

Maryland Licensed Tree Expert Exam Study Guide

For Exam Domain:

Tree Laws

Version 5.0

There are four Maryland tree laws that the Licensed Tree Expert may come across. These are:

- Tree Expert Law
- Roadside Tree Law
- Reforestation Law
- Forest Conservation Law

The **Maryland Tree Expert Law** was adopted in 1945, providing a state-wide law addressing tree care work done for compensation on private or public property in Maryland. The purpose is to provide a layer of consumer protection by licensing qualified and insured tree care companies and individuals. All tree care professionals practicing in Maryland must obtain a Tree Expert license. This license must be renewed every two years.

Every licensee must carry and show proof of liability and property damage insurance. The LTE must maintain insurance protection for the period the license is in effect and also be in compliance with the requirements of Worker's Compensation.

The Tree Expert Law states that a person may not engage in the work or business of a tree expert without a Tree Expert license. It further states that a person may not solicit, advertise, or represent themselves to the public as a tree expert, or assume to practice as a tree expert, or use the title or abbreviation "L.T.E." of any other words, letters, or abbreviations tending to indicate that they are a licensed tree expert or a tree expert without having received a license, or when the license has been revoked or suspended. A criminal conviction for a first offence under the Tree Expert Law is a misdemeanor and is subject to a fine up to \$500.

A *tree expert* is someone who represents to the public that they are skilled in the science of tree care or removal and who, whether in the business of the person or as an employee of another person and whether under the title of arborist, tree specialist, tree surgeon, tree expert, or otherwise, engages in the business or work of treatment, care, or removal of trees for compensation. Treatment and care of trees includes:

- Making diagnoses;
- Prescribing the treatment of trees;
- Supervising the treatment of trees;
- Tree trimming, pruning, thinning, cabling, shaping, or crown reduction.
- Tree Removal.



Tree Expert does not include a person engaged in commercial logging or timber harvesting, a person engaged in the installation of underground facilities or any associated site construction, a person who treats, cares for, or removes a tree that is 20 feet tall or less.

The Department of Natural Resources Forest Service shall issue a “tree expert” license to any applicant who:

- pays the fee;
- has attained 18 years of age; and
- has had 2 years of approved college education in forestry, arboriculture, horticulture, applied agricultural sciences, or the equivalent education and 1 year of experience with a licensed tree expert in Maryland or with an acceptable tree expert company in another state and has passed the examination given by the Department; or
- for at least 3 years immediately preceding the date of his/her application has been engaged continuously in practice as a tree expert with a licensed tree expert in Maryland or with an acceptable tree expert company in another state; and
- has passed the tree expert exam given by the Department.

The Department may issue a license to someone that holds a tree expert license in another state provided that the requirements in that state are, in the opinion of the Department, at least equivalent to those in Maryland.

The Department may permanently revoke or temporarily suspend the license of any Licensed Tree Expert (LTE) who is found guilty of any fraud or deceit in obtaining the license, or negligence or wrongful conduct in the practice of tree culture or care. It is a criminal offense to continue to practice as a Tree Expert while the license is under suspension or revocation. A license may not be revoked or suspended until after the licensee has a hearing before the department.

A Licensed Tree Expert is responsible for the quality and content of all work performed by those working under the license. An employee working under the supervision of a LTE may not be required to have a license of their own.

If the owner of a tree employs an unlicensed person to trim a tree in Maryland, the owner is not guilty under the Tree Expert Law. The responsibility is on the person who is doing the tree work.

The Tree Expert Law Regulations

The following are the regulations for the Licensed Tree Experts as found in the Code of Maryland Regulations (COMAR). Title 08, Subtitle 07, Chapter 07.

