

VILLAGE OF CAYUGA HEIGHTS

LOCAL LAW 2 OF THE YEAR 2013

STREET TREE AND SHRUB PROTECTION AND PLANTING

Section I: Purpose and Intent

The purpose and intent of this Local Law is to promote and protect the public health, safety and general welfare in the Village of Cayuga Heights by providing for the regulation of the planting, maintenance, protection and removal of public trees and shrubs located within the right-of-way of any public street or in public parks or on other Village property. It also establishes the office of a Village Forester and a Shade Tree Advisory Committee and provides for the issuing of permits for the planting, maintenance, protection and removal of public trees and shrubs.

Section II: Title

This Local Law shall be known and may be cited as the “Village of Cayuga Heights Street Tree and Shrub Protection and Planting Law.”

Section III: Definitions

When used in this Local Law, the following words and phrases will have the following meanings:

- A. ADJACENT PROPERTY OWNER - The person, firm, entity, or corporation owning property bordering a Village street and the municipal right-of-way. The adjacent property owner to a public tree shall be the owner of property located on a perpendicular with the street line through the center of the tree four feet above the edge of pavement of a roadway.
- B. CALIPER - The diameter in inches of the tree trunk 12 inches above the base of the tree.
- C. CARE - That which is required to maintain the health and vigor of a tree or shrub in accordance with best silvicultural practices.
- D. CONTRACTOR - A person, company or organization employed to supply necessary skills and services in pruning, trimming or removing trees and shrubs.
- E. DAMAGE - Physical or chemical injury or harm done to any tree or shrub.
- F. DBH (DIAMETER AT BREAST HEIGHT) - Tree trunk diameter measured in inches at a height of four feet six inches above the finished grade at the base of the tree.
- G. DISTURB - Any act, treatment or process that will change the shape, growing conditions, health, size or density of a tree or shrub.

H. DRIPLINE - A vertical line extending from the outermost edge of the tree canopy or shrub branch to the ground.

I. FERTILIZE - The application of substances to the plant or the surrounding soil which are required for the optimal growth and health of the tree or shrub.

J. MAINTAIN - To keep a tree or shrub in maximum health and vigor.

K. NUISANCE - Anything or act that unreasonably annoys or disturbs a person, interferes with a person's use of his or her property, or violates the public health, safety and welfare.

L. PARK/PUBLIC PLACE - All property owned by the Village or public street rights-of-way within the Village.

M. PRUNE - To remove dead or living parts from a tree or shrub so as to increase health, vigor and form.

N. PUBLIC STREET RIGHT-OF-WAY - The land bordering the travelled area of a Village public street, road or highway owned and maintained by the Village to the width owned by the Village or otherwise as prescribed by applicable law.

O. PUBLIC TREE OR SHRUB - A tree or shrub located on publicly owned land or within the public street right-of-way.

P. REMOVE - To take away and remove a tree or shrub including the stump to below ground level.

Q. REPLACE - The removal of a dead, dying or diseased tree or shrub followed by the planting of a tree or shrub of the same or different species in the same or adjacent location.

R. SEVERE ROOT PRUNING - Cutting back the underground tree roots inside the dripline of the tree that will be detrimental to the life of the tree.

S. SHRUB - Woody plant with more than one main stem emerging from the ground.

T. TREE - A woody plant with a single central axis (trunk) emerging from ground and acquiring a minimum height of ten (10) feet at maturity.

U. TOP/TOPPING - Severe cutting back of limbs to stubs larger than three inches in diameter within the tree crown to such degree so as to remove the normal canopy and disfigure the tree.

V. UTILITY - An entity that provides electricity, gas, sewer, water, telephone or cable television to properties within the Village.

Section IV: Village Forester

- A. The office of Village Forester is hereby established as an uncompensated, volunteer position.
- B. The Village Forester shall be a resident of the Village appointed by the Mayor, subject to approval by the Board of Trustees, for a term of three years.
- C. The Village Forester, in consultation with the Shade Tree Advisory Committee and the Department of Public Works, shall have the authority to implement the provisions of this ordinance.
- D. In the absence of the Village Forester, the duties of that office shall be the responsibility of the Village Code Enforcement Officer.

