

Tree Wardens

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

§ 871. Organization of selectmen; appointments

(a) Forthwith after ~~After~~ its election and qualification, the selectboard shall organize and elect a chair and, if so voted, a clerk from among its number, and file a certificate of such election for record in the office of the town clerk. The selectboard shall thereupon appoint from among the legally qualified voters a tree warden and may ~~thereupon~~ appoint from among the legally qualified voters the following officers who shall serve until their successors are appointed and qualified, and shall certify such appointments to the town clerk who shall record the same:

- (1) three fence viewers;
- (2) a poundkeeper, for each pound; voting residence in the town need not be a qualification for this office provided appointee gives his or her consent to the appointment;
- (3) one or more inspectors of lumber, shingles, and wood;
- (4) one or more weighers of coal; and
- (5) one town service officer.

(b) After appointment of a tree warden, the town clerk shall notify the Commissioner of Forest, Parks and Recreation and provide the contact information for the tree warden.

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

CHAPTER 067: PARKS AND ~~SHADE~~ PUBLIC TREES

§ 2500. DEFINITIONS.

As used in this chapter:

- (1) Hazard Tree: Trees with visible defects indicating they have a potential for failing and striking people or property that may be within range.
- (2) Public Tree: All trees located within public ways or places or on the boundaries thereof.
- (3) Public Ways and Places: Public right-of-ways, including town highways, and improved municipal property, but specifically excluding municipal forests or other undeveloped forested lands.

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§ 2502. TREE WARDENS AND PRESERVATION OF ~~SHADE~~ PUBLIC TREES

Shade and ornamental trees within the limits of public ways and places are hereby designated public trees, as defined in this chapter, and such public trees shall be under the control of the tree warden, except as specified in

§2504(b) of this chapter. The tree warden, upon consultation with the planning commission and subject to the approval of the selectboard, may plan and implement a town or community shade-tree preservation program for the purpose of shading, and beautifying public ways and places, and providing public health and safety benefits. Such plan may include: by planting new trees and shrubs; by practices to maintaining the health, appearance and safety of existing trees, including practices to through feeding, pruning and protecting them trees from noxious insect and disease pests and by removing diseased, dying or dead trees which create a hazard to public safety or threaten the effectiveness of disease or insect control programs. The tree warden shall balance the public interest with the interests of the landowners abutting a public way or place, or whose land is encumbered by a public way or place, including but not limited to the specific needs associated with working agriculture and forest lands.

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§ 2504. REMOVAL OF PUBLIC TREES, EXCEPTION

(a) The tree warden may remove or cause to be removed from the public ways or places all public trees and other plants upon which noxious insects or tree diseases naturally breed. However, where an owner or lessee of abutting property real estate shall annually, to the satisfaction of such warden, control all insect pests or tree diseases upon the trees and other plants within the limits of a highway or place abutting such property real estate, such trees and plants shall not be removed.

(b) The owner of land encumbered by a public right-of-way easement may remove, without approval of the tree warden or selectboard, any public tree that is less than 6-inches in diameter at one-foot above the ground, and was not intentionally planted by the municipality. Removal of public trees under this paragraph is not subject to §2509 of this chapter.

§ 2505. DEPUTY TREE WARDENS

~~A tree warden~~The selectboard may appoint deputy tree wardens and dismiss them at pleasure.

§ 2506. REGULATIONS FOR PROTECTION OF TREES

A tree warden shall enforce all laws relating to ~~shade~~ public trees and may propose to the selectboard ~~prescribe such~~ the rules, ordinances, and regulations for the planting, protection, care or removal of public ~~shade~~ trees as he or she deems expedient. The rules, ordinances, or regulations may be adopted by the selectboard shall become effective pursuant to the provisions of chapter 59 of this title.

