



General Assembly

January Session, 2019

Committee Bill No. 5312

LCO No. 5455



Referred to Committee on ENVIRONMENT

Introduced by:
(ENV)

**AN ACT CONCERNING VEGETATION MANAGEMENT WITHIN
UTILITY PROTECTION ZONES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 16-234 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2019*):

3 (a) As used in this section:

4 (1) "Utility" means a telephone, telecommunications or electric
5 distribution company, each as defined in section 16-1;

6 (2) "Utility protection zone" means any rectangular area extending
7 horizontally for a distance of eight feet from any outermost electrical
8 conductor or wire installed from pole to pole and vertically from the
9 ground to the sky;

10 (3) "Hazardous tree" means any tree or part of a tree that is (A)
11 dead, (B) extensively decayed, or (C) structurally weak, which, if it
12 falls, would endanger utility infrastructure, facilities or equipment;

13 (4) "Vegetation management" means the retention of trees and

14 shrubs that are compatible with the utility infrastructure and the
15 pruning or removal of trees, shrubs or other vegetation that pose a risk
16 to the reliability of the utility infrastructure. Until such time as the
17 Department of Energy and Environmental Protection issues standards
18 for identifying such compatible trees and shrubs, the standards and
19 identification of such compatible trees and shrubs shall be as set forth
20 in the 2012 final report of the State Vegetation Management Task
21 Force;

22 (5) "Pruning" means the selective removal of plant parts to meet
23 specific utility infrastructure reliability goals and objectives, when
24 performed according to current professional tree care standards and in
25 a manner that retains the structural integrity and health of the
26 vegetation;

27 (6) "Abutting property owner" means the owner of the property
28 abutting or adjacent to that portion of a public road, public highway or
29 public grounds where the tree or shrub that the utility proposes to
30 remove or prune is located; and

31 (7) "Private property owner" means the owner of the property
32 where a tree or shrub the utility proposes to remove or prune is
33 located, which may include municipally owned land.

34 (b) A utility may perform vegetation management within the utility
35 protection zone, as necessary, to secure the reliability of utility
36 services.

37 (c) (1) In conducting vegetation management, no utility shall prune
38 or remove any tree or shrub within the utility protection zone, or on or
39 overhanging any public road, public highway or public ground,
40 without delivering notice of the proposed vegetation management to
41 the abutting property owner or private property owner. Such notice
42 shall include the option for the abutting property owner or private
43 property owner to consent, in writing, to such proposed pruning or
44 removal, object to such proposed pruning or removal or modify such

45 proposed pruning or removal. The notice shall include instructions
46 regarding how the recipient may object in accordance with subdivision
47 (3) of this subsection. Such notice shall also include a statement that if a
48 person objects to the proposed pruning or removal, and such tree falls
49 on any utility infrastructure, such person shall not be billed by the
50 utility for any resulting damage. If requested by an owner of private
51 property, the utility, municipality or the Commissioner of
52 Transportation, as appropriate, shall provide such owner with
53 information regarding whether a tree or shrub to be pruned or
54 removed is in the public right-of-way or whether such tree or shrub is
55 on such owner's private property. Any such notice provided pursuant
56 to this subsection shall also be provided to the applicable tree warden
57 or municipal authority with responsibility for such municipality's tree
58 canopy not later than two weeks prior to the proposed date of such
59 pruning or removal.

60 (2) Notice shall be considered delivered when it is (A) mailed to the
61 abutting property owner or private property owner via first class mail,
62 electronic mail or text message, (B) delivered, in writing, at the location
63 of the abutting property or private property owner, or (C)
64 simultaneously conveyed verbally and provided in writing to the
65 abutting property owner or private property owner. A utility shall
66 deliver such notice to the abutting property owner or private property
67 owner at least fifteen business days before the starting date of any such
68 pruning or removal. The form of such notice shall provide for a tear-off
69 satisfaction survey returnable to the Public Utilities Regulatory
70 Authority for completion by the abutting property owner following
71 the performance of such pruning or removal. For any tree located
72 within a public right-of-way, notice shall not be considered delivered
73 until an application is made and acknowledged in accordance with the
74 provisions of subsection (f) of section 23-65.

