

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 § 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.

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 provide for 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 removal, protection, or
17 maintenance of a shade tree, the tree warden shall consider the public interest
18 and the interest of the owner of any land that is 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 the owner of any abutting working agricultural or
21 forestlands.

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§ 2504. REMOVAL OF SHADE TREES; EXCEPTION

The tree warden may remove or cause to be removed from the public ways or places ~~all any trees and other plants upon which noxious insects or tree diseases naturally breed~~ that are infested with or infected by a tree pest or that constitute a public hazard and no notice or hearing shall be required pursuant to section 2509 of this chapter. However, where an owner or lessee of abutting ~~real estate~~ property shall annually, to the satisfaction of ~~such~~ the warden, control all insect pests or tree diseases upon the trees ~~and other plants~~ within the limits of a ~~highway~~ public way or place abutting ~~such real estate~~ the property, ~~such the trees and plants~~ shall not be removed.

§ 2505. DEPUTY TREE WARDENS

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

§ 2506. REGULATIONS FOR PROTECTION OF SHADE TREES

A tree warden shall enforce all laws relating to ~~public~~ shade trees and may ~~prescribe such~~ propose to the legislative body of the municipality the rules and, ordinances, or regulations for the planting, protection, care, or removal of

1 public shade trees as he or she deems expedient. ~~Such~~ The legislative body of
2 the municipality may adopt the rules, ordinances, or regulations shall become
3 effective pursuant to the provisions of chapter 59 of this title.

4 § 2506A. SHADE TREE PRESERVATION DISTRICTS

5 (a) A municipality may create a shade tree preservation district for the
6 purpose of designating areas within the municipality where a person shall not
7 cut or trim shade trees without prior approval of the tree warden.

8 (b) The shade tree preservation district shall be an overlay district created
9 pursuant to 24 V.S.A. chapter 117, provided that this chapter shall govern the
10 following within a shade tree preservation district:

11 (1) the approval process for cutting or trimming of shade trees;

12 (2) the administration of fines or penalties for violations of this chapter;

13 and

14 (3) hearings and appeals concerning the cutting or trimming of shade
15 trees.

16 § 2507. COOPERATION

17 The tree warden may enter into financial or other agreements with the
18 owners of land adjoining or facing public ways and places for the purpose of
19 encouraging and effecting a ~~community-wide~~ municipal shade tree planting
20 and preservation program. He or she may cooperate with federal, State,
21 county, or other municipal governments, agencies, or other public or private

1 organizations or individuals and may accept ~~such~~ on behalf of the municipality
2 any funds, equipment, supplies, or services from organizations and individuals,
3 or others, as deemed appropriate for use in carrying out the purposes of this
4 chapter.

5 § 2508. CUTTING SHADE TREES; REGULATIONS

6 ~~Unless otherwise provided, a public~~ A shade tree shall not be cut or
7 removed, in whole or in part, except by a tree warden or his or her deputy or by
8 a person having the written permission of a tree warden.

9 § 2509. CUTTING SHADE TREES; NOTICE AND HEARING

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

20 (1) infested with or infected by, or at risk to become infested with or
21 infected by, a tree pest and are located in an infestation area designated 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 shade tree or group of trees pursuant to subsection (a) of this section~~
9 ~~in at least two conspicuous locations within the municipality. The tree warden~~
10 ~~shall post the public notice in or near the office of the clerk of the municipality~~
11 ~~and shall notify any abutting landowner at the landowner's address of record.~~

12 (c)(1) Within 15 days after the posting of public notice, a person may
13 appeal in writing to the legislative body of the municipality to object to the
14 cutting or removal of a shade tree. The legislative body of the municipality
15 shall give notice of the appeal to the tree warden.

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

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

9 * * *

10 Sec. 3. 24 V.S.A. § 4414 is amended to read:

11 § 4414. ZONING; PERMISSIBLE TYPES OF REGULATIONS

12 Any of the following types of regulations may be adopted by a municipality
13 in its bylaws in conformance with the plan and for the purposes established in
14 section 4302 of this title.

15 * * *

16 (2) Overlay districts. Special districts may be created to supplement or
17 modify the zoning requirements otherwise applicable in underlying districts in
18 order to provide supplementary provisions for areas such as shorelands and
19 floodplains, aquifer and source protection areas, ridgelines and scenic features,
20 shade tree preservation areas under section 2506a of this title, highway

1 intersection, bypass, and interchange areas, or other features described in
2 section 4411 of this title.

3 * * *

4 Sec. 4. 19 V.S.A. chapter 9, subchapter 1 is amended to read:

5 Subchapter 1. General Duties of Towns

6 § 901. REMOVAL OF ROADSIDE GROWTH

7 Except for work that is part of the Transportation Program under section
8 10g of this title:

9 (1) A person shall not remove shade trees, as defined in 24 V.S.A.
10 § 2501a, without prior approval of the tree warden pursuant to 24 V.S.A.
11 chapter 67.

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

17 (3) A person, other than the Agency or the abutting landowner, shall not
18 cut, trim, remove, or otherwise damage any grasses, shrubs, vines, or trees
19 growing within the limits of lands subject to any ownership interest held by the
20 Agency without first obtaining the Agency's written consent.

1 § 902. PENALTY FOR REMOVAL

2 (a) A person, other than the Agency, the abutting landowner, the
3 municipality, or the tree warden, who ~~wilfully~~ willfully or maliciously cuts,
4 trims, removes, or otherwise damages trees within the limits of a State
5 highway or municipal right-of-way shall be fined pursuant to 13 V.S.A.
6 § 3602, unless the person has obtained prior written consent from the Agency,
7 municipality, or tree warden.

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

14 * * *

15 § 904. TREE AND BRUSH REMOVAL

16 The ~~selectmen~~ legislative body of a ~~town~~ municipality, if necessary, shall
17 cause to be cut and burned, or removed from within the limits of the highways
18 under their care, trees and bushes that are not shade trees as defined in
19 24 V.S.A. chapter 67 which obstruct the view of the highway ahead or that
20 cause damage to the highway or that are objectionable from a material or
21 scenic standpoint, or interfere with road drainage system. Before removing

1 trees, the municipality shall provide seven calendar days' notice and
2 opportunity to be heard for all property owners abutting such proposed tree
3 removal. If a request for a hearing is filed by an abutting property owner, the
4 legislative body shall call a quasi- judicial hearing for the purpose of hearing
5 from the abutting property owner why the trees should be preserved. Abutting
6 property owners requesting such hearing shall be provided with at least seven
7 days' notice of the date of the hearing. In all cases, the decision of the
8 legislative body shall be final. When the tree constitutes a hazard to the public
9 safety no notice or hearing shall be required. ~~Shade and fruit trees~~ Trees that

10 have been set out or marked by the abutting landowners shall be preserved if

11 the usefulness or safety of the highway is not impaired. Young trees standing

12 at a proper distance from the roadbed and from each other, and banks and

13 hedges of bushes that serve as a protection to the highway or add beauty to the

14 roadside, shall be preserved. On ~~state~~ State highways, the ~~seeretary~~ Secretary

15 shall have the same authority as the ~~selectmen~~ legislative body.

16 * * *

17 Sec. 5. EFFECTIVE DATE

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

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1 (Committee vote: _____)

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Representative _____

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FOR THE COMMITTEE