

# FAQs – Tree Wardens Statute Amendments

Town officials, landowners, road crews, state officials, and tree wardens themselves have voiced growing concern about the existing tree warden statutes' vague and inconsistent guidance. The Department of Forests, Parks and Recreation has collaborated with the Vermont Urban and Community Forestry Council, Vermont Agency of Transportation, Vermont League of Cities and Towns, and municipalities to address these concerns. The proposed bill amends the statutes with clear language that addresses modern municipal tree management needs and recognizes the needs of landowners to manage vegetation on their property.

## What is included in H.673?

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H.673 aims to amend and update the existing Tree Warden Statutes, 24 V.S.A., chapter 67, which were adopted in 1904. Specifically, H. 673 will:

- **CLARIFY THE JURISDICTION OF THE TREE WARDEN** by utilizing and defining the terms "public tree", "public place", "public way", and "hazard tree". In the absence of clear definitions, tree wardens, landowners, and municipal staff are left to interpret their meaning.
- **ESTABLISH CONSISTENT LANGUAGE** throughout the Tree Warden Statutes.
- **CREATE A CLEAR PATHWAY FOR VEGETATION MANAGEMENT** within the public right-of-way and clarifying which processes are required by towns or landowners wishing to maintain trees.
- **ALLOW ABUTTING LANDOWNERS TO PRUNE AND MAINTAIN TREES** within the public right-of-way without triggering any public processes.
- **MINIMIZE THE NEED FOR PUBLIC PROCESSES** related to right-of-way tree removals; a landowner or municipality may remove any tree less than six inches in diameter. A public hearing is only necessary for trees larger than six inches in diameter when an appeal is submitted.
- **INCREASE INVOLVEMENT OF THE SELECTBOARD** in final decisions regarding public tree removals and transferring authority to allow the Selectboard to appoint a deputy tree warden.
- **ELIMINATE CONFLICTING LANGUAGE** across several statutes that reference the management of roadside trees, avoiding confusion and conflicting penalties.
- **SUPPORT THE MUNICIPALITY'S ABILITY TO ADDRESS FOREST PEST INFESTATIONS** and ensuing safety concerns through thoughtful management of municipal trees.

## Why does H. 673 include amendments to language in 19 V.S.A., chapter 9 (Highways: Repairs, Maintenance & Improvement) and 30 V.S.A., chapter 71 (Public Service)?

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Three existing statutes reference the management of roadside trees. The proposed amendments to the Vermont Tree Warden Statutes create compromise and eliminate conflict by clarifying and defining language common to the three statutes and aligning roles, public processes, and any penalties.

## **Who are Vermont's tree wardens?**

State law in Vermont, as in all New England states, requires that the Selectboard appoint a tree warden whose duties and responsibilities are outlined in the Vermont Tree Warden Statutes, 24 V.S.A., chapter 67. While many tree wardens are, by trade, trained arborists, foresters, or natural resources professionals and take on the role of tree warden as a volunteer, many others are already municipal employees within public works departments, parks departments, or roads crews.

## **What does a tree warden do?**

Tree warden duties today are similar to what they were at the turn of the century: to care for, control, and make hazard determinations regarding public trees. The tree warden must balance the health and future of municipal trees with the town's vision of its public spaces, including its requirements for safe passage of vehicles and pedestrians, stormwater management, historic markers, and aesthetic quality.

Trees play a critical role in protecting our natural environment, promoting public health, and enhancing statewide recreation and tourism. Vermont's tree wardens play a critical role in caring for public trees and green spaces in our communities. Today, tree wardens are on the front lines of a host of issues, such as:

- the impacts of the invasive emerald ash borer (EAB),
- the decline of aging roadside trees,
- changes in the regional climate,
- effects of environmental stressors like natural disasters and invasive plants,
- lack of municipal staff capacity to manage roadside trees, and
- weaknesses in past municipal planning initiatives.

## **Have towns had to go through litigation over tree removal conflicts?**

Yes, though there are not many case examples in Vermont. Two recent examples follow:

- In 2001, the Town of Holland selectboard sought to widen a half-mile stretch of class 3 town highway to accommodate large vehicles. Doing so required the removal of several trees in the public right-of-way. Since the trees themselves were not hazardous, the town tree warden was required to hold a public hearing. No hearing took place. The Vermont Supreme Court ruled that the tree warden had no authority to remove the trees without first holding a public hearing and that the removals violated the neighboring landowner's due process rights.
- In 2017, a farmer in Addison County removed a hedgerow of trees on land owned by the farm that was also in the municipal right-of-way. According to the tree warden statutes, these trees should not have been removed without a public hearing process and approval of the tree warden. However, Title 19 (town highways) granted the abutting property owner the right to remove trees. The town has filed a lawsuit against the landowner that could result in fines of over \$1 million.