



MINNESOTA DEPARTMENT OF TRANSPORTATION  
Engineering Services Division  
Technical Memorandum No. 06-18-ENV-03  
June 22, 2006

**To:** Distribution 57, 612, 618, and 650

**From:** Richard Stehr  
Division Director, Engineering Services

**Subject:** Guidelines for Responding to Requests for Managing Right-of-Way Vegetation Adjacent to Businesses and On-Premise and Off-Premise Advertising Devices

**Expiration**

This Technical Memorandum supersedes Technical Memorandum 01-06-ENV-01, Guidelines for Responding to Requests for Managing Right-of-Way Vegetation Adjacent to Businesses and On-Premise and Off-Premise Advertising Devices, issued on February 12, 2001. This Technical Memorandum will expire on June 22, 2011.

**Introduction**

These guidelines provide a uniform procedure for evaluating requests to remove vegetation that may screen business and advertising displays and a framework for handling request and managing vegetation in an environmentally sensitive manner.

**Purpose**

The purpose of these guidelines is to provide a formal means for owners or operators of roadside businesses and advertising devices to make a request for vegetation management and to list criteria to be considered by Mn/DOT in evaluation of the request.

It is the duty of Mn/DOT to protect the public investment in roadside vegetation for the benefit of the general traveling public while at the same time being responsive to the needs of the adjacent business activities including advertising devices.

**Guidelines**

The following State Law applies <http://www.revisor.leg.state.mn.us/stats/173/171.html>:

"173.171 VEGETATION CONTROL; VISIBILITY; AGREEMENTS. The Commissioner of the Department of Transportation may enter into agreements with the owners of advertising devices not prohibited under these chapters 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 workmanlike manner."

**Application**

The request for vegetation control to increase visibility to businesses or an advertising device should be made to the Mn/DOT Area Maintenance Engineer at the Headquarters in which the site is located. Requests may be required to be made on a form provided by the Area Maintenance Engineer.

### **Time Restraints**

Requests must be received to allow time to process the requests and still carry out the necessary operations; such as pruning or transplanting during the proper season.

### **Definition of Terms Used in this Policy**

1. "Mn/DOT" means the Minnesota Department of Transportation.
2. "Approach distance" means 305 m (**1000 ft**) advance distance measured along the line of travel to the point at which the traffic passes by the center of the site.
3. "Legal conforming advertising device" means an advertising device not prohibited under Minnesota Statute 173 and lawfully erected and maintained in adjacent areas.
4. "Vegetation" means all woody and herbaceous plants either naturally occurring or planted.
5. "Unique vegetation" may include but not be limited to historical specimen trees or plant communities, plants on the limits of their natural range, and canopy trees or shrubs that protect rare or endangered plants growing under them.
6. "Screening vegetation" means trees or shrubs that function as a screen between the roadway and adjacent properties. The screen can block views of the highway from nearby residents or junkyards and other unsightly business from the highway.

### **Evaluation of the Request**

All requests for management of vegetation which may be screening a business or an advertising device will be investigated by the appropriate Area Maintenance Engineer or designee. Consultation among the Mn/DOT District Office of Right of Way and the Central Office, Office of Environmental Services may be necessary in the permit process to insure that easement and environmental considerations are taken into account.

The following criteria will be considered in evaluating the request.

1. Did the obscuring vegetation exist on the site prior to construction of the business or advertising device? If so, will removal be aesthetically damaging to the view of the traveling public?
2. Is subject advertising device a legal conforming advertising device? If not, the request shall be denied.
3. Is the business or advertising device actually screened? A business or advertising device will be considered to be screened when the viewing distance is less than 76 m (**250 ft**) in zones posted less than 56 km/hr (**35 mph**) and when the viewing distance is less than 107 m (**350 ft**) in zones posted more than 56 km/hr (**35 mph**), within the approach distance. The viewing distances may be all one continuous segment or they may be divided into two segments with no less than 30 m (**100 ft**) in either segment. See example interpretations in Figures 1 and 2 in Appendix A. The Area Maintenance Engineer may increase the viewing distance by 76 m (**250 ft**) so that motorists can safely weave across traffic to enter a business on the opposite side of a multi-lane divided expressway. Adjustments will be made by using

both the business site (buildings and other structures) and on-premise signs combined to figure viewing distance. If a business site is visible for 91 m (**300 ft**) and the on-premise sign is for 91 m (**300 ft**) and the viewing distances do not overlap the business would be considered to be in full compliance.

