

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 important community resource for its size, age, historic significance,
2 aesthetics, or location.

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

8 (4) “Public way” means a right-of-way held by a municipality, including
9 a town highway.

10 § 2502. TREE WARDENS AND PRESERVATION OF SHADE

11 TREES

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

15 (b) The tree warden, with the approval of the legislative body of the
16 municipality, may plan and implement a town or community municipal shade
17 tree preservation program for the purpose of shading and beautifying public
18 ways and places by and providing public health and safety benefits. The plan
19 may include the planting of new shade trees and shrubs; by maintaining
20 practices to maintain the health, appearance, and safety of existing shade trees,
21 through feeding, pruning, and protecting them including practices to protect

1 trees from noxious insect and disease pests; and ~~by removing~~ the removal of
2 diseased, dying, or dead shade trees ~~which that~~ create a hazard to public safety
3 or threaten the effectiveness of disease or insect control programs.

4 (c) When making a determination concerning the designation, removal,
5 protection, or maintenance of a shade tree, the tree warden shall consider the
6 public interest and the interest of any landowner encumbered by or abutting the
7 public way or place where the tree is located. The tree warden shall also
8 consider the interests of any abutting working agriculture and forestlands.

9 * * *

10 § 2504. REMOVAL OF PUBLIC TREES; EXCEPTION

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

1 § 2505. DEPUTY TREE WARDENS

2 ~~A tree warden~~ The legislative body of the municipality may appoint deputy
3 tree wardens ~~and dismiss them at pleasure~~ warden who shall serve under the
4 direction of the tree wardens and shall have the same duties and authority as
5 the tree warden. The legislative body of the municipality may dismiss deputy
6 tree wardens at its pleasure.

7 § 2506. REGULATIONS FOR PROTECTION OF SHADE TREES

8 A tree warden shall enforce all laws relating to public ~~shade~~ trees and may
9 ~~prescribe such~~ propose to the legislative body of the municipality the rules and,
10 ordinances, or regulations for the planting, protection, care, or removal of
11 public shade trees as he or she deems expedient. Such The legislative body of
12 the municipality may adopt the rules, ordinances, or regulations shall become
13 effective pursuant to the provisions of chapter 59 of this title.

14 § 2507. COOPERATION

15 The tree warden may enter into financial or other agreements with the
16 owners of land adjoining or facing public ways and places for the purpose of
17 encouraging and effecting a ~~community-wide~~ municipal shade tree planting
18 and preservation program. He or she may cooperate with federal, State,
19 county, or other municipal governments, agencies, or other public or private
20 organizations or individuals and may accept ~~such~~ on behalf of the town any
21 funds, equipment, supplies, or services from organizations and individuals, or

1 others, as deemed appropriate for use in carrying out the purposes of this
2 chapter.

3 § 2508. CUTTING SHADE TREES; REGULATIONS

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

8 § 2509. CUTTING SHADE TREES; NOTICE AND HEARING

9 (a) ~~A public shade tree within the residential part of a municipality shall~~
10 ~~not be felled without a public hearing by the tree warden, except that when it is~~
11 ~~infested with or infected by a recognized tree pest, or when it constitutes a~~
12 ~~hazard to public safety, no hearing shall be required.~~ The tree warden shall post
13 public notice of the intent to cut or remove, in its entirety, a shade tree. The
14 notice shall be posted a minimum of 15 days prior to cutting or removing the
15 tree. If the cutting or removal is appealed pursuant to subsection (d) of this
16 section, the legislative body of the municipality shall hold a public hearing.
17 This subsection shall not apply to the cutting or removal of a shade tree or trees
18 that are:

19 (1) infested with or infected by, or at risk to become infested with or
20 infected by, a tree pest and are located in a designated infestation area by the

1 Agency of Agriculture, Food and Markets and Department of Forests, Parks
2 and Recreation; or

3 (2) a hazard to public safety.

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

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

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

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

3 § 2510. PENALTY

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

7 (b) Any person who, willfully, critically injures or cuts down a ~~public~~
8 shade tree without written permission of the tree warden or the legislative body
9 of the municipality shall be fined ~~not more than \$500.00~~ pursuant to 13 V.S.A.
10 § 3602 for each tree so injured or cut, for the use of the municipality.

