

APPENDIX 6: STATE STATUTES RELEVANT TO WORK OF TASK FORCE

Connecticut Tree Laws

Relevant to the Work of the State Vegetation Management Task Force

As selected by Chris Donnelly, CT DEEP Urban Forestry Coordinator, and presented June 5, 2012

(originally presented as powerpoint slides with underlining for emphasis)

Slide 1:

Opening Comments:

Distinction needs to be made among:

- Federal Laws
- State Laws (Statutes)
- State Regulations
- Local Laws (Ordinances)

Slide 2:

Titles

Title 1: Provisions of General Application

Title 7: Municipalities

Title 13a: Highways and Bridges

Title 16: Public Service Company

Title 23: Parks, Forests and Public Shade Trees

Title 52: Civil Actions

Slide 3:

List of Statutes included

Sec. 1-1. Words and phrases. Construction of statutes

Sec. 7-148. Scope of municipal powers

Sec. 13a-140. Removal of trees along state highways. Penalties established by municipalities

Sec. 16-32g. Electric wire maintenance plans. Regulations.

Sec. 16-234. Rights of adjoining proprietors.

Sec. 23-58. Tree wardens; appointment; compensation; supervision.

Sec. 23-59. Powers and duties of wardens.

Sec. 23-60. Appropriations. Public trees; removal.

Sec. 23-65. Posting or distributing advertisements. Removing, pruning, injuring or defacing certain trees or shrubs. Restoration. Damages. Regulations. Permit for cutting or removal

Sec. 52-560. Damages for cutting trees, timber or shrubbery. Exclusion

Sec. 52-560a. Damages for encroachment on state, municipal or nonprofit land conservation organization open space land. Attorney General enforcement. Civil action.

Slide 4:

Sec. 1-1. Words and phrases. Construction of statutes. (a) In the construction of the statutes, words and phrases shall be construed according to the commonly approved usage of the language; and technical words and phrases, and such as have acquired a peculiar and appropriate meaning in the law, shall be construed and understood accordingly.

(q) Except as otherwise specifically defined, the words "agriculture" and "farming" shall include cultivation of the soil, dairying, forestry, raising or harvesting any agricultural or horticultural commodity, including ... salvaging timber or cleared land of brush or other debris left by a storm, as an incident to such farming operations; the production or harvesting of maple syrup or maple sugar, or any agricultural commodity, including lumber, as an incident to ordinary farming operations or the harvesting of mushrooms Nothing herein shall restrict the power of a local zoning authority under chapter 124.

Slide 5:

Sec. 13a-140. Removal of trees along state highways. Penalties established by municipalities.

(a) The commissioner may cut, remove or prune any tree, shrub or other vegetation situated wholly or partially within the limits of any state highway so far as is reasonably necessary for

safe and convenient travel thereon. No person, firm or corporation, and no officer, agent or employee of any municipal or other corporation, shall cut, remove or prune any tree, shrub or vegetation situated partially or wholly within the limits of any such highway without first obtaining from said commissioner a written permit therefor, provided however, that nothing contained in this subsection shall limit the rights of public service companies, as defined in section 16-1, to cut and trim trees and branches and otherwise protect their lines, wires, conduits, cables and other equipment from encroaching vegetation. No such permit shall be issued by the commissioner unless the chief elected official of the municipality in which any tree with a diameter greater than eighteen inches is situated is notified in writing. The notice shall include the location and a description of such tree to be cut or removed. No such permit for the removal of any such tree, shrub or vegetation shall be refused if such removal is necessary for that use of such adjoining land which is of the highest pecuniary value. If such permit is refused on any state highway right-of-way, where the state does not own the right-of-way in fee, the owner of such tree, shrub or vegetation may, within thirty days thereafter, request said commissioner in writing to purchase or condemn an easement for the purpose of maintaining such tree, shrub or vegetation and, if said commissioner does not purchase the same, he shall condemn it, in the manner provided for the condemnation of land for the construction, alteration, extension or widening of state highways. Any payment so made shall be from funds appropriated to the Department of Transportation. Said commissioner may plant, set out and care for trees, shrubs or vegetation within the limits of such highways and, by agreement with the owner of land adjoining such highways, upon such adjoining land. Upon request in writing within thirty days of planting of trees, shrubs or vegetation to delimit boundaries of a highway by an adjoining owner not agreeing thereto, said commissioner shall purchase or condemn an easement for the purpose of maintaining such tree, shrub or vegetation in the manner provided in this subsection. When the removal of such tree, shrub or vegetation is necessary for that use of such adjoining land which is of the highest pecuniary value, said commissioner shall remove the same upon payment to him of all sums paid for said planting and for any such easement with interest at the rate of six per cent per annum. Any person, firm or corporation cutting, removing, damaging or pruning any tree, shrub or vegetation in violation of the provisions of this subsection, whether it was planted by the commissioner or not, without a permit from said commissioner, shall be fined not more than one thousand dollars for each such violation and shall be liable civilly for any damage in an action brought by said commissioner.

