

Guidance Document

Pursuant to Neb. Rev. Stat. §84-901.03

This guidance document is advisory in nature but is binding on an agency until amended by such agency. A guidance document does not include internal procedural documents that only affect the internal operations of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules and regulations made in accordance with the Administrative Procedure Act. If you believe that this guidance document imposes additional requirements or penalties on regulated parties, you may request a review of the document.



Good Life. Great Journey.

DEPARTMENT OF TRANSPORTATION

GUIDANCE DOCUMENT FOR VEGETATION TRIMMING AND REMOVAL ON STATE RIGHT-OF-WAY FOR OUTDOOR ADVERTISING SIGNS ADJACENT TO THE STATE HIGHWAY SYSTEM

NOTICE: This guidance document is advisory in nature but is binding on an agency until amended by such agency. A guidance document does not include internal procedural documents that only affect the internal operations of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules and regulations made in accordance with the Administrative Procedure Act. If you believe that this guidance document imposes additional requirements or penalties on regulated parties, you may request a review of the document.



TABLE OF CONTENTS

PURPOSE	2
AUTHORITY	2
SCOPE	2
001 WORK ZONE IDENTIFICATION AND FLAGGING	3
002 REMOVAL AND/OR TRIMMING REQUIREMENTS AND CONDITIONS	4
003 RESTRICTIONS	5
004 WORK COMPLETION AND SITE RESTORATION.....	6
005 PROTECTION OF STATE PROPERTY	7
006 PERMIT	8
007 PERMIT FEE	9
008 SURETY	9
009 ACCEPTANCE OF LIABILITY	9
010 LIABILITY INSURANCE.....	10
011 DAMAGE TO STATE PROPERTY.....	10
012 ENVIRONMENTAL AND OTHER PERMITS	10
013 PERMIT APPLICATION PROCESS.....	11
014 DEFINITIONS	11
EXHIBIT A	14
EXHIBIT B	15



PURPOSE

The purpose of this guidance document is to establish the criteria and process to be used by the Nebraska Department of Transportation (NDOT) and outdoor advertising sign owners for the application for, consideration and execution of permits for the trimming or removal of roadside vegetation that obstructs or obscures lawfully-placed outdoor advertising signs. The direction set forth in this document shall be adhered to for the purposes of:

1. Maintaining highway beautification while allowing reasonable roadside vegetation cutting or trimming permits;
2. Protecting public investments in roadside vegetation; and
3. Acknowledging the desire for visibility of any lawful advertising displays located adjacent to the right-of-way on the State highway system for the general benefit of the travelling public.

AUTHORITY

Neb. Rev. Stat. 39-1393:

Vegetation control program; permits for cutting or trimming of vegetation; fee; applicant; duties.

(1) The department shall establish and administer a vegetation control program which may allow permits for the cutting or trimming of vegetation in the vicinity of advertising signs, displays, or devices placed pursuant to section 39-220. A permit issued under this section shall allow the cutting or trimming of vegetation under controlled conditions when such vegetation obstructs or obscures a lawfully placed advertising sign, display, or device. The department may establish criteria for what vegetation may be cut or trimmed. Each permit shall be valid for no more than thirty days and shall only be applicable for one sign, display, or device location.

(2) The department may charge a fee in an amount reasonably calculated to defray the cost of administering the vegetation control program and may adjust the fee periodically to ensure continued recovery of administrative costs, except that such fee shall not exceed fifty dollars.

(3) The applicant to whom the permit is issued shall furnish the department with a cash deposit or certified check upon a solvent bank or a surety bond in a guaranty company qualified to do business in Nebraska. The deposit, check, or bond shall be in an amount required by the department and shall be furnished on the condition that the sum be forfeited to the state in the event that the conditions of the permit or rules and regulations adopted and promulgated by the department are violated. The applicant for a permit shall sign a release acknowledging that he or she will assume all risk and liability for any accidents and damages that may occur as a result of the work done as the permit holder. The applicant shall provide proof of liability insurance of at least one million dollars. The permit holder shall be responsible for compensating the state for loss or damage to state property, including, but not limited to, intentional vegetation, and for restoring state property to its preexisting condition as determined in the sole discretion of the department. Permits are subject to all state and federal environmental laws, rules, and regulations. Each approved permit shall grant written consent to encroach onto the state's right-of-way pursuant to section 39-1359.

(4) The department may adopt and promulgate rules and regulations to carry out this section.

