

Chapter 377

1969 REPLACEMENT PART

Highway Beautification

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HEDGES AND TREES

377.010 Planting hedge or trees on line of highway. Any person or company may lawfully plant, for cultivation and growth, any hedge fence or trees for use or ornament along any public highway or road in this state, on the line of his or its land and the highway.

[Amended by 1959 c.382 §1]

377.020 Planting trees on roads within irrigation projects; protecting fences. Where any county road within the limits of any irrigation project under the control of the United States Bureau of Reclamation exceeds 50 feet in width, the county court of the county in which the project is situated may, in its discretion:

(1) Upon a petition presented to it by the landowner or entryman, permit any such landowner or entryman whose land is contiguous to the road to use a portion of the road which adjoins the land for the purpose of planting trees therein.

(2) Permit the landowner or entryman to enclose and fence in the portion of road in order to protect the trees so planted.

In no case shall the permission so granted for said purposes cause any road to be decreased to a width of less than 50 feet.

377.030 Destruction or removal of trees on state highways without permission prohibited. No person shall dig up, cut down, injure, destroy or in any manner remove any trees growing upon the right of way of any state highway without first procuring the written consent of the State Highway Commission.

377.040 Application to highway commission to remove trees along state highways. Whenever any person, firm or corporation, including any public, municipal or private corporation and any privately or publicly owned utility or cooperative association, desires to dig up, cut down, injure, destroy or in any manner remove any trees growing upon the right of way of any state highway, such person shall file with the State Highway Commission an application in writing, setting forth the reasons and purpose for the removal or destruction of the trees.

377.050 Consent of highway commission for removal of trees along state highways. (1) Upon the filing of the application

mentioned in ORS 377.040 the State Highway Commission may, in its judgment and discretion the destruction or removal of the trees will not mar or in any way affect the scenic beauty of or otherwise harm, injure or affect the highway, issue a permit authorizing the cutting down, digging up, removal or destruction of the trees under such conditions and in such manner as the commission may in such permit designate.

(2) Such permits may be granted when it becomes necessary to cut or remove brush and tree growth which otherwise would be hazardous to the operation or maintenance of lines for the transmission of electric energy or communication, or which would impair the efficiency of the service of such lines to the public, but such cutting or removal shall be done in such manner as not substantially to impair the scenic beauty of the highway.

ADVERTISING

(State Highways)

377.110 [1955 c.541 §1; repealed by 1959 c.309 §22]

377.115 Policy. The Legislative Assembly hereby finds and declares that to provide for the safe and efficient use and the orderly appearance of the public highways, it is necessary and in the public interest to regulate the erection and maintenance of signs inside or within view of the public highways.

[1959 c.309 §1; 1965 c.219 §1]

377.120 [1955 c.541 §2; repealed by 1959 c.309 §22]

377.125 Definitions. As used in ORS 377.115 to 377.305 and 377.505 to 377.545, unless the context requires otherwise:

(1) "Advertising area" means the area of the display surface or display surfaces of a sign plus the area of any cutouts which project beyond the display surface or display surfaces of the sign.

(2) "Business of outdoor advertising" means the business of constructing, erecting, operating, using, maintaining, leasing or selling signs, but does not include the placing, erecting, constructing, using or maintaining on his own property of signs pertaining exclusively to the business of the person placing, erecting, constructing, using or maintaining the signs.

(3) "Class A sign" means a sign that is not a Class B or Class C sign, that advertises exclusively a roadside service upon or within

five miles of the highway or throughway beside which the sign is located, when:

(a) The sign has an advertising area of less than 250 square feet;

(b) There are not more than two such signs in each direction from the roadside service beside each highway or throughway upon which, or within five miles of which, the roadside service is located;

(c) The sign is within five miles travel distance from the roadside service, measured along the highway or throughway and any access road or connecting road leading to the roadside service; and

(d) Either the roadside service is located outside the limits of an incorporated city, or the sign is located beside a throughway.

(4) "Class B sign" means a sign that is not a Class C sign, located beside a highway or throughway, except an interstate highway, where 50 percent or more of the frontage on the highway or throughway for a distance of 600 feet or more on one side, or 300 feet or more on both sides of the highway or throughway, is occupied by buildings used for business. Only that portion of a lot, tract or parcel of land upon which a structure having a foundation, floor and roof actually rests, is considered a building used for business.

(5) "Class C sign" means a sign beside a highway or throughway:

(a) Erected upon farm property, which includes tree farms, by the owner or lessee of the farm when the sign advertises only the products or the location of the farm;

(b) Erected for the purpose of advertising for sale or rent the real property upon which the sign is erected, or of warning of hazard or danger upon such property, or of warning against hunting, fishing or trespassing upon such property;

(c) Erected by a public utility or transportation company for the purpose of notices necessary for the information, safety or direction of the public;

(d) Which bears only the name and address of the owner or occupant of the property;

(e) Erected upon property by the occupant of the property when the sign advertises only the name of a publication regularly delivered to the property, if the sign has an advertising area of less than five square feet; or

(f) Erected upon property by the occupant of the property when the sign adver-

tises only the name, address, qualifications, slogan, picture and name of the office sought by a candidate for public office. However, the sign shall be removed by the occupant within 30 days after the election.

(6) "Class D sign" means any sign located beside a highway or throughway except those described in subsections (3) to (5) of this section, and except as provided by ORS 377.135.

(7) "Commission" means the State Highway Commission.

(8) "Cutout" means every type of display in the form of letters, figures, characters, representations or others in cutout or irregular form attached to or superimposed upon a sign.

(9) "Display surface" means the area made available by the sign structure for the purpose of displaying the advertising message.

(10) "Engineer" means the State Highway Engineer or his duly authorized representative.

(11) "Highway" means the entire width between the boundary lines of every state highway as defined in subsection (9) of ORS 366.005, and every part of the National System of Interstate and Defense Highways.