The 76 m (**250 ft**) adjustment should not be used when other concerns are affected by the removal of the vegetation. If the vegetation is a screen to a junkyard, industrial sites or other unsightly views or screens residents from the highway this adjustment should not be used.

4. Is there vegetation between the R/W limit and the business or advertising device that is obstructing the view of either? If so, the permit should only be granted with a contingency providing for the removal of that vegetation first by the requestor.
5. Is the vegetation to be removed located in the median of the divided highway? If so, the request should be denied.
6. Is the vegetation considered to be unique, or is it an integral component of the landscape, scenic area or wildlife habitat area? If so the request may be denied.
7. Is the vegetation acting as a screen to nearby residents or unsightly business? If so the request should be denied. Junkyards must be screened from public roads by law (Statute 161.242, Junkyard act).
8. Does Mn/DOT own the trees? If the R/W is owned in fee the trees are included in the title, however, if the department has an easement, any trees and shrubs may belong to the underlying fee owner.

The original land title document should be examined to determine ownership. Refer to Minn. Stats. 160.22 for procedures to remove trees and shrubs not acquired.

9. Would relief requested create a controversial issue? These guidelines are intended to provide relief to the requestor when prudent and possible. But if an issue exists that would create a controversy it should be identified. The requestor may be directed to get approval from adjacent property owners and/or the local unit of government before a permit is granted.

#### **Departmental Response to Requestor**

The Department should respond to the requestor within thirty (30) days of receipt of the request.

#### **Departmental Recommendation**

After receipt of the completed request, the Area Maintenance Engineer or designee will make a field review of the business or advertising device location in order to determine the nature and extent of screening. After consideration of the evaluation criteria contained in the guidelines, the Area Maintenance Engineer will inform the requestor of the department's decision either to approve, deny or partly fulfill the request, together with the reasons for the decision.

If the request is approved, the Area Maintenance Engineer will specify the conditions of the permit, which may include but not be limited to one or a combination of the following action:

1. Vegetation may be pruned or trimmed to reduce the obstruction.

2. Individual plants may be relocated or removed to reduce or correct the obstruction. Plants shall be relocated to a Mn/DOT selected location. Plants to be removed may either be replaced with plantings of equal aesthetic and monetary value or the requestor must provide monetary compensation equal to the appraised value of all plants removed. Replacement plants must be installed at or near the same location provided they will not obstruct the advertising device or building, or at another location selected by Mn/DOT. Plantings shall be installed and maintained in accordance with Mn/DOT Standard Specifications 2571 and 3861.

The appropriate action to be taken will be determined by the Area Maintenance Engineer. Determining the course of action may necessitate conferring with the business or advertising device owner and Mn/DOT forestry specialists before any work is done.

If vegetation to be removed is determined by district landscape or forestry personnel to have a probable value of \$1000 or more (replacement of a single 1.5 m/ht (5 ht) evergreen or a 25 mm (1 in.) tree can exceed \$400.00) it shall then be appraised. Appraisals shall be performed by Mn/DOT Central Office or District forestry staff in accordance with guidelines set forth in the current edition of the International Society of Arboriculture publication on tree and other plant appraisals. The Area Maintenance Engineer may, at their discretion, adjust the value accepted by Mn/DOT for the vegetation, based on other factors and in consultation with the District Right of Way Engineer and Central Office forestry staff. Documentation of the reasons for the change from the appraisal should be made.

All work on the highway right-of-way will be done at the discretion and to the satisfaction of the Area Maintenance Engineer either by (1) Mn/DOT's maintenance crews; or (2) by a qualified contractor hired by the requestor or (3) by qualified private landscape crews employed by the requestor.

The requestor may be required to post a performance bond.

#### **Costs of Vegetation Control**

All costs of any vegetation control measures shall be paid for by the requestor (Minnesota Statute 173.171).

