

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H.B. 581
Apr 5, 2017
HOUSE PRINCIPAL CLERK

H

D

HOUSE BILL DRH40330-MLF-72F (02/07)

Short Title: Revisions to Outdoor Advertising Laws. (Public)

Sponsors: Representatives Lewis, Saine, Goodman, and Hanes (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO PROMOTE UNIFORMITY OF REGULATION AND MODERNIZATION OF
OUTDOOR ADVERTISING, TO INCREASE PERMIT FEES FOR OUTDOOR
ADVERTISING, AND TO ESTABLISH A REASONABLE TIME FRAME FOR
MAKING AGENCY DECISIONS REGARDING PERMITS AND APPEALS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 136-127 reads as rewritten:

"§ 136-127. **Declaration of policy.**

The General Assembly hereby finds and declares that outdoor advertising is a legitimate commercial use of private property adjacent to roads and ~~highways but~~ highways. The General Assembly also finds and declares that off-premises outdoor advertising is an important and distinct medium of communication for effectively displaying commercial and noncommercial messages and is an established segment of the national economy that serves to promote and protect investments in commerce and industry. As a result, off-premises outdoor advertising is a use of land that should be preserved and its modernization fostered in order to enable new technology and more inventive ways of communicating. The General Assembly further finds that the erection and maintenance of off-premises outdoor advertising signs and devices in areas in the vicinity of the right-of-way of the interstate and primary highway systems within the State should be controlled and ~~regulated~~ regulated, as provided in this Article, in order to promote the safety, health, welfare and convenience and enjoyment of travel on and protection of the public investment in highways within the State, to prevent unreasonable distraction of operators of motor vehicles and to prevent interference with the effectiveness of traffic regulations and to promote safety on the highways, to attract tourists and promote the prosperity, economic well-being and general welfare of the State, and to preserve and enhance the natural scenic beauty of the highways and areas in the vicinity of the State highways and to promote the reasonable, orderly and effective display of such signs, displays and devices, and to secure the right of validly permitted off-premises outdoor advertising to be clearly viewed by the traveling public. It is the intention of the General Assembly to provide and declare herein a public policy and statutory basis for the establishment of a uniform system for the regulation and control of off-premises outdoor advertising-advertising throughout the State."

SECTION 2. G.S. 136-128 reads as rewritten:

"§ 136-128. **Definitions.**

As used in this Article:

- (1) Area zoned commercial or industrial. – An area which is zoned for business, industry, commerce, or trade pursuant to a State law or local zoning ordinance or regulation, regardless of how labeled. This term does not



