

ARTICLE 37-05

OUTDOOR ADVERTISING ADJACENT TO HIGHWAYS

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**CHAPTER 37-05-00
DEFINITIONS**

Section	
37-05-00-01	Definitions

37-05-00-01. Definitions. As used in this article:

1. "Department" means the department of transportation.
2. "Director" means the director of the department of transportation or an authorized agent of the director.
3. "Federal-aid primary system" means the federal-aid primary system in existence on June 1, 1991, and any highway that is not on such system, but which is on the national highway system, constituting part of the state highway system.
4. "Sign" means any outdoor advertising sign as defined in subsection 5 of North Dakota Century Code section 24-17-02 but excludes directional and other official signs as described in chapter 37-05-04.

History: Effective August 1, 1994.

General Authority: NDCC 24-17-10

Law Implemented: NDCC 24-17-09

CHAPTER 37-05-01
APPLICATION AND PERMIT FOR COMMERCIAL MESSAGE TYPE SIGNS

Section	
37-05-01-01	Permit Required
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37-05-01-03	Permit Duration and Fee
37-05-01-04	Permit Number - Placement of Sign
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37-05-01-01. Permit required. A person may not erect or maintain a sign along any portion of the right of way of any highway on the federal-aid primary system without having first obtained a written permit issued by the director.

Outside urban areas, any sign visible from the main-traveled way and meeting any of the criteria listed below is a sign which has been erected with the purpose of its message being read from the main-traveled way of any highway on the federal-aid primary system. These criteria apply to any sign regulated under North Dakota Century Code section 24-17-03.1. Where a sign is visible from the main-traveled way of more than one highway, one or more of which is a controlled highway under this article, the more stringent of the applicable control requirements applies. The criteria are:

1. The sign has any lettering one inch [2.54 centimeters] or more in height or width for each fifty feet [15.24 meters] of distance from the sign to the main-traveled way of a controlled highway, the distance from the sign to the main-traveled way being measured at right angles to the highway at the shortest distance between the sign and the centerline of the main-traveled way nearest the sign.
2. At least eighty percent of the total average daily traffic count of vehicles, as determined by department counts, on all highways from which the sign is visible is traveling in either or both directions along the main-traveled way of a highway on the federal-aid primary system.
3. The sign is visible from the main-traveled way of the highway for more than five seconds traveling at the posted speed limit, or for the time needed to read the whole message, whichever is less.
4. The sign is placed at an angle that makes it easily visible to traffic on the main-traveled way of the controlled highway.

5. The sign advertises a location not directly accessible from the noncontrolled highway, and is clearly intended for travelers on the main-traveled way of the controlled highway.

Unless the context otherwise requires, terms used herein are defined as in 23 CFR, part 750, subpart G.

History: Effective July 1, 1983; amended effective August 1, 1994.

General Authority: NDCC 24-17-10

Law Implemented: NDCC 24-17-03, 24-17-03.1, 24-17-09

37-05-01-02. Application for permit. Permits may be applied for only on the form provided by the director. All information on the application form must be provided in addition to any supplemental information required by the director prior to acting on the application. Incomplete applications will be returned to the applicant. All information on the permit applications shall be certified as correct by the applicant, under penalty of law. If the permit is not granted, the applicant will be given written notification of the reasons for the denial of the permit and the fee will be refunded.

History: Effective July 1, 1983; amended effective August 1, 1994.

General Authority: NDCC 24-17-10

Law Implemented: NDCC 24-17-09

37-05-01-03. Permit duration and fee. Every application for a permit must be accompanied by a fee in the amount of fifty dollars for a license period covering the life of the sign. Permits shall be applied for only on the application form provided by the director.

History: Effective July 1, 1983; amended effective August 1, 1994.

General Authority: NDCC 24-17-10

Law Implemented: NDCC 24-17-09

37-05-01-04. Permit number - Placement of sign. Each permit issued under this chapter shall have an identification number, and shall entitle the holder to erect only the advertising sign described in the application and only at the exact location authorized. If the sign is not erected within one year of the date of issuance of the permit, the permit is automatically void and revoked under this chapter, unless additional time is granted by the director. Any sign subsequently erected at the location without the issuance of a permit with a new application and fee is unlawful advertising and shall be removed upon the order of the director pursuant to North Dakota Century Code section 24-17-11.