Section V: Shade Tree Advisory Committee

A. Establishment, Membership, Terms:

1. The Village Board of Trustees shall create an advisory committee known as the "Village of Cayuga Heights Shade Tree Advisory Committee."
2. The Shade Tree Advisory Committee shall consist of three members, including the Village Forester, all of whom shall be residents of the Village. In addition, the Village Code Enforcement Officer, the Superintendent or Assistant Superintendent of the Department of Public Works, and a member of the Village Board of Trustees shall serve as ex officio members of the Committee. Each Committee member shall be appointed by the Mayor, subject to approval by the Board of Trustees.
3. Committee members shall be uncompensated volunteers and, other than the Village Forester, shall be appointed initially as follows: one member shall be appointed for a term of one year and one member shall be appointed for a term of two years. Thereafter, all appointments shall be for three years.
4. If a Committee member does not serve the full term for reasons other than the expiration of the term, the Mayor shall appoint a successor, to serve for the unexpired term.

B. Committee duties.

1. The Shade Tree Advisory Committee, in consultation with the Department of Public Works, shall have the authority to adopt rules and regulations regarding arboricultural specifications and standards of practice, such as Arboricultural Specifications and Standards of Practice of the International Society of Arboriculture as published under American National Standard for Tree Care Operations (ANSI A300), and such additional rules and regulations as the Committee determines are necessary to govern the planting, maintenance, removal, fertilization, pruning and protection of trees and shrubs located on public streets, parks or other Village property.

2. The Shade Tree Advisory Committee shall establish a suggested tree species list for the Village and recommend to the Village the type and kind of trees and shrubs to be planted upon Village property.

3. The Shade Tree Advisory Committee, in consultation with the Department of Public Works, shall identify for removal trees and shrubs located on public streets, parks or other Village property.

4. The Shade Tree Advisory Committee shall provide every five years a written management plan for the long-range care and preservation of public trees and shrubs located on public streets, parks or other Village property.

C. Meetings.

1. The Shade Tree Advisory Committee shall meet a minimum of six times each year. The Committee may call additional meetings as needed.

2. Committee members shall be required to attend a minimum of 65% of all regularly scheduled meetings within any consecutive 12 month period. Any member of the Committee may be removed by the Mayor, after a public hearing, for non-compliance with these minimum requirements.

Section VI: Municipal responsibility

A. The Village of Cayuga Heights or its agent shall have the right to plant, prune, maintain and remove trees, plants and shrubs located on public streets, parks or other Village property as may be necessary to preserve and protect public trees and shrubs in a safe and healthy condition and to ensure public safety.

B. The Village Forester may recommend a public tree or part of a public tree be removed if the tree or tree part:

1. Poses a potential public safety risk or hazard; or

2. Causes an unsafe condition; or

3. By its nature, is injurious to sewers, electric power lines, gas lines, waterlines, sidewalks, roads, or other public improvements; or

4. Is affected or is likely to be affected with any injurious fungus, disease, insect or pest.

Section VII: Planting, maintenance and removal regulations

A. No person, utility, or Village agency shall plant, spray, fertilize, prune, remove, replace or otherwise disturb any public tree or shrub on any public street, park or other Village-owned property without first submitting a written request therefor and obtaining written permission from the Village Forester. Requests for written permission shall be acted on within five business days of filing the written request with the Village Forester. All work for which such permission is given shall be done in accordance with rules and regulations regarding arboricultural specifications and standards of practice adopted pursuant to Section V of this Local Law.

B. Persons, utilities, or Village agencies conducting regular maintenance work on public trees or shrubs on any public street, park or other Village-owned property may be granted general permits to cover their work on a yearly basis.

C. Whenever a person, utility, or Village agency obtains written permission pursuant to Subsection A of this section to remove a public tree or shrub from any Village-owned land for the purpose of construction or for any other reason, such person, utility, or agency shall subsequently replace the tree or shrub within one year of the issuance of the tree-removal permit in a location or locations to be determined by the Village Forester somewhere in the Village or have the Village replace such tree or shrub at the expense of the person, utility, or agency who obtained such permission. Such replacement shall meet the standards of size, species and placement as provided for in the tree removal permission issued by the Village Forester. Unless the Village Forester, for good cause, determines otherwise, trees shall be replaced by the caliper inch, such that for every inch of diameter (DBH) removed, an equal number of caliper inches shall be replaced (e.g., the removal of one twelve-inch DBH tree shall necessitate the planting of six two-inch caliper trees or four three-inch caliper trees, etc.). Unless approved otherwise by the Village Forester or Superintendent of the Department of Public Works, all tree work, including pruning, planting, and removal, will be done by the Village of Cayuga Heights Department of Public Works.

