

**The Impact of Section 60 of Public Act 13-298
on a Tree Warden's Power and Duties
Pertaining to Utility Pruning and Removal of Trees and Shrubs**

Power to control utility pruning and removal of trees and shrubs:

1. The utilities must still get a permit pursuant to Section 23-65f of the general statutes from either a municipal tree warden or the State Department of Transportation (DOT) to do pruning and removal of trees and shrubs, including hazardous trees as defined in Section 60 of Public Act 13-298 (hereafter Section 60). A tree warden may hold a public hearing on a utility's plans, but is not mandated to do so. The only exception to the permit requirement is that a utility may “prune or remove a tree, as necessary, if any part of a tree is in direct contact with an energized electrical conductor or has visible signs of burning.”

2. The tree warden's powers set forth in Section 23-59 of the general statutes remain unchanged, including the “care and control” over “all trees and shrubs in whole or in part within the limits of any public road or grounds and within the limits of his town or borough,” for “the preservation of such trees and shrubs and of roadside beauty” and for the protection of “public safety.”

3. In Section 60, the new Public Act defines the term “vegetation management” as the pruning or removal of trees, shrubs and other vegetation that “pose a risk to the reliability of the utility infrastructure and “retention of trees and shrubs that are compatible with the utility infrastructure.” To be considered vegetation management, the work must be consistent with the underlined criteria. Authorized “pruning” is defined as the removal of plant parts only if it is “performed according to current professional tree care standards.” The utility must also obtain a permit from the tree warden or DOT, as previously noted.

4. The definition of “utility protection zone” does not dictate a particular scope or method of pruning and removal within that zone. The utility protection zone is simply a defined space in which vegetation management may take place “to secure the reliability of utility services by protecting overhead wires, poles, conductors or other utility infrastructure.” This space is the rectangular area that is bounded by a vertical line 8 feet out from the outermost wire or conductor on either side of the distribution system, from ground to sky. The tree warden and the DOT retain the authority to determine the scope and method of vegetation management within this zone, subject to appeal and review by the Public Utilities Regulatory Authority (PURA).

Notice, Consultation, Decision and PURA Appeal:

1. Notice must be given by the utility to the property owner abutting the area where utility tree and shrub pruning and removal are proposed. The abutting property owner does not have to own the tree or shrub to be entitled to notice. It does not matter whether the highway is a public right-of-way or owned in fee.

2. There are two exceptions to the notice requirement: (i) when a tree is burning or is in direct contact with an energized electrical conductor or (ii) when the tree warden or DOT agrees with the utility in writing that the tree is hazardous and must be removed.

3. Notice is to be given to an abutting property owner in one of three ways: by first class mail, in writing at the location (door hanger), or verbally and in writing to a property owner.

4. Notice must be sent or delivered at the location 15 business days prior to the start of pruning or removal, and the property owner has 10 business days from the date of mailing or delivery at the location in which to file a written objection with the tree warden or the DOT, as is appropriate. When making an objection, the abutting property owner may request a consultation with the tree warden or the DOT.

5. The tree warden or DOT must issue a decision within 10 business days of receipt of the objection, and the decision cannot be made if a requested consultation has not yet taken place. The decision may be appealed to PURA, which has 60 business days to decide.

6. No pruning or removal to which objection has been made can take place until a final decision has been reached, by consensual agreement, tree warden or DOT decision or, if appealed, by PURA - that is, until each party has had an opportunity to have their objections heard and no appeals are taken or possible.