

# TITLE 410 NEBRASKA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY DIVISION

## Chapter 3 Sign Permits

### **001 ADVERTISING SIGNS ON HIGHWAYS: STATE HIGHWAY SYSTEM**

001.01 No permit will be granted by the Department of Transportation to erect any private advertising sign upon any highway on the State Highway System and any such permit granted prior to January 1, 1928, is void.

001.02 No permit will be granted by the Department of Transportation to erect markers on any highway on the State Highway System designated trails or routes which were not marked prior to January 1, 1934, except that this Rule shall not apply to the Historical Landmark Commission.

### **002 RULES AND REGULATIONS RELATING TO THE CONTROL OF ADVERTISING IN AREAS ADJACENT TO THE HIGHWAY BEAUTIFICATION CONTROL SYSTEM**

002.01 DEFINITIONS PERTAINING TO ADVERTISING CONTROL: 39-102(7), 39-201.01 to 39-226, 39-1302, 39-1311, 39-1320, 60-6,127 and 60-6,128, and 69-1701 to 69-1702, Neb. Rev. Stat., hereinafter referred to as the Act, are incorporated herein and made a part of these Rules and Regulations by this reference. In addition to the definitions set forth in these statutes, the following definitions are also made a part of these Rules and Regulations:

002.01A BONUS AREA: That area along the Interstate System within 660 feet of the right-of-way in which the State has controlled outdoor advertising in order to be eligible for an increase in the Federal share of one half of one percent of the total cost thereof as provided for in Title 23, U.S.C. Section 131.

002.01B CHANGEABLE MESSAGE SIGN (CMS): An outdoor advertising sign, display or device which changes message or copy on the sign regardless of the technology used.

002.01C COMMERCIAL ACTIVITY: Activities generally recognized as commercial by zoning authorities in this state and having adequate access, parking and utilities, except that none of the following shall be considered commercial:

002.01C1 Outdoor advertising structures;

002.01C2 General agricultural, forestry, ranching, grazing, farming, and related activities, including wayside fresh produce stands:

002.01C3 Activities normally or regularly in operation less than three months of the year;

002.01C4 Activities conducted in a building principally used as a residence;

002.01C5 Railroad tracks and minor sidings;

002.01C6 Activities more than six hundred and sixty feet from the nearest edge of the right of way of the road or highway.

002.01D CONTROLLED AREA: Controlled Area shall mean that area that is:

002.01D1 Outside the urban areas as defined by the Nebraska Department of Transportation and visible from the main-traveled way of the Highway Beautification Control System (HBCS), or;

002.01D2 Within the approved urban areas as defined by the Nebraska Department of Transportation and within six hundred and sixty feet of the right of way of the HBCS.

002.01E COTTON AREA: Any area bounded on each end by two lines extended perpendicularly from the centerline of the Interstate Highway to both edges of the Interstate Right of Way. This area must have been a highway, road, or street public right of way on or before July 1, 1956. The area outside the Interstate Right of

Way and extending six hundred and sixty feet beyond the edge of the Interstate and between the two extended perpendicular lines is a Cotton Area excluding any existing public right of way. (See typical examples in Attachment One).

002.01F DISCONTINUED SIGN: An advertising device or structure that meets one or both of the following criteria:

002.01F1 Is blank displaying no copy for a period of twelve consecutive months or more. The sign shall be considered blank displaying no copy even when the sign owner displays a message noting the sign space is available for sale or lease.

002.01F2 Is erected on land not owned by the sign owner for which the sign owner has no current written agreement.

002.01G ERECT: To construct, build, raise, assemble, place, affix, attach, create, paint, draw or in any other way bring into being or establish. Erect shall not include maintenance as defined in 002.01M but shall include reconstruction, as defined in 002.01Y, and shall also include modification, as defined in 002.01N, to an existing sign or structure. It shall not include any of the foregoing activities when performed as an incident to the change of an advertising message or the maintenance of the sign structure.

002.01H HIGHWAY: A road or street, including the entire area within the right of way, which has been designated a part of the state highway system.

002.01I HIGHWAY BEAUTIFICATION CONTROL SYSTEM (HBCS) The National System of Interstate and Defense Highways, the system of federal-aid primary roads as they existed on June 1, 1991, any additional highway or road which is designated as a part of the National Highway System under the Federal Intermodal Surface Transportation Efficiency Act of 1991, and scenic byways.

002.01J INDUSTRIAL ACTIVITY: Those activities generally recognized as industrial by zoning authorities in this state and having adequate access, parking and utilities, except that none of the following shall be considered industrial:

002.01J1 Outdoor advertising structures;

002.01J2 General agricultural, forestry, ranching, grazing, farming, and related activities, including wayside fresh produce stands;

002.01J3 Activities normally or regularly in operation less than three months of the year;

002.01J4 Activities conducted in a building principally used as a residence;

002.01J5 Railroad tracks and minor sidings;

002.01J6 Activities more than six hundred sixty feet from the nearest edge of the right of way of the road or highway.

002.01K INTERSTATE SYSTEM: The National System of Interstate and Defense Highways as defined in and designated pursuant to Subsection (d) of Section 103 of Title 23, United States Code.

002.01L KERR AREA: Kerr Area shall mean that area adjacent to an Interstate Highway where it traverses commercial or industrial zones, within the boundaries of incorporated municipalities, as such boundaries existed on September 21, 1959, wherein the use of real property adjacent to the Interstate System is subject to municipal regulation or control, or where it traverses other areas where the land use as of September 21, 1959, was clearly established by State law as industrial or commercial.

002.01M MAINTENANCE: The routine ordinary repairing or restoring of the sign to its as constructed condition

with the same type of materials used in the original sign structure and face. Nonconforming signs must remain essentially the same as they were on the date they became nonconforming. Maintenance is permitted; however, reconstruction and modification is prohibited. The following shall constitute a substantial change to a sign and are therefore not maintenance of a sign:

002.01M1 Any change in the location of the sign.

002.01M2 Any increase in the size or dimensions of the sign.

002.01M3 The addition of a new sign face or faces.

002.01M4 Any change in the type of structural face material.

002.01M5 The replacement of the sign supports with sign supports of a different material than material found on the sign when it became grandfathered.

002.01M6 Covering the original sign supports with concrete, metal or wood for whatever purpose.

002.01M7 Any replacement of poles that exceeds 25 percent per year or if less than four poles, one pole per year.

002.01M8 An increase in the number of poles.

002.01L9 An increase in the height of the poles.

002.01M10 Adding or converting the sign to a variable or changeable message sign.

002.01M11 Any addition of lighting, either attached or unattached.

002.01L12 No modification that changes the existing lighting such that the illumination to the sign facing is substantially increased.

002.01M13 No addition of reflective material on the sign.

002.01M14 No modification that enhances the visibility of the sign s message or the period of time that the sign s message is visible.

002.01M15 No addition of any other devices.

002.01N MODIFICATION: Any addition to or any substantial change in the dimensions, lighting, structure or advertising face, except as incidental to maintenance, as defined in 002.01M. A lawful change in advertising message is not a modification. The use of a vinyl overlay or wrap on either a poster panel or painted unit is a change in advertising message, not a modification.