* D R H 4 0 3 3 0 - M L F - 7 2 F *

- 1 include "zoning designed primarily for the purpose of permitting outdoor
2 advertising signs," as that term is defined in G.S. 136-133.5(e).
- 3 (2) Changeable message sign. – An off-premises advertising sign that displays a
4 series of messages at intervals by digital display, mechanical rotating panels,
5 or other electronic or automated means.
- 6 (3) Customary use. – Compliance with the specific outdoor advertising
7 standards for size, lighting, and spacing in areas zoned industrial or
8 commercial under authority of State law or in unzoned industrial or
9 commercial areas, as the standards and areas are described and defined in the
10 agreement dated January 7, 1972, as amended, and entered into between the
11 State and the United States Department of Transportation under
12 G.S. 136-138 to implement the provisions of the federal Highway
13 Beautification Act of 1965.
- 14 (4) "Erect" means to Erect or erection. – To construct, build, raise, assemble,
15 place, affix, attach, create, paint, draw, or in any other way bring into being
16 or establish. This term does not include the repair, maintenance, or
17 reconstruction of an off-premises outdoor advertising, as authorized under
18 G.S. 136-131.2, or the relocation of an off-premises outdoor advertising
19 sign, as authorized under applicable State law.
- 20 (1a)(5) "Illegal sign" means one Illegal sign. – One which was erected and/or
21 maintained in violation of State law.
- 22 (1b)(6) "Information center" means an Information center. – An area or site
23 established and maintained at safety rest areas for the purpose of informing
24 the public of places of interest within the State and providing such other
25 information as the Department of Transportation may consider desirable.
- 26 (2)(7) "Interstate system" means that Interstate system. – That portion of the
27 National System of Interstate and Defense Highways located within the
28 State, as officially designated, or as may hereafter be so designated, by the
29 Department of Transportation, or other appropriate authorities and are also
30 so designated by interstate numbers. As to highways under construction so
31 designated as interstate highways pursuant to the above procedures, the
32 highway shall be a part of the interstate system for the purposes of this
33 Article on the date the location of the highway has been approved finally by
34 the appropriate federal authorities.
- 35 (8) Maintain or maintenance. – To allow to exist in accordance with applicable
36 State law.
- 37 (9) Main-traveled way or main travel way. – The through-traffic lanes of a
38 highway, but not including frontage roads, auxiliary lanes, and ramps.
- 39 (2a)(10) "Noneonforming sign" shall mean a Nonconforming sign. – A sign which
40 was lawfully erected but which does not comply with the provisions of State
41 law or State rules adopted and regulations passed by the Department of
42 Transportation at a later date in accordance with this Article, or which
43 which, due to changed conditions, later fails to comply with State law or
44 State rules adopted or regulations due to changed conditions. Illegally
45 erected or maintained passed by the Department of Transportation in
46 accordance with this Article. Illegal signs are not nonconforming signs.
- 47 (3)(11) "Outdoor advertising" means any Outdoor advertising. – Any outdoor sign,
48 display, light, device, figure, painting, drawing, message, plaque, poster,
49 billboard, or any other thing which is designed, intended or used to advertise
50 or inform, any part of the advertising or information contents of which is

1 visible from any place on the main-traveled way of the interstate or primary
2 system, whether the same be permanent or portable installation.

3 (12) Off-premises outdoor advertising. – The use of land consisting of a sign
4 erected and maintained for the purpose of (i) displaying, advertising,
5 identifying, or directing attention to business products, operations, or
6 services sold or offered at a site other than the site where the sign is erected
7 or (ii) promoting an attraction, activity, idea, opinion, or other
8 noncommercial messaging that is unrelated to the site where the sign is
9 erected. A sign meeting this definition is commonly known as a billboard,
10 where space is commonly made available or rented to advertisers to display
11 their messages to the traveling public.

12 ~~(4)(13)~~ "Primary systems" means the Primary systems. – The federal-aid primary
13 system in existence on June 1, 1991, and any highway which is not on that
14 system but which is on the National Highway System. As to highways under
15 construction so designated as primary highways pursuant to the above
16 procedures, the highway shall be a part of the primary system for purposes
17 of this Article on the date the location of the highway has been approved
18 finally by the appropriate federal or State authorities.

19 ~~(5)(14)~~ "Safety rest area" means an Safety rest area. – An area or site established and
20 maintained within or adjacent to the highway right-of-way by or under
21 public supervision or control, for the convenience of the traveling public.

22 (15) Sign face. – The part of the sign, including trim and background, which
23 contains the message or informative content. For purposes of measuring the
24 maximum area or height of a sign under this Article, embellishments or
25 extended advertising shall be excluded.

26 (16) Sign location or site. – A location or site of an outdoor advertising sign
27 measured to the closest 1/100th of a mile, in conformance with the
28 Department of Transportation methods of measurement for all State roads.

29 ~~(6)(17)~~ "State law" means a State law. – A State constitutional provision or statute,
30 or an ordinance, a rule or regulation enacted or adopted by a State agency or
31 political subdivision of a State pursuant to a the State Constitution or a
32 statute.

33 ~~(7)(18)~~ "Unzoned area" shall mean an Unzoned commercial or industrial area. – An
34 area where there is no zoning in effect. effect that is within 660 feet of the
35 nearest edge of the right-of-way of the interstate or primary system, in which
36 there is at least one commercial or industrial activity that meets the criteria
37 set forth in G.S. 136-130.1.