Laws 2016, LB1038, § 11

Effective Date: July 21, 2016

SCOPE

This guidance document applies to all sign owners with lawfully placed, outdoor advertising signs adjacent to the right-of-way of the State Highway System who request to cut or trim vegetation within NDOT's right-of-way when such vegetation substantially blocks the view of the sign. This guidance document sets out the process, criteria and conditions that will apply to a permit to cut or trim vegetation under these circumstances.

001 WORK ZONE IDENTIFICATION AND FLAGGING

001.01 Pre-Application Site Visit. Prior to submitting an application for vegetation trimming or removal, the applicant must obtain permission from the District Engineer to enter onto the State highway right-of-way in order to gather information needed to complete the application.

001.01A Applicant's entry on State property is subject to terms set forth by the District Engineer or designee, including, but not limited to, traffic control and where vehicles may be parked on the right-of-way.

001.01B At the sole discretion of the District Engineer or their designee, the Applicant may be required to meet with the District Engineer's designee on site during the pre-application review. Approved safety vests shall be worn while on State property.

001.02 Work Zone Plan. Applicant shall attach a Work Zone Plan to the permit application which clearly shows the area the Applicant proposes to occupy. The Work Zone Plan shall illustrate the trees or other vegetation in which the Applicant or their contractor proposes to trim or remove. Applicant shall clearly explain why proposed cutting or trimming is necessary to provide reasonable visibility of the sign. See Exhibit A.

001.02A The Work Zone Plan shall include a minimum of six color photographs. These photographs shall consist of:

001.02A1 An aerial photograph which shall show the highway and the location of the sign and also identify each tree or vegetation, type and size (in diameter) of each item of vegetation in relationship to the sign, the highway, and right-of-way line within the proposed work zone;

001.02A2 Two color photographs of the sign from different vantage points that provide evidence of the existing condition of the sign;

001.02A3 One photograph of the sign that includes a readable view of the sign permit number, when applicable, and;

001.02A4 A minimum of two photographs taken any of the positions shown on Exhibit B, displaying a view of the sign taken from at least 10 feet from the outside traveled lane of the adjoining highway. Such photographs shall depict a clear representative overview of all the vegetation within the work zone.

001.03 Identifying the Work Zone Area. Applicant shall place markers along the boundaries of the proposed work zone as shown on the attached Work Zone Plan. Markers must be placed during a pre-application site visit with the District Engineer's designee. (if required).

001.04 Landscape or Intentional Vegetation. Applicant shall specifically note on its plans, and clearly mark at the site, as "Landscaping Plants" any trees or vegetation that appears to have been intentionally planted on the highway property at some time in the past. Examples are as follows: Oak Species; Ash Species; Maple Species; Linden Species; Hackberry; Hawthorn Species; Crabapple Species; Serviceberry Species; Pine Species; Spruce Species; Others as determined by the Department.

001.04A Intentionally planted vegetation may not be cut or trimmed. However, NDOT reserves the right to grant express permission to cut or trim intentionally planted vegetation only after specific consultation with NDOT and subject to the requirement of reimbursement to NDOT for the loss of such vegetation.

001.05 Adjacent Signs. In the event two adjacent signs with overlapping sign work zones, with different outdoor advertising sign owners, are involved in the permitting process, NDOT reserves the right to amend

GUIDANCE DOCUMENT FOR VEGETATION TRIMMING AND REMOVAL FOR OUTDOOR ADVERTISING

the usual process for permitting vegetation trimming and removal in order to avoid conflicting or potentially conflicting vegetation trimming and removal activities.

001.05A Each sign work zone is permitted separately. Any new permits for sign work zones that overlap existing permitted sign work zones will be held until the performance bond for the earlier permitted vegetation trimming and removal activities are released.

001.05B When there are two adjacent signs with the same outdoor advertising sign owner, NDOT may, at its discretion, allow requests for vegetation trimming and removal activities to take place simultaneously for both sign work zones.

001.06 Future Sign Site. Applicant may not obtain a permit to clear vegetation for a proposed or future sign site. (See section 003.01A below).

001.07 Discretion of the District Engineer. Applicant may not prune, trim, or remove vegetation when the NDOT District Engineer or designee have determined that creation of the work zone will significantly disrupt natural systems, roadside aesthetics, or have other negative impacts on the operation of the highway.

002 REMOVAL AND/OR TRIMMING REQUIREMENTS AND CONDITIONS

002.01 Conformance with Approved Work Zone. No trees or vegetation shall be trimmed, cut, or removed other than within the approved work zone.

002.01A The Applicant must obtain written permission from the adjoining owner and submit such document with the Application to the State for review when the application includes a request to trim or remove vegetation or trees under the following two situations:

002.01A1 When the drip line of such vegetation or tree is growing on or in close proximity to the boundary between the highway property and the adjoining private or other public property.