002.01O MUSEUM: A public or private nonprofit institution which is organized on a permanent basis for essentially education or aesthetic purposes and which, using a professional staff, owns or uses tangible objects, either animate or inanimate, cares for these objects, and exhibits them to the general public on a regular basis. A museum is considered to meet these requirements if: (1) it uses a professional staff by employing at least one staff member, or part-time equivalent, working at least 300 hours per year, whether paid or unpaid; (2) this staff person is primarily engaged in the acquisition, care or exhibition to the public of objects owned or used by the institution; and (3) it exhibits objects to the public through the facility it owns or operates.

002.01P NEAREST EDGE OF THE RIGHT OF WAY: Is that one point when the right of way of two intersecting roads, streets or highways meets. It shall also mean the two points nearest the intersection when the right of way of the two intersecting roads, streets or highways has multiple angles before intersecting or forms a curve.

002.01Q NONCONFORMING SIGN: A sign which was lawfully erected, but does not comply with the provisions

of the State Law or State Rules and Regulations. Signs located on public right of way are not nonconforming signs whether the right of way has been designated a part of the highway system or the right of way was acquired in fee by the Nebraska Department of Transportation. Nonconforming signs must remain essentially the same as they were on the date they became nonconforming. Maintenance is permitted; however, reconstruction is prohibited. Changes to the physical structure of the sign other than a change of message or maintenance, must be accomplished in accordance with the requirements noted in 002.01M Maintenance.

002.01R OBSOLETE SIGNS: Signs that advertise a business no longer in existence or a product no longer offered for sale and have advertised such business or product for a period of one year after the termination of the existence of such business or the termination of sale of the product advertised.

002.01S ON-PREMISE/ON-PROPERTY SIGN: An advertising device which solely advertises the sale or lease of the real property upon which it is placed, or an advertising device identifying the activities located on or products or services available on the premise/property. The following shall be used for determining whether a device has as its purpose the identification of the activity located on the premise/property or its products or services.

002.01S1 Any sign which consists solely of the name of the establishment.

002.01S2 Any sign which identifies the establishment's principal or accessory products or services offered on the premise/property. An example of an accessory product would be a brand of tires offered for sale at a service station.

002.01S3 Any sign which advertises the sale or lease of the property.

002.01S4 The following shall be considered the business of outdoor advertising and not an on-premise/on-property sign:

002.01S4a Any sign which brings in rental income to the premise/property and/or sign owner.

002.01S4b Any sign in which the product or service advertised is only incidental to the principal activity.

002.01S4c Variety seed signs, fertilizer signs, and other agricultural product signs are not on-premise/on-property signs.

002.01S4d A sale or lease sign which also advertises any product or service not located upon and unrelated to the business of selling or leasing the land on which the sign is located.

002.01S4e Any sign which solely advertises the sale or lease of the property upon which it is placed, but which also identifies a corporation or business activity as the property owner more conspicuously than the for sale or lease message.

002.01S4f Any sign which advertises any product, activity or service not conducted, not available, not offered or not produced on the property where the sign is located.

002.01T PARKLAND: Any publicly-owned land which is designated or used as a public park, recreation area, wildlife or waterfowl refuge or historic site.

002.01U PREMISES: All or a portion of the property occupied by the buildings, parking lots, storage or processing areas, other structures or other physical uses that are necessary and customary to the activity, including such open spaces as are arranged and designed to be used in connection with such buildings or uses.

002.01U1 Except for farms and ranches, the following will not be considered to be a part of the premises on which the activity is conducted, and any signs located on such land will be considered off-premise advertising:

002.01U1(a) Any property, building, structure, or other improvement which is not used as an integral part of the principal activity. This would include, but not be limited to, any land which is separated from the activity by a public road, railroad, river, or other obstruction and is not used by the activity as a part of the premises; and land that is undeveloped highway frontage adjacent to the land actually used by the advertised activity, even though it might be under the same ownership.

002.01U1(b) Any property, building, structure, or other improvement which is used for, or devoted to, a separate use is not a part of the premises on which the activity is conducted even though under the same ownership.

002.01U1(c) Any property, building, structure, or other improvement which is separated from the principal activity, and is developed or used only at the sign site by structures or uses which are only incidental to the principal activity, and which serves no reasonable or integrated purpose related to the activity other than to attempt to qualify the land for signing purposes.

002.01U1(d) Where the sign site is located at or near the end of a narrow strip contiguous to the advertised activity, the sign site shall not be considered part of the premises on which the activity being advertised is conducted. A narrow strip shall include any configuration of land which is such that it cannot be put to any reasonable use related to the activity other than for signing purposes. In no event shall a sign site be considered part of the premises on which the advertised activity is conducted if it is located upon a narrow strip of land that is:

002.01U1(d)(1) nonbuildable, such as a swampland, marshland, or other wetland, or;

002.01U1(d)(2) which is a common or private roadway, or;

002.01U1(d)(3) held by easement or other lesser interest than the premise where the advertised activity is located.

002.01V PRIMARY SYSTEM: The Primary Roads, Streets and Highways, whether a part of the State Highway System, County Road Systems or city streets, which have been designated as Federal-Aid Primary Roads by the Department and approved by the Secretary of Transportation of the United States on June 1, 1991, and shown on the maps provided for in 39-1311 Neb. Rev. Stat.

002.01W PUBLIC SERVICE MESSAGE: Time, date, temperature, weather, or any other noncommercial message the sign owners(s) or sign tenant(s) may wish to display. If the message brings in any rental income or any type of compensation to the sign owner(s) or tenant(s) or if the information being displayed relates to trade or business or has financial gain, profit, or wealth as an aim, the sign message will be considered to be commercial advertising rather than public service information.

002.01X PROPERTY: An area of land under one ownership not severed by a public road. A tenant's property is that area described in the lease in which the owner has given the right of possession to the tenant for a specified term and for a specified consideration.

002.01X1 A subdivided property is considered to be one property if all lots remain under common ownership and all lots share a common, private access to public roads. However, if any of the subdivided property is sold or disposed of in any manner, that portion will be considered to be a separate property.

002.01X2 Contiguous lots or parcels of land combined for development purposes are considered to be one property for outdoor advertising control purposes provided they are under one ownership.

002.01X3 The following will not be considered to be a part of the property on which the activity is conducted, and any signs located on such land will be considered off-premise advertising:

002.01X3(a) Any property leased to another.

002.01X3(b) Any property encumbered with an easement, exclusive of sub surface utility easements.

002.01X3(c) Where the sign site is located at or near the end of a narrow strip contiguous to the advertised activity, the sign site shall not be considered part of the property on which the activity being advertised is conducted. A narrow strip shall include any configuration of land which is such that it cannot be put to any reasonable use related to the activity other than for signing purposes. In no event shall a sign site be considered part of the property on which the advertised activity is conducted if it is located upon a narrow strip of land that is:

002.01X3(c)(1) nonbuildable, such as a swampland, marshland, or other wetland, or

002.01X3(c)(2) which is a common or private roadway, or

002.01X3(c)(3) held by easement or other lesser interest than the premise where the advertised activity is located.

002.01Y RECONSTRUCTION: Defined as erect in 002.01G.

002.01Z ROAD: A public way for the purposes of vehicular travel, including the entire area within the right of way. This includes any other terms used to describe roads, such as parkway, lane, avenue, boulevard or any other term not listed but in which the public way is used for the purpose of vehicular travel. A road designated as a part of the state highway system may be called a highway, while a road in an urban area may be called a street.

