

# Vermont Tree Warden Statutes

Updated January 2021

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## TITLE 24: Municipal and County Government

### CHAPTER 033: MUNICIPAL OFFICERS GENERALLY

#### § 871. Organization of selectmen; appointments

(a) Forthwith after its election and qualification, the selectboard shall organize and elect a chair and, if so voted, a clerk from among its number, and file a certificate of such election for record in the office of the town clerk.

(b) The selectboard shall appoint a tree warden, who need not be a resident of the municipality, and may appoint from among the registered voters the following officers who shall serve until their successors are appointed and qualified and shall certify the appointments to the town clerk who shall record the same:

- (1) three fence viewers;
- (2) a poundkeeper, for each pound; voting residence in the town need not be a qualification for this office provided appointee gives his or her consent to the appointment;
- (3) one or more inspectors of lumber, shingles, and wood;
- (4) one or more weighers of coal;
- (5) one town service officer; and
- (6) one grand juror.

(c) After the selectboard appoints a tree warden, the selectboard shall certify the appointment to the Commissioner of Forests, Parks and Recreation. The certification shall include contact information for the appointed tree warden. (Amended 1963, No. 74, § 2; 2007, No. 121 (Adj. Sess.), § 18; 2015, No. 71 (Adj. Sess.), § 2; 2017, No. 93 (Adj. Sess.), § 2; 2019, No. 171 (Adj. Sess.), § 1, eff. Nov. 1, 2020.)

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## TITLE 24: Municipal and County Government

### CHAPTER 067: PARKS AND SHADE TREES

#### § 2501a. Definitions

As used in this chapter:

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

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- (2) "Public way" means a right-of-way held by a municipality, including a town highway.
- (3) "Shade tree" means a shade or ornamental tree located in whole or in part within the limits of a public way or public place, provided that the tree:
  - (A) was planted by the municipality; or
  - (B) is designated as a shade tree pursuant to a municipal shade tree preservation plan pursuant to section 2502 of this title. (Added 2019, No. 171 (Adj. Sess.), § 2, eff. Nov. 1, 2020.)

**§ 2502. Tree wardens and preservation of shade trees**

- (a) The tree warden shall control all shade trees within the municipality.
  - (b) The tree warden and the legislative body of the municipality may adopt a shade tree preservation plan. The plan shall:
    - (1) describe any program for the planting of new trees and shrubs;
    - (2) provide for the maintenance of shade trees through feeding, pruning, and protection from noxious insect and disease pests;
    - (3) determine the apportionment of costs for tree warden services provided to other municipal corporations;
    - (4) determine whether tree maintenance or removal on specific municipal property shall require the approval of another municipal officer or legislative body; and
    - (5) determine the process, not inconsistent with this chapter, for the removal of:
      - (A) diseased, dying, or dead shade trees; and
      - (B) any shade trees that create a hazard to public safety, impact a disease or insect control program, or must be removed to comply with State or federal law or permitting requirements.
  - (c) The shade tree preservation plan may:
    - (1) map locations or zones within the municipality where all trees in whole or in part within a public way or place shall be designated as shade trees; and
    - (2) designate as a shade tree any tree in whole or in part within a public way, provided that the tree warden and legislative body of the municipality find that the tree is critical to the cultural, historical, or aesthetic character of the municipality.
  - (d) The tree warden and legislative body of the municipality shall hold a minimum of one public hearing concerning the shade tree preservation plan for the purpose of soliciting public input. The legislative body shall publish the proposed plan 10 days prior to the public hearing.
  - (e) For the purpose of promoting the public health, safety, welfare, and convenience, a municipality shall have authority to adopt an ordinance that is not inconsistent with this chapter for the administration of the shade tree preservation plan and the regulation of shade trees. The tree ordinance shall be adopted pursuant to chapter 59 of this title. (Amended 1969, No. 238 (Adj. Sess.), § 1; 2019, No. 171 (Adj. Sess.), § 2, eff. Nov. 1, 2020.)
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### **§ 2503. Appropriations**

A municipality may appropriate a sum of money to be expended by the tree warden, mayor, aldermen, selectboard, or trustees for the purpose of carrying out this chapter. (Amended 1969, No. 238 (Adj. Sess.), § 2; 2019, No. 171 (Adj. Sess.), § 2, eff. Nov. 1, 2020.)

