

**REVISED PROPOSED REGULATION OF THE
DEPARTMENT OF TRANSPORTATION**

LCB File No. R058-97

July 6, 1998

EXPLANATION – Matter in *italics* is new; matter in brackets [] is material to be omitted.

AUTHORITY: §§2-9, NRS 408.557 and 410.330; §10, NRS 410.400; §§11 and 12, NRS 410.190; §13, NRS 410.210; §§14-18, NRS 410.190; §§19-36, NRS 410.400; §§ 37-48, NRS 408.557 and 410.330.

Section 1. Chapter 410 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 10, inclusive, of this regulation.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3, 4 and 5 of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Department” means the department of transportation.*

Sec. 4. *“Director” means the director of the department.*

Sec. 5. *“Interstate” has the meaning ascribed to it in 23 U.S.C. § 103(e).*

Sec. 6. *Signs which were lawfully erected in zoned and unzoned commercial or industrial areas before the effective date of the control of a route, or segment thereof, by the department, including, without limitation, new interchanges, extensions of routes and redesignations of routes, shall be deemed to be conforming and will not be required to be removed if they are in conformity with the local ordinances and laws of this state relating to the erection and maintenance of such signs.*

Sec. 7. *For the purposes of this chapter, the effective dates of control by the department of alterations to and new routes added to the interstate and primary routes are:*

- 1. Upon the signing or acceptance of the design recommendation by the director, for new highways being constructed by the department or roadways being constructed with the intent of becoming part of the state maintained roadway system, including, without limitation, the interstate or primary routes.*
- 2. At such time as the department and the local governing body agree to transfer control of the road or street to the department, for existing roads and streets added to the interstate and primary routes.*
- 3. Upon the signing or acceptance of the design recommendation by the director, for the interstate and primary routes being altered, including, without limitation, by adding interchanges or extending routes.*

Sec. 8. 1. *The department will issue a notice of violation to the owner of a sign that is erected without a permit in violation of the provisions of this chapter. The notice will be delivered by certified mail or by posting the notice on the sign.*

2. The owner of the sign, landowner or other person responsible for erecting the sign shall, within 30 days after receiving the notice issued pursuant to subsection 1:

- (a) Obtain a permit for the sign, if the sign qualifies for a permit; or*
- (b) Remove the sign.*

3. If a permit is not obtained or the sign is not removed within the time required by subsection 2, the department will remove the sign. The owner of the sign, landowner or other person responsible for erecting the sign shall pay the cost of removal to the department. The

department will store the sign for the 30 days immediately following removal during which time the sign may be claimed upon payment of the cost of removal and any costs associated with the removal and storage of the sign and the collection of the cost of removal. A sign that is not claimed within 30 days after removal shall be deemed the property of the department and may be disposed of by the department. Any money received from the disposal will be credited first towards the costs of removal and storage of the sign. Money in excess of such costs will be deposited with the state treasurer for credit to the state highway fund to offset the cost of issuing permits for signs. If the income generated from the disposal of the sign does not meet or exceed the costs of removal and storage of the sign and the cost of collecting the cost of removal, the owner of the sign, landowner or other person responsible for erecting the sign shall pay the remaining costs.

4. Any dispute arising out of the ownership of the sign must be resolved by an appeal to the director who will cause the ownership of the sign to be investigated. The costs required to be paid by subsection 3 will be abated until ownership is determined. Ownership of the sign must be proven to the satisfaction of the director. If the director determines that the person who has been charged for the costs of removal and storage does not own the sign, the person is not liable for the costs required to be paid pursuant to subsection 3.

Sec. 9. *1. Except as otherwise provided in subsection 2, the following areas shall not be deemed to be conforming areas within unacceptable commercial or industrial zones, whether the zones are civic zones or public facility zones or whether incidental commercial or industrial activities are allowed therein, pursuant to NAC 410.730:*

- (a) *Areas established primarily for the accommodation of governmental facilities, including, without limitation, offices and schools.*
- (b) *Areas established primarily as recreational facilities, including, without limitation:*
 - (1) *Golf courses and parks;*
 - (2) *Baseball, softball and soccer fields or arenas; and*
 - (3) *Open spaces operated or managed on a profit, not-for-profit or nonprofit basis.*
- (c) *Areas established primarily for utility facilities, including, without limitation, generating plants.*

2. *The following areas shall be deemed conforming areas within unacceptable commercial or industrial zones pursuant to NAC 410.730:*

- (a) *Land in a civic zone or public facility zone if:*
 - (1) *A special or conditional use permit has been granted to allow activities categorized as "for commerce, industry or trade" on the land; and*
 - (2) *The land has been developed for such use, including, without limitation, an airport or another intense commercial or industrial development or a use which is not incidental to the primary use of the land.*
- (b) *An area along a highway extending 600 feet from and beyond the edge of land that:*
 - (1) *Meets the requirements set forth in paragraph (a); and*
 - (2) *Is not zoned other than for commercial or industrial use.*
- (c) *An area on the opposite side of a highway extending 600 feet from and beyond the edge of land that:*
 - (1) *Meets the requirements set forth in paragraph (b); and*

(2) Is not considered scenic or as having aesthetic value.

3. All measurements required pursuant to this section must be:

(a) Made from the outer edges of the regularly used buildings, parking lots, storage or processing areas or landscaped areas of the commercial or industrial activities; and

(b) Measured alongside or parallel to the edge of the pavement of the highway.

4. A scaled drawing that shows the relationship of a proposed sign to the commercial or industrial activity, a description of the commercial or industrial activity and a copy of the special or conditional use permit must be submitted to the department for each new sign to be constructed in the conforming area.

Sec. 10. 1. Signs for service clubs and churches must include a panel provided and attached by the department. The holder of the permit must obtain a panel from the district traffic engineer, have the panel engraved and return it to the district traffic engineer for attachment to the assembly. The panels must be approximately 12 inches by 40 inches.

2. The lettering must be approximately 3/4 inch tall for the name of the holder of the permit, approximately 1/2 inch tall for the location of its meeting and approximately 1/4 inch tall for the date and time of the meeting.

