

TITLE 410, NEBRASKA ADMINISTRATIVE CODE, CHAPTER 8

NEBRASKA DEPARTMENT OF TRANSPORTATION
RIGHT OF WAY DIVISION

RULES AND REGULATIONS CONCERNING
PERMITS FOR TRIMMING OR REMOVAL OF VEGETATION IN HIGHWAY RIGHTS-
OF-WAY

TITLE 410 – NEBRASKA DEPARTMENT OF TRANSPORTATION – RIGHT OF WAY DIVISION

Chapter 8 - Permits for Trimming or Removal of Vegetation in Highway Rights-Of-Way

Table of Contents

001 DEFINITIONS 1

 001.01 Acceptable Condition 1

 001.02 Applicant..... 1

 001.03 Cleaning..... 1

002 GENERAL CONDITIONS AND RESTRICTIONS..... 3

 002.01 Permit Limitations and Requirements..... 3

 002.02 Application..... 4

 002.03 Restrictions..... 4

 002.04 Refusal to issue permit..... 5

 002.05 Discretion of the District Engineer..... 5

003 APPLICATION PROCESS..... 6

 003.01 Application..... 6

 003.02 Insurance Requirements..... 6

 003.03 Pre-Application Site Visit..... 6

 003.04 Application Submittal and Fee..... 6

 003.05 Work Zone Plan..... 7

 003.06 Landscape/Intentional Vegetation..... 7

 003.07 Permission from adjoining landowners..... 7

 003.08 Environmental and other permits..... 7

 003.09 Performance Bond..... 8

 003.10 Incorporation..... 8

004 ACCEPTANCE OF LIABILITY..... 8

 004.01 Risks..... 8

 004.02 Release of Liability..... 8

 004.03 Damage to State Property..... 9

005 PROTECTION OF STATE PROPERTY..... 9

 005.01 General..... 9

 005.02 Tree Damage..... 9

 005.03 Revocation of Permit..... 9

 005.04 Replacement and Restoration..... 10

006 PERFORMANCE OF WORK UNDER THE PERMIT..... 10

 006.01 Required Meetings..... 10

 006.02 Notice..... 10

TITLE 410 – NEBRASKA DEPARTMENT OF TRANSPORTATION – RIGHT OF WAY DIVISION

Chapter 8 - Permits for Trimming or Removal of Vegetation in Highway Rights-Of-Way

006.03 Conformance with Approved Work Zone 10

006.04 When Project Work May Be Performed 10

006.05 Access to Site 10

006.06 Traffic Control Plan 11

006.07 Tree Size Limitations 11

006.08 Tree Height Removal Condition 11

006.09 Roots 11

006.10 Care of Vegetation 11

006.11 Trimming 11

006.12 Other Requirements 11

006.13 Supervision 11

007 WORK COMPLETION AND SITE RESTORATION 12

007.01 Cleanup 12

007.02 Site Restoration Plan 12

007.03 Tree Stump Removal 12

007.04 Erosion Control 12

007.05 Restoration of Disturbed Areas 12

007.06 Clear-Cut Areas 12

007.07 Wood Chips 13

007.08 Interim Inspection 13

007.09 Fences 13

007.10 Post Trimming and Removal Photographs 13

007.11 Completion 13

008 Appeal and Review of Denial of an Application or Request to Release a Bond or Permit 13

008.01 Appeal 13

008.02 Deadline 13

008.03 Mailing Address 13

TITLE 410 – NEBRASKA DEPARTMENT OF TRANSPORTATION – RIGHT OF WAY DIVISION

Chapter 8 - Permits for Trimming or Removal of Vegetation In Highway Rights-Of-Way

001 DEFINITIONS

001.01 Acceptable Condition – The area is clear of debris, stakes, flagging, temporary fencing and obstructions to conventional mowing and maintenance practices; stabilized by approved vegetation trimming and removal with permit conditions.

001.02 Applicant - The Applicant is the owner of the sign who applies for a vegetation trimming and removal permit.

001.03 Cleaning – Selective trimming to remove only dead or broken branches.

001.04 Crown – The leaves and branches of a tree measured from the lowest branch on the trunk to the top of the tree.

001.05 Crown Elevation of Raising – The removal of lower tree limbs to allow clearance or visibility beneath the tree crown while maintaining the natural symmetry of the tree. A maximum of 25 percent of the leaf-bearing crown may be removed.