### **§ 2504. Removal of shade trees; exception**

(a) The tree warden may remove or cause to be removed from the public ways or places any trees that are infested with or infected by a tree pest or that constitute a public hazard. The notice and hearing requirements of section 2509 of this chapter shall not apply to the removal of infested or infected trees.

(b) The tree warden may determine that an owner or lessee of abutting property has sufficiently controlled all insect pests or tree diseases upon the trees within the limits of a public way or place abutting the property and may determine that it is not necessary to remove the trees. (Amended 1969, No. 238 (Adj. Sess.), § 3; 2019, No. 171 (Adj. Sess.), § 2, eff. Nov. 1, 2020.)

### **§ 2505. Deputy tree wardens**

The legislative body of the municipality may appoint deputy tree wardens 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. (Amended 2019, No. 171 (Adj. Sess.), § 2, eff. Nov. 1, 2020.)

### **§ 2506. Regulations for protections of shade trees**

A tree warden shall enforce all laws relating to shade trees and may propose to the legislative body of the municipality the rules, ordinances, or regulations for the planting, protection, care, or removal of public shade trees as he or she deems expedient. The legislative body of the municipality may adopt the rules, ordinances, or regulations pursuant to the provisions of chapter 59 of this title. (Amended 1969, No. 238 (Adj. Sess.), § 4; 2019, No. 171 (Adj. Sess.), § 2, eff. Nov. 1, 2020.)

### **§ 2507. Cooperation**

With consent of the legislative body of the municipality, the tree warden may:

- (1) enter into financial or other agreements with the owners of land adjoining or facing public ways and places for the purpose of encouraging and effecting the shade tree preservation plan;
  - (2) enter into agreements with other municipal corporations to provide tree warden services or training; and
  - (3) cooperate with federal, State, county, or other municipal governments, agencies, or other public or private organizations or individuals and may accept on behalf of the municipality any funds, equipment, supplies, or services from organizations and individuals, or others, as deemed appropriate for use in carrying out the purposes of this chapter. (Amended 1969, No. 238 (Adj. Sess.), § 5; 2019, No. 171 (Adj. Sess.), § 2, eff. Nov. 1, 2020.)
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### **§ 2508. Cutting shade trees prohibited**

Except as otherwise provided in 19 V.S.A. chapter 9, a shade tree shall not be cut or removed, in whole or in part, except by a tree warden or his or her deputy or by a person having the written permission of a tree warden. (Amended 2019, No. 171 (Adj. Sess.), § 2, eff. Nov. 1, 2020.)

### **§ 2509. Cutting shade trees; notice and hearing**

(a) The tree warden shall post public notice of the intent to cut or remove a shade tree. The notice shall be posted a minimum of 15 days prior to cutting or removing the tree. If the cutting or removal is appealed pursuant to subsection (c) of this section, the legislative body of the municipality shall hold a public hearing. This subsection shall not apply to the cutting or removal of a shade tree or trees that:

- (1) are infested with or infected by, or at risk to become infested with or infected by, a tree pest and are located in an infestation area designated by the Agency of Agriculture, Food and Markets and Department of Forests, Parks and Recreation;
- (2) are a hazard to public safety; or
- (3) must be removed for the municipality to comply with State or federal law or permitting requirements.

(b)(1) The tree warden shall post public notice of the intent to cut or remove a shade tree or group of shade trees pursuant to subsection (a) of this section in at least two conspicuous locations within the municipality. The tree warden shall post the public notice in or near the office of the clerk of the municipality.

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

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

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

(d) In all cases, the decision of the legislative body of the municipality shall be final. (Amended 1969, No. 238 (Adj. Sess.), § 6; 2017, No. 74, § 100; 2019, No. 171 (Adj. Sess.), § 2, eff. Nov. 1, 2020.)

