

## CHAPTER 173

### ADVERTISING DEVICES

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#### 173.01 DECLARATION OF POLICY.

It is hereby found and declared that in the interest of and to promote the general welfare of the people and to conserve the natural beauty of areas adjacent to certain highways, it is necessary to reasonably and effectively regulate and control the erection or maintenance of advertising devices on land adjacent to such highways. It is further declared that inasmuch as outdoor advertising is an integral part of the business and marketing function, an established segment of the national economy, and a legitimate commercial use of property adjacent to roads and highways, it should be allowed to operate where other business and commercial activities are conducted, and the regulation of outdoor advertising should occur by the application of reasonable regulatory standards consistent with customary use of outdoor advertising and zoning principles in this state which will properly and adequately carry out each and all of the purposes of Laws 1971, chapter 883; that the regulatory standards set forth in Laws 1971, chapter 883, are consistent with customary use in this state. It is the intention hereby to comply with the policies declared by Congress in United States Code, title 23, "Highways"

**History:** 1965 c 828 s 1; 1971 c 883 s 1

#### 173.02 DEFINITIONS.

Subdivision 1. **Scope.** For the purposes of Laws 1971, chapter 883, the terms defined in this section shall have the meanings herein given them.

Subd. 2. **Advertising device.** "Advertising device" means any billboard, sign, notice, poster, display, or other device visible to and primarily intended to advertise and inform or to attract or which does attract the attention of operators and occupants of motor vehicles and shall include any structure erected primarily for use in connection with the display of any such device and all lighting or other attachments used in connection therewith except "star city" signs erected under section 173.085.

Subd. 3. [Repealed, 1971 c 883 s 2]

Subd. 4. **Scenic area.** "Scenic area" means an area within which control and regulation of the erection and maintenance of advertising devices may be exercised to the extent herein provided and such areas shall include only those established as such by the commissioner of transportation.

Subd. 5. [Repealed, 1971 c 883 s 2]

Subd. 6. **Various signs and notices defined.** Directional and other official signs and notices shall mean:

(a) "Official signs and notices" mean signs and notices erected and maintained by public officers or public agencies within their territorial jurisdiction and pursuant to and in ac-

cordance with direction or authorization contained in federal or state law for the purposes of carrying out an official duty or responsibility. Historical markers authorized by state law and erected by state or local governmental agencies or nonprofit historical societies, star city signs erected under section 173.085, and municipal identification entrance signs erected in accordance with section 173.025 may be considered official signs.

(b) "Public utility signs" mean warning signs, notices, or markers which are customarily erected and maintained by publicly or privately owned public utilities, as essential to their operations.

(c) "Service club and religious notices" mean signs and notices, not exceeding eight square feet in advertising area, whose erection is authorized by law, relating to meetings and location of nonprofit service clubs or charitable associations, or religious services.

(d) "Directional signs" means signs containing directional information about public places owned or operated by federal, state, or local governments or their agencies, publicly or privately owned natural phenomena, historic, cultural, scientific, educational, and religious sites, and areas of natural scenic beauty or naturally suited for outdoor recreation, deemed to be in the interest of the traveling public. To qualify for directional signs, privately owned attractions must be nationally or regionally known, and of outstanding interest to the traveling public.

(e) All definitions in this subdivision are intended to be in conformity with the national standards for directional and other official signs.

Subd. 7. **Interstate highway.** "Interstate highway" means any highway at any time officially designated as a part of the national system of interstate and defense highways by the commissioner of transportation and approved by the appropriate authority of the federal government.

Subd. 8. **Adjacent area.** "Adjacent area" means any area adjacent to the right-of-way of an interstate or trunk highway.

Subd. 9. **Business area.** "Business area" means any part of an adjacent area which is (a) zoned for business, industrial or commercial activities under the authority of any law of this state or any political subdivision thereof; or (b) not so zoned, but which constitutes an unzoned commercial or industrial area as herein defined.

Subd. 10. **Primary highway.** "Primary highway" means any highway, other than an interstate highway, at any time officially designated as a part of the federal aid primary system by the commissioner of transportation and approved by the appropriate authority of the federal government, and which shall include state trunk highways designated as such by Minnesota Statutes.

Subd. 11. **Erect.** "Erect" means to construct, build, raise, assemble, place, affix, attach, create, paint, draw or in any other way to bring into being or establish but it shall not include any of the foregoing activities when performed as an incident to the change of advertising message or customary maintenance of an outdoor advertising structure or device.

Subd. 12. **Advertising area.** "Advertising area" means that portion of the advertising face of an advertising device which includes the border and trim thereof, but excludes the base and apron supports and other structural members.

Subd. 13. **Maintain.** "Maintain" means to allow to exist.