002.01AA SCENIC AREA: Any area of particular scenic beauty or historical significance as determined by the Federal, State, or local officials having jurisdiction thereof, and includes interests in land which have been acquired for the restoration, preservation, and enhancement of scenic beauty.

002.01BB SCENIC BYWAY: A road, highway, or connecting link designated as scenic byway pursuant to Section 39-217. A map of the scenic byways shall be maintained as provided in Section 39-1311. For additional information see 002.14.

002.01CC SCHOOL DISTRICT, COUNTY OR MUNICIPAL RECOGNITION SIGN An official recognition sign erected and maintained by a school district, county or municipality within its territorial or zoning jurisdiction. The recognition sign for a school district is limited to displaying a message that identifies the school district, its boundaries, its services, its functions or activities that are located therein. The recognition sign for a county or municipality is limited to displaying a message that identifies the county or municipality, its boundaries, its public services and noncommercial attractions, functions or activities that are located therein.

002.01DD SIGN: Any outdoor sign, display, device, figure, painting, drawing, message, placard, poster, billboard, or other thing, whether placed individually or on a V-type, back-to-back, stacked or double-faced display, designed, intended or used to advertise or inform; with any part of the advertising or informative content visible from any place on the main-traveled way of the HBCS.

002.01EE SIGN MEASUREMENT: The area of a sign shall be measured by the smallest square, rectangle, triangle, circle, or combination thereof, which will encompass the entire sign, including boarder and trim, but will exclude ornamental base or apron and other structural members unless such areas include advertising content. For any other object used as a sign, such as a message painted on a building, other facility or object, the area of the message shall be measured by the smallest square, rectangle, triangle, circle, or combination thereof, which will encompass the entire message, figure, painting, or drawing that is designed, intended or used to gain public attention. Measure the entire object if the object is designed, intended, or used as a sign to gain public attention.

002.01FF TRAVELED WAY: That portion of the roadway used for the movement of vehicles, exclusive of shoulders and auxiliary lanes.

002.01GG URBAN AREA: That area designated as a town, village, city or municipality or that urban place as designated as an urban area by State or local officials as approved by the U.S. Secretary of Transportation.

002.01HH UNZONED COMMERCIAL OR INDUSTRIAL AREA: For purposes of control of outdoor advertising, shall mean all areas within six hundred sixty feet of the nearest edge of the right of way of the HBCS which are not zoned by the state or local law, regulation or ordinance and on which there is located one or more permanent structures devoted to a business or industrial activity or on which a commercial or industrial activity is conducted, whether or not a permanent structure is located thereon, the area between such activity and the highway, and the area along the highway extending outward six hundred feet from and beyond each edge of such activity, and in the case of the non-Interstate highway routes on the HBCS may include the unzoned lands on both sides of such road or highway to the extent of the same dimensions: Provided, those lands on the opposite side of the highway are not deemed scenic or having aesthetic value as determined by the department. In determining such an area, measurements shall be made from the furthest or outermost edges of the regularly used area of the commercial or industrial activity, structures, normal points of ingress and egress, parking lots, storage and processing areas constituting an integral part of such commercial or industrial activity. (39-1302(41) Neb.Rev.Stat.)

002.01II VISIBLE: Visible, as used in reference to advertising signs, displays, or devices, shall mean the message or advertising content of such sign, display, or device is capable of being seen without visual aid by a person of normal visual acuity. A sign shall be considered visible even though the message or advertising content may be seen but not read.

002.01JJ ZONING: Local zoning actions must be taken pursuant to the State s zoning enabling statute(s) or constitutional authority and in accordance therewith. Action which is not a part of comprehensive zoning or is created primarily to permit outdoor advertising structures is not recognized as zoning for outdoor advertising control purposes.

002.02 PROHIBITED CONTROL OF ADVERTISING OUTSIDE OF RIGHT OF WAY: In accordance with the 1968 agreement between the Department of Transportation and the Federal Highway Administration, authorized by 39-213 Neb.Rev.Stat., the erection or maintenance of any sign, display or device adjacent to the HBCS of the State of Nebraska, and visible from the main-traveled way of such highway or road, is hereby prohibited unless in compliance with these Rules.

002.03 CLASS I SIGNS Official signs that are authorized or required by law and which are either, placed within the right of way by the Nebraska Department of Transportation, specifically categorized in this rule as Class IB or Class IC signs, or owned by public offices or agencies and maintained within their zoning jurisdiction pursuant to Federal, State or local law for the purpose of carrying out official duties.

002.03A CLASS IA SIGNS: Official traffic signs and notices located within the right of way of the HBCS erected by or at the direction of the Nebraska Department of Transportation, or a local governmental agency authorized by law to erect official signs.

002.03A1 Class IA Signs and notices are hereby excluded from the restrictions and requirements of these rules and regulations and do not require a permit.

002.03A2 The Nebraska Department of Transportation, will have the exclusive power to determine which signs meet the requirements of a Class IA Sign.

002.03B CLASS IB SIGNS: Official signs and notices, authorized or required by law, erected outside of the right of way of the Interstate System and categorized as: signs identifying underground utilities, danger and warning signs, no trespassing signs, private property signs, no hunting signs, zoning revision notices, signs required by the Occupational Safety and Health Act, signs required on federally funded projects, historical markers and plaques, and wildlife refuge area identification signs.

002.03B1 Class IB Signs and notices shall not advertise any product or service.

002.03B2 Signs, satisfying the requirements of Class IB Signs but not specifically categorized as Class IB Signs, can only be erected by or at the direction of the State of Nebraska, Department of Transportation, and in accordance with the policy for scenic drive vacation routes or attraction guide signing approved by the Director of the Nebraska Department of Transportation.

002.03B3 Class IB Signs shall be located in such a manner as not to endanger the health, safety and welfare of the traveling public. They shall not obstruct the view of oncoming traffic or any traffic control devices.

002.03B4 Permits are not required for Class IB Signs.

002.03B5 Class IB signs shall conform to lighting criteria in Section 002.08.

002.03C CLASS IC SIGNS: Signs erected outside the right of way of the HBCS, except the Interstate which are required by governmental officials in performing their official duties, and those signs which are notices to inform the general public, or notices required by local laws or ordinances. Class IC Signs are further categorized as signs identifying underground utilities, danger or warning signs, no trespassing signs, private property signs, no hunting signs, zoning revision notices, signs required by the Occupational Safety and Health Act, signs required on federally funded projects, historical markers and plaques and wildlife refuge area identification signs.

002.03C1 Class IC Signs and notices shall not advertise any product or service.

002.03C2 Class IC Signs have no spacing or size restrictions or requirements. They shall be located in such a manner as not to endanger the health, safety and welfare of the traveling public. They shall not obstruct the view of oncoming traffic or any traffic control devices.

002.03C3 Permits are not required for Class IC Signs.

002.03C4 Class IC Signs shall conform to lighting criteria in Section 002.08.

002.03D CLASS ID SIGNS: Signs or notices that are owned and maintained by public offices or public agencies within their territorial jurisdiction and are erected pursuant to and in accordance with direction or authorization contained in Federal, State or local law for the purpose of carrying out official duties or responsibilities. The following criteria must be met to erect a Class ID sign:

002.03D1 The public officer or agency must be responsible for the erection and maintenance of the sign.