3. Each district traffic engineer shall make further specifications available. Depending on the size of the community in which the club or church is located, an assembly may consist of 10 panels or 15 panels.

Sec. 11. NAC 410.090 is hereby amended to read as follows:

410.090 1. The department will provide a copy of NAC 410.010 to 410.120, inclusive, and an application form for a required permit by certified mail to every operator of a junkyard subject to the provisions of NRS [410.010] **410.095** to 410.210, inclusive.

2. The operator [shall] **must** complete the application and submit it within 30 days, with the required \$10 fee, to:

[State Highway Engineer] **Utilities Section**

Department of Transportation

1263 South Stewart Street

Carson City, NV 89712

[Attention: Utilities Section]

3. The department will require a new application and fee only if a junkyard is acquired by another operator.

4. An application for a permit required by NRS 410.100 must contain:

- (a) The name and address of the **operator of the** junkyard . [operator.]
- (b) The name and address of the landowner. If the [junkyard] operator is not the landowner, the application must contain a copy of the lease or agreement allowing occupancy or a notarized affidavit attesting to the operator's right of occupancy.
- (c) If the junkyard is located in a zoned industrial area, an affidavit of that fact by the proper zoning authority.
- (d) If the junkyard is located in an unzoned industrial area, a certificate to that fact by the county planning officer or other appropriate official.
- (e) The date the junkyard was established.

- (f) A description of any expansion of the junkyard since January 1, 1972.
- (g) The notarized signature of the applicant.
- (h) The date of the application.

Sec. 12. NAC 410.100 is hereby amended to read as follows:

410.100 Junkyard screens established pursuant to the provisions of NRS [410.010] 410.095 to 410.210, inclusive, whether by the department or the operator, must be maintained by the operator if the screen is not within the right of way of the department.

Sec. 13. NAC 410.110 is hereby amended to read as follows:

410.110 1. If the applicant's junkyard does not comply with the requirements of NRS 410.120, a permit will be denied and, unless compliance is thereafter met pursuant to NRS 410.210, the junkyard will be abated.

2. The operator may reapply for a permit if he complies with the requirements of NRS 410.120 [.] before abatement proceedings are instituted.

3. Abatement proceedings will be instituted pursuant to NRS 410.210 if the screen is not properly maintained and any portion of the junkyard becomes visible from the main-traveled way of the interstate or primary highway.

4. *Except as otherwise provided in NRS 410.130, abatement proceedings may be instituted pursuant to NRS 410.210 if a quantity of junk equivalent to ten or more automobiles becomes visible from the main-traveled way of the interstate or primary highway.*

Sec. 14. NAC 410.120 is hereby amended to read as follows:

410.120 1. The department will acquire the minimum land necessary for the removal or relocation of a junkyard pursuant to the provisions of NRS [410.010] 410.095 to 410.210, inclusive. Abandoned or worthless junk must be removed by the operator or landowner.

2. If the operator of a junkyard which has been inactive or abandoned for 1 year or more begins operating the junkyard again, the operator must comply with the requirements of NRS [410.010] 410.095 to 410.210, inclusive, at his own expense.

Sec. 15. NAC 410.210 is hereby amended to read as follows:

410.210 Certain situations constitute prima facie evidence that a sign is not an on-premise advertising device. The following are not considered a part of the premises on which the activity is conducted, and any signs located on such land are considered off-premise advertising subject to control by the state:

1. Any land which is not used as an integral part of the principal activity. This includes , but is not limited , to land which is separated from the activity by a roadway, highway or other obstruction and not used by the activity, and extensive undeveloped highway frontage contiguous to the land actually used by a commercial facility even though it might be under the same ownership.

2. Any land which is used for or devoted to a separate purpose unrelated to the advertised activity. For example, land adjacent to or adjoining a service station but devoted to raising of crops, residence or farmstead uses, or other commercial or industrial uses having no relationship to the service station activity, would not be part of the premises of the service station even though under the same ownership.

3. Any land which is:

- (a) At some distance from the principal activity;
- (b) In closer proximity to the highway than the principal activity;
- (c) Developed or used only in the area of the sign's site, or between the [sign's] site *of the sign* and the principal activity; and
- (d) Occupied solely by structures or uses which are only incidental to the principal activity, and which serve no reasonable or integrated purpose related to the activity other than to attempt to qualify the land as a site for signs. Generally, these are inexpensive facilities, such as picnic, playground or camping areas, dog kennels, golf- driving ranges, skeet ranges, common or private roadways or easements, walking paths, fences and sign maintenance sheds.

4. Where the sign is located at or near the end of a narrow strip contiguous to the advertised activity, the [sign's] site *of the sign* is not considered part of the premises on which the activity being advertised is conducted. A narrow strip includes , *but is not limited to*, any configuration of land which is such that it cannot be put to any reasonable use related to the activity other than as a site for signs. In no event is [a sign's] *the* site *of a sign* considered part of the premises on which the advertised activity is conducted if it is located upon a narrow strip of land:

- (a) Which is unsuitable for building, such as swampland, marshland or other wetland;
- (b) Which is a common or private roadway; or
- (c) Held by easement or other lesser interest than the premises where the advertised activity is located.

Sec. 16. NAC 410.220 is hereby amended to read as follows:

410.220 For the purpose of the sign, the following constitutes evidence of an off-premise sign subject to control by the state:

1. When a sign:

(a) Brings rental income to the [property owner;] *landowner*; and

(b) Consists principally of brand name or trade name advertising, and the product or service advertised is only incidental to the principal activity,

it is considered the business of outdoor advertising and not an on-premise sign. An example is a typical billboard located on top of a service station advertising a brand of cigarettes or chewing gum which is incidentally sold in a vending machine on the property.

2. A sign which advertises activities conducted on the premises, but which also advertises in a prominent manner activities not conducted on the premises, is not an on-premise sign. An example would be a sign advertising a motel or restaurant not located on the premises with a notation or attachment stating Skeet Range Here, or "Dog Kennels Here." The on-premise activity would only be the skeet range or the dog kennels.