Subd. 14. **Unzoned commercial or industrial areas.** "Unzoned commercial or industrial areas" means those areas which are not zoned by state or local law, regulation, or ordinance, and on which there is located one or more permanent structures devoted to a commercial or industrial activity or on which a commercial or industrial activity is actually conducted whether or not a permanent structure is located thereon, and the area along the highway extending outward 800 feet from and beyond the edge of such activity. Each side of the highway will be considered separately in applying this definition. All measurements shall be from the outer edges of the regularly used buildings, parking lots, storage or processing, and landscaped areas of the commercial or industrial activity, not from the property lines of the activity, and shall be along or parallel to the edge of the pavement of the highway.

Subd. 15. **Commercial or industrial activity.** "Commercial or industrial activity" for the purposes of unzoned commercial or industrial areas means an activity generally recog-

nized as commercial or industrial by zoning authorities in this state, except that none of the following activities shall be considered commercial or industrial:

- (1) Outdoor advertising devices.
- (2) Agricultural, forestry, ranching, grazing, farming and related activities, including, but not limited to, temporary wayside fresh produce stands.
- (3) Transient or temporary activities.
- (4) Activities not visible from the main traveled way.
- (5) Activities more than 660 feet from the nearest edge of the right-of-way.
- (6) Activities conducted in a building principally used as a residence.
- (7) Railroad tracks and minor sidings.

**History:** 1965 c 828 s 2; 1967 c 299 s 9; Ex1967 c 9 s 1,2; 1969 c 1129 art 3 s 1; 1971 c 883 s 2; 1975 c 61 s 5; 1976 c 166 s 7; 1982 c 617 s 16; 1984 c 417 s 17; 1985 c 25 s.1,2; 1996 c 455 art 3 s 26

### 173.025 MUNICIPAL IDENTIFICATION SIGN.

A local road authority may erect a municipal identification entrance sign within the right-of-way of a trunk highway with the written permission of the commissioner. Municipal identification entrance signs erected without the written permission of the commissioner are prohibited.

**History:** 1996 c 455 art 3 s 27

### 173.03 ROAD ADVERTISING PERMIT WITHIN SCENIC AREA.

Except as otherwise provided in sections 173.01 to 173.11, the erection or maintenance of any advertising device located within a scenic area without a written permit therefor granted by the commissioner of transportation is prohibited.

**History:** 1965 c 828 s 3; 1976 c 166 s 7

### 173.04 SCENIC AREA; SCENIC EASEMENT; FEDERAL FUNDS.

Subdivision 1 [Repealed, 1975 c 61 s 26]

Subd. 2. **Establishment; rules.** The commissioner of transportation may by rules issued pursuant to chapter 14 establish scenic areas adjacent to the interstate or primary highways. Such scenic areas shall be located outside of the then existing boundaries of cities, and shall not include areas then zoned for commercial or industrial purposes. These scenic areas may include in part but shall not be limited to areas containing national, state or local parks, historic sites and monuments, and picnic, rest, or recreation areas maintained by the public. Permits for legally existing advertising devices not in violation of this chapter shall be granted until such devices are paid for, but no new advertising devices may be erected within the area after the scenic area has been established by rule. If the state or any local unit of government legitimately zones all or any part of a scenic area for commercial or industrial use in accordance with customary usage in the state, then such area or that part thereof shall cease to be a scenic area. A scenic area will exist when the rights thereto have been acquired by the state.

Subd. 3. **Scenic easement.** The commissioner of transportation may acquire scenic easements in scenic areas to preserve the natural scenic beauty of that area and its visibility from the highway, and the rights so acquired may require the removal, by the owner of the land, of any structure necessary to accomplish these purposes. Advertising devices shall be removed only in accordance with this chapter, and the commissioner shall not require the removal of residences, farm buildings or other buildings of a substantial nature. Whenever practicable, the scenic easements acquired herein shall provide that the land may be used for agricultural, horticultural, forest, grazing, residential, or other purposes not inconsistent with the scenic purposes for which the easement was acquired.

Subd. 4. **Extension beyond right-of-way.** Any scenic area established under this section may extend such distance beyond the edge of the right-of-way of an interstate or primary highway as the commissioner shall determine is reasonably necessary for the fulfillment of the purposes and objectives of sections 173.01 to 173.11.

Subd. 5 **Compliance with federal law; federal aid.** In establishing such scenic areas along any interstate or primary highway, the commissioner of transportation shall, whenever practicable, comply with federal law and federal rules and regulations relating to billboard control on any interstate or primary highway, and is authorized to do all necessary acts and things, including, but not limited to, entering into binding agreements with the United States or any of its agencies or departments to the end that the objectives stated in United States Code, title 23, section 131, section 319, or any other applicable federal statute, and the rules and regulations promulgated pursuant thereto, be accomplished in such scenic areas, and that federal participation in the cost of acquiring the necessary easements for such scenic areas be obtained in as many instances as possible.