History: Effective July 1, 1983; amended effective August 1, 1994.

General Authority: NDCC 24-17-10

Law Implemented: NDCC 24-17-09

37-05-01-05. Permit license. A person may not erect and maintain a sign unless there is securely fastened thereon a permit license tag as specified in this chapter. The erecting of any such sign without having affixed thereon a permit license tag is prima facie evidence that the sign has been erected and is being maintained in violation of the provisions of this chapter and is unlawful advertising and shall be removed upon the order of the director pursuant to North Dakota Century Code section 24-17-11.

History: Effective July 1, 1983; amended effective August 1, 1994.

General Authority: NDCC 24-17-10

Law Implemented: NDCC 24-17-09

37-05-01-06. Permit revocation. Upon the revocation of any permit issued under this chapter, the sign for which it was issued constitutes unlawful advertising under North Dakota Century Code section 24-17-11 and must be removed upon the order of the director. In addition to other reasons provided by law and this article, permits may be revoked under circumstances, including the following:

1. If a sign is not erected within one year of the date of issuance of the permit.
2. If any information on the permit application is found to be false and was false on the date submitted to the director.
3. If the sign is not erected at the location and in the manner authorized by the permit, or if the sign is otherwise not in accordance with this article.

History: Effective July 1, 1983; amended effective August 1, 1994.

General Authority: NDCC 24-17-10

Law Implemented: NDCC 24-17-09

37-05-01-07. Leases and zoning.

1. Leases submitted with permit applications must be written leases showing on their face that the applicant is authorized by the landowner to erect a sign on the property. If no written lease exists between the applicant and the landowner, the applicant may substitute a letter from the landowner authorizing erection of a sign on the property and showing the duration of the authority, or the landowner may sign the permit application. A landowner's letter or signature on the sign permit application must be used when no written lease exists between the applicant and the landowner either because none was drafted and executed or because the applicant claims to be a successor to the rights of a prior lessee.
2. In addition to other requirements and limitations provided by state and federal law and rules, signs may be erected and

maintained only in areas zoned by local zoning authorities as industrial or commercial, under a comprehensive zoning plan, or in areas which are unzoned but are commercial or industrial in use pursuant to the agreement between the director and the United States secretary of transportation according to 23 U.S.C. 131. Zoned or unzoned areas will be as defined by state and federal law, including administrative rules.

History: Effective July 1, 1983; amended effective August 1, 1994.

General Authority: NDCC 24-17-10

Law Implemented: NDCC 24-17-03, 24-17-03.1, 24-17-09

CHAPTER 37-05-02
PLACEMENT AND MAINTENANCE OF SIGNS

Section	
37-05-02-01	Owner Name To Be Displayed
37-05-02-02	Placement and Lighting
37-05-02-03	Damaged Signs - Removal
37-05-02-04	Blank Signs
37-05-02-05	Nonconforming Signs - Maintenance, Repair, Alteration, Abandonment

37-05-02-01. Owner name to be displayed. A sign may not be erected or maintained unless the name of the person owning or maintaining it is plainly displayed on the sign. Any sign erected or maintained which does not contain the owner's name plainly displayed on the sign is unlawful advertising and must be removed upon the order of the director pursuant to North Dakota Century Code section 24-17-11.

History: Effective July 1, 1983; amended effective August 1, 1994.

General Authority: NDCC 24-17-10

Law Implemented: NDCC 24-17-09

37-05-02-02. Placement and lighting. A sign may not be erected or maintained in any of the following locations or positions or under any of the following conditions:

1. Within the right of way of any highway.
2. If visible from any highway and simulating or imitating any official directional, warning, danger, or traffic control sign, or if intended or likely to be construed as giving warning to traffic such as by the words "Stop" or "Slow Down".
3. If visible from any highway and displaying any red or blinking or intermittent light likely to be mistaken for a warning or danger signal.
4. If any illumination on this sign is of such brilliance or so positioned as to blind or dazzle the vision of travelers on the adjacent highways or create the impression that the lights are from oncoming or intersecting vehicles. Such conditions must be corrected within ten days of notification by the director.
5. Except for on-premise signs, along a scenic highway as designated by the former highway corridor board, or nearer than one thousand feet [304.8 meters] from the designated

start or finish of such highway outside the limits of municipalities.

