

A LOCAL LAW PROVIDING FOR THE MAINTENANCE, CONSERVATION AND PRESERVATION OF TREES IN THE VILLAGE OF TRUMANSBURG

LOCAL LAW #1 OF 2020

Be it enacted by the Village Board of Trustees of the Village of Trumansburg, in the County of Tompkins and State of New York, as follows:

Section 1. Construction and Definitions.

- A. All nouns and pronouns shall be construed in the singular, plural, masculine, feminine, or neutered context when the provisions hereof so demand or admit. Defined words shall have the meanings ascribed to them regardless of whether capitalized, and such meanings shall be also applied within the context of the clause in which such terms appear. Subject headings are for convenience and shall not be construed or applied to limit or restrict the subject matter and terms appearing under such subject heading. Whenever any reference is made to any section of law or regulations, such reference shall be interpreted to include such law or regulation as later amended, renumbered, or re-codified, and a mere typographical citation error shall not be given effect.
- B. The following words and phrases shall have the following meanings whenever so appearing or utilized within this local law:

Located Within: Being “located within” an area, such as a park or street, shall include overhanging such area, being adjacent to any such area where the tree could encroach upon the public way if it were to collapse, partly collapse, or shed any branches or limbs, including under normal wind and weather conditions typical for the Village.

Park Trees: “Park trees” are herein defined as trees, shrubs, bushes and all other woody vegetation in public parks, and all areas owned by the Village, or to which the public has free access.

Public Trees: “Public trees” include all park trees, all street trees, and all other trees owned by the Village, located upon village-owned property, or within the public trust of the Village.

Restitution: “Restitution” shall be defined as set forth in law, and includes the value of any trees or flora, the replacement costs for the same. If the damage or loss to the tree or flora was intentional, purposeful, or otherwise meets the requirements set forth in the New York State Real Property Actions and

Proceedings Law at § 861, the amount of restitution due, payable, or required, whether by sentence, civil penalty, or other adjudication, shall be trebled.

Street Trees: “Street trees” are herein defined as trees, shrubs, bushes, and all other woody vegetation in the space between the sidewalk edge and the edge of street pavement, within 25 feet of the center line of all Village, Village, or County roadways, within 15 of the pavement edge of State highways, on Village property, or within the Village right of way.

Topping: “Topping” is herein defined as the severe cutting back of tree canopies where (i) limbs larger than 3 inches are cut-back or removed within the tree’s crown to such a degree so as to remove the normal canopy or disfigure the tree, or (ii) where the centerline trunk extending growth to the crown is severed to prevent, or to be likely to cause or prevent, normal tree growth to an expected height.

Trees: “Trees” include, generally, all trees, shrubs, bushes and all other woody vegetation and flora located in the Village.

STAC or Street Tree Advisory Committee: An advisory committee formed by resolution of the Village of Trumansburg Board of Trustees, including as further defined and charged in and under this local law.

Village: “Village” means the Village of Trumansburg, and collectively and severally each and all of its boards, employees, officers, agents, and contractors.

Section 2. Purposes.

It is among the stated objectives and purposes of this local law to recognize the environmental, health, and aesthetic benefits of trees and a Village or urban forest, and this local law establishes policies, regulations, and standards for planting, maintenance, protection, preservation, removal, and replacement of trees on or affecting public lands within the Village. These provisions are enacted to:

- A. Help establish and reestablish a reasonable maximum sustainable amount of tree cover on public lands within the Village while maintaining trees in a healthy and nonhazardous condition through good arboricultural practices, including by establishing and maintaining appropriate diversity in tree species and age classes in order to provide a stable and sustainable urban forest.
- B. Conserve and preserve public and other trees as important public resources, thus enhancing quality of life and the general welfare of the Village while maintaining its unique character and historical aesthetic.

- C. Encourage the protection of healthy trees and provide guidance for responsible maintenance, removal, planting or replacement of trees, particularly street trees and park trees and trees located within public ways and parks.
- D. Protect and enhance the positive impact of trees on the environment, and to help identify and remove trees and portions of trees that present potential or actual hazards, dangers, or which are or may be or become a nuisance, due to being located within public ways and streets thus posing a danger to the public.

Section 3. Application, Severance, and Liabilities.