Subd. 6. **Authority to obtain federal money.** The commissioner of transportation has the authority to do all things necessary to obtain any federal moneys that may be available for the planning, establishing, and acquiring of scenic areas and scenic easements along any interstate or primary highway

**History:** 1965 c 828 s 4; 1967 c 299 s 9; Ex1967 c 9 s 3-7; 1969 c 1129 art 3 s 1; 1971 c 883 s 3; 1973 c 123 art 5 s 7; 1975 c 61 s 6,7; 1976 c 166 s 7; 1982 c 424 s 130; 1985 c 248 s 70

### 173.05 ACQUISITION OF PROPERTY.

The commissioner of transportation shall acquire all rights in property, personal or real, necessary to carry out the purposes of sections 173.01 to 173.11, by purchase, gift, or eminent domain proceedings. All costs of acquisition of such rights shall be necessary for a highway purpose. Nothing herein shall be construed to limit any right, power or authority to regulate and control the erection or maintenance of advertising devices under the provisions of any other law of this state.

**History:** 1965 c 828 s 5; 1976 c 166 s 7

### 173.06 RULES RELATING TO ROAD ADVERTISING PERMITS.

Subdivision 1. **Authority.** The commissioner of transportation shall adopt and may modify, amend or repeal rules governing the issuance of permits or renewals thereof for the erection and maintenance of advertising devices within scenic areas; provided that the commissioner shall not adopt, modify, amend or repeal any rule that will impair any agreement with the federal government. The commissioner of transportation may limit the application of any rule adopted by the commissioner to exclude or include in whole or in part, specified areas within the scenic area based upon use, nature of the surrounding community, or such other factors as may make separate classification or rule necessary or desirable.

Subd. 2. **Federal participation.** Such rules shall be designed to the end that the state may receive any federal participation that may be available in the cost of acquiring the necessary easements for such scenic areas, and to effectuate the general purposes of Laws 1971, chapter 883, and the specific objectives of providing for traffic safety along any interstate or primary highway in the vicinity of scenic areas and of preserving and enhancing the natural scenic beauty or the aesthetic features of the highway and scenic areas adjacent thereto.

**History:** 1965 c 828 s 6; Ex1967 c 9 s 8; 1971 c 883 s 4; 1976 c 166 s 7; 1985 c 248 s 70; 1986 c 444

### 173.07 APPLICATIONS FOR ROAD ADVERTISING PERMITS; CONTENTS; RENEWALS.

Subdivision 1. **Forms; content.** Application for permits or renewals thereof for the placement and maintenance of advertising devices within scenic areas shall be on forms prescribed by the commissioner and shall contain such information as the commissioner may require. No advertising device shall be placed without the consent of the owner or occupant of the land, and adequate proof of such consent shall be submitted to the commissioner at the time application is made for such permits or renewals.

Subd. 2. **Permit renewal; fee; revocation; proceeds to trunk highway fund.** The commissioner of transportation may renew each permit for additional one year periods upon

the receipt of an application therefor made within 30 days of the expiration date of such permit together with the payment of an annual fee of \$30. The permit or renewal thereof shall be revocable for any violation of sections 173.01 to 173.11 or rules adopted thereunder at any time by the commissioner of transportation on 30 days' written notice to the permit holder. All fees collected shall be paid into the trunk highway fund.

**History:** 1965 c 828 s 7; 1971 c 883 s 5; 1976 c 166 s 7; 1983 c 293 s 72; 1985 c 248 s 70; 1986 c 444; 1996 c 455 art 3 s 28

### 173.08 EXCLUDED ROAD ADVERTISING DEVICES.

Subdivision 1. **Advertising devices restricted.** No advertising device, excepting the advertising devices described and permitted under sections 173.01 to 173.27, shall be erected or maintained in an adjacent area, after June 8, 1971, except the following:

(a) directional and other official signs, including, but not limited to, signs pertaining to natural wonders, scenic and historical attractions, which are required or authorized by law, and which comply with rules which shall be promulgated by the commissioner relative to their lighting, size, spacing and other requirements as may be appropriate to implement sections 173.01 to 173.27;

(b) advertising devices advertising the sale or lease of property upon which they are located, provided that there shall not be more than one such sign, advertising the sale or lease of the same property, visible to traffic proceeding in any one direction on any one interstate or primary highway;

(c) advertising devices advertising activities conducted on the property on which they are located, including, without limiting the generality of the foregoing, goods sold, stored, manufactured, processed or mined thereon, services rendered thereon, and entertainment provided thereon;

(d) advertising devices stating the name and address of the owner, lessee or occupant of such property or information otherwise required or authorized by law to be posted or displayed thereon;

(e) public utility signs;

(f) service club and religious notices;

(g) advertising devices of which the advertising copy or the name of the owner thereof is in no part visible from the traveled way of the aforesaid highways;

(h) advertising devices which are located, or which are to be located, in business areas and which comply, or will comply when erected, with the provisions of sections 173.01 to 173.27;

(i) signs placed temporarily by auctioneers under section 169.07;

(j) community identification signs which are located within two miles of the community and do not exceed 750 square feet. "Community" means a county, town, or home rule charter or statutory city. Prior to the erection of a community identification sign, the community must:

(1) obtain approval from the governing body of the community;

(2) consult with local road authorities on placement and location of the sign; and

(3) obtain consent of the owner of the land on which the sign is to be erected.

