

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE DRH11063-MAF-146 (02/17)

Short Title: Selective Vegetation Removal/State Highways.

(Public)

Sponsors: Representatives LaRoque, T. Moore, Crawford, and Bell (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH CERTAIN STATUTORY STANDARDS FOR SELECTIVE
VEGETATION REMOVAL WITHIN THE RIGHTS-OF-WAY OF THE STATE
HIGHWAY SYSTEM AND FOR THE ERECTION OF OUTDOOR ADVERTISING.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 136-18.7 reads as rewritten:

"§ 136-18.7. Fees.

The fee for a selective vegetation removal permit issued pursuant to ~~G.S. 136-18(5), (7), and (9) is two hundred dollars (\$200.00).~~ G.S. 136-93, 136-133.1, and 136-133.4 is four hundred dollars (\$400.00) per permitted site and is nonrefundable."

SECTION 2. G.S. 136-93 reads as rewritten:

"§ 136-93. Openings, structures, pipes, trees, and issuance of permits.

(a) No opening or other interference whatsoever shall be made in any State road or highway other than streets not maintained by the Department of Transportation in cities and towns, nor shall any structure be placed thereon, nor shall any structure which has been placed thereon be changed or removed except in accordance with a written permit from the Department of Transportation or its duly authorized officers, who shall exercise complete and permanent control over such roads and highways. No State road or State highway, other than streets not maintained by the Department of Transportation in cities and towns, shall be dug up for laying or placing pipes, conduits, sewers, wires, railways, or other objects, and no tree or shrub in or on any State road or State highway shall be ~~planted, trimmed, or removed,~~ planted and no obstruction placed thereon, without a written permit as hereinbefore provided for, and then only in accordance with the regulations of said Department of Transportation or its duly authorized officers or employees; and the work shall be under the supervision and to the satisfaction of the Department of Transportation or its officers or employees, and the entire expense of replacing the highway in as good condition as before shall be paid by the persons, firms, or corporations to whom the permit is given, or by whom the work is done. The Department of Transportation, or its duly authorized officers, may, in its discretion, before granting a permit under the provisions of this section, require the applicant to file a satisfactory bond, payable to the State of North Carolina, in such an amount as may be deemed sufficient by the Department of Transportation or its duly authorized officers, conditioned upon the proper compliance with the requirements of this section by the person, firm, or corporation granted such permit. Any person making any opening in a State road or State highway, or placing any structure thereon, or changing or removing any structure thereon without obtaining a written permit as herein provided, or not in compliance with the terms of such permit, or



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1 otherwise violating the provisions of this section, shall be guilty of a Class 1 misdemeanor:
2 Provided, this section shall not apply to railroad crossings. The railroads shall keep up said
3 crossings as now provided by law.

4 (b) Except as provided in G.S. 136-133.1(f), no vegetation, including any tree, shrub, or
5 underbrush, in or on any right-of-way of a State road or State highway shall be cut, trimmed,
6 pruned, or removed without a written permit issued by the Department in accordance with the
7 rules of the Department not inconsistent with G.S. 136-133.1, 136-133.2, and 136-133.4.
8 Requests for a permit for selective vegetation cutting, thinning, pruning, or removal shall be
9 made by the owner of an outdoor advertising sign or the owner of a business facility to the
10 appropriate roadside environmental engineer in the Division of Highways office on a form
11 required by the Department. For purposes of this section, G.S. 136-133.1, 136-133.2, and
12 136-133.4, the phrase "outdoor advertising" shall mean the outdoor advertising expressly
13 permitted under G.S. 136-129(a)(4) or G.S. 136-129(a)(5). These provisions shall not be used
14 to provide visibility to on-premise signs.

15 (c) For outdoor advertising, vegetation cut or removal limits shall be restricted to a
16 maximum selective vegetation cut or removal zone for each sign face pursuant to the provisions
17 of G.S. 136-133.1.

