

## CHAPTER 331A

## QUALIFIED NEWSPAPERS

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**331A.01 DEFINITIONS.**

Subdivision 1. **Scope.** As used in sections 331A.01 to 331A.11, the terms defined have the meanings given them except as otherwise expressly provided or indicated by the context.

Subd. 2. **Known office of issue.** "Known office of issue" means the principal office maintained by the publisher or managing officer during a newspaper's regular business hours to gather news and sell advertisements and subscriptions, whether or not printing or any other operations of the newspaper are conducted at or from the office, and devoted primarily to business related to the newspaper. A newspaper may have only one known office of issue.

Subd. 3. **Local public corporation.** "Local public corporation" means a county, municipality, school district, or any other local political subdivision or local or area district, commission, board, or authority.

Subd. 4. **Municipality.** "Municipality" means a home rule charter or statutory city or town.

Subd. 5. **Newspaper.** "Newspaper" means a publication issued regularly by the same person or corporation, or a successor, whether the name of the publication is the same or different.

Subd. 6. **Proceedings.** "Proceedings" means the substance of all official actions taken by the governing body of a local public corporation at any regular or special meeting, and at minimum includes the subject matter of a motion, the persons making and seconding a motion, the roll call vote on a motion, the character of resolutions or ordinances offered, including a brief description of their subject matter, and whether defeated or adopted.

Subd. 7. **Public notice.** "Public notice" means every notice required or authorized by law or by order of a court to be published by a qualified newspaper, and includes:

(a) every publication of laws, ordinances, resolutions, financial information, and proceedings intended to give notice in a particular area;

(b) every notice and certificate of election, facsimile ballot, notice of referendum, notice of public hearing before a governmental body, and notice of meetings of private and public bodies required by law; and

(c) every summons, order, citation, notice of sale or other notice which is intended to inform a person that the person may or shall do an act or exercise a right within a designated period or upon or by a designated date.

(d) this subdivision contains no independent requirement for the publication of any public notice.

Subd. 8. **Qualified newspaper.** "Qualified newspaper" means a newspaper which complies with all of the provisions of section 331A.02. The following terms, when found in laws referring to the publication of a public notice, shall be taken to mean a qualified newspaper: "qualified legal newspaper," "legal newspaper," "official newspaper," "newspaper," and "medium of official and legal publication."

Subd. 9. **Secondary office.** "Secondary office" means an office established by a newspaper in a community other than that in which its known office of issue is located, in the same or an adjoining county, to enhance its coverage of and service to that

community, open on a regular basis to gather news and sell advertisements and subscriptions, whether or not printing or any other operations of the newspaper are conducted at or from the office, and devoted primarily to business related to the newspaper.

Subd. 10. **Summary.** "Summary" means an accurate and intelligible abstract or synopsis of the essential elements of proceedings, ordinances, resolutions, and other official actions. It shall be written in a clear and coherent manner, and shall, to the extent possible, avoid the use of technical or legal terms not generally familiar to the public. When a summary is published, the publication shall clearly indicate that the published material is only a summary and that the full text is available for public inspection at a designated location. A summary published in conformity with this section shall be deemed to fulfill all legal publication requirements as completely as if the entire matter which was summarized had been published. No liability shall be asserted against the local public corporation in connection with the publication of a summary or agenda.

**History:** 1984 c 543 s 20; 1986 c 444

### 331A.02 REQUIREMENTS FOR A QUALIFIED NEWSPAPER.

Subdivision 1. **Qualification.** No newspaper in this state shall be entitled to any compensation or fee for publishing any public notice unless it is qualified as a medium of official and legal publication. A newspaper that is not qualified must inform a public body that presents a public notice for publication that it is not qualified. To be qualified as a medium of official and legal publication, a newspaper shall:

(a) be printed in the English language in newspaper format and in column and sheet form equivalent in printed space to at least 1,000 square inches, or 800 square inches if the local public corporation the newspaper purports to serve has a population of under 1,300 and the newspaper does not receive a public subsidy;

(b) if a daily, be distributed at least five days each week, or if not a daily, be distributed at least once each week, for 50 weeks each year. In any week in which a legal holiday is included, not more than four issues of a daily paper are necessary;

(c) in at least half of its issues each year, have no more than 75 percent of its printed space comprised of advertising material and paid public notices. In all of its issues each year, have 25 percent, if published more often than weekly, or 50 percent, if weekly, of its news columns devoted to news of local interest to the community which it purports to serve. Not more than 25 percent of its total nonadvertising column inches in any issue may wholly duplicate any other publication unless the duplicated material is from recognized general news services;