002.01A2 When such vegetation or tree is growing on adjoining property and overhangs state highway right-of-way, or when the roots are substantially located on state highway property.

002.02 Traffic Control Plan. For any vegetation removal or trimming work to be completed on state property, Applicant shall develop a traffic control plan for highway traffic and such plan shall be based on standard State traffic control plans. When on State property, Applicant shall install and maintain traffic control in accordance with the Manual on Uniform Traffic Control Device (Manual) or the State of Nebraska Traffic Control Standard plans (Standards). Whenever the Standards conflict with the Manual, the Standards shall govern. Although Applicant will be solely responsible for all traffic control and traffic safety, the NDOT District Engineer or designee may advise the Applicant as to the desired traffic control application based on the work to be performed.

002.03 Tree Size Limitations. The following trees may be trimmed and removed from within a work zone:

002.03A Deciduous trees measuring less than eight inches in diameter, measured 4½ feet from the ground, and

002.03B Non-deciduous trees measuring less than 12 inches in diameter, measured 4 ½ feet from the ground.

002.03C Trees exceeding the thresholds above may be considered for removal on a case by case basis. Applicant further agrees that any tree approved for removal that exceeds the above threshold will be replaced by the Applicant at a mutually agreeable location.

002.04 Tree Height Removal Condition. When trees are allowed to be completely removed, the tree shall be removed in appropriately sized height-wise segments to insure that when the tree is cut it cannot fall onto the shoulder or the surface of the roadways.

002.05 Roots. Roots from removed trees or vegetation must be removed or ground up with all chips, roots and debris removed.

002.06 Care of Other Vegetation. All vegetation to remain within the work zone shall be protected and maintained in a healthy and acceptable condition.

002.07 Pruning. Pruning should not leave large open spaces in the general outline of the tree. Only crown raising and vista pruning are allowed on a pine tree's lateral limbs. Cutting the leader of mature wood constitutes topping and is prohibited. All cut limbs shall be removed from the tree crown upon completion of the pruning.

002.08 Other Requirements. Chemical control of vegetation shall not be used. Wound dressing or paints shall not be used. Equipment that will damage the bark and cambium layer shall not be used. The use of climbing spurs is not permitted.

003 GENERAL CONDITIONS AND RESTRICTIONS.

003.01 Restrictions. No permit shall be issued:

003.01A For any lawfully placed sign that has not existed for 3 years prior to the application filing.

003.01B For locations within an active Department of Transportation highway project or highway and roadside maintenance operation. However, a permit application may be considered for such location after the NDOT project or operation has been completed.

003.01C For applications that are incomplete.

003.01D For vegetation trimming or removal to enhance the view of an outdoor advertising sign which is not lawfully placed.

003.01E For mowing or chemical or mechanical control of grass or other herbaceous vegetation.

003.01F For signs that do not have an obstructed or obscured view.

003.01G For work proposed within medians, interchange quadrants, or within interchange areas except along the outside shoulders of the outermost ramps and parallel to a state highway right-of-way.

003.01H Unless specifically allowed by the Department, to prune, trim, or remove vegetation:

003.01H1 That has historic significance or is associated with a historic property;

003.01H2 That is listed as a threatened or endangered species, or is otherwise protected by state law;

003.01H3 That has been planted as part of any local, state, or federal highway construction, planting or landscaping project;

003.01H4 That occurs within the boundaries of a wetland, stream channel or other environmental mitigation site;

003.01H5 That is associated with windbreaks or living snow fence areas;

003.01H6 That is located on public or private property within the boundaries of NDOT administered environmental conservation easement areas;

003.01H7 That is part of a beautification project implemented prior to the vegetation trimming or removal permit and/or where the beautification project is specifically identified in NDOT's construction or landscape plans, permitted landscape projects, or agreements

003.01H8 That is covered by highway environmental commitments that restrict or forbid cutting or trimming.

003.01H9 To an applicant with a record of misconduct in violation of this guidance document.

004 WORK COMPLETION AND SITE RESTORATION.

004.01 When Project Work May Be Performed. Work shall be accomplished during normal daylight working hours. No work shall be performed on Saturdays, Sundays, or designated State holidays.

004.02 Access to Site. Access to the site on Interstate or freeway systems shall be only from the highway. On all other State highways, access will be from the highway or the adjoining private property with a signed document from the adjoining owner allowing said access. All disturbed fencing shall be replaced at applicant's cost.