§ 2507. COOPERATION

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

§ 2508. CUTTING ~~SHADE~~ PUBLIC TREES; REGULATIONS

~~Unless otherwise provided, Notwithstanding any other provision of law, a public shade tree shall not be cut or removed, in whole or in part, except by a tree warden or his deputy, or by a person having the written permission of a tree warden, or by an owner of land encumbered by a public right-of-way easement as set forth in § 2504 of this chapter. Where the public way and place abuts or encumbers lands used for agricultural or forest land uses, the tree warden shall consider the interests of the landowner as set forth in section 2502 of this chapter when making a decision to cut, or remove a public tree.~~

§ 2509. CUTTING ~~SHADE~~ PUBLIC TREES; POSTING AND HEARING

~~A public shade tree within the residential part of a municipality shall not be felled without a public hearing by the tree warden, except that when it is infested with or infected by a recognized tree pest, or when it constitutes a hazard to public safety, no hearing shall be required.~~

(a) The tree warden shall post public notice of the intent to cut or remove, in its entirety, a public tree, or clearly delineated group of trees, that is or contains trees 6 inches or greater in diameter one foot from the ground, for 7 days prior to cutting or removing such tree or group of trees, except that no posting shall be required when the public tree or trees:

(1) is/are infested with or infected by a tree pest, or at risk to a tree pest and is in a designated infested area by the Agency of Agriculture, Food and Markets, and the Department of Forests, Parks and Recreation; or

(2) constitute(s) a hazard to public safety; or

(3) is/are less than 6 inches in diameter one foot from the ground and is proposed to be cut or removed by the landowner as set forth in §2504(b) of this chapter.

(b) The tree warden shall post public notice of the intent to cut or remove a public tree or group of trees in at least one conspicuous public place within the town, in or near the town clerk's office, and near the tree(s) to be removed; and notify the abutting landowners at the address of record.

(c) The tree warden and the owner of the land encumbered by a public right-of-way easement may remove limbs or perform other partial removal associated with regular maintenance of a public tree without the need to post public notice prior to such removal.

(d) Any person who is aggrieved by the intent of the tree warden to cut or remove in its entirety a public tree, as set forth in subsection (a) of this section, may appeal in writing to the selectboard and provide notice of such appeal to the tree warden within 15 days after the posting of the public notice. If such an appeal is filed, the selectboard shall hold a public hearing with the tree warden for the purpose of receiving public comment on the proposed cutting or removal of the public tree within 10 days after the appeal period.

~~(e) In all cases, the decision of the selectboard shall be final. of the tree warden shall be final except that when the tree warden is an interested party or when a party in interest so requests in writing, such final decision shall be made by the legislative body of the municipality.~~

§ 2510. PENALTY

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

(b) Any person who, willfully, critically injures or cuts down a public ~~shade~~ tree without written permission of the tree warden or the legislative body of the municipality shall be fined an amount assessed under 13 V.S.A. § 3602(1)-(7), but not more than \$500.00 for each tree so injured or cut, for the use of the municipality.

§ 2511. CONTROL OF INFESTATIONS

When an insect or disease pest infestation upon or in public or private ~~shade~~ trees threatens other public or private trees, is considered detrimental to a community ~~shade~~ tree preservation program, or threatens the public safety, the tree warden may request surveys and recommendations for control action from the Secretary of Agriculture, Food and Markets and Commissioner of Forests, Parks and Recreation. On recommendation of the Secretary of Agriculture, Food and Markets and Commissioner of Forests, Parks and Recreation, the tree warden may designate areas threatened or affected in which control measures are to be applied and shall publish notice of the proposal in one or more newspapers having a general circulation in the area in which control measures are to be undertaken. On recommendation of the Secretary of Agriculture, Food and Markets and Commissioner of the Department of Forests, Parks and Recreation, the tree warden may apply measures of infestation control on public and private land to any trees, shrubs, or plants thereon harboring or which may harbor the threatening insect or disease pest. He or she may enter into agreements with owners of ~~such~~ the lands covering the control work on their lands, but the failure of the tree warden to negotiate with any owner shall not impair his or her right to enter on the lands of ~~said~~ the owner to conduct recommended control measures, the cost of which shall be paid by the municipality. (Amended 1969, No. 238 (Adj. Sess.), § 8; amended 2003, No. 42, § 2, eff. May 27, 2003.)