- A. The Village shall have full power and authority over all trees and flora (excluding grasses under 24 inches in height) located within street rights-of-way, public parks, public rights-of-way, easement areas, and other public places in the Village, including locations as impair visibility at intersections or of signage and traffic signals, as set forth herein.
- B. Whenever empowered or called upon to review or undertake a review of any matter set forth in this local law the Village and STAC shall consider all factors they deem relevant, specifically including: (i) the diversification of trees and community and urban forests; (ii) the nature and limitations of the specific location under review; (iii) the presence of utility lines and other constricting factors; and (iv) the overall cost of any proposal or recommendation; and (v) public safety and issues respecting the removal of nuisances and dangers, real or potential.
- C. The provisions of this local law shall be read in harmony with all other laws and the policies of the Village, including its Comprehensive Plan. Whenever any conflict or inconsistency arises, the provisions resulting in the maximum protection, preservation, or planting of trees, or the highest quality of native, non-invasive trees shall govern, except where otherwise so limited by law. In the event of preemption by any superior sovereign, then this local law shall be applied to promote the purposes hereof to the maximum extent permitted by law.
- D. If any part or provision of this local law, or the application hereof to any person or circumstance, be adjudged invalid or unenforceable by any court or tribunal of competent jurisdiction, such judgment shall be confined in its operation to the part or provision, persons, and applications and facts directly involved in the controversy in which such judgment or determination shall have been rendered, and such invalidity or unenforceability shall not affect or impair the validity or enforceability of the remainder of this local law. Nor shall any such judgment or determination apply to any other persons, circumstances, applications, or facts. If such part or provision cannot be so limited or the balance of this local law so

preserved, then the offending provision shall be deemed severed and the Village hereby declares that it would have adopted this local law, or the remainder hereof, had such invalid or unenforceable part or provision been apparent or omitted. In no event shall any partial invalidity or unenforceability affect the other provisions of this local law, each of which shall be and remain separate and enforceable to the maximum extent permitted by law.

- E. This law is intended to improve the overall quality and quantity of trees and green areas in the Village and shall not be construed in a manner that would imply any additional responsibility or liability on the part of the Village to actively maintain, monitor, or otherwise ensure the safety of any trees. Nor shall this local law be read, construed, or applied in any manner as may increase the responsibility or liability of the Village, or decrease the responsibility to liability of the property owner upon whose land such trees may be situate. The Village shall not be liable or responsible for any injuries to persons or damages to property due to the Village’s actions, or failures to act, under or pursuant to this local law unless it is proven to a reasonable degree of certainty that such injury or damage was solely caused by a willful or intentional act of the Village, and this provision shall be construed and applied only to the maximum extent permitted by law. This local law, and no clause here, creates any theory or claim of liability where none exists at law or in equity, and nothing herein alters any notices of claims as may be required by law.

Section 4. Street Tree Species to be Planted.

For the purpose of being helpful and providing guidance, the following is a list of species size classifications for street tree plantings that do not require any prior approval from the Village or review by the STAC. However, residents are encouraged to work with the STAC to plan tree plantings to help assure the success and diversity of our Village forest.

Small street trees	Medium street trees	Large street trees
Japanese Maple – <i>Acer palmatum</i>	European Hornbeam – <i>Carpinus betulus</i>	Sugar Maple – <i>Acer saccharum</i>
Serviceberry – <i>Amelanchier spp.</i>	American Hornbeam – <i>Carpinus caroliniana</i>	Red Oak – <i>Quercus rubra</i>
Cornelian Cherry – <i>Cornus mas</i>	Hophornbeam – <i>Ostrya virginia</i>	White Oak – <i>Quercus alba</i>
Winter King Hawthorn – <i>Crataegus viridis</i>	Honey Locust – <i>Gleditsia triacanthos</i>	Sycamore – <i>Platanus occidentalis</i>
Crab Apple – <i>Malus spp.</i>	Katsura Tree – <i>Cercidiphyllum japonicum</i>	London Plane Tree – <i>Platanus x acerifolia</i>

Redbud – <i>Cercis canadensis</i>	River Birch – <i>Betula nigra</i>	Tulip Poplar – <i>Liriodendron tulipifera</i>
Japanese Tree Lilac – <i>Syringa reticulata</i>		Ohio Buckeye – <i>Aesculus glabra</i>
		Yellow Buckeye – <i>Aesculus flava</i>

The planting of any street tree specie not upon this list may be undertaken only with a review thereof and recommendations by STAC, and an approval by the Village DPW Superintendent (which approval may impose or supersede STAC’s recommendations or advice).

