showing the requested limits of the selective cutting, thinning, pruning, or removal of vegetation. For facilities, the limits of selective cutting, thinning, pruning, or removal shall be restricted to one area of right-of-way adjacent to frontage property of the facility, but not to exceed 1,000 contiguous linear feet. Facilities with frontage property on opposite sides of the State highway right-of-way may split the maximum vegetation removal distance between the two sides of the highway, resulting in a total of two contiguous cutting or removal distances along frontage property, with the total of the two sides not exceeding 1,000 linear feet. The permitted limits of the selective vegetation removal permit shall not be altered for subsequent applications. The applicant shall also include on the sketch the location, species, and caliper inches of all trees desired for cutting, thinning, pruning, or removal, that have a diameter of four or more caliper inches, as measured six inches above ground level, at the time of the application. .

(d) The selective vegetation removal request may be reviewed on site by Department personnel and a representative of the applicant.

(e) In accordance with G.S. 136-93(d), if the application for vegetation cutting is for a site located within the corporate limits of a municipality and the municipality has previously advised the Division Engineer in writing of its desire to review such applications, the applicant shall deliver the application to the municipality at least 30 days prior to submitting the application to the Department, so the municipality may be given the opportunity to review the application. Information regarding whether a municipality desires to review vegetation removal applications may be found on the Department's Selective Vegetation Removal website or by contacting the Division Engineer's office.

*History Note: Authority G.S. 136-18(5); 136-18(7); 136-18(9); 136-18.7; 136-93; 136-93.3;
Temporary Rule Eff. April 13, 1982 for a Period of 48 Days to Expire on June 1, 1982;
Eff. June 1, 1982;
Amended Eff. November 16, 1991; December 1, 1990; August 1, 1985; June 2, 1982;
Temporary Amendment Eff. November 16, 1999;
Amended Eff. August 1, 2000;
Temporary Amendment Eff. March 1, 2012;
Amended Eff. January 1, 2015; November 1, 2012;
Readopted Eff. June 1, 2020.*

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

(a) Pursuant to G.S. 136-133.2, within 30 days following receipt of the application for a selective vegetation removal permit for a facility, including the fee set out in G.S. 136-18.7, the Division Engineer shall approve or deny the application. The applicant, as part of the application, shall state in writing the date that he or she has delivered a copy of the application, with required attachments, to a municipality that has previously advised the North Carolina Department of Transportation (NCDOT) in writing that it seeks to provide comments regarding such applications. The applicant shall deliver the application to the municipality at least 30 days prior to submitting the application to the Department. The list of municipalities requesting to review applications shall be maintained and updated by the Department on the NCDOT Selective Vegetation Removal website <https://connect.ncdot.gov/resources/roadside/Pages/Selective-Vegetation-Removal-Permits.aspx>. If written notice of approval or denial is not given to the applicant within the 30-day Department review period, then the application shall be deemed approved. If the application is denied, the Division Engineer shall advise the applicant, in writing, of the reasons for denial.

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

- (1) the application is for the opening of view to a facility that does not meet the requirements of Rule .0601 of this Section;
- (2) it is determined by Department personnel that the facility is not screened from view;
- (3) the application is for the opening of view to undeveloped property or to a facility that, due to obstructions off the right-of-way, is screened from view from the travel way regardless of the presence or absence of trees and other vegetation on the highway right-of-way;
- (4) it is determined by Department personnel that removal of vegetation shall diminish a planting installed for headlight screening and affect the safety of the traveling public;
- (5) the application is solely for providing visibility to on-premise signs;
- (6) the application is for the removal of vegetation planted in accordance with a local, State, or federal beautification project. However, this Subparagraph shall not apply if a mitigation replanting plan related to the site for which the vegetation permit request is made as set forth in Rule .0611 of this Section, except for the provisions in Paragraph (d) and Subparagraph (g)(11); and is agreed upon in writing by the applicant, the Department, and, if applicable, the Federal Highway Administration;
- (7) on two previous occasions, the applicant failed to meet the requirements of a selective vegetation removal permit, unless the applicant engages a landscape contractor to perform the current work;
- (8) the application is for removal of vegetation that will open views to junkyards;
- (9) the applicant fails to complete the requirements of the application as set forth in Rule .0602 of this Section;
- (10) any cutting, thinning, pruning, or removal of vegetation encompassing the entirety of the maximum vegetation cutting or removal zone is prohibited due to conditions affecting the right-of-way to which the State is subjected or agrees in writing to subject itself, including conservation agreements, or due to the application at any time of State or federal rules, regulations, or statutes, including any conditions mandated as part of the issuance of a permit to the Department for a construction project by a State or federal agency with jurisdiction over the project; or
- (11) an unlawful destruction or illegal cutting of vegetation has occurred within the highway right-of-way to create, increase, or improve a view to the facility from the travel way including acceleration and deceleration ramps. The Department shall not issue a selective vegetation removal permit at the requested site for a period of five years that shall begin on the date the Department resolves the "unlawful destruction" or "illegal cutting" incident by settlement agreement with the responsible party, or the Department administratively closes the case. For the purposes of this Subparagraph, "unlawful destruction or illegal cutting" is defined as the destruction or cutting of trees, shrubs, or other vegetation on the

State-owned or State-maintained rights-of-way by anyone other than the Department or its authorized agents, or without written permission of the Department.

History Note: Authority G.S. 99E-30; 136-18(5); 136-18(7); 136-18(9); 136-93; 136-93.3; 136-130; Temporary Rule Eff. April 13, 1982 for a Period of 48 Days to Expire on June 1, 1982; Eff. June 1, 1982; Amended Eff. August 1, 2000; November 1, 1991; December 1, 1990; August 1, 1985; June 2, 1982; Temporary Amendment Eff. March 1, 2012; Amended Eff. January 1, 2015; November 1, 2012; Readopted Eff. June 1, 2020.

