

## SECTION .1100 – TOURIST-ORIENTED DIRECTIONAL SIGN PROGRAM

### 19A NCAC 02E .1101 TOURIST-ORIENTED DIRECTIONAL SIGN (TODS) PROGRAM

(a) The Tourist-Oriented Directional Sign Program, hereinafter "Program," offered by the North Carolina Department of Transportation, hereinafter "Department," provides directional signing for eligible tourist attractions located on the state non-freeway system which is located within the right-of-way at intersections as specified in the Manual on Uniform Traffic Control Devices (MUTCD).

(b) Requests for information may be directed to the State Traffic Engineer, Division of Highways, Department of Transportation, 1592 Mail Service Center, Raleigh, North Carolina 27699-1592.

(c) Applications for participation in the program shall be accepted by the Division Engineer who is responsible for the county where the attraction is located.

*History Note: Authority G.S. 136-130; 136-140.15; 136-140.16; 136-140.17; 136-140.18; 136-140.19; 143B-346; 143B-348; 143B-350(f);  
Temporary Adoption Eff. January 1, 2003;  
Eff. August 1, 2004.*

### 19A NCAC 02E .1102 DEFINITIONS

(a) For purposes of the rules in this Section, the following definitions shall apply:

- (1) Panel - A TODS for the purpose of displaying the business identification of and directional information for eligible attractions.
- (2) Trailblazer – A TODS for the purpose of guiding tourists from the mainline intersection to the attraction.
- (3) Attraction – Classes of businesses or facilities as described in G.S. 136-140.15(b)(2) and (3).

(b) In applying the definitions of "tourist-oriented business" in G.S. 136-140.15, the following additional definition of terms shall be used:

- (1) "Substantial Portion" - as used to describe the part of a business's products or services which are of interest to tourists, shall mean at least 30 percent of the products and services are unique to tourists' interests; and
- (2) "Significant Interest" - as used to describe the actual interest that the business may have to tourists and is defined as of such unique interest to tourists, above and beyond the interest that the business's products and services may generate among residents of the immediate area, that tourists account for at least 40 percent of the total revenue of the business.

(c) In applying the definitions of "tourist-oriented facility" in G.S. 136-140.15, the following additional definition of terms shall be used:

- (1) "Major Portion" - 51 percent;
- (2) "Immediate Area" - located within a 20 mile radius of the business or facility; and
- (3) "Residing" - living in a particular place for at least four months of a given calendar year.

*History Note: Authority G.S. 136-89.56; 136-130; 136-140.15; 136-140.16; 136-140.17; 136-140.18; 136-140.19; 143B-346; 143B-348; 143B-350(f);  
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### 19A NCAC 02E .1103 LOCATION OF TODS

The Department shall control the erection and maintenance of official signs giving specific information of interest to the traveling public in accordance with following criteria:

- (1) The Department shall limit the placement of TODS panels to highways other than fully controlled access highways that are either in rural unincorporated areas or in towns or cities with a population of less than 40,000.
- (2) The Department shall only erect panels at intersections (at-grade). An at-grade intersection is an intersection which is controlled by stop signs or traffic signals. Trailblazers shall be installed when an attraction is not located on a state highway and further direction is needed to guide the tourist from the intersection to the attraction.
- (3) Panels shall be located in a manner to take advantage of natural terrain and to have the least impact on the scenic environment.
- (4) A separate sign panel shall be provided on the intersection approach for each eligible attraction. Panels shall be allowed in each direction only when lateral spacing is available. The number of TODS panels shall not exceed a total of six per approach with only one attraction name on each TODS panel.

- (5) The center of the mainline TODS intersection shall not be more than five driving miles from the eligible attraction and shall not be placed where prohibited by local ordinance.
- (6) If an attraction is not directly on a State highway, it is eligible for TODS panels only if both of the following requirements are met:
  - (a) It is located on a street that directly connects with a state maintained road.
  - (b) It is located so that only one TODS Trailblazer, placed on a state maintained road, will lead the tourist to the attraction.
- (7) Sign panels shall not be placed immediately in advance of the attraction if its on-premise advertising signs are readily visible from the highway.
- (8) TODS panels shall be located at least 200 feet in advance of the main intersection. Signs shall be spaced at least 200 feet apart and at least 200 feet from other traffic control devices. TODS panels shall not be located more than one-half (0.5) mile from the center of the main intersection and shall not be placed in the signing sequence for any other prior intersections.
- (9) Existing warning, regulatory, guide or other official highway signs shall take precedence over TODS.