Subd. 2. **Advertising devices prohibited.** No advertising device shall be erected or maintained:

(1) in or within 500 feet of national parks, state parks, local parks, historic sites, and public picnic or rest areas, provided that, an advertising device may be permitted within 500 feet of the park, site or area on commercially zoned property, or in the case of a municipality which has no zoning ordinance, with the approval, by resolution, of the municipality;

(2) within 100 feet of a church or school.

**History:** 1965 c 828 s 8; Ex1967 c 9 s 9; 1971 c 883 s 6; 1980 c 494 s 1; 1983 c 293 s 73; 1985 c 248 s 70; 1986 c 454 s 26; 1992 c 572 s 1

**173.081 DIRECTIONAL SIGN.**

The commissioner of transportation shall develop uniform standards for directional signs erected under this chapter. The standards must provide for the size, lighting, spacing, design, colors, and maintenance of the signs. The standards must provide that:

- (1) no pictorial or photographic representations be placed on the signs;
- (2) directional signs facing the same direction of travel may not be placed less than one mile apart;
- (3) signs located adjacent to an interstate highway must be within 75 miles of the described activity, and those located adjacent to other trunk highways must be within 50 miles of the described activity; and
- (4) not more than one directional sign for the same activity and facing the same direction of travel may be erected along a single marked highway approaching the activity.

The standards may provide eligibility criteria, including visitor capacity, parking capacity, days and hours of operation, and annual and daily average attendance, for attractions qualifying for directional signs.

The commissioner shall take no action under this section which would result in the loss to the state of federal highway construction funds.

**History:** 1984 c 417 s 18

**173.085 STAR CITY AND COUNTY SIGNS.**

Subdivision 1. **Authority to erect.** (a) A county or lesser populated statutory or home rule charter city of Minnesota that has received instruction and expertise from the department of trade and economic development on attracting and retaining businesses for the county or city and subsequently has been designated and annually recertified as a star county or star city for economic development by that department may erect star county or star city signs upon payment of a fee required under section 173.13, subdivision 4, to the department of transportation. In the case of star cities, one sign may be erected at each approach to the city within the right-of-way of an interstate or other highway that passes inside the city limits. In the case of star counties, one sign may be erected within the right-of-way of an interstate or other highway at or near the point where the highway enters the county.

(b) Notwithstanding the provisions of paragraph (a), a lesser populated statutory or home rule charter city that has an official sign in an adjacent area of an approach of an interstate highway passing through or near the city as of August 1, 1985, may replace that sign with a star city sign upon payment of a fee required under section 173.13, subdivision 4, to the department of transportation. A county that has an official sign on the right-of-way or adjacent area of an interstate highway at the point where the highway enters the county may replace that sign with a star county sign on payment of a fee required under section 173.13, subdivision 4, to the department of transportation.

Subd. 2. **Sign standards.** The department of transportation shall design and manufacture the star county and star city signs to specifications not contrary to other federal and state highway sign standards and substantially similar to those star city signs approved for display on state highways as of August 1, 1985.

**History:** 1985 c 25 s 4; 1987 c 312 art 1 s 26 subd 2; 1988 c 636 s 12; 1988 c 698 s 3

**173.086 RECYCLING CENTER SIGN.**

Subdivision 1. **Authority to erect.** A recycling facility that has complied with the permitting rules of the pollution control agency and has been designated a recycling center by the agency under section 115A.555 may erect a recycling center sign upon payment of a fee to the department of transportation or to the local road authority required to cover all costs of fabrication and installation of the signs.

Subd. 2. **Sign standards.** The department of transportation shall design and manufacture the recycling center sign to specifications not contrary to other federal and state highway sign standards. The sign must contain the international three arrow recycling symbol followed by the words "recycling center."

Subd. 3. **Location.** Each local road authority shall permit recycling center signs to be located on roads in its jurisdiction, subject to sign placement and distance requirements of the local authority in conformance with standard policies for placement of signs for other traffic generators.

**History:** *1Sp1989 c 1 art 18 s 18*

### 173.09 VIOLATIONS, REMEDIES.

Any advertising device in place within a scenic area four months after the property rights for such area have been acquired which is in violation of sections 173.01 to 173.11 or any rule issued or adopted thereunder, is hereby declared to be a public nuisance, illegal and nonconforming and may be abated in the manner prescribed by law for the abatement of public nuisances, or the commissioner may enter upon the land and remove the sign.

**History:** *1965 c 828 s 9; Ex1967 c 9 s 10; 1985 c 248 s 70*

### 173.10 CONFLICT OF LAWS.

Nothing in sections 173.01 to 173.11 shall be construed to abrogate or affect the provisions of any other law, municipal ordinance, regulation, or resolution which is more restrictive concerning advertising devices than are the provisions of such sections or of the rules adopted hereunder.

