

LEGAL NOTICE



In accordance with Neb. Rev. Stat. 84-907, a public hearing, conducted by the Nebraska Tourism Commission, will be held Wednesday, August 29, 2018, at the Chocolate Bar, 116 W. 3rd St., in Grand Island, Nebraska, 68801, prior to consideration and/or enactment of the following:

Pursuant to the provisions of Neb. Rev. Stat. 81-3711, a public hearing will be held at 10:00 a.m., to consider the adoption of newly created regulations for the Nebraska Tourism Commission, Title 266, Chapter 2, Tourism Marker Program; that creates guidelines for the tourism marker program, including formation of a committee, marker criteria, location requirements, design and price.

Copies of the proposed regulations and fiscal impact statement shall be available for public inspection at the Nebraska Tourism Commission office and the Office of the Secretary of State.

John Ricks, Executive Director

DRAFT FISCAL IMPACT STATEMENT

Agency: Nebraska Tourism Commission	
Title: 266	Prepared by: Bryce Arens
Chapter: New Chapter 2	Date prepared: July 12, 2018
Subject: Creation of New Regulations, Chapter 2, Tourism Marker Program	Telephone: 402/471-3796

Type of Fiscal Impact:

	State Agency	Political Sub.	Regulated Public
No Fiscal Impact	()	(X)	(X)
Increased Costs	()	()	()
Decreased Costs	()	()	()
Increased Revenue	()	()	()
Decreased Revenue	()	()	()
Indeterminable	(X)	()	()

Provide an Estimated Cost & Description of Impact:

State Agency: \$0
 Political
 Subdivision: \$0
 Regulated
 Public: \$0

If indeterminable, explain why: If there is a need to build a tourism marker on a state highway, a pull-out would be required. If a pull-out is required the Department of Transportation may have increased costs to build the pull-out. It is indeterminable how many pull-outs may be required per year, but it is expected to be a smaller number.

TITLE: 266, NEBRASKA TOURISM COMMISSION

CHAPTER: 2

REGULATIONS - 2. Tourism Marker Program

ACTION: Creation of New Regulations

EXPLANATORY STATEMENT

Prepared by: John Ricks, Executive Director

The Nebraska Tourism Commission is creating the above-referenced regulations as provided by law, and hereby submits this explanatory statement to accompany the regulations and describe their purposes and the changes made during the rulemaking process.

- I. Summary: Creation of New Regulations.
- II. Overview of Purposes and Regulations Created:

Chapter 2. Section 001 describes the authority provided by Nebraska Revised Statute §§ 81-3703 through 81-3726 to promulgate these regulations. Section 002 describes the Tourism Marker Committee that has been created in accordance with Nebraska Revised Statute §§ 81-3703, 81-3706.01, and 81-3711.01. Section 003 provides the criteria and requirements for applying for a marker. Section 004 provides the location requirements for a marker. Section 005 details the design of the marker. Section 006 details the price of a marker.

These chapters have been created to allow the Nebraska Tourism Commission to provide clarification on the Commission and its authority for the Tourism Marker Program.

The proposed regulations are consistent with the legislative intent established by Section 84-907.09. The proposed regulation is not the result of any state or federal mandate, rendering a state or federal funding mechanism not applicable. The Commission will solicit public comment prior to the date of a public hearing. The Commission did not use the Negotiated Rulemaking Act in developing the proposed regulation.

Changes in Text Between Notice and Adoption:

I hereby adopt this explanation statement as the statement of the Nebraska Tourism Commission concerning the purposes of this rulemaking action and of the creation of regulations made during the process.

DATED the 19th day of July, 2018.

NEBRASKA TOURISM COMMISSION

A handwritten signature in black ink, appearing to read "John Ricks", is written over a horizontal line. The signature is cursive and stylized.

John Ricks
Executive Director

NEBRASKA TOURISM COMMISSION

NOTICE OF RULEMAKING
COMMENT PERIOD

NOTICE is hereby given that the Nebraska Tourism Commission is accepting written comments on working drafts of proposed regulations, Title 266, Nebraska Administrative Code, Chapter 2, contained in the Nebraska Tourism Commission regulations, for the creation of new regulations regarding the Tourism Marker Program including marker criteria, location requirements, design of tourism markers, and price of tourism markers.

All interested person are invited to obtain draft copies of the proposed regulations from and submit their written comments to Bryce Arens, Nebraska Tourism Commission, 301 Centennial Mall South, P.O. Box 98907, Lincoln, NE 68509-8907. The comment period will close on August 29, 2018.