1) Responsibility to the Public:

- A) A LTE shall comply with applicable laws and regulations pertaining to tree expert services;

- B) A LTE may not engage in any form of false or misleading advertising or promotional activities, including, but not limited to, the falsification or misrepresentation of:
 - (1) the work of a LTE or anyone employed by the LTE,
 - (2) the academic or professional qualifications of the LTE,
 - (3) the expertise or licensing status of the LTE.
- C) A LTE may not use private property adjacent to a client's property as a work area, or gain access to the client's property, without the property owner's permission.
- D) A LTE shall ensure the safe operation of all equipment used in the performance of tree expert services.
- E) In the performance of tree expert services, a LTE shall make every reasonable effort to protect the safety, health, property, and welfare of the public.
- F) A LTE shall cooperate fully with DNR Forest Service in an investigation or adjudication of an alleged violation of tree expert statutes or regulations.
- G) A LTE shall, within a reasonable time, inform the DNR Forest Service in writing of a change in address, telephone number, or employment.

2) Incorporation by Reference:

- A) The following documents are incorporated by reference into the LTE regulations:
 - (1) ANSI A300 (Part 1) – 2008 Pruning;
 - (2) ANSI A300 (Part 2) – 2011 Fertilization;
 - (3) ANSI A300 (Part 3) – 2013 Standard Systems a. Cabling, Bracing, and Guying);
 - (4) ANSI Z133.1 – 2012 Safety Standards.
 - (5) ANSI A300 (Part 4) – 2014 Lightning Protection Systems;
 - (6) ANSI A300 (Part 5) – 2012 Management of Trees & Shrubs;
 - (7) ANSI A300 (Part 6) – 2012 Transplanting;
 - (8) ANSI A300 (Part 7) – 2012 Integrated Vegetation Management a. (9) Electric Utility Rights-of-way.
 - (9) ANSI A300 (Part 9) – 2011 Tree Risk Assessment.

3) Responsibility to the Client:

- A) A LTE shall perform tree expert services only if qualified to do so by education or experience;
- B) A LTE shall act with reasonable care and competence, and shall apply technical knowledge and skills according to American National Standards Institute published tree care standards as incorporated by reference in Regulation .02 above;
- C) A LTE may not knowingly assume or accept any position in which the LTE's interests conflict with the licensee's professional responsibilities unless the facts are disclosed by the licensee and consented to in writing by the client or employer;

D) The LTE shall enter into a written contract with the client which shall clearly convey the:

- (1) LTE's name, license number, name of licensee's business entity, address, and phone number;
- (2) Name, address, and phone number of the client;
- (3) Objective and scope of services;
- (4) Anticipated dates of the LTE's work on the project;
- (5) Implications of any deviation from ANSI standards;
- (6) Amount and method of remuneration for the services;
- (7) Dated signatures of LTE or LTE's designee and the client or the client's designee.

E) Any amendments to the contract shall be in writing and signed and dated by both the LTE or designee and the client or designee;

F) A LTE may not accept compensation from more than one employer for the same service unless all parties involved are informed and consent;

G) A LTE may not exploit clients served professionally by:

- (1) accepting a tree care project if benefit cannot reasonably be expected to accrue to the tree or trees or to the client;
- (2) continuing treatment when benefit cannot reasonably be expected to accrue to the tree or trees or to the client;
- (3) charging for services not rendered;
- (4) failing to fully inform clients served of the nature and possible effects of services rendered;
- (5) misrepresenting services rendered.

H) A LTE who anticipates the termination or interruption of service during the term of a contract shall notify the client promptly.

4) Responsibility to Other LTEs and the Profession:

A) A LTE shall pursue all professional endeavors with honesty, integrity, fairness, and professionalism;

B) A LTE may only take credit for services performed by the LTE directly or the LTE's firm under the LTE's supervision;

C) A LTE shall adhere to and maintain standards of professional conduct that reflect in a responsible manner on the profession.

D) A licensed tree expert shall disclose associations with multiple tree care companies to each tree care company for which the licensee provides tree care services or supervision of tree care services.

5) Record Keeping:

A) A LTE shall maintain records for 3 years after project completion;

B) If requested, the LTE shall release a copy of written record to any current or former client.