(12) "Interstate highway" means any throughway or highway that is a part of the National System of Interstate and Defense Highways.

(13) "Roadside service" means classes of pursuits customarily required and used by the traveling public, and intended predominantly for the traveling public. These include, but are not limited to, gasoline filling stations, garages and automobile repair shops, refreshment stands, motels, hotels, restaurants and eating places, tourist or automobile parks and lodges and similar pursuits and services intended primarily for the convenience and accommodation of the traveling public, as such.

(14) "Sign" means any display, message, emblem or device, used or intended for advertising purposes or to attract the attention of the public and shall include the sign structure, display surfaces and all other component parts of the sign.

(15) "Sign structure" means the supports, uprights, braces and framework of a sign.

(16) "Throughway" means any highway

adopted, located, relocated, established, constructed or designated as, or converted into, a throughway by the State Highway Commission under the provisions of ORS 374.005 to 374.095.

[1959 c.309 §2; 1963 c.400 §1; 1965 c.219 §2]

377.130 [1955 c.541 §3; repealed by 1959 c.309 §22]

377.135 Exempted signs. (1) ORS 377.115 to 377.305 do not apply to a sign:

(a) Located within the limits of an incorporated city.

(b) Erected and maintained by or under authority of any federal, state, county or city authority for the purpose of conveying information, warnings, distances or directions to persons upon the highway or throughway.

(c) Erected and maintained by any public officer or body for the purpose of giving a notice required by law or by a court.

(d) Located at a place not visible from any highway or throughway.

(e) Located within 300 feet of the advertised business, advertising only the name or nature of the business being conducted on, or the products, facilities, goods or services being sold, supplied or distributed on or from, the premises on which the sign is located.

(f) Erected and maintained by a public utility for the purpose of giving warning of the location of an underground cable or other installation.

(2) Nothing in ORS 377.115 to 377.545 is intended to permit the erection or maintenance of any sign that is prohibited under any other law of this state or of any political subdivision thereof.

[1959 c.309 §3; 1965 c.219 §3]

377.140 [1955 c.377 §14; 1959 c.94 §1; repealed by 1959 c.309 §22]

377.145 Signs within boundaries of highways; removal. (1) Except as otherwise provided by ORS 377.135 and subsection (2) of this section, no sign shall be located inside the boundary lines of a highway or throughway.

(2) This section does not apply to a notice required by law to be posted or maintained, or to a sign giving information about scenic, historical, resort or recreational areas, or community or civic enterprises of a noncommercial nature, or the proximity of tourist facilities, directions or distances for the information of the traveling

public, if the sign has been approved by the State Highway Commission, the county court or the board of county commissioners.

(3) Any person may lawfully remove or destroy, without resort to legal proceedings, a notice or a sign located inside the boundary lines of a highway or throughway in violation of this section.

[1959 c.309 §4; 1965 c.219 §4]

377.150 [1955 c.541 §4; repealed by 1959 c.309 §22]

377.155 Certain types of signs within view of highways either regulated or prohibited. Except as otherwise provided by ORS 377.135, no sign shall be located within view of any highway or throughway:

(1) Without the written consent of the owner of the property upon which the sign is located;

(2) In violation of the provisions of ORS 483.138;

(3) In such manner or at such location as to prevent the driver of a vehicle upon the highway or throughway from obtaining, by reason of the sign itself, a reasonably clear view of approaching vehicles for a distance of 500 feet along the highway or throughway, or, after the driver is at any point within 300 feet of the intersection, for a distance of 300 feet in both directions along any intersecting highway, throughway or railway;

(4) Unless the sign is so constructed, erected and maintained as to be able to withstand a wind pressure of at least 20 pounds per square foot of exposed surface;

(5) Unless the sign is at all times maintained in a neat, clean and attractive condition; or

(6) Which bears or contains statements, words or pictures of an obscene, indecent or immoral character, or such as will offend public morals or decency.

[1959 c.309 §5; 1965 c.219 §5]

377.160 [1955 c.541 §5; repealed by 1959 c.309 §22]

377.165 Class A, B and D signs upon trees or rocks prohibited. No Class A, Class B or Class D sign shall be located upon trees or rocks within view of any highway or throughway.

[1959 c.309 §6]

377.170 [1955 c.541 §15; repealed by 1959 c.309 §22]

377.175 Class A and D signs near other signs advertising same enterprise prohibited. No Class A or Class D sign shall be located within view of any highway or throughway within one-half mile, upon the same side of the highway or throughway, of any other sign that advertises the goods, products, facilities, services or business of the same commercial enterprise.

[1959 c.309 §7; 1965 c.219 §6]

377.178 Limitations on length of Class A and D signs along highways. (1) No Class A or Class D sign shall be located within view of any highway, throughway or interstate highway if the length of the sign exceeds 60 feet.

(2) In measuring a sign to determine its length:

(a) A sign having two or more display surfaces facing in opposite traffic directions, which display surfaces are erected upon a common sign structure, shall be measured on its longest side and the distance between the outermost points, as measured horizontally in a straight line, shall be considered to be the length of the sign. "Common sign structure" within this subsection shall mean that the display surfaces of the sign are supported by one or more common supports, uprights or other components necessary for the support of the display surfaces.

(b) Two signs which are "immediately adjacent" to each other, within the meaning of ORS 377.206, shall be considered as two separate signs and each sign shall be measured separately to determine if it exceeds the permitted length.

(c) Cutouts which project beyond the borders of a sign shall be included in measuring the length of the sign.

[1965 c.219 §13]

Note: ORS 377.178 was added to and made a part of ORS chapter 377, but was not added to and made a part of ORS 377.115 to 377.305.

377.180 [1955 c.541 §6; repealed by 1959 c.309 §22]

377.181 Spacing limitations for Class A and D signs along interstate highways. No Class A or Class D sign shall be located within view of any interstate highway within 2,000 feet of any other Class A or Class D sign upon the same side of the interstate highway.

