

## OBSTRUCTIONS IN HIGHWAYS

### **319.1 Removal.**

The department and the board of supervisors shall cause all obstructions in highways, under their respective jurisdictions, to be removed.

[C51, § 594; R60, § 905; C73, § 993; C97, § 1560; S13, § 1527-s17, 1560; C24, 27, 31, 35, 39, § **4834**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 319.1]

### **319.2 Fences and electric transmission poles.**

Poles used for telephone, telegraph, or other transmission purposes, shall not be removed until notice, in writing, of not less than thirty days, has been given to the owner or company operating such lines, or in the event the owner or company has been unable to remove such poles within such thirty-day period due to storm or other act of God, then such poles shall not be removed until the owner or company shall have had a reasonable time thereafter to remove such poles, and in case of fences, notice in writing of not less than thirty days has been given to the owner, occupant, or agent of the land enclosed by said fence, unless such poles or fences constitute an immediate and dangerous hazard to persons or property lawfully using the right of way.

[C51, § 594; R60, § 905; C73, § 993; C97, § 1560; S13, § 1527-s17, 1560; C24, 27, 31, 35, 39, § **4835**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 319.2]

### **319.3 Notice.**

Said notice shall, with reasonable certainty, specify the line to which such fences or poles shall be removed, and shall be served in the same manner that original notices are required to be served.

[S13, § 1527-s17; C24, 27, 31, 35, 39, § **4836**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 319.3]

### **Footnotes**

Manner of service, R.C.P. 1.3021.315

### **319.4 Refusal to remove.**

All such fences and poles shall, within the time named, be removed to such line on the highway as the state highway engineer or county engineer may designate, as the case may be. If there be no county engineer, the board of supervisors, in case of secondary roads, shall designate said line. If not so removed, the public authorities may forthwith remove them.

[S13, § 1527; C24, 27, 31, 35, 39, § **4837**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 319.4]

### **319.5 New lines.**

New lines, or parts of lines hereafter constructed, shall, in case of secondary roads, be located by the county engineer upon written application filed with the county auditor, and in case of primary roads, by the state highway engineer upon written application filed with the department, and shall thereafter be removable according to the provisions of this chapter. If there be no county engineer, the board of supervisors, in case of secondary roads, shall designate said location.

[S13, § 1527-s17; C24, 27, 31, 35, 39, § **4838**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 319.5]

### **319.6 Cost of removal liability.**

Any removal made in compliance with the foregoing sections shall be at the expense of the owners of said fences or poles. All removals shall be without liability on the part of any officer ordering or effecting such removal.

[S13, § 1527-s17; C24, 27, 31, 35, 39, § **4839**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 319.6]

### **319.7 Duty of road officers.**

It shall be the duty of all officers responsible for the care of public highways, outside cities, to remove from the traveled portion and shoulders of the highways within their several jurisdictions, all open ditches, water breaks, and like obstructions, and to employ labor for this purpose in the same manner as for the repair of highways.

[S13, § 1560-b, -e; C24, 27, 31, 35, 39, § **4840**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 319.7]

### **319.8 Nuisance.**

Any person, partnership or corporation who makes, or causes to be made, any obstruction mentioned in section 319.7, in such traveled way, and any officer responsible for the care of such highway who knowingly fails to remove said obstructions, shall be deemed to have created a public nuisance and be punished accordingly.

[S13, § 1560-a, -c; C24, 27, 31, 35, 39, § **4841**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 319.8]

#### **Footnotes**

Nuisances in general, chapter 657

### **319.9 Injunction to restrain obstructions.**

The department, and the board of supervisors may, as to roads under their respective jurisdictions, maintain suits in equity aided by injunction to restrain obstruction in such highways, and, in such actions, may cause the legal boundary lines of such highway to be adjudicated provided all interested parties are impleaded.

[C24, 27, 31, 35, 39, § **4842**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 319.9]

### **319.10 Billboards and signs.**

Billboards and advertising signs, whether on public or private property, which so obstruct the view of any portion of a public highway or of a railway track as to render dangerous the use of a public highway are public nuisances and may be abated, and the person or persons responsible for the erection and maintenance may be punished, as provided in the chapter on nuisances.

[C24, 27, 31, 35, 39, § **4844**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 319.10]

#### **Footnotes**

Nuisances in general, chapter 657

### **319.11 Enforcement.**

Boards of supervisors and county attorneys as to secondary roads, and the department and the department general counsel as to primary roads, shall enforce section 319.10 by appropriate civil or criminal proceeding or by both such proceedings.

[C24, 27, 31, 35, 39, § 4845; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 319.11]

### **319.12 Billboards, reflectors, and signs prohibited.**

No billboard, advertising sign or device, fence other than right of way boundary fence, or other obstruction except signs or devices authorized by law or approved by the highway authorities shall be placed or erected upon the right of way of any public highway, nor shall any vehicle be abandoned upon the right of way of any public highway.

Except for official traffic-control devices as defined by section 321.1, subsection 46, no person shall place, erect, or attach any red reflector, or any object or other device which shall cause a red reflectorized effect, within the boundary lines of the public highways so as to be visible to passing motorists.

[C24, 27, 31, 35, 39, § 4846; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 319.12]

### **319.13 Right and duty to remove.**

If the following constitute an immediate and dangerous hazard, all billboards, advertising signs or devices, fences other than right of way boundary fences, or any temporary obstruction, including abandoned vehicles except signs or devices authorized by law or approved by the highway authorities, placed or erected upon the right of way of any public highway shall without notice or liability in damages be removable and the costs thereof assessed against:

1. The owner of any billboard, advertising sign or device so removed.
2. The vehicle owner in the case of abandoned vehicles.
3. The abutting property in the case of fences other than right of way line fences and other temporary obstructions placed by the owner of or tenant on said property.
4. The owner or person responsible for placement of all other obstructions.

Any such obstruction not constituting an immediate and dangerous hazard shall be removed without liability after forty-eight hour notice served in the same manner in which an original notice is served, or in writing by certified mail, or in any other manner reasonably calculated to apprise the person responsible for the obstruction that the obstruction will be removed at the expense of such person after the notice is given.

Such removal and assessment of cost in the case of primary roads shall be by the department and in the case of secondary roads by the board of supervisors.

Upon removal of the obstruction, the highway authority may immediately send a statement of the cost of removal to the person responsible for the obstruction. If within ten days after sending the statement the cost is not paid, the highway authority may institute proceeding in the district court system to collect the cost of removal.

[C24, 27, 31, 35, 39, § 4847; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 319.13]

### **319.14 Permit required.**

A person shall not excavate, fill, or make a physical change within the right-of-way of a public road or highway without obtaining a permit from the highway authority having jurisdiction of the public road or highway. Work performed under the permit shall be performed in conformity with the specifications prescribed by the highway authority. If the excavation, fill, or physical change within the right-of-way of a public road or highway does not conform to the specifications that accompany the permit the person shall be notified to make such conforming changes. If after twenty days the changes have not been made, the public road or highway authority may make the necessary changes and immediately send a statement of the cost to the responsible person. If within thirty days after sending the statement the cost is not paid, the highway authority may institute proceedings in the district court to collect the cost of correction. Except as provided in section 306A.3, utility companies are exempted from the provisions of this section.

[C75, 77, 79, 81, § 319.14]

91 Acts, ch 147, §2

**319.15 Definition.**

As used in this chapter, unless the context otherwise requires, "*department*" means the state department of transportation.

[C75, 77, 79, 81, § 319.15]