History: Effective July 1, 1983; amended effective August 1, 1994.

General Authority: NDCC 24-17-10

Law Implemented: NDCC 24-17-09

37-05-02-03. Damaged signs - Removal. Damaged, defaced, or poorly maintained conforming signs must be repaired within one hundred eighty days after notice by the director, and if not so repaired they will be deemed abandoned and unlawful advertising and must be removed upon the order of the director pursuant to North Dakota Century Code section 24-17-11.

History: Effective July 1, 1983; amended effective August 1, 1994.

General Authority: NDCC 24-17-10

Law Implemented: NDCC 24-17-09

37-05-02-04. Blank signs. If any sign remains blank for over one year, it is abandoned and must be removed as unlawful advertising pursuant to North Dakota Century Code section 24-17-11. A blank sign is a sign structure having no panel or face, or whose panel or face is not covered at least twenty-five percent in area by an advertising message.

History: Effective July 1, 1983.

General Authority: NDCC 24-17-10

Law Implemented: NDCC 24-17-09

37-05-02-05. Nonconforming signs - Maintenance, repair, alteration, abandonment. For purposes of this article a nonconforming sign is one which was lawfully erected, but which does not comply with the provisions of state or federal laws or rules passed at a later date or which later failed to comply with the law or rules due to changed conditions. Illegally erected or maintained signs are not nonconforming signs.

1. Nonconforming grandfathered signs permitted to remain in place pursuant to the January 19, 1972, agreement between the director and the United States secretary of transportation and pursuant to 23 CFR 750.707, may remain in a commercial or industrial area for their normal life, subject to reasonable maintenance and repair. Any nonconforming grandfathered sign improperly repaired or enlarged with better materials or otherwise maintained in violation of this section is unlawful and must be removed upon the order of the director pursuant to North Dakota Century Code section 24-17-11.
2. Change of advertising copy is part of reasonable maintenance and repair, but the change of copy may not increase or expand the size of the original nonconforming use.

3. Change of facing or sign display area is part of reasonable maintenance and repair, but the change of facing and sign display area may not increase or expand the size of the original nonconforming use.
4. No nonconforming sign may be substantially altered in any manner which expands or increases the size of the sign in excess of the original nonconforming use.
5. A change may not be made in the number of, type of, or material used for the support of a nonconforming sign, nor in any of its structural members or foundations, in excess of or improving upon the original nonconforming use.
6. Any nonconforming sign destroyed by the elements, taken in condemnation, or abandoned by any previous owner is an abandoned sign and may not be reconstructed. If the nonconforming sign is only damaged to an extent not greater than fifty percent of the replacement cost of the sign, then it may be repaired to its preexisting size, shape, and type and quality of materials. Replacement cost will be determined by the director's sign cost schedule approved and effective on the date the sign was damaged.
7. A nonconforming sign toppled or blown over by wind or by vandalism may be reerected within one year. Any nonconforming sign not so reerected is abandoned and unlawful, may not be reerected, and must be removed pursuant to the order of the director pursuant to North Dakota Century Code section 24-17-11.
8. A nonconforming sign that has not displayed advertising copy or display for one year or more is an abandoned sign, is unlawful advertising, and must be removed upon the order of the director under North Dakota Century Code section 24-17-11, unless the owner can establish to the satisfaction of the director that the cessation of use was beyond the owner's control because it was caused by an act of God. The definition of blank sign in section 37-05-02-04 applies to this subsection for determining lack of advertising copy or display.
9. A sign may not be erected or reconstructed upon the site of an abandoned nonconforming sign, so long as the site continues to be in a nonconforming area.
10. Unless abandoned under this article, a nonconforming sign damaged or destroyed by vandalism or other criminal or tortious act may be reerected in kind, only at its preexisting size and shape, and only with the same type and quality of materials. The burden is on the sign owner to prove to the satisfaction of the director that a nonconforming sign has been destroyed by vandals or by other criminal or tortious or

unlawful action, rather than by the elements or by lawful action.