002.03D2 The sign must be erected within the territorial jurisdiction of the public officer or agency. This means that the officer or agency must exercise some form of governmental authority over the area upon which the sign and activity is located. Governmental authority means the authority to enact or administer the law.

002.03D3 The sign must be erected pursuant to direction or authorization contained in Federal, State or local law. School District, County or Municipal Recognition Signs are presumed to meet this criterion.

002.03D3(a) This means the officer or agency must be directed or have specific authority by statute, resolution or ordinance to erect and maintain signs and notices.

002.03D3(b) Copies of the statute, resolutions or ordinances must be submitted with the application for the sign permit.

002.03D3(c) Statutes, resolutions or ordinances must specifically address the following:

002.03D3(c)(1) What jurisdiction of government will own, erect and be responsible for the

maintenance of the sign.

002.03D3(c)(2) What specific official duty or responsibility will be aided or supported by the erection of the sign.

002.03D3(c)(3) Describe what form of governmental authority is exercised over this location.

002.03D4 The sign must be erected for the purpose of carrying out an official duty or responsibility.

002.03D4(a) Official duty or responsibility means to publicly provide for services, education, safety, transportation, health, welfare, parks, culture, recreation, and cemetery purposes and the operation of government.

002.03D4(b) Specific subject matter relating to a private individual, a commercial product, a private activity, will not be recognized as an official sign or notice.

002.03D4(c) There are no restrictions on the message content so long as the activity being described is in furtherance of an official duty or responsibility.

002.03D4(d) Appropriate emblems or messages of nonprofit service clubs or charitable associations, or their location, or the hours of their meetings or services are considered to be a furtherance of an official duty or responsibility, provided these messages are displayed in addition to the message displayed for the public officer or agency and the message for each individual organization is limited to eight square feet on the combined structure. Otherwise the appropriate emblems or messages of nonprofit service clubs or charitable associations must be placed on a Class IVB Sign as described in 002.06C.

002.03D5 Class ID Signs must have a permit from the Nebraska Department of Transportation.

002.03D6 Class ID Signs shall be located in such a manner as not to endanger the health, safety and welfare of the traveling public. They shall not obstruct the view of oncoming traffic or any traffic control devices.

002.03D7 Class ID Signs have no spacing or size restrictions or requirements.

002.03D8 Class ID Signs shall conform to the lighting criteria in Section 002.08.

002.03E CLASS IE SIGNS: Official signs that mark or designate school bus shelters.

002.03E1 Class IE Signs shall not exceed thirty-two square feet in area nor shall more than fifty percent of the sign be used to display the name of the sponsor or donor. The remainder of the sign must contain a public service message.

002.03E2 Not more than one sign shall be placed on each school bus shelter facing each direction of travel.

002.03E3 The school bus shelter location must be approved by the governmental authority controlling the highway and any other governmental agencies having jurisdiction over such school bus shelters.

002.03E4 Class IE Signs must have a permit from the Nebraska Department of Transportation.

002.03E5 Failure to use a school bus shelter regularly will be cause for revocation of a the permit and removal of the entire message from the shelter.

002.03E6 Class IE Signs shall conform to lighting criteria in Section 002.08.

002.03F CLASS IF SIGNS: Temporary signs erected outside the Right of Way to notify the traveling public that

free coffee is available at the next interchange or rest area.

002.03F1 Class IF Signs can only be erected by non-profit organizations on private property with written permission from the landowner and a letter of authorization from the Nebraska Department of Transportation, Right of Way Division.

002.03F2 Class IF Signs shall bear the message: safety break free coffee. Maximum sign size shall be four feet by twelve feet with ten-inch letters, or four feet by five feet with six-inch letters.

002.03F3 Class IF Signs shall remain in place during the time the coffee is available. Free will donations may be accepted for the coffee at the location where the coffee is served. Arrangements for use of the Rest Area, for serving free coffee, must be made with the Nebraska Department of Transportation, District Engineer, having jurisdiction over the rest area.

002.03F4 Class IF Signs shall conform to lighting criteria in Section 002.08.

002.04 CLASS II SIGNS On-Premise/On-Property Signs - Signs that advertise the sale or lease of the property upon which the sign is located (Class IIA and Class IIB), or that advertise the sale of goods and services available on that property (Class IIC, Class IID and Class IIE), or that advertise the sale of goods and services available on the premises (Class IIF).

002.04A CLASS IIA SIGNS: Signs located upon and advertising the sale or lease of property adjacent to or visible from the main-traveled way of the Interstate System.

002.04A1 Class IIA Signs which are erected, maintained or allowed to exist must have a permit from the Department of Transportation.

002.04A2 Class IIA Signs conform to lighting criteria in Section 002.08.

002.04A3 Class IIA Signs - Spacing Requirement.

002.04A3(a) No more than one Class IIA Sign shall be permitted for each property within the Bonus Area along the Interstate System in such a manner as to be visible to traffic proceeding in any one direction on the Interstate System.

002.04A3(b) Class IIA Signs shall not be erected within fifty feet of the nearest edge of the right of way of an intersecting public road, street or highway within the corporate limits of a municipality. Nor shall Class IIA Signs be erected nearer than one hundred feet from the nearest edge of the right of way of an intersecting public road, street, or highway outside the corporate limits of a municipality.

002.04A3(c) Class IIA Sign - Size Requirement - The message on Class IIA Signs must contain the words for sale, for rent, or for lease, and may exhibit trade names, names of owners, or sales agents with a maximum of eight inch copy. Class IIA signs shall be no larger than 20 feet in length, width or height nor exceed one hundred and fifty square feet in area.

002.04B CLASS IIB SIGNS: Signs located upon and advertising the sale or lease of property adjacent to or visible from the main-traveled way of the HBCS, except the Interstate.

002.04B1 Permits are not required for Class IIB signs.

002.04B2 Class IIB Signs shall conform to lighting criteria in Section 002.08.

002.04C CLASS IIC SIGNS: Those signs which are located within the Bonus Area upon property adjacent to or visible from the main-traveled way of the Interstate System, located more than fifty feet from the premises, and which advertise products or services available on the property. A property may have more than one advertised premise conducting business on the property, however, there shall only be one Class IIC sign allowed for the

property.

002.04C1 Class IIC Signs which are erected, maintained or allowed to exist must obtain a permit from the Department of Transportation.

002.04C2 Class IIC Signs - Spacing Requirements - No property shall be permitted to erect more than one Class IIC Sign in a Bonus Area in such a manner as to be visible to traffic proceeding in any one direction on the Interstate System.

002.04C3 Class IIC Signs - Size Requirements - Class IIC Signs located in Bonus Areas shall be no larger than 20 feet in length, width or height nor exceed one hundred and fifty square feet in area. Any of these signs located in Cotton or Kerr Areas must comply with Class IID requirements.

002.04C4 Class IIC Signs shall conform to the lighting criteria in Section 002.08.

002.04D CLASS IID SIGNS: Those signs located upon property adjacent to and visible from the main-traveled way of the HBCS, except the Interstate or located upon property in the Kerr or Cotton Areas and visible from the main-traveled way of the Interstate System, which advertise products or services available on the property.

002.04D1 Permits are not required for Class IID Signs.

002.04D2 Class IID Signs may change their message at reasonable intervals by electronic process or remote control, provided they advertise only goods or services available on the property or give public service messages.

