



City of Grand Island

Tuesday, August 09, 2005

Council Session

Item G11

#2005-222 - Approving Cross Street Banners

Staff Contact: Gary R. Mader

Council Agenda Memo

From: Robert H. Smith, Asst. Utilities Director
Meeting: August 9, 2005
Subject: Cross Street Banners
Item #'s: G-11
Presenter(s): Gary R. Mader, Utilities Director

Background

For over 20 years the Utilities Department has provided a public service of placing advertising banners across downtown streets for public and private, non-profit functions. Banners were required to conform to the policy adopted by Council in 1985, copy attached. Banner locations were; across 2nd Street at Cedar, across 3rd Street at Cedar, and across 2nd Street at Sycamore. Recent changes in Federal Highway Administration and Nebraska Department of Roads regulation will affect this historical practice as two of the three banner locations cross a federal highway, US 30/ 2nd Street. The new regulations became effective on July 1, 2005. The new federal/state regulations place limitations on where in the highway right of way banners can be placed and also limit the types of advertising that can utilize banners across highways.

Discussion

Banner Locations:

The new regulations prohibit cross street banner installation within 50 ft. of a signal controlled intersection. The 2nd and Sycamore banner location spanned that intersection parallel to Sycamore at the curb line. That location does not meet the new regulations and that location is no longer being used. The other two banner locations are not affected by this section of the rules.

Types of Advertising:

The new regulation prohibits the use of banners which include the name, symbol, slogan, or any identifying feature of a person, business, commercial product, or any private activity irregardless of whether or not it is a non-profit organization. This portion of the regulation affects the other location on 2nd Street at Cedar. Organizations currently utilizing the cross street banner advertising service but who will no longer be allowed include:

Heartland United Way, Goodwill Charity Shoot, St Francis Hospital Healthfest, Team Mates Mentoring, GI Nurses Association, Eagles Camper Convention, 1st Church of the Nazarene Earth Day

These banners may still be placed at the 3rd and Cedar location since that is not a federal highway.

The new regulation does provide that public events sponsored or sanctioned by the governing body of the city or village, which do not conflict with the previous prohibitions, may be allowed, but only with the formal support of that governing body. Public events currently utilizing the cross street banner advertising are:

Central Nebraska Ethnic Festival, Downtown Market, Hall County Fair, Husker Harvest Days, City of Kindness, Health Department-Employee Health & Fitness Week, Cholesterol Testing, Child Abuse Prevention, the American Great Race and Discover Downtown

In order to provide compliance with the sponsoring requirements of the new regulations, the City Council would need to sanction these advertisings. Also, the city or village must be the applicant for the state permit.

Alternatives

It appears that the Council has the following alternatives concerning the issue at hand. The Council may:

1. Move to approve
2. Refer the issue to a Committee
3. Postpone the issue to future date
4. Take no action on the issue

Recommendation

City Administration recommends that the Council declare the following list of events and promotions as of community interest and direct staff to make application to the State of Nebraska, Department of Roads for permits to allow hanging of the banners:

Central Nebraska Ethnic Festival, Downtown Market, Hall County Fair, Husker Harvest Days, City of Kindness, Health Department-Employee Health & Fitness Week, Cholesterol Testing, Child Abuse Prevention, the American Great Race and Discover Downtown

Sample Motion

Motion to approve the above list of events and promotions as community interest and apply to the State of Nebraska, Department of Roads for permits to allow hanging of banners.

