

CHAPTER 94: TREES AND SHRUBS

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GENERAL PROVISIONS

§ 94.01 TITLE AND PURPOSE.

(A) This subchapter shall be known as the “Local Law Regarding Trees within the Village of Franklinville” and may be cited as “Village of Franklinville Local Law Number 2-1984”.

(B) The Board of Trustees finds and declares that:

(1) The village enjoys a heritage of trees and other vegetation that is now threatened by external social forces, neglect and the lack of a directed effort to provide reliable information and financial resources to village residents about the care, maintenance, removal and replacement of trees and vegetation;

(2) It is the purpose of this subchapter to promote a comprehensive forestry program within the village to assure a positive benefit from village trees planned and managed with adequate recognition of the physical, biotic and social surroundings in which they are encouraged to grow and provide their benefits;

(3) Trees can serve as a vital link between village residents and their environment, if properly planned and managed;

(4) Growing site limitations in the village for trees and associated plants are frequent and recurrent problems because of highway and street widening, sidewalk reconstruction, air pollution, modified drainage, erosion, soil fertility depletion,

insects and disease, mechanical hazards and other adverse influences resulting from concentrated use of land;

(5) An improved and expanded village tree program for planting and maintenance of trees and associated vegetation within the village would help make the village a more pleasant and healthful place to live, work and visit; and

(6) Trees are an important economic asset and resource to the village by increasing land values and by modifying extremes of temperature, humidity and winds and thereby have an important role in reducing the amount of energy consumed in heating and cooling many village buildings and homes.

(Ord. 2-1984, passed 2-27-1984)

§ 94.02 AUTHORITY OF BOARD OF TRUSTEES.

The Board of Trustees may implement the purposes set forth in §94.01(B) above by virtue of the authority granted by N.Y. Env'tl. Conserv. Law Art. 53.

(Ord. 2-1984, passed 2-27-1984)

§ 94.03 DEFINITIONS.

(A) For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BOARD OF TRUSTEES. The Board of Trustees of the Village of Franklinville.

CHAIRPERSON. The Chairperson of the Tree Commission duly elected by a vote of the Commissioners.

COMMISSIONER. A member of the Tree Commission.

CONTRIBUTED FUNDS. Money donated by any person or entity to further the purpose of this chapter.

CONTRIBUTED GIFTS. Services or property other than money donated by any person or entity to further the purpose of this chapter and accepted by resolution of the Board of Trustees after the review and recommendation of the Tree Commission.

ENTITY. Any unit or organization created by one or more human beings and recognized by the laws of the State of New York or of the United States.

MAYOR. The Mayor of the Village of Franklinville.

OTHER PUBLIC FUNDS. Money appropriated by any government entity other than the village to further the purpose of this chapter.

PERSON. Any human being.

STREET TREE. Any tree within the village and growing in an area between the edge of the pavement of a public street and the sidewalk. Provided, however, that if no sidewalk exists, then **STREET TREE** means a tree that has its physical center at ground level, eight feet or closer to the edge of the pavement of a public street.

TREE. A woody plant having branches that spring from and are supported by a trunk or body, including a shrub or bush.

TREE COMMISSION. The Village of Franklinville Tree Commission duly appointed in accordance with the provisions of §§ 94.15 through 94.18.

VILLAGE. That area encompassed by the incorporated Village of Franklinville, a municipal subdivision of the State of New York.

VILLAGE APPROPRIATION. Money appropriated by the Board of Trustees specifically segregated to further the purpose of this local law.

VILLAGE FORESTRY. The planning, establishment, protection and other management of trees within the village for present and potential contribution to the physiological, sociological and economic well-being of the village. An important component of **VILLAGE FORESTRY** is **ARBORICULTURE** which specifically includes the planting, growing, maintenance and protection of trees, individually and in small groups.

VILLAGE FORESTRY PLAN. A comprehensive plan for the selection, establishment, maintenance and management of existing and future trees within the village. The plan shall, to the maximum extent possible, present an analysis of physical, biotic and social conditions of present and potential sites for trees, and of improvement needs, opportunities and planned projects within the village.

(B) Any word used in this chapter and not defined in this section shall be given its common meaning.

(Ord. 2-1984, passed 2-27-1984)

TREE COMMISSION

§ 94.15 CREATION OF COMMISSION; QUALIFICATIONS OF COMMISSIONERS.

(A) The Board of Trustees hereby creates a Village Tree Commission consisting of five Commissioners appointed by the Mayor.

(B) Qualifications:

(1) Each Commissioner shall be a resident of the village;

(2) No Commissioner shall simultaneously hold any other elected or appointed office of the village; and

(3) Each Commissioner shall have attained the age of 18 years on or before the date that he or she will assume his or her official duties.

(Ord. 2-1984, passed 2-27-1984)

§ 94.16 APPOINTMENT OF COMMISSIONERS.