19A NCAC 02E .0604 CONDITIONS OF SELECTIVE VEGETATION REMOVAL PERMIT FOR FACILITIES

The following apply to the conditions of selective vegetation removal permit for facilities:

- (1) Selected vegetation, within the approved limits as set forth in Rule .0602(c) of this Section may be cut, thinned, pruned, or removed by the permittee in accordance with the standards set out in G.S. 136-133.4;
- (2) The permittee shall furnish a Performance Bond, certified check, or cashier's check made payable to North Carolina Department of Transportation (NCDOT) for the sum of two thousand dollars (\$2,000). The Performance Bond, certified check, or cashier's check shall cover all restoration of the right-of-way to the condition prior to the occurrence of the damage caused by the permittee or the permittee's agent, if damage occurs during the permitted selective vegetation removal. The Performance Bond, certified check, or cashier's check shall be paid with the application before each permit to cut vegetation is issued. The Performance Bond, certified check, or cashier's check shall run concurrently with the permit. The Performance Bond, certified check, or cashier's check shall be released after a final inspection of the work by the Department reveals that all work provided for and specified by the permit is found to be completed and, if damage is caused by the permittee or the permittee's agent, all damages to the right-of-way, including damage to fencing and other structures within the right-of-way, have been repaired or restored;
- (3) Companies that plan to apply for two or more permits may provide continuing bonds for the sum of one hundred thousand dollars (\$100,000) and that type of bond shall be kept on file by the Utilities Unit of the Department;
- (4) If the work is to be performed by any entity other than the permittee, either the permittee or the other entity shall furnish the Performance Bond, certified check, or cashier's check, as described in this Rule, for all work provided for and specified by the permit. Required forms for all bonds are available upon request from the Department and may be found on the NCDOT Selective Vegetation Removal website: <https://connect.ncdot.gov/resources/roadside/Pages/Selective-Vegetation-Removal-Permits.aspx>. Bonds shall be furnished with the selective vegetation removal application form, and to the official assigned to receive selective vegetation removal applications at the local North Carolina Department of Transportation, Division of Highways Office;
- (5) The permittee shall provide proof of liability insurance coverage of five million dollars (\$5,000,000). Whoever performs the work, the permittee, his or her contractor, or agent, shall maintain workers' compensation and vehicle liability insurance coverage. The permittee, his or her contractor, and agent shall be liable for any losses due to the negligence or willful misconduct of his or her agents, assigns, and employees. The permittee, in lieu of providing proof of liability insurance as described in this Item, may be shown as an additional insured on the general liability policy of the approved contractor or agent to perform the permitted work if the contractor or agent's policy provides five million dollars (\$5,000,000) in coverage, and the permittee provides the Department with proof of the coverage. The permittee, contractor, or agent providing the coverage shall also name the Department as an additional insured on its general liability policy, and provide the Department with a copy of the certificate showing the Department named as an additional insured. The required limit of insurance may be obtained by a single general liability policy, the combination of a general liability and excess liability, or an umbrella policy;
- (6) The permittee shall provide a document verifying the requested selective vegetation removal site location in relationship to corporate limits of a municipality. The document shall be a current geographic information system map of the nearest municipality, with color-coded boundary lines, a corresponding key or legend indicating corporate limits and territorial jurisdiction boundaries, and indicating the precise location of the business facility. The permittee shall also provide the property tax identification number for the

- parcel where the facility is located. The Department may require additional information if the boundary or facility location remains in question;
- (7) Access from the highway main travel way shall be allowed only for surveying or delineation work in preparation for and processing of an application for a selective vegetation removal permit;
 - (8) The permittee shall perform site marking of the maximum vegetation cut or removal zone. The applicant shall mark the permitted cutting distances according to Rule .0602(c) of this Section. The two maximum points along the right-of-way boundary (or fence if there is a control of access fence) shall be marked with visible flagging tape. The two maximum points, corresponding to the beginning point and the ending point along the edge of the pavement of the travel way, perpendicular to the maximum points marked along the right-of-way boundary, shall be marked with spray paint. If the facility is located next to an acceleration or deceleration ramp, the two corresponding maximum points shall be marked along the edge of the pavement of the travel way of the ramp instead of the mainline of the roadway;
 - (9) The permittee shall perform tagging of trees. The permittee shall tag with visible material or flagging any trees that screen the facility from view, have been requested to be cut, thinned, pruned, or removed within the maximum vegetation cut or removal zone, and have a diameter of four or more caliper inches, as measured at six inches above the ground and at the time of the application. Trees tagged for cutting, thinning, pruning, or removal shall match the trees shown on the required sketch of the requested vegetation cut or removal zone;
 - (10) The Department may disapprove the requested cutting, thinning, pruning, or removal of selected trees that do not screen the facility from view from the roadway, and have a diameter of four or more caliper inches, as measured at six inches above the ground, at the time of the application. The Department shall make this determination by allowing selective thinning of tree density that opens the view to the facility or agritourism activities across the entire length of the maximum cut or removal zone, without complete removal of all trees and other vegetation. The Department shall disapprove cutting, thinning, pruning, or removal of trees that may have been tagged in error. If trees are disapproved for cutting, thinning, pruning, or removal, the Department shall specify those trees to the applicant during the site review. The applicant shall remove the tree flagging for the disapproved trees and submit to the Department, by electronic means (including electronic mail or facsimile), an amended version of the original sketch of the site, indicating the changes on the sketch, initialing, and dating the changes thereon;
 - (11) If any cutting, thinning, pruning, or removal of vegetation from any portion of the entirety of the maximum vegetation cutting or removal zone is prohibited due to conservation easements, conditions, other restrictions affecting the right-of-way to which the State is subjected, written agreements, State or federal rules, regulations, statutes, or permits, the permittee shall comply with applicable easements, rules, regulations, statutes, or permits for those portions of vegetation:
 - (a) If applicable easements, rules, regulations, statutes, or permits allow certain degrees and methods of cutting, thinning, pruning, or removal for portions of vegetation, the permittee shall comply with applicable easements, State or federal rules, regulations, statutes, or permits, including equipment type specifications for those portions of vegetation; and
 - (b) Portions of the maximum cutting or removal zone not within an easement, nor applicable to rules, regulations, statutes, or permits regulating vegetation removal, and other activities shall be governed by standards set out in G.S. 136-93;
 - (12) The permittee shall adhere to erosion control requirements, pursuant to G.S. 113, Article 4; entitled:

- (13) A Division of Highways Inspector may be present while work is underway. The presence or absence of a Division of Highways inspector at the work site does not lessen the permittee's responsibility for conformity with the requirements of the permit. If a present inspector fails to acknowledge or identify work that does not conform with the requirements, this failure shall not prevent later notification to the permittee that the work is noncompliant with the permit;
- (14) A selective vegetation removal permit shall be secured for each applicable facility prior to performing any vegetation removal work. The permittee, its contractor, or agent shall have a copy of the selective vegetation removal permit on the work site at all times during any phase of selective vegetation cutting, thinning, trimming, pruning, removal, or planting operations;
- (15) If the Division Engineer or his or her representative observes unsafe operations, activities, or conditions, the Engineer shall suspend work. Work shall not resume until the unsafe operations, activities, or conditions have been eliminated or corrected. Failure to comply with any of the federal and State laws, ordinances, rules, or regulations governing safety and traffic control shall result in suspension of work. The permittee shall adhere to safety requirements, pursuant to G.S. 95, Article 16. Traffic control shall be in accordance with G.S. 136-30 and 19A NCAC 02B .0208;
- (16) The permittee, its contractor, or agent shall take measures to locate and protect utilities located within the highway right-of-way and within the work area of the selective vegetation removal zone. The permittee may be responsible for restoration of any losses or damages to utilities caused by any actions of the permittee, its contractors, or agents, and to the satisfaction of the utility owner;
- (17) Permits are valid for a period of one year and the permittee may cut, thin, prune, or remove vegetation more than one time during the permit year. If the applicant applies for and is approved for another permit at the same site during an existing permit year, the previous permit shall become null and void at the same time the new permit is issued;
- (18) The permittee shall provide to the Department a 48-hour notification before entering the right-of-way for any work covered by the conditions of the permit. The permittee shall schedule all work with the Department. The permittee shall notify the Department in advance of work scheduled for nights, weekends, and State holidays. The Department may modify the permittee's work schedule for nights, weekends, and State holidays. When the Department restricts construction in work zones for the safety of the traveling public, the Department shall deny access to the right-of-way for selective vegetation removal;
- (19) If work is planned in an active work zone, the permittee shall receive written permission from the contractor or the Department, if the Department's employees are performing the work. The permittee shall provide the Division Engineer with a copy of the written permission;
- (20) Sites with vegetation not presenting a hazard from falling tree parts and follow-up work shall be restricted to individual and manual-operated power equipment and hand-held tools;
- (21) The Department may allow use of power-driven vegetation removal equipment (such as excavator-based land clearing attachments, skid-steer cutters, and bucket trucks) if the Department determines that the use of such equipment will not cause safety hazards, any erosion, or damage to the right-of-way, and may allow access from the private property side to the right-of-way. Tree removal that presents a hazard from falling tree parts shall be performed in accordance with the current edition and subsequent amendments and editions of the American National Standard for Arboricultural Operations-Safety Requirements ANSI Z133;
- (22) The height of stumps remaining after tree removal shall not exceed four inches above the surrounding ground level. At the end of each workday, all vegetation that has been cut, thinned, or pruned at the site shall be removed or chipped and spread in accordance with G.S. 136-133.4; and

- (23) Upon completion of all work, the Department shall notify the permittee in writing of acceptance, terminate the permit, and return the Performance Bond, certified check, or cashier's check to the permittee. For replanting work, a different bond release schedule shall be applicable according to Rule .0611 of this Section. The permittee may terminate the permit at any time and request that the Department return the Performance Bond, certified check, or cashier's check. The termination and request for return of the Performance Bond, certified check, or cashier's check shall be made in writing and sent to the Division Engineer.

History Note: Authority 136-18(5); 136-18(7); 136-18(9); 136-30; 136-93; 136-93.3; 136-133.4; Temporary Rule Eff. April 13, 1982 for a Period of 48 Days to Expire on June 1, 1982; Eff. June 1, 1982; Amended Eff. January 1, 2015; November 1, 2012; August 1, 2000; November 1, 1991; August 1, 1985; August 1, 1982; June 2, 1982; Readopted Eff. June 1, 2020.

19A NCAC 02E .0608 REQUESTS FOR SELECTIVE VEGETATION REMOVAL PERMITS FOR OUTDOOR ADVERTISING

(a) Applications for selective vegetation cutting, thinning, pruning, or removal (exclusive of grasses) shall be made by the owner of an outdoor advertising sign permitted under G.S. 136-129(4) or (5), to the Division Engineer of the North Carolina Department of Transportation (NCDOT), Division of Highways. Applications shall be submitted in both printed and electronic form. Application submittal information for each county is found on the NCDOT Selective Vegetation Removal website: <https://connect.ncdot.gov/resources/roadside/Pages/Selective-Vegetation-Removal-Permits.aspx>. For sites within the corporate limits of a municipality that has previously advised the Department in writing that it seeks to review such applications, the applicant shall deliver the application to the municipality at least 30 days prior to submitting the application to the Department. Applications for selective vegetation removal permits shall include the following information consistent with G.S. 136-133.1:

- (1) the applicant contact information;
- (2) the outdoor advertising permit tag number and location of the sign;
- (3) if the sign is located on a ramp, the application shall indicate whether cut zone is modified or normal;
- (4) if an application is eligible for municipal review, and as a prerequisite to municipal review submittal, the application shall indicate the year the sign was erected. Upon request, the Department shall furnish the year of sign erection to the applicant. The Department may require additional proof if the year of the sign erection remains in question;
- (5) an indication of appropriate maximum cutting distance;
- (6) the applicant's desire to remove existing trees, if present. If existing trees are to be removed, such trees require compensation by either monetary reimbursement, removal of two nonconforming outdoor advertising signs, or a beautification and replanting plan as set out in Rule .0611 of this Section, and by submitting the Existing Tree Compensation Agreement form found on the NCDOT Selective Vegetation Removal website;
- (7) the site plan, if existing trees are to be cut, thinned, pruned, or removed;
- (8) if existing trees are to be cut, thinned, pruned, or removed, the additional required form includes applicant contact information, permit tag number, sign location, the number, caliper inches, and monetary value of existing trees to be cut, thinned, pruned, or removed, as determined by G.S. 136-93.2, and indication of compensatory choice;
- (9) the additional form for existing tree removal, based on the compensatory choice made, also requires submittal of either a payment check in the amount of the tree loss monetary value, indication of the two nonconforming outdoor advertising signs to be surrendered, or agreement to submit a beautification replanting plan to the Department. Compliance with the compensatory choice shall be required before the selective vegetation removal permit can be approved;
- (10) a municipal review indication, if applicable;
- (11) the requested use of and site access for power-driven equipment in accordance with Rule .0610(23) of this Section;
- (12) the performance bond or certified check or cashier's check pursuant to G.S. 136-93;
- (13) if using a contractor for vegetation removal work, identify the contractor and his or her qualifications if the contractor is not listed on the Department's website directory of qualified transportation firms;
- (14) a payment of the non-refundable two hundred dollar (\$200.00) permit fee, pursuant to G.S. 136-18.7;
- (15) the certificate of liability, proof of workers' compensation, and vehicle liability insurance coverage;
- (16) the geographic information system document, property tax identification number to verify location of sign in relation to municipal limits, and territorial jurisdiction boundary;
- (17) a verification of on-site marking and tree-tagging requirements;

- (18) if the cutting request is for a modified cut zone along a highway ramp, a diagram of the cut zone is required unless the diagram is included on a site plan, and calculations are required comparing the modified cut zone to the normal cut zone;
 - (19) if the Department disputes the site plan, the Department may request additional information pursuant to G.S. 136-133.1(c);
 - (20) if applicable, certification that the applicant has permission from the adjoining landowner(s) to access their private property for the purpose of conducting selective vegetation removal permit activities; and
 - (21) the applicant's notarized signature.
- (b) The selective vegetation removal request may be reviewed on site by Department personnel and a representative of the applicant.

*History Note: Authority G.S. 136-18(5); 136-18(7); 136-18(9); 136-18.7; 136-93; 136-130; 136-133.1; 136-133.2;
Temporary Adoption Eff. March 1, 2012;
Eff. November 1, 2012;
Amended Eff. January 1, 2015;
Readopted Eff. June 1, 2020.*

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

(a) Pursuant to G.S. 136-133.2, within 30 days following receipt of the application for a selective vegetation removal permit for outdoor advertising, including the fee set out in G.S. 136-18.7, the Division Engineer shall approve or deny the application.

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

- (1) the application is for an outdoor advertising location where the outdoor advertising permit is less than two years old pursuant to G.S. 136-133.2;
- (2) the application is for the opening of a view to a sign that has been declared illegal pursuant to G.S. 136-134, whose permit has been revoked, or is currently involved in litigation with the Department;
- (3) it is determined by Department personnel that removal of vegetation shall diminish a planting installed for headlight screening and affect the safety of the traveling public;
- (4) the application is for the removal of vegetation planted in accordance with a local, State, or federal beautification project prior to September 1, 2011 or prior to the issuance of an outdoor advertising permit for the erection of the applicable outdoor advertising structure, whichever date is later, unless a mitigating replanting plan related to the site for which the vegetation permit request is made, as set forth in Rule .0611 of this Section, except for the provisions in Paragraph (d) and Subparagraph (g)(11); and is agreed upon in writing by the applicant, the Department, and, if applicable, the Federal Highway Administration;
- (5) on two previous occasions, the applicant failed to meet the requirements of a selective vegetation removal permit, unless the applicant engages a landscape contractor to perform the current work;
- (6) the application is for removal of vegetation that will open views to junkyards;
- (7) the requested site is subject to a five-year moratorium for willful failure to substantially comply with all requirements specified in a prior selective vegetation removal permit pursuant to G.S. 136-133.4(e);
- (8) the applicant fails to complete the requirements of the application as set forth in Rule .0608 of this Section;
- (9) any cutting, thinning, pruning, or removal of vegetation encompassing the entirety of the maximum vegetation cutting or removal zone is prohibited due to conditions affecting the right-of-way to which the State is subjected or agrees in writing to subject itself, including conservation agreements, prior to September 1, 2011 or prior to the issuance of an outdoor advertising permit for the erection of the applicable outdoor advertising structure, whichever date is later, or due to the application at any time of State statutes or rules or federal statutes or regulations, including any conditions mandated as part of the issuance of a permit to the Department for a construction project by a federal or State agency with jurisdiction over the construction project. The Department may mitigate within the right-of-way in the cut zone of a permitted outdoor advertising structure so long as trees and other plant materials for mitigation may not be of a projected mature height to decrease the visibility of a sign face, and such mitigation vegetation may not be cut or removed pursuant to a selective vegetation removal permit; or
- (10) a modified vegetation removal zone application request along acceleration or deceleration ramps is not in accordance with G.S. 136-133.1(a1) or Rule .0612 of this Section.

History Note: Authority G.S. 136-18(5); 136-18(7); 136-18(9); 136-93; 136-130; 136-133.1(a1); 136-133.2; 136-133.3; 136-133.4; 136-134; Temporary Adoption Eff. March 1, 2012; Eff. February 1, 2013; Amended Eff. January 1, 2015; Readopted Eff. June 1, 2020.