[1961 c.615 §13; 1965 c.219 §7]

377.185 Size and spacing limitations for Class D signs along highways. No Class D sign shall be located within view of any

highway that is not an interstate highway:

(1) Within 300 feet of any other Class D sign on the same side of the highway, if the total combined advertising area of both signs is 130 square feet or less; or

(2) Within 500 feet of any other Class D sign on the same side of the highway, if the total combined advertising area of both signs exceeds 130 square feet.

[1959 c.309 §8; 1961 c.615 §9; 1965 c.219 §8]

377.190 [1955 c.541 §7; repealed by 1959 c.309 §22]

377.195 Spacing limitations for Class D signs along throughways. No Class D sign shall be located within view of any throughway that is not an interstate highway within 1,000 feet of any other Class D sign upon the same side of the throughway.

[1959 c.309 §9; 1961 c.615 §10; 1965 c.219 §9]

377.200 [1955 c.541 §8; repealed by 1959 c.309 §22]

377.205 [1959 c.309 §10; 1961 c.615 §11; repealed by 1965 c.219 §10 (377.206 enacted in lieu of 377.205)]

377.206 Provisions regarding application of spacing limitations. For the purpose of applying the spacing limitations contained in ORS 377.181, 377.185 and 377.195:

(1) The distances set forth in the spacing limitations shall be measured lineally along the highway, throughway or interstate highway.

(2) Two signs located immediately adjacent to each other on the same side of the highway, throughway or interstate highway shall be considered as one sign. To qualify as "immediately adjacent" within this section, the two signs must be located back to back facing in opposite traffic directions and the distance between the two signs at the closest point shall not exceed 10 feet nor shall the angle between the two signs formed by drawing an extended line parallel to the display surface or display surfaces on each of the two signs exceed 120 degrees.

[1965 c.219 §11 (enacted in lieu of 377.205)]

377.210 [1955 c.541 §9; repealed by 1959 c.309 §22]

377.215 Licenses required for persons engaged in business of outdoor advertising; fees, applications. (1) No person shall engage or continue in the business of outdoor advertising, involving signs located outside the corporate limits of any city, without first obtaining an annual license therefor from the commission. The fee for this license is payable annually in advance, as follows:

(a) \$25 for persons owning one or more but fewer than 51 signs subject to ORS 377.115 to 377.305.

(b) \$50 for persons owning more than 50 but fewer than 501 signs subject to ORS 377.115 to 377.305.

(c) \$100 for persons owning more than 500 signs subject to ORS 377.115 to 377.305.

(2) No person shall engage or continue in the business of outdoor advertising whose activities include construction, erection, operation, use, maintenance, leasing or selling, but not ownership, of signs located outside the limits of incorporated cities, without first obtaining an annual license therefor from the commission. The fee for this license is \$15, payable annually in advance.

(3) Application for licenses or renewal of licenses shall be made on forms furnished by the commission, shall contain such pertinent information as the commission may require and shall be accompanied by the annual fee. Licenses granted under this section expire on June 30 of each year and shall not be prorated. The commission shall send each licensee a notice of expiration of license and renewal application forms not less than 60 days before the date of expiration. Applications for the renewal of licenses shall be made not less than 30 days before the date of expiration; and, in the event of a late application, the license fee is double the regular fee.

(4) Nothing in this section is intended to require any person to obtain a license who constructs, erects, operates, uses or maintains signs that advertise only his own business and which are erected on his property.

[1959 c.309 §11; 1963 c.400 §2; 1965 c.219 §14]

377.220 [1955 c.541 §10; repealed by 1959 c.309 §22]

377.225 Revocation of licenses. In any case where the commission finds that any material information required to be given in the application for the license is knowingly false or misleading or that the licensee has violated any provision of ORS 377.115 to 377.545, the commission has authority, after 30 days' notice in writing to the licensee, to revoke any license granted by it unless the licensee, before the expiration of the 30 days, corrects the false or misleading information and complies with ORS 377.115 to 377.545. [1959 c.309 §12; 1963 c.400 §3; 1965 c.219 §15]

377.230 [1955 c.541 §11; repealed by 1959 c.309 §22]

377.235 Permits required for signs; applications, fees. No Class A, Class B or Class D sign shall be constructed, erected, operated, used or maintained unless an annual permit therefor has been issued. Any person interested may apply for a permit to the engineer on forms furnished by the engineer. The application shall include a precise description of the location of the sign, a statement that the sign complies in all respects with ORS 377.115 to 377.545, and such other information as the engineer considers necessary or desirable. The application shall be accompanied by the annual permit fee as follows:

(1) \$2, if the advertising area does not exceed 50 square feet.

(2) \$3, if the advertising area exceeds 50 but does not exceed 200 square feet.

(3) \$4, if the advertising area exceeds 200 but does not exceed 500 square feet.

(4) \$5, if the advertising area exceeds 500 square feet but does not exceed 900 square feet.

(5) \$7.50, if the advertising area exceeds 900 square feet but does not exceed 1,200 square feet.

(6) \$10, if the advertising area exceeds 1,200 square feet.

[1959 c.309 §13; 1963 c.400 §4; 1965 c.219 §16]

377.240 [1955 c.541 §12; repealed by 1959 c.309 §22]

377.245 Miscellaneous provisions applicable to permits; revocation of permits.

(1) Permits shall be issued for the calendar year and may be renewed by payment of the applicable annual permit fee for the new year without the filing of a new application. Fees shall not be prorated for fractions of the year. Only one sign permit is required for a sign with multiple display surfaces. Separate permits are required for separate signs, even though the signs are immediately adjacent to each other within the meaning of ORS 377.206.