004.03 Cleanup. When completed, the work zone must be clear of all litter, debris, including natural debris such as fallen and dead tree limbs, branches and leaves, and be in acceptable condition for mowing by conventional mowing equipment. Applicants are not required to cleanup natural debris in an area outside of the work zone.

004.04 Site Restoration Plan. Applicant shall develop a site restoration and clean-up plan for all work to be completed within the highway property. All ruts, holes, indentations, disturbed soil or sod, sod damage or destruction or other changes to the State lands from the trimming, removal and clean-up work shall be filled with appropriate fill dirt, compacted and seeded. All disturbed areas shall be in conformance with the seeding, establishment, and maintenance specifications of the District Engineer or designee, and NDOT Standard Specifications. Indication of successful grass germination and adequate coverage is required.

004.05 Tree Stump Removal. All tree stumps, brush stumps, and roots projecting through or appearing on the surface of the ground, shall be removed by cutting or grinding flush with the surrounding ground surface. Holes or voids created by the removal (grinding) of stumps shall be filled, graded, and compacted with acceptable fill material. The area must be left in mowable condition. The ground surface must be left without mounds, ruts, and depressions in the final grade, with leaf litter and debris removed so grass seed is able to come into contact with the soil and germinate.

004.06 Erosion Control. Erosion control shall be as directed by NDOT and per National Pollutant Discharge Elimination System (NPDES Phase 2) Standards and Best Management Practices and Procedure for Erosion and Sediment Control in Nebraska. An erosion and sedimentation plan is not required unless the sign work zone is in or adjacent to an environmentally sensitive area such as a stream or wetland or as directed by the NDOT District Engineer or designee.

004.07 Restoration of Disturbed Areas. Disturbed areas shall be returned to normal grade and elevation, with adequate compaction of backfill material, and all excess or undesirable material removed by the Applicant. All destroyed vegetation shall be replaced by the Applicant by sodding, seeding, fertilizing, and mulching as required by the NDOT District Engineer or designee. Final stabilization should occur prior to completion of a workday or prior to a rain event, whichever comes first. Adequate protection against erosion shall be provided by the Applicant in disturbed areas that are susceptible to erosion. Such

protection may be in the form of rock rip-rap, wash checks, hay cover, or other material that is approved by the NDOT District Engineer or designee, which does not interfere with other maintenance operations.

004.08 Clear-Cut Areas. On mowable slopes, where the majority of trees are clear-cut (with permission), understory vegetation shall be removed and grassing is required. The area must be left in mowable condition. The ground surface must be left without mounds, ruts, and depressions in the final grade, with leaf litter and debris removed so grass seed is able to come into contact with the soil and germinate.

004.09 Wood Chips. Distribution of chipping debris on non-mowable slopes will not be allowed.

004.10 Interim Inspection. The Applicant is to request an interim inspection, with a minimum of two working day's notification to NDOT District Engineer or designee, prior to any stump grinding work.

004.11 Fences. Disturbed or broken state highway right-of-way fences shall be re-established as directed by the NDOT District Engineer or designee at Applicant's expense.

005 PROTECTION OF STATE PROPERTY

005.01 General. Applicant shall be solely responsible for protecting the traveling public, existing trees, roots, plants, and State property during the removal, trimming and restoration work. All work on or occupation of State property shall be done without damage to landscape and native trees and shrubs that are to remain in the work zone. During any trimming or removal work, the Applicant/Contractor shall adhere to the following:

005.01A Place and maintain protective barriers around the drip line of all trees to be retained on the site to prevent their destruction or damage. The protective barriers shall be high enough to be seen easily by operators of trucks and other equipment. Protective barriers shall be bright orange and constructed of sturdy material (not flagging or ribbons).

005.01B Clearing of vegetation within the drip line of trees designated for preservation shall be done only by hand or light rubber-wheeled equipment that will not damage tree roots or compact soils.

005.01C Any trees designated to be preserved (within and adjacent to the work zones) which are damaged during pruning and removal activities shall be treated as a failure to comply with guidelines and shall be restored, replaced or replacement cost shall be paid by the applicant, as determined by NDOT.

005.02 Tree Damage. For damage that does not effectively destroy a tree, NDOT may require all work to be stopped until the damaged tree is properly pruned, if applicable, and a mitigation plan is devised to the satisfaction of NDOT. For damage that does effectively destroy a tree as determined by NDOT, the Applicant may be required to cease all work until the damaged tree is properly pruned or removed, if applicable. If more than 25 percent of the leaf-bearing crown of a tree is damaged, the tree is effectively destroyed and compensation of the value of the tree is to be paid by the applicant to NDOT. If a deciduous tree with a diameter of more than eight inches is damaged, the action will be treated as an unauthorized removal of the tree.

