

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Agriculture and Forestry to which was referred House
3 Bill No. 673 entitled “An act relating to tree wardens” respectfully reports that
4 it has considered the same and recommends that the bill be amended by
5 striking out all after the enacting clause and inserting in lieu thereof the
6 following:

7 Sec. 1. 24 V.S.A. § 871 is amended to read:

8 § 871. ORGANIZATION OF SELECTBOARD; APPOINTMENTS

9 (a) Forthwith after its election and qualification, the selectboard shall
10 organize and elect a chair and, if so voted, a clerk from among its number, and
11 file a certificate of such election for record in the office of the town clerk.

12 (b) The selectboard shall ~~thereupon~~ appoint from among the registered
13 voters a tree warden and may ~~thereupon~~ appoint from among the registered
14 voters the following officers who shall serve until their successors are
15 appointed and qualified, and shall certify such appointments to the town clerk
16 who shall record the same:

17 * * *

18 (c) The selectboard may appoint a tree warden who is not a registered voter
19 of the municipality, provided that the selectboard determines that the
20 appointment is necessary and appropriate.

1 (d) After the appointment of a tree warden, the clerk of the municipality
2 shall provide notice of the appointment to the Commissioner of Forest, Parks
3 and Recreation. The notice shall include contact information for the appointed
4 tree warden.

5 Sec. 2. 24 V.S.A. chapter 67 is amended to read:

6 CHAPTER 67. PARKS AND ~~SHADE~~ PUBLIC TREES

7 * * *

8 § 2501a. DEFINITIONS

9 As used in this chapter:

10 (1) “Public place” means improved municipal property, including a
11 municipal park, a recreation area, or a municipal building. “Public place” shall
12 not include a municipal forest or other forestland owned by the municipality or
13 property that the Agency of Transportation has any permanent interest in,
14 including fee interests, easements, and rights-of-way.

15 (2) “Shade tree” means a shade or ornamental tree located in whole or in
16 part within the limits of a public way or public place that was intentionally
17 planted by the municipality or that the municipality has designated as an
18 important community resource for its size, age, historic significance,
19 aesthetics, or location.

20 (3) “Public way” means a right-of-way held by a municipality, including
21 a town highway.

1 § 2502. TREE WARDENS AND PRESERVATION OF SHADE

2 TREES

3 ~~(a) Shade and ornamental trees within the limits of public ways and places~~
4 ~~shall be under the control of the~~ The tree warden shall have control of all shade
5 trees within a public way or public place.

6 (b) The tree warden, with the approval of the legislative body of the
7 municipality, may plan and implement a town or community municipal shade
8 tree preservation program for the purpose of shading and beautifying public
9 ways and places by and providing public health and safety benefits. The plan
10 may include the planting of new shade trees and shrubs; by maintaining
11 practices to maintain the health, appearance, and safety of existing shade trees,
12 through feeding, pruning, and protecting them including practices to protect
13 trees from noxious insect and disease pests; and by removing the removal of
14 diseased, dying, or dead shade trees which that create a hazard to public safety
15 or threaten the effectiveness of disease or insect control programs.

16 (c) When making a determination concerning the designation, removal,
17 protection, or maintenance of a shade tree, the tree warden shall consider the
18 public interest and the interest of any landowner encumbered by or abutting the
19 public way or place where the tree is located. The tree warden shall also
20 consider the interests of any abutting working agricultural and forestlands.

21 * * *

1 § 2504. REMOVAL OF PUBLIC TREES; EXCEPTION

2 The tree warden may remove or cause to be removed from the public ways
3 or places ~~all any shade trees and other plants upon which noxious insects or~~
4 ~~tree diseases naturally breed~~ that are infested with or infected by a tree pest or
5 that constitute a public hazard and no notice or hearing shall be required
6 pursuant to section 2504 of this chapter. However, where an owner or lessee
7 of abutting ~~real estate~~ property shall annually, to the satisfaction of ~~such~~ the
8 warden, control all insect pests or tree diseases upon the trees ~~and other plants~~
9 within the limits of a ~~highway~~ public way or place abutting ~~such real estate~~ the
10 property, such the trees ~~and plants~~ shall not be removed.

11 § 2505. DEPUTY TREE WARDENS

12 ~~A tree warden~~ The legislative body of the municipality may appoint deputy
13 tree wardens ~~and dismiss them at pleasure~~ who shall serve under the direction
14 of the tree warden and shall have the same duties and authority as the tree
15 warden. The legislative body of the municipality may dismiss a deputy tree
16 warden at its pleasure.