001.06 Crown Reduction – Selective trimming to decrease height and/or spread of the crown. Crown reduction shall be utilized in hazardous or safety applications only. A hazardous tree is one that has partially fallen, or that the NDOT District Engineer or designee determines is about to fall, threatening persons, or property. Safety conditions include those conditions which threaten persons or property as determined by the NDOT District Engineer or designee.

001.07 District Office - The headquarters for any one of the geographical subdivisions of the Nebraska Department of Transportation.

001.08 Deciduous – Perennial plant that loses all its leaves at one time during the year. Hardwoods are the predominant type of deciduous trees.

001.09 Drip Line – The peripheral limits of the horizontal crown of a tree spread vertically to the ground, provided, however, that the same shall not be less than a circle with a five-foot radius measured from the tree.

001.10 Effectively Destroy – To cause, allow, or permit any act, which will cause a tree to die, exhibit an unnatural shape, or go into a period of unnatural decline within a period of two years from the date of the act. Acts which may effectively destroy a tree include, but are not limited to: damage inflicted to the root system by heavy machinery or soil compaction; excessive trimming; severing the lead or leaders; stubbing mature wood; tree abuse; grade changes; damage inflicted on the tree permitting infection or pest infestation; application of herbicides or fire damage to the trees intended to remain; infliction of a trunk wound that is 30 percent or greater of the circumference of the trunk; bark removal; or the removal of sufficient canopy to cause the unnatural decline of the tree.

TITLE 410 – NEBRASKA DEPARTMENT OF TRANSPORTATION – RIGHT OF WAY DIVISION

Chapter 8 - Permits for Trimming or Removal of Vegetation in Highway Rights-Of-Way (continued)

001.11 Exotic Pest Plants – Non-native invasive plants also called noxious weeds, which are a problem in natural communities and ecosystems on public and private land. Examples: Kudzu (Pueraria Lobata), Field Bindweed (Convolvulus Arvensis), Russian Knapweed (Centaurea Epens), Hoary Cress (Cardaria Draba), Canada Thistle (Cirsium Arvese), Quack grass (Agrpyron Repens), Leafy Spurge (Euphorbia Ensula), Bug Ragweed (Ambrosia Grayii), Pignut (Hoffmannseggia Densiflora), Musk (Nodding) Thistle (Carduus Nutans L.), Johnson Grass (Sorghum Halepense), and Sericea Lespedeza (Lespedeza Cuneata).

001.12 Hardwood – Trees usually with deciduous leaves, such as Maple, Oak, Cherry, Hickory, Ash, Beech, Willow, Poplar, Dogwood, Pecan, and Sycamore.

001.13 Heading – The cutting of an older branch or stem back to a lateral branch not large enough to assume apical dominance in order to meet a defined structural objective. Heading is not an acceptable trimming practice.

001.14 Intentional Vegetation – Any vegetation that was planted on public property as a part of, but not limited to, a highway construction, landscaping, beautification, windbreak, or living snow fence projects with Local, State or Federal funds.

001.15 Mitigation – Reduction of the impact of vegetation trimming and removal activities with additional or supplemental work. Forms of mitigation include: (1) choosing an area of least impact; (2) restoration/re-vegetation by grassing all disturbed areas; (3) erosion and sedimentation control.

001.16 Native Plant – A grass, herb, shrub, or tree that grows naturally within particular regions in Nebraska, also called indigenous.

001.17 Non-hardwood – A tree, usually evergreen, including Pine, Spruce, Fir, Cypress, Juniper, Cedar, and other conifers.

001.18 Removal or Removed – The elimination of trees or other vegetation.

001.19 Stubbing – Pruning cuts made too far outside the branch bark ridge or branch collar, that leave branch tissue attached to the stem.

001.20 Thinning – Shall consist of selective trimming to reduce density of live branches. Thinning shall result in an even distribution of the branches on individual limbs and throughout the crown. The maximum size range of the parts to be removed shall be 1-1/2 inches in diameter. Not more than 25 percent of the leaf-bearing crown may be removed.

001.21 Topping – The reduction of a tree's size using heading cuts that shorten limbs of branches back to a predetermined crown limit. This also includes severing the leader or leaders or to prune a tree by stubbing of mature wood. Topping is prohibited.