Section 5. Spacing of Plantings.

The spacing of street trees will be in accordance with the three species size classes listed in Section 4 of this law, and no trees may be planted closer together than the following:

Small street trees	Medium street trees	Large street trees
20-foot minimum separation	30-foot minimum separation	40-foot minimum separation

Spacing shall be measured from the centerline of each tree’s trunk to the centerline of the next nearest trunk, and no variation in spacing requirements is permitted without with a review thereof and recommendations by STAC, and an approval by the Village DPW Superintendent (which approval may impose or supersede STAC’s recommendations or advice).

Section 6. Distance from Curb, Pavement, and Sidewalk.

The distance street trees may be planted from curbs or curb lines and sidewalks will be in accordance with the three species size classes listed above, and no trees may be planted closer to any curb, street pavement edge, or sidewalk than the following:

Small street trees	Medium street trees	Large street trees
2 feet	3 feet	4 feet

Spacing shall be measured from the centerline of each tree’s trunk to the closest edge of such curb, street, or sidewalk, and no variation in this distance requirement is permitted without with a review thereof and recommendations by STAC, and an approval by the Village DPW Superintendent (which approval may impose or supersede STAC’s recommendations or advice).

Section 7. Distance from Street Corners and Fireplugs.

- A. No street tree shall be planted such that it will, when it reaches maturity, impede the sight lines of pedestrians or vehicles approaching intersections and, in all cases, zoning and DPW roadway requirements for intersections shall apply.
- B. Street trees shall not be planted within 35 feet of any street corner, as measured from the point of nearest intersecting curbs or curb lines, pavement edges, or pavement lines.
- C. No Street tree shall be planted within 10 feet of any fireplug or hydrant.

Section 8. Utilities.

No street trees shall be planted in such a way as to impinge upon or interfere with electrical transmission lines or other utilities, including water and sewer.

Section 9. Public Tree Care.

- A. The Village shall have the right, but not the obligation, to plant, prune, maintain, and remove public and other trees and flora located within the rights-of-way of all streets, alleys, avenues, lanes, squares and public grounds, including as may be necessary to promote public safety or preserve and enhance the symmetry and beauty of such public grounds.
- B. The Village may remove, or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which, by reason of its nature or condition, is:
 - 1. Injurious to sewers, electric power lines, gas lines, water lines, roads, curbs, sidewalks, or other public improvements.
 - 2. Affected or infected with or by rot, injurious fungus, disease, insect, or other pest and located within any public way or otherwise located in a manner as to present an unreasonable risk of harm to persons or property.

Section 10. Injury to Public Trees.

It shall be unlawful to cause damage to public trees, including as follows:

- A. No person shall remove or disturb the root system of any public tree without, in each case, first obtaining a review thereof and recommendations by STAC, and an

approval by the Village DPW Superintendent (which approval may impose or supersede STAC's recommendations or advice).

- B. No person shall fasten or attach to any public tree any steps, hardware, signs, posters, bills, notices, or advertisements of any kind.
- C. No person shall cause or permit any brine, oil, gasoline, liquid dye, or other substance deleterious to tree life to lie, leak, pour, flow, or drip onto the tree or into the soil about the base or roots of any public tree.
- D. No person shall fasten or cause to be fastened any animal to any public tree, or permit any animal to chew upon, gnaw, dig at or de-root, or injure or deface any public tree.
- E. No person shall excavate any ditches, tunnels, or trenches, or lay any drive within a radius of 10 feet of, any public tree without first obtaining a review thereof and recommendations by STAC, and an approval by the Village DPW Superintendent (which approval may impose or supersede STAC's recommendations or advice).
- F. No person shall lay any stone, brick, sand, concrete or other materials which may impede the free passage of water, air, and nutrients to the roots of any public tree without first obtaining a review thereof and recommendations by STAC, and an approval by the Village DPW Superintendent (which approval may impose or supersede STAC's recommendations or advice).
- G. No person shall purposefully or accidentally injure any public tree by collision with any vehicle, or by the use of any electric or hand tool or object to girdle, debark, injure, deface, or cause disease or recession in or of such tree.

