

# STATE REGULATION OF UTILITY ARBORICULTURE<sup>1</sup>

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**Abstract.** The role of state governments in regulating utility arboriculture is primarily for the purpose of protecting and maintaining the aesthetics of public roadways for the traveling public. The utility service companies can realize benefits as the state becomes active in promoting proper tree care standards within utility clearance space requirements. Maryland's Roadside Tree Program is administered to foster cooperation between property owners, local jurisdictions, utility services and other state agencies in the care of trees within the public rights-of-way.

**Résumé.** Le rôle des gouvernements d'état dans la réglementation de l'arboriculture sous les réseaux électriques a principalement comme but de protéger et maintenir l'esthétisme des routes publiques pour ses utilisateurs. Les entreprises de services publics peuvent tirer des bénéfices de l'implication de l'état dans la promotion des travaux requis à l'intérieur des zones à dégager. Le programme arboricole des abords routiers du Maryland est administré en favorisant la coopération entre les propriétaires privés, les juridictions locales, les entreprises de services publics et les autres organismes gouvernementaux dans le soin à apporter aux arbres à l'intérieur des servitudes.

A few states are charged by legal statute to provide for the protection of trees and establish a standard of care for trees growing on the public rights-of-way. Additional laws or regulations may also address procedures for the proper selection of species and planting locations, protection of root system and the application of pesticides and other chemicals within these areas. Basically, these statutes are administered with the primary purpose of providing for the protection and beautification of our roadsides and the enjoyment of the traveling public.

Utility arboriculture may be defined as the blending of society's demands for utility services with trees and other vegetation within the utility right-of-way. This blending process should maximize the reliability of utility services while minimizing the disturbance to tree form, growth and health. When properly applied, the public's perception of utility arboriculture generally recognizes the need for trimming for utility clearance and the removal of trees when necessary. Misunderstanding may occur as personal opinions by property owners,

community officials and others with vested interest are expressed on how they want the tree trimmed or what it should look like when the job is completed. Also, many others do not seem to have any opinion and totally leave it up to the trimming crew foreman or tree supervisors to establish the standards. Where regulations are in effect, all parties can benefit as predetermined standards that strongly consider the protection and health of the tree will reduce conflicts between dissenting parties.

In Maryland, the state has by statute, regulated the care and protection of trees and shrubs growing or planted within the public road right-of-way. The law has been in effect since 1914 as a result of the Maryland Federation of Garden Clubs successfully lobbying the state legislature for the protection of roadside trees. The regulations to implement the law provide standards for planting, care and protection of these trees. Additional laws provide for state licensing of Tree Experts through examination and establishing insurance requirements. The Licensed Tree Expert is thereby subject to same general standards of tree care when working off public right-of-way, within the utility right-of-way, or on private property for the care of individual trees and shrubs.

The Maryland Department of Natural Resources, Forest, Park and Wildlife Service personnel supervise trimming for utility clearance and establish cooperation with cities, communities, organizations, individuals and other public agencies for activities involving roadside trees. The process of cooperation between parties not only fosters positive public relations, but abates the "local opinion" of how trees should be protected and maintained within the utility right-of-way along the public roadways. The utility service companies need only to meet the standards for tree care practices established by the state, not by each local jurisdiction as they trim for clearance through their service area. This supervision expense is charged to the utility companies at a

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predetermined rate based on the expense of providing the supervision. Utility clearance off public right-of-way is generally not directly supervised by the state agency, but public complaints are investigated under authority of the Tree Experts Law. With justification, the state may suspend or revoke the license following a public hearing to establish the facts of the complaint.

The roadside tree care standards are promulgated to protect and improve basic natural resources assets. The state asserts through regulatory procedures, this resource can co-exist with utility space requirements and contribute to the natural beauty of the public roadways.

Specification for tree care require that all cuts shall be made back to a side branch at least  $\frac{1}{3}$  the diameter of the severed branch. All cuts shall be clean cuts, without cutting into the branch collar or leaving a protruding stub. All dangerous deadwood and broken limbs or other defective tree parts which constitute a hazard to the health of the tree, to the public safety, or to property shall be removed. Climbing hooks or spurs are prohibited except when the tree is being removed, as are other devices or attachments that may injure the tree. Any party that trims a tree for utility clearance shall allow for a maximum of two years normal growth. Other criteria prescribe for a maximum of 30 percent crown removal, natural and directional pruning, and selective thinning to promote favored species within the right-of-way. These regulations provide for the instruction to the utility service company from the state roadside tree supervisors for standards of tree care and

protection.

It would be a fantasy to say that every tree cut, trimmed, or planted within the public right-of-way under or near utility service is supervised by this state agency. Our objective is to have the proper species planted in the right location, trimming that recognizes natural tree growth, clearance requirements, and tree care that incorporates tree health as an integral part of utility arboriculture. Most local jurisdictions recognize the State's role in public right-of-way tree care. The general public has a State agency with responsibility to address their concerns about the effect of utility arboriculture on trees on their properties. Our role in helping to establish cooperation for proper tree care between all parties, while recognizing the need for utility services can reduce the conflicts in the competition for tree space and utility space along our public rights-of-way. When regulations are properly administered, the State's role in fostering cooperation between parties directly or indirectly involved in tree care can benefit the utility service companies. Consistent state wide standards and supervision that recognizes the need for both utility clearance and public right-of-way aesthetics can help provide the citizens with reliable service and an enjoyable traveling experience.

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