38 ~~(8)(19)~~ "Urban area" shall mean an Urban area. – An area within the boundaries or
39 limits of any incorporated municipality having a population of five thousand
40 or more as determined by the latest available federal census.

41 ~~(9)(20)~~ "Visible" means capable Visible. – Capable of being seen (whether or not
42 legible) without visual aid by a person of normal visual acuity."

43 **SECTION 3.** Article 11 of Chapter 136 of the General Statutes is amended by
44 adding a new section to read:

45 **"§ 136-130.1. Unzoned commercial or industrial area criteria for outdoor advertising**
46 **signs.**

47 (a) Criteria. – To qualify an area unzoned commercial or industrial for purposes of this
48 Article, one or more commercial or industrial activities shall meet all of the following criteria
49 prior to submitting an outdoor advertising permit application:

50 (1) The activity shall maintain all necessary business licenses as may be
51 required by applicable State law.

- 1 (2) The property used for the activity shall be listed for ad valorem taxes with
2 the county and municipal taxing authorities as required by law.
- 3 (3) The activity shall have all basic utilities, including electricity, telephone,
4 water, and sewer or septic service.
- 5 (4) The activity shall have direct or indirect vehicular access and be a generator
6 of vehicular traffic.
- 7 (5) The activity shall have a building designed with a permanent foundation,
8 built or modified for its current commercial or industrial use, and the
9 building must be located within 660 feet from the nearest edge of the
10 right-of-way of the controlled route. Where a mobile home unit or
11 recreational vehicle is used as a business or office, the following conditions
12 and requirements also apply:
- 13 a. The mobile home unit or recreational vehicle shall meet the State
14 Building Code criteria for commercial or business use.
- 15 b. A self-propelled vehicle shall not qualify for use as a business or
16 office for the purpose of these rules.
- 17 c. All wheels, axles, and springs shall be removed.
- 18 d. The unit or vehicle shall be permanently secured on piers, pad, or
19 foundation.
- 20 e. The unit or vehicle shall be tied down in accordance with State or
21 local requirements.
- 22 (6) The activity must be in active operation a minimum of six months prior to
23 the date of submitting an application for an outdoor advertising permit.
- 24 (7) The activity shall be open to the public during hours that are normal and
25 customary for that type of activity in the same or similar communities but
26 not less than 20 hours per week.
- 27 (8) One or more employees shall be available to serve customers whenever the
28 activity is open to the public.
- 29 (9) The activity shall be visible and recognizable as commercial or industrial
30 from the main-traveled way of the controlled route. An activity is visible
31 when that portion on which the permanent building designed, built, or
32 modified for its current commercial use can be clearly seen 12 months a year
33 by a person of normal visual acuity while traveling at the posted speed on
34 the main-traveled way of the controlled route adjacent to the activity. An
35 activity is recognizable as commercial or industrial when its visibility from
36 the main-traveled way of the controlled route is sufficient for the activity to
37 be identified as commercial or industrial.
- 38 (b) Guidelines. – When making a determination as to whether an activity meets the
39 criteria set forth in subsection (a) of this section, both of the following guidelines shall apply:
- 40 (1) Each side of the controlled route shall be considered separately.
- 41 (2) All measurements shall begin from the outer edges of regularly used
42 buildings, parking lots, storage, or processing areas of the commercial or
43 industrial activity, not from the property line of the activity, and shall be
44 along the nearest edge of the main-traveled way of the controlled route.
- 45 (c) Nonqualifying Activities. – For purposes of qualifying an area as unzoned
46 commercial or industrial in accordance with subsection (a) of this section, none of the
47 following activities shall be considered:
- 48 (1) Outdoor advertising structures.
- 49 (2) On-premise or on-property outdoor advertising signs, if the on-premise or
50 on-property sign is the only part of the commercial or industrial activity that
51 is visible from the main-traveled way.