(A) Commissioners shall be appointed by the Mayor and approved by a resolution adopted by the Board of Trustees, at a regular or special meeting, before the appointed Commissioner assumes his or her duties.

(B) The Tree Commission first appointed and approved after the effective date of this chapter shall assume its duties upon the first date that three or more Commissioners are appointed and approved.

(C) Following the initial appointment of Commissioners to the Tree Commission, vacancies shall be appointed by the Mayor, subject to the approval of the Board of Trustees, in the following manner.

(1) Vacancies resulting from the expiration of a term of appointment of a Commissioner shall be for a term ending on the second Monday in April in the third year following the year the vacancy occurred.

(2) Vacancies resulting for any reason other than the expiration of a term of appointment shall be for the balance of the term held by the Commissioner whose vacancy is to be filled.

(Ord. 2-1984, passed 2-27-1984)

§ 94.17 MEETINGS.

(A) The Tree Commission shall annually elect a Commissioner to serve as Chairperson and a Commissioner to serve as Secretary.

(B) The Chairperson shall conduct the meetings of the Tree Commission and the Secretary shall keep the minutes. Minutes of the meetings of the Tree Commission shall be duplicated at village expense and filed with the Village Clerk within 15 days after the date of each meeting.

(C) The Tree Commission shall conduct its meetings in accordance with *Robert's Rules of Order*, but may, subject to the approval of the Board of Trustees, adopt rules for the conduct of its meetings.

(D) The meetings of the Tree Commission shall be open to the public.

(Ord. 2-1984, passed 2-27-1984)

§ 94.18 DUTIES OF COMMISSION.

(A) To implement the purposes of this local law.

(B) To formulate and present a Village Forestry Plan to the Board of Trustees on or before the second Monday of January, 1985, and to be reviewed not less frequently than every two years thereafter.

(C) To educate residents of the village of the purposes of this subchapter.

(D) To ascertain and report annually to the Board of Trustees, on or before the second Monday of each January, a realistic projection of contributed funds, contributed gifts and other public funds that may be received during the ensuing village fiscal year.

(E) To consult with property owners having street trees that, in the judgment of the Tree Commission, pose an immediate threat to pedestrians or motorists traveling on sidewalks or streets.

(F) To authorize and expend the village appropriation, contributed funds or other public funds to remove or plant street trees and to carry out the duties of this subchapter.

(Ord. 2-1984, passed 2-27-1984)

§ 94.19 COMMISSION ACTIONS SUBJECT TO BOARD OF TRUSTEES REVIEW.

The actions and decisions of the Tree Commission shall be subject to review by the Board of Trustees, either on its own

motion or by appeal by any officer of the village or by any person or entity aggrieved by any action or decision of the Tree Commission.

(Ord. 2-1984, passed 2-27-1984)

§ 94.20 MINUTES OF COMMISSION ACTION OR DECISION TO BE FILED WITH VILLAGE CLERK AS PREREQUISITE TO BECOMING EFFECTIVE.

No action or decision of the Tree Commission shall become effective until the minutes of the Tree Commission describing the action or decision are filed in the office of the Village Clerk.

(Ord. 2-1984, passed 2-27-1984)

§ 94.21 BOARD OF TRUSTEES REVIEW TO BE COMMENCED WITHIN 30 DAYS OF FILING.

The review shall be commenced within 30 days after the minutes of the action or decision of the Tree Commission have been filed in the office of the Village Clerk.

(Ord. 2-1984, passed 2-27-1984)

§ 94.22 ACTIONS AND DECISIONS BECOME FINAL ON THIRTY-FIRST DAY AFTER FILING OF MINUTES; POWER TO MODIFY OR RESCIND RETAINED.

(A) Unless a review has been commenced in accordance with §94.20 above, the actions and decisions of the Tree Commission shall become final on the thirty-first day following the filing of the minutes of the actions or decisions in the office of the Village Clerk.

(B) Notwithstanding the provisions of division (A) above, the Tree Commission may modify or rescind any action or decision that has become final.

(Ord. 2-1984, passed 2-27-1984)

§ 94.23 FUNDING OF COMMISSION; MAINTENANCE OF FUNDS.

(A) The Board of Trustees shall annually appropriate a sum of money to be expended by the Tree Commission to further the purpose of this chapter and to carry out its duties. The amount of the annual village appropriation shall not be less than \$1 for each village resident as shown by the most recent census made of the village by the United State Census Bureau.

(B) (1) Contributed funds and other public funds shall be maintained by the Village Treasurer in accounts separate from the annual village appropriation. Unrestricted contributed funds and other public funds may be expended in the discretion of the Tree Commission to carry out its duties and further the purposes of this chapter.

