

TITLE 410 NEBRASKA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY DIVISION

Chapter 4 Junkyard Permits

001 PURPOSE The following Rules and Regulations govern permits for location and maintenance of junkyards within one thousand feet of the Highway Beautification Control System (HBCS) in accordance with the requirements of Chapter 39, Article 26 Neb. Rev. Stat.

002 DEFINITIONS

002.01 Automobile Graveyard: Any establishment or place of business which is maintained, operated, or used for storing, keeping, buying or selling wrecked, scrapped, ruined or dismantled motor vehicles or motor vehicle parts.

002.02 Department: The Department of Transportation of the State of Nebraska.

002.03 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.

002.04 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.

002.05 Industrial Activities: Those generally recognized as industrial by zoning authorities within the State, except that none of the following shall be considered industrial activities:

002.05A Outdoor advertising structures.

002.05B Agricultural, forestry, ranching, grazing, farming, and related activities, including, but not limited to, wayside fresh produce stands.

002.05C Activities normally and regularly in operation less than three months of the year.

002.05D Temporary activities.

002.05E Activities not visible from the traffic lanes of the main-traveled way.

002.05F Activities more than three hundred feet from the nearest edge of the main-traveled way.

002.05G Activities conducted in a building principally used as a residence.

002.05H Railroad tracks, minor sidings, and passenger depots.

002.05I Junkyards as defined in Section 002.07.

002.06 Junk: Old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste or junked, dismantled, or wrecked automobiles, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.

002.07 Junkyard: An establishment or place of business which is maintained, operated or used for storing, keeping, buying or selling junk or for the maintenance or operation of an automobile graveyard, and includes garbage dumps and sanitary fills.

002.08 Main-Traveled Way: The traveled portion of the HBCS on which through traffic is carried and, in case of a divided highway, the traveled portion of each of the separated roadways.

002.09 Person: Any natural person, partnership, limited liability company, association, corporation or governmental subdivision.

002.10 Right Of Way: Land, property, or interest therein, usually in a strip, acquired for or devoted to a road, street, or highway.

002.11 Road: A public way for the purposes of vehicular travel, including the entire area within the right of way. A road designated as part of the state highway system may be called a highway, while a road in an urban area may be called a street.

002.12 Roadway: The portion of a highway, including shoulders, for vehicular use.

002.13 Scenic Byway: Means a road, highway, or connecting link designated as a scenic byway pursuant to Neb. Rev. Stat. 39-217.

002.14 Unzoned Industrial Area: For purposes of junkyard control, the land occupied by the regularly used building, parking lot, storage or processing area of an industrial activity, and that land within one thousand feet thereof, which is:

002.14A Located on the same side of the highway as the principal part of said activity.

002.14B Not predominantly used for residential or commercial purposes.

002.14C Not zoned by State or local Law, Regulation or Ordinance.

003 APPLICATIONS All persons desiring to obtain a permit to operate, locate, or maintain a junkyard in locations described in 005, must make application on the forms furnished by the Department of Transportation, Right of Way Division, Lincoln NE.

004 PERMITS

004.01 A permit will be issued if the owner or operator has complied with the provisions of Title 410, Chapter 4 - Junkyard Permits.

004.02 Permit shall be non-transferable.

004.03 Any person acquiring an existing junkyard shall make new application for a permit.

004.04 The annual fee for obtaining such permit shall be fifty dollars.

004.05 The permit shall be renewed January 1 of each year.

004.06 The applicant, if an individual, shall provide their Social Security Number.

005 LOCATION

005.01 Except as provided for in 005.02, no person shall locate and maintain a junkyard, any portion of which is within one thousand feet of the nearest edge of the right of way of any roadway of the HBCS, without obtaining a permit from the Department of Transportation.

005.02 Junkyards located in counties which have formally adopted a comprehensive development plan and a zoning resolution regulating the location of junkyards within one thousand feet of the nearest edge of the right of way of any roadway of the HBCS, except those routes which consist of the federally designated National system of Interstate and Defense Highways, shall be exempt from the permit requirements noted herein.

006 CONDITIONS

006.01 No permit shall be granted for the location and maintenance of a junkyard within one thousand feet of the nearest edge of the right of way of any roadway of the HBCS except the following:

006.01A Those which are screened by natural objects, plantings, fences or other appropriate means so as not

to be visible from the main-traveled way, or otherwise removed from sight;

006.01B Those located within areas which are zoned for industrial use under authority of the law of a municipality or county, except those located along any route designated as a scenic byway;

006.01C Those located within unzoned industrial areas, except those located along any route designated as a scenic byway;

006.01D Those which are not visible from the main-traveled way.

