

LEGAL NOTICE

In accordance with Neb. Rev. Stat. 84-907, public hearings conducted by the Nebraska Game and Parks Commission, will be held on October 22, 2021 at Mid-Plains Community College North Campus WW Woods Building 1101 Halligan Drive North Platte, NE prior to consideration and/or enactment of the following:

Pursuant to Neb. Rev. Stat. Sections §§ 37-301 through 37-313, 37-337 through 37-352, 37-434 through 37-446, 37-1001 through 37-1015, 37-1264 and 37-1266, 60-314 and 60-3,105, 60-680, 60-6,190, 60-6,334, and 60-6,353 through 60-6,362 a public hearing will be held at 8:30 AM to consider amendments to Title 163, Chapter 5, Section 001 General Regulations governing the administration and use of state park property to update technical language regarding Nebraska Resident Disabled American Veterans Permit pursuant to LB 336 (2020) and establish the fee for an annual non-resident park permit be two times the fee of a resident park permit pursuant to LB770 (2021).

Pursuant to Neb. Rev. Stat. §§ 37-301, 37-304, 37-308, 37-308.01, 37-314, 37-315, 37-317, 37-404, 37-406, 37-409, 37-447, 37-449, 37-450, 37-452, 37-453, 37-455, 37-455.01, 37-456, 37-456.01, 37-529, 37-701, 37-706, 37-708, a public hearing will be held at 8:45 AM to consider amendments to Title 163 Chapter 4, Wildlife Regulations, Section 003, Antelope, Deer, Elk, to create procedures, forms, required documentation, and the number of antlerless elk harvests to qualify for a free-earned landowner elk permit.

Pursuant to the provisions of Neb. Rev. Stat. 37-301, 37-304, 37-305, 37-308, 37-314, 37-315, 37-344, 37-411, 37-426, 37-4,104, 37-4,107, 37-4,109, 37-4,111, 37-501 through 37-504, 37-508 and 37-543 through 37-545, a public hearing will be held at 9:00 a.m., to consider amendments to Commission Order C06, Sport Fishing, regarding daily bag limits, possession limits, length limits, and open areas.

Copies of the proposed regulations and the Fiscal Impact Statement shall be available for public inspection at the Game and Parks Commission office and the Office of the Secretary of State.

Copies of the proposed Commission Order changes shall be available for public inspection at the Game and Parks Commission website at www.outdoornebraska.gov.

All interested persons may attend and testify orally or by written submission at the public hearing. Interested persons or organizations may submit written comments prior to the hearing, which will be entered into the hearing record if they: 1) include a request to be included as part of the hearing record; 2) include the name and address of the person or organization submitting the comments; and 3) are received by 1:00 p.m. CT, October 20, 2021 by Sheri Henderson at the Lincoln office, 2200 North 33rd Street, Lincoln, NE 68503-0370.

James Douglas, Director



NOTICE OF RULEMAKING
COMMENT PERIOD

NOTICE is hereby given that the Nebraska Game and Parks Commission is accepting written comments on working drafts of proposed amendments, Title 163, Nebraska Administrative Code Chapter 5, entitled REGULATIONS Parks, Section 001 – General regulations governing the administration and use of state park property.

All interested persons are invited to obtain draft copies of the proposed regulations from and submit their written comments to Sheri Henderson, Division of Administration, Nebraska Game and Parks Commission, 2200 North 33rd, P.O. Box 30370, Lincoln, NE 68503, or FAX 402/471-5528. The comment period will end at 1 PM CT on October 20, 2021.

If auxiliary aids or reasonable accommodations are needed to review the drafts or participate in this process, please call the above-named person at (402) 471-5539 or, for persons with hearing impairments, (402) TDD or Nebraska Relay System, (800) 833-7352 TDD by no later than October 14, 2021.

DRAFT FISCAL IMPACT STATEMENT

Agency: Nebraska Game and Parks Commission	
Title: 163	Prepared by: Jim Swenson
Chapter: 5	Date prepared: 9/17/2021
Subject: Section 001, General Regulations governing the administration and use of state park property	Telephone: 402-471-5499

Type of Fiscal Impact:

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

Provide an Estimated Cost & Description of Impact:

The proposed regulation updates technical language for a park entry permit specifically for disabled veterans, and increases the amount charged for an annual nonresident motor vehicle to two times the fee for an annual resident motor vehicle permit .

The proposed changes are in response to the passages of LB770 (2020) and LB336 (2021).