001.22 Tree Abuse –

001.22A Topping a tree or cutting that destroys a tree's natural habit of growth; or

TITLE 410 – NEBRASKA DEPARTMENT OF TRANSPORTATION – RIGHT OF WAY DIVISION

Chapter 8 - Permits for Trimming or Removal of Vegetation in Highway Rights-Of-Way (continued)

001.22B Trimming that leaves stubs or results in a flush cut or splitting of limb ends including chemical or mechanical (shearing) mowing of trees; or

001.22C The use of climbing spikes, nails or hooks, except for the purpose of total tree removal; or

001.22D Trimming that is not in accordance with the policies and provisions hereof; or

001.22E Damaging a tree(s) while felling another tree.

001.22F NDOT will take into consideration the work zone within which a sign owner is required to work when determining whether tree abuses have occurred.

001.23 Trimming – The selective removal of plant parts without damaging the natural symmetry of the tree or having a negative effect on the tree’s long-term health. Trimming types are restricted to cleaning, crown elevation, thinning, and vista pruning only, as defined by NDOT. Never remove more than 25 percent of the tree’s leaf-bearing crown. Crown reduction shall be utilized in hazardous or safety applications only.

001.24 Unique Vegetation – All forms of vegetation including, but not limited to; historical specimen trees or plant communities, plants on the limits of their natural range, and canopy trees or shrubs that protect rare or endangered plants growing under them.

001.25 Vegetation – All woody and herbaceous plants whether naturally occurring or planted (including trees).

001.26 Vegetation Trimming and Removal – All planned work activities relating to landscape and roadside development on State highway right-of-way. These activities may include the removal or trimming of trees or other vegetation, grass, litter and debris removal, erosion control, and any maintenance management of their related features.

001.27 View Zone – This is an area, generally triangular in shape, that must be identified by the Applicant on the Work Zone Plan. The limits of this area are bounded by the following: A) The outside edge of the applicable outdoor advertising sign; B) The place on the highway shoulder, generally perpendicular with the shoulder of the highway intersecting with a line beginning at point “A”; C) Five-Hundred feet along the highway shoulder in the direction of the sign face. See Exhibit A.

001.28 Vista Pruning – Selective removal of lateral branches (major structural branches of the tree) to the branch bark collar on the trunk or central leader. Never remove more than 25 percent of the tree’s leaf-bearing crown. Vista pruning shall result in balanced symmetry of the tree.

001.29 Work Zone – The portion of the View Zone located on NDOT State highway system property.

002 GENERAL CONDITIONS AND RESTRICTIONS

002.01 Permit Limitations and Requirements

TITLE 410 – NEBRASKA DEPARTMENT OF TRANSPORTATION – RIGHT OF WAY DIVISION

Chapter 8 - Permits for Trimming or Removal of Vegetation in Highway Rights-Of-Way (continued)

002.01A NDOT may amend the permitting process if the process involves two adjacent signs owned by different owners with overlapping sign work zones.

002.01B Usually, each trimming or removal activity is permitted separately. Any new permits with work zones that overlap with an existing permitted work zone will be held until the performance bond or permit for the earlier permitted vegetation trimming and removal activities are released.

002.01C An Applicant may only obtain one active permit at any given time.

002.01D Where there are two adjacent signs with the same owner, NDOT may allow vegetation trimming and removal activities to take place simultaneously.

002.01E A permit will be effective upon issuance by NDOT. Once a permit has been granted, the Applicant is required to complete all vegetation trimming and removal within 30 calendar days from the date the permit was issued. The NDOT District Engineer or designee may extend the time in which the Applicant is required to complete vegetation trimming and removal upon a written request for reasonable cause. An Applicant may not be granted a new permit at the same location for a period of three years from the date of the completion of vegetation trimming and removal under a previous permit.

002.01F Vegetation trimming or removal shall not proceed between April 1 and September 1 of each year.

002.01G A permit authorizes Applicant to enter and occupy State property so long as Applicant continues to meet all requirements of law and NDOT directions.

002.01H The vegetation trimming and removal permit must be on site when any work is in progress.

