

Shade Tree Preservation Plan

Town of East Montpelier

DRAFT - January 26, 2021

The Town of East Montpelier, Vermont recognizes the amendments to the Vermont tree warden statutes as made effective on Nov. 1, 2020. [Bill H.673](#) passed in the house and the senate as Act 171 in September of 2020 and was signed into law on October 8, 2020. The bill amended [24 V.S.A. § 871](#), [24 V.S.A. Chapter 67](#) and [19 V.S.A. Chapter 9](#), §§ 901-904.

The Town of East Montpelier adopts ~~the following~~this Shade Tree Preservation Plan pursuant to [24 V.S.A. §2502](#) that expands the duties of the tree warden in the municipality beyond solely trees planted by the municipality and specifies the processes by which municipal shade trees are managed and governed.

The East Montpelier tree warden has jurisdiction over all shade trees, consisting of:

- Trees planted by the municipality, currently identified as:
 - six trees planted on the U-32 Middle and High School campus as documented in the Emerald Ash Borer Management Grant deliverables.
 - [are there other trees already planted by the municipality? If so, where?]
 - [we need to document future tree plantings. Is there currently a good filing method at the town offices? Could we create an annual submission of a list or map to the town office each year?]
- [Are there trees in any cemeteries or other public places that were not planted by the municipality but should be considered specific shade trees? Anything by the EM Elementary School, old school house, or near the new parking lot opposite the town offices?]
- Five white ash (*Fraxinus americana*) treated biennial with insecticide to protect them from the non-native and invasive emerald ash borer that feeds on all native north American species of ash trees. These trees are:
 - Two white ash on the east side of North Street south of the intersection with Sparrow Farm road, marked with tree tags #___ and #___.
 - One white ash on the west side of Center Road at the trailhead of the East Montpelier trail network, ~0.25 miles south of Templeton Farm, marked with tree tag #___.
 - Two white ash on the west side of Gallison Hill Road bordering U-32 Middle and High School, marked with tree tags #___ and #___.

Furthermore, the East Montpelier tree warden also plays an advisory role in the maintenance and stewardship of all trees over 6" diameter-at-breast-height (DBH) on all municipal road right-of-ways. Working with the East Montpelier road foreman, the East Montpelier tree warden will evaluate the silvicultural practices that will ensure healthy tree canopy along all municipal roads. 19 V.S.A. §901 maintains that, without the consent of the tree warden, both the municipality and the abutting

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Commented [GJ1]: At this point, I want to reference the legal documents that led to the creation of a shade tree preservation plan. Ultimately, we can decide how user-friendly we want this document to be – should it keep lots of formal language as outlined in the statutes or be rewritten to be more digestible, short, and functional.

Commented [GJ2]: A [summary of the act](#) prepared by the Office of Legislative Counsel is available for the convenience of the public.

Commented [GJ3]: For consistency and clarity, the East Montpelier Shade Tree Preservation Plan references legal definitions as provided in [24 V.S.A. §2501](#) and referenced below:

- 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.
- 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.)

Commented [GJ4]: We (VT UCF) just ordered 1000 tree tags. I can give you some to mark certain shade trees if you would like.

landowner may maintain and remove those trees that are not designated as shade trees. However, in good faith, the tree warden may be consulted to identify those trees that will provide ecological, aesthetic, and cultural benefits to the town. The tree warden may also advise which trees or shrubs may be removed due to their placement, health, risk for infestation or infection, invasive status, or other ecological criteria. While no public hearing is required for removal of such trees, the tree warden may seek public input.

Should additional trees be identified for designation as municipal shade trees under the shade tree preservation plan, they will be marked with tree tags and documented annually [in the way that we will identify above].

The East Montpelier shade tree preservation plan outlines the following five required elements pursuant to [24 V.S.A. §2502](#).

(1) **Programs** for the planting of new trees and shrubs.

The tree warden will be consulted regarding planting of trees and shrubs in public places.

(2) **Programs** for the maintenance of shade trees.

The tree warden will conduct an annual visual inspection of shade trees and will perform basic tree care (e.g. pruning) as needed. If contracted services are required for maintenance tasks or removal, the tree warden will utilize the [approved method by the town for hiring contractors].

(3) **Apportionment** of costs for tree warden services provided to other municipal corporations.

A fee for tree warden services will not be charged to other municipal or private corporations.

(4) **Approval requirements** for tree maintenance or removal on specific municipal property as granted by municipal officers or legislative bodies other than the tree warden.

Approval requirements for the removal or maintenance of shade trees is not required by any other municipal officer or legislative body other than the tree warden.

(5) Processes, **not inconsistent** with [24 V.S.A. chapter 67](#), for removal of:

(A) diseased, dying, or dead shade trees

The tree warden will identify diseased, dying, or dead shade trees on an annual basis and [how would the tree warden go about securing services to care for a diseased, dying, or dead shade tree – just work with Bruce, or would there be a town process to hire a contractor, or would Guthrie just do the work if he is able?].

(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

Consistent with V.S.A. § 2504, the tree warden will authorize without a public hearing the removal of shade trees that create a hazard to public safety, are infested or infected (or are at risk of becoming infested or infected) by a tree pest, or must be removed to comply

Commented [GJ5]: This is really open ended. Does the town have any current planting plans or budgets that could be incorporated (beyond the U-32 project)? If not, this section may just be about the involvement and approval of the tree warden in municipal planting projects.

Commented [GJ6]: This is similar to the item above and I think should incorporate a temporal element. I imagine that the shade tree preservation plan will not be regularly revised by tree maintenance plans are revised frequently as conditions of trees change.

Commented [GJ7]: This refers to the cost of sharing your tree warden's time and expertise with another town or municipal corporation, such as a utility company.

Commented [GJ8]: This asks if any municipal trees are also cared for by a different commission – the example that I have heard is that cemetery commissions may need to also approve maintenance or removal of trees in cemeteries.

Commented [GJ9]: We are starting a guidance page on holding public hearings as outlined in 24 V.S.A. chapter 67. A public hearing is not necessary if the tree is infested by a tree pest or infected with a disease, or if it poses a hazard to public safety. It would seem that (A) below would fall into that category but you can perhaps further outline how the removal will happen. If a tree is not infested, the tree warden must post a notice of intent to remove the shade tree in at least two conspicuous places. If there is an appeal to the removal within 15 days of the posting, then the legislative body of the municipality must hold a hearing with the tree warden within 10 days of the appeal. This seems good for taking the burden off of the tree warden to be the decision maker but also adds a duty to the Selectboard that may not always have time to manage the appeal and may want to defer to the tree warden. I don't know if that is possible now, legally, with the passage of these amendments.

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with State or federal law or permitting requirements. The tree warden will stay informed of infested area designations as described by the Agency of Agriculture and Department of Forests, Parks and Recreation.

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Questions and needed clarifications:

1. The town will need to follow the rule below to adopt the shade tree preservation plan. Do you (Town of East Montpelier) see any hurdles?

(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.)

2. Are there any state-maintained roads on which you would designate shade trees, and if so, how will the town communicate the location to the Agency of Transportation?
3. There is now a requirement that towns report the name and contact information of their tree warden. What would be the easiest and most logical way for the Town of East Montpelier to do that?

Commented [GJ10]: I don't think that there are any in East Montpelier but many towns do share management of roads with the State in town centers.

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