

**TOWN OF CHAUTAUQUA
LOCAL LAW NO. 2 FOR THE YEAR 2026**

A LOCAL LAW ADOPTING A TOWN TREE LAW

Be it enacted by the Town Board of the Town of Chautauqua, County of Chautauqua, and State of New York as follows:

Section 1. Tree Law

A new Chapter 125 is hereby added to the Town of Chautauqua Code, which shall provide as follows:

TREES

§ 125-1. Title.

§ 125-2. Purpose and intent.

§ 125-3. Definitions.

§125-4. Tree Board.

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§125-10. Interference with planting, maintenance, and removal.

§125-11. Appeals: failure to comply.

§125-12. Penalties for offenses.

§125-13. Local government liability disclaimer.

§ 125-1. Title.

This chapter shall be known as the “Tree Law for the Town of Chautauqua, Chautauqua County, State of New York.”

§ 125-2. Purpose and intent.

It is the purpose and intent of this chapter to promote and protect the public health, safety, and general welfare by providing for the regulation of the planting, maintenance, and removal of trees within the Town of Chautauqua which are on Town property, including public parks, or within the right-of-way of any public highway or other public property. It is also the purpose of this chapter to establish and maintain diversity of tree species and maximize tree canopy cover throughout the Town through proper tree planting, tree preservation when warranted, and conservation.

§ 125-3. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

DAMAGE

Any injury to or destruction of a tree, including but not limited to: uprooting; severance of all or part of the root system or main trunk; storage of material on or compaction of the critical root zone; a substantial change in the natural grade within the critical root zone or around a trunk; surrounding the tree with impervious paving materials; or any trauma caused by accident or collision.

NUISANCE

Any tree, or limb thereof, that has an infectious disease or insect; is dead or dying; obstructs the view of traffic signs or the free passage of pedestrians or vehicles; or threatens public health, safety, and welfare.

OVERHEAD UTILITY WIRES

Wires with greater than 50 volts above ground.

PUBLIC TREE

Any tree or woody vegetation on town-owned or town-maintained property or rights-of-way.

STREET TREES

Trees planted in the ROW between the pavement edge and the right-of-way boundary.

TOP or TOPPING

The non-standard practice of cutting back of limbs to stubs within a tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.

TREE

A plant having a permanently woody main stem(s) or trunk(s), ordinarily growing to a considerable height.

TREE CANOPY

The extent of the outer layer of branches and leaves of an individual or group of trees.

§125-4. Tree Board.

A. Establishment; membership; terms.

- (1) The Town Board shall create an advisory committee known as the "Chautauqua Tree Board."
- (2) The "Chautauqua Tree Board" shall consist of at least five (5) and no more than twelve (12) uncompensated members.
- (3) Each member shall be appointed by the Town Board for a term of three years, which may be renewed for successive terms.

- (4) The Town Board shall have the right to review the conduct, acts, and decisions of the Chautauqua Tree Board and of its individual members. The Town Board shall have the power to remove individual members and to appoint new members as may be necessary.
- (5) If a Tree Board member does not serve the full term for reasons other than the expiration of the term, the Town Board shall appoint a successor, to serve for the unexpired term.

B. Duties. The Tree Board shall have the following duties that include, but are not necessarily limited to:

- (1) Studying, investigating, developing and/or updating the Town's Urban Forest Management Plan for caring, preserving, pruning, replanting, removing or disposing of trees and shrubs in parks, along Town streets, and in other public areas.
- (2) Maintaining reference materials relating to trees and shrubs.
- (3) Providing an inventory of the location of street trees and public trees when needed and determining areas where such trees could exist but are absent.
- (4) Establishing lists of recommended and undesirable tree species for the Town and recommending to the Highway Superintendent or his assignee the type and kind of trees to be planted upon Town property.
- (5) Recommending specific tree varieties to be preferred along certain streets for the sake of beautifying an avenue through uniformity in the trees lining it, or to enhance the significance of streets named after trees or to achieve some functional purpose.
- (6) Serving as a resource to the Town Highway Superintendent or their assignee in an advisory capacity to identify trees for immediate removal.
- (7) Identifying where no or few trees are present in the right-of-way or other Town property and requesting the planting of new trees by the Highway Superintendent or their assignee including specifying varieties and locations.
- (8) Providing or updating the Town of Chautauqua Tree Management Plan at least every five years.
- (9) Serving as a resource to the Town Board for a yearly estimate of project costs, and for help with prioritizing projects.
- (10) Upon request made by landowners, providing recommendations to Town residents for resources regarding trees on private property.
- (11) Such other tasks or duties related to trees as requested from time to time by the Town Board.

C. Meetings

- (1) The Tree Board shall meet a minimum of four times per year. The Tree Board may call additional meetings as needed.

