

### **39-301. Roads; injuring or obstructing; penalties; exceptions.**

Any person who injures or obstructs a public road by felling a tree or trees in, upon, or across the same, by placing or leaving any other obstruction thereon, by encroaching upon the same with any fence, by plowing or digging any ditch or other opening thereon, by diverting water onto or across such road so as to saturate, wash, or impair the maintenance, construction, or passability of such public road, or by allowing water to accumulate on the roadway or traveled surface of the road or who leaves the cutting of any hedge thereupon for more than five days shall, upon conviction thereof, be guilty of a Class V misdemeanor and, in case of placing any obstruction on the road, be charged an additional sum of not exceeding three dollars per day for every day he or she allows such obstruction to remain after being ordered to remove the same by the road overseer or other officer in charge of road work in the area where such obstruction is located, complaint to be made by any person feeling aggrieved.

This section shall not apply to any person who lawfully fells any tree for use and will immediately remove the same out of the road nor to any person through whose land a public road may pass who desires to drain such land and gives due notice of such intention to the road overseer or other officer in charge of road work nor when damage has been caused by a mechanical malfunction of any irrigation equipment, when a sprinkler irrigation system had been set so that under normal weather conditions no water would have been placed upon the right-of-way of any road, when the county board grants permission for the landowner to divert water from one area to another along a county highway right-of-way, or when a municipality has granted permission along or across the right-of-way under its jurisdiction, except that if damage has been caused by a mechanical malfunction of irrigation equipment more than two times in one calendar year, the penalty provided in this section shall apply.

Any officer in charge of road work, after having given reasonable notice to the owners of the obstruction or person so obstructing or plowing or digging ditches upon such road, may remove any such fence or other obstruction, fill up any such ditch or excavation, and recover the necessary cost of such removal from such owner or other person obstructing such road, to be collected by such officer in an action in county court.

Any public roads which have not been worked and which have not been used or traveled by the public for the last fifteen years may be fenced by the owners of adjoining lands if written permission is first obtained from the county board of commissioners or supervisors and if adequate means of ingress and egress are provided by suitable gates.

### **39-308. Removal of traffic hazards; determined by Department of Roads and local authority; violation; penalty.**

It shall be the duty of the owner of real property to remove from such property any tree, plant, shrub, or other obstruction, or part thereof, which, by obstructing the view of any driver, constitutes a traffic hazard. When the Department of Roads or any local authority determines upon the basis of engineering and traffic investigation that such a traffic hazard exists, it shall notify the owner and order that the hazard be removed within ten days. Failure of the owner to remove such traffic hazard within ten days shall constitute a Class V misdemeanor, and every day such owner fails to remove it shall be a separate offense.

### **39-1812. Hedges and trees; trimming; duties of landowners.**

Each landowner in this state upon whose land there is standing or growing any osage orange, willow or locust hedge fence, trees, or undergrowth, bordering the public roads, when such fence, trees, or undergrowth become a public nuisance to travel on the roads, or obstruct the view at or near railroad crossings, crossroads or abrupt turns in the road, shall keep the same trimmed not less than once a year by cutting back to within four feet of the ground, excepting trees, which shall be trimmed from the ground up eight feet, and the trimmings so cut shall be burned or removed from the road right-of-way within ten days after each cutting.

### **39-1813. Hedges and trees; failure of landowner to trim; procedure; notice; hearing; order.**

Whenever any landowner or his agent shall neglect to trim such hedge fence, trees, or undergrowth as provided in section [39-1812](#), it shall be the duty of the person in charge of county road maintenance in the area in which such hedge fence, trees, or undergrowth is located, to report the same in writing simultaneously to the county attorney and to the county board, giving the location of the hedge fence, trees, or undergrowth and declaring the same to be a public nuisance. The county attorney shall, upon receipt of such written notice, immediately serve written notice upon the owner of the hedge fence, trees, or undergrowth, or upon his agent, to have such hedge fence, trees, or undergrowth, trimmed and the trimmings burned or removed within ten days. Upon failure of the landowner or his agent to comply with the notice of the county attorney within ten days, the county attorney shall give notice in writing to the landowner or his agent, fixing a date for a hearing before the county board on the complaint previously entered, that the landowner or his agent is maintaining a public nuisance by failing to trim said hedge fence, trees, or undergrowth in accordance with the provisions of section [39-1812](#). The notice shall fix a time not earlier than the next regular meeting of the county board, and in any event not less than five days after the date of the notice, when the owner or agent may appear before the county board and a hearing shall be had upon the matter. The county attorney shall appear at the hearing on behalf of the county for the abatement of the alleged public nuisance maintained by the owner or agent of the land upon which the hedge fence, trees, or undergrowth may be found. If at the hearing it shall appear that the hedge fence, trees, or undergrowth named in the notice are in a condition contrary to the provisions of section [39-1812](#), the county board shall forthwith and at once declare such hedge fence, trees, or undergrowth a public nuisance, and make an immediate order for the trimming of the same in accordance with the provisions of section [39-1812](#). If the owner or agent shall neglect or fail to comply with the order within thirty days after receipt of such written notice, the county board shall cause the same to be done. The cost shall be paid from the general fund and a statement of such cost shall be recorded by the county board with the county clerk, giving a proper description of the lands whereon such hedge fence, trees, or undergrowth was trimmed, and the county clerk shall include such costs in making the county tax lists as an assessment and charge against such lands, which charge shall be a lien upon said lands and be collected the same as all other taxes regularly levied. Nothing in sections [39-1812](#) and [39-1813](#) shall be deemed to abridge the right of appeal from the finding of the county board to the district court.