18 (d) If the application for vegetation cutting, thinning, pruning, or removal is for a site
19 located within the corporate limits of a municipality, the municipality shall be given 30 days to
20 review and provide nonbinding comments on the application if the municipality has previously
21 advised the Department in writing of the desire to review such applications and the name of the
22 local official to whom notice of such application should be directed. Local governments are
23 prohibited from regulating vegetation cutting, trimming, pruning, or removal within the limits
24 of interstate or primary highway rights-of-way by any permittee or other person authorized by
25 the Department, including anyone authorized under G.S. 136-133.1(f)."

26 **SECTION 3.** Article 7 of Chapter 136 of the General Statutes is amended by
27 adding a new section to read:

28 **"§ 136-93.2. Monetary value of trees.**

29 The monetary value for existing trees removed and eligible for reimbursement to the
30 Department as provided in G.S. 136-93 or G.S. 136-133.1 from State rights-of-way shall be
31 determined on an annual basis by the Department. In determining the value of existing trees
32 removed, the average cost per caliper inch shall be based on the lower value of either the
33 average wholesale commercial nursery prices for hardwood and conifer plants, times a 2.5
34 multiplier for installation and warranty or the average cost per caliper inch for tree planting
35 contracts let by the Department in the previous calendar year. The values shall be determined
36 and published by the Department no later than December 15 of each year. The values
37 established pursuant to this section shall be used in calculating the monetary value of trees
38 removed from State rights-of-way beginning January 1 of each year. If the Department fails to
39 publish changes in values by December 15, then the values existing on December 15 shall be
40 applicable to existing trees removed and eligible for reimbursement for the following year."

41 **SECTION 4.** G.S. 136-129 reads as rewritten:

42 **"§ 136-129. Limitations of outdoor advertising devices.**

43 (a) No outdoor advertising shall be erected or maintained within 660 feet of the nearest
44 edge of the right-of-way of the interstate or primary highway systems in this State so as to be
45 visible from the main-traveled way thereof after the effective date of this Article as determined
46 by G.S.136-140, except the following:

- 47 (1) Directional and other official signs and notices, which signs and notices shall
48 include those authorized and permitted by Chapter 136 of the General
49 Statutes, which include but are not limited to official signs and notices
50 pertaining to natural wonders, scenic and historic attractions and signs
51 erected and maintained by a public utility, electric or telephone membership

1 corporation, or municipality for the purpose of giving warning of or
2 information as to the location of an underground cable, pipeline or other
3 installation.

4 (2) Outdoor advertising which advertises the sale or lease of property upon
5 which it is located.

6 (2a) Outdoor advertising which advertises the sale of any fruit or vegetable crop
7 by the grower at a roadside stand or by having the purchaser pick the crop on
8 the property on which the crop is grown provided: (i) the sign is no more
9 than two feet long on any side; (ii) the sign is located on property owned or
10 leased by the grower where the crop is grown; (iii) the grower is also the
11 seller; and (iv) the sign is kept in place by the grower for no more than 30
12 days.

13 (3) Outdoor advertising which advertises activities conducted on the property
14 upon which it is located.

15 (4) Outdoor advertising, in conformity with the rules and regulations
16 promulgated by the Department of Transportation, located in areas which are
17 zoned industrial or commercial under authority of State law.

18 (5) Outdoor advertising, in conformity with the rules and regulations
19 promulgated by the Department of Transportation, located in unzoned
20 commercial or industrial areas.

21 (b) No two outdoor advertising structures permitted by G.S. 136-129(a)(4) and
22 G.S. 136-129(a)(5) shall be erected on interstates or other routes with fully controlled access
23 less than 500 feet apart on the same side of the highway if the structures are erected on such
24 routes outside the limits of an incorporated municipality. No two outdoor advertising structures
25 permitted by G.S. 136-129(a)(4) and G.S. 136-129(a)(5) shall be erected on routes without
26 fully controlled access less than 300 feet apart on the same side of the highway if the structures
27 are erected on such routes outside the limits of an incorporated municipality, or 100 feet apart
28 on the same side of the highway if erected on such routes without fully controlled access within
29 the limits of an incorporated municipality. The minimum distance between structures shall be
30 measured along the nearest edge of the main-travel way between points directly opposite the
31 signs along each side of the highway.