002.02 Application - NDOT may only issue a vegetation trimming or removal permit when:

002.02A The application is filled out in its entirety, including a signature from the sign owner;

002.02B All required information is provided to NDOT

002.02C A performance bond is submitted to NDOT;

002.02D A permit fee is submitted to NDOT for each application; and

002.02E An application is submitted for each sign for which vegetation trimming or removal is requested.

002.03 Restrictions - No permit shall be issued:

002.03A To clear vegetation for a proposed or future sign site;

TITLE 410 – NEBRASKA DEPARTMENT OF TRANSPORTATION – RIGHT OF WAY DIVISION

Chapter 8 - Permits for Trimming or Removal of Vegetation in Highway Rights-Of-Way (continued)

002.03B For any lawfully placed sign that has not existed for 3 years prior to the application filing;

002.03C For locations within an active NDOT highway project or highway and roadside maintenance operation;

002.03D For an outdoor advertising sign which is unlawfully placed;

002.03E For control of grass or other herbaceous vegetation;

002.03F For unobstructed signs;

002.03G For work proposed within medians, interchange quadrants, or within interchange areas except along the outside shoulders of the outermost ramps and parallel to a state highway right-of- way; or

002.03H To an applicant, alter ego, or connected business entity with a record of violations of law or NDOT policy.

002.04 Refusal to issue permit - NDOT may refuse to issue a permit to trim or remove vegetation that:

002.04A has historic significance or is associated with an historic property;

002.04B is listed as a threatened or endangered species, or is otherwise protected by state law;

002.04C has been planted as part of any local, state, or federal highway construction, planting or landscaping project;

002.04D occurs within the boundaries of a wetland, stream channel or other environmental mitigation site;

002.04E is associated with windbreaks or living snow fence areas;

002.04F is located on public or private property within the boundaries of NDOT administered environmental conservation easement areas;

002.04G is part of a beautification project implemented prior to the vegetation trimming or removal permit and/or where the beautification project is specifically identified in NDOT's construction or landscape plans, permitted landscape projects, or agreements; or

002.04H is covered by highway environmental commitments that restrict or forbid removal or trimming.

002.05 Discretion of the District Engineer - NDOT District Engineers or designees may refuse a permit if he/she determines that the proposed activities will significantly disrupt natural systems, roadside aesthetics, or have negative impacts on the operation of the highway.

TITLE 410 – NEBRASKA DEPARTMENT OF TRANSPORTATION – RIGHT OF WAY DIVISION

Chapter 8 - Permits for Trimming or Removal of Vegetation in Highway Rights-Of-Way (continued)

003 APPLICATION PROCESS

003.01 Application - The Application to Occupy Right of Way (DR19), for vegetation management will be available at the NDOT Right of Way Division, and online at www.dot.nebraska.gov/business-center/permits/row.

003.02 Insurance Requirements - Prior to entering State Property for any purpose, Applicant and Applicant's contractor(s) shall obtain a standard form Commercial General Liability Insurance, or other liability insurance coverage acceptable to NDOT.

003.02A Insurance policy shall cover bodily injury, property damage including loss of use, and personal injury, with limits of \$1,000,000 Per Occurrence, \$2,000,000 General Aggregate.

003.02B The State of Nebraska, Department of Transportation, must be named as Additional Insured on a primary and non-contributory basis. Waiver of subrogation in favor of the State of Nebraska, Department of Transportation must be added to, or included in, the policy.

003.02C Applicant shall provide to the Department an ACORD®, or substantially equivalent, Certificate of Insurance showing the types, amounts, and other required conditions of the Liability Insurance carried by the Applicant that cover Applicant's work under the permit.

003.02D The Applicant shall provide the Department, when requested, with a copy of any policy of insurance used to meet the coverage limits. Applicant, and any contractor completing work for Applicant on State property, must have standard Nebraska Worker's Compensation Insurance.

003.03 Pre-Application Site Visit - Prior to submitting an application for vegetation trimming or removal, the applicant must obtain permission from the District Engineer or designee to enter onto the State highway right-of-way in order to gather information needed to complete the application.

003.03A Applicant's entry on State property is subject to terms set forth by the District Engineer or designee, including, but not limited to, traffic control and where vehicles may be parked on the right-of-way. Approved safety vests shall be worn while on State property.

003.03B The Applicant may be required to meet with the District Engineer's designee on site during the pre-application review.