002.04D3 On-Premise Signs placed adjacent to the HBCS, except the Interstate but within the Bonus Area along the Interstate System, must comply with Class IIC Sign requirements enumerated in Section 002.04C.

002.04D4 Class IID Signs shall conform to the lighting criteria in Section 002.08.

002.04E CLASS IIE SIGNS: Those farm or ranch signs which are located upon property adjacent to or visible from the main-traveled way of the HBCS, except the Interstate, which advertise products or services available on the property.

002.04E1 Permits are not required for Class IIE signs.

002.04E2 Class IIE Signs must be located on property owned or leased for farming or ranching operations. Narrow strips of land contiguous to the farm or ranch and leased for the purpose of placing signs will not be considered for Class IIE Signs.

002.04E3 Signs which advertise a product used by a farmer or rancher will not be considered On-Premise Signs and must comply with the standards for Class III Signs. Trade names are allowed if the farmer or rancher is a bona-fide dealer with the merchandise for sale and no compensation of any type is received for placing the sign on the farm or ranch property.

002.04E4 Farm On-Premise Signs placed within the Bonus Area along the Interstate System must comply with the Class IIC standards.

002.04E5 Class IIE Signs shall conform to the lighting criteria in Section 002.08.

002.04F CLASS IIF SIGNS: Those signs which are located within the Bonus Area on the premises adjacent to or visible from the main-traveled way of the Interstate System and which advertise products or services available on the premises. A property may have more than one premise.

002.04F1 Permits are not required for Class IIF signs.

002.04F2 There are no size or spacing requirements for Class IIF signs.

002.04F3 Class IIF signs shall conform to the lighting criteria in Section 002.08.

### 002.05 CLASS III SIGNS

002.05A Class III Signs are those signs located in zoned and unzoned commercial and industrial areas which are not classified as either Class I, Class II, Class IV or Class V Signs.

002.05B All signs located within urban areas and more than six hundred and sixty feet from the edge of the right of way of the HBCS are exempt from these Regulations.

#### 002.05C Conforming Class III Signs - Restrictions and Requirements

002.05C1 All Class III Signs must obtain a permit from the Nebraska Department of Transportation.

002.05C2 The lighting for Class III Signs must comply with the requirements set forth in Section 002.08 of these Rules and Regulations.

#### 002.05C3 Class III Signs - Size Requirements.

002.05C3(a) The maximum area for any Class III advertising sign shall be one thousand square feet.

002.05C3(b) These Rules and Regulations shall not prevent the erection of a double faced, stacked, back-to-back, side-by-side or V-type construction with a maximum of two sign faces per side with the maximum area of one thousand square feet allowed for each side. Such signs must be physically connected and of substantially the same size and under the same ownership.

#### 002.05C4 Class III Signs - Spacing Requirements.

002.05C4(a) Primary HBCS, except for the Interstate, System - Class III Signs must be located in properly zoned or unzoned areas with spacing as follows:

002.05C4(a)(1) Inside the Corporate Limits of a Municipality - The number of sign structures on the same side of the HBCS, except for the Interstate, within zoned or unzoned commercial or industrial areas shall not exceed the length of the frontage as measured along the centerline of the highway divided by one hundred feet, providing that structures shall be spaced at least one hundred feet apart. Such spacing shall be measured along and parallel to the centerline of the highway and providing further that no sign shall be permitted in an area fifty feet parallel to the existing right of way line and within fifty feet from the nearest edge of the right of way.

002.05C4(a)(2) Outside the Corporate Limits of a Municipality - The number of sign structures on the same side of the HBCS, except for the Interstate, within zoned or unzoned commercial or industrial areas shall not exceed the length of the frontage as measured along the centerline of the highway divided by two hundred and fifty feet, providing that structures shall be spaced at least two hundred and fifty feet apart. Such spacing shall be measured along and parallel to the centerline of the highway and providing further that no sign shall be permitted in an area one hundred feet parallel to the existing right of way line and within one hundred feet from the nearest edge of the right of way.

002.05C4(a)(3) Exceptions - These spacing provisions do not apply to signs separated by a building or structure in such a manner that only one sign located within the prescribed spacing is visible from the highway at any one time.

002.05C4(b) Interstate System - Class III Signs must be located in Cotton or Kerr Areas with spacing as follows:

002.05C4(b)(1) Inside the Corporate Limits of a Municipality - Signs along the Interstate Highways shall not be erected or maintained in any place where they are visible from the main-traveled way of the National System of Interstate and Defense Highways, where they are closer than two hundred and fifty feet to another sign structure on that side of the highway. Such spacing shall be measured along and parallel to the centerline of the Interstate.

002.05C4(b)(2) Outside the Corporate Limits of a Municipality - No sign may be located within interchange areas and within five hundred feet of the point where traffic enters or leaves the main-traveled way (measuring along the Interstate from the sign to the nearest widening constructed for the purpose of acceleration or deceleration of traffic movement to or from the main-traveled way) and no sign shall be erected so that it is located closer than five hundred feet to another sign structure on that side of the highway. Such spacing between signs shall be measured parallel to the centerline of the Interstate.

002.05C4(b)(3) Areas in which advertising control easements have been acquired: No Class III advertising sign, display or device shall be permitted.

002.05D CHANGEABLE MESSAGE SIGN (CMS): An outdoor advertising sign, display or device which changes the message or copy on the sign by electronic or mechanical device or process, regardless of the technology used. CMS are considered outdoor advertising signs and subject to all applicable regulations and subject to the following:

002.05D1 CMS must conform to general spacing requirements of 002.05C4 and the specific spacing requirements of 002.05D2.

002.05D2 No two (2) CMS structures may have sign facings erected less than five thousand (5000) feet apart measured from the center of the sign supports nearest the highway along a line parallel with the highway. CMS structures may be located on either side of the highway; however, each sign must only be visible from one direction of travel and must comply with the 5,000-foot spacing on each side.

002.05D3 CMS structures must conform to the size requirements of 002.05C3.

002.05D4 Conforming sign structures may be modified to a CMS upon compliance with CMS standards and obtaining a permit in accordance with 002.12.

002.05D5 Nonconforming sign structures will not be modified to a CMS.

002.05D6 Each advertisement displayed must remain fixed for at least ten (10) seconds. If there is more than one advertisement per face, then when any advertisement changes, the entire face shall remain fixed for ten (10) seconds.

002.05D7 When an advertisement is changed, it must be accomplished with an interval of two (2) seconds or less.

002.05D8 CMS must contain a default mechanism that will freeze the sign in one position if a malfunction occurs.

002.05D9 CMS shall be constructed as a single structure with only one face intended to be visible from each direction of travel, as viewed from a point 100 feet from the centerline of the sign measured horizontally along a line normal or perpendicular to the centerline of the highway.

002.05E NONCONFORMING CLASS III SIGNS: Class III Signs that do not meet the size, lighting, and spacing requirements, or are not located in properly zoned or unzoned commercial or industrial areas.

002.05E1 These rules and regulations shall not be construed to require the purchase of Nonconforming

Class III Signs by the Nebraska Department of Transportation if such signs were lawfully in existence on March 27, 1972, and located within zoned or unzoned commercial and industrial areas as defined in 39-1302 Neb.Rev.Stat.

002.05E2 Nonconforming Class III Signs, other than those described in Section 002.05E1 above, will be subject to purchase as required by the Nebraska Department of Transportation as funds become available.