17 § 2506. REGULATIONS FOR PROTECTION OF SHADE TREES

18 A tree warden shall enforce all laws relating to public ~~shade~~ trees and may
19 ~~prescribe such~~ propose to the legislative body of the municipality the rules and,
20 ordinances, or regulations for the planting, protection, care, or removal of
21 public shade trees as he or she deems expedient. ~~Such~~ The legislative body of

1 ~~the municipality may adopt the rules, ordinances, or regulations shall become~~
2 ~~effective~~ pursuant to the provisions of chapter 59 of this title.

3 § 2507. COOPERATION

4 The tree warden may enter into financial or other agreements with the
5 owners of land adjoining or facing public ways and places for the purpose of
6 encouraging and effecting a ~~community-wide~~ municipal shade tree planting
7 and preservation program. He or she may cooperate with federal, State,
8 county, or other municipal governments, agencies, or other public or private
9 organizations or individuals and may accept ~~such~~ on behalf of the town any
10 funds, equipment, supplies, or services from organizations and individuals, or
11 others, as deemed appropriate for use in carrying out the purposes of this
12 chapter.

13 § 2508. CUTTING SHADE TREES; REGULATIONS

14 ~~Unless otherwise provided~~ Notwithstanding any other provision of the law,
15 a ~~public~~ shade tree shall not be cut or removed, in whole or in part, except by a
16 tree warden or his or her deputy or by a person having the written permission
17 of a tree warden.

18 § 2509. CUTTING SHADE TREES; NOTICE AND HEARING

19 (a) ~~A public shade tree within the residential part of a municipality shall~~
20 ~~not be felled without a public hearing by the tree warden, except that when it is~~
21 ~~infested with or infected by a recognized tree pest, or when it constitutes a~~

1 ~~hazard to public safety, no hearing shall be required.~~ The tree warden shall post
2 public notice of the intent to cut or remove, in its entirety, a shade tree. The
3 notice shall be posted a minimum of 15 days prior to cutting or removing the
4 tree. If the cutting or removal is appealed pursuant to subsection (d) of this
5 section, the legislative body of the municipality shall hold a public hearing.

6 This subsection shall not apply to the cutting or removal of a shade tree or trees
7 that are:

8 (1) infested with or infected by, or at risk to become infested with or
9 infected by, a tree pest and are located in a designated infestation area by the
10 Agency of Agriculture, Food and Markets and Department of Forests, Parks
11 and Recreation; or

12 (2) a hazard to public safety.

13 ~~(b) In all cases the decision of the tree warden shall be final, except that~~
14 ~~when the tree warden is an interested party or when a party in interest so~~
15 ~~requests in writing, such final decision shall be made by the legislative body of~~
16 ~~the municipality.~~ The tree warden shall post public notice of the intent to cut or
17 remove a public tree or group of trees pursuant to subsection (a) of this section
18 in at least two conspicuous locations within the town. The tree warden shall
19 post the public notice in or near the office of the town clerk and shall notify
20 any abutting landowner at the landowner's address of record.

1 (c)(1) Any person who is aggrieved by the intent of the tree warden to cut
2 or remove in its entirety a shade tree may appeal in writing to the legislative
3 body of the municipality within 15 days after the posting of public notice. The
4 legislative body of the municipality shall give notice of the appeal to the tree
5 warden.

6 (2) The legislative body of the municipality shall hold a public hearing
7 with the tree warden to receive public comment on the proposed cutting or
8 removal of the shade tree within 10 days after the appeal period. The tree
9 warden shall stay action on the proposed removal until the legislative body of a
10 municipality renders a final decision on the appeal.

11 (e) In all cases, the decision of the legislative body of the municipality shall
12 be final.

13 § 2510. PENALTY

14 (a) Whoever shall; willfully; mar or deface a ~~public~~ shade tree without the
15 written permission of a tree warden or legislative body of the municipality
16 shall be fined not more than \$50.00 for the use of the municipality.

17 (b) Any person who; willfully; and critically injures or cuts down a ~~public~~
18 shade tree without written permission of the tree warden or the legislative body
19 of the municipality shall be fined ~~not more than \$500.00~~ pursuant to 13 V.S.A.
20 § 3602 for each tree so injured or cut, for the use of the municipality.