32 (c) Automatic changeable facing signs shall be permitted in areas described in
33 G.S. 136-129(a)(4) and G.S. 136-129(a)(5) on any interstate or primary highway system route
34 under the following conditions:

35 (1) The sign does not contain or display flashing, intermittent, or moving lights,
36 including animated or scrolling advertising.

37 (2) The changeable facing remains in a fixed position for at least eight seconds.

38 (3) If a message is changed electronically, it must be accomplished within an
39 interval of two seconds or less.

40 (4) The sign is not placed within 1,500 feet of another automatic changeable
41 facing outdoor advertising sign, permitted pursuant to G.S. 136-129(a)(4) or
42 G.S. 136-129(a)(5), on the same side of the highway.

43 (5) The distance 1,500 feet shall be measured along the nearest edge of the
44 main-travel way and between points directly opposite the signs along each
45 side of the highway.

46 (6) The sign must contain a default design that will freeze the sign in one
47 position if a malfunction occurs.

48 (7) For purposes of this subsection, an "automatic changeable facing sign" shall
49 mean a sign, display, or device which changes the message or copy on the
50 sign facing electronically by movement or rotation of panels or slats.

1 A legally conforming outdoor advertising structure or an outdoor advertising structure that
2 is nonconforming only to local ordinances may be modified or reconstructed to an automatic
3 changeable facing upon compliance with the standards established in this subsection.

4 (d) No electrical utility permit shall be denied to any outdoor advertising sign described
5 in G.S. 136-129(a)(4) and G.S. 136-129(a)(5) for which there is in effect a valid permit issued
6 by the Department and is otherwise compliant with technical utility standards.

7 (e) The fee for outdoor advertising structures specified in subdivisions (4) and (5) of
8 subsection (a) of this section shall not exceed one hundred fifty dollars (\$150.00) for the initial
9 fee and ninety dollars (\$90.00) for the annual renewal fee. Thirty dollars (\$30.00) of each initial
10 and annual renewal fee collected pursuant to this section shall be used by the Department for
11 highway beautification projects."

12 **SECTION 5.** Article 11 of Chapter 136 of the General Statutes is amended by
13 adding a new section to read:

14 **"§ 136-133.1. Outdoor advertising vegetation cutting or removal.**

15 (a) The owner of an outdoor advertising sign permitted under G.S. 136-129(a)(4) or
16 G.S. 136-129(a)(5) who obtains a selective vegetation removal permit, and the owner's
17 designees, may cut, thin, prune, or remove vegetation in accordance with this section,
18 G.S. 136-93(b), 136-133.2, and 136-133.4. The maximum cut or removal zone for vegetation
19 for each sign face shall be determined as follows:

20 (1) The point located on the edge of the right-of-way that is the closest point to
21 the centerline of the sign face shall be point A.

22 (2) The point located 200 feet down the right-of-way line in the direction of the
23 sign viewing zone shall be point B.

24 (3) The point on the edge of the pavement of the travel way, including
25 acceleration and deceleration ramps, that is the closest to the centerline of
26 the sign shall be point C.

27 (4) The point 50 feet down the edge of the pavement in the direction of the sign
28 viewing zone from point C shall be point D.

29 (5) The point 400 feet down the edge of the pavement in the direction of the
30 sign viewing zone from point C shall be point E.

31 (6) Lines drawn from point A to point D and from point B to point E shall
32 define the limits of the vegetation cut or removal area.