(d) be circulated in the local public corporation which it purports to serve, and either have at least 500 copies regularly delivered to paying subscribers, or 250 copies delivered to paying subscribers if the local public corporation it purports to serve has a population of under 1,300, or have at least 500 copies regularly distributed without charge to local residents, or 250 copies distributed without charge to local residents if the local public corporation it purports to serve has a population of under 1,300;

(e) have its known office of issue established in either the county in which lies, in whole or in part, the local public corporation which the newspaper purports to serve, or in an adjoining county;

(f) file a copy of each issue immediately with the state historical society;

(g) be made available at single or subscription prices to any person, corporation, partnership, or other unincorporated association requesting the newspaper and making the applicable payment, or be distributed without charge to local residents;

(h) have complied with all the foregoing conditions of this subdivision for at least one year immediately preceding the date of the notice publication;

(i) between September 1 and December 31 of each year publish a sworn United States Post Office periodicals-class statement of ownership and circulation or a statement of ownership and circulation verified by a recognized independent circulation

auditing agency covering a period of at least one year ending no earlier than the June 30 preceding the publication deadline. When publication occurs after December 31 and before July 1, qualification shall be effective from the date of the filing described in paragraph (j) through December 31 of that year; and

(j) after publication, submit to the secretary of state by December 31 a filing containing the newspaper's name, address of its known office of issue, telephone number, and a statement that it has complied with all of the requirements of this section. The filing must be accompanied by a fee of \$25. The secretary of state shall make available for public inspection a list of newspapers that have filed. Acceptance of a filing does not constitute a guarantee by the state that any other qualification has been met.

**Subd. 2. Earlier qualification.** Newspapers which have been qualified, on May 20, 1965, as mediums of official and legal publication shall remain qualified only if they meet the requirements of subdivision 1, except as follows:

(a) If on May 20, 1965, any newspaper is a qualified medium of official and legal publication but is printed in a foreign language, or in English and a foreign language, and otherwise qualifies as a medium of official and legal publication pursuant to the requirements of subdivision 1, it shall be a medium of official and legal publication so long as it otherwise qualifies pursuant to the requirements of subdivision 1.

(b) If on May 20, 1965, any newspaper has been circulated in and near the municipality which it purports to serve to the extent of at least 240 but less than 500 copies regularly delivered to paying subscribers and otherwise qualifies as a medium of official and legal publication pursuant to the requirements of subdivision 1, it shall be a medium of official and legal publication so long as at least 240 copies are regularly so circulated and delivered and it otherwise qualifies pursuant to the requirements of subdivision 1.

**Subd. 3. Publication; suspension; changes.** The following circumstances shall not affect the qualification of a newspaper, invalidate an otherwise valid publication, or invalidate a designation as official newspaper for publication of county board proceedings.

(a) Suspension of publication for a period of not more than three consecutive months resulting from the destruction of its known office of issue, equipment, or other facility by the elements, unforeseen accident, or acts of God or by reason of a labor dispute.

(b) The consolidation of one newspaper with another published in the same county, or a change in its name or ownership, or a temporary change in its known office of issue.

(c) Change of the day of publication, the frequency of publication, or the change of the known office of issue from one place to another within the same county. Except as provided in this subdivision, suspension of publication, or a change of known office of issue from one county to another, or failure to maintain its known office of issue in the county, shall deprive a newspaper of its standing as a medium of official and legal publication until the newspaper again becomes qualified pursuant to subdivision 1.

**Subd. 4. Declaratory judgment of legality.** Any person interested in the standing as a medium of official and legal publication of a newspaper, may petition the district court in the county in which the newspaper has its known office of issue for a declaratory judgment whether the newspaper is qualified as a medium of official and legal publication. Unless filed by the publisher, the petition and summons shall be served on the publisher as in other civil actions. Service in other cases shall be made by publication of the petition and summons once each week for three successive weeks in the newspaper or newspapers the court may order and upon the persons as the court may direct. Publications made in a newspaper after a judgment that it is qualified but before the judgment is vacated or set aside shall be valid. Except as provided in this

subdivision, the Uniform Declaratory Judgments Act and the rules of civil procedure shall apply to the action.