(2) It shall be the duty of the Tree Commission to assure that expenditures of restricted contributed funds and other public funds are made in accordance with the restrictions made and accepted.

(Ord. 2-1984, passed 2-27-1984)

§ 94.24 ADVANCES AND REIMBURSEMENTS TO COMMISSIONERS.

(A) Upon the approval of the Tree Commission, an advance or reimbursement of funds not exceeding \$50 may be made to any Commissioner for necessary expenses to carry out his or her duties under this chapter. Any single expense of a Commissioner exceeding \$50 shall be subject to the advance approval of the Board of Trustees.

(B) Notwithstanding any provision of this chapter, the total advances or reimbursements to all Commissioners shall not exceed \$150 in any village fiscal year unless advance approval is made by the Board of Trustees.

(Ord. 2-1984, passed 2-27-1984)

TREE PLANTING AND REMOVAL

§ 94.40 TREE PLANTING COSTS.

When a street tree is planted, the cost of the planting shall be shared equally by the village paying 50%. Upon failure of the property owner to pay their share of planting, as above described, the charge be added onto the next property tax statement with appropriate interest from the date of planting to the date of levy of the next village tax.

(Ord. 2-1984, passed 2-27-1984)

§ 94.41 TREE REMOVAL COSTS.

When a street tree is removed the cost of the removal be shared equally by the village paying 50% thereof and the property owner or owners paying the other 50%. That upon failure of the property owner to pay their share of removal as

above described, that the charge be added onto the next property tax statement with appropriate interest from the date of removal to the date of levy of the next village tax. (Ord. 4-1984, passed 8-27-1984)

MAINTENANCE OF TREES AND SHRUBS

§ 94.55 INJURY OR DEFACEMENT OF TREES UNLAWFUL.

No person shall fix or attach a sign to any tree along the streets of the village. No person shall willfully injure, damage or destroy any shade trees planted along the streets, grass plots or sidewalks of the incorporated village, nor injure or deface any building, fence or ornamental thing on the village's property or rights-of-way.

(Ord. 2-2006, passed 3-27-2006) Penalty, see § 94.99

§ 94.56 DUTY OF PROPERTY OWNER OR OCCUPANT TO KEEP INTERSECTION VISIBILITY CLEAR AND PREVENT INTERFERENCE WITH USE OF STREETS AND SIDEWALKS.

(A) (1) No person, whether as an owner or occupant of any corner premises in the village, shall cause, suffer or permit any fence, shrubbery, hedge, trees or low-hanging branches there from to be erected, planted or maintained on the premises in such a manner as to obstruct the view by motor vehicle operators of other motor vehicles approaching from intersecting streets.

(2) It shall be the duty of the Superintendent of Public Works to determine in each instance whether and where any such obstruction exists, and it shall be the duty of the Village Clerk, at his or her direction, to notify the owner or occupant of any premises affected hereby, by ordinary mail addressed to the owner or occupant, requiring the person to remove the obstruction within five days of the notice.

(B) No owner or occupant of any real property in the village shall plant, place, grow, build or erect or permit another to plant, place, grow, build or erect any shrubs, bushes, plants, trees, flowers or other vegetation, fence, wall, hedge or other structure which shall obstruct or interfere with the use of streets, sidewalks, thoroughfare or intersection of the same within the village. Therefore all shrubs, bushes, plants, trees, flowers of other vegetation, fences, walls, hedges or other structures shall be built, trimmed, cut, altered or modified in a manner which shall not obstruct or interfere with the use of streets, sidewalks, pathways or another vehicular or pedestrian passages along public streets or thoroughfares or intersections of the same within the village. Failure to comply with this provision shall constitute a violation of this provision, and the owner or occupant is subject to the penalties as stated in § 10.99, and additionally the owner may be charged and assessed in accordance with Chapter 2.

(C) On a corner lot in the village within the triangular area determined as provided in this section, no wall or fence or others structure shall be erected to a height in excess of two feet, and no vehicles or object or any other obstruction of a height in excess of two feet shall be parked or placed and no hedge or shrub or other growth shall be maintained at a height in excess of two feet, except that trees whose branches are trimmed away to a height of at least ten feet above the curb level or pavement level where there is no curb shall be permitted. The triangular area shall be determined by two points, one on each intersecting street line, each of which points is 50 feet from the intersection of the street lines.

(Ord. 2-2006, passed 3-27-2006) Penalty, see § 94.99

§ 94.57 FAILURE OF OWNER OR OCCUPANT TO COMPLY WITH NOTICE.

In the event of failure to comply with the requirements of this subchapter after the notice, the Superintendent of Public Works may enter upon the premises as such person with the others as he or she may require and remove or alter the obstruction accordingly.

(Ord. 2-2006, passed 3-27-2006)

§ 94.99 PENALTY.

Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to §10.99.

(Ord. 2-2006, passed 3-27-2006)