### **§ 2510. Penalty**

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

(b) Any person who willfully and critically injures or cuts down a shade tree without written permission of the tree warden or the legislative body of the municipality shall be fined pursuant to 13 V.S.A. § 3602 for each tree so injured or cut, for the use of the municipality. (Amended 1969, No. 238 (Adj. Sess.), § 7; 2019, No. 171 (Adj. Sess.), § 2, eff. Nov. 1, 2020.)

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### **§ 2511. Control of infestations**

When an insect or disease pest infestation upon or in shade or private trees threatens other public or private trees, is considered detrimental to a municipal shade tree preservation program, or threatens the public safety, the tree warden may request surveys and recommendations for control action from the Secretary of Agriculture, Food and Markets or Commissioner of Forests, Parks and Recreation in accordance with 6 V.S.A. chapter 84. (Amended 1969, No. 238 (Adj. Sess.), § 8; 2003, No. 42, § 2, eff. May 27, 2003; 2019, No. 171 (Adj. Sess.), § 2, eff. Nov. 1, 2020.)

### **§ 2512. Repealed. 1969, No. 238 (Adj. Sess.), § 9.**

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## **TITLE 32: Taxation and Finance**

### *CHAPTER 017: FEES AND COSTS*

### **§ 1680. Tree warden**

When a town or incorporated village fails to fix the compensation of a tree warden or his deputies, they shall receive such compensation as the selectmen or trustees determine.

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## Other Statutes Related to Trees

### TITLE 30: Public Service

#### CHAPTER 071: TELEGRAPH, TELEPHONE AND ELECTRIC WIRES

##### § 2506. Trees not to be injured; exception; penalty

A tree within a street or highway shall not be cut or injured in constructing, maintaining or repairing a line of wires, without the written consent of the adjoining owner or occupant, unless the transportation board or the selectmen of the town in which the tree is situated, after due notice to the parties and upon hearing, shall decide that such cutting or injury is necessary. A person or corporation cutting or injuring such trees shall pay the damages, if any, awarded on such hearing, before cutting or injuring the trees. A person or corporation that violates a provision of this section shall be fined not more than \$50.00 nor less than \$5.00 for each tree so cut or injured. (Amended 1989, No. 246 (Adj. Sess.), § 31.)

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### TITLE 13: Crimes and Criminal Procedure

#### CHAPTER 077: TREES AND PLANTS

##### § 3602. Valuation of trees or timber

Any person who is entitled to damages pursuant to section 3606 of this title or who is entitled to restitution for a violation of section 3606a of this title may provide an assessment of the value, based upon the kind, condition, location, and use of the timber cut down, destroyed, removed, injured, damaged, or carried away or, in the alternative, may assess the value of the timber as follows:

- (1) if a tree is no more than six inches in stump diameter or DBH, \$50.00;
- (2) if a tree is more than six inches and not more than ten inches in stump diameter or DBH, \$100.00;
- (3) if a tree is more than 10 inches and not more than 14 inches in stump diameter or DBH, \$300.00;
- (4) if a tree is more than 14 inches and not more than 18 inches in stump diameter or DBH, \$750.00;
- (5) if a tree is more than 18 inches and not more than 22 inches in stump diameter or DBH, \$1,500.00;
- (6) if a tree is greater than 22 inches in stump diameter or DBH, \$2,000.00;
- (7) for a bush or shrub, \$50.00. (Added 2009, No. 147 (Adj. Sess.), § 4; amended 2015, No. 106 (Adj. Sess.), § 1.)

##### § 3606. Trespass; civil action

(a) In addition to any other civil liability or criminal penalty allowed by law, if a person cuts down, fells, destroys, removes, injures, damages, or carries away any timber placed or growing for any use or purpose whatsoever, or forest products standing, lying, or growing belonging to another person, without permission

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from the owner of the timber or forest product, or cuts out, alters, or defaces the mark of a log or other valuable forest product, the party injured may recover of such person, in an action on this statute, treble damages for the value of the timber or forest product, and any damage caused to the land or improvements thereon as a result of such action. The injured party or landowner may rely on an assessment of damages based on the kind, condition, location, and use of the timber or forest product by the injured party or landowner, or alternatively, may elect to rely on the values established under section 3602 of this title.