Written Comments may also be sent to: Nebraska Tourism Commission office, 301 Centennial Mall South, P.O. Box 98907, Lincoln, Nebraska 68509-8907.

Where to Obtain Copies of Written Comments: Nebraska Tourism Commission office, 301 Centennial Mall South, P.O. Box 98907, Lincoln, Nebraska 68509-8907.

NEBRASKA ADMINISTRATIVE CODE

Title 266 - Nebraska Tourism Commission

Chapter 2 – TOURISM MARKER PROGRAM

- 001 Nebraska law allows allowed for marking significant tourism attractions within the state under the Nebraska Visitors Development Act, Neb. Rev. Stat. §§ 81-3703 through 81-3726.
- 002 In compliance with Nebraska Law, Neb. Rev. Stat. §§ 81-3703, 81-3706.01, and 81-3711.01, the Nebraska Tourism Commission has formed a Tourism Marker Committee to establish the criteria, location requirements and design to mark significant tourism attractions.
- A. Committee members are assigned by the chair of the Commission.
- 003 Marker Criteria. The following are the requirements for Tourism Marker eligibility.
- A. Marker must be sponsored by a government entity or nonprofit organization.
1. For-profit businesses are not eligible for Tourism Markers.
- B. Marker must be within 5 miles of the museum or attraction.
- C. Marker must be informational in nature, but can include directions to the museum or attraction.
- D. Attraction must be available to the public a minimum of five (5) days a week.
1. Attractions with seasonal availability will be evaluated on a case-by-case basis.
- E. Attraction must have a minimum annual attendance of 2,000 per annual counts submitted to the Nebraska Tourism Commission.
1. Counts may be evaluated against the previous year's attendance counts submitted by the attraction for verification.
- F. Attraction must have ample and safe parking.
- G. Attraction must comply with Americans with Disabilities Act (ADA) in providing services with compliant access.
- H. Sponsoring organization will be responsible for maintaining the marker and the accuracy of its content.
1. Sponsoring organization may be listed on the marker.
2. Commercial logos will not be permitted on the marker.
- 004 Location Requirements. The locations listed below are the only locations at which markers will be approved to be placed. Markers are prohibited on 4-lane highways and the interstate system.
- A. Natural Resource such as a lake, scenic vista, etc.
1. Marker must be within 5 miles of the natural resource.
- B. Within city limits
1. Marker location and message must be approved by the municipality.

2. The Nebraska Department of Transportation and the Nebraska Tourism Commission are not responsible for any annual city fees.
3. Cost of the marker is the responsibility of the applicant.
4. Cost of erection of the marker is the responsibility of the applicant.
5. The governing entity may be a funding resource.

C. On a county road

1. Marker location and message must be approved by the county.
2. Nebraska Department of Transportation and Nebraska Tourism Commission are not responsible for any annual county fees.
3. Cost of the marker is the responsibility of the applicant.
4. Cost of erection of the marker is the responsibility of the applicant.
5. The governing entity may be a funding resource.

D. On a 2-Lane State Highway

1. Marker location must be approved by the Nebraska Department of Transportation, Traffic Engineering Division.
2. A pull-out is required on all State Highways.
 - a. Applicant must provide an aerial map or sketch for a cost estimate of the pull-out by the Nebraska Department of Transportation.
3. Cost of the marker is the responsibility of the applicant.
4. Cost of erection of the marker is the responsibility of the Nebraska Department of Transportation.
5. If sufficient room is available a Tourism Marker may be located at an existing historical marker location.

E. Other location for consideration

1. Properties managed by the Nebraska Game and Parks Commission
 - a. Marker location must be approved by the Nebraska Game and Parks Commission.
 - b. Cost of the marker is the responsibility of the applicant.
 - c. Cost of the erection of the marker is the responsibility of the applicant.

005 Design

- A. A chemically etched 48"x48" anodized aluminum panel will be used to mark the significant tourism attractions in the state.
- B. Panel will be mounted on a metal surround creating uniformity in appearance.
- C. Marker structure would be installed on two posts for durability.
- D. Header must state "Nebraska Tourism Marker."
- E. The Nebraska Tourism Commission will review and approve all content including, but not limited to, verbiage and images.

006 Price. Each tourism marker will be \$2,800 to be paid to the Nebraska Tourism Commission by the sponsoring organization after an application has been accepted.