Sec. 3. 19 V.S.A. § 901 is amended to read:

§ 901. REMOVAL OF ROADSIDE GROWTH

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

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

(2) A person, other than the abutting landowner or municipality, shall not cut, trim, remove, or otherwise damage any grasses, shrubs, or vines, or trees growing within the limits of a State or town highway, without first having obtained the consent of the Agency for State highways or the selectmen selectboard for town highways.

(3) A person, other than the Agency or the abutting landowner, shall not cut, trim, remove or otherwise damage any grasses, shrubs, vines, or trees growing within the limits of a State highway without first obtaining the consent of the Agency.

Sec. 4. 19 V.S.A. § 902 is amended to read:

§ 902. PENALTY FOR REMOVAL

A person who ~~wilfully~~ willfully or maliciously cuts, trims, removes, or otherwise damages trees within the limits of a State highway or municipal right-of-way shall be fined as assessed under 13 V.S.A. § 3602(1)-(7). A person who willfully or maliciously cuts, trims, removes, or otherwise damages grasses, shrubs, or vines, ~~or trees~~ within highway limits in violation of section 901 of this title shall be fined not more than \$100.00 nor less than \$10.00, for each offense.

Sec. 5. 19 V.S.A. § 904 is amended to read:

§ 904. TREE AND BRUSH REMOVAL

The ~~selectmen~~ legislative body of a municipality town ~~with the approval of the tree warden~~ pursuant to 24 V.S.A. chapter 67, if necessary, shall cause to be cut and burned, or removed from within the limits of the highways under their care, trees and bushes which obstruct the view of the highway ahead or that cause damage to the highway or that are objectionable from a material or scenic standpoint. ~~Shade and fruit~~ Public trees that have been set out or marked by the abutting landowners shall be preserved if the usefulness or safety of the highway is not impaired. Young trees standing at a proper distance from the roadbed and from each other, and banks and hedges of bushes that serve as a protection to the highway or add beauty to the roadside, shall be preserved. On State highways, the Secretary shall have the same authority as the ~~selectmen~~ selectboard. Sec. 6. 30 V.S.A. § 2506 is amended to read:

Sec. 6. 30 V.S.A. § 2506 is amended to read:

§ 2506. TREES NOT TO BE INJURED; EXCEPTION; PENALTY

A tree within a street or highway right-of-way shall not be cut or injured in constructing, maintaining, or repairing a line of wires, without the written consent of the tree warden pursuant to 24 V.S.A. chapter 67 or the adjoining owner or occupant, unless the Transportation Board or the ~~selectboard~~ legislative body of the municipality town in which the tree is situated, after due notice to the parties and upon hearing, shall decide that ~~such the~~ cutting or injury is necessary. A person or corporation cutting or injuring ~~such the~~ trees shall pay the damages, if any, awarded on such hearing, before cutting or injuring the trees. A person or corporation that violates a provision of this section shall be fined ~~not more than \$50.00 nor less than \$5.00~~ an amount assessed under 13 V.S.A. § 3602(1)-(7) for each tree so cut or injured.

Sec. 7. 30 V.S.A. § 2527 is amended to read:

§ 2527. PENALTIES; INJURIES TO TREES

A person or corporation maintaining or operating a line of wires, that cuts down, mutilates, or injures the trees standing upon the lands of another, or a person or corporation that affixes or causes to be affixed to the property of another, a post, structure, fixture, wire, or other apparatus for telephonic, telegraphic, or other electrical communication, without first procuring the right to do so by application to and determination of the Transportation Board or the legislative body of the town, agreeably to this chapter, or first obtaining the consent of the owner or lawful agent of the owner of such property, shall be fined an amount in accordance with 13 V.S.A. §3602 (1)-(7) for each tree so cut or injured. (Amended 1989, No. 246 (Adj. Sess.), § 34.)