An increase in the fees for nonresident vehicle permits to two times the resident fee will increase revenue for each annual permit by \$15 (\$45 to \$60), duplicate annuals by \$7.50 (\$22.50 to \$30) and daily by \$4 (\$8 to \$12). Based on an average of 2018, 2019 and 2020 figures, the increased revenue could be over \$744,000 and may change if there are any shifts in nonresident purchasing patterns.

If indeterminable, explain why:

TITLE: 163, NEBRASKA GAME AND PARKS COMMISSION

CHAPTER: 5 REGULATIONS Parks-- General regulations governing the
administration and use of state park property

ACTION: Amendments to Existing Regulations

EXPLANATORY STATEMENT

Prepared by: Jim Swenson, Parks Division Administrator

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

- I. Summary: Changes made to existing regulations.
- II. Overview of Purposes and Changes Made

Section 001. Last approved date is changed.

Part 001.12B includes new text that changes two (2) types of motor vehicle entry permits to three (3).

Sub-part 001.12B3 has been added to define the third type of permit, the Nebraska Resident Disabled American Veterans Permit.

Part 001.12B also includes new text that specifies that the Nebraska Resident Disabled American Veterans Permit is a lifetime permit. Also, in Part 001.12B language regarding the exception of a motor vehicle entry permit at Ak-Sar-Ben Aquarium is removed. It includes text that adds the Nebraska Resident Disabled American Veterans Permit as a permanently affixed permit. It removes outdated language regarding the fee of a temporary permit prior to January 1, 2017.

These changes update language to include the Nebraska Resident Disabled American Veterans Permit as an available permit type. The exemption of a motor vehicle entry permit at Ak-Sar-Ben Aquarium is updated to simplify the existing language that states that exemptions are required at designated areas unless otherwise posted.

Part 001.12B includes new text that adds that the fee for a non-resident motor vehicle permit shall be two times the fee for a resident motor vehicle.

These changes establish the rate at which a non-resident motor vehicle permit can be charged in relation to the resident motor vehicle permit.

Part 001.12D removes unnecessary language to simplify the language for the replacement process for annual or duplicate permits and adds the valid period for the Nebraska Resident Disabled American Veterans Permit. It also removes unnecessary language regarding obtaining free permits. It adds "annual or duplicate" as permit replacement options and also adds the replacement process for the Nebraska Resident Disabled American Veterans Permit at the Commission's Headquarters Office.

These changes update outdated language and add information for the replacement process for the Nebraska Resident Disabled American Veterans Permit.

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 the public hearing. The Commission did not use the Negotiated Rule-Making Act in developing the proposed regulation.

Changes in Text Between Notice and Adoption:

DATED the 17th day of September, 2021.

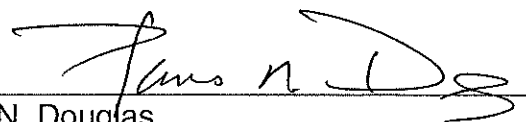
NEBRASKA GAME AND PARKS COMMISSION


Name
Parks Division Administrator

I hereby adopt this explanation statement as the statement of the Nebraska Game and Parks Commission concerning the purposes of this rulemaking action and of the changes made during the process.

DATED the 17th day of September, 2021.

NEBRASKA GAME AND PARKS COMMISSION


James N. Douglas
Director

NEBRASKA ADMINISTRATIVE CODE

Last Approved Date: ~~June 17, 2016~~ June 4, 2020

Title 163 - Nebraska Game and Parks Commission

Chapter 5 – State Parks Regulations

001 General regulations governing the administration and use of state park property

The following regulations are prescribed by the Game and Parks Commission, State of Nebraska in accordance with Neb. Rev. Stat. §§ 37-301 through 37-313, 37-337 through 37-352, 37-434 through 37-446, 37-1001 through 37-1015, 37-1264 and 37-1266, 60-314 and 60-3,105, 60-680, 60-6,190, 60-6,334, and 60-6,353 through 60-6,362. Rules and regulations are adopted and promulgated to govern the administration, use, maintenance and protection of all state parks, state historical parks, state recreation areas and state recreation trails under the ownership or control of said Commission. For purposes of these regulations, unless context otherwise requires, the definitions found in Chapter 37, sections 202 through 247 of the Game Law, are used.

The rules and regulations contained in this section shall apply to all persons entering, using, residing in, visiting or who are otherwise within the boundaries of any state owned or controlled park, historical park, recreation area or recreation trail administered by the Commission. The special regulations contained in this section also apply to all persons entering, using, residing in or visiting the areas for which such special regulations are adopted.