#### **Failure to Comply with Guidelines**

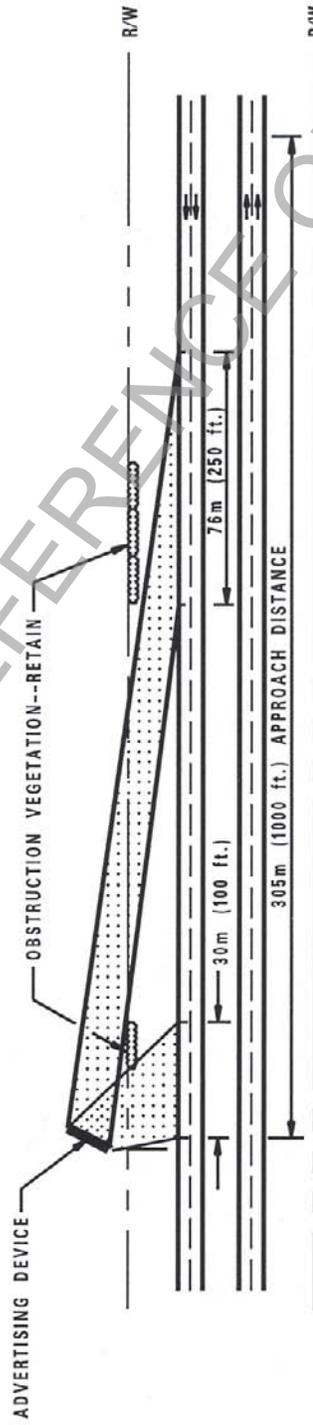
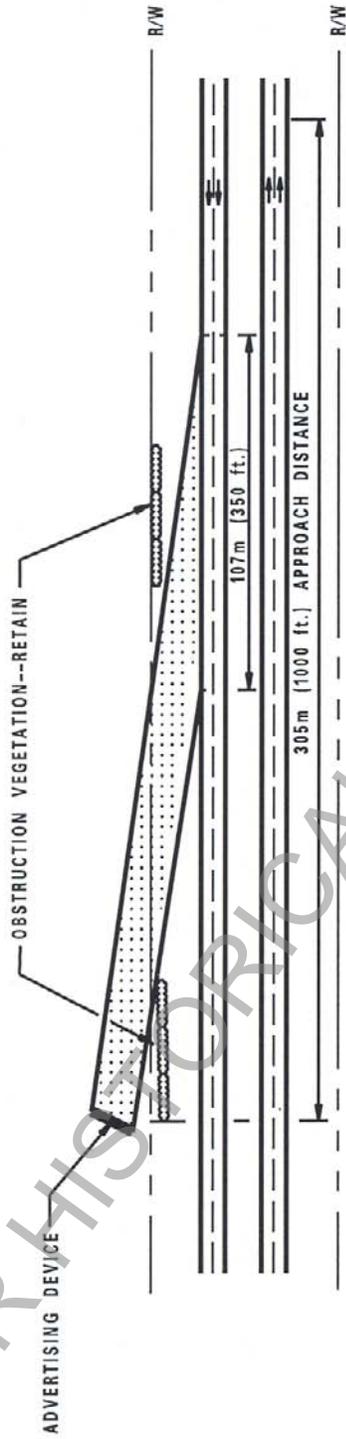
Unauthorized vegetation control or removal will subject the violators to Minnesota Statutes 90.301, 90.412, 160.22, 561.04, and 609.595. Damage or destruction of vegetation shall be assessed by Mn/DOT Forestry Unit or District forestry staff when so requested by the Area Maintenance Engineer. The responsible party shall be billed.

#### **Questions**

For information on the technical contents of this memorandum, please contact **Tina Markeson, Forester, Forestry Unit, Office of Environmental Services, 651-284-3786**. Any questions regarding the publication and distribution of this Technical Memorandum should be referred to Sophia Wicklund, Design Standards Unit at 651-296-3190, or Michael Elle, Design Standards Engineer at 651-296-4859. All active Memoranda and a list of historical Technical Memoranda can be viewed at <http://www.dot.state.mn.us/tecsup/tmemo/index.html>.

Attachment

EXAMPLE INTERPRETATIONS



NOTE: 305m (1000 ft.) UNOBSTRUCTED VIEWING DISTANCES APPLY FOR HIGHWAYS POSTED AT 56 km/hr (35 mi/hr) OR LESS.

NOT TO SCALE