

434 Fayetteville Street
Suite 1900
Raleigh, NC 27601
919-715-4000
nclm.org

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N.C. Department of Transportation
ATTN: Rule Making Coordinator
1501 Mail Service Center
Raleigh, NC 27699-1501

To whom it may concern:

The N.C. League of Municipalities (NCLM) is a statewide advocacy organization representing over 540 cities and towns across North Carolina. Due to the presence of state roads in most of these jurisdictions, N.C. municipal officials work closely with N.C. Department of Transportation (NCDOT) personnel in regulating activities in and around the public right-of-way, including regulation of outdoor advertising. These local officials appreciate the opportunity to comment through NCLM on the proposed rules contained in 19A NCAC 02E Section .0201 DEFINITIONS FOR OUTDOOR ADVERTISING CONTROL.

Broadly, this rule contains administrative updates to the existing definitions that apply throughout the entire outdoor advertising rule set. However, municipal officials hold concerns regarding two updates that potentially are not congruent with state statute.

For the first instance, it is important to note that N.C. Gen. Stat. 136-128(6) defines “State law” to include local ordinances or regulations. Local ordinances often regulate alterations and modernization of signs, and the type of alterations allowed at the local level usually hinge on whether a sign is deemed “conforming” or “non-conforming.” Therefore, the definition of “conforming sign” in .0201(5) takes on great importance to local implementation of outdoor advertising ordinances. The proposed changes to the definition include a general reference to state statutes, but in order to eliminate confusion, local officials suggest a reference in the proposed definition to specifically include their local ordinances, rewritten as: “(5) Conforming Sign: A sign legally erected in a zoned or unzoned commercial or industrial area ~~which that~~ currently meets State law, as defined in N.C. Gen. Stat. 136-128, and all current legal requirements for the Rules of this Section and Article 11 of Chapter 136 of NC General Statutes for erecting a new sign at that site.

For the second recommendation—and for the same reasons as listed above—city officials suggest that the proposed definition of “nonconforming sign” in .0201(16) also include a specific reference to the term “State law,” as defined in state statute:

~~“(16) Nonconforming Sign: A non-conforming sign sign, as defined in G.S. 136-128(2a), shall include which was lawfully erected but which does not comply with the provisions of State law or rules passed at a later date or which later fails to comply with State law or rules due to changed conditions. [Also includes] a sign legally erected prior to the effective date of the Outdoor Advertising Control Act or prior to the addition of a route to the interstate or federal-aid primary system or National Highway System in a zoned or unzoned commercial or industrial area which does not meet all current State laws, as defined in N.C. Gen. Stat. 136-128, for erecting a new sign at that site. For purposes of the outdoor advertising rules, nonconforming signs also include those signs which have become nonconforming pursuant to 19A NCAC 02E .1002(d) on scenic byways which were part of the interstate or federal-aid primary highway system as of June 1, 1991, or which are or become a part of the National Highway System.~~

NCLM strongly supports the rights of municipalities to determine the character and development within their local communities, and so retaining the ability to implement local preferences with respect to the placement and appearance of outdoor advertising is paramount. Thank you for considering these suggestions to clarify municipalities’ ability to maintain local control regarding outdoor advertising practices, and to conform NCDOT rules with existing state statute.

Sincerely,

Erin L. Wynia

Chief Legislative Counsel