Section 11. Tree Topping.

Unless approved by the Village, it shall be unlawful to engage in topping any public tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning or maintenance practices are impractical, may be exempted from this provision whenever an easement expressly so provides, or upon a review thereof and recommendations by STAC, and an approval by the Village DPW Superintendent (which approval may impose or supersede STAC's recommendations or advice).

Section 12. Pruning, Maintenance, and Corner Clearances.

Every owner of any tree located within any public way, including but not limited to any sidewalk, street, or other right-of-way within the Village, shall maintain, trim, and prune

tree branches and foliage as follows, and comply with the following notices and requirements:

- A. Branches and foliage shall not obstruct the light from any street lamp, nor interfere with the visibility of any traffic control device or sign.
- B. Branches and foliage shall not obstruct the view of any street intersection.
- C. All pruning and trimming shall produce a minimum clear space of 8 feet above the surface of any sidewalk and 13 feet above any street.
- D. All dying, infected, dead, diseased or dangerous trees, and all broken or decayed limbs, shall be removed.
- E. Pruning that complies and is accomplished in accordance with the procedures set forth in the most recent ANSI A300 standards shall be presumptively acceptable when undertaken in accordance with International Society of Arboriculture Best Management Practices.
- F. Upon receipt of a non-emergency notice from the Village to remediate any dangerous condition or public nuisance involving any tree or flora, the owner shall, as expeditiously as possible, and in all cases within 20 days, remediate the danger or nuisance in accordance with the requirements of such notice and this local law. The failure to so remediate or remove any danger or nuisance shall be a violation of this local law and may be enforced as such. In addition, upon 3-days' advance notice to the landowner, the Village shall have the right, but not the obligation, to enter the land of the owner to remediate such danger or nuisance and charge the cost of such remediation or removal back to the owner. In such case the Village shall deliver to the owner a notice advising of the amount to be so charged, and if not paid within 20 days the Village may assess and levy such charge as a benefit and move tax and emplace the same upon the tax bill of the owner, to be collected along and together with other taxes and assessments levied and generally collectible in accord with the Real Property Tax Law of the State of New York. Within 15 days of the date of delivery of such 3-day notice or such charge-back notice, the owner may request a public hearing on the reasonableness of the remediation order, the necessity of the work, the reasonableness of the cost thereof or charges therefor, and at such time the owner may present any defense, justification, claim of hardship, or other claim in relation to such matters. The Village Trustees shall conduct such public hearing within 30 days of such request and issue and serve a written determination within 30 days of the close of such hearing. Such determination shall be final, and no collection or tax levy may be undertaken until such determination is filed with the Village Clerk.

Section 13. Emergencies Relating to Trees on Private Property or Located Within or Affecting Public Ways.

If the Village reasonably finds that (i) any tree or other flora constitutes an immediate danger or hazard to life or property, or harbor insects or disease which constitute a potential threat to public trees or other trees within the Village, and that (ii) such condition constitutes an emergency requiring immediate remediation or removal, then the following procedures shall apply:

- A. The Village shall post a conspicuous defective condition notice (“DCN”) upon the tree or other flora, and shall serve or deliver by overnight mail a copy of such DCN to each landowner. Service at the address listed upon any RP-5217 Assessment Report or other address registered by such landowner for the delivery of tax bills and notices shall be deemed service at a proper address.
- B. A DCN shall state as follows: “CONDEMNED: THIS TREE IS HAZARDOUS AND UNSAFE, IMMEDIATE REMEDIATION OR REMOVAL IS REQUIRED. THE FAILURE TO REMOVE OR REMEDIATE THIS DANGER WITHIN 24 HOURS, OR TO SUBMIT A REMEDIATION PLAN AND OBTAIN APPROVAL THEREUPON WITHIN 24 HOURS, SHALL BE A VIOLATION OF THE VILLAGE TREE LAW AND PERMIT THE VILLAGE TO ENTER AND REMOVE SUCH DANGER.”
- C. A DCN shall remain posted until the emergency is abated, and it shall be unlawful for any person to remove, tamper with, or alter a DCN.
- D. Where warranted in the opinion of the Village, any areas that are imminently dangerous or hazardous may be barricaded and closed, even if the same are private roads or streets.
- E. The cost of any entry and removal for an emergency shall be chargeable back to or against the landowner in the same manner as set forth above in § 12(F) for non-emergency expenses, including landowner rights to challenge determinations and request hearings thereupon.