75 (3) The notice shall indicate that (A) objection to pruning or removal
76 shall be filed, in writing, with the utility and either the tree warden of
77 the municipality or the Commissioner of Transportation, as

78 appropriate, not later than ten business days after delivery of the
79 notice, [and] (B) the objection may include a request for consultation
80 with the tree warden, an arborist designated by the municipality or the
81 Commissioner of Transportation, as appropriate, and (C) the abutting
82 property owner has the right to be present while any such approved
83 pruning or removal takes place and may contact the utility or utility's
84 subcontractor at the provided contact telephone number to arrange to
85 be present during the performance of such pruning or removal. For
86 purposes of this section, an abutting property owner may file an
87 objection or request for modification by (i) sending a written objection
88 or request for modification to the utility or tree warden at the address
89 for each specified on the notice, provided if the written objection is
90 mailed, it shall be deemed received on the date it is postmarked, or (ii)
91 sending by electronic mail an objection or request for modification to
92 the dedicated electronic mail address maintained by the utility as
93 specified on the notice. In the event that the abutting property owner
94 requests such designated arborist to evaluate the pruning or removal
95 to be performed, the utility shall provide all requisite plans, records
96 and information for such evaluation to occur.

97 (4) The utility shall not prune or remove any tree or shrub that is
98 outside of the public right-of-way unless it receives written affirmative
99 consent from the private property owner to whom notice is required in
100 accordance with subdivision (2) of this subsection.

101 (5) If no objection is filed by the abutting property owner in
102 accordance with subdivision (3) of this subsection, the utility may
103 prune or remove the trees or shrubs for which notice of pruning or
104 removal has been delivered, provided the utility has also received a
105 permit as required by subsection (f) of section 23-65. Nothing in this
106 chapter shall be construed to limit the power and authority of a tree
107 warden as set forth in subsection (f) of section 23-65. Upon the
108 completion of such pruning or removal, a status update shall be
109 provided to the abutting property owner by the utility.

110 (6) If the abutting property owner files an objection or request for

111 modification pursuant to subdivision (3) of this subsection, or if the
112 utility does not accept the modification to the original notice, as
113 described in subdivision (1) of this subsection, the tree warden of the
114 municipality or the Commissioner of Transportation, as appropriate,
115 shall issue a written decision as to the disposition of the tree or shrub
116 not later than ten business days after the filing date of such objection.
117 This decision shall not be issued before a consultation with the
118 abutting property owner if such a consultation has been requested. The
119 abutting property owner or the utility may appeal the tree warden's
120 decision to the Public Utilities Regulatory Authority within ten
121 business days after the tree warden's decision.

122 (A) Prior to the final decision in the docket described in subsection
123 (c) of section 16-32h, the authority shall hold a hearing within sixty
124 calendar days of receipt of the abutting property owner's or utility's
125 written appeal of the tree warden's decision and shall provide notice of
126 such hearing to the abutting property owner, the tree warden or the
127 Commissioner of Transportation, as appropriate, and the utility. The
128 authority may authorize the pruning or removal of any tree or shrub
129 whose pruning or removal has been at issue in the hearing if it finds
130 that public convenience and necessity requires such action. The burden
131 of proving that public convenience and necessity requires such action
132 shall be on the utility.

133 (B) On and after the effective date of the final decision issued in the
134 docket described in subsection (c) of section 16-32h, the entity
135 designated by the authority, as determined by such docket, shall hold
136 a mediation session not later than thirty calendar days after receipt of
137 the abutting property owner's or utility's appeal of the tree warden's or
138 the Commissioner of Transportation's decision and shall provide
139 notice of such mediation session to the abutting property owner, the
140 tree warden or the Commissioner of Transportation, as appropriate,
141 and the utility, provided the abutting property owner may opt not to
142 utilize such mediation session and proceed to the hearing described in
143 this subparagraph. In the event that the appeal is not settled by

144 mediation, or the abutting owner elects not to use such mediation
145 session, the authority shall hold a hearing not later than thirty calendar
146 days after the conclusion of the mediation session, or within sixty
147 calendar days of the receipt of the abutting property owner's written
148 appeal if there is no mediation session, and shall provide notice of such
149 hearing to the abutting property owner, the tree warden, or the
150 Commissioner of Transportation, as appropriate, and the utility. The
151 authority may authorize the pruning, removal or stump grinding of
152 any tree or shrub whose pruning or removal has been at issue in the
153 hearing if it finds that public convenience and necessity requires such
154 action. The burden of proving that public convenience and necessity
155 requires such action shall be on the utility.

