

1 AN ACT relating to vegetation maintenance.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS 278.010 TO 278.450 IS CREATED
4 TO READ AS FOLLOWS:

5 *As used in Sections 1 to 4 of this Act, unless the context requires otherwise:*

6 *(1) "ANSI" means American National Standards Institute;*

7 *(2) "Property owner" means the person who owns the underlying fee interest in the*
8 *land encumbered by the utility right-of-way;*

9 *(3) "Local government" means any city, county, urban-county government,*
10 *consolidated local government, unified local government, or charter county*
11 *government;*

12 *(4) "Utility" means the same as in KRS 278.010(3)(a);*

13 *(5) "Vegetation management plan" means a plan approved by the commission for*
14 *performing vegetation maintenance in utility right-of-ways and facilities that*
15 *deliver electric power that are owned or controlled by the utility; and*

16 *(6) "Vegetation maintenance" means cutting, pruning, trimming, chemically*
17 *treating, or mowing vegetation in a manner to prevent facility damage, promote*
18 *worker safety, and maintain reliability of the electrical system in accordance with*
19 *all local, state, and federal laws.*

20 ➔SECTION 2. A NEW SECTION OF KRS 278.010 TO 278.450 IS CREATED
21 TO READ AS FOLLOWS:

22 *(1) Each utility shall have a vegetation management plan, approved by and on file*
23 *with the commission. The vegetation management plan shall govern how the*
24 *utility conducts vegetation maintenance within the utility's service territory and*
25 *shall be submitted to and reviewed by the commission at least once every ten (10)*
26 *years.*

27 *(2) Vegetation maintenance performed pursuant to a vegetation management plan*

1 shall:

2 (a) Be performed in conformance with ANSI standards endorsed by the
3 International Society of Arboriculture;

4 (b) Be performed by qualified electric utility personnel or licensed contractors
5 trained to conduct vegetation maintenance consistent with the standards in
6 paragraph (a) of this subsection or by an arborist certified by the
7 International Society of Arboriculture;

8 (c) Meet the requirements of the most recent version of the National Electrical
9 Safety Code; and

10 (d) Include the removal of debris not more than three (3) days after vegetation
11 maintenance. Utilities shall not be subject to the time frame in this
12 paragraph in situations of cleanup from storm damage or during a declared
13 emergency.

14 (3) The vegetative management plan shall be open to inspection by the public on the
15 utility's website. All approved vegetation management plans shall comply with
16 applicable local, state, and federal laws, rules, orders, and administrative
17 regulations. Except when an emergency exists that affects public health and
18 safety, the utility shall perform all work in accordance with the vegetative
19 management plan.

20 (4) A vegetation management plan shall, at a minimum, require a utility to:

21 (a) Notify all customers within the local government's jurisdiction of any
22 vegetation maintenance two (2) months prior to commencing work;

23 (b) Provide written notice two (2) weeks prior to the commencement of
24 vegetation maintenance which includes the name, address, and phone
25 number for a contact at the utility to every property owner where planned
26 tree pruning or removal is to be performed;

27 (c) Physically mark trees that will be subject to clear cutting or removal of more

- 1 than twenty-five percent (25%) of a tree's canopy;
2 (d) Obtain the property owner's written consent for all trees subject to
3 paragraph (c) of this subsection;
4 (e) Perform vegetative maintenance in conformance with the ANSI standards
5 endorsed by the International Society of Arboriculture; and
6 (f) Hold a public hearing every two (2) years as a part of the utility's customer
7 education plan.
- 8 (5) A utility customer may file a complaint with the commission in the form and
9 manner as the commission may require if the customer believes that the utility is
10 not performing vegetation maintenance according to its vegetation maintenance
11 plan. If the commission finds that the utility is not performing vegetation
12 maintenance in accordance with the plan, the utility shall be fined in accordance
13 with KRS 278.990(1).

14 ➔SECTION 3. A NEW SECTION OF KRS 278.010 TO 278.450 IS CREATED
15 TO READ AS FOLLOWS:

- 16 (1) As part of the customer education plan, the utility shall hold public hearings
17 throughout its certified territory every two (2) years. Dates and times for the
18 public hearing shall be posted on the utility's website. The public hearing shall be
19 recorded and posted for public viewing on the utility's website.
- 20 (2) At the public hearing, utility representatives shall detail, at a minimum:
- 21 (a) How the utility performs vegetation maintenance, including the trimming
22 and pruning cycles, proper methods for pruning trees, and necessary
23 vertical clearances and other clearances from poles, lines, and any other
24 conductors;
- 25 (b) The types of facilities and the minimum clearances necessary for each of
26 those facilities to maintain reliable service and ensure public health and
27 safety; and

- 1 (c) Homeowner rights regarding vegetative maintenance.
- 2 (3) At the public hearing, time and opportunity shall be given to the public to ask
- 3 questions and for utility representatives to respond to those questions.
- 4 (4) The utility shall develop a brochure that explains the homeowner's and the
- 5 utility's rights and responsibilities regarding vegetation maintenance which shall
- 6 be made available on the utility's website. The brochure shall explain how a
- 7 customer can:
- 8 (a) Request consultation with the utility regarding vegetation maintenance;
- 9 (b) Make an objection to the consent for tree removal;
- 10 (c) File a complaint against the utility with the commission; and
- 11 (d) Seek legal remedy for tree loss.

12 ➔SECTION 4. A NEW SECTION OF KRS 278.010 TO 278.450 IS CREATED

13 TO READ AS FOLLOWS:

- 14 (1) A homeowner shall have the right, with respect to trees subject to removal or
- 15 pruning under subsection (2) of Section 2 of this Act, to:
- 16 (a) Consult with a utility representative with knowledge and expertise in the
- 17 performance of vegetation maintenance using the utility's approved
- 18 vegetation maintenance plan;
- 19 (b) Refuse consent for removal or pruning of trees if the customer thinks
- 20 vegetative maintenance does not conform to the vegetative management
- 21 plan; and
- 22 (c) Bring a civil action against the utility in a court of competent jurisdiction to
- 23 recover treble damages resulting from the unauthorized tree removal or tree
- 24 pruning. Damages shall be based on the reduction in the property's fair
- 25 market value, along with any value associated with loss of use or loss of
- 26 rental value, resulting from the tree removal or tree pruning.
- 27 (2) Objections to consent for removal or pruning of trees to the utility shall be made

1 no more than fourteen (14) business days after prior notice is given by the utility
2 under subsection (4) of Section 2 of this Act. Objections shall state whether
3 vegetative maintenance:

4 (a) Is likely to cause property damage or environmental damage due to the
5 destabilization of surface soil or the precipitation of surface water runoff;

6 (b) Does not conform to required ANSI standards; or

7 (c) Will not be performed by qualified personnel or qualified licensed
8 contractors.

9 (3) After receiving notice of a landowner's objection to grant consent, the utility shall
10 not remove or prune the tree or trees in question for ten (10) business days
11 following the receipt of a:

12 (a) Written objection from the property owner; or

13 (b) Call, time and date stamped, by the property owner to the utility objecting to
14 the removal or pruning of tree or trees.

15 (4) Once the utility receives an objection to vegetation maintenance under this
16 section, the utility shall respond to the property owner in no more than three (3)
17 business days. If a property owner fails to file for an injunction with a court of
18 competent jurisdiction where the vegetation maintenance is to be performed
19 within seven (7) days after the utility's response, the vegetation maintenance may
20 commence as scheduled.