*History Note: Authority G.S. 136-89.56; 136-130; 136-140.15; 136-140.16; 136-140.17; 136-140.18; 136-140.17; 136-140.18; 136-140.19; 143B-346; 143B-348; 143B-350(f); Temporary Adoption Eff. January 1, 2003; Eff. August 1, 2004.*

#### **19A NCAC 02E .1104 ELIGIBILITY FOR PROGRAM**

- (a) An attraction is eligible to participate in the Program if it meets the criteria in G.S. 136-140-16.
- (b) The maximum distance that an attraction shall be located from the intersection containing TODS panels is five miles. Said distance shall be measured from the center of the intersection coincident with the centerline of a non-controlled access highway route or its median, along the roadways to the respective attraction. The point to be measured to for each attraction is a point on the roadway that leads to the main entrance to the attraction that is perpendicular to the corner of the nearest wall of the attraction to the intersection. The wall to be measured to shall be that of the main building or office. Walls of sheds (concession stands, storage buildings, separate restrooms,) whether or not attached to the main building shall not be used for the purposes of measuring. If the office (main building) of an attraction is located more than two-tenths (0.2) mile from a public road on a private road or drive, the distance to the office along the said drive or road shall be included in the overall distance measured to determine whether or not the attraction qualifies for TODS signing. The office shall be presumed to be at the place where the services are provided.
- (c) Interested parties may show that they meet the definition of "tourist-oriented business" or tourist oriented facility" in either of two ways:
  - (1) An applicant shall certify, through the use of scientific independent surveys, business records, bank records, tax returns, or any other documents which would be admissible in a court proceeding that the applicant or facility meets each aspect of the definition of "tourist oriented business" or the definition of "tourist oriented facility." The applicant has an affirmative burden to provide documentation in support of its showing; or
  - (2) An applicant may show that it is one of the following, which are presumed to be "tourist oriented businesses" or "tourist oriented facilities:"
    - (A) Amusement Park: a permanent area open to the general public including at least three of the following activities: roller coasters, entertainment rides, games, swimming, concerts, and exhibitions;
    - (B) Cultural Center: a facility for cultural events including museums, outdoor theaters, or facilities that exhibit antiques or items painted or crafted by local artists;
    - (C) Facility Tour Location: a facility such as a factory, institution or a plant which conducts tours at least four times daily on a regularly scheduled year-round basis;
    - (D) Historic Site or District: a structure or area listed on the national or state historic register. An historic site must be open to the public at least three months out of each year. Historic districts shall provide the public with a single, central location, such as a self-serve kiosk, welcome center or history museum where motorists can obtain information regarding the district;
    - (E) Recreation area: an attraction which provides tourists with opportunities such as golfing (excluding miniature golf, driving ranges, chip and putt areas, and indoor golf) horseback riding, surfing, bicycling, boating, fishing, picnicking, hiking or rafting and where, either at the attraction or within 10 miles, all necessary equipment can be rented;
    - (F) Natural Phenomenon: a naturally occurring area which is of interest to the general public, such as a waterfall or cavern;

- (G) Zoological/Botanical Parks and Farms: a facility in which living animals or plants are kept and exhibited to the public; and
- (H) Agricultural Facility: a facility that provides tours, on-site samples of agricultural products, or produce stands.

(d) "Tourist oriented businesses" or "tourist oriented facilities" shall be businesses or facilities that are a destination for tourists and must provide products or services that meet tourists' primary needs or interests. Shopping malls, furniture stores, drug stores, movie theaters, community business districts, appliance stores, automobile or truck dealerships or garages, houses of worship, real estate offices, livestock sales facilities, sand and gravel facilities, grocery stores, gas or vehicle service stations, bars, lounges, adult establishments, adult video, book, or novelty stores, medical facilities, and restaurants are not considered either "tourist oriented businesses" or "tourist oriented facilities."

*History Note: Authority G.S. 136-89.56; 136-130; 136-140.15; 136-140.16; 136-140.17; 136-140.18; 136-140.19; 143B-346; 143B-348; 143B-350(f);  
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**19A NCAC 02E .1105 COMPOSITION OF SIGNS**

- (a) No TODS panel shall be displayed which would mislead or misinform the traveling public.
- (b) Any messages that interfere with, imitate, or resemble any official warning or regulatory traffic sign, signal or similar device are prohibited.
- (c) Each specific TODS panel shall include only information that is related to that specific attraction.
- (d) TODS panel and trailblazer designs shall be in conformance with the standards as specified in the MUTCD and approved by the Department prior to fabrication and shipment.

*History Note: Authority G.S. 136-89.56; 136-130; 136-140.15; 136-140.16; 136-140.17; 136-140.18; 136-140.19; 143B-346; 143B-348; 143B-350(f);  
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**19A NCAC 02E .1106 FEES**

- (a) The annual fee for each TODS panel or Trailblazer shall be two hundred dollars (\$200.00).
- (b) All participating businesses shall pay the annual fee prior to installation of the TODS panel(s).
- (c) The annual fee shall be paid by check or money order and is due in advance of the period of service covered by said fee. Failure to pay a fee when due is grounds for removal of the TODS panel and termination of the contract.