CITY OF **GRAND ISLAND**



POLICY DOWNTOWN BANNER

1. All requests must be submitted to the Gary R. Mader, Utility Director, 100 East First Street, Grand Island, NE 68801.
2. Banner locations will be restricted to three locations: Second and Sycamore, Second and Cedar, and Third and Cedar. These are the only locations where adequate supports for the lines exist.
3. The requesting party must have their own banner made at their own expense. The banner should not exceed 30 feet in length and 24" in height. Eyelets should be spaced at approximately 1.5 to 2 feet across the top and bottom of the banner. Half moon wind slits should be placed every three feet to defray wind. 3/8" rope (minimum) approximately 45 feet in length, should be placed at the top and bottom of the banner to be used to secure from pole to pole. It is also recommended that the rope be nylon because of the extended life.
4. The City Line Department will put up and take down all banners at cost. The current standard charge is \$50. Additional charges may be made for any unforeseen costs at the prevailing rate. The Mayor may waive the fee.
5. The maximum length of time for banners to be up on Second Street will be two weeks unless specific permission is granted from the Mayor's office for a longer time.
6. Only banners promoting or advertising community events or general commercial events will be allowed on Second Street. No banners advertising a specific commercial event at a specific location will be allowed on Second Street. However, generalized promotions of events such as "Downtown Days" are allowed.
7. Because of the vital public safety role of the Line Department, the City cannot guarantee exact times for installation or removal of banners. The City reserves the right to refuse to install any banner if the request is not made more than 30 days in advance. The City reserves the right to remove or refuse installation of any banner at any time. The Mayor or his designated representatives shall be the final authority of all matters pertaining to banners over the public right-of-way.
8. Requests for banners at the Third and Cedar location not meeting the criteria for the Second Street banners in Paragraph 5 and 6 shall be submitted to the Mayor and City Council for approval. The request should indicate the nature of the banner and the length of the time required.



Dave Heineman

STATE OF NEBRASKA

DEPARTMENT OF ROADS

John L. Craig, Director

*Altogether
may be
done*
6/12/05 PJS

June 8, 2005

The Honorable Jay Vavricek
Mayor of Grand Island
100 E First St
PO Box 1968
Grand Island NE 68802-1968

JUN 2005
RECEIVED
DISTRICT OFFICE

Re: Final Banner Policy

We have completed our Banner Policy and it has been approved by the Federal Highway Administration (FHWA). This policy sets forth the requirements and procedures to be followed for our permitting banners within the State highway right-of-way and is effective on July 1, 2005.

All existing banners that do not conform to the requirements noted in the policy need to be removed or modified to conform to the policy on or before September 1, 2005. All other conforming banners should be permitted on or before September 1, 2005.

Our participation in the Federal-Aid Highway Program requires that we assure to the FHWA that all real property within the boundaries of a federally-aided highway is devoted exclusively to the purpose of that highway, and that the real property is preserved free of all other public or private alternative uses. With State and local Federal funding at stake, it is important that we all cooperate to insure that we are in compliance with Federal Regulations.

Exceptions are permitted when we have determined such use of the real property is in the public interest and will not impair the highway or interfere with the free and safe flow of traffic and the FHWA has concurred in our determination.

Banners, provided they conform to our policy, are exceptions that have been determined to be in the public interest and not to impair the highway or interfere with the free and safe flow of traffic.

We encourage you to review the policy for the requirements and procedures to follow when applying for a Banner Permit. The web address is www.dor.state.ne.us/roway/permits.htm. If you have any questions, please contact the appropriate District office as identified on the map shown on the web address. You may also contact Gary Britton at (402) 479-4761 or email him at gbritton@dor.state.ne.us.

