



Richard Terrell  
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STATE OF NORTH CAROLINA  
DEPARTMENT OF TRANSPORTATION

MICHAEL F. EASLEY  
GOVERNOR

LYNDO TIPPETT  
SECRETARY

February 1, 2007

Mr. Roger L. Stancil, Town Manager  
Town of Chapel Hill  
405 Martin Luther King, Jr  
Chapel Hill, NC 27514

Subject: Illegal Banners

Dear Mr. Stancil:

During 2006 the Department became aware that banners were being placed within some communities on or adjacent to roads on the State Maintenance System. The message on the banners typically identified the community with an emblem or message of the sponsoring business included. As a result of these illegal banners (signs) the Chief Engineer for the Department of Transportation issued a letter to the North Carolina League of Municipalities stating the Department's position and responsibilities relative to the General Statues of the State of North Carolina (see attachment).

To ensure complete dissemination of the information we are contacting all villages, towns, and cities within Division Seven and requesting your assistance in meeting the objectives and requirements of the General Statues referenced within the Chief Engineer's letter. If you have any illegal banners you are requested to contact this office with your plans to remove the subject banners within thirty days of the receipt of this letter. Should you have any questions, please feel free to contact this office at 336-334-3192.

Respectfully Yours,

A handwritten signature in black ink, appearing to read "J. M. Mills".

J. M. Mills, P.E.  
Division Engineer

JMM/EMC:jm  
Atta.

Cc: E. M. Cowan, P.E., Deputy Division Engineer  
T. J. Dyer, P.E., Division Maintenance Engineer



STATE OF NORTH CAROLINA  
DEPARTMENT OF TRANSPORTATION

MICHAEL F. EASLEY  
GOVERNOR

DIVISION OF HIGHWAYS

LYNDO TIPPETT  
SECRETARY

December 20, 2006

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

Subject: Illegal Banners

Dear Mr. Hankins,

The 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 is to advise that 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 District Engineer that these banners are illegal 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 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 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 web site for North Carolina's Outdoor Advertising regulations is located at [www.ncdot.org/doh/operations/dp\\_chief\\_eng/maintenance/road\\_main/Resources/default.html](http://www.ncdot.org/doh/operations/dp_chief_eng/maintenance/road_main/Resources/default.html).

**LEGAL BANNERS**

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

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

The Federal Highway Administration (FHWA) 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." Sullivan, III, PE, J. (2006, October 26).

Department representatives are in the process of investigating whether this type of illegal 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 Mr. Scott Wheeler, NCDOT Outdoor Advertising Coordinator at (919) 733-3725.

Sincerely,

W. S. Varnedoe, PE, Chief Engineer  
North Carolina Department of Transportation

WSV/sc  
attachments

cc: Secretary Lyndo Tippet  
Susan Coward  
Jon Nance , P.E.  
L. D. Love, P.E.  
J. P. Brandenburg, P.E.  
Ebony Pittman  
Division Engineers  
District Engineers