D. It is the responsibility of the Village Forester, in consultation with the Department of Public Works, to determine whether trees or shrubs located on Village-owned property are hazardous and to remove dead or hazardous trees or shrubs from Village-owned property. If replacement is recommended by the Village Forester, the Village shall replace the tree or shrub within one year of removal.

E. Wherever it is necessary to remove a tree or shrub from a public right-of-way in connection with the paving of a sidewalk or with the paving, improvement, or widening of a street, the Village or responsible agency, utility, or person shall replant such tree or shrub or replace it. If conditions prevent planting within the right-of-way, this requirement may be satisfied by planting on the adjoining property if the adjacent property owner agrees.

F. Requests from adjacent property owners that new street trees be planted near their property shall be accommodated in accordance with planting priorities set by the Village Forester in consultation with the Shade Tree Advisory Committee and the Department of Public Works.

G. Specifications governing tree species, size, spacing and method and location of planting shall be approved by the Village Forester. Inspection of the trees by the Village Forester shall be carried out, whenever possible, prior to planting in order to ensure tree health and quality. Whenever any person is required to replace a tree for the purpose of compliance with this section, a one-year guarantee of the tree's health shall be provided for such replacement trees.

H. Excavation within the street right-of-way for the purpose of compliance with this section shall not be undertaken without a permit from the Village Engineer.

Section VIII: Prohibited actions

A. No person or utility shall plant, spray, fertilize, treat, prune, remove, cut above ground, disturb the root system or otherwise disturb any public tree or shrub on any Village street, park or public place without a permit obtained from the Village Forester.

B. Further, no person shall fasten or attach to any tree any sign, poster, bill, notice or advertisement of any kind.

C. No person or utility shall cause or permit any brine, oil, gasoline, liquid dye or other substance deleterious to tree life to lie, leak, pour, flow or drip on or into the soil about the base of a tree which could injure such tree.

D. No person shall fasten or cause to be fastened any animal to a tree in any street or public place or permit any animal owned by him or in his charge to stand so near any such tree that the tree may be gnawed or otherwise injured by the animal.

E. No trees shall be planted or allowed to grow on private or public lands within the limits of, or which will interfere with, any drainage, sewer, water, or utility easement.

F. Written authorization for any action governed by this section may be obtained in the same manner as provided for in Section VII of this Local Law.

Section IX: Tree and Shrub Protection

A. Without written permission from the Village Forester, no person, utility, or Village agency shall:

1. Undertake any construction or development activity (including but not limited to the excavation of any ditches, tunnels, or trenches or the laying of pavement) within the dripline of any public trees or shrubs located on public streets, parks or other Village property.

2. Move or park vehicles associated with any construction or development activity which may affect any public trees or shrubs located on public streets, parks or other Village property.

B. Protection during construction or excavation.

1. Unless the Village Forester, for good cause, determines otherwise, all public trees or shrubs located on public streets, parks or other Village property that may be affected by any excavation or construction of any building, structure or street work shall be guarded as follows:

a. For trees or shrubs with a crown spread of eight feet or less, a substantial fence, frame or box not less than four feet high and eight feet square shall surround the tree or shrub.

b. For a tree or shrub with a crown spread over eight feet, a fence not less than four feet high shall be placed at least at the tree or shrub's dripline or at a distance prescribed by the Village Forester.

2. All building material, stockpiled soil, or debris shall be kept outside these barriers.

C. No person, utility, or Village agency shall deposit, place, store or maintain upon any public place of the Village any stone, brick, sand, concrete or other materials which may impede the free passage of water, air and fertilizer to the roots on any tree or shrub growing thereon, except by written permit of the Village Forester.

D. Any written permission required by this section may be obtained in the same manner as provided for in Section VII of this Local Law.