005.03 Revocation of Permit. Repeated and/or excessive damage to a tree(s) may result in immediate revocation of the permit on file, forfeiture of bonds, and/or permanent denial of any future permits.

005.04 Replacement and Restoration. All work shall include the proper protection of right-of-way slopes, drainage features, fencing, signage, guard rail and delineator posts. Any damage to right-of-way facilities shall be replaced and restored to the satisfaction of the NDOT District Engineer or designee. The Applicant is responsible for all costs associated with any damages that may occur.

006 PERMIT

006.01 Requirements. NDOT may issue a vegetation trimming or removal permit when Applicant has provided all required information and has met all conditions of this guidance document.

006.01A A permit must be obtained for each sign for which vegetation trimming or removal is requested.

006.01B A permit will be effective upon issuance by NDOT. Once a permit has been granted, the Applicant is required to complete all vegetation trimming and removal within 30 calendar days from the date the permit was issued. The NDOT District Engineer or designee may extend the time in which the Applicant is required to complete vegetation trimming and removal upon a written request for reasonable cause. An Applicant may not be granted a new permit at the same location for a period of three years from the date of the completion of vegetation trimming and removal under a previous permit.

006.01C Vegetation trimming or removal shall not proceed between April 1 and September 1 of each year.

006.01D A permit authorizes Applicant to enter and occupy State property so long as applicant continues to meet all requirements of this guidance document, the permit and any other lawful requests made by NDOT.

006.01E The vegetation trimming and removal permit must be on site when any work is in progress. Failure to have the permit at the work site will be grounds for the stopping of work until the permit is produced.

006.02 Required Meetings. The Applicant, and its contractor(s) (including the individual who will be supervising the work) must attend a scheduled NDOT pre-cut meeting for the determination of all work zones, verification of the work zones, points of access, sedimentation and erosion control requirements, traffic control requirements (rush hour traffic limitation, etc.), supervisor contact information, concerns regarding existing site conditions, and finalized work schedule.

006.02A Prior to the on-site review, the Applicant shall provide and maintain until final acceptance:

006.02A1 On-site field stakes depicting the limits of the work zone.

006.02A2 Different color flagging tape for vegetation removal identification and for vegetation pruning identification.

006.02A3 Protective barriers around the drip line of trees to be retained.

006.03 Trimming. An approved permit authorizes the Applicant to prune (cut or trim), or remove trees, shrubs, or herbaceous plants only within an approved work zone.

006.04 Application Submittal. Applications must be signed and submitted by the sign owner.

006.05 Notice. The Applicant shall give the local NDOT District Engineer or designee, or where appropriate, the NDOT Maintenance Supervisor, a minimum of two full working day's notification prior to any and all permitted and scheduled vegetation trimming and removal activity on state highway right-of-way.

006.05A The Applicant must provide a minimum of two working day's notification of any changes to the approved work schedule.

006.06 Supervision. All vegetation management work shall be performed under the direct oversight of a designated supervisor.

006.06A The applicant's supervisor shall be on the site during all project work that takes place. The supervisor is responsible for immediately notifying the NDOT District Engineer or designee, of any violations of the permit, this guidance document, or law, even if unintentional. All work shall be performed in accordance with this guidance document. Work shall meet all Statutes, laws, and rules and regulations set forth by local agencies.

006.07 Post Trimming and Removal Photographs. A minimum of six color photographs with different vantage points that provide evidence that all applicable standards for pruning and requirements of the permit have been satisfied shall be submitted by the Applicant at the completion of the work. The photographs should depict different clear representative views of the vegetation pruned and preserved.

006.08 Completion. The Applicant shall contact the District representative within two working days of the project completion. The Department will then inspect the area to determine if all guidelines have been followed.

007 PERMIT FEE

007.01 Fee. A non-refundable permit fee of \$50.00 is to be submitted with the initial application and attachments.

008 SURETY

008.01 Performance Bond. A performance bond will be required for each permit in the amount of \$10,000.00 with surety.

008.01A The bond will run concurrently with the permit.

008.01B The performance bond shall be subject to forfeiture to NDOT in the event of violation of this guidance document, the permit, or upon failure of the Applicant to leave the sign work zone in an acceptable condition as determined by the NDOT District Engineer or designee.

008.02 Release of Bond. The performance bond will be released upon final inspection, review and approval of as-built photos, and final acceptance by the NDOT District Engineer or designee with notification to the NDOT Right of Way Division.

