

## **CHAPTER 37-05-02 PLACEMENT AND MAINTENANCE OF SIGNS**

### **Section**

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### **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