- 1 (3) Agricultural, forestry, ranching, grazing, farming, and related activities,
2 including temporary wayside fresh produce stands.
3 (4) Transient or temporary activities.
4 (5) Activities not visible and recognizable as commercial or industrial from the
5 traffic lanes of the main-traveled way.
6 (6) Activities more than 660 feet from the nearest edge of the right-of-way.
7 (7) Activities conducted in a building principally used as a residence.
8 (8) Railroad tracks and minor sidings.
9 (9) Any outdoor advertising activity or any other business or commercial
10 activity carried on in connection with an outdoor advertising activity.
11 (10) Illegal junkyards, as defined in G.S. 136-146, and nonconforming junkyards,
12 as described in G.S. 136-147."

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

14 "**§ 136-129. Limitations of outdoor advertising devices.**

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

- 19 ...
- 20 (4) Outdoor advertising, in conformity with customary use and the rules and
21 regulations promulgated by the Department of Transportation,
22 Transportation pursuant to G.S. 136-130, located in areas which are zoned
23 industrial or commercial-commercial or industrial by the State, or a political
24 subdivision of the State, under authority of State law.
25 (5) Outdoor advertising, in conformity with customary use and the rules and
26 regulations promulgated by the Department of Transportation,
27 Transportation pursuant to G.S. 136-130, located in unzoned commercial or
28 industrial areas."

29 **SECTION 5.** G.S. 136-129.2 is amended by adding a new subsection to read:

30 "(d) Nothing in this Article shall be construed to alter or supersede the requirements and
31 limitations set forth in Article 10 of Chapter 113A of the General Statutes."

32 **SECTION 6.** G.S. 136-130 reads as rewritten:

33 "**§ 136-130. Regulation of advertising.**

34 (a) The Department of Transportation is authorized to promulgate rules and regulations
35 in the form of ordinances governing any of the following:

- 36 (1) The erection and maintenance of outdoor advertising permitted in
37 G.S. 136-129, G.S. 136-129.
38 (2) The erection and maintenance of outdoor advertising permitted in
39 G.S. 136-129.1, G.S. 136-129.1.
40 (2a) The erection and maintenance of outdoor advertising permitted in
41 G.S. 136-129.2, G.S. 136-129.2.
42 (3) The specific requirements and procedures for obtaining a permit for outdoor
43 advertising as required in G.S. 136-133—this Article and for the
44 administrative procedures for appealing a decision at the agency level to
45 refuse to grant or in revoking a permit previously issued, and issued.

46 ...

47 (b) Notwithstanding any law to the contrary, the Department of Transportation shall not
48 deny or revoke a permit for outdoor advertising required under this Article on the basis that the
49 outdoor advertising fails to conform to ordinances, rules, or regulations of a municipality,
50 county, local or regional zoning authority, or other political subdivision of the State, except for
51 the proposed erection of a new outdoor advertising sign at a new sign location or site that fails

1 to comply at the time of denial with ordinances, rules, or regulations of a municipality, county,
2 local or regional zoning authority, or other political subdivision of the State that are consistent
3 with G.S. 136-131.2(b)."

4 **SECTION 7.** G.S. 136-131.2 reads as rewritten:

5 "**§ 136-131.2. Modernization of outdoor advertising devices.**

6 (a) ~~No~~ Notwithstanding any law to the contrary, no municipality, county, local or
7 regional zoning authority, or other political subdivision shall, without the payment of just
8 compensation as provided for in G.S. 136-131.1, regulate or prohibit the ~~repair~~ repair,
9 maintenance, alteration, or reconstruction of any outdoor advertising for which there is in effect
10 a valid permit issued by the Department of Transportation at the time of the repair,
11 maintenance, alteration, or reconstruction so long as for multi-faced signs conforming to
12 customary use, the cumulative square footage of its—the advertising surface area is not
13 increased. As used in this section, reconstruction includes the changing of an existing multipole
14 outdoor advertising structure to a new monopole structure. increased and no sign face exceeds
15 672 square feet; provided, however, the size of a sign face or faces of another off-premises
16 outdoor advertising sign that is permanently taken down in the same jurisdiction within 120
17 days of a sign being reconstructed may be combined to increase the cumulative advertising
18 surface area of the reconstructed sign, not to exceed 672 square feet for any sign face. One
19 additional sign face may be added to a single-face sign conforming to customary use so long as
20 the additional face does not exceed the size of the existing sign face. As used in this section,
21 "repair, maintenance, alteration, or reconstruction" includes the following:

22 (1) The changing of an existing multi-pole outdoor advertising structure to a
23 new monopole structure.