(b) Notwithstanding the provisions of section 51-164p, any municipality, by ordinance, may establish a civil penalty of not more than one thousand dollars, for cutting, removing, damaging or pruning any tree, shrub or vegetation in violation of the provisions of subsection (a) of this section, on any scenic road, designated pursuant to section 13b-31c, located in said

municipality. Any such ordinance shall provide for notice and an opportunity for a hearing prior to the imposition of any such civil penalty. Any person who is assessed a civil penalty pursuant to this subsection may appeal therefrom to the Superior Court.

Slide 6:

Sec. 16-32g. Electric wire maintenance plans. Regulations. Not later than January 1, 2008, and annually thereafter, each electric or electric distribution company shall submit to the Department of Public Utility Control a plan for the maintenance of poles, wires, conduits or other fixtures, along public highways or streets for the transmission or distribution of electric current, owned, operated, managed or controlled by such company, in such format as the department shall prescribe. Such plan shall include a summary of appropriate staffing levels necessary for the maintenance of said fixtures and a program for the trimming of tree branches and limbs located in close proximity to overhead electric wires where such branches and limbs may cause damage to such electric wires. The department shall review each plan and may issue such orders as may be necessary to ensure compliance with this section. The department may require each electric or electric distribution company to submit an updated plan at such time and containing such information as the department may prescribe. The department shall adopt regulations, in accordance with the provisions of chapter 54, to carry out the provisions of this section.

Slide 7:

Sec. 16-234. Rights of adjoining proprietors. No telegraph, telephone or electric light company or association, nor any company or association engaged in distributing electricity by wires or similar conductors or in using an electric wire or conductor for any purpose, shall exercise any powers which may have been conferred upon it to change the location of, or to erect or place, wires, conductors, fixtures, structures or apparatus of any kind over, on or under any highway or public ground, without the consent of the adjoining proprietors, or, if such company or association is unable to obtain such consent, without the approval of the Department of Public Utility Control, which shall be given only after a hearing upon notice to such proprietors; or to cut or trim any tree on or overhanging any highway or public ground, without the consent of the owner thereof, or, if such company or association is unable to obtain such consent, without the approval of the tree warden or the consent of the department, which consent shall be given only after a hearing upon notice to such owner; but the department may, if it finds that public convenience and necessity require, authorize the changing of the location of, or the erection or placing of, such wires, conductors, fixtures, structures or apparatus over, on or under such

highway or public ground; and the tree warden in any town or the department may, if he or it finds that public convenience and necessity require, authorize the cutting and trimming and the keeping trimmed of any brush or tree in such town on or overhanging such highway or public ground, which action shall be taken only after notice and hearing as aforesaid, which hearing shall be held within a reasonable time after the application therefor.