1 § 2511. CONTROL OF INFESTATIONS

2 When an insect or disease pest infestation upon or in ~~public or private~~ shade
3 or private trees threatens other public or private trees, is considered detrimental
4 to a ~~community~~ municipal shade tree preservation program, or threatens the
5 public safety, the tree warden may request surveys and recommendations for
6 control action from the Secretary of Agriculture, Food and Markets or
7 Commissioner of Forests, Parks and Recreation in accordance with 6 V.S.A.
8 chapter 84. ~~On recommendation of the Secretary of Agriculture, Food and~~
9 ~~Markets, the tree warden may designate areas threatened or affected in which~~
10 ~~control measures are to be applied and shall publish notice of the proposal in~~
11 ~~one or more newspapers having a general circulation in the area in which~~
12 ~~control measures are to be undertaken. On recommendation, the tree warden~~
13 ~~may apply measures of infestation control on public and private land to any~~
14 ~~trees, shrubs, or plants thereon harboring or which may harbor the threatening~~
15 ~~insect or disease pest. He or she may enter into agreements with owners of~~
16 ~~such lands covering the control work on their lands, but the failure of the tree~~
17 ~~warden to negotiate with any owner shall not impair his or her right to enter on~~
18 ~~the lands of said owner to conduct recommended control measures, the cost of~~
19 ~~which shall be paid by the municipality.~~

20 * * *

1 Sec. 3. 19 V.S.A. chapter 9, subchapter 1 is amended to read:

2 Subchapter 1. General Duties of Towns

3 § 901. REMOVAL OF ROADSIDE GROWTH

4 Except for work that is part of the Transportation Program under section
5 10g of this title:

6 (1) Shade trees located in whole or in part within the limits of a town
7 highway or right-of-way shall not be removed without the prior approval of the
8 tree warden in accordance with 24 V.S.A. chapter 67.

9 (2) A person, other than the abutting landowner or municipality, shall
10 not cut, trim, remove, or otherwise damage any grasses, shrubs, vines, or trees
11 growing within the limits of a ~~state~~ or town highway, without first having
12 obtained the consent of the ~~agency for state highways or the board of~~
13 ~~selectmen~~ legislative body for town highways.

14 (3) A person, other than the Agency or the abutting landowner, shall not
15 cut, trim, remove, or otherwise damage any grasses, shrubs, vines, or trees
16 growing within the limits of lands that the Agency has any permanent interest
17 in without first obtaining the written consent of the Agency.

18 § 902. PENALTY FOR REMOVAL

19 A person, other than the Agency, the abutting landowner, the municipality,
20 or the tree warden, who ~~wilfully~~ willfully or maliciously cuts, trims, removes,
21 or otherwise damages trees within the limits of a State highway or municipal

1 right-of-way shall be fined pursuant to 13 V.S.A. § 3602, unless the person has
2 obtained prior written consent from the Agency, municipality, or tree warden.
3 A person, other than the Agency, the abutting landowner, the municipality, or
4 the tree warden, who willfully or maliciously cuts, trims, removes, or
5 otherwise damages grasses, shrubs, or vines, ~~or trees~~ within highway limits in
6 violation of section 901 of this title shall be fined not more than \$100.00 nor
7 less than \$10.00, for each offense, unless the person has obtained prior written
8 consent from the Agency or municipality.

9 * * *

10 § 904. TREE AND BRUSH REMOVAL

11 The ~~selectmen~~ legislative body of a ~~town~~ municipality, ~~if necessary~~, shall
12 cause to be cut and burned, or removed from within the limits of the highways
13 under their care, trees and bushes that are not shade trees as defined in
14 24 V.S.A. chapter 67 which obstruct the view of the highway ahead or that
15 cause damage to the highway or that are objectionable from a material or
16 scenic standpoint, or interfere with road drainage system. Before removing
17 trees, the municipality shall provide seven calendar days' notice and
18 opportunity to be heard for all property owners abutting such proposed tree
19 removal. If a request for a hearing is filed by an abutting property owner, the
20 legislative body shall call a quasi- judicial hearing for the purpose of hearing
21 from the abutting property owner why such tree(s) should be preserved.

1 Abutting property owners requesting such hearing shall be provided with at
2 least seven days' notice of the date of the hearing. In all cases, the decision of
3 the legislative body shall be final. When the tree constitutes a hazard to the
4 public safety no notice or hearing shall be required. ~~Shade and fruit trees~~ Trees
5 that have been set out or marked by the abutting landowners shall be preserved
6 if the usefulness or safety of the highway is not impaired. Young trees
7 standing at a proper distance from the roadbed and from each other, and banks
8 and hedges of bushes that serve as a protection to the highway or add beauty to
9 the roadside, shall be preserved. On ~~state~~ State highways, the ~~secretary~~
10 Secretary shall have the same authority as the ~~selectmen~~ legislative body.

11 * * *

12 Sec. 4. EFFECTIVE DATE

13 This act shall take effect on July 1, 2020.

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15
16
17
18 (Committee vote: _____)

19 _____
20 Representative _____

21 FOR THE COMMITTEE