**History:** 1984 c 543 s 21; 1985 c 174 s 1; 1Sp1985 c 13 s 315; 1987 c 30 s 1; 1987 c 286 s 1; 1988 c 682 s 42; 1990 c 395 s 1; 1991 c 205 s 17; 1997 c 137 s 13; 2001 c 38 s 1

### 331A.03 WHERE NOTICE PUBLISHED.

Subdivision 1. **Generally.** Except as provided in subdivision 2, a public notice shall be published in a qualified newspaper, and except as otherwise provided by law, in one that is likely to give notice in the affected area or to whom it is directed. When a statute or other law requires publication in a newspaper located in a designated municipality or area and no qualified newspaper is located there, publication shall be made in a qualified newspaper likely to give notice unless the particular statute or law expressly provides otherwise. If no qualified newspaper exists, then publication is not required.

Subd. 2. **Exception; certain cities of the fourth class.** A public notice required to be published by a statutory or home rule charter city of the fourth class located in the metropolitan area defined in section 473.121, subdivision 2, is not required to be published in a qualified newspaper if there is no qualified nondaily newspaper of general circulation in the city, provided the notice is printed in a newsletter or similar printed means of giving notice that is prepared by the city and either mailed or delivered to each household in the city.

**History:** 1984 c 543 s 22; 1991 c 53 s 1

### 331A.04 DESIGNATION OF A NEWSPAPER FOR OFFICIAL PUBLICATIONS.

Subdivision 1. **Priority.** The governing body of any local public corporation, when authorized or required by statute or charter to designate a newspaper for publication of its official proceedings and public notices, shall designate a newspaper which is a qualified medium of official and legal publication in the following priority.

Subd. 2. **Known office in locality.** If there are one or more qualified newspapers, the known office of issue of which are located within the local public corporation, one of them shall be designated.

Subd. 3. **Secondary office in locality.** When no qualified newspaper has a known office of issue located in the local public corporation, but one or more qualified newspapers maintain a secondary office there, one of them shall be designated.

Subd. 4. **General circulation in locality.** When no qualified newspaper has its known office of issue or a secondary office located within the local public corporation, then a qualified newspaper of general circulation there shall be designated.

Subd. 5. **Other situations.** If a local public corporation is without an official newspaper, or if the publisher refuses to publish a particular public notice, matters required to be published shall be published in a newspaper designated as provided in subdivision 4. The governing body of a local public corporation with territory in two or more counties may, if deemed in the public interest, designate a separate qualified newspaper for each county.

**History:** 1984 c 543 s 23

### 331A.05 FORM OF PUBLIC NOTICES.

Subdivision 1. **English language.** All public notices shall be printed or otherwise disseminated in the English language.

Subd. 2. **Time of notice.** Unless otherwise specified by a particular statute, or by order of a court, publication of a public notice shall be as follows:

(a) the notice shall be published once;

(b) if the notice is intended to inform the public about a future event, the last publication shall occur not more than 14 days and not less than seven days before the event;

(c) if the notice is intended to inform the public about a past action or event, the last publication shall occur not more than 45 days after occurrence of the action or event.

Subd. 3. **Type face.** Except as otherwise directed by a particular statute requiring publication of a public notice, a public notice shall be printed in a type face no smaller than six point with a lower case alphabet of 90 point. Larger type faces may be used.

Subd. 4. **Title or caption.** Every public notice shall include a title or caption in a body type no smaller than brevier or eight point referring to the content of the notice. Larger type faces may be used.

Subd. 5. **Local options.** The governing body of a local public corporation may, to better inform the public, increase the frequency of publication of a public notice beyond the minimum required by a particular statute. It may use forms and styles for the notice as it deems appropriate, including the use of display advertisements and graphics. It may publish or disseminate the notice in other newspapers in addition to the newspaper required to be designated under section 331A.04. Regardless of whether a particular statute specifies "legal notice," "public notice," "notice," or uses similar terms, the governing body may use whatever form for the published notice that it deems appropriate in order to adequately inform the public, subject to the requirements of sections 331A.01 to 331A.11. Nothing in the foregoing provisions of this subdivision shall require the governing body of a local public corporation to use the options described.

Subd. 6. **Conflict of laws.** Nothing in this section shall invalidate or affect any statutory or charter provision imposing additional or special qualifications for publication of particular notices or proceedings.

Subd. 7. **Errors in publication.** If through no fault of the local public corporation, an error occurs in the publication of a public notice, the error shall have no effect on the validity of the event, action, or proceeding to which the public notice relates.

**History:** 1984 c 543 s 24; 1997 c 56 s 1

### 331A.06 FEES FOR PUBLICATION.

Subdivision 1. The maximum rate charged for publication of a public notice shall not exceed the lowest classified rate paid by commercial users for comparable space in the newspapers in which the public notice appears, and shall include all cash discounts, multiple insertion discounts, and similar benefits extended to the newspaper's regular customers.