**History:** *1965 c 828 s 10; 1985 c 248 s 70*

### 173.11 CHAPTER VIOLATIONS; MISDEMEANOR.

Any person who is convicted of violating any provision of sections 173.01 to 173.11, or of violating any rule issued or adopted thereunder after receiving notice thereof, is guilty of a misdemeanor.

**History:** *1965 c 828 s 11; 1985 c 248 s 70*

### 173.12 APPLICABILITY.

Sections 173.01 and 173.02 and sections 173.13 to 173.231 shall apply to adjacent areas on interstate or primary highways.

**History:** *1965 c 828 s 12; 1971 c 883 s 7; 1Sp1981 c 4 art 1 s 85*

### 173.13 PERMIT FOR ADVERTISING DEVICE ALONG INTERSTATE HIGHWAY.

Subdivision 1. **Permit required.** No advertising device shall be erected or maintained in any adjacent area without a permit therefor being first obtained from the commissioner, except that permit systems of legitimate local zoning authorities shall take precedence inside a business area.

Subd. 2. **Rules.** The commissioner of transportation may adopt, modify, amend, or repeal rules governing the issuance of permits or renewals therefor for the erection and maintenance of advertising devices adjacent to the interstate and primary system of highways, provided that such rules shall not be more restrictive than the provisions of sections 173.13 to 173.231.

Subd. 3. **Exemption.** No size limitation shall apply to any advertising device otherwise legally in place on June 8, 1971

Subd. 4. **Fees.** The annual fee for each such permit or renewal thereof shall be as follows:

(1) If the advertising area of the advertising device does not exceed 50 square feet, the fee shall be \$30.

(2) If the advertising area exceeds 50 square feet but does not exceed 300 square feet, the fee shall be \$60.

(3) If the advertising area exceeds 300 square feet, the fee shall be \$120.

(4) No fee shall be charged for a permit for official signs and notices as they are defined in section 173.02, except that a fee may be charged for a star city sign erected under section 173.085.

Subd. 5. **Effective date; applicability.** The provisions of this section shall be effective on July 1, 1971, and the provisions relating to permits and fees shall apply to then legally existing devices as well as devices that may be erected and maintained thereafter.

Subd. 6. **Expiration; renewal; fee.** Permits shall expire on the last day of June of each year. They may be renewed upon payment of the annual fee and filing of a renewal application form to be provided by the commissioner, but without the filing of a new permit application. There shall be proration of the fee for the year in which the permit is first obtained, and the portion of any fees for a permit on any advertising device paid under this chapter, allocable to the period July 1, 1971, through December 31, 1971, shall be deemed to have been paid upon and shall apply to payment of the fees required by Laws 1971, chapter 883 or refunded. There shall be no additional fee or permit required for change in advertising copy.

Subd. 7. **Penalty.** A penalty equal to one-half the annual fee shall be charged upon failure to pay the annual permit fee for renewal on or before July 1 of each year.

Subd. 8. **Statement of landowner's consent.** There shall be submitted, together with the fee for the annual renewal, a statement by the applicant that the owner or occupant of the property has consented to the continued use of the property for such advertising device.

Subd. 9. **Notice of assignment.** The commissioner of transportation shall be notified in writing by the assignor of any such assignment.

Subd. 10. **Revocation.** The commissioner may revoke any permit granted herein for cause upon 30 days' written notice of such hearing to the permittee. Such notice and hearing and all rules with respect thereto shall be in accordance with chapter 14. The commissioner within ten days after hearing shall notify the permittee what the permittee must do to retain the permit and the permittee shall have 30 days therefrom in which to comply with the order of the commissioner.

Subd. 11. **Removal of advertising device for noncompliance.** Advertising devices erected or maintained after June 8, 1971, not complying with Laws 1971, chapter 883, and not otherwise by Laws 1971, chapter 883, permitted to stand may be removed by the commissioner upon 60 days prior written notice by certified mail to the owner thereof and to the owner of the real property on which such advertising device is located, provided that no notice shall be required to be given to the owner of an advertising device whose name is not stated upon the advertising device or the structure on which it is displayed, unless the name of such owner is otherwise reasonably known to the commissioner. The period of such notice shall be computed from the date of mailing.

**History:** 1965 c 828 s 13; Ex1967 c 9 s 11-14; 1971 c 883 s 8; 1976 c 166 s 7; 1978 c 674 s 60; 1981 c 294 s 2; 1Sp1981 c 4 art 1 s 86; 1982 c 424 s 130; 1983 c 293 s 74; 1984 c 417 s 19,20; 1985 c 25 s 3; 1985 c 248 s 70; 1986 c 444; 1991 c 298 art 5 s 2; 1991 c 339 s 8; 1992 c 572 s 2; 1997 c 159 art 2 s 36

173.14 [Repealed, 1994 c 635 art 2 s 9]

### 173.15 PROHIBITED ADVERTISING DEVICES.

After June 8, 1971 no advertising device shall be erected or maintained:

- (1) which purports to be or resembles an official traffic control device, sign, or signal, or railroad sign or signal; or which hides from view or interferes in any material degree with the effectiveness of any traffic control device, sign, or signal, or railroad sign or signal, or which obstructs or interferes with the driver's view of approaching, merging, or intersecting traffic for a distance not to exceed 500 feet;
- (2) which prominently displays the word "stop" or "danger";
- (3) which contains statements, words, or pictures of an obscene, indecent, or immoral character, or such as would offend public morals or decency;
- (4) on any right-of-way of the interstate system of highways, except as otherwise provided by law or allowed by the commissioner;
- (5) on private land without the consent of the owner or occupant thereof;
- (6) on trees, shrubs, or which are painted or drawn upon rocks or natural features, or on public utility poles;



(7) which has distracting flashing or moving lights so designed or lighted as to be a traffic hazard;

(8) to which access can be obtained only from an interstate main traveled way but excluding frontage roads adjacent thereto;

(9) which are structurally unsafe, in disrepair, or are abandoned.

**History:** 1965 c 828 s 15; Ex1967 c 9 s 15; 1971 c 883 s 9

### 173.16 ADVERTISING DEVICE IN BUSINESS AREA.

Subdivision 1. **Effective date.** After June 8, 1971, advertising devices in a business area shall comply with the standards stated in this section.

Subd. 2. **Size limitations, inside and outside corporate limits.** (1) In a business area within a corporate limit the maximum area of a sign face, whether a single sign face or each face of two back to back or V-type signs, shall not exceed 1,000 square feet including border and trim, but excluding base and apron supports and other structural members, except as provided under subdivision 5. The maximum size limitation stated in this subdivision shall apply to each side of a sign structure and signs may be placed back to back, side by side, or in a V-type construction, but not more than two displays to each facing and such sign structure shall be considered as one sign

(2) In a business area outside corporate limits the maximum area of a sign face, whether a single sign face or each face of two back to back or V-type signs, shall not exceed 750 square feet including border and trim, but excluding base and apron supports and other structural members, except as provided under subdivision 5. The maximum size limitation stated in this subdivision shall apply to each side of a sign structure and signs may be placed back to back, side by side, or in a V-type construction, but not more than two displays to each facing and such sign structure shall be considered as one sign.

Subd. 3. **Lighting.** (1) Advertising devices shall not be erected which contain, include or are illuminated by any flashing light or lights, except those giving public service information such as, without limiting the generality of the foregoing, time, date, temperature, weather or news;

(2) Advertising devices shall not be erected or maintained which are not effectively shielded so as to prevent beams or rays of light from being directed at any portion of the traveled way of an interstate or primary highway, of such intensity or brilliance as to cause glare or impair the vision of the operator of any motor vehicle; or which otherwise interfere with any driver's operation of a motor vehicle are prohibited.

(3) Outdoor advertising devices shall not be erected or maintained which shall be so illuminated that they interfere with the effectiveness of or obscure any official traffic sign, device or signal.

Subd. 4. **Spacing.** (1) Advertising devices shall not be erected or maintained in such a place or manner as to obscure or otherwise physically interfere with an official traffic control device or a railroad safety signal or sign, or to obstruct or physically interfere with the drivers' view of approaching, merging or intersecting traffic for a distance of 500 feet.

(2) No advertising device shall be erected closer to any other such advertising device on the same side of the same highway facing traffic proceeding in the same direction than (a) 500 feet on any interstate highway or fully controlled freeway in a zoned or unzoned commercial or industrial area within or outside an incorporated city, (b) 300 feet on a primary highway in a zoned commercial or industrial area outside an incorporated city, (c) 400 feet on a primary highway in an unzoned commercial or industrial area outside an incorporated city, (d) 100 feet on a primary highway inside an incorporated city; provided, however, that this provision shall not prevent the erection of double-faced, back-to-back, or V-type advertising devices with a maximum of two signs per facing; provided further, however, that such spacing requirements shall not apply as between any off-premise advertising device permitted under the provisions of Laws 1971, Chapter 883.

(3) The above spacing between advertising devices does not apply to structures separated by buildings or other obstructions in such a manner that only one sign facing located within the above spacing distances is visible from the highway at any one time.

(4) On interstate highways or fully controlled access freeways outside of incorporated cities, no advertising device may be located adjacent to or within 500 feet of an interchange, intersection at grade, or safety rest area. Said 500 feet shall be measured along such highway from the beginning or ending of pavement widening at the exit from or entrance to the main traveled way.

(5) On primary highways outside of incorporated cities, no advertising device may be located closer than 300 feet from the intersection of any primary highway at grade with another highway, or with a railroad; provided that advertising may be affixed to or located adjacent to a building at such intersection in such a manner as not to cause any greater obstruction of vision than that caused by the building itself.

