



STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

MICHAEL F. EASLEY
GOVERNOR

LYNDO TIPPETT
SECRETARY

January 10, 2007

Mr. S. Ellis Hankins, Executive Director
North Carolina League of Municipalities
Post Office Box 3069
Raleigh, North Carolina 27602-3069

Dear Mr. Hankins:

The North Carolina Department of Transportation is tasked with administering outdoor advertising control as part of the Federal Highway Beautification Act. A recent trend of outdoor advertising within municipalities across the state is the placement of banners along state routes. The banners typically contain the municipality name and/or emblem and advertisements for local businesses. This letter is to advise that both the Federal Highway Administration and Department of Transportation consider these banners to be illegal outdoor advertising. If a municipality is approached by private companies with the prospect of installing these banners, they should not be pursued. Municipalities that have already installed these banners will be receiving notification from the local NCDOT District Engineer that these banners are not allowed and should be removed. There are two scenarios where these banners constitute illegal outdoor advertising.

ADVERTISING SIGNS WITHIN THE RIGHT-OF-WAY

If the banners are within the Department of Transportation's right-of-way, they are illegally erected advertising in accordance with NCAC 02E.0415 and must be removed. The placement of any signs other than regulatory signs within the highway right-of-way is prohibited. Attached is North Carolina Administrative Code 02E .0415 which states, "it shall be unlawful for any person, firm or corporation to erect or place any advertising or other sign, except regulation traffic and warning signs approved by the Department of Transportation, on any highway or the right-of-way thereof. . ."

ILLEGAL OUTDOOR ADVERTISING

Where the banners are not within the Department of Transportation's right-of-way, but are visible from an outdoor advertising controlled route, they are prohibited under G. S. 136-134 and must be removed. Attached is General Statute 136-134 which states, "Any outdoor advertising erected or maintained adjacent to the right-of-way of the interstate or primary highway system...or any outdoor advertising maintained without a permit regardless of the date of erection shall be illegal and shall constitute a nuisance." The website for North Carolina's outdoor advertising regulations is located at:

www.ncdot.org/doh/operations/dp_chief_eng/maintenance/road_main/Resources/default.html.

MAILING ADDRESS:
NC DEPARTMENT OF TRANSPORTATION
CHIEF ENGINEER'S OFFICE
1537 MAIL SERVICE CENTER
RALEIGH NC 27699-1537

TELEPHONE: 919-733-7621
FAX: 919-733-4141

WEBSITE: WWW.DOH.DOT.STATE.NC.US

LOCATION:
TRANSPORTATION BUILDING
1 SOUTH WILMINGTON STREET
RALEIGH NC

LEGAL BANNERS

If the banners are not within the Department of Transportation's right-of-way and are not located on an outdoor advertising controlled route, then they are legally erected and are not regulated by this agency.

If the banners only contain the municipality name and/or emblem, and do not contain any advertising, then they are not considered illegal and do not have to be removed.

The Federal Highway Administration's Office of Real Estate Services has indicated their position as follows: "The banner signs contain commercial advertising and clearly meet the definition of a sign per the FHWA/NCDOT Outdoor Advertising Agreement signed on January 7, 1972. The banners are in violation of federal and state law regarding location, content, size and spacing and must be removed from the right-of-way immediately."

Department of Transportation representatives are in the process of investigating whether this type of improper outdoor advertising exists in municipalities within their respective Districts. If the banners are present and deemed illegal, the municipality will be notified and asked to remove them. In accordance with G.S. 136-134, the municipality has 30 days following receipt of notice to remove the banners, after which time the Department may remove the banners and assess the municipality with any associated costs.

Your cooperation in disseminating this information is appreciated. If you have any questions, please contact Scott Wheeler, NCDOT Outdoor Advertising Coordinator, at (919) 733-3725.

Sincerely,



W. S. Varnedoe, P.E.
Chief Engineer – Operations

WSV/sc

Attachments

cc: Lyndo Tippet, Secretary of Transportation
Susan Coward, Deputy Secretary
Bill Rosser, P.E., State Highway Administrator
Jon Nance, P.E., Director of Field Operations
Lacy Love, P.E., Director of Asset Management
Jennifer Brandenburg, P.E., State Road Maintenance Engineer
Ebony Pittman, Assistant Attorney General
Division Engineers
District Engineers
John Sullivan, P.E., Division Administrator, FHWA