

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 may 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 must be removed to comply with State or  
3           federal law or permitting requirements.

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; and

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

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

16           (e) For the purpose of promoting the public health, safety, welfare, and  
17           convenience, a municipality shall have authority to adopt an ordinance that is  
18           not inconsistent with this chapter for the administration of the shade tree  
19           preservation plan and the regulation of shade trees. The tree ordinance shall be  
20           adopted pursuant to chapter 59 of this title.

21           § 2503. APPROPRIATIONS

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

4           § 2504. REMOVAL OF SHADE TREES; EXCEPTION

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

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

16           § 2505. DEPUTY TREE WARDENS

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

1 § 2506. REGULATIONS FOR PROTECTION OF SHADE TREES

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

8 § 2507. COOPERATION

9 (a) ~~The~~ With consent of the legislative body of the municipality, the tree  
10 warden may:

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

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

17 (b) ~~He or she~~ The tree warden may cooperate with federal, State, county, or  
18 other municipal governments, agencies, or other public or private organizations  
19 or individuals and may accept ~~such~~ on behalf of the municipality any funds,  
20 equipment, supplies, or services from organizations and individuals, or others,  
21 as deemed appropriate for use in carrying out the purposes of this chapter.

1 § 2508. CUTTING SHADE TREES; ~~REGULATIONS~~ PROHIBITED

2 ~~Unless otherwise provided, a public~~ Except as otherwise provided in  
3 19 V.S.A. chapter 9, a shade tree shall not be cut or removed, in whole or in  
4 part, except by a tree warden or his or her deputy or by a person having the  
5 written permission of a tree warden.

6 § 2509. CUTTING SHADE TREES; NOTICE AND HEARING

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

16 (1) are infested with or infected by, or at risk to become infested with or  
17 infected by, a tree pest and are located in an infestation area designated by the  
18 Agency of Agriculture, Food and Markets and Department of Forests, Parks  
19 and Recreation;

20 (2) are a hazard to public safety; or

1           (3) must be removed for the municipality to comply with State or  
2           federal law or permitting requirements.

3           ~~(b)(1) In all cases the decision of the tree warden shall be final, except that~~  
4           ~~when the tree warden is an interested party or when a party in interest so~~  
5           ~~requests in writing, such final decision shall be made by the legislative body of~~  
6           ~~the municipality. The tree warden shall post public notice of the intent to cut or~~  
7           remove a shade tree or group of shade trees pursuant to subsection (a) of this  
8           section in at least two conspicuous locations within the municipality. The tree  
9           warden shall post the public notice in or near the office of the clerk of the  
10          municipality.

11          (2) When the shade tree or group of shade trees are located on property  
12          held in fee by another, the municipality shall notify each abutting landowner at  
13          the landowner's address of record.

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

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

1 The tree warden shall stay action on the proposed removal until the legislative  
2 body of the municipality renders a final decision on the appeal.

3 (d) In all cases, the decision of the legislative body of the municipality shall  
4 be final.

5 § 2510. PENALTY

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

9 (b) Any person who, willfully, and critically injures or cuts down a ~~public~~  
10 shade tree without written permission of the tree warden or the legislative body  
11 of the municipality shall be fined ~~not more than \$500.00~~ pursuant to 13 V.S.A.  
12 § 3602 for each tree so injured or cut, for the use of the municipality.

13 § 2511. CONTROL OF INFESTATIONS

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

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

11 \* \* \*

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

13 Subchapter 1. General Duties of Towns

14 § 901. REMOVAL OF ROADSIDE GROWTH

15 Except for work that is part of the Transportation Program under section

16 10g of this title:

17 (1) A person shall not remove shade trees, as defined in 24 V.S.A.

18 § 2501a, without prior approval of the tree warden pursuant to 24 V.S.A.

19 chapter 67.

20 (2) A person, other than the abutting landowner or municipality, shall

21 not cut, trim, remove, or otherwise damage any grasses, shrubs, vines, or trees

1 growing within the limits of a ~~state or town~~ highway, without first having  
2 obtained the consent of the ~~agency for state highways or the board of~~  
3 ~~selectmen for town highways~~ legislative body.

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

8 § 902. PENALTY FOR REMOVAL

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

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

21 \* \* \*

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 obstruct the view of the highway  
5 ahead or that cause damage to the highway or that are objectionable from a  
6 material or scenic standpoint. ~~Shade and fruit trees~~ Trees that have been set  
7 out or marked by the abutting landowners and shade trees that have been  
8 designated pursuant to 24 V.S.A. chapter 67 shall be preserved if the  
9 usefulness or safety of the highway is not impaired. Young trees standing at a  
10 proper distance from the roadbed and from each other, and banks and hedges  
11 of bushes that serve as a protection to the highway or add beauty to the  
12 roadside, shall be preserved. On ~~state~~ State highways, the ~~secretary~~ Secretary  
13 shall have the same authority as the ~~selectmen~~ legislative body.

14 \* \* \*

15 Sec. 4. EFFECTIVE DATE

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

17  
18 (Committee vote: \_\_\_\_\_)

19 \_\_\_\_\_

20 Representative \_\_\_\_\_

21 FOR THE COMMITTEE