

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, who need not be a resident of the municipality, and may
14 ~~thereupon~~ appoint from among the registered voters the following officers who
15 shall serve until their successors are appointed and qualified, and shall certify
16 ~~such~~ the appointments to the town clerk who shall record the same:

17 * * *

18 (c) After the selectboard appoints a tree warden, the selectboard shall
19 certify the appointment to the Commissioner of Forests, Parks and Recreation.
20 The certification shall include contact information for the appointed tree
21 warden.

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

2 CHAPTER 67. PARKS AND SHADE TREES

3 * * *

4 § 2501a. DEFINITIONS

5 As used in this chapter:

6 (1) “Public place” means municipal property, including a municipal
7 park, a recreation area, or a municipal building. “Public place” shall not
8 include any municipal forestland or property that is subject to any ownership
9 interest held by the Agency of Transportation.

10 (2) “Shade tree” means a shade or ornamental tree located in whole or in
11 part within the limits of a public way or public place, provided that the tree:

12 (A) was planted by the municipality; or

13 (B) is designated as a shade tree pursuant to a municipal shade tree
14 preservation plan pursuant to section 2502 of this title.

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

17 § 2502. TREE WARDENS AND PRESERVATION OF SHADE TREES

18 ~~Shade and ornamental trees within the limits of public ways and places shall~~
19 ~~be under the control of the tree warden. The tree warden may plan and~~
20 ~~implement a town or community shade tree preservation program for the~~
21 ~~purpose of shading and beautifying public ways and places by planting new~~

1 ~~trees and shrubs; by maintaining the health, appearance, and safety of existing~~
2 ~~trees through feeding, pruning, and protecting them from noxious insect and~~
3 ~~disease pests and by removing diseased, dying, or dead trees which create a~~
4 ~~hazard to public safety or threaten the effectiveness of disease or insect control~~
5 ~~programs.~~

6 (a) The tree warden shall control all shade trees within the municipality.

7 (b) The tree warden and the legislative body of the municipality shall adopt
8 a shade tree preservation plan. The plan shall:

9 (1) describe any program for the planting of new trees and shrubs;

10 (2) provide for the maintenance of shade trees through feeding, pruning,
11 and protection from noxious insect and disease pests;

12 (3) determine the apportionment of costs for tree warden services
13 provided to other municipal corporations;

14 (4) determine whether tree maintenance or removal on specific
15 municipal property shall require the approval of another municipal officer or
16 legislative body; and

17 (5) determine the process, not inconsistent with this chapter, for the
18 removal of:

19 (A) diseased, dying, or dead shade trees; and

1 (B) any shade trees that create a hazard to public safety, impact a
2 disease or insect control program, or that must be removed pursuant to a
3 municipal program required by law.

4 (c) The shade tree preservation plan may:

5 (1) map locations or zones within the municipality where all trees in
6 whole or in part within a public way or place shall be designated as shade
7 trees;

8 (2) identify species or populations of trees that shall be shade trees,
9 provided that the trees are in whole or in part within a public way or public
10 place; and

11 (3) designate as a shade tree any tree in whole or in part within a public
12 way, provided that the tree warden and legislative body of the municipality
13 find that the tree is critical to the cultural, historical, or aesthetic character of
14 the municipality.

15 (d) The tree warden and legislative body of the municipality shall hold a
16 minimum of one public hearing concerning the shade tree preservation plan for
17 the purpose of soliciting public input. The legislative body shall publish the
18 proposed plan 10 days prior to the public hearing.

19 (e) For the purpose of promoting the public health, safety, welfare, and
20 convenience, a municipality shall have authority to adopt an ordinance that is
21 not inconsistent with this chapter for the administration of the shade tree

1 preservation plan and the regulation of shade trees. The tree ordinance shall be
2 adopted pursuant to chapter 59 of this title.

3 § 2503. APPROPRIATIONS

4 A municipality may appropriate a sum of money to be expended by the tree
5 warden, ~~or if one is not appointed, by the mayor, aldermen, selectboard, or~~
6 trustees for the purpose of carrying out this chapter.

7 § 2504. REMOVAL OF SHADE TREES; EXCEPTION

8 (a) The tree warden may remove or cause to be removed from the public
9 ways or places ~~all any trees and other plants upon which noxious insects or tree~~
10 ~~diseases naturally breed~~ that are infested with or infected by a tree pest or that
11 constitute a public hazard. The notice and hearing requirements of section
12 2509 of this chapter shall not apply to the removal of infested or infected trees.

13 (b) ~~However, where~~ The tree warden may determine that an owner or
14 ~~lessee of abutting real estate shall annually, to the satisfaction of such warden,~~
15 ~~control~~ property has sufficiently controlled all insect pests or tree diseases
16 upon the trees ~~and other plants~~ within the limits of a highway public way or
17 place abutting ~~such real estate~~ the property, ~~such trees and plants shall not be~~
18 ~~removed~~ and may determine that it is not necessary to remove the trees.

19 § 2505. DEPUTY TREE WARDENS

20 ~~A tree warden~~ The legislative body of the municipality may appoint deputy
21 ~~tree wardens and dismiss them at pleasure~~ who shall serve under the direction

1 of the tree warden and shall have the same duties and authority as the tree
2 warden. The legislative body of the municipality may dismiss a deputy tree
3 warden at its pleasure.

4 § 2506. REGULATIONS FOR PROTECTION OF SHADE TREES

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

11 § 2507. COOPERATION

12 (a) The With consent of the legislative body of the municipality, the tree
13 warden may:

14 (1) enter into financial or other agreements with the owners of land
15 adjoining or facing public ways and places for the purpose of encouraging and
16 effecting a ~~community-wide~~ the shade tree planting and preservation program
17 plan; and

18 (2) enter into agreements with other municipal corporations to provide
19 tree warden services or training.

20 (b) He or she The tree warden may cooperate with federal, State, county, or
21 other municipal governments, agencies, or other public or private organizations

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

4 § 2508. CUTTING SHADE TREES; ~~REGULATIONS~~ PROHIBITED

5 ~~Unless otherwise provided, a public~~ Except as otherwise provided in
6 19 V.S.A. chapter 9, a shade tree shall not be cut or removed, in whole or in
7 part, except by a tree warden or his or her deputy or by a person having the
8 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;

3 (2) a hazard to public safety; or

4 (3) removed pursuant to a municipal program required by law.

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

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

17 (2) Within 10 business days after receipt of an appeal, the legislative
18 body of the municipality shall hold a public hearing with the tree warden to
19 receive public comment on the proposed cutting or removal of the shade tree.
20 The tree warden shall stay action on the proposed removal until the legislative
21 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. 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) A person shall not remove shade trees, as defined in 24 V.S.A.
16 § 2501a, without prior approval of the tree warden pursuant to 24 V.S.A.
17 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 for town highways~~ legislative body.

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 subject to any ownership interest held by the
6 Agency without first obtaining the Agency’s written consent.

7 § 902. PENALTY FOR REMOVAL

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

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

20 * * *

1 § 904. TREE AND BRUSH REMOVAL

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

1 roadside, shall be preserved. On ~~state~~ State highways, the ~~secretary~~ Secretary
2 shall have the same authority as the ~~selectmen~~ legislative body.

3 * * *

4 Sec. 4. EFFECTIVE DATE

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

6

7

8

9 (Committee vote: _____)

10

11

Representative _____

12

FOR THE COMMITTEE