(2) Advertising copy or the display surface or display surfaces of a sign may be changed or cutouts may be attached or removed without paying an additional fee or obtaining a new permit; provided, however, that a new fee is required if the advertising area of the sign is increased beyond that for which the original fee was paid and no portion of the original fee shall be applied thereon and that a new fee and a new permit are required if the changes result in changing a Class A sign to a Class D sign. A new fee

and a new permit are required for a change in location or for the reconstruction of a sign and no portion of the original fee shall be applied thereon.

(3) A series of not more than eight panels, which series was previously issued a permit as a single advertising panel, shall require only one permit.

(4) An applicant for a sign permit may apply for and be granted a Class D sign permit even though the sign qualifies as a Class A sign. No sign for which a Class D sign permit has been issued shall be changed to a Class A sign unless the holder of the permit therefor requests the change, obtains a new Class A sign permit and pays a new fee, no portion of the original fee being applicable on the new fee.

(5) The engineer shall issue a permit for the sign covered by application duly made, unless the sign is in violation of ORS 377.115 to 377.545.

(6) The engineer may revoke a permit after hearing if he finds that any statement made in the application therefor was false or that the sign covered thereby is in violation of ORS 377.115 to 377.545 and is not brought into compliance within 30 days after written notification thereof.

(7) A valid permit may be transferred to another person upon written notice to the engineer.

[1959 c.309 §14; 1963 c.400 §5; 1965 c.219 §17]

377.250 [1955 c.541 §16; repealed by 1959 c.309 §22]

377.255 Procedure for awarding permits for certain signs violating size and spacing limitations. (1) If the engineer finds that two or more lawfully erected signs are in violation of the spacing requirements of ORS 377.185 and 377.195, he shall accord the interested parties a full opportunity to be heard and shall thereafter make a finding as to the date of erection of each of the signs and award the permit or permits to the applicants whose signs were first erected.

(2) If the engineer finds that two or more signs that were lawfully erected before May 29, 1961, are in violation of the spacing requirements of ORS 377.181, he shall accord the interested parties a full opportunity to be heard and shall thereafter make a finding as to the date of erection of each of the signs and award the permit or permits to the applicants whose signs were first erected.

[1959 c.309 §15; 1961 c.615 §14; 1963 c.400 §6; 1965 c.219 §18]

377.260 [1955 c.541 §18; repealed by 1959 c.309 §22]

377.265 Signs to be marked with permit numbers. The engineer shall assign to every permit issued by him a separate identification number; and each permittee shall fasten to each sign a weatherproof label or marker which shall be furnished by the engineer and on which is the permit number. The permittee shall comply with regulations issued by the engineer as to placement of the label or marker so that it may be seen from the highway. The absence, from a sign, of such a label or marker is prima facie evidence that the sign does not comply with ORS 377.115 to 377.545.

[1959 c.309 §16; 1963 c.400 §7; 1965 c.219 §19]

377.270 [1955 c.541 §17; repealed by 1959 c.309 §22]

377.275 Removal of signs not covered by permits or not maintained by licensed persons. (1) Any sign in violation of ORS 377.115 to 377.545 hereby is declared to be a public and private nuisance. The engineer may enter upon private property and remove such sign without incurring any liability therefor.

(2) If the sign does not bear the name and address of its owner or if the owner is not readily identified and located, the engineer may remove it immediately.

(3) (a) If the sign bears the name and address of its owner or if the owner of the sign is readily identified and located, the engineer shall notify the owner that the sign is in violation of ORS 377.115 to 377.545 and that the owner has 30 days from the date of the notice within which to make the sign comply with the statute, or to remove the sign, or to request a hearing in accordance with ORS 377.295 within the time specified in the notice.

(b) If the sign is not made to comply with the statute or is not removed and if the owner does not request a hearing within the time required, or if the owner after a hearing fails to comply with the final order in the proceedings, the engineer may remove and destroy or otherwise dispose of the sign.

(4) The engineer shall, after removing a sign in accordance with subsection (2) of this section, place it in storage for 30 days while he makes a further effort to find its owner. If the owner cannot be found within that time, the engineer may, without incurring any liability therefor, destroy or otherwise dispose of the sign. If the owner is found within that time, he may be required

to remove the sign from storage; and if he is found at any time, the engineer may recover from him the cost of storage. This cost is in addition to the cost of removal under subsection (5) of this section.

(5) The owner is liable for, and the engineer may collect, the costs of removing a sign as determined by the engineer on the basis of actual costs of removal or on a square foot flat fee basis.

(6) If a sign does not bear the name and address of its owner, the advertisement thereon of the goods, products, facilities, services or business of a person or commercial enterprise is prima facie evidence of ownership of the sign by that person or commercial enterprise.

[1959 c.309 §17; 1963 c.400 §8; 1965 c.219 §20]

377.280 [1955 c.541 §13; 1957 c.465 §2; repealed by 1959 c.309 §22]

377.285 Requirements regarding non-conforming signs. (1) No sign in violation of ORS 377.115 to 377.545 shall be erected or maintained except as provided in this section, or in ORS 377.515, whichever is applicable.

(2) No sign at a location prohibited by ORS 377.115 to 377.545 shall be replaced or reconstructed; provided, neither changing of advertising copy, changing of display surfaces or cutouts, moving of a sign farther from the edge of the highway right of way in a line generally perpendicular to the highway when required by right of way acquisition, nor rebuilding of a sign partially or completely destroyed by an act of God, shall be considered replacement or reconstruction of a sign.

(3) Any sign lawfully erected before May 29, 1961, and not conforming to ORS 377.181, shall be removed by its owner before seven years after May 29, 1961.