§ 125-5. Policy regarding trees.

- A. No person shall remove, prune, damage or plant any tree within the right-of-way of any Town Highway or upon Town-owned property without a permit from the Highway Superintendent or his designee.
- B. The Town encourages the planting of a large number and a broad diversity of tree species on public and private property, as well as the planting of areas of uniformity when it will enhance beauty, function, or uniqueness.
 - (1) The Town or its agent shall perform all necessary maintenance to preserve and protect street trees or trees on public grounds in a safe and healthy condition, including trimming, spraying, fertilizing, watering, root pruning, mulching, treating for disease or injury, and removal if necessary.
 - (2) The Town shall have the right to plant, prune, maintain and remove trees, plants, and shrubs within lines of Town Highways and public grounds as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds.
- C. Trees removed from public property or rights-of-way shall be replaced at least one for one, with tree species as recommended by the Tree Board within a reasonable time period, unless there are extenuating considerations approved by the Tree Board or the Highway Superintendent or his designee. Trees should be added, removed, and replaced in accordance with any Management Plan.

§ 125-6. Permits.

- A. Application for any permit under this chapter shall be made in writing to the Highway Superintendent and shall state the reasons for the requested removal, treatment or pruning of the tree or trees.
- B. Such application shall be granted whenever it shall appear that:
 - (1) The pruning is required to give adequate clearance of utility wires or provide for adequate passage on the streets of the Town.
 - (2) The tree is in need of pruning or treatment requested.
 - (3) The removal of the tree is required in the interest of public safety or reasonable access to abutting premises.
 - (4) Other good cause exists for the relief requested.

§ 125-7. Maintenance and obstruction.

- A. No trees shall be planted on Town property or upon public street rights-of-way that, at maturity, will likely interfere with overhead utility wires.
- B. It shall be the duty of any person or persons owning real property bordering on any public street right-of-way to prune any trees or shrubs thereon in such a manner that they will not obstruct or shade

streetlights, obstruct the passage of pedestrians on sidewalks, obstruct the visibility of traffic signs, obstruct, or hinder the flow of traffic or obstruct the view of any street or alley intersection.

- C. All trees on public property or within public street rights-of-way designated for removal shall be completely removed from the growing site and disposed of in an authorized manner.
- D. Whenever any tree on private lands or otherwise is so situated that the felling thereof may cause said tree or any part thereof to come in contact with electric or telephone wires or obstruct the street or sidewalk or endanger the users thereof, such owner must procure from the Highway Superintendent or designee a permit authorizing such person to cut or remove said tree.
- E. Any work done under a permit required under this chapter must be performed in strict accordance with the terms thereof and under the supervision of the Highway Superintendent or designee.

§125-8. Nuisance and condemnation.

- A. Any street tree or tree planted on property owned by the Town of Chautauqua which is not maintained in compliance with the provisions of the Tree Law or which is dead or dangerous is hereby declared to constitute a public nuisance. The Highway Superintendent or his designee, when made aware of such nuisance, shall abate the nuisance in a timely manner, with tree replacement whenever possible. The Highway Superintendent or his designee, or the Town Tree Board may also request the replacement of unsightly trees.
- B. The Tree Board or the Highway Superintendent or his designee shall inform the Town Board of any private tree which is a nuisance because it obstructs a public street, sidewalk, sewer, or is otherwise a nuisance, dead or dangerous and request that the property owner be personally notified and asked to abate the nuisance. Failure to do so within a reasonable time shall result in written notice being served on the property owner. Such notice shall specify in detail the nature of the Tree Board's or Highway Superintendent's recommendations.

§ 125-9. Protection of trees.

- A. Prior to development, redevelopment, razing, or renovation of any land within the Town, the Tree Board may request to survey the property for the presence of landmark trees, as well as any other rare, endangered, or protected plants. The Tree Board will work with the developer or contractor to maintain trees identified as landmark trees and will offer, where possible, any needed assistance from the Highway Department to transplant, when practical, other rare, endangered, or protected plants to other sites within the Town favorable for the growth and survival of such plants.
- B. No person shall excavate any ditches, tunnels, or trenches, place any fill, compact the soil, place heavy materials such as concrete blocks or boulders, or construct any building, pavement, curb, or public utility within a radius of 20 feet from any landmark or Public Tree without a permit issued by the Highway Superintendent or designee.
- C. No person shall intentionally damage, cut, carve, attach any rope, wire, nails, advertising posters, or other contrivance to any landmark tree, or any tree upon public property or right-of-way nor allow any gaseous, liquid, or chemical, or solid substance that is harmful to such trees to come in contact

with them or set fire or permit fire to burn when such fire or heat therefrom will injure any portion of any such tree without written approval from the Highway Superintendent or their designee, in close consultation with the Town Tree Board.