24 (2) The changing of wooden poles to steel poles.

25 (3) The increase in the height of the sign, not to exceed 80 feet measured from
26 the adjoining road grade or base of the sign, whichever allows for the
27 greatest visibility, except that a sign may be 50 feet above the top of a sound
28 wall or noise barrier constructed between the sign and the main-traveled
29 way.

30 (4) The changing of an outdoor advertising sign to a changeable message sign
31 under subsection (c) of this section.

32 (b) Nothing in this section shall prohibit a municipality, county, local or regional zoning
33 authority, or other political subdivision from using its zoning authority to regulate (i) the initial
34 erection of an outdoor advertising sign that has not been relocated pursuant to applicable law or
35 (ii) outdoor advertising in which a permit issued by the Department of Transportation pursuant
36 to this Article has been voluntarily cancelled or lawfully revoked and any appeals under
37 G.S. 136-134.1 have been exhausted. No decision of an administrative official charged with
38 enforcement of a local ordinance, rule, or regulation shall be effective against an owner or
39 operator of outdoor advertising for any activity authorized by this section, and no appeal under
40 G.S.153A-345.1 or G.S. 160A-388 shall be required to protect the outdoor advertiser's rights
41 under this section.

42 (c) Any outdoor advertising adjacent to a highway on the National System of Interstate
43 and Defense Highways or a highway on the federal-aid primary highway system for which
44 there is in effect a valid permit issued by the Department of Transportation, including any sign
45 relocated pursuant to applicable law, shall be permitted to be altered or reconstructed to a
46 changeable message sign, subject to the limitations set forth in subsection (a) of this section and
47 all of the following requirements:

48 (1) The sign is conforming to customary use. A changeable message sign that
49 complies with the requirements set forth in this subsection shall not be
50 considered flashing, intermittent, or moving and shall otherwise satisfy the
51 lighting restrictions set forth in the agreement entered into pursuant to

1 G.S. 136-138 between the State and the United States Department of
2 Transportation to implement the provisions of the federal Highway
3 Beautification Act of 1965.

4 (2) The changeable message sign shall not alternate displays more frequently
5 than once every six seconds, with a maximum change time of two seconds.

6 (3) The changeable message sign shall not display video, continuous scrolling
7 messages, or animation.

8 (4) The changeable message sign shall contain a default design that either
9 freezes the message display in one position, displays a full blank screen, or
10 turns off if a malfunction occurs.

11 (5) The light produced does not exceed 0.3 footcandles over ambient light levels
12 as measured at the following distances:

13 a. 150 feet, if the display surface is 12 feet by 25 feet.

14 b. 200 feet, if the display surface is 10.5 feet by 36 feet.

15 c. 250 feet, if the display surface is 14 feet by 48 feet.

16 (6) The changeable message sign structure shall be a steel monopole.

17 (7) The changeable message sign shall not be located within 1,000 feet of any
18 other changeable message sign permitted by the Department of
19 Transportation that is facing the same direction of traffic on the same side of
20 the highway. The 1,000-foot distance shall be measured along the nearest
21 edge of the main-traveled way and between points directly opposite the
22 applicable signs along each side of the highway.

23 (d) The Department of Transportation may adopt or enforce rules that restrict the rights
24 set forth in this section for outdoor advertising that does not conform to customary use and
25 whose failure to conform to customary use cannot be eliminated through any repair,
26 maintenance, alteration, relocation, or reconstruction authorized under this section.