Sincerely,

John L. Craig
Director

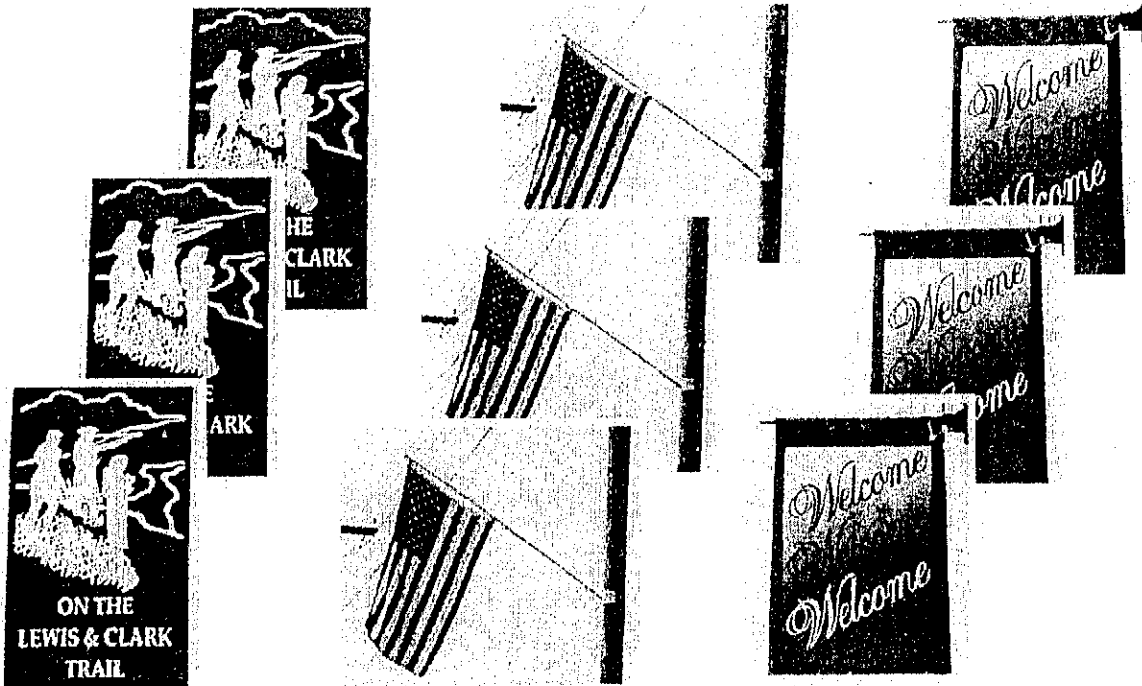
JLC:RN:Z

cc: League of Nebraska Municipalities
Nebraska Chamber of Commerce and Industry
Nebraska Highway Commission

Handwritten notes and stamps at bottom right

NDOR

Nebraska
Department of Roads



BANNER POLICY

Effective Date

July 1, 2005

APPROVED

John L. Craig
Director
Nebraska Department of Roads

BANNER POLICY

1. Purpose and Authority

- a. To prescribe policy and procedures for permitting Banners within State Highway Right-of-Way.
- b. State and federal law prohibits commercial advertising on public right-of-way. Therefore, the Banners allowed pursuant to this policy may not include commercial advertising of any kind. Any message on a Banner shall not include the name, symbol, slogan or any identifying feature of a person, a business, a commercial product, or a private activity. Refer to Section 3. e. Banners may be allowed for only the following purposes:
 - (1) to announce plans for an upcoming Event,
 - (2) to promote community pride and spirit, or
 - (3) to serve as a non-message decoration.
- c. Neb. Rev. Stat. 39-1359 provides the Department authority to control the use or occupancy of State Highway right-of-way. Section 39-1359 states as follows: "The rights-of-way acquired by the department shall be held inviolate for state highway and departmental purposes and no physical or functional encroachments, structures, or uses shall be permitted within such right-of-way limits, except by written consent of the department."

2. Definitions

- a. A Banner is any device, display, decoration, flag, pennant, symbol, badge or object affixed to or hung from a pole lawfully located on the right of way of a State highway. For purposes of this policy, the State will only allow the following two types of Banners:
 - (1) Pole Mounted Banner is a Banner attached to a single existing pole.
 - (2) Over-the-Highway Banner is a Banner which extends over the traveled lanes of the highway and shall not be attached to light poles with breakaway devices.
- b. An Event is a federal, state or local celebration, occasion, occurrence, happening, gathering, remembrance, or other similar event, that is observed by or open to the general public, is of limited duration and frequency and has been formally sanctioned or sponsored by the governing body of the village or city. Any federal or state observed holiday is an event.
- c. Freeway shall mean a divided arterial highway for through traffic with full control of access which has grade separations and interchanges and no at grade intersections.
- d. Interchange shall mean a grade-separated intersection with one or more turning roadways for travel between any of the highways radiating from and forming part of such intersection.

3. Criteria for Placement

- a. Applicant, Owner, Location and Installation:
 - (1) The City or Village must be the applicant, responsible party and installer of Banners, except: in lieu of installation by the City or Village forces, the installation or any part thereof may be performed by a contractor hired and directly supervised by the City or Village.
 - (2) Banners are allowed only within the City or Village corporate limits.
- b. Size and Installation Dimensions:
 - (1) Pole Mounted Banners shall be limited to a surface area of 20 square feet per pole.