009 ACCEPTANCE OF LIABILITY

009.01 Risks. The granting of a vegetation removal permit is solely for the benefit of Applicant. Applicant understands that Applicant will face risks arising out of the permitted work.

009.01A Prior to beginning work, Applicant and its contractor shall inspect the condition of the State property and the existing vegetation. Applicant and any contractor, when applicable, will be solely responsible for inspecting the part of the State's property where vegetation removal is expected to occur to identify conditions on and off the property that may create safety issues for site visits and for completing the permit work.

009.01B Applicant and its contractor(s) will be solely responsible for taking all appropriate actions to safely protect Applicant (and its employees, contractors and assigns) and others from any existing conditions or from conditions created by the traveling public. Further, Applicant and its contractor(s) will be solely responsible for protecting persons and property from injury or damage arising out of the site inspections, vegetation removal work and the restoration of State property.

009.02 Release of Liability. The Applicant for a permit shall sign a release acknowledging that Applicant will assume all risk and liability arising out of the granting of a permit or the performance of the work allowed under the permit that leads to property damage, bodily injury or death to Applicant, Applicant's employees, assigns and contractors, persons using the highway and to others on State property related to:

009.02A The existing obvious and unknown conditions of the State property and the vegetation thereon.

009.02B Applicant's (or applicant's contractor(s)) work on State property in inspecting the property and completing the work of removing or trimming vegetation on the property and restoring State property.

009.02C The traveling public, pedestrians and others on or near State property.

009.02D The presence of NDOT employees and personal property on State real property.

010 LIABILITY INSURANCE

010.01 Insurance Requirements. Prior to entering State Property for any purpose, Applicant and Applicant's contractor(s) shall obtain a standard form Commercial General Liability Insurance, or other liability insurance coverage acceptable to NDOT.

010.01A Insurance policy shall cover bodily injury, property damage including loss of use, and personal injury, with limits of \$1,000,000 Per Occurrence, \$2,000,000 General Aggregate.

010.01B The State of Nebraska, Department of Transportation, must be named as Additional Insured on a primary and non-contributory basis. Waiver of subrogation in favor of the State of Nebraska, Department of Transportation must be added to, or included in, the policy.

010.01C Applicant shall provide to the Department an ACORD, or substantially equivalent, Certificate of Insurance showing the types, amounts, and other required conditions of the Liability Insurance carried by the Applicant that cover Applicant's work under the permit.

010.01D The Applicant shall provide the Department, when requested, with a copy of any policy of insurance used to meet the coverage limits. Applicant, and any contractor completing work for Applicant on State property, must have standard Nebraska Worker's Compensation Insurance.

011 DAMAGE TO STATE PROPERTY

011.01 Restoration. Applicant agrees that it will be directly responsible to State, for restoring State property to a neat, clean, and restored condition so that it will appear substantially similar to the general roadside condition that pre-existed the work and so that it blends and is consistent with the condition of the surrounding area of State property. Applicant will be responsible for any damage to State property that arises out of the pre-application process, site inspections, preparation for the work and the permitted work on or near State property, regardless of how such damage occurs. Applicant agrees to pay any costs incurred by NDOT in repairing damage to State's property arising out of the pre-application process, site inspections, preparation for the work and the permitted work on or near State property.

012 ENVIRONMENTAL AND OTHER PERMITS

012.01 Environmental and other permits. When necessary, applicant shall obtain any reviews or permits, environmental or other, prior to the proposed vegetation trimming or removal.

013 PERMIT APPLICATION PROCESS

013.01 A permit for vegetation trimming or removal for outdoor advertising signs may be requested by submitting a completed application for vegetation trimming or removal for outdoor advertising signs to the Department of Transportation, local District Office. After review, the District Office will forward the application to the NDOT Right of Way Division for completion and issuance of the permit if all conditions have been met.

013.01A A permit is required for each location. The location will be established at the preconstruction meeting.

013.01B The Application to Occupy Right of Way (DR19), for vegetation management will be available at the NDOT Right of Way Division, and online at www.dot.nebraska.gov/business-center/permits/row

013.01C All photographs required under Section 001.02A, shall be included with the application.

013.01D When applicable, the name and contact information for the adjoining property owner.

013.01E The approved application, including any conditions stated therein will be considered part of the permit.

013.01F The application form shall be completed in its entirety. The sign owner or designee shall then submit the completed application to the appropriate District Engineer or their designee for initial review. This review will determine if all conditions have been met by the Applicant to proceed with the issuance of a vegetation trimming or removal permit. The District shall then forward the entire approved application to the Right of Way Division, Property Management Section. Once approved, the Right of Way Division, Property Management Section, shall issue the permit to the Applicant, with conditions, if applicable. A copy of the permit shall be sent to the District Engineer.