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Sec. 23-58. Tree wardens; appointment; compensation; supervision. The selectmen of each town, except those having cities with coextensive boundaries within their limits, which cities have an officer with similar duties to those of a tree warden who in fact assumes control of all the territory embraced within their limits, and the warden or burgesses of each borough shall, within thirty days of their election, appoint a town or borough tree warden, as the case may be. Such tree wardens shall be appointed for the term of one year and until their successors are appointed and have qualified. Any tree warden may appoint such number of deputy tree wardens as he deems expedient and he may, at any time, remove them from office. A town or borough tree warden and his deputies shall receive for their services such reasonable compensation, from the town or borough, as the town or borough may determine or, in default of such determination, as the selectmen or borough warden prescribes.

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Sec. 23-59. Powers and duties of wardens. The town or borough tree warden shall have the care and control of all trees and shrubs in whole or in part within the limits of any public road or grounds and within the limits of his town or borough, except those along state highways under the control of the Commissioner of Transportation and except those in public parks or grounds which are under the jurisdiction of park commissioners, and of these the tree warden shall take the care and control if so requested in writing by the park commissioners. Such care and control shall extend to such limbs, roots or parts of trees and shrubs as extend or overhang the limits of any such public road or grounds. The tree warden shall expend all funds appropriated for the setting out, care and maintenance of such trees and shrubs. The tree warden shall enforce all provisions of law for the preservation of such trees and shrubs and of roadside beauty. The tree warden shall remove or cause to be removed all illegally erected signs or advertisements, placed upon poles, trees or other objects within any public road or place under the tree warden's jurisdiction. The tree warden may prescribe such regulations for the care and preservation of such trees and shrubs as the tree warden deems expedient and may provide therein for a reasonable fine for the violation of such regulations; and such regulations, when

approved by the selectmen or borough warden and posted on a public signpost in the town or borough, if any, or at some other exterior place near the office of the town or borough clerk, shall have the force and effect of town or borough ordinances. Whenever, in the opinion of the tree warden, the public safety demands the removal or pruning of any tree or shrub under the tree warden's control, the tree warden may cause such tree or shrub to be removed or pruned at the expense of the town or borough and the selectmen or borough warden shall order paid to the person performing such work such reasonable compensation therefor as may be determined and approved in writing by the tree warden. Unless the condition of such tree or shrub constitutes an immediate public hazard, the tree warden shall, at least ten days before such removal or pruning, post thereon a suitable notice stating the tree warden's intention to remove or prune such tree or shrub. If any person, firm or corporation objects to such removal or pruning, such person, firm or corporation may appeal to the tree warden in writing, who shall hold a public hearing at some suitable time and place after giving reasonable notice of such hearing to all persons known to be interested therein and posting a notice thereof on such tree or shrub. Within three days after such hearing, the tree warden shall render a decision granting or denying the application, and the party aggrieved by such decision may, within ten days, appeal therefrom to the superior court for the judicial district within which such town or borough is located. The tree warden may, with the approval of the selectmen or borough warden, remove any trees or other plants within the limits of public highways or grounds under the tree warden's jurisdiction that are particularly obnoxious as hosts of insect or fungus pests.

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Sec. 23-60. Appropriations. Public trees; removal. Each town, city or borough may appropriate annually a suitable sum to be expended by the town tree warden, borough tree warden, city forester or other similar officer, in the planting, trimming, spraying, care and preservation of shrubs or ornamental or shade trees within the limits of any public highway or grounds under his control and, at the discretion of the tree warden or other similar officer and with the written consent of the owner thereof, upon land adjoining such highway or grounds, if not more than ten feet therefrom, for the purpose of shading or ornamenting such highway or grounds. All shrubs and trees planted under the provisions of this section shall be deemed public shrubs and trees and shall be under the care and control of the tree warden, city forester or other similar officer and may be removed only upon a written permit from him.