#### 002.06 CLASS IV SIGNS

002.06A Class IV Signs are those signs containing directional information.

002.06B CLASS IVA SIGNS: Signs containing directional information about public places owned or operated by federal, state or local governments or their agencies; publicly or privately-owned natural phenomena or historical, cultural, scientific, educational or religious sites; or publicly or privately-owned areas of natural scenic beauty or naturally suited for outdoor recreation.

002.06B1 Eligibility Requirements. Privately-owned attractions or activities, noted in 002.06B, must be nationally or regionally known and of outstanding interest to the traveling public.

002.06B1(a) To be nationally or regionally known all privately-owned activities or sites shall be on the National Register of Historic Places or determined eligible for the National Register of Historic Places by the State Historic Preservation Officer, except for private nonprofit museums.

002.06B1(b) To be of outstanding interest to the traveling public all privately-owned activities and sites and private nonprofit museums shall have at least an annual visitor count of 1,500.

002.06B1(c) All public places owned or operated by federal, state or local governments or their agencies, including publicly-owned museums, are presumed to be nationally or regionally known and of outstanding interest to the traveling public.

#### 002.06B2 SIGN SIZE REQUIREMENTS

002.06B2(a) Shall not exceed the following dimensions:

002.06B2(a)(1) AREA: 150 square feet 002.06B2(a)(2) Height: 20 feet 002.06B2(a)(3) Length: 20 feet

002.06B2(b) These dimensions include border and trim, but exclude supports.

002.06B3 SIGN LIGHTING REQUIREMENTS See Section 002.08 Lighting.

002.06B4 Sign Spacing and Location Requirements.

002.06B4(a) Shall be located off the highway right of way.

002.06B4(b) The sign for a privately-owned activity or site shall not be located in a publicly-owned rest area, parkland or scenic area.

002.06B4(c) Shall not be located within:

002.06B4(c)(1) The adjacent area on either side of the HBCS within 2,000 feet of a publicly-owned rest area, parkland or scenic area, as measured horizontally along a line normal or perpendicular to the centerline of the highway. The measurement shall begin at the property line of the publicly-owned rest area, parkland or scenic area.

002.06B4(c)(2) The adjacent area on either side of the HBCS within 2,000 feet of an interchange of any Interstate or freeway. This distance is measured along the HBCS from the nearest point of

the beginning or ending of pavement widening at the entrance to or exit from the main traveled way.

002.06B4(d) Signs facing the same direction of travel shall be spaced at least one mile apart from any other Class IVA Sign.

002.06B4(e) No more than three directional signs pertaining to the same activity or site and facing the same direction of travel may be erected along a single route approaching the activity or site.

002.06B4(f) A sign visible from an Interstate highway shall be within 75 air miles of the activity or site it identifies.

002.06B4(g) A sign visible from any HBCS, except the Interstate, shall be within 50 air miles of the activity or site it identifies.

002.06B4(h) The location of the sign shall be subject to approval by the Nebraska Department of Transportation.

002.06B4(i) If there are two or more qualifying requests, and space limitations will not permit the installation of signs for all requests, requests shall be approved on a first-come first-served basis.

#### 002.06B5 SIGN MESSAGE CONTENT

002.06B5(a) The message shall include the identification of and direction to the activity or site.

002.06B5(b) The message may contain directional information to assist motorists in locating the activity or site, including route numbers and exit numbers.

002.06B5(c) The message for an area naturally suited for outdoor recreation shall list the types of recreational opportunities available.

002.06B5(d) The message shall not contain additional words or phrases descriptive of the activity or site, pictorial or photographic representations of the activity or site or its environs, or advertisements of brand name goods.

002.06B5(e) The message shall contain current information.

002.06B6 Class IVA signs must have a permit from the Nebraska Department of Transportation.

002.06C Class IVB Signs: Signs displaying a message that is limited to any of the following: the name of a nonprofit service club, charitable association, church or religious group, or its location, or the hours of its meetings or services or an appropriate emblem which do not exceed 8 square feet in area. Descriptive words or phrases or pictorial representations shall not be permitted.

002.06C1 As used in Section 002.06C, nonprofit service club, charitable association, church or religious group shall mean:

002.06C1(a) Any organization that has received a 501(c)(3) tax-exemption from Internal Revenue Service, or;

002.06C1(b) Any organization that has been formed as a Public Benefit or Religious Corporation under the Nebraska Nonprofit Corporation Act, Neb. Rev. Stat. 21-1901 to 21-19,177, or;

002.06C1(c) Any organization that does not come within 002.06C1(a) or (b) of this section, but is organized for a public or charitable purpose, and upon dissolution must distribute its assets to a public benefit corporation, the United States, a state, or a person recognized as exempt under section 501(c)(3) of the Internal Revenue Code, or any successor section, or;

002.06C1(d) Any educational, religious, charitable, or cemetery organization that can provide proof of exemption from property taxes in accordance with Neb. Rev. Stat. 77-202 (d), or;

002.06C1(e) Any organization that is associated with another organization noted in 002.06C1(a), (b), (c), or (d), of this section, as a subordinate or subsidiary of the other organization and are under the authority or control of the other organization.

#### 002.06C2 Class IVB Signs - Size

002.06C2(a) Class IVB Signs shall not exceed eight square feet in area or, when more than one organization erects a combination structure, the size of the structure is limited to 150 square feet; however, each individual organization is limited to eight square feet on that combination structure.

002.06C2(b) No Class IVB Sign or combination of signs shall exceed twenty feet in length or height.

#### 002.06C3 Class IVB Signs - Spacing

002.06C3(a) Class IVB Signs shall be located in such a manner as not to endanger the health, safety and welfare of the traveling public. They shall not obstruct the view of oncoming traffic or any traffic control devices. No other spacing limitations apply.

002.06C4 Class IVB Signs must have a permit from the Nebraska Department of Transportation. 002.06C5 Class IVB Signs shall conform to the lighting criteria in Section 002.08.

### 002.07 CLASS V SIGNS

002.07A Class V Signs are farm and ranch directional signs erected for the purpose of locating or giving direction to farms or ranches from the HBCS, except the Interstate.

002.07A1 Class V Signs located within the corporate limits of any municipality must be placed at least fifty feet from the right of way of any intersecting public road, street, or highway or located in such a manner as not to obstruct the view of oncoming traffic or any traffic control signs or devices.

002.07A2 Class V Signs located outside the corporate limits of any municipality must be placed at least one hundred feet from the right of way of any public road, street or highway or located in such a manner as not to obstruct the view of oncoming traffic or any traffic control signs or devices.

002.07A3 Class V Signs shall display only the name of the farm, ranch, or the owner of such farm or ranch and the direction and distance thereto.

002.07A4 Class V Signs shall not exceed an area of eight square feet. When used in combination with other signs on one structure, the combined signs shall not exceed an area of one hundred and fifty square feet, provided no individual sign shall exceed eight square feet.

002.07A5 On the HBCS, except the Interstate, Class V Signs must be placed outside of the right of way and within one mile preceding the intersection leading to the activity.

002.07A6 Class V Signs shall not be allowed to be placed along the Interstate System.

002.07A7 Class V Signs shall not be erected, maintained or allowed to exist without obtaining a permit from the Department of Transportation.