(4) Any sign of a type listed in this subsection, which sign was lawfully erected and maintained prior to August 13, 1965, and which sign does not conform to ORS 377.125, 377.135, 377.178, 377.181 to 377.195 or 377.206, shall be removed by its owner before the expiration of seven years after August 13, 1965:

(a) A series of not more than eight panels, conveying a single advertising message, each of which panels has an area of not more than six square feet, and which series of panels was previously issued a permit as a single advertising panel or sign;

(b) Signs previously exempted if located

within 300 feet of a business if the signs advertised only the name or nature of the business, or the products, facilities, goods or services thereof; or

(c) Signs immediately adjacent to each other which were previously considered as one sign for purposes of spacing, provided that such immediately adjacent signs do not violate ORS 377.178.

(5) Until the expiration of the respective periods allowed under subsections (3) and (4) of this section, the engineer shall continue to issue permits to the owner if the sign is otherwise lawfully maintained pursuant to ORS 377.115 to 377.545.

[1959 c.309 §18; 1961 c.615 §15; 1963 c.400 §9; 1965 c.219 §21]

377.295 Applicability of Administrative Procedures Act. (1) Under ORS 183.310 to 183.510, the commission or, at its direction, the engineer may make, amend, repeal, promulgate and enforce rules to carry out ORS 377.115 to 377.430 and 377.540.

(2) All proceedings in the administration of ORS 377.115 to 377.430 and 377.540 shall be conducted under ORS 183.310 to 183.510 except where federal law or rules and regulations require otherwise as a condition to receipt of federal granted funds.

(3) (a) In proceedings conducted under this section, the commission or the engineer may administer oaths, take testimony and issue subpoenas for the attendance of witnesses and the production of books, records and documents, relating to the matters before the commission.

(b) Upon timely request of an interested party, the commission or the engineer, through the commission secretary, shall issue a subpoena which may be enforced as provided in ORS 183.440. A subpoena shall be served by, or at the expense of, the party requesting it. Witness fees and mileage shall be paid as in civil cases in the circuit court. Fees for witnesses requested for the commission shall be paid from the State Highway Fund.

[1959 c.309 §19; 1963 c.400 §10; 1965 c.219 §22]

377.305 Money received under ORS 377.115 to 377.305 to become part of State Highway Fund. All money received by the commission or the engineer under ORS 377.115 to 377.305 shall be paid by them into the State Treasury and credited to the State Highway Fund.

[1959 c.309 §20; 1963 c.400 §11]

377.310 [Repealed by 1953 c.335 §1]

377.320 [Repealed by 1953 c.335 §1]

377.330 [Repealed by 1953 c.335 §1]

377.340 Posting signs near public highway regulated. Except as provided in ORS 377.360, no person, firm or corporation shall paste, paint, brand or in any manner whatsoever place or attach to any building, fence, gate, bridge, tree, rock, board, structure or anything whatever within the limits of any public highway, or on the property of another within view of the public highway without such owner's written consent, any written, printed or painted advertisement, bill, notice, sign, picture, card or poster, except within the limits of any city, town or village through which the public highway runs.

377.350 Removal of prohibited signs. Any person may lawfully remove or destroy, without resort to legal proceedings, any advertisement, bill, notice, sign, picture, card or poster placed in violation of ORS 377.340.

377.360 Posting signs near public highway lawful in certain cases. ORS 377.340, 377.350 and subsection (4) of ORS 377.995 do not prevent the posting or maintaining of any notice required by law to be posted or maintained, or the placing and maintaining of signs giving information about scenic, historical, resort or recreational areas, or community or civic enterprises of a noncommercial nature, or the proximity of tourist facilities, directions or distances for the information of the traveling public, when such signs are approved by the State Highway Commission or the county court or board of county commissioners.

[Amended by 1957 c.663 §3]

(Interstate Highways)

377.405 Definitions for ORS 377.405 to 377.430. As used in ORS 377.405 to 377.430, unless the context requires otherwise:

(1) "Commission" means the State Highway Commission.

(2) "Engineer" means the State Highway Engineer or his duly authorized representative.

(3) "Interstate highway" means any highway in the state or portion thereof established as a part of the Interstate System.

(4) "Interstate System" means a part of the National System of Interstate and Defense Highways established pursuant to and in compliance with section 103 (d) of title 23, United States Code.

(5) "Protected area" means an area within 660 feet of the edge of the right of way of any portion of an interstate highway constructed upon any part of right of way, the entire width of which is acquired by the state subsequent to July 1, 1956, and which portion or segment does not traverse:

(a) Commercial or industrial zones within the boundaries of incorporated municipalities (as such boundaries existed on September 21, 1959) wherein the use of real property adjacent to the interstate highway is subject to municipal regulation or control; or

(b) Other areas where land use (as of September 21, 1959) is established by or pursuant to the laws of this state as industrial or commercial.

(6) "Sign" means any outdoor sign, display, device, figure, painting, drawing, message, placard, poster, billboard or other thing that is designed, intended or used to advertise or inform, any part of the advertising or informative contents of which is visible from any place on the main-traveled way of an interstate highway in a protected area.

[1961 c.615 §1; 1963 c.400 §12]

377.410 Purpose of ORS 377.405 to 377.430; commission regulations. (1) It is the intention of ORS 377.405 to 377.430 to promote and protect the convenience, enjoyment, health, safety and welfare of the traveling public using the interstate highways of Oregon, to protect the beauty of said highways, and to qualify this state for the increase of the federal share payable on account of any project in the Interstate System as authorized by section 131 of title 23, United States Code.

(2) Except as otherwise provided in ORS 377.405 to 377.430, regulations promulgated by the commission to carry out ORS 377.405 to 377.430 shall be consistent with the regulations of the Secretary of Commerce in effect on May 29, 1961, promulgated pursuant to section 131 of title 23, United States Code. The commission may amend its regulations whenever, in its judgment, such amendments would promote the achievement of the purposes of chapter 615, Oregon Laws 1961.

[1961 c.615 §5; 1963 c.400 §13]

377.415 Exempted signs; signs otherwise unlawful. (1) Nothing contained in ORS 377.405 to 377.430 shall be construed as preventing the erection and maintenance of signs by a public utility for the purpose of giving warning of the location of an un-

derground cable or other installation.