6) Supervision:

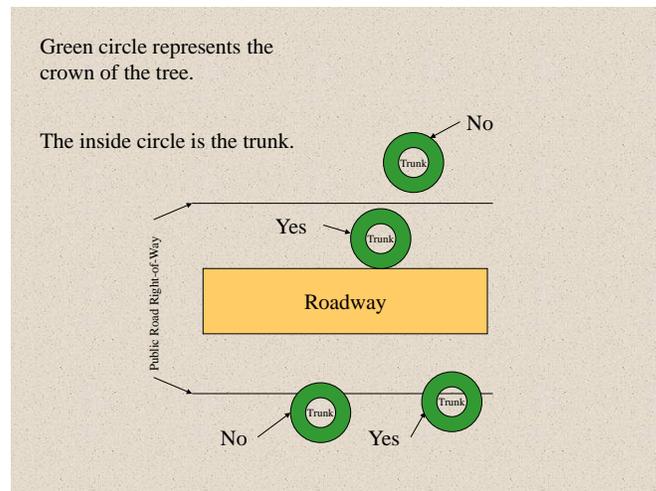
A LTE is responsible for the quality and content of all work performed by those working under the license.

7) Violation of Regulations:

- A) The Department of Natural Resources may temporarily suspend, for a period not to exceed 2 years, the license of a licensed tree expert who violates this regulation. This is in addition to, and not in limitation of, the DNR's power to revoke or suspend a tree expert license.
- B) Before the suspension, revocation, or denial of a tree expert license, DNR shall provide a contested case hearing.

The **Maryland Roadside Tree Law** was passed in 1914 to protect Maryland's roadside trees by ensuring their proper care and protection and ensuring their compatibility with an efficient and dependable public utility system.

Before a roadside tree is trimmed or cared for in any way, including the application of pesticides, a Tree Care Permit must be obtained from the Maryland DNR Forest Service. A *roadside tree* is any plant with a woody stem that grows all, or in part, within a public road right-of-way.



A permit is also needed to plant a tree within the public road right-of-way. When tree care is performed on a roadside tree without a permit, a fine may be assessed or more severe actions taken by the Department of Natural Resources.

Permits are a good tool to protect our roadside trees. Issuance of Tree Care Permits is important to insure:

- Only beneficial and necessary tree trimming, root cutting, fertilization, or other maintenance practices will be done and done correctly to roadside trees.
- Tree hazards are documented and corrective action, including removal and replacement, is done in a timely and safe manner by trained professionals (Licensed Tree Experts or Roadside Tree Care Experts).

- The right tree (correct species and size) is planted in the right location, thereby avoiding future problems and conflicts with sidewalks, overhead and underground utilities, and sight distances.

The permit procedure requires that the property owner who has a roadside tree (within the public road right-of-way) in front of his/her property signs the application. If the roadside tree straddles two properties, both owners must sign the same application. The permit itself does not grant permission to do the tree work. Permission must be granted by the tree owner.

Maryland has adopted the so-called Massachusetts Rule that limits a landowner's remedy against encroaching vegetation to "self-help" in nearly all circumstances. A landowner must assume responsibility for the care and preservation of his/her own property. Under the "self-help" rule, a neighbor can cut back encroaching limbs or roots of an adjoining neighbor's tree to the property line, but they:

- May not destroy the tree by the pruning;
- May not cut down the tree itself;
- Must stop at the property line, unless they have the neighbor's permission to cross.

Any person who trespasses and removes trees, unless they work for a public service company or a public road agency, is liable for any surveys or appraisals needed, any court costs that may be incurred, and triple the amount of the value of the trees or timber cut.

Under Maryland law, a "trespasser" is a person who intentionally and without consent or privilege enters another's property. Action for trespass to real property may be maintained whether or not the person was aware that they were trespassing.

Tree Care under the Roadside Tree Law is defined as the removal of a roadside tree, planting or maintenance, or both, of a roadside tree, application of pesticide to a roadside tree, or treatment that may affect the health or growth of a roadside tree. When trees are removed from the right-of-way, replacement of those trees may be required by the Forest Service.

Any work, including removal, performed on a roadside tree must be done by a Licensed Tree Expert (LTE) or Roadside Tree Care Expert (RSCTE), or someone working under the supervision of LTE or RSCTE. A permit is also needed to plant a tree within the public road right-of-way.

A person may cut down or prune a roadside tree without a permit only if the tree is uprooted or broken and in contact with an electric line, its branches are in immediate danger to persons or property, or stands within the right-of-way of a dedicated but unimproved road.