DEFINITIONS

The following definitions shall apply to all regulations contained in this section.

- (a) Commission shall mean the Nebraska Game and Parks Commission.
- (b) Director shall mean the Director of the Game and Parks Commission.
- (c) Park Superintendent shall mean any official in charge of a park area, or his authorized representative.
- (d) Law Enforcement Officer shall mean any duly constituted and credentialed law enforcement officer, local, state or federal, including but not limited to Commission Conservation Officers.
- (e) Park Area shall mean all state owned or controlled parks, historical parks, recreation areas, and recreation trails administered by the Commission.

PART 5 - State Park Regulations

001.01 Abandoned Property

5-001-1

001.11B Containers of alcoholic beverages whose single liquid capacity is greater than one gallon are prohibited.

001.11C Presence in a park area when under the influence of alcohol or drugs, to a degree that may endanger oneself, or another person, or property, or may cause unreasonable interference with another person's enjoyment of a park area is prohibited.

001.12 Permits, Motor Vehicle Entry

Except as hereinafter provided, it shall be unlawful for any motor vehicle to enter a state park area designated as a permit area without properly displaying a valid motor vehicle entry permit in accordance with applicable state park regulations.

001.12A Definitions

Permit: Shall mean motor vehicle entry permit.

Permit Area: Those areas of the Nebraska State Park System designated by the Game and Parks Commission for which entry permits shall be required.

001.12B Operation

There shall be ~~two (2)~~ **three (3)** types of motor vehicle entry permits to identify and differentiate between:

- 1.) Vehicles registered and licensed in Nebraska,
- 2.) Vehicles not registered and/or licensed in Nebraska (out-of-state).
- 3.) **Vehicles registered and licensed in Nebraska to disabled veterans with a Nebraska Resident Disabled American Veterans Permit.**

Each permit type shall be available to the public in four (4) forms; Annual, Duplicate Annual, Temporary (Daily), and Self-service temporary (Daily), **except for the Nebraska Resident Disabled American Veterans Permit which is available only as a lifetime permit and is valid for the qualifying veteran's lifetime.**

Designated permit areas or portions thereof requiring a valid motor vehicle entry permit shall be defined as follows unless otherwise posted: All State Parks, all State Historical Parks and all State Recreation Areas ~~except the Ak-Sar-Ben Aquarium parking facility at Schramm Park State Recreation Area.~~ Those sites within such areas designated as concession and/or seasonal cabin areas shall be classified as exempt from the entry permit requirement. Motor vehicles visiting and/or utilizing the premises of a designated Club Site lease within the confines of a permit area shall not be exempt from the permit requirement.

Annual and Duplicate Annual Permits **and the Nebraska Resident Disabled American Veterans Permit** shall be permanently affixed to the inside, lower left-

hand corner (drivers side) of the windshield of motor vehicles with windshields. In the case of motor vehicles without windshields, it shall be the responsibility of the operator to permanently affix the permit to the vehicle so as to be readily visible to inspection by any Commission employee. Motor vehicles bearing dealer number plates shall display a valid motor vehicle entry permit but are not required to have such permit permanently affixed.

Temporary (Daily) permits shall be temporarily affixed to the inside, lower left-hand corner (driver's side) of the windshield of motor vehicles with windshields. In the case of motor vehicles without windshields, it shall be the responsibility of the operator to temporarily affix the permit to the vehicle so as to be readily visible to inspection by any Commission employee. Permits shall be valid only for the dates indicated on the permit and for the vehicle to which it is issued. Permits are non-transferable.

Self-Service Temporary (Daily) Permits shall be valid only for the area where purchased. It shall be the responsibility of the operator to date and complete the pay envelope, tear off the receipt which shall be the temporary permit, and deposit payment therefore into the drop box provided. The self-service temporary permit shall be displayed in a location so as to be readily visible to inspection by a Commission employee. Self-service temporary permits are non-transferrable.

The annual permit may be purchased by any person and shall be valid through December 31 of the year for which issued. The temporary and self-service temporary permit may be purchased by any person and shall be valid until noon of the day following the activation date.

The fee for motor vehicle entry permits issued for vehicles registered and licensed in Nebraska shall be thirty dollars (\$30.00) for annual permits valid on or after January 1, 2017. ~~The fee of a temporary permit valid before January 1, 2017 shall be five dollars (\$5.00).~~ The fee of a temporary permit valid on or after January 1, 2017 shall be six dollars (\$6.00).