Sec. 17. NAC 410.230 is hereby amended to read as follows:

410.230 A sign permit cannot be issued unless the proposed [sign's] site *of the sign* is located in either a zoned or unzoned commercial or industrial area and unless the proposed sign conforms to the size, spacing and lighting requirements, except for approved directional or informational signs described in NAC 410.430.

Sec. 18. NAC 410.240 is hereby amended to read as follows:

410.240 1. Sign permit applications are available at the [department of transportation's] district offices [.] *of the department.*

2. The following information must be submitted by the applicant:
 - (a) The name of the [sign's owner.] *owner of the sign*.
 - (b) The mailing address of the [sign's owner.] *owner of the sign*.
 - (c) The name and mailing address of the [property owner] *landowner* at the [sign's site.]
site of the sign.
 - (d) A copy of the signed consent of the [property owners] *landowner* or a notarized affidavit by [a sign's] *the* owner *of the sign* declaring a right of occupancy [of the sign's] *to the* site *of the sign* must be attached to the application.
 - (e) The city or county in which the sign is to be located.
 - (f) The highway name or route number.
 - (g) The side of the highway along which the sign is to be located.
 - (h) The approximate location *of the sign* from an identifiable landmark, intersection, milepost or other existing sign.
 - (i) If [a sign's] *the* site *of a sign* is located in a zoned industrial or commercial area, the zone affidavit on the reverse side of the application must be executed by the appropriate zoning authority. If the [sign's] site is located in an unzoned industrial or commercial area, a sketch map of the area showing the dimensions of the buildings and proximity of the proposed sign must be attached to the application.
 - (j) Land use.
 - (k) If a sign [already] exists, the date it was erected must be indicated . [; if] *If* it is a new sign, the date the sign is to be erected must be indicated.

- (1) The height and width of the advertising area must be indicated, including border and trim , but excluding the base or apron, supports and other structural members.
- (m) The sign area must be measured by the smallest square, rectangle, triangle, circle or combination thereof which will encompass the entire sign face. A double-faced sign will require one permit with the annual fee based on the total advertising area.
- (n) The sign area of all advertising faces for the structure.
- (o) The distance from the bottom of the panel to the ground.
- (p) The number and size of posts.
- (q) The post material.
- (r) Illumination.
- (s) A photo or sketch of the sign must be attached to the application.
3. The applicant [shall] *must* affix his signature and date in the space provided on the application along with his title, if he is [personally not the sign's owner.] *not the owner of the sign.*

Sec. 19. NAC 410.250 is hereby amended to read as follows:

- 410.250 1. The sign permit application must be submitted to the [department's] district office *of the department* in the area where the proposed sign is to be located. The utility inspector shall make a field inspection to determine conformity of *the* location and [milepost] :
- (a) *The stationing ; or*
- (b) *The mileposts,*
- for the proposed sign.

2. The utility inspector shall forward the application [to] *with a report of his field inspection:*
- (a) *To* the headquarters building in Carson City [with a report of his onsite findings.] ; or
- (b) *If the proposed site of the sign is located in District 1, to the Right of Way Division of the department at 123 East Washington Avenue, P. O. Box 170, Las Vegas, Nevada 89125-0170.*

3. The applicant must clearly mark the exact location of the proposed sign to enable the utility inspector to perform the required inspection.

4. *The department will grant an application on the basis of:*
- (a) *A priority system, as set forth in subsection 5; or*
- (b) *A lottery system, as set forth in subsection 6.*

5. When the application is received by the department, it [is] *will be* logged in with the date and time received and marked by the recipient. If the application is incorrect or incomplete , it will be mailed back to the applicant without being logged . [, resulting in a delay.] During the interim, while the applicant is completing or correcting the returned application, the department may receive a complete and correct application which then receives priority as to spacing requirements.

6. *If the department determines that it is in the public interest, the department may select applicants on the basis of a lottery system. To qualify for the lottery, an application must be correct and complete when received by the department. If the application is incorrect or incomplete, it will be mailed back to the applicant without being entered into the lottery. The*

applicant may complete or correct the returned application and resubmit the application to the department before the date on which the applications for the lottery are due.

Sec. 20. NAC 410.260 is hereby amended to read as follows:

410.260 1. If the [proposed sign's] site *of the proposed sign* conforms, a metal permit tag will be issued for the proposed sign and furnished to the applicant with a copy of the approved sign permit application. The applicant will be responsible for conspicuously attaching the metal permit tag to the specific sign structure for which it is issued so that it is visible from the roadway. In lieu of attaching the metal permit tag, the applicant may paint the assigned permit number on the sign at a location that is clearly visible from the roadway. If *the sign is* painted, the same color scheme utilized on the tag, which is yellow on black, must be followed. The yellow numerals must be painted on the solid black background measuring at least 6 inches by 12 inches. The yellow numerals must be at least 2 1/2 inches high and must be clearly legible.

2. If painted permit numbers are used, they may be placed in either a horizontal or vertical configuration, whichever will provide the greatest visibility from the roadway.

3. If the [proposed sign's] site *of the proposed sign* is determined to be nonconforming and a sign permit is denied, the applicant will be reimbursed with a state warrant in that amount attributable to the annual fee. The inspection fee will be retained to defray expenses incurred by the state.

4. Approval of an application and issuance of a permit does not alleviate an applicant from complying with all applicable county or local regulations. Any violation of county or local regulations may result in cancellation of the permit.

Sec. 21. NAC 410.270 is hereby amended to read as follows:

410.270 1. The applicant has 180 days from the time the permit is granted to construct the sign. Should the construction not be completed within the 180-day period, the permit will be subject to cancellation with full forfeiture of fees previously submitted. This cancellation occurs immediately upon expiration of the 180-day period and no 30-day violation notice will be sent. A cancellation notice must be sent to inform the [sign's owner.] *owner of the sign*. Extensions on the 180-day construction period will generally not be granted. However, when the applicant [can and does provide] *provides* documentary proof that the construction has been delayed through no fault of his own, such as a long-pending approval of a local governing agency, an extension may be granted. Cases will be treated on their own merit. Any extension will be at the discretion of the department. In no instance will the availability of materials or contract problems qualify for a time extension.

