

SUBTITLE 4. TREES AND FOREST NURSERIES
PART I. ROADSIDE TREES

5-401. Definition.

In this subtitle, roadside tree means any tree or shrub growing within the right-of-way of any public road. [An. Code 1957, art. 66C, § 359; 1973, 1st Sp. Sess., ch. 4, § 1; 2009, ch. 289.]

5-402. Powers of Department generally; establishment of State forest nurseries.

The Department may plant trees along the roadsides, make rules and regulations governing the planting, care for and protect any roadside tree, and establish one or more State forest nurseries for the propagation of trees for any roadside planting. [An. Code 1957, art. 66C, § 358; 1973, 1st Sp. Sess., ch. 4, § 1; 2009, ch. 289.]

5-403. Plans for planting or care of trees.

(a) *Application.*- If the governing body or the road supervisors of any county of the State, the Department of Transportation, the council of any municipality, or any organization or person applies to the Department to plant, care for, or protect any roadside tree, the Department shall evaluate the application and inform the applicant concerning the advisability of the requested planting, care, or protection. If, in the judgment of the Department, the requested planting, care, or protection is advisable, the Department shall prepare and submit to the applicant a plan for the same, including an estimate of the cost.

(b) *Approval and implementation of plan.*- Any plan to plant, care for, or protect roadside trees may not become operative until the applicant approves the plan and has guaranteed to the Department the cost of the work. When the applicant approves a plan the Department has prepared, and the applicant has guaranteed payment of the cost in a manner satisfactory to the Department, the Department shall perform, or cause to be performed, the specified planting, care, or protection of roadside trees.

(c) *Payment of unexpended balances.*- The Department, without being requested as provided in subsection (a) or guaranteed as provided in subsection (b), may plant, care for, and protect roadside trees and pay for the work out of any unexpended balance of the amount appropriated for the purposes of this subtitle. However, no tree may be planted under the provisions of this section without the consent and approval of the owner of the land on which planted.

(d) *More stringent local law allowed.*- Except as provided in subsection (e) of this section, a county or municipality may adopt a local law or ordinance for the planting, care, and protection of roadside trees that is more stringent than the requirements of §§ 5-402 and 5-406 of this subtitle if the local law or ordinance does not conflict with the provisions of §§ 5-402 and 5-406 of this subtitle.

(e) *Exceptions.*- A county or municipality may not adopt a local law or ordinance for the planting, care, and protection of roadside trees that applies to:

(1) The cutting or clearing of public utility rights-of-way or land for electric generating stations licensed under § 7-204, § 7-205, § 7-207, or § 7-208 of the Public Utility Companies Article, provided that:

(i) Any required certificates of public convenience and necessity have been issued in accordance with § 5-1603(f) of this title; and

(ii) The cutting or clearing of the forest is conducted so as to minimize the loss of forest;

(2) The routine maintenance of public utility rights-of-way; and

(3) The cutting or clearing of public utility rights-of-way or land for new transmission or distribution lines.

(f) *Stop work order.*- A county or municipality that adopts a local law or ordinance in accordance with subsection (d) of this section may issue a stop work order against any person that violates any provision of the local law or ordinance. [An. Code 1957, art. 66C, §§ 360-362; 1973, 1st Sp. Sess., ch. 4, § 1; 2009, ch. 289.]

5-404. Authority of enforcement.

(a) *Forest wardens and others.*- Forest wardens and other persons having police powers in the State, in addition to their regular duties, shall enforce the law for the care and protection of roadside trees. In the enforcement of these laws, they possess the same powers as a peace officer to arrest with a warrant.

(b) *County or municipality.*- The Department may authorize a county or municipality to enforce §§ 5-402 and 5-406 of this subtitle. [An. Code 1957, art. 66C, § 363; 1973, 1st Sp. Sess., ch. 4, § 1; 2009, ch. 289.]

5-405. Payment by Department to forest warden for making required examinations, planting and care of trees, etc.; reimbursement of Department by applicant for payments.

For his services in making examinations, as provided in § 5-403 (a) of this subtitle, the Department shall pay the forest warden upon presentation and approval of his accounts with vouchers, for services in planting roadside trees, trimming, spraying, or otherwise caring for existing roadside trees, as provided in § 5-403 (b) of this subtitle. The applicant who guarantees the cost of work shall reimburse the Department for the services of the forest warden and his helpers upon presentation of the forest warden's accounts with vouchers, and upon the approval of the Department. The applicant shall pay for the forest warden's services in examining conditions serving as a basis for permits

applied for under § 5-406 of this subtitle, for issuing permits, and for supervising work authorized by the permits. The Department shall determine the rate to be paid under this section. [An. Code 1957, art. 66C, § 364; 1973, 1st Sp. Sess., ch. 4, § 1; 2004, ch. 25, § 6.]

5-406. Permit to cut down or trim trees; exceptions; prohibited conduct without permit; penalty.

(a) *Application for permit required.*- Except as provided in subsection (b) of this section, any person who desires to cut down or trim any roadside tree shall apply to the Department for a permit.

(b) *Exceptions.*-

(1) A person may remove a tree or its branches without first obtaining a permit from the Department if the tree is unrooted or its branches broken so as to contact telephone, telegraph, electric power, or other wires carrying electric current, or if the tree or its branches endanger persons or property.

(2) A tree may be cut down and removed by an abutting landowner for the landowner's own use without first obtaining a permit if the tree is standing within the right-of-way of a public road which has not been surfaced with either stone, shell, gravel, concrete, brick, asphalt, or other improved surface.

(c) *Prohibited conduct.*- A person may not cut down, trim, mutilate, or in any manner injure any roadside tree, except as authorized by this section, without a permit from the Department.

(d) *Restriction by county or municipality to issue building permit.*- A county or municipality may not issue a building permit to an applicant for any clearing, construction, or development that will result in the trimming, cutting, removal, or injury of a roadside tree until the applicant first obtains a permit from the Department in accordance with this section.

(e) *Penalty.*- A person who trims, cuts, removes, or injures a roadside tree in violation of a regulation adopted under § 5-402 of this subtitle or a permit issued under this section or who fails to obtain a permit as required by this section is liable for the imposition of a penalty:

(1) Not exceeding \$2,000 for a first offense; and

(2) Not exceeding \$5,000 for a second or subsequent offense.

[An. Code 1957, art. 66C, § 365; 1973, 1st Sp. Sess., ch. 4, § 1; 2009, ch. 289.]