11. The requirements of this section apply to any nonconforming sign in existence, whether it became nonconforming before or after the effective date of this section.

History: Effective July 1, 1983; amended effective August 1, 1994.

General Authority: NDCC 24-17-10

Law Implemented: NDCC 24-17-09

**CHAPTER 37-05-03
SIZE AND SPACING - PENALTY**

Section	
37-05-03-01	Size of Signs
37-05-03-02	Spacing of Signs
37-05-03-03	Penalty

37-05-03-01. Size of signs. The maximum area for any one sign face shall be one thousand two hundred square feet [111.48 square meters] with a maximum height of thirty feet [9.14 meters] and a maximum length of sixty feet [18.29 meters] inclusive of any border and trim but excluding the base or apron, supports, and other structural members. The area shall be measured by the smallest square, rectangle, triangle, circle, or combination thereof which will encompass the entire sign face. The maximum face size limitations shall apply to each side of the sign structure; and sign faces may be placed back to back, side by side, or in V-type construction with not more than two displays to each facing, and such sign structure shall be construed as one sign for permitting purposes.

History: Effective July 1, 1983.
General Authority: NDCC 24-17-10
Law Implemented: NDCC 24-17-09

37-05-03-02. Spacing of signs.

1. Signs adjacent to the federal-aid primary system may not be located in a manner as to obscure or otherwise physically interfere with the effectiveness of an official traffic sign, signal, or device or obstruct or physically interfere with the driver's view of approaching, merging, or intersecting traffic.
2. On interstate highways and expressways on the federal-aid primary system:
 - a. Two signs may not be placed less than five hundred feet [152.4 meters] apart.
 - b. In areas outside of incorporated cities, signs may not be located adjacent to or within five hundred feet [152.4 meters] of an interchange, intersection at grade, or safety rest area. The five hundred feet [152.4 meters] must be measured along the interstate or freeway from the beginning or ending of pavement widening at the ramp exit from or entrance to the main-traveled way.

3. On highways, other than interstate or expressways, on the federal-aid primary system:
 - a. Outside of incorporated cities, two signs may not be placed less than three hundred feet [91.44 meters] apart.
 - b. Inside incorporated cities, two signs may not be spaced less than one hundred feet [30.48 meters] apart.
4. The spacing between sign provisions of this section do not apply to signs separated by buildings or other obstructions in a manner that only one sign facing located within the above spacing distances is visible from the highway at any one time.

History: Effective July 1, 1983; amended effective August 1, 1994.

General Authority: NDCC 24-17-10

Law Implemented: NDCC 24-17-09

37-05-03-03. Penalty. Any sign erected or maintained in violation of this article must be caused to conform to the article as directed by the director, and if it is not made to conform, it is unlawful advertising and the director may order the owner to remove it and if the owner fails to remove the sign after thirty days, the director may cause it to be removed by state forces, the expense of which shall be billed to and paid by the owner of the sign.

History: Effective July 1, 1983; amended effective August 1, 1994.

General Authority: NDCC 24-17-10

Law Implemented: NDCC 24-17-09

**CHAPTER 37-05-04
DIRECTIONAL AND OTHER OFFICIAL SIGNS**

Section	
37-05-04-01	Application of Chapter
37-05-04-02	Definitions
37-05-04-03	Criteria
37-05-04-04	Farm Directional Signs

37-05-04-01. Application of chapter. The standards contained in this chapter apply to directional and other official signs and notices which are erected and maintained in sight distance of the right of way of a highway on the federal-aid primary system, and which are visible from the main-traveled way of those highways. These standards do not apply to directional and other official traffic control signs within the highway right of way.

A directional or other official sign in this chapter does not require a permit or fee.

History: Effective July 1, 1983; amended effective August 1, 1994.

General Authority: NDCC 24-17-10

Law Implemented: NDCC 24-17-03, 24-17-03.1, 24-17-09

37-05-04-02. Definitions.