2. If a permit is canceled due to violation of the 180- day construction period, the applicant may reapply for a permit. This reapplication will involve filling out a new application and submitting it with full fees. The reapplication will also be subject to the effect of intervening applications received between the time of cancellation and reapplication for spacing requirements.

Sec. 22. NAC 410.280 is hereby amended to read as follows:

410.280 1. A sign permit may be canceled at the discretion of the state highway engineer in accordance with subsection 2 of NRS 410.330. Such cancellation will result in the removal of the sign at the sign owner's expense. If the [sign's] owner *of the sign* objects to any cancellation, he may request a hearing before an ad hoc committee to be comprised of the

highway engineer, or his authorized representative; the chief right of way agent, or his authorized representative; and a member of the sign industry, the latter to be selected by the sign association of Nevada, who shall submit two names to the state highway engineer for his selection. The decision of this hearing board, which must be made by majority vote, is final.

2. Hearings must be scheduled as the need arises.
3. Failure to take immediate corrective action as indicated by the issuance of an Outdoor Advertising Violation Notice or the removal or destruction of flora from within the highway right of way or adjacent areas in accordance with subsection 5 of NRS 410.220 to maintain visibility or to support an advertising sign will result in revocation of the permit.

Sec. 23. NAC 410.290 is hereby amended to read as follows:

410.290 1. A check payable to the department , [of transportation,] in the total amount of the inspection fee and applicable annual fee must accompany the sign permit application. The breakdown of the fees submitted for inspection fees, annual permit fees and the total amount of the fees must be indicated.

2. Each off-premise outdoor advertising sign maintained within any area subject to state control on or after March 15, 1972, will be assessed an annual permit fee of [\$20.] \$50. Unused portions of annual permit fees are nonrefundable and the entire fee will be assessed for a sign installation during any part of a calendar year.

3. Any [sign permit] fees *for sign permits* which are more than 30 days delinquent [will] *may* result in *the* cancellation of the [sign] permit and removal of the sign if a new permit cannot be granted [under] *pursuant to* NAC 410.200 to 410.440, inclusive.

4. An inspection fee in the amount of [~~\$25 is~~] \$150 will be assessed for each off-premise outdoor advertising sign erected within any area subject to [~~state~~] control *by the department* to defray expenses incurred by the department for its field inspection. Any [~~additional~~] work performed [~~beyond normal site inspection and application processing~~] *in addition to normal inspection of the site and processing the application* will be billed to the applicant [.] *in addition to the inspection fee.* Once the field inspection has been performed, [~~the \$25 inspection~~] *any fee assessed or billed to the applicant pursuant to this subsection* is nonrefundable.

Sec. 24. NAC 410.310 is hereby amended to read as follows:

410.310 The [~~sign permit form prohibits the maintenance~~] *maintenance* or construction of a sign [~~in~~] *on private property from within* the right of way of the state [. *Violation*] *is prohibited. Any violation* of this requirement may result in the *revocation of the sign permit and the* removal of the sign at the owner's expense.

Sec. 25. NAC 410.330 is hereby amended to read as follows:

410.330 1. The maximum : [~~size limitations for signs are:~~

2. Measurements include:

]

(a) *Area for a single face of a sign is 1,200 square feet. The area must be measured by the smallest square, rectangle, triangle, circle or combination thereof which will encompass the entire sign.*

(b) *Height of a face of any sign is 30 feet.*

(c) *Length of a face of any sign is 60 feet.*

2. *The limitations for the size of signs set forth in paragraphs (b) and (c) of subsection 1 apply to each side of a sign.*

3. *A sign may be placed back to back or side to side on the same structure.*

4. *A sign may be placed in a V-shape with not more than two displays to each facing.*

Such a sign shall be deemed to be one sign.

Sec. 26. NAC 410.340 is hereby amended to read as follows:

410.340 1. On interstate and federal-aid primary highways, signs must not be located in such 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. For signs along interstate highways and controlled access freeways:

(a) No two structures may be spaced less than 500 feet apart.

[For example, signs allowed in zoned and unzoned commercial areas only:

]

(b) Outside of incorporated cities, no structure may be located adjacent to or within 500 feet of an interchange, intersection at grade or safety rest area. The 500 feet must be measured along the interstate or freeway from the beginning or ending of pavement widening at the exit from or entrance to the main traveled way. [For example:

]

3. For signs along nonfreeway primary highways:
 - (a) Outside of incorporated villages and cities, including the area within unincorporated towns and villages, no two structures may be spaced less than 300 feet apart. [For example, signs allowed in zoned or unzoned commercial or industrial areas only:

]

(b) Within incorporated villages and cities, no two structures may be spaced less than 100 feet apart. [For example, signs allowed in zoned or unzoned commercial or industrial areas only:

]

4. For signs along all controlled routes [: *The spacing-between-structures*] , *the* provisions *of this section* do not apply to structures separated by buildings or other obstructions situated in a manner so that only one sign located within the spacing distances described in this section is visible from the highway at any one time, in both directions of travel.

[

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Sec. 27. NAC 410.340 is hereby amended to read as follows:

410.340 1. On interstate and federal-aid primary highways, signs must not be located in such 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. For signs along interstate highways and controlled access freeways:

(a) No two structures may be spaced less than 500 feet apart.

(b) Outside of [incorporated cities,] *urbanized area boundaries*, no structure may be located adjacent to or within 500 feet of an interchange, intersection at grade or safety rest area. The 500 feet must be measured along the interstate or freeway from the beginning or ending of pavement widening at the exit from or entrance to the main traveled way. *As used in this paragraph, "urbanized area boundaries" has the meaning ascribed to it in 23 U.S.C. §101(a).*

3. For signs along nonfreeway primary highways:

(a) Outside of incorporated villages and cities, including the area within unincorporated towns and villages, no two structures may be spaced less than 300 feet apart.

(b) Within incorporated villages and cities, no two structures may be spaced less than 100 feet apart.

4. For signs along all controlled routes, the provisions of this section do not apply to structures separated by buildings or other obstructions situated in a manner so that only one sign located within the spacing distances described in this section is visible from the highway at any one time, in both directions of travel.

