

**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.*