- D. For private trees, upon the discovery of any destructive or communicable disease, or other pestilence that endangers the growth or health of trees, or threatens to spread disease, injurious fungus, insect or other pest infestations on private property, the Tree Board or Highway Superintendent or their designee shall notify the Town Board and require that the owner of the property upon which such diseased or infected tree is situated be notified of the condition. The notice shall encourage such property owner to eradicate, remove, or otherwise control such condition within reasonable time to be specified in such notice. If a threat to trees on other private or public property is deemed to be imminent or serious, the Highway Superintendent of the Town of Chautauqua or his designee may be requested to serve written notice thereof on the property owner. Such notice shall specify in detail the nature of the nuisance and the requirements for abatement.
- E. For public trees or street trees, upon the discovery of any destructive or communicable disease or other pestilence, endangers the growth or health of trees, or threatens to spread disease, injurious fungus, insect or other pest infestations on public property, the Tree Board shall notify the Highway Superintendent thereof and request that it be corrected within a reasonable time.

§125-10. Interference with planting, maintenance, and removal.

No person, firm, organization nor corporation shall prevent, delay, or interfere with the Tree Board, Town Board, Highway Department, or contractors in the execution or enforcement of this chapter including the planting, maintaining, mulching, trimming, pruning, fertilizing, spraying, preserving or removal of any tree, shrub or plant in any right-of-way or public place within the Town of Chautauqua.

§125-11. Appeals: failure to comply.

Any person who receives a written notice in accordance with the Tree Law and objects to all or a part thereof may, within ten (10) days of receipt thereof, notify the Town Board, in writing, of the specific nature and reason(s) of the objection and request a hearing thereon. The hearing shall be held at the next regularly scheduled meeting of the Town Board if the appeal is filed at least ten (10) days before such meeting, or, at a special meeting if so called by the Board. Within 10 days after such hearing, the Town Supervisor, in consultation with the Town Board and the Tree Board, shall render a decision and notify the appellant of the decision.

§125-12. Penalties for offenses.

- A. Failure within fifteen (15) days after receiving either a notice of violation or notice of Town's decision upon appeal to comply with said notice and/or decision upon appeal shall be a violation of this chapter, and each day's neglect and refusal to comply with the terms of said notice shall constitute a separate offense.
- B. If the owner or occupant of premises mentioned in the foregoing provisions shall fail to cut down, destroy and remove a tree or remove, trim or cut back brush after having been given notice to do so as provided by this chapter, the Town may cause the necessary work to be done and is authorized and

empowered to enter upon the premises as is necessary to accomplish the work, and the actual cost therefor and other additional cost in connection therewith shall be certified by the duly appointed officer of the Town to the Town Board, and such costs shall thereupon become and be a lien upon the land on which such tree was located. Such cost shall be added to and become and form a part of the taxes next to be assessed and levied upon such land. The assessment of the cost of the work done by the Town against the property involved shall be in addition to penalties imposed herein for any violation or noncompliance with any provisions of this chapter.

- C. The code enforcement officer may issue and serve an appearance ticket for violations of this chapter.
- D. Any person, whether as principal, agent, or employee, violating or assisting in violation of any of the provisions of this chapter shall upon conviction thereof, be sentenced to pay a fine not exceeding \$100.00 for each violation and costs of suit and, in default of payment of fine and costs to undergo imprisonment for not more than thirty (30) days.
- E. In addition to the above provided penalties and punishment, the Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation this chapter.
- F. No remedy or penalty specified in this section shall be the exclusive remedy or remedy available to address any violation described herein, and each remedy or penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this section, or in any other applicable state or local law.

§125-13. Local government liability disclaimer.

Nothing contained in this chapter shall be deemed to impose liability upon the Town, the Town Board, the Tree Board, the Highway Department, or individuals, companies or corporations hired by the Town, nor to relieve the owner of any private property from the duty to keep any tree, shrub or plant that he/she planted in the right-of-way of a public street or that is on his property from constituting a hazard or an impediment to travel or vision upon any street, sidewalk, park or other public place with the Town of Chautauqua.

Section 2. Severability

If a court determines that any clause, sentence, paragraph, subdivision, or part of this local law or the application thereof to any person firm or corporation or circumstance is invalid or unconstitutional the court order or judgment shall not affect, impair or invalidate the remainder of this local law but shall be confined in its operation to the clause, sentence, paragraph, subdivision or part of this local law or in its application to the person, individual, firm, or corporation or circumstance directly involved in the controversy in which such judgment or order shall be rendered.

Section 3. Effective date

This local law shall take effect immediately upon filing with the Secretary of State.