19A NCAC 02E .0610 CONDITIONS OF SELECTIVE VEGETATION REMOVAL PERMITS FOR OUTDOOR ADVERTISING

The following apply to the conditions of selective vegetation removal permits for outdoor advertising:

- (1) Selected vegetation, as defined in G.S. 136-133.1(b), may be cut, thinned, pruned, or removed in accordance with the standards set out in G.S. 136-133.4;
- (2) The permittee shall furnish a Performance Bond, certified check, or cashier's check made payable to North Carolina Department of Transportation (NCDOT) for the sum of two thousand dollars (\$2,000). The Performance Bond, certified check, or cashier's check shall cover all restoration of the right-of-way to the condition prior to the occurrence of the damage caused by the permittee or the permittee's agent, if damage occurs during the permitted selective vegetation removal. The Performance Bond, certified check, or cashier's check shall be paid with the application before each permit to cut vegetation is issued. The Performance bond, certified check, or cashier's check shall run concurrently with the permit. The Performance Bond, certified check, or cashier's check shall be released after a final inspection of the work by the Department reveals that all work provided for and specified by the permit is found to be completed and, if damage is caused by the permittee or the permittee's agent, all damages to the right-of-way, including damage to fencing and other structures within the right-of-way, have been repaired or restored;
- (3) Companies that plan to apply for two or more permits may provide continuing bonds for the sum of one hundred thousand dollars (\$100,000) and that type of bond shall be kept on file by the Utilities Unit of the Department;
- (4) If the work is to be performed by any entity other than the sign owner or permittee, either the permittee or the other entity shall furnish the Performance Bond, certified check, or cashier's check, as described in this Rule, for all work provided for and specified by the permit. Required forms for all bonds are available upon request from the Department, or on the NCDOT Selective Vegetation Removal website: <https://connect.ncdot.gov/resources/roadside/Pages/Selective-Vegetation-Removal-Permits.aspx>. Bonds shall be furnished with the selective vegetation removal application form to the official assigned to receive selective vegetation removal applications at the local North Carolina Department of Transportation, Division of Highways Office;
- (5) The permittee shall provide proof of liability insurance coverage of five million dollars (\$5,000,000). Whoever performs the work, the permittee, his or her contractor, or agent shall maintain workers' compensation and vehicle liability insurance coverage. The permittee, his or her contractor, and agent shall be liable for any losses due to the negligence or willful misconduct of his or her agents, assigns, or employees. The permittee, in lieu of providing proof of liability insurance as described in this Item, may be shown as an additional insured on the general liability policy of the approved contractor or agent to perform the permitted work if the contractor or agent's policy provides five million dollars (\$5,000,000) in coverage, and the permittee provides the Department with proof of the coverage. The permittee, contractor, or agent providing the coverage shall also name the Department as an additional insured on its general liability policy, and provide the Department with a copy of the certificate showing the Department named as an additional insured. The required limit of insurance may be obtained by a single general liability policy, the combination of a general liability and excess liability, or an umbrella policy;
- (6) The permittee shall provide a document verifying the requested selective vegetation removal site location in relationship to corporate limits of a municipality, pursuant to G.S. 136-133.1(a)(5). The document shall be a current geographic information system map of the nearest municipality, with color-coded boundary lines, a corresponding key or legend indicating corporate limits, territorial jurisdiction boundaries, and indicating the precise location of the outdoor advertising structure. The permittee shall provide the property tax identification number for the parcel where the outdoor advertising structure is located. The

Department may require additional information if the boundary or sign location remains in question;

- (7) The permittee shall perform site marking of the maximum vegetation cut or removal zone. The applicant shall mark the proper permitted cutting distances according to G.S. 136-133.1(a)(1) – (6). Points A & B along the right-of-way boundary (or fence if there is a control of access fence) shall be marked with visible flagging tape. Points C, D, and E along the edge of the pavement of the travel way shall be marked with spray paint, including the actual distances. If the sign is located at an acceleration or deceleration ramp, points C, D, and E shall be marked along the edge of the pavement of the travel way of the ramp instead of the mainline of the roadway;
- (8) The permittee shall perform tagging of trees. The permittee shall tag with a visible material or flagging all trees, including existing trees and other trees that are, at the time of the selective vegetation removal application, greater than four inches in diameter as measured six inches from the ground and requested to be cut, thinned, pruned, or removed. The applicant shall tag the existing trees (the exact same existing trees as on the site plan) that are desired to be cut, thinned, pruned, or removed with visible material or contrasting colored flagging. The permittee shall denote on the site plan or application the colors of flagging used to mark each category of trees;
- (9) If there are existing trees requested for removal, the permittee shall satisfy the following before any work may be performed:
 - (a) submit the reimbursement to the Department pursuant to G.S. 136-133.1(d) in a cashier's check or certified check;
 - (b) fully disassemble two non-conforming outdoor advertising signs, their supporting structures, and return the outdoor advertising permits tags to the Department pursuant to G.S. 136-133.1(d); or
 - (c) obtain Departmental approval for the replanting plan in accordance with G.S. 136-133.1(e) and Rule .0611 of this Section;
- (10) Should the vegetation removal permit be approved and tree removal is scheduled, the sign owner shall cut all disputed tree stumps in a level, horizontal manner, uniformly across the stump, and at a four inch height, so that tree rings may be counted, by the applicant or the Department, to determine the age of the tree;
- (11) After a tree is removed and the applicant or the Department discovers, based on the number of rings in the tree stump, an error in the tree survey report or site plan, the Department shall request an amendment to the tree survey report or site plan, a redetermination shall be made by the Department, pursuant to G.S. 136-133.1(d) and (e), and the applicant shall be subject to that redetermination;
- (12) For purposes of this Rule, the portion of the cut or removal zone means that the cut or removal zone shall be less than the entirety of the cut or removal zone. Where any portion of the cut or vegetation removal zone is restricted for the following reasons in this Item, the permittee shall comply with applicable conditions, mitigation requirements, rules, statutes, or permit requirements related to cutting, thinning, pruning, or removal of vegetation within the right-of-way:
 - (a) the State is subjected to or agrees in writing to subject itself to conditions affecting the right-of-way, including conservation agreements, prior to September 1, 2011, or prior to the issuance of an outdoor advertising permit for the erection of the applicable outdoor advertising structure, whichever date is later;
 - (b) applicable State or federal statutes, rules, or regulations, including any conditions mandated as part of the issuance of a permit to the Department for a construction project by a federal or State agency with jurisdiction over the construction project prohibit vegetation removal;
 - (c) mitigation within the right-of-way in the cut zone of a permitted outdoor advertising structure prohibits vegetation removal; however, trees and other plant