33 (b) Vegetation permitted to be cut, thinned, pruned, or removed shall be defined as any
34 tree, shrub, or underbrush within the zone created by points A, B, E, and D. Any existing tree
35 that was in existence at the time that an outdoor advertising structure was erected shall only be
36 eligible for removal in accordance with subsections (c) and (d) of this section. Native
37 dogwoods and native redbuds shall be preserved. For the purposes of this section, an existing
38 tree is defined as a tree that had a diameter of four inches or greater as measured six inches
39 from the ground at the time that the outdoor advertising structure was erected. An outdoor
40 advertising sign is considered erected when the sign is completely constructed with a sign face.

41 (c) The applicant for a selective vegetation removal permit shall submit to the
42 Department a site plan locating thereon any trees existing at the time that the outdoor
43 advertising sign was erected, as defined in subsection (b) of this section, that are requested to
44 be cut, thinned, pruned, or removed, and noting their species and total caliper inches. The
45 applicant shall also tag, with highly visible material or flagging, any tree that is, at the time of
46 the application for a selective vegetation removal permit, greater than four inches in diameter
47 as measured six inches from the ground and requested to be cut, thinned, pruned, or removed.
48 The selective vegetation removal request may be investigated on-site by Department personnel
49 and a representative of the applicant. In the event that the Department disputes the accuracy of
50 the existing tree information on the site plan noted above, the Department shall notify the
51 applicant in writing and may request the following:

- 1 (1) A tree survey.
- 2 (2) That the applicant amends the site plan.
- 3 (3) That the applicant deletes the trees in dispute from the desired cutting.

4 If a notice of disputed tree information is received from the Department, the applicant can
5 either employ the services of a North Carolina licensed landscape architect or certified arborist
6 to perform a tree survey, amend the site plan, or notify the Department in writing that any or all
7 of the disputed trees are deleted from the application. If the applicant selects a tree survey, the
8 landscape architect or certified arborist will submit a report under seal that contains a tree
9 inventory of existing trees in the removal zone for the outdoor advertising structure and include
10 the age of any tree that existed at the time that the sign was erected. The report will categorize
11 tree species and include a site map of sufficient detail and dimensions. A tree survey will not be
12 required for subsequent applications to cut, thin, prune, or remove trees at the same site for
13 trees that have been previously permitted. Any dispute relating to whether or not the tree
14 existed at the time that the outdoor advertising sign was erected shall be conclusively resolved
15 by information in the report from the licensed landscape architect or certified arborist.

16 (d) Trees existing at the time the outdoor advertising sign was erected may only be
17 removed within the zone created in subsection (a) above if the applicant satisfies one of the
18 following two options selected by the applicant (i) reimbursement to the Department pursuant
19 to G.S. 136-93.2 or (ii) trees that existed at the time of the erection of the sign may be removed
20 if the applicant agrees to remove two nonconforming outdoor advertising signs for each sign at
21 which removal of existing trees is requested. The surrendered nonconforming signs must be
22 fully disassembled before any removal of existing trees is permitted and shall not be eligible for
23 future outdoor advertising permits in perpetuity.

24 (e) Tree branches within a highway right-of-way that encroach into the zone created by
25 points A, C, and D may be cut or pruned. Except as provided in subsection (f) of this section,
26 no person, firm, or entity shall cut, trim, prune, or remove or otherwise cause to be cut,
27 trimmed, pruned, or removed, vegetation that is in front of, or adjacent to, outdoor advertising
28 and within the limits of the highway right-of-way for the purpose of enhancing the visibility of
29 outdoor advertising unless permitted to do so by the Department in accordance with this
30 section, G.S. 136-93(b), 136-133.2, and 136-133.4.

31 (f) Notwithstanding any law to the contrary, the owner of an outdoor advertising sign
32 defined by subsection (a) of this section or the owner's designees may, working only from the
33 private property side of the fence, without charge and without obtaining a selective vegetation
34 removal permit, cut, trim, prune, or remove any tree or other vegetation except for native
35 dogwoods or native redbuds that is (i) less than four inches in diameter at the height of the
36 controlled access fence, (ii) located within 200 feet on either side of the existing sign location
37 as defined by point A and point B in G.S. 136-133.1(a)(1) and (2), and (iii) a distance of three
38 feet from a controlled access fence within the limits of the highway right-of-way. The activities
39 permitted by this subsection must be performed from the private property owner side of the
40 controlled access fence and with the consent of the owner of the land that is used to access said
41 fence.

