

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County City Village Village
(select one:)

of Ballston Spa

Local Law No. 8 of the year 2019

A LOCAL LAW AMENDING CHAPTER 186 TREES OF THE VILLAGE CODE OF THE VILLAGE OF BALLSTON SPA

Be it enacted by the Village Board of the Village of Ballston Spa as follows:

**VILLAGE OF BALLSTON SPA
LOCAL LAW NO. 8 OF THE YEAR 2019
A LOCAL LAW AMENDING CHAPTER 186 OF THE CODE OF THE VILLAGE OF
BALLSTON SPA CODE ENTITLED "TREES"**

Section 1. Name of Local Law

This local law shall be referred to as "A Local Law amending Chapter 186 of the Code of the Village of Ballston Spa entitled 'Trees'"

Section 2. Findings and Intent

It is the intent of the Board of Trustees of the Village of Ballston Spa to modify the provisions of the existing code and to create a Park and Tree Board in the Village.

The Board of trustees recognizes the role that trees, shrubs and plants play in the Village ecosystem and that they contribute to the quality of air, reduction of noise and visual pollution, help to moderate climatic extremes and conserve energy. The Board further recognizes the role well maintained parks and trees play in enhancing property values and the general quality of life in the Village. In order to establish a responsible program for planting, maintenance, husbandry, or removal of plants, trees or shrubs in the Village, the Board of Trustees seeks to establish a Park and Tree Board to provide an orderly framework to maximize the benefits afforded by plants, shrubs and trees within the Village. The Park and Tree Board will participate in the National

Arbor Day Foundation's Tree City USA program. The Village of Ballston Spa will seek designation as a Tree City USA.

Section 3. Authority

This Local Law is enacted pursuant to the authority of Section 10 of the New York State Municipal Home Rule Law.

Section 4. Enactment

This Local Law repeals existing Sections 186-1 through 186-3 of Chapter 186. Trees, renumbers Section 186-4 Penalties for offenses and adds the below Sections 186-1 through 186- . This Local Law is adopted pursuant to the provisions of the Municipal Home Rule Law. All provisions of the Code of the Village of Ballston Spa regarding legal requirements for the enactment of this Local Law to the extent inconsistent with the Municipal Home Rule Law are hereby superseded.

Be it enacted by the Village Board of the Village of Ballston Spa that Chapter 186 is amended to add the sections which are set forth below:

§186-1. Creation and Establishment of a Village Park and Tree Board.

(a) There is hereby created and established a Village Park and Tree Board for the Village of Ballston Spa, NY which shall consist of at least five members, who shall be appointed by the mayor with the approval of the Board of Trustees and who shall serve without compensation. The Park and Tree Board is an advisory board to the Village Board of Trustees.

(b) The term of the five persons to be appointed to the Village Park and Tree Board shall be three years, except that in the initial term, members shall be appointed to lesser terms in order to allow for staggered terms. In the event a vacancy shall occur during the term of any member, his successor shall be appointed for the unexpired portion of the term. The Board shall meet a minimum of six times each year, but may call additional meetings as necessary.

§186-2. Duties and Responsibilities.

It will be the duties of the board to:

- (a) Promote responsible planting of trees, shrubs and plants on public property throughout the Village and in Village parks
- (b) Promote public education about trees, shrubs and plants
- (c) Develop programs and projects to enhance Village beautification.
- (d) Develop innovative and joint funding for projects
- (e) Study, investigate, council and develop and/or update, and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas.

The Park and Tree Board shall consider, investigate, make findings, report and make recommendations upon any special matter requested by the Village Board.

§186-3. Board Governance and Meetings.

The Mayor shall annually appoint a chairperson of the board during the Village organizational meeting each April. The Board will keep written minutes of their meetings and publish the minutes on the Village website. All regularly scheduled meetings to be attended by the majority of the members shall be included in the Village's website calendar and shall be open to any public

attendance. Members of the board shall disclose to the board of Trustees any personal financial interest in any project considered by the board. A majority of the members shall be a quorum for the transaction of business.

§186-4. Species to be Planted.

The Park and Tree Board, in consultation with the Cornell Cooperative Extension and/or the NYS Department of Environmental Conservation, will develop and periodically update a list which contains allowable species for small, medium and large trees to be planted on public property and in the right of way adjacent to public thoroughfares within the Village of Ballston Spa. The Board will develop regulations pertaining to the spacing, distance from curb, sidewalk; street corners, fireplugs and/or utilities for all Village Street Trees.

No species other than those contained in the list may be planted within the Village without the written permission of the Village Park and Tree Board.

§186-5. Public Tree Care.

The Village shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

The Village Park and Tree Board may cause to be removed any tree or part thereof which creates an unsafe condition or is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or which is affected with any injurious fungus, insect or other pest. This section does not prohibit the planting of allowable trees and shrubs by private property owners as long as the selection and location of the plantings are in accordance with the provisions of this Chapter.

