

ARTICLE I. AUTHORITY

This ordinance is adopted by the Selectboard of the Town of Jericho under authority granted by 24 V.S.A. §2291(1) & (3) and 24 V.S.A. Chapter 59.

ARTICLE II. PURPOSE AND INTENT

- A. It is the purpose of this ordinance to promote and protect the public health, safety and general welfare by providing for the regulation of the planting, maintenance, and removal of trees, shrubs and other plants within the public rights-of-way within the Town of Jericho.
- B. It is the intent of the Jericho Selectboard that the terms of this ordinance shall be construed so as to promote the planting, maintenance, restoration, and survival of desirable trees, shrubs and other plants within the town rights-of-way to the extent possible without endangering the safety of the traveling public or inhibiting the proper maintenance and functioning of the highway.

ARTICLE III. DEFINITIONS

- A. **Free Zone, Horizontal** – an area extending out horizontally, on the ground, for a specific distance from the edge of the travelled surface of a road toward the limit of the right of way, which shall remain free of trees, shrubs and brush.
- B. **Free Zone, Vertical** – an area rising vertically for 17 feet over the traveled portion of the road which shall be free of all vegetation.

ARTICLE IV. FREE ZONES

- A. All town highways will have a horizontal free zone of a specific width depending on the functional classification of the road. The following minimum free zones are established:

1. Class 2 Highways: 10 feet
 2. Class 3 Highways: 8 feet
- B. On lightly traveled Class 3 roads the horizontal free zone may be reduced to 6 feet. The Selectboard shall determine which Class 3 roads are lightly traveled for the purpose of this ordinance.
- C. All town highways will have a vertical free zone. Any limb, branch or other protrusion from trees, shrubs or brush will be removed if the base of the tree or shrub is located within the town right of way.
- D. The town shall have the right to prune any tree, shrub or brush on private property to the extent that it protrudes into a horizontal or vertical free zone. The town will provide written notice to the landowner at the last known address at least 14 days prior to pruning any portion of a tree, shrub or brush on private property that extends into the vertical free zone.
- E. All trees and shrubs within the horizontal free zone will be removed with the following exceptions:
1. Fruit and deciduous shade trees that have been set out or marked by the owner pursuant to section (F) below provided that the tree: is not infested with or infected by a recognized tree pest; does not constitute a hazard to public safety; does not obstruct the view ahead; does not impair the usefulness of the highway, which includes, but is not limited to, interfering with road maintenance or the road drainage system; does not obstruct the traveled way; does not impair the safety of the highway; or otherwise does not cause damage to the highway.
 2. Trees that are part of a hedgerow will be left in place under the following conditions: the tree has a diameter at breast height 14"; the tree does not interfere

with plowing or maintenance of the road or the road drainage system, or otherwise cause damage to the highway; the tree does not obstruct the view ahead or provide a hazard to safe travel of the road; the tree does not create a potential for damage to town equipment; the tree is not infested with or infected by a recognized tree pest.

- F. Prior to establishing a horizontal free zone on any road where one currently does not exist, the town will provide written notice to the last known address of the abutting property owner 30 days prior to initiating cutting to create the free zone. The notice will inform property owners of their ability to mark shade or fruit trees pursuant to section (e)(1) above. Property owners who mark such trees shall do so within 14 days of receipt of the notice and notify the Town Administrator and Tree Warden in writing of their marking. The Tree Warden will then review the marked trees and make a determination whether or not a marked tree should be cut pursuant to sections (e)(1) & 2 above. The tree warden shall provide the landowner with written notice of his determination within 7 days of making the determination.
- G. Recognizing the importance in the Town Plan of a rural environment to its citizens, it is the policy of the Town of Jericho to encourage and maintain aesthetic areas along rights of way beyond the horizontal free zone. This may be accomplished with limited tree plantings deemed necessary by the Tree Warden when creation of the horizontal free zone significantly alters the tree line of the road. However, the town may selectively remove trees and boulders within the rights of way but outside of the horizontal free zone that are deemed to threaten public safety. A tree may be judged hazardous based on death and disease, serious decay or poor tensile strength.
- H. Once a horizontal free zone has been established on any road, it will be maintained by annual mowing and trimming as needed. No subsequent encroachment on the horizontal free zone will be permitted.

- I. To the extent possible all new utility poles and any replaced utility poles should be placed outside the free zone.

ARTICLE V. INTERFERENCE WITH OFFICIAL DUTIES

It shall be unlawful for any person to prevent, delay or interfere with the Tree Warden or any of his agents while engaging in and about the planting, cultivation, mulching, pruning, spraying, or removing of any street trees, park trees or trees on private grounds, as authorized by this ordinance.

ARTICLE VI. APPEAL OF TREE WARDEN DECISIONS

Any person aggrieved by an action or decision of the Tree Warden with regard to the creation of a horizontal free zone may, within 14 calendar days from the date of receipt of such action or decision, deliver to the Town Administrator a request in writing for review by the Selectboard at a duly warned public hearing. The Selectboard shall offer such person the opportunity to be heard and present evidence and shall issue findings and conclusions. By a majority vote of a quorum, the Selectboard shall affirm, modify or reverse an action appealed. A tie vote shall be an affirmance of the decision from which the appeal is taken. The board shall give written notice of its decision no later than 15 days after the date of the hearing.

ARTICLE VII. ROUTINE MAINTENANCE & EMERGENCIES

This ordinance shall not be construed to apply to or prevent the cutting, pruning or removal of individual trees at the request of the landowner, in response to an emergency, that are dead, diseased or otherwise in poor health, that are a hazard to public safety, that obstruct the view ahead or that impair the usefulness of the highway.

ARTICLE VIII. SEVERABILITY

If any portion of this ordinance is held to be invalid by a court of competent jurisdiction, such finding shall not invalidate any other part of this ordinance.

ARTICLE IX. EFFECTIVE DATE

This ordinance shall become effective 60 days after its adoption by the Town of Jericho Selectboard. If a petition is filed under 24 V.S.A. § 1973, that statute shall govern the effective date.