- (i) Up to two American Flags may be added per pole provided the American Flags do not exceed 24 square feet per flag.
 - (ii) All banners and American Flags purchased on or before the effective date of this policy that do not conform to these size requirements will be allowed to be used until January 1, 2007.
- (2) Over-the-Highway Banners shall not be more than three feet wide. The length will be sufficient to fit between the poles to which it is affixed.
- (3) If the Pole Mounted Banner is in an area with curbs the following two options exist:
- (i) If the banner is behind the face of the curb, the bottom of the banner shall be at least eight feet above the elevation of the sidewalk or ground.
 - (ii) If the banner extends beyond the curb, the bottom of the banner shall be at least twelve feet six inches (12' 6") above the shoulder and no closer than four feet from the nearest driving lane, as measured from the white line.
- (4) If the Pole Mounted Banner is in an area without curbs the following two options exist:
- (i) If the banner overhangs a sidewalk or ground that is not a shoulder, the bottom of the banner shall be at least eight feet above the elevation of the sidewalk or ground and not closer than four feet from the edge of the nearest driving lane, as measured from the white line.
 - (ii) If the banner overhangs the shoulder of the highway, the bottom of the banner shall be at least twelve feet six inches (12' 6") feet above the elevation of the shoulder and not closer than four feet from the edge of the nearest driving lane, as measured from the white line.
- (5) Over-the-Highway Banners shall vertically clear the pavement by at least 18 feet and there shall be only one for each entrance to the City or Village.
- (6) In any instance where a local ordinance is more restrictive the local ordinance will prevail.
- c. Spacing:
- (1) Banners shall not be within 50 feet of a stop sign that is used for stopping traffic on the highway.
 - (2) Banners shall not be within 50 feet of a traffic signal.
- d. Material: Banners shall be made of durable material.
- e. Appropriate Message: The banner shall not have displayed thereon any service, consumer good, message, legend, symbol, notations, slogans or identifying feature which:
- (1) may be construed to advertise, promote the sale of, or publicize any merchandise or commodity,
 - (2) identifies any person, or,
 - (3) identifies any private company, private corporation or private business, whether they are for profit or non-profit.
- f. Banners to be Placed on Existing Poles: The banners must be attached to a pole which is permanently located in the right of way and conforms to the following requirements:
- (1) A load rating analysis, signed and sealed by a registered professional engineer, may be required when banners are to be placed on light poles that contain a breakaway device.
 - (2) The District Engineer, in the District in which the banner is located, will decide if the load rating analysis is necessary.

- (3) If necessary, the load rating analysis shall certify that the specific light poles, which are used to support the banners, will handle the additional load placed on the structures by the banner and attachments, and will not exceed the loading design requirement of the light pole.
- (4) Copies of load rating analysis previously submitted are acceptable for subsequent applications if all conditions remain the same.
- (5) A utility pole not owned by the State or City may be considered for affixing Banners only upon the express written consent of the owner of the pole.

g. Illumination:

- (1) Illumination will be allowed only on pole mounted holiday decorations in which beams or rays of light are not directed at any portion of the traveled way or which are not of such intensity or brilliance as to cause glare or to impair the vision of the driver of a motor vehicle.
- (2) All other banners will not be illuminated.

h. Duration:

- (1) Pole Mounted Banner permits are valid for one year, unless terminated by either party.
- (2) Over-the-Highway Banner permits are valid for a period of time not to exceed four weeks before the event and shall be removed not more than two days after the event; however, Over-the-Highway Banners shall not occupy the right-of-way for a total duration of more than 50 days.

4. Restrictions and Limitations

- a. **Highways On Which Banners Are Not Allowed.** Banners will not be allowed on freeways or Interstate highways.
- b. **Placement Supports.** No banners shall be attached to:
 - (1) Traffic control devices such as signal poles.
 - (2) Sign structures.
 - (3) Bridges or overpass structures.
- c. **Interchanges.** Banners may not be placed within one-half mile of the center of the interchange.
- d. **Sight Obstructions.** No banner shall obstruct the view of traffic or any traffic control devices.
- e. **Obstructing Traffic.** No banner shall be allowed to obstruct, impede or endanger the flow of traffic.
- f. **Resemble traffic control signs, signals, marking devices.** Banners shall not appear to direct the movement of traffic, obscure, or interfere with the effectiveness of, imitate or resemble any official traffic signal, sign or device or otherwise be a traffic hazard or distraction.
- g. **Construction Projects.** In the event future highway construction or maintenance requires any alteration, relocation or removal of the banner, the City or Village shall perform such work as requested and without expense to the NDOR.
- h. **Removal by NDOR.** Banners may be removed by NDOR at any time, after 30 day written notice, if in the sole discretion of the NDOR, the banner is damaged, faded, neglected, becomes unsightly, or does not comply with the requirements of this policy. The City or Village shall reimburse the NDOR its costs to remove any Banner that is not promptly removed by the City or Village after notice from the NDOR. The removed Banners will be stored in the nearest NDOR Maintenance Yard for 30 days after removal.