*History Note: Authority G.S. 136-89.56; 136-130; 136-140.15; 136-140.16; 136-140.17; 136-140.18; 136-140.19; 143B-348; 143B-350(f);  
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**19A NCAC 02E .1107 CONTRACTS WITH THE DEPARTMENT**

- (a) The Department shall perform all installation, maintenance, removal and replacement of TODS panel(s).
- (b) Applications shall be submitted to the Division Engineer for the Division in which the attraction is located, and must include a layout of the proposed TODS.
- (c) Upon approval of the application for participation in the TODS program, the applicant must agree to submit the required annual fee within 30 days of notification.
- (d) No TODS panel shall be displayed which, in the opinion of the Department, is unsightly, badly faded, or in a state of dilapidation. The Department shall remove, replace, or mask any such TODS panel. Ordinary maintenance services shall be performed by the Department.
- (e) The Department shall remove the TODS panel upon failure to pay the annual fee or for violation of any provision of the rules in this Section and the TODS panel shall be removed.
- (f) When a TODS panel is removed, it shall be taken to the Division Traffic Services Shop of the Division in which the attraction is located. The participant shall be notified in writing of such removal and given 30 days in which to retrieve his sign. After 30 days, the TODS panel shall become the property of the Department and shall be disposed of as the Department shall see fit.
- (g) Should the Department determine that trailblazing to an attraction is desirable as described in 19A NCAC 02E .1103(6), it shall be done in conformance with the standards for a TODS trailblazer as defined in 19A NCAC 02E .1102(2). The participant

shall furnish trailblazing signs required by the Department. In such trailblazer installations, only one TODS trailblazer shall be used per each TODS intersection signed.

(h) Should an attraction qualify for TODS signage at two intersections, the TODS panel shall be erected at the nearest intersection. If the participant desires signing at the second intersection also, it may be so signed provided it does not prevent another attraction from being signed.

(i) An attraction under construction shall not be allowed to apply for participation in the program if its participation would prevent an existing open attraction applicant from participating, unless the open attraction has turned down a previous opportunity offered by the Department to participate in the program as provided in the program. After approval of an application, an attraction under construction shall be allowed priority participation over another eligible attraction that opens for business prior to the time specified for opening in the application by the attraction under construction.

(j) The closest interested eligible attractions at an intersection up to a total of six TODS panels per approach to submit signed contracts shall be allowed TODS panels at that approach. Should the number of attractions at an approach increase to more than the maximum number of TODS panels allowed at that approach and a closer interested eligible participant requests installation of its TODS panels, the farthest qualifying participant shall be removed at the renewal date. Program participants may renew their respective contracts annually provided the attraction maintains program eligibility. An attraction with more than one sign displayed on any intersection approach leg shall have the additional sign(s) removed at the end of a contract period when other eligible attractions apply for space on that approach.

(k) An attraction which has been closed for remodeling or repair shall be granted one year to complete the construction, renovation, or restoration, provided the annual fee is paid and the same type of qualifying service is provided after reopening, even if under a different business name.

(l) Should a participating attraction cease to be in compliance with G.S. 136-140.16 and the rules in this Section, the Division Engineer shall notify the participant that it shall be given 30 days to bring the attraction into compliance or its TODS panel(s) shall be removed. If the attraction is removed and later applies for reinstatement, this request shall be handled in the same manner as a request from a new applicant. When a participating attraction is determined not to be in compliance with G.S. 136-140.16 and the rules in this Section for a second time within two years of the first determination of non-compliance, its TODS panel(s) shall be permanently removed. If an attraction under construction is not open on the specified date in the agreement, the participant shall be given 30 days notification to request the TODS panel installation or forfeit its panel. Future applications shall be treated in the same manner as a new applicant.

(m) The transfer of ownership of an attraction for which an agreement has been lawfully executed shall not affect the validity of the agreement for the TODS agreement provided that the appropriate Division Engineer is given notice in writing of the transfer of ownership within 30 days of the actual transfer and the application is updated.

(n) The Department shall not maintain waiting lists for the program.

*History Note: Authority G.S. 136-89.56; 136-130; 136-140.15; 136-140.16; 136-140.17; 136-140.18; 136-140.19; 143B-346; 143B-348; 143B-350(f);  
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#### **19A NCAC 02E .1108 APPEAL OF DECISION**

(a) Any applicant who is refused, or any participating attraction which has its contract terminated and signs removed, that believes the program is not being administered in accord with the rules in this Section, may appeal the decision of the Division Engineer to the Secretary of the Department of Transportation. The decision of the Secretary is final.

(b) The applicant or participant shall notify the Division Engineer of his decision to appeal by certified mail, return receipt requested, within 10 days of the receipt of the decision.

(c) Within 20 days from the time of submitting his notice of appeal, the applicant or participant shall submit to the Secretary a written appeal setting forth with particularity the facts upon which its appeal is based.

(d) Within 30 days from the receipt of the written appeal or within such additional time as may be agreed to between the Secretary and the appealing party, the Secretary shall make an investigation of the appeal. The Secretary shall then make findings of fact and conclusions pertaining to the appeal on behalf of the Department and the findings and conclusions shall be served upon the appealing party by certified mail, return receipt requested.

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