Subd. 2. **Fees for publication.** Notwithstanding subdivision 1, no newspaper may increase its rates for publication of public notices by more than ten percent per year, as compared to the maximum rate actually charged by the newspaper in the previous year for publication of public notices, and in any case the new rate shall not exceed the rate described in subdivision 1. Nothing in this section shall be interpreted to mean that such an increase is required.

Subd. 3. When the governing board of a local public corporation awards a contract for the publication of public notices based on competitive bidding, the rate established by the competitive bidding shall be the rate charged for publication of the public notices.

Subd. 4. When a statute refers to publication of a public notice at the legal rate the maximum rate shall be as provided in this section.

**History:** 1984 c 543 s 25; 1985 c 174 s 2; 1994 c 465 art 2 s 18

### 331A.07 AFFIDAVIT OF PUBLICATION.

No compensation shall be recoverable for publishing legal or official matter in any newspaper not qualified, until there is filed with the county auditor the affidavit of a person having knowledge of the facts, showing the name and location of the newspaper and the existence of conditions constituting its qualifications as a qualified newspaper as set forth in section 331A.02. If the matter published relates to proceedings in another county, a like affidavit must be filed with its auditor. The affidavit, if it states the required facts, shall be prima facie evidence of them and of the qualification. No compensation shall be recoverable for publishing legal or official matter in any newspaper unless the bill is accompanied by an affidavit of the publisher of the

newspaper or the publisher's designated agent, having knowledge of the facts, setting forth the fact that the newspaper has complied with all the requirements to constitute a legal newspaper. The affidavit must set forth the dates of the month and year and the day of the week upon which the legal or official matter was published in the newspaper. The affidavit must also include the publisher's lowest classified rate paid by commercial users for comparable space, as determined pursuant to section 331A.06, the maximum charge allowable by law for the publication of the specific legal or official matter in question, and the rate actually charged for that publication.

**History:** 1984 c 543 s 26; 1993 c 48 s 7

### 331A.08 COMPUTATION OF TIME.

Subdivision 1. **Time for publication.** The time for publication of public notices shall be computed to exclude the first day of publication and include the day on which the act or event, of which notice is given, is to happen or which completes the full period required for publication.

Subd. 2. **Time for act or proceeding.** The time within which an act is to be done or proceeding had or taken, as prescribed by the rules of procedure, shall be computed by excluding the first day and including the last. If the last day is Sunday or a legal holiday the party shall have the next secular day in which to do the act or take the proceeding.

**History:** 1984 c 543 s 27

### 331A.09 PUBLICATION ON SUNDAY.

Any public notice may be printed in a newspaper published on Sunday, and the publication is a lawful publication and a full compliance with the order of the court or officer ordering the publication. Any notice that, by law or the order of any court, is required to be published for any given number of weeks may be published on any day in each week or the term, and if published as many weeks and as many times in each week as required by the law or order, it is a lawful publication.

**History:** 1984 c 543 s 28

### 331A.10 CHANGE OF NAME OR DISCONTINUANCE OF NEWSPAPER.

Subdivision 1. **Change of name.** When a legal notice is required or ordered to be published in a particular newspaper and the name of the newspaper is changed before the publication is completed, the publication shall be made or continued in the newspaper under its new name with the same effect as if the name had not been changed. The proof of the publication, in addition to other requirements, shall state the change of name and specify the period of publication in the newspaper under each name.

Subd. 2. **Discontinuance.** When a newspaper ceases to be published before the publication of a public notice is commenced, or when commenced ceases before the publication is completed, the order for publication, when one is required in the first instance, may be amended by order of the court or judge, to designate another newspaper, as may be necessary. If no order is required in the first instance, publication may be made or completed in any other qualified newspaper. Any time during which the notice is published in the first newspaper shall be calculated as a part of the time required for the publication, proof of which may be made by affidavit of any person acquainted with the facts.

**History:** 1984 c 543 s 29

### 331A.11 APPLICATION.

Subdivision 1. **Apply.** Sections 331A.01 to 331A.11 apply to all municipalities and local public corporations.

Subd. 2. **Do not apply.** Sections 331A.01 to 331A.11 do not apply to notices required by private agreements or local laws to be published in newspapers, unless they refer to sections 331A.01 to 331A.11, or particular provisions of sections 331A.01 to 331A.11.

**History:** 1984 c 543 s 30