

Town of Grafton  
Town Road Right of Way – Town Highway Foreman Jurisdiction Clearing and Tree Policy  
Other Town Public and Private Lands – Tree Warden Jurisdiction Clearing and Tree Policy  
Adopted by the Selectboard June 1, 2020

The sources for this document are Vermont Statutes

- Title 19, Sections 702 (ROW width) and 901-904 (Dealing with roadside brush and trees): and
- Title 24, Sections 2501-2511 (Parks and Shade Trees).

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**Background**

Right of way: In this document this term means Town highway right of way. Municipalities own an easement, or right of way, for highway purposes. The width of a highway is usually three rods (49.5 feet), or 24.75 feet each side of the center line of the currently existing highway but may be narrower or wider. For the public benefit of a road, the abutting landowner is stopped from exercising his or her full rights to the land under a right of way. The municipality has the authority to remove trees and other growing things, straighten curves, expand the traveled portion and maintain or improve the road surface, all without the permission of the owners of the land the easement crosses, provided the work is done within the limits of the easement. Towns are obligated to maintain a road to certain standards that are dictated by a road's classification and by state statute.

Public ways and places: Include cemeteries, greens, parks, lawns around public buildings and Town forest. They do not include Town highway right of way.

Tree Warden: Responsibilities include shade and ornamental trees in the public ways and places; control of tree infestations on public ways and places; deciding when diseased, dead or dying trees should be removed and when new trees are appropriate; determining necessary care of trees; holds public hearings when it is proposed to remove a public shade tree from a residential area of the municipality.

Select Board: Is responsible for maintaining the usefulness and safety of town roads; decides appeals of the appealable decisions of the Highway Foreman and/or the Tree Warden.

Highway Foreman: Performs or oversees road maintenance, including mowing and tree and brush trimming and/or removal from highway rights-of-way.

In public ways and places and the right of way Vermont law allows the Town to trim and/or remove trees and bushes that are a hazard, interfere with highway use, or that because of disease or infestation threaten public safety or disease or insect control programs.

Neither the Highway Foreman nor the Tree Warden has authority to trim or remove bushes, trees or other

plants from private property nor to order the trimming, or removal of the same from private property.

In the Town Forest trees may be harvested pursuant to a forestry plan for that harvesting, provided the forestry plan is approved by the Tree Warden.

### Pertinent State laws

Highway:

#### §19-901 Removal of roadside growth

A person, other than the abutting landowner, shall not cut, trim, remove or otherwise damage any grasses, shrubs, vines, or trees growing within the limits of a state or town highway, without first having obtained the consent of the agency for state highways or the board of selectmen for town highways.

#### §19-902 Penalty for removal

A person who willfully or maliciously trims, removes, or otherwise damages grasses, shrubs, vines, or trees 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.

#### §19-903 Agreement for planting

The ...Selectmen may enter into agreements with individuals or organizations who wish to plant grasses, shrubs, vines, trees, or flowers within highway limits.

#### §19-904 Brush removal

The selectmen of a town, if necessary, shall cause to be cut and burned, or removed from within the limits of the highways under their care, trees and bushes which obstruct the view of the highway ahead or that cause damage to the highway or that are objectionable from a material or scenic standpoint. Shade and fruit trees that have been set out or marked by the abutting landowners 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.

Tree Warden

#### §24-2502 Tree wardens and preservation of shade trees

Shade and ornamental trees within the limits of public ways and places shall be under the control of the tree warden. The tree warden may plan and implement a town or community shade tree preservation program for the purpose of shading and beautifying public ways and places by planting new trees and shrubs; by maintaining the health, appearance, and safety of existing trees through feeding, pruning, and protecting them from noxious insect and disease pests and by removing diseased, dying, or dead trees which create a hazard to public safety or threaten the effectiveness of disease or insect control programs.

#### §24-2504 Removal of trees, exception

The tree warden may remove or cause to be removed from the public ways or places all trees and other plants upon which noxious insects or tree diseases naturally breed. However, where an owner or lessee of abutting real estate shall annually, to the satisfaction of such warden, control all insect pests or tree diseases upon the trees and other plants within the limits of a highway or place abutting such real estate, such trees and plants shall not be removed.

§24-2505 Deputy tree wardens

A tree warden may appoint deputy tree wardens and dismiss them at pleasure.

§24-2506 Regulations for protection of trees

A tree warden shall enforce all laws relating to public shade trees and may prescribe such rules and regulations for the planting, protection, care, or removal of public shade trees as he or she deems expedient. Such regulations shall become effective pursuant to the provisions or chapter 59 of this title.

§24-2507 Cooperation

The tree warden may 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 a community-wide shade tree planting and preserving program. He or she may cooperate with federal, State, county or other municipal governments, agencies, or other public or private organizations or individuals and may accept such funds, equipment, supplies, or services from organizations and individuals, or others, as deemed appropriate for use in carrying out the purposes of this chapter.

§24-2508 Cutting shade trees; regulations

Unless otherwise provided, a public shade tree shall not be cut or removed, in whole or in part, except by a tree warden or his deputy or by a person having the written permission of a tree warden.

§24-2509 Hearing

- (a) A public shade tree within the residential part of a municipality shall not be felled without a public hearing by the tree warden, except that when it is infested with or infected by a recognized tree pest, or when it constitutes a hazard to public safety, no hearing shall be required.
- (b) In all cases the decision of the tree warden shall be final except that when the tree warden is an interested party or when a party in interest so requests in writing, such final decision shall be made by the legislative body of the municipality.

**Grafton policies**

A. Highway Foreman: Rights of Way

The Town's policy on right of way clearing and trees is subject to the requirements of 19 VSA 901 through 904.

(1) The Town shall comply with State statutes and regulations when performing road work. While the town is obligated to maintain the usefulness and safety of its roads, it is also interested in preserving their esthetic qualities.