42 (g) The Department may revoke an outdoor advertising permit for the unlawful
43 destruction or illegal cutting of vegetation within the right-of-way of any interstate or primary
44 highway only if the unlawful destruction or illegal cutting occurred within 500 feet of either
45 side of the corresponding sign location measured along the edge of pavement of the main-travel
46 way of the nearest controlled route and was willfully caused by the applicant, owner of the
47 sign, owner of the sign permit or any of their agents, or employees, and there is substantial
48 material evidence that the unlawful destruction or illegal cutting of vegetation would create,
49 increase, or improve a view to the outdoor advertising sign for passing motorists from the
50 main-travel way of the nearest controlled route."

1 **SECTION 6.** Article 11 of Chapter 136 of the General Statutes is amended by
2 adding a new section to read:

3 **"§ 136-133.2. Issuance or denial of a selective vegetation removal permit.**

4 (a) Except as provided in G.S. 136-133.1(f), permits to remove vegetation may be
5 granted for outdoor advertising locations that have been permitted for at least two years prior to
6 the date of application. The Department shall approve or deny an application submitted
7 pursuant to this section, including the fee required by G.S. 136-18.7 and all required
8 documentation, within 30 days of the receipt of an application for a selective vegetation
9 removal permit. If written notice of approval or denial is not given to the applicant within the
10 30-day period, then the application shall be deemed approved. If the application is denied, the
11 Department shall advise the applicant, in writing, by registered or certified mail, return receipt
12 requested, addressed to the party to be noticed, and delivering to the addressee, the reasons for
13 the denial.

14 (b) The application shall be denied by the Department if one of the following applies:

- 15 (1) The application is for the opening of a view to an outdoor advertising sign
16 which has been declared illegal, is currently the subject of litigation, or the
17 outdoor advertising sign owner has received written notification of an
18 investigation by the Department for impermissible activity.
- 19 (2) The application is for the opening of a view to an outdoor advertising sign
20 that was obscured from view at the time of erection of the sign.
- 21 (3) Removal of vegetation will adversely affect the safety of the traveling
22 public.
- 23 (4) Trees, shrubs, or other vegetation of any sort that are requested to be cut,
24 thinned, pruned, or removed were planted in accordance with a local, State,
25 or federal beautification or environmental project but only to the extent that
26 such planting was done adjacent to and prior to the erection of the outdoor
27 advertising sign, the visibility of which is sought to be enhanced.
- 28 (5) Trees, shrubs, or other vegetation of any sort that are requested to be cut,
29 thinned, pruned, or removed were planted in conjunction with a designed
30 noise barrier, but only to the extent that such planting was done adjacent to
31 and prior to the erection of the outdoor advertising sign, the visibility of
32 which is sought to be enhanced.
- 33 (6) The applicant, or his designee, has not performed satisfactory work
34 authorized by previous permits issued under the provisions of this section.
35 The Department may not deny an application for a permit if the work
36 authorized by previous permits issued pursuant to this section was performed
37 by a landscape architect or certified arborist.
- 38 (7) The selective vegetation removal, cutting, or pruning involves opening of a
39 view to a junkyard.
- 40 (8) Unlawful destruction or illegal cutting of vegetation as defined in
41 G.S. 136-133.1(g) has occurred within the past five years of the date of filing
42 an application with the Department for a selective vegetation removal
43 permit."

44 **SECTION 7.** Article 11 of Chapter 136 of the General Statutes is amended by
45 adding a new section to read:

46 **"§ 136-133.3. Appeals of selective vegetation removal permit decisions.**

47 (a) An applicant for a selective vegetation removal permit issued pursuant to
48 G.S. 136-133.2 may appeal a decision of the Department pertaining to the denial or
49 conditioning of a permit for selective vegetation removal pursuant to the provisions of this
50 section.