- materials for mitigation may not be of a projected mature height to decrease the visibility of a sign face; or
- (d) If the reasons set forth in Sub-items (12)(a), (b), and (c) of this Rule allow certain degrees and methods of cutting, thinning, pruning, or removal for portions of vegetation, the permittee shall comply with the conditions of this Item, including equipment type for those portions of the cutting or removal zone. Vegetation removal for portions of the maximum cutting or removal zone not affected by the reasons set forth in Sub-items (12)(a), (b) and (c) of this Rule shall be governed by standards set out in G.S. 136-93;
- (13) The permittee shall adhere to erosion control requirements, pursuant to G.S. 113A, Article 4;
- (14) A Division of Highways Inspector may be present while work is underway. The presence or absence of a Division of Highways inspector at the work site does not lessen the permittee's responsibility for conformity with the requirements of the permit. If a present inspector fails to acknowledge or identify work that does not conform with the requirements, this failure shall not prevent later notification to the permittee that the work is noncompliant with the permit;
- (15) A selective vegetation removal permit shall be secured for each applicable outdoor advertising site prior to performing any vegetation removal work;
- (16) If the Division Engineer or his or her representative observes unsafe operations, activities, or conditions, the Engineer shall suspend work. Work shall not resume until the unsafe operations, activities, or conditions have been eliminated or corrected. Failure to comply with any of the federal and State laws, ordinances, rules, and regulations governing safety and traffic control shall result in suspension of work. The permittee shall adhere to safety requirements, pursuant to G.S. 95, Article 16. Traffic control shall be in accordance with G.S. 136-30 and 19A NCAC 02B .0208;
- (17) The applicant shall certify that he or she has permission from the adjoining landowner(s) to access the private property for the purpose of conducting activities related to the selective vegetation removal permit application;
- (18) The permittee, its contractor, or agent shall have a copy of the selective vegetation removal permit on the work site at all times during any phase of selective vegetation cutting, thinning, trimming, pruning, removal, or planting operations;
- (19) The permittee, its contractor, or agent shall take measures to locate and protect utilities within the highway right-of-way and within the work area of the selective vegetation removal zone. The permittee may be responsible for restoration of any losses or damages to utilities caused by any actions of the permittee, its contractors, or agents, and to the satisfaction of the utility owner;
- (20) Permits are valid for a period of one year and the permittee may cut, thin, prune, or remove vegetation more than one time during the permit year. If the applicant applies for and is approved for another permit at the same site during an existing permit year, the previous permit shall become null and void at the same time the new permit is issued;
- (21) The permittee shall provide to the Department a 48-hour notification before entering the right-of-way for any work covered by the conditions of the permit. The permittee shall schedule all work with the Department. The permittee shall notify the Department in advance of work scheduled for nights, weekends and State holidays. The Department may modify the permittee's work schedule for nights, weekends, and State holidays. When the Department restricts construction in work zones for the safety of the traveling public, the Department shall deny access to the right-of-way for selective vegetation removal;
- (22) If work is planned in an active work zone, the permittee shall receive written permission from the contractor or the Department if the Department's employees are performing the work. The permittee shall provide the Division Engineer with a copy of the written permission;

- (23) An applicant shall be allowed to use individual and manual-operated power equipment and hand held tools at any site during initial cutting or removal of vegetation or while maintaining a site during the duration of a selected vegetation removal permit. The Department may allow use of power-driven vegetation removal equipment (such as excavator-based land clearing attachments, skid-steer cutters, and bucket trucks) if the Department determines that the use of such equipment will not cause safety hazards, any erosion, or damage to the right-of-way, and may allow access from the private property side to the right-of-way. Tree removal that presents a hazard from falling tree parts shall be performed in accordance with the current edition of the American National Standard for Arboricultural Operations-Safety Requirements ANSI Z133;
- (24) The height of stumps remaining after tree removal shall not exceed four inches above the surrounding ground level. At the end of each workday, the work site shall be left with all vegetation cut, thinned, or pruned at the site either removed or chipped and spread in accordance with G.S. 136-133.4; and
- (25) Upon completion of all work, the Department shall notify the permittee in writing of acceptance, terminate the permit, and return the Performance Bond, certified check, or cashier's check to the permittee. For replanting work, a different bond release schedule shall be applicable according to Rule .0611 of this Section. The permittee may terminate the permit at any time and request that the Department return of the Performance Bond, certified check, or cashier's check. The termination and request for return of the Performance Bond, certified check, or cashier's check shall be made in writing and sent to the Division Engineer.

History Note: Authority G.S. 136-18(5); 136-18(7); 136-18(9); 136-93; 136-93.2; 136-127; 136-130; 136-133.1; 136-133.2; 136-133.3; 136-133.4; Temporary Adoption Eff. March 1, 2012; Eff. February 1, 2013; Amended Eff. January 1, 2015; Readopted Eff. June 1, 2020.