Section 14. Interference with the Village or Duties of STAC.

It shall be unlawful for any person to prevent, delay, or interfere with the Village or STAC when undertaking duties, inspections, and other actions authorized by this local law.

Section 15. Violations and Penalties.

- A. Non-compliance with any requirement or provision of this local law, or any notice or DCN issued hereunder, shall be a violation hereof and enforceable as such. All provisions of New York State law generally applicable to misdemeanors shall apply to any criminal proceeding brought under this local law. First offenses shall be deemed violations and all misdemeanors shall be unclassified misdemeanors.
- B. For purposes of this local law the Town of Ulysses Justice Court is hereby vested and imbued with jurisdiction to issue administrative and other warrants in compliance with the New York Criminal Procedure Law and administrative codes of the State of New York, as well as to hear and adjudicate allegations relating to the criminal or civil violation of this local law and thereafter, if appropriate, impose any fine, penalty, or sanction.
- C. First Violation: Any person or entity that violates this local law shall be (1) guilty of a criminal violation and subject to a fine of not less than \$100 nor more than \$250, plus the cost of replacing the affected tree(s) or rectifying damage caused, or (2) subject to a civil penalty of not less than \$100 nor more than \$500, plus the cost of replacing the affected tree(s) or rectifying damage caused, to be recovered by the Village in a civil action. Replacement costs shall be determined on the basis of caliper inches to be replaced, rather than individual specimens.
- D. Second Violation: Any violation that is found to have occurred within 2 years of any prior civil or criminal determination of any other violation of this local law shall be deemed a second violation. Any person or entity that commits any second violation shall be (1) guilty of an unclassified misdemeanor and subject to a fine not less than \$500 nor more than \$2,500, plus the cost of replacing the affected tree(s) or rectifying damage caused, or (2) subject to a civil penalty of not less than \$750 nor more than \$2,500 plus the cost of replacing the affected tree(s) or rectifying damage caused, to be recovered by the Village in a civil action.
- E. Each week that any non-compliance or violation continues is and may be charged as a separate violation.
- F. In addition to any other remedy, a violation of or non-compliance with this local law may further result in an order or sentence for restitution, or the inclusion of restitution amounts in the calculation of any civil penalty.
- G. The application or pursuit of any civil or criminal fine, sanction, or penalty shall not preclude the later or simultaneous pursuit of any other remedy by the Village, including, but not limited to, the right to seek equitable relief. Whenever the Village shall believe from evidence satisfactory to it that there is a violation of this local law, the Village may bring an action to enjoin and restrain such violation and, in any such action: (i) preliminary relief may be granted under Article 63 of the

New York State Civil Practice Law and Rules; and (ii) the Village shall not be required to post any bond or undertaking; and (iii) the Village need not prove that there is or will likely be irreparable harm, or that the Village has no adequate remedy at law. In such action the court or tribunal may also award any damages or other relief requested, including but not limited to declaring the rights and interests of any parties and imposing damages or civil penalties. The remedies provided by this local law shall not be in lieu of, and shall be in addition to, any other right or remedy available to the Village, whether sounding in enforcement or otherwise.

Section 17. Effective Date.

This local law shall be effective immediately upon adoption.

Moved: Carver

Second: Darfler

Vote

Carver: Aye

Darfler: Aye

Hannon: Aye

Hart: Aye

Watkins: Absent

APPROVED

I HEREBY CERTIFY THAT THE ABOVE LOCAL LAW 1 OF 2020 ENTITLED " A LOCAL LAW PROVIDING FOR THE MAINTENANCE, CONSERVATION AND PRESERVATION OF TREES IN THE VILLAGE OF TRUMANSBURG" WAS ADOPTED BY THE VILLAGE OF TRUMANSBURG BOARD OF TRUSTEES AT A MEETING HELD ON DECEMBER 12TH, 2019. WITNESS MY HAND AND SEAL OF SAID VILLAGE THIS 8TH DAY OF JANUARY, TWO THOUSAND AND TWENTY.

VILLAGE CLERK