1 (b) Within 30 days of service of the Department's decision to deny or condition a
2 selective vegetation removal permit issued pursuant, the applicant shall submit a written appeal
3 to the Secretary of Transportation setting forth with particularity the facts and arguments upon
4 which the appeal is based. The appeal shall be sent to the Secretary by registered or certified
5 mail, return receipt requested, addressed to the Secretary, and delivering to the addressee, with
6 a copy to the Department official who issued the decision.

7 (c) Upon receipt of the written appeal, the Secretary of Transportation shall review the
8 written appeal and the Department's decision, as well as any available documents, exhibits, or
9 other evidence bearing on the appeal, and shall render the agency's final decision, supported by
10 findings of fact and conclusions of law. The final agency decision shall be served upon the
11 appealing party by registered or certified mail, return receipt requested, addressed to the
12 applicant, and delivering to the addressee, within 90 days after the Secretary receives the
13 written appeal. A copy of the agency's final decision shall also be delivered to the Department
14 official who issued the initial decision.

15 (d) A person aggrieved by a decision made pursuant to this section may seek judicial
16 review of the final agency decision pursuant to G.S. 136-134.1."

17 **SECTION 8.** Article 11 of Chapter 136 of the General Statutes is amended by
18 adding a new section to read:

19 **"§ 136-133.4. Selective vegetation removal permits.**

20 (a) Selected vegetation within the approved limits shall be cut, thinned, pruned, or
21 removed by the permittee or his agent in accordance with accepted International Society of
22 Arboriculture (ISA) standards.

23 (b) Permits are valid for a period of one year. The permittee may cut, thin, prune, or
24 remove vegetation more than one time per year. A 48-hour notification shall be provided to the
25 Department by the permittee before entering the right-of-way.

26 (c) The permittee, or his agent, shall not impede the flow of traffic on any highway
27 while performing vegetation removal authorized by a permit. Access to the work site on
28 controlled access highways must be gained without using the main-travel way of the highway.
29 The division roadside environmental engineer shall determine the traffic control signage that
30 may be required. The permittee shall furnish, erect, and maintain the required signs as directed
31 by the division roadside environmental engineer. The permittee, or his agent, shall wear safety
32 vests that conform to OSHA standards while performing the work.

33 (d) Any damage to vegetation designated to remain at the site, to highway fences, signs,
34 paved areas, or other facilities shall be repaired or replaced by the permittee to the condition
35 prior to the occurrence of the damage caused by the permittee or his agent. All trimmings, laps,
36 and debris shall be removed from the right-of-way and disposed of in areas provided by the
37 permittee. No burning or burying of trimmings, laps, or debris shall be permitted on the
38 highway right-of-way. When chipping is used to dispose of trimmings, chips may be neatly
39 spread on a right-of-way at locations which the Department determines will not be harmful to
40 the environment or affect traffic safety.

41 (e) Willful failure to substantially comply with all the requirements specified in the
42 selective vegetation removal permit, unless otherwise mutually resolved by the Department and
43 the permittee, shall result in a five-year moratorium for vegetation removal at the site, a
44 summary revocation of the outdoor advertising permit if such willful failure meets the
45 standards in G.S. 136-133.1(g), payment of Department investigative costs, and forfeiture of
46 any applicable performance bond as determined by the Secretary. The moratorium shall begin
47 upon execution of a settlement agreement or entry of a final disposition in the case."

48 **SECTION 9.** Article 11 of Chapter 136 of the General Statutes is amended by
49 adding a new section to read:

50 **"§ 136-133.5. Denial of a permit for proposed outdoor advertising.**

1 (a) When a district engineer determines that a proposed outdoor advertising structure
2 would not conform to the standards of outdoor advertising as set out in the Outdoor Advertising
3 Control Act, the district engineer shall refuse to issue a permit for that proposed outdoor
4 advertising structure.