Sec. 28. NAC 410.350 is hereby amended to read as follows:

410.350 **1.** Signs must not be placed with illumination that interferes with the effectiveness of or obscures any official traffic sign, device or signal. Signs must not include or be illuminated by flashing, intermittent or moving lights, except any parts necessary to give

public service information such as the time, date, temperature, weather or similar information.

Signs must not cause beams or rays of light to be directed at the traveled way if the light is of such intensity or brilliance or is likely to be mistaken for a warning or danger signal or to cause glare or impair the vision of any driver, or to interfere with any driver's operation of a motor vehicle. *Illumination or lights for signs must not resemble or simulate any lights used to control traffic.*

2. *A commercial electronic variable message sign, including, without limitation, a trivision sign, may be approved as an off-premise outdoor advertising sign in an urban area if the sign does not contain flashing, intermittent or moving lights, does not cause a glare on the roadway and the following conditions are met:*

(a) *An existing sign may be modified or updated if the sign conforms with established criteria relating to zoning, size, lighting and spacing.*

(b) *A message on a trivision sign may have a minimum display time of 6 seconds and a maximum change interval of 3 seconds.*

(c) *A trivision sign must contain a mechanism that will stop the sign in one position if a malfunction occurs.*

(d) *If a sign is installed that does not comply with the provisions of this subsection, the owner of the sign shall correct the violation or remove the sign at his own expense.*

(e) *Prior approval from the department is required to modify existing signs to include the commercial electronic variable message sign, and a new permit fee of \$150 will be charged.*

Sec. 29. NAC 410.360 is hereby amended to read as follows:

410.360 1. Maintained signs must be kept in a state of ordinary repair.

[2. Ordinary maintenance, repair and upkeep of the sign means that] *As used in this subsection, “ordinary repair” means such* maintenance, repair, upkeep and refurbishing of the sign [must not exceed 50 percent of the cost of the advertising display or sign when new. If the cost of repair exceeds 50 percent, it will be considered a new sign is erected and the regulations pertaining to new signs are applicable.

3.] as is required to allow the sign to exist for its normal expected life.

2. Any nonconforming or grandfathered conforming sign that sustains damage from wind, or accidental external influence beyond the control of the [sign's] owner *of the sign* in excess of 50 percent of the cost of the [advertising display or new sign, may not be reerected and the permit must be canceled. For purposes of determining the new cost of the device, the state's approved acquisition schedule must be utilized.

4.] components of the supporting structure, including, without limitation, the main supports, braces and stringers, shall be deemed totally destroyed. Advertising panels are not components of the supporting structure. Any reconstruction of such a sign must meet all criteria for the construction of a new sign at that location.

3. Pursuant to the authority in NRS 410.220, the following applies to the maintenance of outdoor advertising structures : [erected prior to and subsequent to April 27, 1971:]

(a) No outdoor advertising structures may be maintained from across right of way control of access fences or boundaries. Any violation of this provision will result in immediate cancellation *of the sign permit* with no prior notice.

(b) Improper maintenance of outdoor advertising structures will, at the discretion of the [engineer,] *director*, result in the revocation of any sign permits or licenses of the offending structure and the owner will be required to remove the same within 30 days after notification.

[**(c)** The owner of the advertising structure may request a hearing to protest any action taken pursuant to this section or NRS 410.360.]

Sec. 30. NAC 410.370 is hereby amended to read as follows:

410.370 1. Signs may have additions or cutouts placed on them. However, for nonconforming and grandfathered conforming signs, the [**sign's**] owner *of the sign* must first grant the [**state**] *department* written certification that he will accept the [**state's**] then-existing inventory data *of the department* regarding the [**sign**] size *of the sign* and material of construction and illumination. The [**state's**] inventory description *of the department* of the sign must be used solely for the purpose of valuating altered signs.

2. Additions, cutouts or illumination may be placed on conforming signs which meet all size, spacing and lighting requirements without prior notification to the [**state.**] *department*. Any change which violates the size or lighting requirements must result in permit cancellation.

3. No major structural change or addition is allowed when placing approved additions or cutouts on nonconforming or grandfathered conforming signs. The only structural change that is allowed is that required to attach the addition or cutout to the existing sign frame.

Sec. 31. NAC 410.380 is hereby amended to read as follows:

410.380 A sign may remain blank, painted out or contain “dead [**copy”**] *copy*,” such as advertising a defunct business or product or the former name of an existing business , for a period of 1 year. At the end of the 1-year period, the sign permit [**must**] *may* be canceled.

Permits [must] *may* be reissued only for signs in conforming areas that meet all the criteria for [new sign] *the* construction *of new signs* and permit applications must be accompanied by inspection and annual permit fees or , for signs on which the [sign's] owner *of the sign* can furnish documentary proof that the sign is being actively maintained, that it is a current structure on his plant inventory and that he has held a valid lease or agreement, accompanied [with] *by documentation of* the expenditure of the stipulated rental fee during the term of the blank status. Furnishing this evidence within 30 days *after the cancellation* of the permit [cancellation] constitutes proof that the sign's owner has not abandoned his interest in the structure and the canceled permit [must] *may* be reinstated for no fee.

Sec. 32. NAC 410.350 is hereby amended to read as follows:

410.400 1. The department will negotiate to purchase materially wind-damaged or vandalized nonconforming signs which are eligible for purchase pursuant to NRS 410.340 and 410.350. The offer to purchase will be based on the following guideline:

- (a) The fair market value of the sign immediately prior to sustaining damage or vandalism must be derived from the applicable schedule. The estimated cost of repairing or reerecting the sign must be deducted from the schedule value and the amount of the schedule value over estimated repair cost will constitute the [state's offer.] *offer of the department.*
- (b) This schedule does not apply to those signs that are wind damaged more than 50 percent, as their repair or reerection constitutes new construction.

2. The [sign's] owner *of the sign* has the option of allowing the [state] *department* to purchase the sign based on the above criteria or reerecting the structure for later purchase.

Sec. 33. NAC 410.410 is hereby amended to read as follows:

410.410 1. The basic criteria for determining whether the [state] *department* can offer compensation for the sign to be removed is as follows:

- (a) The sign must have been legally erected and maintained on or prior to March 15, 1972.