19A NCAC 02E .0611 BEAUTIFICATION AND REPLANTING REQUIREMENTS FOR SELECTIVE VEGETATION REMOVAL PERMITS

- (a) Any site with a valid selective vegetation removal permit issued pursuant to G.S. 136-93(b) qualifies for a beautification and replanting plan as set forth in G.S. 136-133.1(e).
- (b) For future selective vegetation removal applications at replanted sites, replanted materials may be removed only if partially blocking the view to a sign face. In this case, the Department shall require plant substitutions on a one-for-one basis. All requests for plant substitutions shall be approved by the Department and installed according to the rules in this Section.
- (c) Submittal of a site plan shall be in accordance with G.S. 136.133.1(c).
- (d) This Paragraph applies to all replanting plans except mitigating replanting plans as specified in Rules .0603(b)(6) and .0609(b)(4) of this Section. The caliper inches of existing trees to be removed, according to the applicant's site plan, shall equal the caliper inches to be replanted, by the applicant at the outdoor advertising site, and from which existing trees are requested to be removed. If the caliper inches of existing trees from the site plan exceed the density of the Department's replanting site design, the excess caliper inches of trees shall be delivered by the applicant to the Department according to the schedule described in Subparagraph (g)(6) of this Rule. If plant material other than trees is proposed, the Department may consider such substitution for the required caliper inches.
- (e) For sites that qualify according to the replanting criteria described in this Rule, the Department shall consult with the applicant and any local government that has requested to review and provide comments on selective vegetation removal applications pursuant to G.S. 136-93(d), or has notified the Department of its desire to review and provide comments on beautification and replanting plans. The local government shall be given 15 days to review and provide comments on beautification and replanting plans. If the local government provides comments on a beautification and replanting plan, the Department shall take the comments into consideration. If the local government does not make a request for a review, the criteria stated in the rules in this Section shall be followed for replanting determination.
- (f) In consideration of differences in outdoor advertising sign structure heights, business facilities, or agritourism activities, the Department shall maintain on file regionalized landscape design plans and plant lists as a guide for applicants. The applicant may submit one of the Department's plans or a proposed beautification and replanting plan prepared and sealed by a North Carolina licensed landscape architect. The Department's written approval shall be based upon the current edition of the American Standard for Nursery Stock ANSI Z60.1 for a minimum of a 1.5 caliper inch replanted tree, of the beautification, replanting, and maintenance plan shall allow the applicant to proceed with requested vegetation cutting, thinning, pruning, or removal at the site. If plant material other than trees is proposed, the Department may consider such substitution for the required caliper inches. The American Standard for Nursery Stock ANSI Z60.1, approved by the American National Standards Institute and published by the American Horticulture Association is hereby incorporated by reference, including subsequent amendments and editions. The document may be accessed at no cost at americanhort.org/page/standards. The mailing address for AmericanHort is 2130 Stella Ct, Columbus, OH 43215.
- (g) The approved beautification and replanting plan becomes a part of the selective vegetation removal permit pursuant to G.S. 136-93(b) and 136-133.1(e). All permit requirements shall continue to apply until all replanting and establishment requirements are satisfied and accepted in writing by the Department. The Department shall approve the replanting portion of the selective vegetation removal permit in writing and detail the requirements of the beautification and replanting plan. The following shall be required:
- (1) The work for initial plantings and all future replacements by the permittee or any of their employees, agents, or assigns shall be in accordance with the current edition of the American National Standard for Tree Care Operations-Transplanting ANSI A300 (Part 6), Planting and Transplanting except as stipulated in this Rule. The American National Standard for Tree Care Operations-Transplanting ANSI A300 (Part 6), approved by the American National Standards Institute and published by the Tree Care Industry Association, Inc. is hereby incorporated by reference, including subsequent amendments and editions. Copies of the Standard may be obtained from the Tree Care Industry

Association, Inc. for a twenty dollar (\$20.00) cost. The Tree Care Industry Association, Inc. (TCIA) can be contacted at 670 North Commercial Street, Suite #201, Manchester, NH 03101 or at this website: www.tcia.org/TCIA/SHOP. Initial and replacement planting may be considered acceptable if the plants have been placed in the plant hole, backfilled, watered, mulched, staked, and guyed. All plants of one species that are shown on the plans to be planted within a bed, shall be planted concurrently and the entire group shall be completed before any plant therein is considered acceptable. Replacement planting consists of replacing those plants that are not in a living and healthy condition as defined in Subparagraph (7) of this Paragraph;

- (2) The permittee shall adhere to erosion control requirements, according to G.S. 113A, Article 4;
- (3) All plant materials shall be approved in writing by the Department prior to arrival at the site or prior to excess trees being furnished and delivered to the Department. The approval shall be based on the current edition and subsequent amendments and editions of the American Standard for Nursery Stock ANSI Z60.1;
- (4) All work is subject to Division of Highways inspection, scheduled with the Department. A minimum 48-hour notification shall be provided to the Department by the permittee before entering the right-of-way for any beautification and replanting plan requirements;
- (5) Grinding or other mechanical removal of all cut stumps (to a minimum depth of four inches below ground level) shall be completed in the area of replanting during the preparation of the site, prior to initial planting;
- (6) All initial and replacement plantings shall be installed during the first planting season (November 1 to March 15) contemporaneous with or following the selective vegetation removal. If replanting cannot be completed by the March 15 deadline, the replanting shall occur during the next planting season. The same dates (November 1 to March 15) shall apply when the permittee provides the Department with excess plant material at a site where existing caliper inches exceeds the site design capacity;
- (7) The permittee shall contact the Department to schedule a final replanting acceptance inspection upon completion of any plant material installation. For one year from the date of the initial planting acceptance for the entire replanting plan, the permittee shall establish all plant materials according to these provisions. Establishment for all initial or replacement plants shall begin after they are planted. The permittee shall be responsible for the area around plantings for a distance of six feet beyond the outside edges of the mulch. Establishment shall include: cutting of grass and weeds; watering; replacement of mulch; repair or replacement of guy stakes, guy wires, and water rings; and other work to encourage the survival and growth of plant material. The permittee shall remove and dispose of dead plants from the replanting plan site during the establishment period. Prior to the end of the one-year establishment period, the permittee is responsible for contacting the Department to schedule a site meeting with Departmental officials to identify plants to be replaced that are not in a living and healthy condition. Plants do not meet the living and healthy condition requirement and need replacement if 25 percent or more of the crown is dead, if the main leader is dead, or if an area of the plant has died leaving the character of its form compromised, lopsided, or disfigured. The permittee shall replace, during the planting period, plant material needed to restore the planting to the original quantity, size, and species of plant material. Any desired changes in plant material proposed by the permittee shall be requested in writing to the Department. The Department shall notify the permittee in writing of the approved changes to the replacement plantings;
- (8) At the conclusion of the one-year establishment period, the Department shall issue a written acceptance of the permittee's work and release the bond. Then a one-year observation period shall begin during which the permittee shall maintain stability of the original and replacement plantings to promote their continued livability and healthy growth. The permittee is responsible for replacement of plants not meeting the living and healthy