006.02 Junkyards lawfully in existence PRIOR to August 27, 1971, which do not qualify for a permit under shall be screened by the Department of Transportation so as not to be visible from the main-traveled way of the HBCS.

006.02A Screening of junkyards will take place as federal aid matching funds are available.

006.02B All such junkyards shall apply for and receive a permit from the Department of Transportation.

006.03 Junkyards lawfully in existence PRIOR to August 27, 1971, which do not qualify for a permit under 006.01 and which cannot, as a practical matter, be screened, may be removed.

006.03A The Department of Transportation may acquire by gift, purchase, exchange or condemnation from the owner, such interest in lands or personal property as may be necessary to acquire the location, or to effect the removal or disposal of such junkyards.

006.03B Acquisition of junkyards will take place, as federal aid matching funds are available.

006.03C All such junkyards shall apply for and receive a permit from the Department of Transportation.

006.04 Junkyards established AFTER August 27, 1971, which are not in areas zoned industrial or unzoned industrial areas established prior to August 27, 1971, must, as a part of the application, submit a plan for screening the junkyard from the view of the traveling public.

006.04A The Department of Transportation will determine if the screening is acceptable and can be maintained by the owner or operator to a standard to comply with 006.01.

006.04B The proposed screening is to be constructed on the applicant s property at no cost to the Department of Transportation.

006.04C Such junkyards shall not be entitled to a permit until the Department approves the application.

006.04D Screening shall be in place within one year of the date of the original permit.

007 LEASE REQUIREMENTS The junkyard owner shall not place or cause to be placed a junkyard upon land not owned by such person without first obtaining a written lease from the owner of such land. The junkyard owner shall furnish a copy of this lease to the Department with the application for a junkyard. 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.

008 ZONING CONFLICTS. Nothing in Title 410, Chapter 4 - Junkyard Permits, shall be construed to abrogate or affect the provisions of any lawful ordinance, regulation, or resolution that is more restrictive than Title 410, Chapter 4 - Junkyard Permits. Therefore, applicants shall furnish a copy of the approval from the local zoning authority to establish the junkyard, if applicable. Whenever the local zoning authority has established regulations controlling junkyards that are stricter than the controls set forth herein, then the local regulations will apply.

009 SCREENING

009.01 Location of Screening

009.01A All screening shall be placed on the real property of the junkyard. Screening placed next to adjacent private property shall have a minimum of two foot setback from the property line unless the owner or operator shall submit recorded legal documents showing a right of entry upon the adjoining property to maintain the screening.

009.01B All screening, whether of fencing or plant material or a combination, shall be located in a manner that will give adequate sight distance from all driveways, streets and roads.

009.02 Materials for Use in Junkyard Screening

009.02A Materials for use in screening of junkyards shall consist of plant material, fence, or a combination of plant material and fence. Screening shall be designed and constructed in a manner that will not create a safety hazard to pedestrians or the traveling public.

009.02B All plant material used for screening shall be of a size and quantity to provide total obscurement of junk and junkyards from the view of the traveling public within five years. Plant material shall be of such variety to provide year-round screening.

009.02C Fencing material shall consist of wood, metal, or other material commonly used in the building trade, and shall be such height and type as to totally obscure the junk and junkyards from the view of the traveling public. The fence shall be designed to withstand a minimum wind load of twenty pounds per square foot and shall be of a permanent nature. All materials used for fencing shall have a non-reflective surface.

009.03 Maintenance of Screening. Persons owning, operating or maintaining a junkyard shall maintain the screening in a condition equal to the original installation of the screening. Maintenance shall include, but not be limited to the following items:

009.03A Replacement of plant material which is dead or has been damaged

009.03B Fence maintenance shall include the replacement of panels, sections, members or support structures when needed.

010 FAILURE OF COMPLIANCE

010.01 Persons owning, operating or maintaining a junkyard and failing to comply with any provision of these Rules and Regulations or the terms of the permit to operate a junkyard issued in accordance herewith shall have their permit revoked. The junkyard will not be eligible for a new permit until such time as the violation of the Rules and Regulations and/or terms of the permit have been corrected and approved by the Department of Transportation and a new application submitted with the annual fee.

010.02 The Department of Transportation may apply to the district court in the county in which such junkyards may be located for an injunction to abate such nuisance or for such other relief as may be necessary or proper.

010.03 Any person who shall be found in violation of Title 410, Chapter 4, Junkyard Permits shall be guilty of a Class II misdemeanor. Each day s violation shall constitute a separate offense.

011 EXPENDITURE OF FUNDS; LIMITATIONS The Department of Transportation shall not expend any funds under Title 410, Chapter 4, unless federal-aid matching funds are available for the purpose described in 23 U.S.C. 136.