1. "Directional and other official signs and notices" include only official signs and notices, public utility signs, service club and religious notices, and directional signs.
2. "Directional signs" means signs containing directional information about cities; public places owned or operated by federal, state, or local government for their agency; publicly or privately owned natural phenomena, historic, cultural, scientific, educational, and religious sites; and areas of natural, scenic beauty or naturally suited for outdoor recreation, deemed to be in the interest of the traveling public.
3. "Official signs and notices" means signs and notices erected and maintained by public officers or public agencies pursuant to and in accordance with direction and authorization contained in federal, state, or local laws for the purposes of carrying out an official duty or responsibility. Historic markers authorized by state law and erected by state or local governmental agencies or nonprofit historical societies may be considered official signs.

4. "Public utility signs" means warning signs, informational signs, notices, or markers which are customarily erected and maintained by public or privately owned utilities as essential to their operations.
5. "Service club and religious notices" means signs and notices authorized by law, relating to meetings of nonprofit service clubs or charitable associations or religious services.

History: Effective July 1, 1983; amended effective August 1, 1994.

General Authority: NDCC 24-17-10

Law Implemented: NDCC 24-17-03, 24-17-03.1, 24-17-09

37-05-04-03. Criteria.

1. The following signs are prohibited as directional or other official signs:
 - a. Signs advertising activities that are illegal under federal or state laws or regulations in effect at the location of those signs or at the location of those activities.
 - b. Signs located in a manner as to obscure or otherwise interfere with the effectiveness of official traffic signs, signals, or devices, or obstruct or interfere with the driver's view of approaching, merging, or intersecting traffic.
 - c. Signs which are erected or maintained upon trees or painted or drawn upon rocks or other natural features.
 - d. Obsolete signs.
 - e. Signs which are in disrepair.
 - f. Signs which move or have any animated or moving parts.
 - g. Signs located in rest areas, park lands, or scenic areas.
2. Directional and official signs are limited to the following size, including border and trim, but excluding supports:
 - a. Maximum area - one hundred fifty square feet [13.94 square meters].
 - b. Maximum height - twenty feet [6.10 meters].
 - c. Maximum length - twenty feet [6.10 meters].
3. Spacing.

- a. The location of each directional or official sign must be approved by the director as provided in this article.
 - b. Directional and other official signs must comply with all other criteria and rules provided in this article.
 - c. Directional or official signs may not be located within two thousand feet [609.6 meters] of a rest area, park land, or scenic area.
 - d. Any two directional or official signs facing the same direction of travel shall be spaced not less than one mile [1.61 kilometers] apart.
 - e. Not more than three directional or official signs pertaining to the same activity and facing in the same direction of travel may be erected along a single route approaching the activity.
 - f. Directional or official signs located adjacent to the interstate system shall be within seventy-five air miles [120.70 air kilometers] of the activity.
 - g. Directional or official signs located adjacent to the federal-aid primary system shall be within fifty air miles [80.47 air kilometers] of the activity.
4. The message on directional or official signs shall be limited to the identification of the attraction or activity and the directional information useful to the traveler in locating the attraction, such as mileage, route numbers, or exit numbers. Descriptive words or phrases, pictorial or photographic representations of the activity, its environs, or its logos are prohibited.
5. Directional sign criteria.
- a. Privately owned activities or attractions eligible for directional signs are limited to the following: natural phenomena; scenic attractions; historic, educational, cultural, scientific, and religious sites; and outdoor recreational areas.
 - b. To be eligible for a directional sign, privately owned attractions or activities must be regionally known or known statewide, and of outstanding interest to the traveling public.

History: Effective July 1, 1983; amended effective August 1, 1994.

General Authority: NDCC 24-17-10

Law Implemented: NDCC 24-17-09

37-05-04-04. Farm directional signs. Farm directional signs may be erected on privately owned property for the purpose of directing the traveling public to individual farmsites.

1. The message contained on farm directional signs shall be limited to the identification of the farmsite owner and directions in miles [kilometers] or fractions thereof to the farmsite. Descriptive words, phrases, and pictorial or photographic representations of the activity at the farmsite or its logos are prohibited. The message may be located on both sides of the sign.
2. Farm directional signs shall not exceed eight square feet [.74 square meters] in area. No more than six farm directional signs may be located on the same structure.

History: Effective July 1, 1983.

General Authority: NDCC 24-17-10

Law Implemented: NDCC 24-17-09