27 (e) The Department of Transportation shall not require additional permits, nor revoke
28 any existing permits, for any action taken pursuant to this section. The Department of
29 Transportation may require within 30 days of the completion of any action taken pursuant to
30 this section an addendum to an existing permit showing or describing the changes to the
31 conditions of the outdoor advertising sign. The rights set forth in this section shall attach to a
32 permit issued by the Department of Transportation and shall expire with the voluntary
33 cancellation of the permit or after the permit has been lawfully revoked and any appeals
34 pursuant to G.S. 136-134.1 have been exhausted. The rights set forth in this section shall not
35 run with the land."

36 **SECTION 8.** G.S. 136-133 reads as rewritten:

37 **"§ 136-133. Permits required.**

38 (a) No person shall erect or maintain any outdoor advertising within 660 feet of the
39 nearest edge of the right-of-way of the interstate or primary highway system, except those
40 allowed under G.S. 136-129, subdivisions (2) and (3) in this Article, or beyond 660 feet of the
41 nearest edge of the right-of-way of the interstate or primary highway system, except those
42 allowed under G.S. 136-129.1, subdivisions (2) and (3), without first obtaining a permit from
43 the Department of Transportation or its agents pursuant to the procedures set out by rules
44 adopted by the Department of Transportation. The permit shall be valid until revoked for
45 nonconformance with this Article or rules adopted by the Department of Transportation. Any
46 person aggrieved by the decision of the Department of Transportation or its agents in refusing
47 to grant or in revoking a permit may appeal the decision in accordance with the rules adopted
48 by the Department of Transportation pursuant to this Article to the Secretary of Transportation
49 who shall make the final decision ~~on the agency appeal to affirm or reject the appeal within 90~~
50 days after the Secretary receives the agency appeal. Failure to provide written notice to the
51 aggrieved party of the Secretary's decision to affirm or reject the agency appeal within the

1 90-day period shall result in the appeal being affirmed, entitling the aggrieved party to issuance
2 of the outdoor advertising permit or reversal of the Department of Transportation's decision to
3 revoke.

4 (a1) The Department of Transportation shall have the authority to charge permit fees to
5 defray the costs of administering the permit procedures under this Article. The fees for
6 directional signs as set forth in G.S. 136-129(1) and G.S. 136-129.1(1) shall not exceed a forty
7 dollar (\$40.00) initial fee and a thirty dollar (\$30.00) annual renewal fee. The fees for outdoor
8 advertising structures, as set forth in G.S. 136-129(4) and (5) shall not exceed a ~~one hundred~~
9 ~~twenty dollar (\$120.00) two-hundred-forty-dollar (\$240.00) initial fee and fee, a sixty dollar~~
10 ~~(\$60.00) seventy-five-dollar (\$75.00) annual renewal fee-fee, and a two-hundred-forty-dollar~~
11 ~~(\$240.00) fee for an addendum to an existing outdoor advertising permit for (i) relocating~~
12 ~~outdoor advertising beyond the existing sign location or site where the outdoor advertising was~~
13 ~~located immediately prior to the relocation or (ii) altering or reconstructing to a changeable~~
14 ~~message sign, in accordance with G.S. 136-131.2.~~

15 ...
16 (c) No electrical or building permit shall be denied to an outdoor advertising sign
17 described in G.S. 136-129(4) and G.S. 136-129(5) for which the Department has issued a
18 permit which has not been revoked, and the electrical or building permit is otherwise compliant
19 with technical utility or building code standards. No building permit or local building
20 inspection authorized under Chapter 153A or 160A of the General Statutes shall be required for
21 off-premises advertising if the proposed construction is evaluated by a professional engineer,
22 acting within the scope of the engineer's authority, and the construction is certified by the
23 engineer as being in compliance with the State Building Code."