014 DEFINITIONS

Acceptable Condition – The area is clear of debris, stakes, flagging, temporary fencing and obstructions to conventional mowing and maintenance practices; stabilized by approved vegetation trimming and removal with permit conditions.

Cleaning – Selective pruning to remove only dead or broken branches.

Crown – The leaves and branches of a tree measured from the lowest branch on the trunk to the top of the tree.

Crown Elevation of Raising – The removal of lower tree limbs to allow clearance or visibility beneath the tree crown while maintaining the natural symmetry of the tree. A maximum of 25 percent of the leaf-bearing crown may be removed.

Crown reduction – Selective pruning to decrease height and/or spread of the crown. Crown reduction shall be utilized in hazardous or safety applications only. A hazardous tree is one that has partially fallen, or that the NDOT District Engineer or designee determines is about to fall, threatening persons, or property. Safety conditions include those conditions which threaten persons or property as determined by the NDOT District Engineer or designee.

District Office - the headquarters for any one of the eight geographical subdivisions of the Nebraska Department of Transportation.

Deciduous – Perennial plant that loses all its leaves at one time during the year. Hardwoods are the predominant type of deciduous trees.

Drip Line – The peripheral limits of the horizontal crown of a tree spread vertically to the ground, provided, however, that the same shall not be less than a circle with a five-foot radius measured from the tree.

Effectively destroy – To cause, allow, or permit any act, which will cause a tree to die, exhibit an unnatural shape, or go into a period of unnatural decline within a period of two years from the date of the act. Acts which may effectively destroy a tree include, but not limited to: damage inflicted to the root system by heavy machinery or soil compaction; excessive pruning; severing the lead or leaders; stubbing mature wood; tree abuse; grade changes; damage inflicted on the tree permitting infection or pest infestation; application of herbicides or fire damage to the trees intended to remain; infliction of a trunk wound that is 30 percent or greater of the circumference of the trunk; bark removal; or the removal of sufficient canopy to cause the unnatural decline of the tree.

Exotic Pest Plants – No-native invasive plants also called noxious weeds, which are a problem in natural communities and ecosystems on public and private land. Examples: Kudzu (*Pueraria Lobata*), Field Bindweed (*Convolvulus Arvensis*), Russian Knapweed (*Centaurea Epens*), Hoary Cress (*Cardaria Draba*), Canada Thistle (*Cirsium Arvese*), Quack grass (*Agropyron Repens*), Leafy Spurge (*Euphorbia Ensula*), Bug Ragweed (*Ambrosia Grayii*), Pignut (*Hoffmannseggia Densiflora*), Musk (Nodding) Thistle (*Carduus Nutans L.*), Johnson Grass (*Sorghum Halepense*), and Sericea Lespedeza (*Lespedeza Cuneata*).

Hardwood – Trees usually with deciduous leaves, such as Maple, Oak, Cherry, Hickory, Ash, Beech, Willow, Poplar, Dogwood, Pecan, and Sycamore.

Heading – The cutting of an older branch or stem back to a lateral branch not large enough to assume apical dominance in order to meet a defined structural objective. Heading is not an acceptable pruning practice.

Intentional Vegetation – Any vegetation that was planted on public property as a part of, but not limited to, a highway construction, landscaping, beautification, windbreak, or living snow fence projects with Local, State or Federal funds.

Mitigation – Reduction of the impact of vegetation trimming and removal activities with additional or supplemental work. Forms of mitigation include: (1) choosing an area of least impact; (2) restoration/re-vegetation by grassing all disturbed areas; (3) erosion and sedimentation control.

Native Plant – A grass, herb, shrub, or tree that grows naturally within particular regions in Nebraska, also called indigenous.

Non-hardwood – A tree, usually evergreen, including Pine, Spruce, Fir, Cypress, Juniper, Cedar, and other conifers.

Pruning – The selective removal of plant parts without damaging the natural symmetry of the tree or having a negative effect on the trees long-term health. Pruning types are restricted to cleaning, crown elevation, thinning, and vista pruning only, as defined by NDOT. Never remove more than 25 percent of the trees leaf-bearing crown. Crown reduction shall be utilized in hazardous or safety applications only.

Removal or Removed – The elimination of trees or other vegetation.

Thinning – Shall consist of selective pruning to reduce density of live branches. Thinning shall result in an even distribution of the branches on individual limbs and throughout the crown. The maximum size range of the parts to be removed shall be 1-1/2 inches in diameter. Not more than 25 percent of the leaf-bearing crown may be removed.