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Sec. 23-65. Posting or distributing advertisements. Removing, pruning, injuring or defacing certain trees or shrubs. Restoration. Damages. Regulations. Permit for cutting or removal. (a)

Any person, firm or corporation which affixes to a telegraph, telephone, electric light or power pole, or to a tree, shrub, rock or other natural object in any public way or grounds, a playbill, picture, notice, advertisement or other similar thing, or cuts, paints or marks such tree, shrub, rock or other natural object, except for the purpose of protecting it or the public and under a written permit from the town tree warden, the borough tree warden, city forester or Commissioner of Transportation, as the case may be, or, without the consent of the tree warden or of the officer with similar duties, uses climbing spurs for the purpose of climbing any ornamental or shade tree within the limits of any public highway or grounds, shall be fined not more than fifty dollars for each offense.

(b) Any person, firm or corporation, other than a tree warden or deputy tree warden, who removes, prunes, injures or defaces any shrub or ornamental or shade tree, within the limits of a public way or grounds, without the legal right or written permission of the town tree warden, the borough tree warden, the city forester, the Commissioner of Transportation, the Department of Public Utility Control or other authority having jurisdiction, may be ordered by the court in any action brought by the property owner or the authority having jurisdiction affected thereby to restore the land to its condition as it existed prior to such violation or shall award the landowner the costs of such restoration, including reasonable management costs necessary to achieve such restoration, reasonable attorney's fees and costs and such injunctive or equitable relief as the court deems appropriate. In addition, the court may award damages of up to five times the cost of restoration or statutory damages of up to five thousand dollars. In determining the amount of the award, the court shall consider the willfulness of the violation, the extent of damage done to natural resources, if any, the appraised value of the shrub or ornamental or shade tree, any economic gain realized by the violator and any other relevant factors. The appraised value shall be determined by the town tree warden, the borough tree warden, the city forester, the Commissioner of Transportation, the Department of Public Utility Control or other authority having jurisdiction and shall be determined in accordance with regulations adopted by the Commissioner of Environmental Protection. The commissioner shall adopt regulations, in accordance with the provisions of chapter 54, to develop guidelines for such plant appraisal. The regulations may incorporate by reference the latest revision of The Guide for Plant Appraisal, as published by the International Society of Arboriculture, Urbana, Illinois. Until such time as regulations are adopted, appraisals may be made in accordance with said Guide for Plant Appraisal

(c) Any person, firm or corporation which deposits or throws any advertisement within the limits of any public way or grounds, or upon private premises or property, unless the same is left at the door of the residence or place of business of the occupant of such premises or property, or deposits or throws any refuse paper, camp or picnic refuse, junk or other material within the limits of any public way or grounds, except at a place designated for that purpose by the authority having supervision and control of such public way or grounds, or upon private premises or property without permission of the owner thereof, or affixes to or maintains upon any tree, rock or other natural object within the limits of a public way or grounds any paper or advertisement other than notices posted in accordance with the provisions of the statutes, or affixes to or maintains, upon the property of another without his consent, any word, letter, character or device intended to advertise the sale of any article, shall be fined not more than fifty dollars or imprisoned not more than six months or both for each offense.

(d) The removal, pruning or wilful injury of any shrub or ornamental or shade tree, or the use of climbing spurs upon any ornamental or shade tree without the consent of the tree warden or of the officer with similar duties or the affixing of any playbill, picture, notice, advertisement or other similar thing concerning the business or affairs of any person, firm or corporation, to a pole, shrub, tree, rock or other natural object, within the limits of any public way or grounds in violation of the provisions of this section by an agent or employee of such person, firm or corporation, shall be deemed to be the act of such person, firm or corporation, and such person, or any member of such firm or any officer of such corporation, as the case may be, shall be subject to the penalty herein provided, unless such act is shown to have been done without his knowledge or consent.

(e) The affixing of each individual playbill, picture, notice, advertisement or other similar thing to a pole, shrub, tree, rock or other natural object, or the wilful removing, pruning, injuring or defacing of each shrub or tree, or the throwing of each individual advertisement or lot of refuse paper or other material within the limits of any public way or grounds or on private premises, shall constitute a separate violation of the provisions of this section. Nothing in this section shall affect the authority of a tree warden, either by himself or by a person receiving a written permit from him, to remove, prune or otherwise deal with a shrub or tree under his jurisdiction.