24 **SECTION 9.** G.S. 136-133.5 reads as rewritten:

25 **"§ 136-133.5. Denial of a permit for proposed outdoor advertising.**

26 ...
27 (e) An outdoor advertising permit requested pursuant to ~~G.S. 136-129(a)(4)~~
28 G.S. 136-129(4) shall not be issued to a location if the zoning to commercial or industrial zones
29 was adopted within one year prior to the filing of the permit application and is not part of
30 comprehensive zoning or constitutes spot zoning, which, for purposes of this subsection, shall
31 be defined as zoning designed primarily for the purpose of permitting outdoor advertising signs
32 and in an area which would not normally permit outdoor advertising. Zoning shall not be
33 considered "primarily for the purpose of permitting outdoor advertising signs" if the zoning
34 would permit more than one principal commercial or industrial use, other than outdoor
35 advertising, and the size of the land being zoned can practically support any one of the
36 commercial or industrial uses.

37 ...
38 (h) The Department shall approve or deny an application for a permit for a new outdoor
39 advertising sign within 30 days of the receipt of an application, including any fee required by
40 G.S. 136-133 and any other required documentation. Failure to provide written notice to the
41 applicant of the Department's decision to approve or deny the application within the 30-day
42 period shall result in the appeal being affirmed, entitling the applicant to issuance of the permit
43 for a new outdoor advertising structure."

44 **SECTION 10.** G.S. 136-134.2 reads as rewritten:

45 **"§ 136-134.2. Notification requirements.**

46 (a) Notice of Application Denial or Nonconformance of Structure. – When the
47 Department of Transportation notifies a permit applicant, permit holder, or the owner of an
48 outdoor advertising structure that the application is ~~denied, the permit revoked, denied~~ or the
49 structure is in violation of this Article or rules issued pursuant to this Article, it shall do so in
50 writing by certified mail, return receipt requested, and shall include a copy of this Article and
51 all rules issued pursuant to this Article.

1 **(b) Notice of Revocation.** – At least 30 days prior to the effective date of a revocation
2 of an outdoor advertising permit, the Department of Transportation shall provide notice of the
3 impending revocation to the permit holder in accordance with the process set forth in
4 subsection (a) of this section. Within that 30-day period, the Department of Transportation shall
5 allow the permit holder to cure the reason for revocation or provide information for the
6 Department of Transportation to consider prior to the revocation. The Department of
7 Transportation shall consider any information provided pursuant to this subsection prior to
8 revocation of the relevant permit.

9 **(c) Notice of Cancellation.** – Unless plainly and expressly waived in writing by the
10 permit holder, and at least 30 days prior to the effective date of a cancellation of an outdoor
11 advertising permit, the Department of Transportation shall provide notice of the impending
12 cancellation to the permit holder in accordance with the process set forth in subsection (a) of
13 this section.

14 **(d) Tolling of Review Hearing.** – If the Department of Transportation fails to include a
15 copy of this Article and the rules, the time period during which the permit applicant, permit
16 holder, or owner of the outdoor advertising structure has to request a review hearing shall be
17 tolled until the Department of Transportation provides the required materials."

18 **SECTION 11.** G.S. 136-138 reads as rewritten:

19 **"§ 136-138. Agreements with United States authorized.**

20 The Department of Transportation is authorized to enter into agreements with other
21 governmental authorities—the United States government, or any department or agency thereof,
22 relating to the control of outdoor advertising in areas adjacent to the interstate and primary
23 highway systems, including the establishment of information centers and safety rest areas, and
24 to take action in the name of the State to comply with the terms of the agreements. Any
25 revisions to the agreement dated January 7, 1972, and entered into between the State and the
26 United States Department of Transportation to implement the provisions of the federal
27 Highway Beautification Act of 1965 shall require the approval of the General Assembly in
28 order to be effective. Notwithstanding any law to the contrary, the Department shall not enter
29 into any agreement or otherwise transfer or delegate the Department's regulatory authority set
30 forth in this Article to any other governmental authority."

31 **SECTION 12.** G.S. 136-18(9) is amended by adding a new sub-subdivision to
32 read:

33 "d. To the extent allowed by federal law, and as permitted by the local
34 government or the designated authority, outdoor advertising on or
35 with any transit shelter or rail or bus facility."