002.07A8 Class V Signs shall conform to the lighting criteria in Section 002.08.

### 002.08 LIGHTING

002.08A All signs may be illuminated subject to the following restrictions.

002.08B Illuminated signs must be effectively shielded to prevent beams or rays of light from being directed at any portion of the traveled way of the HBCS or which are of such intensity or brilliance as to cause glare or to impair the vision of the driver of a motor vehicle, traveling on the above mentioned highways or which otherwise interfere with a driver's operation of a motor vehicle, when traveling on said highways.

002.08C Signs which contain or are illuminated by flashing, intermittent, or moving light or lights are prohibited except for the following signs:

002.08C1 Signs which change their message at reasonable intervals by electronic process or remote control giving public service information, or time, date, temperature, or weather. On-Premise Signs advertising goods or services available on the premises shall not contain or be illuminated by beacons, strobe lights or other bright flashing lights.

002.08C2 Class IIA, Class IIB, Class IIC, Class IID, Class IIE, and Class IIF Signs if they comply with the requirements of 60-6,127 and 60-6,128 Neb.Rev.Stat. provided such signs shall not contain or be illuminated by beacons, strobe lights or other bright flashing lights.

002.08C3 Changeable message signs that conform to the criteria in Section 002.05D.

002.08D This rule and regulation is intended to be in addition to all other regulations of illuminated signs by other State agencies, governmental subdivision or local governmental authorities.

## 002.09 PROHIBITED SIGNS

002.09A The erection or maintenance of the following signs may not be permitted in controlled areas.

002.09A1 Signs advertising activities that are illegal under Federal, State or local laws or regulations at the location of the activity or site advertised.

002.09A2 Obsolete or discontinued signs.

002.09A3 Signs that are not in substantial good repair or a major portion of the message or advertising content is obscured and unreadable.

002.09A4 Signs that are not securely affixed to a substantial structure.

002.09A5 Signs which attempt or appear to attempt to direct the movement of traffic, obscure, or interfere with the effectiveness of, imitate or resemble any official traffic signal, sign or device.

002.09A6 Signs, which prevent the driver of a vehicle from having a clear and unobstructed view of official signs and approaches to intersections.

002.09A7 Signs erected or maintained upon trees or painted or drawn upon rocks or other natural formations or features.

002.09A8 Signs which move or have animated or moving parts are prohibited except for the following signs:

002.09A8(a) Class IIB Signs if they comply with all other requirements of that class.

002.09A8(b) Class IID Signs if they comply with all other requirements of that class.

002.09A8(c) Class IIE Signs if they comply with all other requirements of that class.

002.09A8(d) CMS signs, noted in 002.05D, if they comply with all the requirements of that class.

002.09A9 Signs painted, printed or mounted upon parked automobiles, trucks, trailers or a movable

structure are prohibited except for the following signs:

002.09A9(a) Class IIB Signs if they comply with all other requirements of that class.

002.09A9(b) Class IID Signs if they comply with all other requirements of that class.

002.09A9(c) Class IIE Signs if they comply with all other requirements of that class.

#### 002.10 LEASES

002.10A The sign owner shall not place or cause to be placed a sign upon land not owned by such person without first obtaining a written lease from the owner of such land. The sign owner shall furnish a copy of this lease to the Department with the application to erect a sign. A lease means an agreement, license, permit, or easement, in writing, by which possession of use of land or interest therein is given for a specific purpose.

#### 002.11 INVENTORY AND MAP OF STATE SYSTEM

002.11A The Department of Transportation shall maintain a map showing the current HBCS. Such map shall be available for public inspection at the Department of Transportation Complex at 1500 Highway 2 in Lincoln, Nebraska. An inventory shall be maintained for all advertising signs within the advertising control area on the HBCS. In order that the Department may know what signs were in existence in 1972 for future cross reference, the inventory of 1972 shall be preserved in order that the Department may show signs in existence at the time of the inventory and what signs have been removed.

#### 002.12 PERMITS

##### 002.12A Signs Requiring Permits

002.12A1 No sign shall be erected, maintained or allowed to exist along the HBCS without a written permit, except those signs classified as Class IA, IB, IC, IIB, IID, IIE.

002.12A2 Printed sale bills less than two hundred and sixteen square inches in size shall not require a permit if otherwise conforming.

002.12A3 Where a written agreement between the Nebraska Department of Transportation and a municipal government exists allowing the municipal government to control outdoor advertising by issuing permits, only that permit will be required, but a copy of the permit will be forwarded by the sign owner to the permit officer of the Nebraska Department of Transportation.

002.12A4 A new permit is required prior to reconstruction or modification of an advertising device subject to the permit provisions of this rule, as if it were a new advertising sign.

##### 002.12B Application for Permits

002.12B1 Applications for such permit may be obtained from the respective Nebraska Department of Transportation District Offices in Lincoln, Omaha, Norfolk, Grand Island, Bridgeport, North Platte, McCook and Ainsworth.

##### 002.12B2 FORM OF APPLICATION

002.12B2(a) The application shall be made on a form provided by the Department of Transportation and shall be signed by the applicant or the applicant's duly authorized officer or agent.

002.12B2(b) The application shall show the type, location, and description of the advertising structure or device and the dimensions of the advertising area thereof.

002.12B2(c) The application shall state the name and address of the lessor or the owner of the

property on which the sign is located.

002.12B2(d) The application shall include a copy of the lease between the sign owner and the property owner, if these persons are not identical.

002.12B2(e) Prior to submitting an application, the applicant shall stake the location of the proposed sign and attach to the stake the applicant's name and address.

002.12B2(f) Zoning Conflicts The applicant shall furnish a copy of the approval from the local zoning authority to erect the sign, if applicable. Whenever the zoning authority of a county or incorporated city has established regulations controlling the size, lighting, and spacing of outdoor advertising signs that are stricter than the controls set forth herein then the local regulations will apply.

### 002.12B3 PERMIT FEE AND CONDITIONS

002.12B3(a) The fee for each original, reconstruction, modification, or renewal permit shall be fifteen dollars for each sign structure requiring a permit, none of which is refundable if the permit is revoked or cancelled by the Nebraska Department of Transportation prior to the end of the permit term, except as provided in Section 002.12B3(l).

002.12B3(b) The permit shall be renewed biennially after the date of issuance.

002.12B3(c) The permit holder must erect either a supporting structure or the entire sign within one hundred and twenty days of the date of issuance of the permit. The permit will be revoked if not exercised within one hundred and twenty days after the date of issuance, unless the holder of the permit can prove to the satisfaction of the permit officer that the delay, beyond one hundred and twenty days, is due to the failure of a local zoning authority to issue a necessary permit or the inability of the permit holder to obtain a necessary building material.

002.12B3(d) The identifying permit number issued by the Nebraska Department of Transportation, shall be displayed in a conspicuous place on each advertising device or structure, in such a manner as to be readily observable from the highway right of way.

002.12B3(d)(1) A replacement permit number will be issued by the Department to replace any number which is lost or stolen upon receipt of written notification of such fact from the permittee.

002.12B3(d)(2) A five dollar fee for each replacement permit number shall be charged by the Department.

002.12B3(e) A permit number may not be changed from one sign to another by either the Nebraska Department of Transportation or the permit holder, and upon destruction of the sign, the permit shall be cancelled and thereby be void and of no effect.