**Subd. 5. Local control.** (1) Whenever a bona fide county or local zoning authority has made a legitimate determination of customary usage and in the judgment of the commissioner, reasonably provides for size, lighting and spacing control of advertising devices, such determination shall be accepted in lieu of the provisions of this chapter in the zoned commercial and industrial areas within the geographical jurisdiction of such authority.

(2) All county and local zoning authorities shall give notice to the commissioner of transportation of the establishment or revision of any commercial and industrial zones pursuant to subdivision 1. Notice shall be by certified mail sent to the office of the commissioner of transportation in St. Paul, Minnesota, within 15 days after the effective date of the zoning change or establishment.

(3) The commissioner may not disapprove any zoning ordinance adopted by a county or local zoning authority that has the effect of establishing a business area unless the zoning ordinance would result in the loss to the state of federal highway funds.

**History:** 1965 c 828 s 16; Ex1967 c 9 s 15A, 1971 c 883 s 10; 1973 c 123 art 5 s 7; 1976 c 166 s 7; 1978 c 674 s 60; 1985 c 248 s 70; 1992 c 572 s 3

### 173.17 REMOVAL OF ADVERTISING DEVICE; COMPENSATION.

It is hereby declared that where in order to carry out the provisions of this chapter it is necessary that property rights be acquired, such acquisition is for a public purpose and is necessary for a highway purpose. The commissioner of transportation is authorized to acquire by purchase, gift or condemnation all advertising devices and all property rights pertaining thereto which are prohibited under the provisions of this chapter, and any rules promulgated pursuant thereto, provided that such advertising devices were in lawful existence on June 8, 1971. In any such acquisition, purchase or condemnation, just compensation shall be paid for:

(1) The taking from the owner of such sign, display or device of all right, title, leasehold and interest in such sign, display or device; and

(2) The taking from the owner of the real property on which such advertising device is located immediately prior to its removal or relocation, the right to erect and maintain thereon advertising devices, and full compensation therefor, including severance damage and damage to the remainder of the outdoor advertising plant regardless of whether it is located on property contiguous to or a part of that on which such sign is located, shall be included in the amounts paid to the respective owners. Provided, however, that no compensation shall be paid for severance damage and damage to the remainder of the outdoor advertising plant unless federal laws, or rules and regulations promulgated by the United States Department of Transportation provide for federal participation in the cost of such severance damage and damage to the remainder of the outdoor advertising plant.

(3) Compensation required herein shall be paid to the person or persons entitled thereto. Notwithstanding any other provisions of Laws 1971, chapter 883, no advertising device shall be required to be removed or relocated unless and until the commissioner of transportation shall tender payment to the owner of the advertising device and the owner of real property upon which the same is located, in cash or check drawn on the state treasury, of 100 percent of the amount of just compensation required herein, as determined by the commissioner of transportation; provided that the acceptance of said tendered amount by the person or persons to be compensated shall be without prejudice to further rights to have just compensation

finally determined in accordance with the provisions of Laws 1971, chapter 883, and to receive any greater or additional amount under chapter 117.

(4) Notwithstanding any other provision of this chapter, including section 173.20, no advertising device which was lawfully erected shall be removed until all rights in the property, personal or real, have been acquired by purchase, gift, or eminent domain proceedings under chapter 117, whether or not the advertising device is removed pursuant to this chapter or any other statute, ordinance, or regulation of any political subdivision of the state or local zoning authority.

**History:** 1965 c 828 s 17; Ex1967 c 9 s 16; 1971 c 883 s 11; 1976 c 166 s 7; 1981 c 294 s 1; 1981 c 356 s 248; 1983 c 289 s 115 subd 1; 1985 c 248 s 70; 1986 c 444; 1987 c 312 art 1 s 26 subd 2, 1993 c 163 art 1 s 26

### 173.171 VEGETATION CONTROL; VISIBILITY; AGREEMENT.

The commissioner of the department of transportation may enter into agreements with the owners of advertising devices not prohibited under this chapter and lawfully erected and maintained in adjacent areas, or with the owners of the real property on which the advertising devices are located, providing for the control of vegetation on the right-of-way in the vicinity of the advertising devices to ensure their visibility from the highway. The agreements shall provide that:

(1) the cost of any vegetation control measures will be paid for by the owner of the advertising device or the owner of the real property on which it is located; and

(2) any control measures will be carried out in a safe, workmanlike manner

**History:** 1981 c 294 s 3

### 173.18 ADJUSTMENTS BETWEEN OWNERS AS TO SPACING.

If two or more advertising devices erected before May 26, 1965 are in violation of the spacing requirements as herein provided, the commissioner of transportation shall notify the owners of such devices and give such owners full opportunity to be heard. The commissioner shall thereafter make a finding as to the date of erection of each of the devices. The device or devices last erected shall be deemed nonconforming and shall be removed by the owner or owners not later than July 1, 1969.