(2) Nothing in ORS 377.405 to 377.430 permits the erection or maintenance of an advertising sign of any character, at any place or in any manner unlawful under any other law, ordinance or regulation now or hereafter effective in this state.

[1961 c.615 §§7, 16]

377.420 Erection and maintenance of signs in protected areas regulated. (1) Except as otherwise provided in subsection (2) of this section, no person may erect or maintain a sign in a protected area.

(2) The commission shall prescribe regulations for the erection and maintenance in a protected area of:

(a) Directional or other official signs or notices erected and maintained by public officers or agencies pursuant to and in accordance with direction or authorization contained in state or federal law, for the purpose of carrying out an official duty or responsibility.

(b) Signs not prohibited by any law of this state other than subsection (1) of this section, that advertise the sale or lease of, or activities being conducted upon, the real property where the signs are located.

(c) Signs not prohibited by any law of this state other than subsection (1) of this section, that advertise activities being conducted within 12 airmiles of such signs.

(d) Signs not prohibited by any law of this state other than subsection (1) of this section, that are designed to give information in the specific interest of the traveling public.

[1961 c.615 §§2, 4]

377.425 Removal of nonconforming signs. The engineer may, in the case of a sign erected or maintained in violation of ORS 377.405 to 377.430, follow the procedure prescribed by ORS 377.275. Any sign erected or maintained in violation of ORS 377.405 to 377.430 hereby is declared to be a public and private nuisance and the engineer may enter upon private property and remove the sign without incurring any liability therefor. The procedure for removal shall be the same as prescribed in subsections (2) to (6) of ORS 377.275.

[1961 c.615 §8; 1963 c.400 §14]

377.430 Agreements with Federal Government relating to regulation of signs and receipt of additional federal funds. (1) The commission may enter into or authorize agreements, not inconsistent with ORS

377.405 to 377.430, with the United States or any officer or agency thereof authorized to make agreements under section 131 of title 23, United States Code. These agreements shall relate to the regulation and control of signs in protected areas or any other matters under section 131 of title 23, United States Code.

(2) All money received by the commission under subsection (1) of this section shall be placed in the State Highway Fund.

[1961 c.615 §6]

SCENIC AREAS

377.505 Definitions for ORS 377.505 to 377.545. As used in ORS 377.505 to 377.545:

(1) "Board" means the Scenic Area Board.

(2) "Public highway" means the entire width between the boundary lines of every state highway as defined in subsection (9) of ORS 366.005.

(3) "Scenic area" means an area adjacent to or along a segment of a public highway that is within a federal or state park, is a site of historical significance or affords a view of unusual natural beauty, and has been established as a scenic area by the Scenic Area Board.

[1961 c.614 §1; 1963 c.400 §15; 1965 c.219 §23; 1967 c.590 §13]

Note: Other definitions for ORS 377.505 to 377.545 are found in ORS 377.125.

377.510 Signs visible from public highways regulated; junkyards prohibited; exceptions. (1) No sign which is visible from a public highway shall be erected or maintained in an area which has been established by final order as a scenic area except:

(a) Directional or other official signs or notices.

(b) Signs advertising the sale or lease of the property upon which they are located.

(c) Signs advertising only the name or nature of the business being conducted on, or the products, facilities, goods or services being sold, supplied or distributed on or from the premises on which the signs are located.

(d) Signs approved by the State Highway Engineer, or his authorized representative, erected and maintained by a public utility for the purpose of giving warning of the location of an underground cable or other installations.

(2) Unless adequately screened as provided in paragraph (a) of subsection (3) of ORS 377.620 or unless located within a zoned

industrial area, no junkyard shall be established which is visible from a public highway where the area immediately adjacent to the public highway has been established by final order as a scenic area.

[1961 c.614 §7; 1965 c.219 §24; 1967 c.590 §14]

377.515 Removal of nonconforming signs deferred. Any sign lawfully maintained in a scenic area prior to the establishment of the area as a scenic area and not included within the exceptions of ORS 377.510, shall be removed by the owner thereof prior to seven years following the establishment of the area as a scenic area, unless the sign is required to be removed at an earlier date, pursuant to other state laws.

[1961 c.614 §8; 1965 c.219 §25; 1967 c.590 §15]

377.520 Scenic Area Board; members; terms; vacancies. (1) There is created a board to be known as the Scenic Area Board.

(2) The board shall be appointed by the Governor, and shall consist of two members at large representing the public and one representative from each of the following groups:

- (a) Motoring clubs.
- (b) Labor organizations.
- (c) Outdoor advertising industry.
- (d) Oregon State Highway Commission.
- (e) Roadside service industries.

(3) The members shall serve for terms of four years. Upon the expiration of the term of a member the Governor shall appoint a successor. Vacancies shall be filled by the Governor for the unexpired term.

[1961 c.614 §2; 1963 c.400 §16; 1965 c.219 §26]

377.525 Organization of board; meetings; compensation and expenses. (1) The board shall select one of its members as chairman, another as vice chairman, and a third as secretary. Five members of the board shall constitute a quorum for the transaction of business. The board shall meet annually, at a time and place to be determined by the chairman. The chairman or any three members of the board may call a special meeting upon not less than one week's notice to the other members.

(2) All members are entitled to compensation and expenses as provided in ORS 292.495.

[1961 c.614 §4; 1963 c.400 §17; 1969 c.314 §30]

377.530 Proceedings; establishing or vacating scenic areas; hearings. The general powers and duties of the Scenic Area Board shall be to:

(1) Under ORS 183.310 to 183.510, make, amend, repeal, promulgate and enforce rules to carry out the purposes of ORS 377.505 to 377.545. Except as otherwise specifically provided in ORS 377.505 to 377.545, all proceedings in the administration thereof shall be conducted under ORS 183.310 to 183.510.