Signs will not be purchased until federal funds are made available for participation in such purchases.

- (b) The sign must enjoy legal occupancy status from the time of erection until purchase by the state.

- (c) The sign must be located in a nonconforming area.

(d) The sign must not have undergone any substantial change in configuration since March 15, 1972, although normal maintenance is permitted.

- (e) The sign must have a [Nevada] sign permit [.] *issued by this state*.

(f) Nonconforming signs on routes which have been added to the interstate or primary system subsequent to March 15, 1972, must be removed within 5 years of the date the route was added to the system. They may qualify for compensation subject to meeting the required occupancy tests.

2. When the valuation process begins for signs eligible for purchase, the [sign's] owner *of the sign* shall furnish the [state] *department* with copies of his leases or agreements with the property owner delineating the terms and conditions of occupancy within 30 days of such a request by the [state.] *department*. If a formal lease or agreement does not exist, the owner shall furnish the [state] *department* with a notarized affidavit attesting to his occupancy right and stating the amount of site rental paid for the last 2 calendar years, the party to whom sums for the lease were paid and the address of that party.

Sec. 34. NAC 410.420 is hereby amended to read as follows:

410.420 [When signs under the outdoor advertising control program undergo a change in]

1. *If an outdoor advertising sign governed by the provisions of NAC 410.200 to 410.440, inclusive, changes* ownership, the new owner [must] *shall* inform the department of the change [prior to December] *within 60 days after the change of ownership or November 1 of the calendar year, whichever is sooner,* to [permit the change in the permit fee billing] *allow enough time to change the* name and address [.] *on the billing for the permit fee.*

2. *A notice given pursuant to this section must include a bill of sale from the previous owner to the new owner or an affidavit signed by the previous owner confirming the change in ownership.*

Sec. 35. NAC 410.430 is hereby amended to read as follows:

410.430 1. [The erection of] *An* authorized directional or informational [signs,] *sign*, as authorized by NRS 410.400, [is subject to the issuance of a sign permit.] *may not be erected without first obtaining a sign permit from the department.* No fee will be charged for the permit which is revocable . [in nature.]

2. *All] 2. Revocable sign permits must be obtained from the department for* authorized directional and informational signs allowed upon highway rights of way . [are subject to the issuance of revocable sign permits.] Applications are available at the district offices [.] *of the department. The holder of the permit shall maintain the sign and ensure that no authorized panels are placed on the sign.*

3. Authorized directional and informational signs may be located within the right of way of noncontrolled access highways. However, such sign structures must be constructed outside

the clear roadside area and must meet accepted breakaway requirements. If any installations within the right of way are subsequently deemed a safety hazard, they must be removed or relocated within 30 days [of] *after receipt of* a notice to that effect. All determinations for allowing the erection of or requiring *the* removal or relocation *of such signs* are at the discretion of the [state highway engineer].

4. Signing for service clubs and churches include:

(a) Sign panel:

(b) Sign assembly I (maximum 10 panels):

(c) Sign assembly II (maximum 15 panels):

5.] director.

4. The *district traffic engineer shall establish* standards for directional and information signs to be located within *a* highway right of way . [are:
- (a) The type of support base and material is optional to applicant.
 - (b) The type J base must be set in concrete.
 - (c) Sign designs exceeding limits shown must be approved by the department.
 - (d) Sign placement must not obscure or conflict with official highway signs.
 - (e) Maximum sign size is 6-foot height and 7-foot base or 42 square feet.

6. Other standards for directional and information signs to be located within the highway right of way are:

- (a) The type of support base and material is optional to applicant.
- (b) Sign designs exceeding the limits shown must be approved by the department.
- (c) Sign placement must not obscure or conflict with official highway signs.
- (d) Maximum sign size is 6-foot height and 7-foot base or 42 square feet.

Such signs must be erected by the department. The holder of the permit shall pay the cost of erecting such a sign.

Sec. 36. NAC 410.440 is hereby amended to read as follows:

410.440 *1.* All political signs erected within the controlled areas of the interstate and primary routes are subject to NAC 410.200 to 410.440, inclusive. [Prior to all primary and general elections,]

2. Before each statewide:

(a) Primary election; or

(b) General election, if there is no statewide primary election,

informational packets explaining general requirements *for political signs* will be [mailed to established candidates.] *delivered to the secretary of state and the clerk of each county and municipality. The secretary of state or clerk shall distribute to each candidate and sponsor of a ballot question the informational packet.*

3. No political sign may be attached to the inside of fencing for a right of way or be placed within the department's right of way for roads, district offices, major maintenance stations, surplus and excess properties and property acquired by the department for future roadway construction.

Sec. 37. NAC 410.570 is hereby amended to read as follows:

410.570 The purpose of NAC 410.500 to 410.630, inclusive, is to provide for effective control by the department [of transportation] of official and directional signs adjacent to interstate or primary highways within [Nevada] *this state* and to establish effective control in

conformance with the national standards [promulgated] *adopted* by the Secretary of Transportation pursuant to 23 U.S.C. § 131.

Sec. 38. NAC 410.600 is hereby amended to read as follows:

410.600 1. The following directional signs are prohibited:

- (a) Signs located in such a manner as to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal or device, or obstruct or interfere with the driver's view of approaching, merging or intersecting traffic.
- (b) Signs which are erected or maintained upon trees or painted or drawn upon rocks or other natural features.
- (c) Obsolete signs.
- (d) Signs which are structurally unsafe or in disrepair.
- (e) Signs which move or have any animated or moving parts.
- (f) Signs located in rest areas, parklands or scenic areas.

2. No directional sign may exceed the following limits:

- (a) Area, 150 square feet.
- (b) Height, 20 feet.
- (c) Length, 20 feet.

All dimensions include border and trim , but exclude supports.

3. Signs may be illuminated, subject to the following:

- (a) Any sign which contains, includes or is illuminated by any flashing, intermittent or moving light or lights is prohibited.

(b) Any sign which is not effectively shielded to prevent beams of light from being directed at any portion of the traveled way of an interstate or primary highway, which is of such intensity or brilliance that it causes glare or impairs the vision of the driver of any motor vehicle, or which otherwise interferes with any driver's operation of a motor vehicle is prohibited.