003.04 Application Submittal and Fee - Applicants shall submit completed applications for vegetation trimming or removal to the Department of Transportation, local District Office. Applications must be signed and submitted by the sign owner, accompanied by a non-refundable \$50.00 permit fee and required performance bond.

TITLE 410 – NEBRASKA DEPARTMENT OF TRANSPORTATION – RIGHT OF WAY DIVISION

Chapter 8 - Permits for Trimming or Removal of Vegetation in Highway Rights-Of-Way (continued)

003.05 Work Zone Plan - Applicant shall attach a Work Zone Plan to the permit application which clearly shows the area the Applicant proposes to occupy. The Work Zone Plan shall illustrate the vegetation in which the Applicant or their contractor proposes to trim or remove. Applicant shall clearly explain why proposed removal or trimming is necessary to provide reasonable visibility of the sign. See Exhibit A. An approved permit authorizes the Applicant to trim or remove designated vegetation only within the approved work zone.

003.05A The Work Zone Plan shall include photographs consisting of:

003.05A1 An aerial photograph showing the highway, the right-of-way line, the location of the sign, and each vegetation identified by type and size (in diameter) within the proposed work zone;

003.05A2 Two color photographs of the sign from different locations illustrating its condition;

003.05A3 One photograph of the sign with a readable view of the sign permit number, when applicable; and

003.05A4 A minimum of two photographs from any of the positions shown on Exhibit B, displaying a view of the sign taken from at least 10 feet from the outside traveled lane of the adjoining highway. Such photographs shall depict a clear representative overview of all the vegetation within the work zone.

003.05B Applicant shall place markers along the boundaries of the proposed work zone during any pre-application site visit and whenever equipment or personnel are present.

003.06 Landscape/Intentional Vegetation - Applicant shall specifically note on its plans, and clearly mark at the site, as "Landscaping Plants" any vegetation likely intentionally planted on the highway property. Examples are as follows: Oak Species; Ash Species; Maple Species; Linden Species; Hackberry; Hawthorn Species; Crabapple Species; Serviceberry Species; Pine Species; Spruce Species.

003.06A An applicant may remove or trim intentional vegetation only under exceptional circumstances, after obtaining express permission from NDOT, and subject to reimbursement to NDOT for the loss of such vegetation.

003.07 Permission from adjoining landowners - Applicants must submit a fully completed written permission form as authorized by NDOT with the Application to the State for review when the application includes a request to trim or remove vegetation if:

003.07A The drip line of such vegetation is growing on or near the boundary between the highway property and the adjoining property; or

003.07B Such vegetation is growing on adjoining property and overhangs state highway right-of-way, or when the roots are substantially located on state highway property.

003.08 Environmental and other permits - When necessary, applicant shall obtain any reviews or permits, environmental or other, prior to performing any permitted work.

TITLE 410 – NEBRASKA DEPARTMENT OF TRANSPORTATION – RIGHT OF WAY DIVISION

Chapter 8 - Permits for Trimming or Removal of Vegetation in Highway Rights-Of-Way (continued)

003.09 Performance Bond - A performance bond with surety running concurrently with the permit, is required for each permit. The District Engineer shall determine the amount of bond based upon an Applicant's past performance under similar permits, the value of State property within the work zone, or other reasonable factors. In no instance shall the amount of the bond be less than \$10,000.00.

003.09A The performance bond shall be subject to forfeiture to NDOT in the event of violation of law, the permit, or upon failure of the Applicant to leave the work zone in an acceptable condition as determined by the NDOT District Engineer or designee.

003.09B Release of Bond - The performance bond will be released upon final inspection, review and approval of final photos, and final acceptance by the NDOT District Engineer or designee.

003.10 Incorporation - The approved application, including any conditions stated therein will be considered part of the permit.

004 ACCEPTANCE OF LIABILITY

004.01 Risks - The granting of a vegetation removal permit is solely for the benefit of Applicant. Applicant understands that Applicant will face risks arising out of the permitted work.

004.01A Prior to beginning work, Applicant and its contractor shall inspect the condition of the work zone and the existing vegetation. Applicant and any contractor are solely responsible for inspecting the work zone to identify conditions on and off the property that may create safety risks during site visits and permitted work.