Topping – The reduction of a trees size using heading cuts that shorten limbs of branches back to a predetermined crown limit. This also includes severing the leader or leaders or to prune a tree by stubbing of mature wood. Topping is prohibited.

Tree Abuse –

- a. Topping a tree or cutting that destroys a tree’s natural habit of growth; or
- b. Pruning that leaves stubs or results in a flush cut or splitting of limb ends including chemical or mechanical (shearing) mowing of trees; or
- c. The use of climbing spikes, nails or hooks, except for the purpose of total tree removal; or
- d. Pruning that is not in accordance with the policies and provisions hereof; or
- e. Damaging a tree(s) while felling another tree.
- f. NDOT will take into consideration the work zone within which a sign owner is required to work when determining whether three abuses have occurred.

Trim or Trimming – See Pruning

Unique Vegetation – All forms of vegetation including, but not limited to; historical specimen trees or plant communities, plants on the limits of their natural range, and canopy trees or shrubs that protect rare or endangered plants growing under them.

Vegetation – All woody and herbaceous plants whether naturally occurring or planted.

Vegetation Trimming and Removal – All planned work activities relating to landscape and roadside development on State highway right-of-way. These activities may include the removal or pruning of trees or other vegetation, grass, litter and debris removal, erosion control, and any maintenance management of their related features.

View Zone – This is an area, generally triangular in shape, that must be identified by the Applicant on the Work Zone Plan. The limits of this area are bounded by the following: A) The outside edge of the applicable outdoor advertising sign; B) The place on the highway shoulder, generally perpendicular with the shoulder of the highway intersecting with a line beginning at point “A”; C) Five-Hundred feet along the highway shoulder in the direction of the sign face. See Exhibit A.

Vista Pruning – Selective removal of lateral branches (major structural branches of the tree) to the branch bark collar on the trunk or central leader. Never remove more than 25 percent of the trees leaf-bearing crown. Vista pruning shall result in balanced symmetry of the tree.

Work Zone – The portion of the View Zone located on NDOT State highway system property.

EXHIBIT A

Exhibit A is the satellite overhead view of the proposed sign with the View Zone and Work Zone outlines/identified.

Exhibit (A)

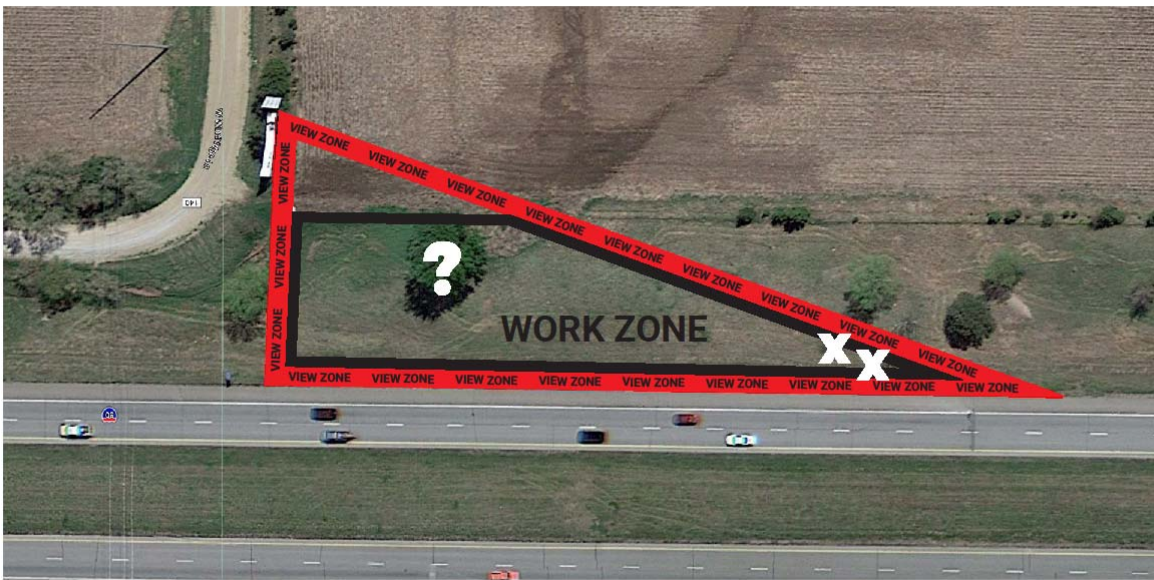


EXHIBIT B

Exhibit B is the diagram which shows where the photos stated in 001.02A4

Exhibit (B) Work Zones on ROW