(2) Under ORS 183.310 to 183.510, establish or vacate the establishment of scenic areas adjacent to, or along public highways. However, the board shall not have the power to establish as a scenic area any area or part thereof which is adjacent to, or along a segment of a public highway traversing or located within:

(a) The boundaries of an incorporated municipality;

(b) Other areas where land use is established by or pursuant to the laws of this state as commercial, industrial or manufacturing;

(c) Areas where 50 percent or more of the frontage on the highway for a distance of 600 feet or more on one side, or 300 feet or more on both sides of the highway, is occupied by buildings used for business; or

(d) An area having 10 or more commercial businesses catering to the motoring public abutting on such segment of the highway in any one mile of such highway.

(3) After the conclusion of a public hearing, make its order on the basis thereof, including orders establishing scenic areas, and file the same with the secretary of the commission, who shall thereupon enter the same in its records. The order shall be final and conclusive on all the parties unless an appeal is taken therefrom as provided in ORS 377.535.

[1961 c.614 §5; 1963 c.400 §18]

377.535 Appeal from orders of board. Any person, firm, association or corporation, whether public, municipal or private, who deems himself or itself aggrieved by any order of the board, may appeal from such order in accordance with the provisions of ORS 183.480.

[1961 c.614 §6; 1963 c.400 §19]

377.540 State Highway Engineer to enforce orders and render administrative assistance. The engineer shall take appropriate action for the administration and enforcement of orders issued under subsection (3) of ORS 377.530.

[1961 c.614 §10; 1963 c.400 §20]

377.545 Costs of administration. The cost of administering ORS 377.505 to 377.545 shall be paid from the State Highway Fund. [1961 c.614 §9]

JUNKYARDS

377.605 Definitions for ORS 377.605 to 377.645. As used in ORS 377.605 to 377.645, unless the context requires otherwise:

(1) "Commission" means the State Highway Commission.

(2) "Engineer" means the State Highway Engineer or his duly authorized representative.

(3) "Federal-aid primary system" means the system of state highways described in section 103(b), title 23, United States Code, as selected and designated by the commission.

(4) "Interstate System" means every state highway that is part of the National System of Interstate and Defense Highways established by the commission in compliance with section 103(d) of title 23, United States Code.

(5) "Junk" means all the materials described in subsection (6) of this section.

(6) "Junkyard" means any establishment or place of business that is maintained, operated or used for storing, keeping, buying or selling old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste or junked, dismantled, wrecked, scrapped or ruined motor vehicles, or motor vehicle parts, iron, steel or other old or scrap ferrous, or nonferrous material, metal or nonmetal materials, and the term includes automobile graveyards, garbage dumps and scrap metal processing facilities.

(7) "Maintain" means to allow to exist.

(8) "Main traveled way" means the through traffic lanes, exclusive of frontage roads, auxiliary lanes and ramps.

(9) "State highway" or "state highway system" means the entire width between the boundary lines of every state highway as defined in subsection (9) of ORS 366.005, including but not limited to the Interstate System and the Federal-aid primary system.

(10) "Visible" means capable of being seen without visual aid by a person of normal visual acuity.

(11) "Zoned industrial area" is an area adjacent to a state highway or public highway which is zoned industrial under authority of state law.

[1967 c.590 §3]

377.610 Public policy on junkyards. The Legislative Assembly hereby finds and declares that establishment, maintenance and operation of junkyards along public highways should be controlled in accordance with the provisions of ORS 377.605 to 377.645 in order to protect the public investment in such highways, promote the safety and recreational value of public travel on such highways, preserve natural beauty and aesthetic features of such highways and adjacent areas, and maintain the qualifications of this state for its share of Federal-aid highway funds payable under title 23, United States Code, and in furtherance of the purposes previously established under ORS 366.705 to 366.735.

[1967 c.590 §2]

377.615 Engineer's authority to promulgate regulations, enter agreements with Federal Government. (1) The engineer shall promulgate such regulations as are necessary to carry out the provisions of ORS 377.605 to 377.645. Except where federal law or rules and regulations require otherwise as a condition to receipt of federal granted funds, the rules shall be promulgated pursuant to ORS 183.310 to 183.510.

(2) The engineer is authorized to enter into any necessary agreements with the United States Government or any officer or agency thereof authorized to make agreements pursuant to title 23, United States Code, relating to the control of junkyards in areas adjacent to the state highway system.

[1967 c.590 §4]

377.620 Restrictions on maintaining or establishing junkyard along highway. (1) Except as provided in subsection (3) of this section, no junkyard in existence on June 30, 1967, may be maintained after June 30, 1967, within 1,000 feet of the nearest edge of the right of way of:

(a) The Interstate System.
 (b) The Federal-aid primary system.
 (c) Other state highways, unless permitted by the engineer and subject to rules and regulations promulgated by the engineer.

(2) Except as provided in subsection (3) of this section, no junkyard shall be established after June 30, 1967, within 1,100 feet of the nearest edge of the right of way of any state highway or which is visible from any public highway as defined by ORS 377.505 where the area immediately adjacent to the public highway has been designated by the Scenic Area Board as a scenic area as provided in ORS 377.530.

(3) Except as provided in ORS 377.510 relating to location of junkyards within or adjacent to designated scenic areas, this section does not prohibit the establishment or maintenance along state highways of the following junkyards:

(a) Junkyards that are hidden or adequately screened by the terrain or other natural objects, or by plantings, fences, or other appropriate means so as not to be visible from the main traveled way of the state highway, in accordance with regulations promulgated by the engineer.

(b) Junkyards located in zoned industrial areas.

[1967 c.590 §5]

377.625 Screening junkyard located in restricted area. (1) Any junkyard which is in existence on June 30, 1967, less than 1,000 feet of the nearest edge of the right-of-way line and visible from the main traveled way of the Interstate System or the Federal-aid primary system, not in zoned industrial areas, may be screened by the engineer, if economically and otherwise feasible, by January 1, 1968, at locations on the highway rights of way or in areas outside of the rights of way acquired for such purposes by the commission.