004.01B Applicant and its contractor(s) will be solely responsible for taking all appropriate actions to safely protect Applicant (and its employees, contractors and assigns) and others from any existing conditions or from conditions created by the traveling public. Further, Applicant and its contractor(s) will be solely responsible for protecting persons and property from injury or damage arising out of the site inspections, vegetation removal work and the restoration of State property.

004.02 Release of Liability - Prior to beginning any work, the Applicant shall sign a release acknowledging that Applicant will assume all risk and liability arising out of the granting of a permit or the performance of the work allowed under the permit that leads to property damage, bodily injury or death to Applicant, Applicant's employees, assigns and contractors, persons using the highway and to others on State property related to:

004.02A The existing obvious and unknown conditions of the State property and the vegetation thereon;

004.02B Applicant's (or applicant's contractor's) work on State property in inspecting the property and completing the work of removing or trimming vegetation on the property and restoring State property;

004.02C The traveling public, pedestrians and others on or near State property; and

TITLE 410 – NEBRASKA DEPARTMENT OF TRANSPORTATION – RIGHT OF WAY DIVISION

Chapter 8 - Permits for Trimming or Removal of Vegetation in Highway Rights-Of-Way (continued)

004.02D The presence of NDOT employees and personal property.

004.03 Damage to State Property - Applicant is directly responsible to State, for restoring State property to a neat, clean, and restored condition so that it will appear substantially similar to the general roadside condition that pre-existed the work and so that it blends and is consistent with the condition of the surrounding area of State property. Applicant is responsible for any damage to State property that arises out of the pre-application process, site inspections, preparation for the work, and the permitted work on or near State property, regardless of how such damage occurs. Applicant is responsible to pay any costs incurred by NDOT in repairing damage to State's property arising out of the pre-application process, site inspections, preparation for the work and the permitted work on or near State property.

005 PROTECTION OF STATE PROPERTY

005.01 General - Applicant shall be solely responsible for protecting the traveling public, existing trees, roots, plants, and State property during the removal, trimming and restoration work. All work on or occupation of State property shall be done without damage to landscape and native trees and shrubs that are to remain in the work zone. During any trimming or removal work, the Applicant/Contractor shall:

005.01A Place and maintain bright orange protective barriers constructed of sturdy material high enough to be seen easily by operators of trucks and other equipment around the drip line of all trees to be retained to prevent destruction or damage;

005.01B Clear vegetation within the drip line of trees designated for preservation only by hand or light rubber-wheeled equipment that will not damage tree roots or compact soils; and

005.01C Any trees designated to be preserved (within and adjacent to the work zones) which are damaged during trimming and removal activities shall be treated as a failure to comply with these rules and shall be restored, replaced or replacement cost shall be paid by the Applicant, as determined by NDOT.

005.02 Tree Damage - For damage that does not effectively destroy a tree, NDOT may require all work to be stopped until the damaged tree is properly pruned, if applicable, and a mitigation plan is devised to the satisfaction of NDOT. For damage that does effectively destroy a tree as determined by NDOT, the Applicant may be required to cease all work until the damaged tree is properly pruned or removed, if applicable. If more than 25 percent of the leaf-bearing crown of a tree is damaged, the tree is effectively destroyed and compensation of the value of the tree is to be paid by the applicant to NDOT. If a deciduous tree with a diameter of more than eight inches is damaged, the action will be treated as an unauthorized removal of the tree.

005.03 Revocation of Permit - Repeated and/or excessive damage to a tree(s) may result in immediate revocation of the permit on file, forfeiture of bonds, and/or permanent denial of any future permits.

TITLE 410 – NEBRASKA DEPARTMENT OF TRANSPORTATION – RIGHT OF WAY DIVISION

Chapter 8 - Permits for Trimming or Removal of Vegetation in Highway Rights-Of-Way (continued)

005.04 Replacement and Restoration - All work shall include the proper protection of all state property and vegetation, including but not limited to, right-of-way slopes, drainage features, fencing, signage, guard rail and delineator posts. Any damage to right-of-way facilities shall be replaced and restored to the satisfaction of the NDOT District Engineer or designee. The Applicant is responsible for all costs associated with any damages that may occur.

006 PERFORMANCE OF WORK UNDER THE PERMIT

006.01 Required Meetings - The Applicant, and its contractor(s) (including the individual who will be supervising the work) must attend a scheduled NDOT pre-cut meeting for the determination of all work zones, verification of the work zones, points of access, sedimentation and erosion control requirements, traffic control requirements, supervisor contact information, concerns regarding existing site conditions, and finalized work schedule.