Branches to be removed shall be cut back to a live lateral at least 1/3 the diameter of the severed branch. Cuts shall be made sufficiently close to the trunk or parent limb without cutting into the branch collar or leaving a protruding stub. Proper pruning techniques shall be followed at all times. The State of Maryland requires all Licensed Tree Experts to follow ANSI A300 (Part 1) pruning standards.

Except when directed by the Forest Service, pruning cuts shall be left unpainted for aesthetic reasons. If the painting of cuts is required, only materials nontoxic to the cambium layer shall be used.

Dangerous deadwood and broken limbs which are located within the scope of the work as defined in the permit shall be removed.

Except when authorized by the Forest Service or when the tree is being removed, climbing hooks or spurs are prohibited. The wrapping or winding of cable, wires, and other attachments around a tree, fastening attachments to a tree to bruise or injure a tree, or cavity work performed on a tree, is prohibited.

Chips resulting from roadside trees may be broadcast on a right-of-way except in ditches, waterways, turf, and surfaced areas; and, may not exceed 6 inches in depth on the right-of-way.

Persons clearing for utility wires, cables, or other facilities shall allow sufficient clearance for two years growth normally expected after trimming, take into account the health of the tree, and make proper cuts to direct growth away from the lines.

The critical root zone of a tree should be protected during tree care operations. The State Forest Conservation Manual defines the critical root zone as a circle with a radius of 1.5 feet for every 1 inch diameter of the tree at breast height (4.5 feet above ground - dbh). When root pruning or cutting trenches around roadside trees, the maximum diameter root that may be cut without approval of the Forest Service is one inch.

Damage sustained by a tree, such as broken limbs, roots, or scarred trunks, including compaction damage, shall be repaired by the permittee. If a trimmed tree dies within one year or is in poor condition of growth as a result of trimming, the Forest Service may require the permittee to remove and replace the trees.

Roadside Tree Blanket permits are issued for comprehensive and continuing programs of general tree care such as those administered by state agencies, counties, municipalities, corporations, and public utilities. Applications are available at the forest service web site.

Roadside Tree Project permits are issued for a specific tree or group of trees for specific tree care operations. This is the permit form to use if you do not have a Roadside Tree Blanket permit, or if your Roadside Tree Blanket permit does not authorize the desired work. Roadside Tree project permits are located at the forest service web site.

Roadside Tree Care Standards.

A. General Requirements. Unless the Forest Service grants an exception, treatment of roadside trees authorized by permit shall be performed according to the following standards:

(1) Branches to be removed shall be cut back to a live lateral branch at least 1/3 the diameter of the severed branch;

- (2) Cuts shall be made sufficiently close to the trunk or parent limb without cutting into the branch collar or leaving a protruding stub;
- (3) Proper pruning techniques shall be followed at all times;
- (4) Except when directed by the Forest Service, pruning cuts shall be left unpainted for aesthetic reasons;
- (5) If the painting of cuts is required, only materials nontoxic to the cambial layer shall be used;
- (6) Dangerous deadwood and broken limbs which are located within the scope of the work as defined in the permit shall be removed;
- (7) Except when authorized by the Forest Service or when the tree is being removed, climbing hooks or spurs are prohibited;
- (8) Chips resulting from roadside tree care may:
 - (a) Be broadcast on a right-of-way except in ditches, waterways, turf, and surfaced areas, and
 - (b) Not exceed 6 inches in depth on the right-of-way;
- (9) The wrapping or winding of cable, wires, and other attachments around a tree, fastening attachments to a tree to bruise or injure a tree, or cavity work performed on a tree, is prohibited; and
- (10) When trees are removed, replacement of those trees according to a plan may be required by the Forest Service.

B. Tree Clearance for Overhead Facilities.

- (1) In addition to the requirements of §A of this regulation, a person who trims a tree to provide clearance for utility wires, cables, or other facilities shall:
 - (a) Allow sufficient clearance for 2 years growth normally expected after trimming, unless otherwise directed by the Forest Service;
 - (b) Take into account the health of the tree; and
 - (c) Make proper cuts that direct growth away from overhead wires and facilities in compliance with safety standards and government regulations.
- (2) If a trimmed tree dies within 1 year or is in poor condition of growth as a result of that trimming, the permittee shall, if required by the Forest Service, remove the tree and plant replacement trees.
- (3) Replacement trees shall be:
 - (a) Furnished by the permittee;
 - (b) In good condition;
 - (c) Of a recommended size and species; and
 - (d) Properly planted at locations to be determined by the Forest Service.

