

**NATURAL RESOURCES**  
**TITLE 5. FORESTS AND PARKS**  
**SUBTITLE 4. TREES AND FOREST NURSERIES**  
**PART I. ROADSIDE TREES**

**§ 5-401. "Roadside tree" defined**

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; 2012, ch. 66, § 6.)

**§ 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) of this section or guaranteed as provided in subsection (b) of this section, 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 Utilities 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; or

(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; 2010, ch. 52; ch. 72, § 5; 2014, ch. 45.)

#### **§ 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.

#### **§ 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.)

**§ 5-407. Signs and advertisements along public highways and on public property**

(a) State Highway Administration may authorize placing advertisements along public highways. -- The State Highway Administration may grant to any person the right to place any advertisement, sign, notice, or other writing along or upon the public highways of the State to be used only in conjunction with direction or danger signals, and subject to the limitations and restrictions imposed at the time the permit is granted. A permit may not be issued unless the need for the direction or danger signal to be erected is clearly demonstrated to the satisfaction of the State Highway Administration. Any person doing an act otherwise prohibited in this section, by virtue of a permit issued by the State Highway Administration, is immune from prosecution.

(b) Special provisions as to Kent and Queen Anne's counties. -- In Kent and Queen Anne's counties, the respective county boards of education may exhibit or display any advertisement, sign, notice, writing, or other device for the purpose of promulgating the safety of students, on or abutting any road or highway which passes near any school. However, these signs may not be displayed farther than 300 yards from any school and any designation of the donor may not comprise a space of more than 2 square feet on the sign.

(c) Placing advertisement upon public highway or private property of another without consent prohibited. -- A person, without first obtaining the written consent of the owner, may not paint, put, or fix any advertisement, sign, notice, or other writing, other than a notice posted pursuant to law, on or to any stone, tree, fence, stump, pole, building, or other structure which is in or upon either the public highway or property of another, or procure, direct, or induce the painting, fixing, or placing of the advertisement or sign.

(d) Presumption of liability of advertisement. -- For the purpose of enforcing this section, the presence of any advertisement, sign, notice, or other writing, other than a notice posted pursuant to law, upon the public highway or private property adjacent to it constitutes prima facie evidence that it was painted, placed, fixed, or erected at the direction of, or with the consent and approval of, the party or his agent or representative in the State whose name, business, location, or merchandise is advertised thereon. (An. Code 1957, art. 66C, § 366; 1973, 1st Sp. Sess., ch. 4, § 1; 1974, ch. 864, § 3.)

#### **§ 5-408. Use of trees for planting on State forest reserve**

Any trees grown in State nurseries, not required for roadside planting, may be used for planting on the State forest reserve or furnished to any landowner of the State at not more than the cost of production. The trees shall be planted for conservation purposes according to plans approved by the Secretary under rules and regulations promulgated by the Department.

#### **§ 5-409. Liability to aggrieved parties for cutting, burning, or injuring merchantable trees or timber**

(a) Written permission of owner required; damages. -- Any person, his aiders, abettors, and counsellors, who willfully, negligently, recklessly, wrongfully, or maliciously enters upon lands or premises of another without written permission of the owner of the

lands or premises, in order to cut, burn, or otherwise injure or destroy, or cause to be cut, burned, or otherwise injured, or destroyed, any merchantable trees or timber on the land is liable to the party injured or aggrieved in an amount triple the value of the trees or timber cut, burned, or otherwise injured or destroyed, plus the costs of any surveys, appraisals, attorney fees, or court fees in connection with the case. The damages are recoverable in a civil action, as in any other case.

(b) Display of written permission. -- At the request of a law enforcement officer, a person on the lands and premises of another engaged in any act specified in subsection (a) of this section shall display the written permission of the owner.

(c) Exceptions. -- Notwithstanding the provisions of this section, the following shall obtain the permission of an owner before engaging in any act specified in subsection (a) of this section, but are not required to obtain the permission in writing or to display the written permission as provided in subsection (b) of this section:

(1) A public service company, as defined in § 1-101 of the Public Utilities Article; and

(2) An employee of the Department of Public Works or roads board of any county or municipality, or the State Highway Administration, performing roadside maintenance. (An. Code 1957, art. 66C, § 368; 1973, 1st Sp. Sess., ch. 4, § 1; 1980, ch. 173; 1990, ch. 6, § 2; 1996, ch. 415; 1998, ch. 653; 2010, ch. 52.)

#### **§ 5-410. Acquisition of land for establishment of State forest nurseries**

The Department may acquire land out of money standing to the credit of the Forest Reserve Fund for the establishment of any State forest nursery to grow forest trees for planting on State reserves and distribution to private landowners to encourage tree planting under the rules and regulations it promulgates. (An. Code 1957, art. 66C, § 369; 1973, 1st Sp. Sess., ch. 4, § 1.)

#### **§ 5-411. Levies and appropriations by counties for tree planting and care**

A county may levy and appropriate money for purposes of tree planting, care of trees, and forest protection, improvement, management, and purchase. (An. Code 1957, art. 66C, § 350; 1973, 1st Sp. Sess., ch. 4, § 1.)