Amendments to the Vermont Tree Warden Statutes

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Presentation Flow

- Brief history of Vermont tree warden statutes
- Where to find the updated statutes
- 10 changes of note
- Outreach & assistance in 2021 to support tree wardens and municipalities
Context: History

- Established 1904, last amended 1969
- Lack of definitions, conflict between statutes, governance issues
- Legal cases
Context: Legislative Process

- Amendments introduced to the legislature in 2017, 2018, and 2020
- Many perspectives, extensive bill edits in committee
- Signed into law by Governor Scott on October 8th

No. 171
2020

No. 171. An act relating to tree wardens.
(H.673)

It is hereby enacted by the General Assembly of the State of Vermont:
Sec. 1. 24 V.S.A. § 871 is amended to read:
§ 871. ORGANIZATION OF SELECTBOARD; 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 thereupon appoint from among the registered
voters a tree warden, who need not be a resident of the municipality, and may
thereupon appoint from among the registered voters the following officers who
shall serve until their successors are appointed and qualified, and shall certify
such the appointments to the town clerk who shall record the same:

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

CHAPTER 67. PARKS AND SHADE TREES

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H.673/Act 171: An act relating to tree wardens:

Vermont State Statutes Online (updated on 12/17/20)
https://legislature.vermont.gov/statutes/

VT UCF’s Tree Warden webpage:
https://vtcommunityforestry.org/resources/vermont-tree-wardens-0/tree-warden-statutes
Legal Interpretation

Vermont League of Cities and Towns – Municipal Assistance Center:
https://www.vlct.org/mac

OR

Your municipality’s attorney (if there is one)
10 Changes of Note

VERMONT TREE WARDEN STATUTES
CHANGES IN TITLE 24, CHAPTERS 33 AND 67
AND IN TITLE 19, CHAPTER 9
Definitions have been established for “public places” and “public ways”.

#1
What's in a name?
Definitions of terms and what they really mean

Public Place
is defined as municipal property, including a municipal park, a recreation area, or a municipal building.
What's in a name?

Definitions of terms and what they really mean

Public Way

is defined as a right-of-way held by a municipality, including a town highway.
#2

A definition for “shade tree” is established.
Shade Tree

is defined as 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 is either:

a) planted by the municipality or

b) is designated as a shade tree pursuant to a municipal shade tree preservation plan.
The Shade Tree Preservation Plan has been established as an optional mechanism for documenting municipal tree program and for expanding jurisdiction of the tree warden.
What's in a Shade Tree Preservation Plan?

• Five "musts"
• Two "mays"
• Required adoption by the town

The plan must include:

1. Description of 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.
What's in a Shade Tree Preservation Plan?

- Five "musts"
- Two "mays"
- Required adoption by the town

Additionally, plans may:

1. include a map of **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.
Apply for technical assistance

vtcommunityforestry.org/programs/technical-assistance/shade-tree-preservation-plan
Conflicts have been addressed in **Title 24, Chapter 67** (Parks & Trees) and **Title 19, Chapter 9** (Town Highways).

- Addresses a conflict in language between Title 19 and Title 24 to recognize shade trees and requiring involvement with the tree warden to remove them.
- Maintains the municipality and the abutting landowner's ability to maintain and remove trees that are not designated as shade trees without the consent of the tree warden.
- Establishes consistent penalties.
- Recognizes that designated shade trees along town highways should not be removed, pursuant to the tree warden statutes, in regular road maintenance practices.
Municipalities can proactively manage shade trees that are threatened by invasive forest pests (such as emerald ash borer).
#6

Penalties for unauthorized shade tree removals are based on size of tree (and consistent with timber trespass law) opposed to static fee.
#7

Municipalities can appoint a non-resident as the tree warden and can share a tree warden between municipalities.
Municipalities are now required to report tree warden appointments, with contact info, to the Vermont Department of Forests, Parks & Recreation.
#9

There are clear situations and processes for shade tree removals, including public notice and public hearings.
The final decision about shade tree removals has been transferred from the responsibility of the tree warden to the legislative body of the municipality.
Outreach & Assistance in 2021

Updated web resources
- FAQ
- 2-pager on how to comply
- Guide for public hearings
- Webinar read-through recording, Vermont Local Roads coming up
- PowerPoints to present/explain changes available for use of TWs or Tree Committees

Shade Tree Preservation Plan pilot program
- 10 municipal partners (4 identified, 6 will be selected via application process)

Contract with VLCT
- VT tree law guidance
- Webinars/trainings/article in the VLCT bimonthly

Tree warden reporting button

Tree warden School
Questions?

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