156 (7) When an objection or request for modification has been filed
157 pursuant to subdivision (3) of this subsection, no tree or shrub subject
158 to the objection or request for modification shall be pruned or removed
159 until a final decision has been reached pursuant to subdivision (6) of
160 this subsection.

161 (d) Subsection (c) of this section shall not apply if the tree warden of
162 the municipality or the Commissioner of Transportation, as
163 appropriate, authorizes, in writing, pruning or removal by the utility
164 of a hazardous tree within the utility protection zone or on or
165 overhanging any public highway or public ground. If the hazardous
166 tree is outside of the public right-of-way, the utility shall make a
167 reasonable effort to notify the property owner of the proposed pruning
168 or removal at least three days prior to performing such pruning or
169 removal. Nothing in this subsection shall be construed to require a
170 utility to prune or remove a tree.

171 (e) No utility shall be required to obtain a permit pursuant to
172 subsection (f) of section 23-65 or provide notice under subsection (c) of
173 this section to prune or remove a tree, as necessary, if any part of a tree
174 is in direct contact with an energized electrical conductor or has visible
175 signs of burning. Nothing in this subsection shall be construed to
176 require a utility to prune or remove a tree.

177 (f) No utility shall exercise any powers which may have been
178 conferred upon it to change the location of, or to erect or place, wires,
179 conductors, fixtures, structures or apparatus of any kind over, on or
180 under any public road, public highway or public ground, without the
181 consent of the adjoining proprietors or, if such company is unable to
182 obtain such consent, without the approval of the Public Utilities
183 Regulatory Authority, which shall be given only after a hearing upon
184 notice to such proprietors. The authority may, if it finds that public
185 convenience and necessity require, authorize the changing of the
186 location of, or the erection or placing of, such wires, conductors,
187 fixtures, structures or apparatus over, on or under such public road or
188 highway or public ground.

189 (g) Each utility shall operate an electronic mail account to receive
190 objections, requests for modification, inquiries or complaints pursuant
191 to subsections (a) to (f), inclusive, of this section.

192 (h) When conducting vegetation management within a utility
193 protection zone pursuant to this section, the utility shall provide for
194 the removal or disposition of any debris generated as a result of such
195 pruning or removal. The provisions of this subsection shall apply only
196 to vegetation management requested by the utility and approved
197 pursuant to this section and, if applicable, section 23-65.

198 (i) Not later than January 31, 2017, and each year thereafter, each
199 utility intending to conduct vegetation management in a town or
200 borough in this state shall provide the following to the tree warden of
201 such town or borough, or to the chief elected official of each such town
202 or borough: (1) A plan detailing the proposed roads or areas in said
203 town or borough where such vegetation management will take place
204 in the forthcoming calendar year, and (2) the estimated time schedule
205 for such proposed vegetation management. Each town or borough
206 provided with a utility vegetation management plan in accordance
207 with this subsection shall make such plan publicly available, by
208 electronic means or otherwise, not later than fourteen days after
209 receipt, and keep such plan publicly available for the remainder of the

210 forthcoming calendar year.

211 (j) Except as provided in subsection (e) of this section, (1) nothing in
212 this section shall be construed to authorize any utility to conduct
213 vegetation management in any utility protection zone, or portion
214 thereof, that is located on any parcel of municipal property without
215 complying with the provisions of section 23-65, and (2) any vegetation
216 management conducted in such a zone in violation of the requirements
217 of section 23-65 shall be considered a violation of this title for purposes
218 of section 16-41.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2019	16-234

ENV *Joint Favorable*