(2) Except in emergencies and normal right of way mowing, a road maintenance plan that proposes trimming or removal of trees from the right of way is at the sole discretion of the Highway Foreman, subject to review by the Selectboard. The Highway Foreman will provide a report to the Selectboard detailing the proposed clearing, trimming and/or tree removal. The Selectboard will file the report with the Town Clerk. The Selectboard will provide the abutting landowner a notice in writing either hand delivered or by certified mail referring to the filed report, stating where the report may be obtained or viewed, the date of the Selectboard hearing on the proposal and the right of the abutting landowner to participate in the hearing. The decision of the Selectboard rendered at the conclusion of that hearing shall

be final.

- (3) Except in an emergency, when any of the following is proposed in the public right of way
- road straightening or widening
  - any work that will significantly alter the road or right of way

the project plan and details are at the discretion of the Highway Foreman, subject to review by the Selectboard. The Highway Foreman will provide a report to the Selectboard detailing the proposed straightening, widening or significant alteration to the road or right of way. The Selectboard will file the report with the Town Clerk. The Selectboard will provide the abutting landowner a notice in writing either hand delivered or by certified mail referring to the filed report, stating where the report may be obtained or viewed, the date of the Selectboard hearing of the proposal and the right of the abutting landowner to participate in the hearing. The decision of the Selectboard rendered at the conclusion of that hearing shall be final.

- (4) The Highway Foreman's report to be sent to the Selectboard in (2) and (3) above shall contain the following:

- The width of the right of way as determined on site.
- Describe the right of way boundaries and mark edges of the right of way.
- Describe the proposed work.

- (5) The Selectboard:

- In making its decisions in (2) and (3) above shall be guided by 19 VSA 901 through 904
- Taking into consideration the opinion of the Highway Foreman regarding highway "usefulness or safety" (See 19 VSA 904), may enter into agreements as set forth in 19 VSA 903.
- Shall enforce the provisions of 19 VSA 901.
- Shall take any action required of the Selectboard by 19 VSA 904.

#### B. Tree Warden: Public Ways and Places and on Private Property

The Town's policy on the treatment of shade and ornamental trees in the public ways and places; control of tree infestations on public ways and places and on private property; deciding when diseased, dead or dying trees should be removed and when new trees are appropriate; determining necessary care of trees is as follows.

- (1) Actions to be taken by the Tree Warden:

- a. The Tree Warden may appoint a Deputy Tree Warden and may dismiss a Deputy Tree Warden at pleasure.
- b. The Tree Warden may be asked by the Highway Foreman to consult with the Highway Foreman on Tree Policy issues within the right of way and shall cooperate in doing so.
- c. The Tree Warden may request the Highway Foreman to trim or remove diseased brush or trees or brush, trees, and other plants on which noxious insects or tree diseases breed which are in the right of way.
- d. The Tree Warden may request the Highway Foreman to preserve shade and ornamental trees in the right of way, but the decision of the Highway Foreman as to the adverse effect preservation would have on the "usefulness or safety of the highway" (See 19 VSA 904) controlling, subject to an appeal to and intervention by the Selectboard.
- e. The Tree Warden may plan and implement a tree preservation or planting program as described

and authorized in 24 VSA 2502 in public ways and places.

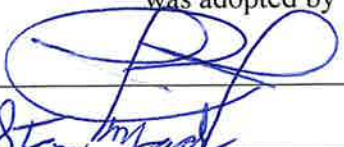

- f. The Tree Warden may remove or cause to be removed from the public ways and places all trees and other plants upon which noxious insects or tree diseases naturally breed subject to the limitations in 24 VSA 2504 when the abutting landowner or lessee is taking action on the issue.
- g. The Tre Warden shall enforce the provisions of 24 VSA 2506 and may prescribe rules and regulations to implement the planting, protection, care, and removal of shade trees as provided in said 2506.
- h. The Tree Warden may enter into cooperative agreements with landowners of property abutting public ways and places for the purpose of encouraging and effecting a community-wide shade tree and preservation program, and may enter into cooperative agreement with other entities and agencies for the purposes set forth in 24 VSA 2507 and may accept funds from the entities and for the purposes set forth in that section 2507.
- i. The Tree warden will enforce the provisions of 24 VSA 2508.
- j. When a public shade tree is to be removed in the residential part of the Town the Tree Warden shall comply with section 24 VSA 2509 (a) and (b) requiring a hearing.

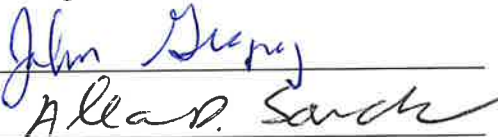
(2) Actions to be taken by the Selectboard:

- Decide cases involving cutting of shade, fruit, or ornamental trees or shrubs, after the Tree Warden's hearing, when the Tree Warden is precluded from deciding the case or an interested party requests in writing that the Selectboard do so.

THIS GRAFTON:

Town Road Right of Way – Town Highway Foreman Jurisdiction Clearing and Tree Policy  
Other Town Public and Private Lands – Tree Warden Jurisdiction Clearing and Tree Policy  
was adopted by the Selectboard at its regular meeting dated June 1, 2020

  
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Steve Mad  
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Sean Mad

  
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Allan P. Sando

TOWN CLERK'S OFFICE, GRAFTON, VERMONT  
Received for record June 1 2020  
at 4 o'clock 00 minutes P. M.  
and recorded in Book Misc Page \_\_\_\_\_  
Attest Kim Recard  
Town Clerk

TWO OFFICE SHATIONS W/ ROOMS  
REAR FOR STAFF  
ST. 12 ROOMS  
FOR OFFICE STAFF  
STAFF ROOMS