(f) Any person, firm or corporation, other than a tree warden or his deputy, who desires the cutting or removal, in whole or in part, of any tree or shrub or part thereof within the limits of any public road or grounds, may apply in writing to the town tree warden, the borough tree warden or the Commissioner of Transportation or other authority having jurisdiction thereof for a permit so to do. Upon receipt of such permit, but not before, he may proceed with such cutting or removal. Before granting or denying such permit, such authority may hold a public hearing as provided in section 23-59, and when the applicant is a public utility corporation, the

party aggrieved by such decision may, within ten days, appeal therefrom to the Department of Public Utility Control, which shall have the power to review, confirm, change or set aside the decision appealed from and its decision shall be final. This shall be in addition to the powers granted to it under section 16-234, provided, if an application for such permit has been made to either a tree warden or the Commissioner of Transportation or other authority and denied by him, an application for a permit for the same relief shall not be made to any other such authority. Upon any approval of such a permit by the Commissioner of Transportation, he shall notify the tree warden for the town in which the tree is located. Upon any approval of such a permit by the Commissioner of Transportation, the permittee shall notify the tree warden for the town in which the tree is located prior to cutting any such tree.

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Sec. 52-560. Damages for cutting trees, timber or shrubbery. Exclusion. Any person who cuts, destroys or carries away any trees, timber or shrubbery, standing or lying on the land of another or on public land, except on land subject to the provisions of section 52-560a, without license of the owner, and any person who aids therein, shall pay to the party injured five times the reasonable value of any tree intended for sale or use as a Christmas tree and three times the reasonable value of any other tree, timber or shrubbery; but, when the court is satisfied that the defendant was guilty through mistake and believed that the tree, timber or shrubbery was growing on his land, or on the land of the person for whom he cut the tree, timber or shrubbery, it shall render judgment for no more than its reasonable value.

Slide 13:

Sec. 52-560a. Damages for encroachment on state, municipal or nonprofit land conservation organization open space land. Attorney General enforcement. Civil action. (a) As used in this section, "open space land" includes, but is not limited to, any park, forest, wildlife management area, refuge, preserve, sanctuary, green or wildlife area owned by the state, a political subdivision of the state or a nonprofit land conservation organization and "encroach" means to conduct an activity that causes damage or alteration to the land or vegetation or other features thereon, including, but not limited to, erecting buildings or other structures, constructing roads, driveways or trails, destroying or moving stone walls, cutting trees or other vegetation, removing boundary markers, installing lawns or utilities, or using, storing, or depositing vehicles, materials or debris.

(b) No person may encroach or cause another person to encroach on open space land or on any

land for which the state, a political subdivision of the state or a nonprofit land conservation organization holds a conservation easement interest, without the permission of the owner of such open space land or holder of such conservation easement or without other legal authorization.

(c) Any owner of open space land or holder of a conservation easement subject to the provisions of subsection (b) of this section or the Attorney General may bring an action in the superior court for the judicial district where the land is located against any person who violates the provisions of said subsection with respect to such owner's land or land subject to such conservation easement. The court shall order any person who violates the provisions of subsection (b) of this section to restore the land to its condition as it existed prior to such violation or shall award the landowner the costs of such restoration, including reasonable management costs necessary to achieve such restoration. In addition, the court may award reasonable attorney's fees and costs and such injunctive or equitable relief as the court deems appropriate.

(d) In addition to any damages and relief ordered pursuant to subsection (c) of this section, the court may award damages of up to five times the cost of restoration or statutory damages of up to five thousand dollars. In determining the amount of the award, the court shall consider the willfulness of the violation, the extent of damage done to natural resources, if any, the appraised value of any trees or shrubs cut, damaged, or carried away as determined in accordance with the latest revision of The Guide for Plant Appraisal, as published by the International Society of Arboriculture, Urbana, Illinois, or a succeeding publisher, any economic gain realized by the violator and any other relevant factors.