(2) Any junkyard which is in existence on June 30, 1967, less than 1,000 feet of the nearest edge of the right-of-way line and which is visible from the main traveled way of any state highway other than the Interstate System or Federal-aid primary system, not in zoned industrial areas, may be screened by the engineer when it is financially, economically and otherwise feasible. The screening may be located on the highway rights of way or in areas outside the rights of way acquired for such purposes by the commission.

[1967 c.590 §6]

377.630 Removing junkyard from restricted area. (1) Where junkyards are in existence on June 30, 1967, less than 1,000 feet of the nearest edge of the right-of-way line of the Interstate System or Federal-aid primary system, not in zoned industrial areas, that cannot be effectively screened as provided in subsection (1) of ORS 377.625, then the commission may secure such interests in land as may be necessary to relocate, remove or dispose of the junkyard by July 1, 1970, and may pay for the cost of relocation, removal or disposal thereof, as set forth in ORS 377.640.

(2) Where junkyards are in existence less than 1,000 feet of the nearest edge of the right-of-way line and visible from the main traveled way of any state highway which becomes a part of the Interstate System or Federal-aid primary system, not in zoned industrial areas, may be screened as provided in subsection (1) of this section or may be relocated, removed or disposed of by the commission within five years of the date the portion of the state highway involved becomes a part of the Interstate System or the Federal-aid primary system, as provided in subsection (1) of this section.

(3) Where junkyards are in existence on June 30, 1967, less than 1,000 feet of the nearest edge of the right-of-way line of any state highway other than the Interstate System or Federal-aid primary system, not in zoned industrial areas, that cannot be effectively screened as provided in subsection (2) of ORS 377.625, then the commission may, in its discretion, secure such interests in lands as may be necessary to relocate, remove or dispose of the junkyard.

[1967 c.590 §7]

377.635 Junkyard in violation of restrictions declared a public nuisance; authority to abate. Any junkyard which comes into existence after June 30, 1967, and which is in violation of ORS 377.620, is hereby found and declared to be a public nuisance. The engineer, 30 days after written notice is mailed to the person owning or operating the junkyard, may institute, on behalf of the commission, any legal proceedings as he considers necessary to prevent the violation of ORS 377.620. In the alternative, after the written notice, he may screen the junkyard from the right of way or enter upon the real property and perform the necessary screening. If the engineer determines that the junkyard cannot economically or feasibly be screened, he may remove the junk and store the same. After three months of storage, unless claimed sooner by the owner, the engineer may sell or otherwise dispose of the junk by sale or otherwise. Where screening or removal is performed by the engineer he shall not be liable for any trespass or conversion as to any real or personal property, and may collect his costs for screening or removal and storage of the junk from the person owning or operating the junkyard.

[1967 c.590 §8]

377.640 Acquisition of land necessary to screen or relocate junkyards. The commission may acquire by purchase, agreement, donation, or the exercise of the power of eminent domain, such lands or interest in lands as may be necessary for the screening or the relocation, removal or disposal of junkyards. In exercising the power of eminent domain the commission shall be governed by the provisions of ORS 366.370, 366.375, subsections (1) to (8) of 366.380, ORS 366.385 and 366.390 to 366.393.
[1967 c.590 §9]

377.645 Expenditure of highway funds to screen or relocate junkyards prior to availability of federal matching funds. (1) The commission shall have the discretion as to whether or not state highway funds shall be expended for the purposes of the screening, relocating, removal or disposal of junkyards as provided in ORS 377.625 to 377.640, unless and until Federal-aid matching funds are appropriated and made available to the state for such similar purposes as provided in section 136, title 23, United States Code.

(2) All money received by the engineer under ORS 377.505, 377.510, 377.515 and 377.605 to 377.645 and 481.345 shall be credited to the State Highway Fund.
[1967 c.590 §§10, 11]

PENALTIES

377.990 [Amended by 1953 c.335 §2; subsection (4) of 1957 Replacement Part enacted as 1955 c.541 §19; repealed by 1959 c.309 §22]

377.995 Penalties. (1) Violation of the conditions and provisions of a permit pro-

cured under ORS 377.050 by any person having procured the permit is punishable, upon conviction, by a fine of not more than \$100, or imprisonment in the county jail for not more than 30 days, or both.

(2) Violation of ORS 377.030 to 377.050 is punishable, upon conviction, by a fine of not more than \$100, or imprisonment in the county jail for not more than 30 days, or both.

(3) Violation of any provision of ORS 377.115 to 377.305 is punishable, upon conviction, by a fine of not more than \$50.

(4) Violation of any provision of ORS 377.340 to 377.360 is punishable, upon conviction, by a fine of not less than \$5 nor more than \$50.

(5) Violation of any provision of ORS 377.405 to 377.430 or of any regulation of the commission promulgated under ORS 377.405 to 377.430 is punishable, upon conviction, by a fine of not more than \$100 or imprisonment in the county jail for not more than 30 days, or both.

(6) Violation of ORS 377.510 is punishable, upon conviction, by a fine of not more than \$100, or imprisonment in the county jail for not more than 30 days, or both.

(7) Violation of any of the provisions of subsection (2) of ORS 377.620 or of ORS 377.635 is punishable, upon conviction, by a fine of not more than \$100 or by imprisonment in the county jail for not more than 30 days, or both.

[1959 c.309 §21; subsection (5) enacted as 1961 c.615 §17; subsection (6) enacted as 1961 c.614 §11; subsection (7) enacted as 1967 c.590 §12]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Robert W. Lundy, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.
Done at Salem, Oregon,
on December 1, 1969.

Robert W. Lundy
Legislative Counsel

CHAPTERS 378 TO 380 [Reserved for expansion]

