

CHAPTER 37-05-01

APPLICATION AND PERMIT FOR COMMERCIAL MESSAGE TYPE SIGNS

Section

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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