(c) Any sign which is so illuminated that it interferes with the effectiveness of or obscures an official traffic sign, device or signal is prohibited.

(d) Any sign which resembles or simulates an official traffic control device is prohibited.

4. Spacing criteria are as follows:

(a) The location of each such sign must be approved by the department.

(b) No sign may be located within 2,000 feet of an interchange or an intersection at grade along the interstate system or other freeways. The distance is measured along the interstate or freeway from the nearest point of the beginning or ending of pavement widening at the exit from or entrance to the main traveled way.

(c) No sign may be located within 2,000 feet of a rest area, parkland or scenic area.

(d) No two signs facing the same direction of travel may be spaced less than 1 mile apart.

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

(f) Any sign located adjacent to the interstate system must be within 75 air miles of the activity.

(g) Any sign located adjacent to the *national highway system, other than the interstate, or the* primary system must be within 50 air miles of the activity.

5. The message on a sign must be limited to the attraction or activity and directional information useful to the traveler in locating the attraction, such as mileage, route numbers or exit numbers. Descriptive words or phrases and pictorial or photographic representations of the activity or its environs are prohibited.

6. The use of directional signs for privately owned activities or attractions is limited to providing information on natural phenomena , [;] scenic attractions , [;] historic, educational, cultural, scientific [,] and religious sites [;] and outdoor recreational areas. To be eligible for use of such signs, the privately owned attractions or activities must be nationally or regionally known and of outstanding interest to the traveling public.

7. *As used in this section, “national highway system” has the meaning ascribed to it in 23 U.S.C. § 103(b).*

Sec. 39. NAC 410.650 is hereby amended to read as follows:

410.650 As used in NAC 410.650 to 410.750, inclusive, *and sections 6 and 9 of this regulation*, unless the context requires otherwise, the words and terms defined in NAC 410.655 to 410.675, inclusive, have the meanings ascribed to them in those sections.

Sec. 40. NAC 410.680 is hereby amended to read as follows:

410.680 If any provision of NAC 410.650 to 410.750, inclusive, or any application thereof to any person, thing or circumstance is held invalid, **[the board of directors of the department intends that]** such invalidity *does* not affect the remaining provisions or applications to the extent that they can be given effect.

Sec. 41. NAC 410.690 is hereby amended to read as follows:

410.690 **1.** In accordance with NRS 410.220 to 410.410, inclusive, no off-premise outdoor advertising structure may be erected within the controlled area of the interstate or primary highway systems within [Nevada] *this state* without first obtaining a sign permit from the department . [of transportation. The controlled area differs between those interstate and primary routes within incorporated towns and cities and outside of incorporated towns and cities. The two types of controlled areas are:

1.] For a controlled area:

(a) Within the limits of urban areas which are designated in the latest national census report or as a populated area of more than 5,000 people with the boundary to be determined by the state [, the State of Nevada requires] *and based upon the metropolitan plan area statistics*, a sign permit *is required* for all signs visible from and *capable of* having [reasonable advertising value to] *their messages read from* the main traveled way of and located within 660 feet of the right of way for interstate and primary routes. The 660 feet [is to] *must* be measured perpendicular to the centerline of the main traveled way and must be concentric with the right of way line.

[2.] (b) Outside the limits of urban areas, defined in [subsection 1, the State of Nevada requires] *paragraph (a)*, a sign permit *is required* for all signs visible from and *capable of* having [reasonable advertising value to] *their messages read from* the main traveled way of interstate and primary routes. No sign may be erected beyond 660 feet from the right of way line of interstate and primary routes which [were] *was* erected to be viewed from or [which has reasonable advertising value to] *have its message read from* the main traveled way of interstate and primary routes.

2. A request to determine whether a sign will be visible from a controlled area must be made to the department before the sign is constructed. The department will inspect the site and advise the prospective holder of a permit whether the sign will be visible and capable of having its message read from the controlled area. If the holder of the permit constructs the sign after the department has advised him that the sign will be visible from the controlled area, and the sign is later determined to be in violation of any provision of this chapter, the holder of the permit shall remove the sign within 30 days after receiving notice of the violation. The holder of the permit shall pay the cost of the removal.

Sec. 42. NAC 410.695 is hereby amended to read as follows:

410.695 1. A governmental agency may submit to the director [of the department] a request for an exemption of nonconforming outdoor advertising signs within a defined area from *the requirements for* acquisition and removal by the department.

2. The area in which the signs are located must be under the jurisdiction of the governmental agency which submits the request.

3. The request must be in the form of a declaration, resolution, certified copy of an ordinance or other direction from the governing body of the county, city or other governmental agency.

Sec. 43. NAC 410.725 is hereby amended to read as follows:

410.725 1. The department will review any area zoned for commercial or industrial activity *to determine* if the zone appears to have been deliberately or inadvertently established to circumvent 23 U.S.C. § 131.

2. The department will consider a commercial or industrial zone as unacceptable for the purpose of the exception in subsection 4 of NRS 410.320 if:
 - (a) A significant number of noncommercial or nonindustrial uses are allowed in the zone or by the zoning ordinance to the extent that the commercial or industrial character of the zone is or would be obscured;
 - (b) The zone consists of a large area which is remote and unpopulated and has little or no commercial or industrial activity;
 - (c) The zone consists of a long narrow strip or strips along significant portions of highway frontage within which the existing developments do not support the commercial or industrial classification; or
 - (d) The zone is not part of a comprehensive plan of zoning but appears to have been the result of spot zoning whose primary purpose was to allow the erection or continued existence of an outdoor advertising sign.

3. The department will include in its review:
 - (a) The zoning ordinance enacted by the appropriate local authority;
 - (b) The minutes of the planning commission's and county commission's meetings at which the requests for the zoning or rezoning were discussed, in order to ascertain the purpose of the zoning or rezoning; and
 - (c) The area encompassed by the zone and the extent and nature of commercial and industrial activity in the zone.