§186-6. Tree Topping.

It shall be unlawful as a normal practice for any person, firm, or Village department to top any tree on public and park properties. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where different pruning practices are impractical may be exempted from this ordinance at the determination of the Village Park and Tree Board.

§186-7. Pruning, Corner Clearance.

Every owner of any tree or shrub on private property overhanging any street, sidewalk or right-of-way within the Village shall prune the branches so that such branches shall not obstruct the light from any street lamp, overhang the side walk to obstruct use of the full sidewalk or obstruct the view of any street intersection. In addition, property owners are also responsible for pruning branches on their own trees or shrubs as well as those in the public right of way abutting their property so that there shall be a clear space of eight feet (8') above the surface of the street or sidewalk. Said owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a danger to the safety of the public. The Village shall have the right to

prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a streetlight or interferes with visibility of any traffic control device or sign. The Village shall have the authority to prune such trees and shrubs and charge the cost of this work on the owner's property tax notice.

§186-8. Dead or Diseased Tree Removal on Private Property.

The Village shall have the right to cause the removal of any dead or diseased trees on private property within the Village, when such trees constitute a hazard to life and property, or harbors insects or disease which constitute a potential threat to other trees within the Village. The Village will notify in writing the owners of such trees and request permission to enter the property in order to inspect the trees. In the event any tree is diseased, removal shall be done by owners at their own expense within sixty days after the date of service of notice and inspection of any tree. In the event of failure of owners to comply with such provisions within that time period, the Village shall have the authority to remove such trees and charge the cost of removal on the owner's property tax notice.

§186-9. Interference with Village Park and Tree Board.

It shall be unlawful for any person to prevent, delay or interfere with the Village Park and Tree Board, or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any plantings, shrubs or trees on public property, as authorized in this ordinance.

§186-10. Arborists License and Bond.

It shall be unlawful for any person or firm to engage in the business or occupation of removing trees within the Village without first applying for and procuring a license. The license fee shall be paid in advance; provided, however, that no license shall be required of any public service company or Village employee doing such work in the pursuit of their public service endeavors. Before any license shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of \$50,000 for bodily injury and \$100,000 property damage indemnifying the Village or any person injured or damaged resulting from the pursuit of such endeavors as herein described.

§186-11. Review by Village Board.

The Village Board shall have the right to review the conduct, acts and decisions of the Village Park and Tree Board. Any person may appeal from any ruling or order of the Village Park and Tree Board to the Village Board who has the authority to hear the matter and make final decisions.

Former §186-4 is now renumbered §186-12 and continues to read as follows:

§186-12. Penalties for offenses.

Any person, firm or corporation who or which shall violate any of the provisions of this chapter or any rule or regulation made pursuant thereto shall, upon conviction thereof, be subjected to a fine of not more than \$250 and/or imprisonment for 15 days. Each day during or on which a violation of this chapter shall occur shall be deemed to be a separate and distinct offense.

Section 5. Severability

If any part or provision of this local law is judged invalid by any Court of competent jurisdiction, such judgment shall be confined in application to the part of provision directly on which judgment shall have been rendered and shall not affect or impair the validity of the remainder of this law or the application thereof to other persons or circumstances. The Village hereby declares that it would have enacted the remainder of this law even without such part of provision or application.

Section 6. Effective Date

This local law shall take effect immediately upon filing with the New York State Secretary of State pursuant to the New York State Municipal Home Rule Law.

[HISTORY: Adopted by the Village Board of the Village of Ballston Spa on November 13, 2019 by L.L. No. 8 of 2019

Editor's Note: This local law amends Ch.186, entitled Trees]

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 8 of 2019 of the (County)(City)(Village)(Village) of Ballston Spa was duly passed by the Village Board of the Village of Ballston Spa on November 13, 2019, in accordance with the applicable provisions of law.

~~**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Village)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ and was deemed duly adopted on _____ 20____ in accordance with the applicable provisions of law.~~

~~**3. (Final adoption by referendum.)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Village)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20____. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.~~

4. ~~(Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)~~

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Village)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20____.

Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or Village, or the supervisor of a Village where such officer is vested with the power to approve or veto local laws or ordinances.

5. ~~(City local law concerning Charter revision proposed by petition.)~~

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. ~~(County local law concerning adoption of Charter.)~~

I hereby certify that the local law annexed hereto, designated as local law No. ____ of 20____ of the County of _____, State of New York, having been submitted to the electors at the General Election of _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the Villages of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.

Teri L. O'Connor

Teri O'Connor, Clerk, Village of Ballston Spa
Clerk of the county legislative body, City, Village or Village
Clerk or officer designated by local legislative body

(Seal)

Date: 11/14/19