- 5. Permit Requirements are the same as for any other use or occupancy of the State Highway right-of-way, which are:

- a. **Application.** The City or Village must complete the appropriate application form. The form may be obtained at www.dor.state.ne.us/roway/ or by contacting the District Engineer.
- b. **Restrictions and Specific Instructions.** The NDOR may prescribe and define any terms and conditions deemed necessary and/or in the best interest of the public.
- c. **Approved Permit.** The City or Village must have an approved permit before commencing any work on the right-of-way
- d. **Indemnify and Hold Harmless:** The City or Village agrees to accept full responsibility to the public for loss or damage caused by their installation, operation, maintenance or removal of Banners on the highway right of way. The City or Village will hold the State harmless from any suits brought against the State arising out of the installation, occupancy, or removal of any Banner on the State's right-of-way. The City or Village will, when required by the State, provide or cause to be provided proper insurance coverage for public protection and employee protection during installation, maintenance or removal of any Banner.
- e. **Safety Measures:** The City or Village will be solely responsible for all appropriate safety measures to be taken when installing, maintaining and removing banners to ensure the safety of the traveling public as well as the safety of those installing or removing the banners.
- f. **Traffic Control Measures:** The traveling public shall be protected from the activities of the City or Village by means of signs, flagmen and traffic control devices as determined by the City or Village in accordance with the Manual of Uniform Traffic Control devices for Streets and Highways and in accordance with any traffic control plans that are attached to the permit.
- g. **Cancellation/Revocation of Permit:** The permit issued by the NDOR may be cancelled or revoked, after 30 days written notice, when the NDOR has actual knowledge that the City or Village has failed to comply with the provisions of the permit or this Policy. In the event that the City or Village has failed to remove any Banners upon request by the NDOR, the NDOR reserves the right to remove any or all Banners at the expense of the Village or City. The removed Banners will be stored in the nearest NDOR Maintenance Yard for 30 days after removal.
- h. **Performance Guarantees:** Performance Guarantees for Banner Permits will be waived for Cities and Villages, except when the past performance of the City or Village on previous banner permits requires the necessity of a Performance Guarantee.

RESOLUTION 2005-222

WHEREAS, for over 20 years the Utilities Department has provided a public service of placing advertising banners across downtown streets for public and private, non-profit functions;; and

WHEREAS, banner locations were across Second Street at Cedar Street, across Third Street at Cedar Street and across Second Street at Sycamore Street; and

WHEREAS, recent changes in the Federal Highway Administration and the Nebraska Department of Roads will affect banners at two of the crossings since they cross a federal highway right-of-way (U.S. Highway 30); and

WHEREAS, the new federal/state regulations place limitations on where in the highway right-of-way banners can be placed and also limit the types of advertising that can utilize banners across highways; and

WHEREAS, in order to comply with the new regulations, which became effective on July 1, 2005, the City must make application to the Nebraska Department of Roads to authorize the banners to cross U.S. Highway 30.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the following events and promotions are hereby declared to be of community interest, and City staff is hereby directed to make application to the State of Nebraska Department of Roads for permits to allow banners promoting such events or promotions in accordance with the Nebraska Department of Roads Banner Policy:

- | | |
|--|------------------------|
| Central Nebraska Ethnic Festival | Downtown Market |
| Hall County Fair | Husker Harvest Days |
| Cholesterol Testing | Child Abuse Prevention |
| The American Great Race | Discover Downtown |
| City of Kindness | |
| Health Department Employee Health & Fitness Week | |

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, August 9, 2005.

RaNae Edwards, City Clerk

Approved as to Form	☐ _____
August 2, 2005	☐ City Attorney