Sec. 44. NAC 410.735 is hereby amended to read as follows:

410.735 **1.** To prove that a commercial or industrial use is contemplated for the near future and that it would provide a basis for establishing a conforming area within which an existing or proposed outdoor advertising sign could remain or be erected, the owner of the sign must submit the following information to the department:

[1.] (a) A description of the nature of the proposed commercial or industrial use.
[2.] (b) A copy of the building permit approved and issued by the appropriate local authority for improvements to be constructed to accommodate the proposed use. If a building permit is not required, the commercial or industrial use must be established within 1 year after the owner of the sign notifies the department of the proposed construction.

[3. A detailed plot showing:

(a)] (c) A scaled drawing showing:

(1) The highway with the right of way and paved traveled portion accurately depicted;
[(b)] (2) The contemplated commercial or industrial improvements or the area to be devoted to commercial or industrial activity;
[(c)] (3) The proposed conforming area [(to be defined as provided in NAC 410.730)] , as defined pursuant to NAC 410.730, encompassing the contemplated commercial or industrial activity; and

[(d)] (4) Existing or proposed outdoor advertising signs in the conforming area with distances, to be measured along the edge of the highway pavement, between those signs and the nearest commercial or industrial improvement.

2. *The department may require special conditions, including, without limitation, a performance bond or a surety bond, to ensure compliance for sign permits issued in these areas.*
3. *Any change in the proposed commercial or industrial activity must be reviewed by the department. The holder of the permit shall provide the department, without notice by the department, with sufficient documentation to review the proposed change. Failure to provide such documentation may result in the revocation of the permit, and a new application for a permit may be required. If a new application is required, all provisions of this chapter related thereto are applicable. The new application will be considered a new request and a new permit will be granted as available.*

Sec. 45. NAC 410.740 is hereby amended to read as follows:

410.740 1. An outdoor advertising sign in a proposed conforming area which will encompass contemplated commercial or industrial activity shall be deemed to be conforming pending the commencement of that activity.

2. If that activity is not commenced within:

- (a) The period specified for completion in the initial building permit issued by the local authority; or
- (b) One year after the owner of the sign notifies the department, if no building permit is required,

the department will consider that no conforming area has been established and will proceed as provided in NAC 410.745.

3. If that activity is developed in a different area than the one shown on the plot submitted to the department, the owner of any sign which may be affected must prove to the department that his sign is in the conforming area defined by applying the provisions of NAC 410.730 to that activity.

4. Any qualifying commercial or industrial activity that is temporary will define a conforming area for off-premise signs only for the actual duration of the qualifying activity. If the qualifying activity ceases for a period of 60 consecutive days or more, signs allowed within the conditional conforming area shall be deemed nonconforming, the permit will be canceled and the sign must be removed by the owner within 30 days after the notice or declaration with no compensation from the department unless another qualifying activity is established or can be demonstrated by the holder of the permit. As used in this subsection, "temporary" means the activity will exist for 3 years or less.

Sec. 46. NAC 410.745 is hereby amended to read as follows:

410.745 1. If no significant progress is made in developing the contemplated commercial or industrial activity within the period specified in the building permit issued by the appropriate local authority or within 1 year after the date on which the owner of the sign formally notifies the department of the contemplated activity in a case where no building permit is required, the department will declare that a conforming area has not been established and will acquire and remove preexisting, legally erected outdoor advertising signs. Any outdoor advertising signs which have been erected in anticipation of the establishment of a contemplated commercial or industrial activity shall be deemed illegal outdoor advertising signs and must be removed by the owner with no compensation from the department.

2. If the contemplated commercial or industrial activity is developed within the appropriate period, as prescribed in subsection 1, the department will define the conforming area to correspond with the commercial or industrial activity actually developed. The department will immediately acquire and remove any outdoor advertising signs which existed before the commercial or industrial activity was contemplated and which are outside the conforming area. Any outdoor advertising sign which has been erected in anticipation of the establishment of a contemplated commercial or industrial activity and which is outside the limits of the conforming area established is an illegal outdoor advertising sign and must be removed by the owner of the sign, with no compensation from the department.

3. A resolution of intent to rezone an area for commercial or industrial activity will be accepted for the purposes of this chapter if the term of the resolution and extensions do not exceed 3 years and the conditions and periods of time established pursuant to the resolution of intent are met by the landowner. Any sign permit issued for a sign on the property which is subject to a resolution of intent will be issued conditionally upon the property actually being rezoned for commercial or industrial activity before the expiration of the resolution of intent which must not exceed 3 years. If the resolution of intent expires without the property being rezoned or the term, including any extensions, exceed 3 years, any sign permit issued for a sign on the property will be revoked and the sign must be removed by the owner within 60 days after the expiration of the resolution of intent and any extensions thereof or the expiration of 3 years, whichever is sooner, with no compensation from the department.

Sec. 47. NAC 410.400 and 410.665 are hereby repealed.

Sec. 48. 1. This section, sections 1 to 26, inclusive, of this regulation, and sections 28 to 47, inclusive, of this regulation, are effective upon their filing with the Secretary of State.

2. Section 27 of this regulation is effective on such date as the department of transportation of the State of Nevada and the Secretary of Transportation enter into an agreement by which the State of Nevada may regulate the areas outside of urbanized area boundaries for the purpose of enforcing the Highway Beautification Act (23 U.S.C. § 101, et seq.).

TEXT OF REPEALED SECTIONS

410.400 Wind-damaged, vandalized signs.

1. The department will negotiate to purchase materially wind-damaged or vandalized nonconforming signs which are eligible for purchase pursuant to NRS 410.340 and 410.350.

The offer to purchase will be based on the following guideline:

(a) The fair market value of the sign immediately prior to sustaining damage or vandalism must be derived from the applicable schedule. The estimated cost of repairing or reerecting the sign must be deducted from the schedule value and the amount of the schedule value over estimated repair cost will constitute the state's offer.

(b) This schedule does not apply to those signs that are wind damaged more than 50 percent, as their repair or reerection constitutes new construction.

2. The sign's owner has the option of allowing the state to purchase the sign based on the above criteria or reerecting the structure for later purchase.

410.665 “Department” defined. “Department” means the department of transportation.