006.01A Prior to the on-site review, the Applicant shall provide and maintain until final acceptance:

006.01A1 On-site field stakes depicting the limits of the work zone;

006.01A2 Different color flagging tape for vegetation removal identification and for vegetation trimming identification; and

006.01A3 Protective barriers around the drip line of trees to be retained.

006.02 Notice - The Applicant shall give the NDOT District Engineer or designee, a minimum of two full working day's notification prior to any and all permitted and scheduled vegetation trimming and removal activity on state highway right-of- way.

006.02A The Applicant must provide a minimum of two working day's notification of any changes to the approved work schedule.

006.03 Conformance with Approved Work Zone - No vegetation shall be trimmed or removed other than within the approved work zone.

006.04 When Project Work May Be Performed - Work shall be accomplished during normal daylight working hours. No work shall be performed on weekends or designated State holidays.

006.05 Access to Site - Access to the site on Interstate or freeway systems shall be only from the highway. On all other State highways, access will be from the highway or the adjoining private property. All disturbed fencing shall be replaced at Applicant's cost.

TITLE 410 – NEBRASKA DEPARTMENT OF TRANSPORTATION – RIGHT OF WAY DIVISION

Chapter 8 - Permits for Trimming or Removal of Vegetation in Highway Rights-Of-Way (continued)

006.06 Traffic Control Plan - For any vegetation removal or trimming work to be completed on state property, Applicant shall develop a traffic control plan for highway traffic and such plan shall be based on standard State traffic control plans. When on State property, Applicant shall install and maintain traffic control in accordance with the Manual on Uniform Traffic Control Device (Manual) or the State of Nebraska Traffic Control Standard plans (Standards). Whenever the Standards conflict with the Manual, the Standards shall govern. Although Applicant will be solely responsible for all traffic control and traffic safety, the NDOT District Engineer or designee may advise the Applicant as to the desired traffic control application based on the work to be performed.

006.07 Tree Size Limitations - The following trees may be trimmed and removed from within a work zone:

006.07A Deciduous trees measuring less than eight inches in diameter, measured 4½ feet from the ground; and

006.07B Non-deciduous trees measuring less than 12 inches in diameter, measured 4 ½ feet from the ground; and

006.07C Trees exceeding the thresholds above may be considered for removal on a case-by-case basis. Applicant further agrees that any tree approved for removal that exceeds the above threshold will be replaced by the Applicant at a mutually agreeable location.

006.08 Tree Height Removal Condition - When trees are allowed to be completely removed, the tree shall be removed in appropriately sized, height-wise, segments to ensure that when the tree is cut it cannot fall onto the shoulder or the surface of the roadways.

006.09 Roots - Roots from removed vegetation must be removed or ground up with all chips, and debris removed.

006.10 Care of Vegetation - All vegetation to remain within the work zone shall be protected and maintained in a healthy and acceptable condition.

006.11 Trimming - Trimming should not leave large open spaces in the general outline of the tree. Only crown raising and vista trimming are allowed on a pine tree's lateral limbs. Cutting the leader of mature wood constitutes topping and is prohibited. All cut limbs shall be removed from the tree crown upon completion of the trimming.

006.12 Other Requirements - Chemical control of vegetation shall not be used. Wound dressing or paints shall not be used. Equipment that will damage the bark and cambium layer shall not be used. The use of climbing spurs is not permitted.

006.13 Supervision - All vegetation management work shall be performed under the direct oversight of a designated supervisor.

TITLE 410 – NEBRASKA DEPARTMENT OF TRANSPORTATION – RIGHT OF WAY DIVISION

Chapter 8 - Permits for Trimming or Removal of Vegetation in Highway Rights-Of-Way (continued)

006.13A The Applicant's supervisor shall be on the site during all project work that takes place. The supervisor is responsible for immediately notifying the NDOT District Engineer or designee, of any violations of the permit, this guidance document, or law, even if unintentional. All work shall be performed in accordance with this guidance document. Work shall meet all Statutes, laws, and rules and regulations set forth by local agencies.