**History:** 1965 c 828 s 18; 1976 c 166 s 7; 1986 c 444

### 173.185 AGREEMENT WITH FEDERAL GOVERNMENT; RULES.

Subdivision 1. **Federal laws and regulations.** The commissioner of transportation shall comply with federal law and federal rules and regulations relating to billboard control on the interstate and primary systems, and is authorized to do all necessary acts and things, including, but not limited to, entering into binding agreements with the United States or any of its agencies or departments to the end that the objectives stated in United States Code, title 23, section 131, section 319, or any other applicable federal statute, and the rules and regulations promulgated pursuant thereto, be accomplished on the interstate and primary systems of highways.

Subd. 2. **Rules.** The commissioner of transportation is authorized to promulgate rules governing the erection and maintenance of outdoor advertising devices as may be necessary to carry out the policy of the state declared in this chapter.

**History:** 1971 c 883 s 12; 1976 c 166 s 7; 1985 c 248 s 70

173.19 [Repealed, 1971 c 883 s 20]

### 173.20 CONFLICT OF LAWS.

Nothing in sections 173.13 to 173.231 shall be construed to abrogate or affect the provisions of any other law, municipal ordinance, regulation, or resolution which is more restrictive concerning advertising than the provisions of said sections 173.13 to 173.231 hereof or of the regulations adopted thereunder.

**History:** 1965 c 828 s 20; 1Sp1981 c 4 art 1 s 87; 1987 c 384 art 2 s 1

**173.21 CHAPTER VIOLATIONS; MISDEMEANOR; INJUNCTIVE RELIEF.**

Any person who violates any provisions of sections 173.13 to 173.231 or any rules issued or adopted thereunder after notice thereof upon conviction is guilty of a misdemeanor. In addition thereto, the commissioner of transportation may seek injunctive relief in the district court of the county in which the nonconforming advertising device is located and require that either the advertising device conform or be removed.

**History:** 1965 c 828 s 21; 1971 c 883 s 13; 1976 c 166 s 7; 1Sp1981 c 4 art 1 s 88; 1985 c 248 s 70

**173.22** [Obsolete]

**173.23** [Obsolete]

**173.231 FEES; PROCEEDS TO TRUNK HIGHWAY FUND.**

All fees collected under sections 173.07 and 173.13, shall be paid into the trunk highway fund.

**History:** 1971 c 883 s 17; 1976 c 163 s 38

**173.24** [Obsolete]

**173.25 AVAILABILITY OF FEDERAL AID.**

The commissioner of transportation shall not expend money for the acquisition of advertising devices controlled under this chapter, except those for which acquisition proceedings were begun before June 8, 1979, or for which federal money has been appropriated by Congress and the federal share has been made available to the commissioner. No advertising device legal under Laws 1971, chapter 883, shall be required to be removed or relocated until payment as provided in Laws 1971, chapter 883, is tendered by the commissioner of transportation. No further state funds shall be used for any existing or proposed acquisitions other than those funds necessary to obtain full federal participation in the acquisition proceeding pursuant to United States Code, title 23, "Highways."

**History:** 1971 c 883 s 14; 1976 c 166 s 7; 1981 c 357 s 66; 1989 c 269 s 42

**173.26 EXEMPTION FOR OLD ADVERTISING DEVICE IN BUSINESS AREA.**

Notwithstanding any other provision of Laws 1971, chapter 883, each advertising device in existence in a business area on June 8, 1971 and which fails to comply with the provisions of Laws 1971, chapter 883, only as to size, lighting or spacing, may remain in place.

**History:** 1971 c 883 s 15

**173.27 CITATION.**

Laws 1971, chapter 883, may be cited as the "Minnesota Outdoor Advertising Control Act."

**History:** 1971 c 883 s 18

**173.31** [Repealed, 1971 c 883 s 20]

**173.32** [Repealed, 1971 c 883 s 20]

**173.33** [Repealed, 1971 c 883 s 20]

**173.34** [Repealed, 1971 c 883 s 20]

**173.35** [Repealed, 1971 c 883 s 20]

**173.36** [Repealed, 1971 c 883 s 20]

**173.37** [Repealed, 1971 c 883 s 20]

**173.38** [Repealed, 1971 c 883 s 20]

**173.39** [Repealed, 1971 c 883 s 20]

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**173.40** [Repealed, 1971 c 883 s 20]

**173.41** [Repealed, 1971 c 883 s 20]

**173.42** [Repealed, 1971 c 883 s 20]

**173.43** [Repealed, 1971 c 883 s 20]

**173.44** [Repealed, 1971 c 883 s 20]

**173.45** [Repealed, 1971 c 883 s 20]

**173.46** [Repealed, 1971 c 883 s 20]

**173.47** [Repealed, 1971 c 883 s 20]

**173.48** [Repealed, 1971 c 883 s 20]

**173.49** [Repealed, 1971 c 883 s 20]

**173.50** [Repealed, 1971 c 883 s 20]

**173.51** [Repealed, 1971 c 883 s 20]

**173.52** [Repealed, 1971 c 883 s 20]

**173.53** [Repealed, 1971 c 883 s 20]

**173.54** [Repealed, 1971 c 883 s 20]