11 § 2511. CONTROL OF INFESTATIONS

12 When an insect or disease pest infestation upon or in ~~public or private shade~~
13 or private trees threatens other public or private trees, is considered detrimental
14 to a ~~community~~ municipal shade tree preservation program, or threatens the
15 public safety, the tree warden may request surveys and recommendations for
16 control action from the Secretary of Agriculture, Food and Markets or
17 Commissioner of Forests, Parks and Recreation in accordance with 6 V.S.A.
18 chapter 84. ~~On recommendation of the Secretary of Agriculture, Food and~~
19 ~~Markets, the tree warden may designate areas threatened or affected in which~~
20 ~~control measures are to be applied and shall publish notice of the proposal in~~
21 ~~one or more newspapers having a general circulation in the area in which~~

1 ~~control measures are to be undertaken. On recommendation, the tree warden~~
2 ~~may apply measures of infestation control on public and private land to any~~
3 ~~trees, shrubs, or plants thereon harboring or which may harbor the threatening~~
4 ~~insect or disease pest. He or she may enter into agreements with owners of~~
5 ~~such lands covering the control work on their lands, but the failure of the tree~~
6 ~~warden to negotiate with any owner shall not impair his or her right to enter on~~
7 ~~the lands of said owner to conduct recommended control measures, the cost of~~
8 ~~which shall be paid by the municipality.~~

9 * * *

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

11 Subchapter 1. General Duties of Towns

12 § 901. REMOVAL OF ROADSIDE GROWTH

13 Except for work that is part of the Transportation Program under section
14 10g of this title:

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

18 (2) A person, other than the abutting landowner or municipality, shall
19 not cut, trim, remove, or otherwise damage any grasses, shrubs, vines, or trees
20 growing within the limits of a state or town highway, without first having

1 obtained the consent of the ~~agency for state highways or the board of~~
2 ~~selectmen~~ legislative body for town highways.

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

7 § 902. PENALTY FOR REMOVAL

8 A person, other than the Agency, the abutting landowner, the municipi
9 or the tree warden, who ~~wilfully~~ willfully or maliciously cuts, trims, removes,
10 or otherwise damages trees within the limits of a State highway or municipal
11 right-of-way shall be fined pursuant to 13 V.S.A. § 3602, unless the person has
12 obtained pruior written consent from the Agency, municipality, or tree warden.

13 A person, other than the Agency, the abutting landowner, the municipi
14 or the tree warden, who willfully or maliciously cuts, trims, removes, or
15 otherwise damages grasses, shrubs, ~~or~~ vines, ~~or~~ trees within highway limits in
16 violation of section 901 of this title shall be fined not more than \$100.00 nor
17 less than \$10.00, for each offense, unless the person has obtained prior written
18 consent from the Agency or municipality.

19 * * *

20 § 904. TREE AND BRUSH REMOVAL

1 The ~~selectmen~~ legislative body of a ~~town~~ municipality, ~~if necessary~~, shall
2 cause to be cut and burned, or removed from within the limits of the highways
3 under their care, trees and bushes that are not shade trees as defined in 24
4 V.S.A. chapter 67 which obstruct the view of the highway ahead or that cause
5 damage to the highway or that are objectionable from a material or scenic
6 standpoint, or interfere with road drainage system. Before removing trees, the
7 municipality shall provide seven calendar days' notice and opportunity to be
8 heard for all property owners abutting such proposed tree removal. If a request
9 for a hearing is filed by an abutting property owner, the legislative body shall
10 call a quasi- judicial hearing for the purpose of hearing from the abutting
11 property owner why such tree(s) should be preserved. Abutting property
12 owners requesting such hearing shall be provided with at least seven days'
13 notice of the date of the hearing. In all cases, the decision of the legislative
14 body shall be final. When the tree constitutes a hazard to the public safety no
15 notice or hearing shall be required. ~~Shade and fruit trees~~ Trees that have been
16 set out or marked by the abutting landowners shall be preserved if the
17 usefulness or safety of the highway is not impaired. Young trees standing at a
18 proper distance from the roadbed and from each other, and banks and hedges
19 of bushes that serve as a protection to the highway or add beauty to the
20 roadside, shall be preserved. On ~~state~~ State highways, the ~~secretary~~ Secretary
21 shall have the same authority as the ~~selectmen~~ legislative body.

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Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2020.

(Committee vote: _____)

Representative _____

FOR THE COMMITTEE

DRAFT