- condition requirement during the observation period. Replacement shall occur in accordance with the dates of planting as stated in Subparagraph (6) of this Paragraph;
- (9) After the one-year observation period concludes, the Department shall notify the permittee if the permit requirement conditions have been met successfully;
 - (10) Replanted materials may be pruned according to the current edition and subsequent amendments and editions of the American National Standard for Tree Care Operations-Pruning ANSI A300 (Part 1) – Planting and Transplanting; however, topping of trees or other vegetation is not allowed;
 - (11) This Paragraph applies to all replanting plans except mitigating replanting plans as specified in Rules .0603(b)(6) and .0609(b)(4) of this Section. Excess plants or trees furnished and delivered to the Department shall receive care and handling in accordance with digging, loading, transporting, unloading, planting, or otherwise handling plants. The permittee shall exercise care to prevent: windburn; injury to or drying out of the trunk, branches, or roots; or freezing of the plant roots. The solidity of the plant ball shall be preserved. Delivery of excess plant material shall be scheduled with the Department, allowing a minimum three days notification for each delivery. The permittee's responsibility for the furnished excess plants or trees ends at the time the plant material is delivered to, inspected by, and accepted by the Department;
 - (12) For mitigating replanting plans according to Rule .0609(b)(4) of this Section, trees and other plant material for a proposed beautification and replanting plan taken from the Department's landscape design plans and plant lists or prepared and sealed by a North Carolina licensed landscape architect, may be of a projected mature height to reduce visibility limitations to outdoor advertising sign faces. As an alternative to replanting, mitigation by pruning for vegetative crown reduction at an existing beautification project may be allowed, if mutually agreed upon in writing by the Department and permittee. All pruning shall be performed by removing the fewest number of branches necessary to accomplish the desired objective but in consideration of normal seasonal regrowth for the type of vegetation. All pruning for purposes of mitigation shall be in accordance with the current edition and subsequent amendments and editions of the American National Standards for Tree Care Operations-Pruning ANSI A300 (Part 1) – Planting and Transplanting. In the case of vegetation mortality caused by pruning, replacement plantings shall be required according to this Rule;
 - (13) Should the outdoor advertising structure related to the selective vegetation permit be sold or transferred, the new owner or permit holder is subject to the requirements in the General Statutes and rules in this Section, including those regarding planting, establishment, replacement or renovation plantings, minimum living and healthy condition, and observation; and
 - (14) Willful failure to substantially comply with the requirements of this Rule for the beautification and replanting plan shall subject the permittee to penalties prescribed in G.S. 136-133.4.

History Note: Authority G.S. 99E-30; 136-93; 136-93.3; 136-130; 136-133.1; 136-133.4; Temporary Adoption Eff. March 1, 2012; Eff. November 1, 2012; Amended Eff. January 1, 2015; Readopted Eff. June 1, 2020.

19A NCAC 02E .0612 MODIFIED VEGETATION CUT OR REMOVAL ZONE FOR OUTDOOR ADVERTISING

(a) In accordance with G.S. 136-133.1(a1), at the request of a selective vegetation removal permit applicant, the Department may approve plans for the cutting, thinning, pruning, or removal of vegetation outside of the cut or removal zone along acceleration and deceleration ramps. Upon approval of this modified cut zone, the conditions of the initial permit as set forth in Rule .0604 and Rule .0610 of this Section, in addition to the following requirements shall apply:

- (1) the request for a modified vegetation cut or removal zone along acceleration or deceleration ramps shall be noted on the selective vegetation removal application at the time the application is submitted. The same application requirements as set forth in Rule .0608 of this Section shall apply to a modified vegetation cut or removal zone request.
- (2) the application shall include a diagram of the modified cut zone request to indicate the relocated point A to point D line and the relocated point B to point E line. If the request includes removal of existing trees as defined in G.S. 136-133.1(b)-(e), the applicant may indicate the relocated points on the required site plan in lieu of a separate diagram. The applicant shall provide calculations showing that the total aggregate area of cutting or removal equals the maximum allowed in G.S. 136-133.1(a). The applicant shall mark the modified points A, B, D, and E, as applicable, at the site for review by the Department. Modified points A and B along the right-of-way boundary (or fence if there is a control of access fence) are to be marked with visible flagging tape. Modified points C, D, & E along the edge of the pavement of the ramp are to be marked with spray paint, including the actual distances. Such markings for a modified vegetation cut or removal zone under G.S. 136-133.1(a1) shall represent and equal the maximum cut or removal area along the surface of the ground allowed in G.S. 136-133.1(a).
- (3) the Department may authorize a one-time modification of the maximum vegetation cut or removal zone for each requested sign face when the view to the outdoor advertising sign face will be improved. The modified area of vegetation cutting or removal shall cause the point A to point D line and the point B to point E line as set forth in G.S. 136-133.1(a) to be relocated as long as the total aggregate area of cutting or removal does not exceed the maximum allowed for the defined cut or removal zone in G.S. 136-133.1(a). Points A and B shall always remain on the right-of-way line and points D and E shall always remain on the edge of the pavement of the ramp. G.S. 136-133.1(g) regarding cutting vegetation from the private property side along a controlled access fence shall remain applicable from relocated point A of the modified cut zone to relocated point B of the modified cut zone.
- (4) the Department shall establish and document the modified cut or removal zone as the permanent view that shall not be altered for future selective vegetation removal permits.
- (5) If an outdoor advertising site has previously been cut under a valid selective vegetation removal permit, in accordance with G.S. 136-93(b), to the extent that the requirement of not exceeding the total aggregate area of cutting or removal allowed in G.S. 136-133.1(a) cannot be met, the applicant may apply for a modified cut or removal zone no sooner than one year after the most recent cutting activity at the site. Within the one year period, the applicant may, to the extent that the maximum cut or removal zone defined in G.S. 136-133.1(a) was not previously cut, apply that uncut area towards determining the limits of the one-time modified cut request as defined in G.S. 136-133.1(a1) and the rules of this Subchapter.
- (6) Should the outdoor advertising structure subject to a modified cut or removal zone for a selective vegetation removal permit be sold or transferred, the new owner or outdoor advertising permit holder shall be subject to G.S. 136-133.1(a1), and the rules of this Subchapter and shall not alter the modified cut zone as established and documented for a previous sign owner or permit holder.

- (7) Upon denial or conditioning by the Department of Transportation of a modified vegetative cut or removal zone under G.S. 136-133.1(a1), the applicant may file an appeal pursuant to G.S. 136-133.3.

History Note: Authority G.S. 136-18(5); 136-18(7); 136-18(9); 136-93; 136-93.2; 136-130; 136-133.1; 136-133.1 (a1); 136-133.2; 136-133.3; 136-133.4; 136-133.5; 136-127; Eff. January 1, 2015.