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

38 **"§ 136-140.2. Public notification plan.**

39 **(a)** The Department of Transportation shall work together with owners of changeable
40 message signs, the North Carolina Division of Emergency Management, the Department of
41 Public Safety, the Secretary of State, the State Highway Patrol, the North Carolina Center for
42 Missing Persons, the Federal Emergency Management Agency, and any other federal, State, or
43 local agencies the Department of Transportation determines may be of assistance to develop a
44 public notification plan for the purpose of using changeable message signs to display
45 notifications to the traveling public related to public safety and emergencies. Public
46 notifications include information about Silver Alerts, Amber Alerts, inclement weather, natural
47 disasters, and other emergencies.

48 **(b)** The public notification plan established under subsection (a) of this section shall be
49 in writing and shall, at a minimum, address all of the following:

50 **(1)** The criteria to be applied in determining when it is appropriate to request
51 that an owner of a changeable message sign display a public notification.

1 (2) The procedures used to determine the expiration of a notification and to
2 recall the request once the information is no longer needed."

3 **SECTION 14.** G.S. 87-1 reads as rewritten:

4 "**§ 87-1. "General contractor" defined; exceptions.**

5 ...

6 (b) This section shall not apply to the following:

7 ...

8 (3) Any person engaged in the business of farming who constructs or alters a
9 building on land owned by that person and used in the business of farming,
10 when the building is intended for use by that person after completion.

11 (4) Any person engaged in the construction of outdoor advertising signs subject
12 to Article 11 of Chapter 136 of the General Statutes."

13 **SECTION 15.** Notwithstanding any provision of Article 2A of Chapter 150B of
14 the General Statutes, no later than six months after the effective date of this act, the Department
15 of Transportation shall adopt rules to implement the provisions of this act. The Department of
16 Transportation shall use the following procedure to adopt rules to implement the provisions of
17 this act:

18 (1) At least 15 business days prior to adopting a rule, submit the rule and a
19 notice of public hearing to the Codifier of Rules. The Codifier of Rules shall
20 publish the proposed rule and the notice of public hearing on the Internet
21 within five business days.

22 (2) At least 15 business days prior to adopting a rule, notify persons on the
23 mailing list maintained pursuant to G.S. 150B-21.2(d) and any other
24 interested parties of the Department of Transportation's intent to adopt a rule
25 and of the public hearing.

26 (3) Accept written comments on the proposed rule for at least 15 business days
27 prior to adoption of the rule.

28 (4) Hold at least one public hearing on the proposed rule no less than five days
29 after the rule and notice have been published.

30 A rule adopted in accordance with this section becomes effective on the first day of
31 the month following the month the Department of Transportation adopts the rule and submits
32 the rule to the Codifier of Rules for entry into the North Carolina Administrative Code. Any
33 rule adopted more than six months after the effective date of this act shall comply with the
34 requirement of Article 2A of Chapter 150B of the General Statutes.

35 **SECTION 16.** Any rule or policy adopted by the Department of Transportation
36 that does not comply with the provisions of this act shall be null, void, and without effect.

37 **SECTION 17.** If any provision of this act or its application is held invalid, the
38 invalidity does not affect other provisions or applications of this act that can be given effect
39 without the invalid provisions or applications, and to this end, the provisions of this act are
40 severable.

41 **SECTION 18.** Section 13 of this act becomes effective October 1, 2017. Section 7
42 of this act is effective when it becomes law and applies to repairs, maintenance, alterations, and
43 reconstructions on or after that date. G.S. 136-133(a), as amended by Section 8 of this act, is
44 effective when it becomes law and applies to appeals filed on or after that date.
45 G.S. 136-133(a1), as enacted by Section 8 of this act, is effective when it becomes law and
46 applies to permits issued on or after that date. Section 9 of this act is effective when it becomes
47 law and applies to applications received on or after that date. Section 10 of this act is effective
48 when it becomes law and applies to revocations and cancellations on or after that date. Section
49 11 of this act is effective when it becomes law and applies to revisions made on or after that
50 date. The remainder of this act is effective when it becomes law.