5 (b) When a violation of the Outdoor Advertising Control Act has been discovered, the
6 district engineer shall notify the permit applicant by registered or certified mail, return receipt
7 requested, addressed to the party to be noticed, and delivering to the addressee, in writing the
8 reason for the denial and the statutes or rules forming the basis for the denial and include a
9 copy of the Act.

10 (c) The Department shall not issue permits for new outdoor advertising signs at a sign
11 location for a period of five years where the unlawful destruction or illegal cutting of
12 vegetation has occurred within 500 feet on either side of the proposed sign location and as
13 measured along the edge of the pavement of the main travel way of the nearest controlled route.
14 For the purposes of this section, unlawful destruction or illegal cutting is defined as the
15 destruction or cutting of trees, shrubs, or other vegetation on the State-owned or maintained
16 rights-of-way by anyone other than the Department or its authorized agents, or without written
17 permission of the Department.

18 (d) Before a permit is denied pursuant to subsection (c) of this section, the Department
19 shall determine and disclose to the applicant substantial material evidence that the unlawful
20 destruction or illegal cutting was done by the applicant or the owner of the proposed sign or
21 their agents or employees and was performed for the purpose of creating, increasing, or
22 improving a view to a proposed outdoor advertising sign from the main-travel way of the
23 nearest controlled route.

24 (e) The five-year period shall begin on the date the Department executes a settlement
25 agreement or final disposition of the case is entered.

26 (f) Subject to subsection (d) of this section, the five-year prohibition period for a new
27 sign permit shall apply to all sign locations, including the following:

28 (1) Sign locations where the unlawful destruction or illegal cutting of vegetation
29 occurs prior to the time the location becomes a conforming location.

30 (2) Sign locations where a revocation of an existing permit has been upheld and
31 a sign has been removed.

32 (3) Sign locations where the unlawful destruction or illegal cutting occurs prior
33 to receipt of an outdoor advertising permit.

34 (4) Sign locations where the unlawful destruction or illegal cutting occurs
35 following receipt of an outdoor advertising permit application, but prior to
36 the issuance of the permit by the Department.

37 (g) The Department shall not issue permits for new outdoor advertising signs at a sign
38 location where existing trees, if they were to reach the average mature size for that species,
39 would make the proposed sign faces, when erected, not completely visible from the viewing
40 zone. "Existing trees" are those trees that at the time of the permit application are four inches or
41 greater in diameter as measured six inches from the ground. "Viewing zone" means the area
42 which is 500 feet as measured along the edge of the main-travel way of the controlled route on
43 each side of the proposed sign structure which will have a sign face.

44 (h) An outdoor advertising permit requested pursuant to G.S. 136-129(a)(4) shall not be
45 issued to a location if the zoning to commercial or industrial zones was adopted within one year
46 prior to the filing of the permit application and is not part of comprehensive zoning or
47 constitutes spot zoning, which, for purposes of this subsection, shall be defined as zoning
48 designed primarily for the purpose of permitting outdoor advertising signs and in an area which
49 would not normally permit outdoor advertising. Zoning shall not be considered "primarily for
50 the purpose of permitting outdoor advertising signs" if the zoning would allow for the property
51 to be used for more than one principal commercial or industrial use, other than outdoor

1 advertising, and the size of the land being zoned can practically support such commercial or
2 industrial uses.

3 (i) Outdoor advertising permits shall not be issued to a location for a period of 12
4 months prior to the proposed letting of a new construction contract that may affect the spacing
5 or location requirements for an outdoor advertising structure until the project is completed. The
6 prohibition authorized by this subsection shall not extend for a period longer than 18 months.
7 Priority in spacing shall be given by the Department to the first submitted application for an
8 outdoor advertising permit at the location.

9 (j) Outdoor advertising permits shall not be issued for a location on a North Carolina or
10 United States route designated as a scenic byway."

11 **SECTION 10.** This act becomes effective October 1, 2011, and applies to permit
12 applications or renewals submitted on or after that date and to offenses occurring on or after
13 that date.