007 WORK COMPLETION AND SITE RESTORATION

007.01 Cleanup - When completed, the work zone must be clear of all litter, debris, including natural debris such as fallen and dead tree limbs, branches leaves, and grindings, and be in acceptable condition for mowing by conventional mowing equipment.

007.02 Site Restoration Plan - Applicant shall develop a site restoration and clean-up plan for all work to be completed within the highway property. All ruts, holes, indentations, disturbed soil or sod, sod damage or destruction or other changes to the State lands from the trimming, removal and clean-up work shall be filled with appropriate fill dirt, compacted and seeded. All disturbed areas shall be in conformance with the seeding, establishment, and maintenance specifications of the District Engineer or designee, and NDOT Standard Specifications. Indication of successful grass germination and adequate coverage is required.

007.03 Tree Stump Removal - All tree stumps, brush stumps, and roots projecting through or appearing on the surface of the ground, shall be removed by cutting or grinding to six inches below the surrounding ground surface. Holes or voids created by the removal (grinding) of stumps shall be filled, graded, compacted with acceptable fill material, and seeded. The area must be left in mowable condition. The ground surface must be left without mounds, ruts, and depressions in the final grade, with leaf litter and debris removed so grass seed is able to come into contact with the soil and germinate.

007.04 Erosion Control - Erosion control shall be as directed by NDOT and per National Pollutant Discharge Elimination System (NPDES Phase 2) Standards and Best Management Practices and Procedure for Erosion and Sediment Control in Nebraska. An erosion and sedimentation plan is required if the work zone is in or adjacent to an environmentally sensitive area such as a stream or wetland or as directed by the NDOT District Engineer or designee.

007.05 Restoration of Disturbed Areas - Disturbed areas shall be returned to normal grade and elevation, with adequate compaction of backfill material, and all excess or undesirable material removed by the Applicant. All destroyed vegetation shall be replaced by the Applicant by sodding, seeding, fertilizing, and mulching as required by the NDOT District Engineer or designee. Final stabilization should occur prior to completion of a workday or prior to a rain event, whichever comes first. Adequate protection against erosion shall be provided by the Applicant in disturbed areas that are susceptible to erosion. Such protection may be in the form of rock rip-rap, wash checks, hay cover, or other material that is approved by the NDOT District Engineer or designee, which does not interfere with other maintenance operations.

007.06 Clear-Cut Areas - On mowable slopes, where the majority of trees are clear-cut, understory vegetation shall be removed, and grassing is required. The area must be left in mowable condition. The ground surface must be left without mounds, ruts, and depressions in the final grade, with leaf litter and debris removed so grass seed is able to come into contact with the soil and germinate.

TITLE 410 – NEBRASKA DEPARTMENT OF TRANSPORTATION – RIGHT OF WAY DIVISION

Chapter 8 - Permits for Trimming or Removal of Vegetation in Highway Rights-Of-Way (continued)

007.07 Wood Chips - Applicants shall not distribute chipping debris on non-mowable slopes.

007.08 Interim Inspection - The Applicant is to request an interim inspection, with a minimum of two working day's notification to NDOT District Engineer or designee, prior to any stump grinding work.

007.09 Fences - Disturbed or broken state highway right-of-way fences shall be re-established as directed by the NDOT District Engineer or designee at Applicant's expense.

007.10 Post Trimming and Removal Photographs - Applicants shall submit a minimum of six color photographs with different vantage points that provide evidence that all applicable standards for trimming, and requirements of the permit have been satisfied at the completion of the work. The photographs should depict different clear representative views of the vegetation trimmed and preserved.

007.11 Completion - The Applicant shall contact the District representative within two working days of the project completion. The Department will inspect the area to determine if all requirements have been followed.

008 Appeal and Review of Denial of an Application or Request to Release a Bond or Permit

008.01 Appeal - Any Applicant denied a permit or denied a request to release a bond or permit following purported completion of the work under an authorized permit, may request a hearing by filing a written petition pursuant to 407 NAC, Ch. 2, with procedures controlled by 53 NAC, Ch. 4.

008.02 Deadline - The written petition and request for hearing must arrive at NDOT within 14 calendar days of the date NDOT denies a permit or denied a request to release a bond or permit.

008.03 Mailing Address - All petitions must be sent to:

Director, Nebraska Department of Transportation
1500 Highway 2
PO Box 94759
Lincoln, NE 68509.