C. Ground Disturbance Requirements.

- (1) The requirements set forth in this section:
 - (a) Are intended to protect roadside trees during construction, installation, and maintenance of a structure requiring excavation;
 - (b) Apply to underground utilities such as:
 - (i) Sewers,
 - (ii) Water and gas pipes,
 - (iii) Storm drains,

- (iv) Electric, telephone, and television cables or conduits,
- (v) Sidewalks,
- (vi) Driveways, or
- (vii) Roadways or similar structures.

(2) A permittee shall take all necessary measures to protect roadside trees from damage during construction and associated activities.

(3) Damage sustained by a tree, such as broken limbs, roots, or scarred trunks, including compaction damage, shall be repaired by the permittee.

(4) The Forest Service shall supervise the measures taken to protect and repair roadside trees under this section.

D. Protection of Tree Roots.

(1) When an underground project subject to §C of this regulation encounters the roots of a roadside tree, a permittee, in accordance with the guidelines in §D(2)----(15) of this regulation or other criteria approved by the Forest Service, shall tunnel or bore under the tree or modify the project to protect the tree's root system.

(2) For trees under 6 inches in diameter as measured 4 1/2 feet above average ground level, all machine digging shall stop at the dripline of the tree, or where specified by the Forest Service.

(3) For trees over 6 inches in diameter as measured 4 1/2 feet above average ground level, all machine digging shall stop when roots of 1 inch or more in diameter are encountered, or when specified by the Forest Service.

(4) Roots 1 inch or more in diameter may not be cut without approval of the Forest Service.

(5) A tunnel or other method of modification of the project under or around the tree shall be used if considered necessary by the Forest Service.

(6) The procedure noted in §D(5) of this regulation also shall be used to approach the tree from the opposite side.

(7) At least 24 inches of undisturbed earth shall remain over the tunnel or bore, or above other type of installation.

(8) For operations using shallow trenching techniques up to 12 inches deep, care shall be taken to minimize root damage and protect the trunk of the tree.

(9) Roots 1 inch or larger, damaged during construction, shall be sawed off close to the tree side of the ditch. Clean cuts shall be made at all times.

(10) Installations affecting roadside trees shall be completed in as short a time as possible to prevent the drying out of exposed roots.

(11) If considered necessary, the exposed root area within the ditch shall be watered and fertilized as directed by the Forest Service.

(12) Tunnels shall be refilled and the soil tamped tightly to original firmness.

(13) Trenches shall be filled to achieve and maintain original grade.

(14) Excess soil shall be removed from the site or disposed of as directed by the Forest Service.

(15) Unless otherwise directed by the Forest Service, the ground shall be fertilized and reseeded, cover shall be restored, and other procedures shall be followed as necessary to prevent erosion around trees.

E. Violations of Roadside Tree Standards.

- (1) The Forest Service may require a person who fails to comply with §C or D of this regulation to:
- (a) Remove and replace a tree which dies within 1 year after the treatment activity is completed;
 - (b) Document for 3 years the condition of a tree which shows decline within 1 year after the treatment activity is completed; and
 - (c) Remove and replace a tree which dies after 3 years following the completion of the treatment activity, if the tree has been the subject of the documentation in §E(1)(b) of this regulation.
- (2) The value of a tree to be replaced is determined as of the date of the violation.

When highway construction using State funds causes the cutting or clearing of one acre or more of forests lands, the **Maryland Reforestation Law** requires that these trees be replaced. Replacement of forest cleared for highway construction must be accomplished on an acre-for-acre, one to one ratio on public lands and within a year of the completion of the project.

The **Maryland Forest Conservation Act** states that any activity requiring an application for a subdivision, grading permit or sediment control permit on areas 40,000 square feet or greater is subject to the Forest Conservation Act and will require a Forest Conservation plan.