002.12B3(f) Conforming or nonconforming signs shall be maintained in accordance with the provisions of 002.01M.

002.12B3(g) A nonconforming sign which is substantially damaged by wind or acts of God shall not be repaired or re-erected until the owner has been notified by the Nebraska Department of Transportation that such sign can be repaired or re-erected.

002.12B3(g)(1) After approval of the Department, nonconforming signs which are damaged by wind or acts of God may be repaired, re-erected or acquired by the State if the cost of the repair based on new construction and overhead costs are less than sixty percent of the depreciated value of the sign. Signs which are damaged sixty percent or more cannot be rebuilt and must be removed by the sign owner without compensation.

002.12B3(g)(2) The Department's personnel shall determine the percent of damage to the sign.

002.12B3(h) The Nebraska Department of Transportation shall be notified by the sign owner when a nonconforming sign is destroyed or substantially damaged by an act of vandalism.

002.12B3(h)(1) The Department shall have the option of acquiring the sign or permitting the re-erection of the sign.

002.12B3(h)(2) Compensation for such sign shall be based on the estimated depreciated value of the sign prior to the vandalism less cost to repair or re-erect.

002.12B3(i) Discontinued or obsolete signs

002.12B3(i)(1) A permit will not be issued for a discontinued or obsolete sign.

002.12B3(j) The granting of a permit shall not at any time be construed as conferring upon the holder any vested rights in property, real or personal.

002.12B3(k) The permittee shall notify the Nebraska Department of Transportation of the sale of any permitted sign or business entity owning a permitted sign. Written notification of such sale showing sign number, date of sale, and name and address of the transferee must be sent by the transferee to the Nebraska Department of Transportation within ninety days after the date of the sale. Failure to notify the Nebraska Department of Transportation Permit Officer of such transfer within the ninety-day limit shall cause the permit to be revoked and the sign shall be removed by the sign owner.

002.12B3(l) No permit fee will be charged for:

002.12B3(l)(1) Farm and ranch directional signs erected and owned by the owner of such farm or ranch, permitted as a Class V.

002.12B3(l)(2) Signs erected by governmental bodies, educational organizations, veterans organizations, civic organizations, or civic organizations not operated for profit, permitted as Class ID, IE, IVA or IVB.

#### 002.12B4 Denial or Revocation of Permit for a Sign

002.12B4(a) The sign structure may be removed by the Nebraska Department of Transportation if the permit holder fails to renew such permit within thirty days after the expiration of the permit period.

002.12B4(b) A permit may be revoked if false or misleading information is given in the application for such permit.

002.12B4(c) A permit may be revoked for any nonconforming sign if such sign is increased in size, if additional faces are placed on the sign, or if lights are added to the sign. The sign owner then loses his right to compensation for the sign. The sign owner must then remove the sign at the owner's expense.

002.12B4(d) A permit may be revoked for failure to attach the identifying permit number to a permitted sign.

002.12B4(e) A permit will not be renewed unless the sign has displayed advertising or informative content at some time during the previous twelve consecutive months.

002.12B4(f) The permit for a sign will be revoked if during the permit term the sign does not display advertising or informative content during any period of twelve consecutive months.

002.12B4(g) A permit may be revoked if the permit holder does not erect either the supporting structure or the entire sign within one hundred and twenty days of the date of issuance of the permit.

002.12B4(h) Maintenance of the sign from the highway right of way will be cause for revocation of the permit.

002.12B4(i) Mowing and/or damage to any vegetation, trees or shrubs within the highway right of way will be cause for revocation of the permit.

002.12B4(j) Maintenance of an advertising device in violation of the provisions of these Rules and Regulations is prohibited. The property owner and the sign owner will be notified by the Department of Transportation of said violations.

## 002.13 REMOVAL AUTHORIZED

002.13A Any outdoor advertising device which does not conform with these Rules and Regulations shall be subject to removal as provided in this section.

### 002.13A1 Permitted Signs

002.13A1(a) If the Nebraska Department of Transportation determines that an existing permit should be revoked, the Department shall give written notice by certified or registered mail, or by personal delivery, to the landowner and permittee specifying in what respect the permit holder has failed to comply with the requirements of these Rules and Regulations.

002.13A1(b) Conforming Signs - If the permit holder or landowner fails to correct such condition within thirty days after receiving notice, the Nebraska Department of Transportation may revoke the permit and cause the sign to be removed.

002.13A1(c) Nonconforming Signs - Any nonconforming sign that has been increased in size, had lights added, or had its location changed shall lose its nonconforming rights and the Nebraska Department of Transportation may revoke the permit and cause the sign to be removed.

### 002.13A2 Non-Permitted Signs or Non-Renewal of Permit

002.13A2(a) If the owner of the advertising device has not applied for a permit, or renewed a permit, as required by these Rules and Regulations, the advertising device will be presumed to be owned by the owner of the property on which the advertising device is located.

002.13A2(b) The permit office shall give written notice by certified or registered mail, or by personal delivery, to the owner of the property on which the advertising device is located, informing the owner of the failure to obtain a permit and ordering the owner to apply for a permit or remove the advertising device within thirty days.

002.13A2(c) If the owner of the property on which the advertising device is located informs the Nebraska Department of Transportation of the correct name and address of the owner of the advertising device, the permit officer or designated representative shall notify said owner.

002.13A2(d) If the owner of the property on which the advertising device is located does not inform the Nebraska Department of Transportation of the correct name and address of the owner of the advertising device and does not apply for a permit or remove the advertising device within thirty days, the device will be conclusively presumed to be discontinued.

002.13A3 If the device is presumed discontinued under this section, the Nebraska Department of Transportation may proceed as follows:

002.13A3(a) If the owner of the property gives his consent in writing to the Department for the removal of the advertising device which is on their property without a lease, the Department may remove such device, sign, or display as if it were the owner. The Department shall not be responsible for damages

otherwise created by the removal of such advertising device or for its destruction subsequent to removal.

002.13A3(b) If the owner of the property does not give their written consent for removal of the advertising device by the Department, the Department may use any available legal remedy to effect its removal.

#### 002.14 SCENIC BYWAYS

002.14A No new sign shall be erected which is visible from the main-traveled way of any scenic byway except:

002.14A1 Class I Official signs as allowed in 002.03

002.14A2 Class II On-Premise signs as allowed in 002.04

002.14A3 Class IV Directional signs as allowed in 002.06.

002.14A4 Class V Farm and ranch directional signs as allowed in 002.07

002.14B All permitted conforming Class III signs (Section 002.05) shall remain as conforming signs when the highway they are adjacent to is designated as a scenic byway.

002.14C All permitted conforming Class III signs that are removed from their existing location, for whatever the reason, will not be allowed to be re-erected under the existing permit. Therefore, if a new application is submitted and the Class III sign will be visible from the main-traveled way of any scenic byway, it will be considered as a new sign and will not be allowed to be erected.

#### ANNOTATION

Title 410 Chapter 3

Enabling Legislation

§39-102; 39-145; 39-201.01 to 39-226; 39-699; 39-714.01; 39-807; 39-1302; 39-1311; 39-1320 to 39-1320.11; 60-6,127; 60-6,128; 69-1701 to 69-1702 Neb. Rev. Stat.

#### ATTCHMENT 1 COTTON AREAS

1958 ACT AND 1965 ACT COMBINED