The fee for permits issued for vehicles not registered and/or licensed in Nebraska (out-of-state) shall be ~~forty-five (\$45.00)~~ **two times the fee for a resident motor vehicle** for annual permits valid on or after January 1, 2017-2022. ~~The fee of a temporary permit valid on or after January 1, 2017 shall be eight dollars (\$8.00)~~ **The fee for the temporary permit for a non-resident motor vehicle shall be two times the fee for a resident motor vehicle.**

The registered owner of two or more motor vehicles may purchase one duplicate annual permit for each full price annual permit purchased. The duplicate annual permit shall be used on the purchaser's vehicle. The fee shall be half (1/2) the cost of the annual permit; ~~fifteen dollars (\$15.00) for vehicles registered in Nebraska, and twenty-two dollars and fifty cents (\$22.50) for vehicles not registered and/or licensed in Nebraska.~~ To qualify, the registered owner must purchase an annual permit and surrender the completed receipt obtained therewith

as proof of purchase of said annual permit. The duplicate annual permit is valid through December 31 of the year for which issued.

Duplicate annual permits may be obtained only from the Commission's Headquarters and District Offices, areas of the state park system where Commission offices are maintained, from designated permit vendors, online, and designated Commission employees. Annual and temporary permits may be purchased from designated vendors of hunting and fishing permits in addition to the above Commission installations and employees. A permit holder who sells his or her vehicle to which a valid annual or duplicate annual permit has been attached may purchase a duplicate annual permit upon surrendering the original permit or a substantial portion thereof.

Permit vendors shall be entitled to collect and retain a fee of one dollar for each annual or duplicate annual permit sold and thirty-five cents for each temporary permit sold as reimbursement for the clerical work of issuing the permit and remitting therefore. The issuing fee shall be collected in addition to the purchase price established for each permit. Issuing fees shall not be collected for self-service temporary permits.

001.12C Who Is Required?

Permits shall be required for all motor vehicles entering designated permit areas at any time of the year, except such vehicles as are specifically exempted in §37-436. For purposes of this section, exempt motor vehicles bearing state licenses shall be defined as those motor vehicles owned or operated by the state, counties, municipalities or school districts for which distinctive license plates have been issued.

001.12D Replacement Permits

A replacement annual or duplicate annual permit may be obtained at no cost. ~~in exchange for any valid annual or duplicate annual permit damaged while being affixed to a motor vehicle or shown to be defective. The owner of a permit damaged as the result of a broken windshield requiring replacement may likewise obtain a replacement permit at no cost.~~ To qualify for a replacement permit, the owner of a valid permit shall surrender all or more than half (1/2) of such permit to an employee at a designated Commission office. A replacement permit must correspond to the same year, and is valid through December 31 of the year for which issued **except for the Nebraska Resident Disabled American Veterans Permit which is valid for the qualifying veteran's lifetime.**

~~Free replacement permits may not be obtained for any other reason.~~

Replacement **annual or duplicate** permits may be obtained only from the Commission's Central and District Offices, areas of the state park system where Commission offices are maintained and from designated Commission employees.

A replacement Nebraska Resident Disabled American Veteran Lifetime Permit may be obtained if the owner of a valid permit surrenders all or more than half (1/2) of such permit to an employee at the Commission's Headquarters Office.

001.13 Permits, Special Occasion

001.13A Special Events

001.13A1 Sports events, pageants, re-enactments, regattas, entertainments and the like, characterized as public spectator attractions or participant activities, are allowed, provided written permission therefor has been given by the Park Superintendent. Such permits shall be issued only after a finding that the issuance of such permit will not be inconsistent with the purposes for which the area is established and maintained and will not unreasonably interfere with use of the area by the general public. A permit shall be denied if such activities would:

- (1) Cause injury or damage to park resources; or
- (2) Be contrary to the purposes for which the park area was established; or unreasonably impair the atmosphere of peace and tranquility maintained in the park area; or
- (3) Unreasonably interfere with interpretive, visitor service or other program activities, or with the administrative activities of the Commission; or
- (4) Substantially impair the operation of public use facilities or services of Commission concessionaires or contractors; or
- (5) Present a clear and present danger to the public health and safety; or
- (6) Result in significant conflict with other existing uses.

001.13A2 An application for such a permit shall set forth the name of the applicant, the date, time, duration, nature and place of the proposed event, an estimate of the number of persons expected to attend, a statement of equipment and facilities to be used, and any other information required by the Park Superintendent. The