(b) If the defendant in an action brought pursuant to subsection (a) of this section establishes by a preponderance of the evidence that he or she had good reason to believe that the timber or forest products belonged to him or her, or that he or she had a legal right to perform the acts complained of, the plaintiff shall recover single damages only, with costs.

(c) As used in this section, "damages" shall include any damage caused to the land or improvements thereon as a result of a person cutting, felling, destroying, removing, injuring, damaging, or carrying away timber or forest products without the permission of the owner of the property on which the timber stands. (Amended 1959, No. 61, eff. March 26, 1959; amended 2009, No. 147 (Adj. Sess.), § 5; 2015, No. 106 (Adj. Sess.), § 1.)

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## **TITLE 19: Highways**

### *CHAPTER 009: Repairs, Maintenance, And Improvements*

#### **§ 901. Removal of roadside growth**

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

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

(2) A person, other than the abutting landowner or municipality, shall not cut, trim, remove, or otherwise damage any grasses, shrubs, vines, or trees growing within the limits of a town highway without first having obtained the consent of the legislative body.

(3) A person, other than the Agency or the abutting landowner, shall not cut, trim, remove, or otherwise damage any grasses, shrubs, vines, or trees growing within the limits of lands subject to any ownership interest held by the Agency without first obtaining the Agency's written consent. (Added 1985, No. 269 (Adj. Sess.), § 1; amended 2019, No. 171 (Adj. Sess.), § 3, eff. Nov. 1, 2020.)

#### **§ 902. Penalty for removal**

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

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(b) A person, other than the Agency, the abutting landowner, the municipality, or the tree warden, who willfully or maliciously cuts, trims, removes, or otherwise damages grasses, shrubs, or vines within highway limits in violation of section 901 of this title shall be fined not more than \$100.00 nor less than \$10.00, for each offense, unless the person has obtained prior written consent from the Agency or municipality. (Added 1985, No. 269 (Adj. Sess.), § 1; amended 2019, No. 171 (Adj. Sess.), § 3, eff. Nov. 1, 2020.)

### **§ 903. Agreements for planting**

The agency or the board of selectmen may enter into agreements with individuals or organizations who wish to plant grasses, shrubs, vines, trees or flowers within highway limits. (Added 1985, No. 269 (Adj. Sess.), § 1.)

### **§ 904. Tree and brush removal**

The legislative body of a municipality, if necessary, shall cause to be cut and burned, or removed from within the limits of the highways under their care, trees and bushes that obstruct the view of the highway ahead or that cause damage to the highway or that are objectionable from a material or scenic standpoint. Trees that have been set out or marked by the abutting landowners and shade trees that have been designated pursuant to 24 V.S.A. chapter 67 shall be preserved if the usefulness or safety of the highway is not impaired. Young trees standing at a proper distance from the roadbed and from each other, and banks and hedges of bushes that serve as a protection to the highway or add beauty to the roadside, shall be preserved. On State highways, the Secretary shall have the same authority as the legislative body. (Added 1985, No. 269 (Adj. Sess.), § 1; amended 2019, No. 171 (Adj. Sess.), § 3, eff. Nov. 1, 2020.)

## **Vermont Statutes Online**

### **References**

[24 V.S.A. § 871](#)

[24 V.S.A. § 2501a](#)

[24 V.S.A. § 2502](#)

[24 V.S.A. § 2503](#)

[24 V.S.A. § 2504](#)

[24 V.S.A. § 2505](#)

[24 V.S.A. § 2506](#)

[24 V.S.A. § 2507](#)

[24 V.S.A. § 2508](#)

[24 V.S.A. § 2509](#)

[24 V.S.A. § 2510](#)

[24 V.S.A. § 2511](#)

[32 V.S.A. § 1680](#)

[30 V.S.A. § 2506](#)

[13 V.S.A. § 3602](#)

[13 V.S.A. § 3606](#)

[19 V.S.A. § 901](#)

[19 V.S.A. § 902](#)

[19 V.S.A. § 903](#)

[19 V.S.A. § 904](#)

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