Section X: Topping and severe root pruning

A. It shall be unlawful for any person, firm, entity, corporation, or utility to top any public tree or shrub, or to engage in severe root pruning.

B. Trees severely damaged by storms or certain trees under utility wires or other obstructions, where other pruning practices are impractical, may be exempted from this chapter upon the written permit of the Village Forester.

Section XI: Removal and pruning of trees and shrubs on private property

A. It shall be the duty of any person or utility owning real property bordering on a public street or park, at their own expense, to cut down and remove any trees located upon their property which are dead, harbor insects or disease, or which are so damaged as to be a public nuisance and in danger of falling, thereby potentially causing damage to person or property in the public right-of-way or park.

B. It shall be the duty of any person or utility owning real property bordering on a public street, at their own expense, to ensure that trees and shrubs located upon their property are pruned in a manner that they do not obstruct or shade streetlights, obstruct the passage of pedestrians on

sidewalks, obstruct vision of traffic signs or obstruct the view of any street or sidewalk intersection.

C. The Village Forester shall provide the property owner with written notification that a tree or shrub located upon their property should be removed or pruned for the reasons stated in Subsections A or B. The property owner shall have fifteen (15) days after the date of service of the notice to inform the Village Forester or Code Enforcement Officer as to when the tree or shrub shall be removed or pruned. The property owner shall have no more than thirty (30) days after informing the Village Forester or Code Enforcement Officer to remove or prune the tree or shrub unless the Village Forester or Code Enforcement Officer indicates otherwise in writing. If the property owner fails to comply with such provisions, the Village may remove the tree or shrub and charge the cost of removal to the property owner upon notice and hearing. If the cost of such removal remains unpaid for sixty (60) days, the cost of removal shall be added to the next real estate tax bill of the property owner.

Section XII: Utilities

If trees or shrubs are interfering with utilities, including but not limited to overhead utility wires, it is the responsibility of the appropriate utility company to correct the situation. Prior to commencing any action pursuant to Subsection A, the appropriate utility company shall give the Village Forester written notice of at least ten (10) business days.

Section XIII: Emergency work

A. This Local Law shall not govern any emergency activity immediately necessary to protect life, safety or property or to provide access to any property. Any such emergency activity shall incorporate reasonable efforts to protect trees and shrubs on Village property from unnecessary damage.

B. Any person, utility, or Village agency engaged in any action covered by Subsection A shall make a reasonable effort to notify the Village Forester prior to commencing that action and Page 1A shall, in any event, provide written notice of the emergency and the work done to the Village Forester reasonably promptly after commencing that work.

Section XIV: Interference with work

No person shall hinder, prevent, delay, or interfere with the Village of Cayuga Heights or its agents, including the Village Forester or Shade Tree Advisory Committee members, while engaged in carrying out the enforcement of this Local Law or duly adopted regulations.

Section XV: Penalties for offenses

Any person, utility, firm, entity, or corporation violating or failing to comply with any of the provisions of this chapter shall be guilty of a violation, and upon conviction thereof shall pay the cost of rectifying damage to any tree or shrub on Village-owned property and be fined, for a first offense not less than \$50 and not more than \$100, for a second offense not less than \$100 and not more than \$150, and for any additional offense not less than \$150.

Section XVI: Appeals

Should a dispute arise in the administering of this Local Law, an appeal can be requested by petitioning, in writing, the Village Forester. The Village Forester will have ten (10) working days to reply in writing. Should this provide an unsatisfactory resolution, a second appeal can be requested by petitioning the Code Enforcement Officer. In such event, the Code Enforcement Officer shall consult with the Village Forester. The Code Enforcement Officer will have thirty (30) working days from the filing of the second appeal to reply in writing. Should this also provide an unsatisfactory resolution, a third appeal can be requested by petitioning the Board of Trustees. The Board of Trustees will act upon the petition within sixty (60) days from the date of receiving the petition

Section XVII: Severability

If any section, paragraph, sentence, clause, or phrase of this Local Law is found to be invalid by a Court of competent jurisdiction, such judgment shall not affect, impair, or invalidate the remaining portions of this Local Law.

Section XVIII: When effective

This Local Law shall become effective immediately upon filing with the New York State Secretary of State.