

Chapter 235

TREES

§ 235-1. Title.

This law shall be entitled "Tree Law for the Village of Marcellus, New York."

§ 235-2. Purpose.

This Chapter is enacted to enhance the quality of life and the present and future health, safety, and welfare of all residents, to enhance property values and to ensure proper planting and care of trees on public property. The Village Board herein delegates the authority and responsibility for managing public trees, creates an Arbor Committee, establishes practices governing the planting and care of trees on public property and makes provisions for the emergency removal of trees on private property under certain conditions.

§ 235-3. 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 surrounding soils; a substantial change in the natural grade above a root system or around a trunk; surrounding the tree with impervious paving materials or any trauma cause by accident or collision

NUISANCE – any tree, or lib thereof, that has an infectious disease or insect; is dead or dying; is an invasive species, obstructs the view of traffic signs or the free passage of pedestrians or vehicles; or threatens public health, safety, or welfare

PARK TREES — Trees, shrubs, bushes and all other woody vegetation in public parks having individual names and all areas owned by the Village or to which the public has free access as a park.

PUBLIC TREE – any tree or woody vegetation on the Village-owned or maintained by the Village

PRIVATE TREES — Trees, shrubs, bushes and all other woody vegetation which are not located within the right-of-way of the Village of Marcellus or on property owned by the Village of Marcellus.

PUBLIC PROPERTY – all grounds and rights-of-ways (ROWS) owned or maintained by the Village

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.

STREET TREES — Trees, shrubs, bushes and all other woody vegetation on land lying between property lines on either side of all streets, avenues, or ways within the right-of-way of the Village of Marcellus.

§ 235-4. Authority and Power.

- A. Delegation of authority and responsibility. The Superintendent of the DPW and/or their designee, hereinafter referred to as the "Superintendent", shall have full authority and responsibility to plant, prune, maintain and remove trees and woody plants growing in or upon all municipal streets, rights-of-ways, Village parks, and other public property. This shall include the removal of trees that may threaten electrical, telephone, gas, or any municipal water or sewer line, or any tree that is affected by fungus, insect, other pest disease or any tree deemed hazardous.

- B. Coordination among Village departments. All Village departments will coordinate as necessary with the Superintendent and will provide services as required to ensure compliance with this Chapter as it relates to streets, alleys, rights-of-way, drainage, easements, and other public properties not under direct jurisdiction of the Superintendent.

§ 235-5. Tree Committee created.

- A. The Village Board of Trustees shall create an advisory committee known as the “Village of Marcellus Tree Committee” hereinafter referred to as the “Committee”. The Committee shall consist of 3 members, who are the 2 Village Trustees and the Village of Marcellus Mayor. In addition, the Village DPW Superintendent and the Village Code Enforcement Officer will serve as ex-officio members of the committee. Members of the Committee will serve without compensation.

(1) Duties and responsibilities.

- (a) The Committee shall act in an advisory capacity to the Superintendent and shall:

- (1) Coordinate and promote Arbor Day activities;
- (2) Provide a long-range street tree and shrub plan every 5 years for the Village;
- (3) Support public awareness and education programs relating to trees;
- (4) Review Village department concerns relating to tree care;
- (5) Provide an inventory of the location of street trees, and determine areas where such trees could exist but are absent;
- (6) Meet during regular meeting hours to discuss plantings, removals and costs;
- (7) Assist with the annual application to renew the Tree City USA designation;
- (8) Establish a suggested species list for the Village, including the kind of trees to be planted on Village property;
- (9) Study, investigate, develop and/or update the Village’s written plan for caring, preserving, pruning, topping, replanting, removing or disposing of trees and shrubs in parks along Village streets and in other public areas;
- (10) Identify trees for immediate removal

§ 235-6. Municipal responsibility.

- A. The Village DPW shall perform all necessary maintenance to preserve and protect street trees to keep them in a safe and healthy condition, including trimming, spraying, fertilizing, watering, staking, topping, root pruning, mulching, treating for disease or injury, and removal, if necessary.
- B. The Village shall have the sole authorization and right to plant, prune, maintain and remove trees, plants and shrubs within the lines of Village streets and public grounds as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds, or provide for a healthy community forest.
- C. The Village shall have the right to plant, prune, maintain and remove trees, plants and shrubs within municipal rights-of-way and areas subject to municipal easement as may be necessary to ensure public safety and the function of utilities.
- D. The Committee may recommend a tree or part of a tree be removed, in its sole discretion, after considering the following factors as to whether a particular tree:

- (1) Poses a potential public safety risk hazard;
 - (2) Causes an unsafe condition;
 - (3) Is injurious to sewers, electric power lines, gas lines, water lines or other public improvements; or
 - (4) Is an invasive species or is affected with any injurious fungus, insect or pests.
 - (5) Notwithstanding the above, where a property owner has the legal responsibility to take action to remove a plant or tree, the Village may elect to advise the owner to take such action immediately.
- E. No property owner shall allow a tree, shrub or other plant growing on his or her property to obstruct or interfere with the view of drivers of vehicles on a street or pedestrians on the sidewalk to create a traffic hazard. If such a tree, shrub or other plant does overhang or does otherwise adversely affect any street, sidewalk or right-of-way within the Village, the property owner shall, at the property owner's expense, prune the tree, shrub or plant so that it shall not obstruct the view of any street intersection or obstruct or hinder passage on any street or sidewalk. If, after consultation with the Village Code Enforcement Officer, a property owner must trim a tree, shrub, or other plant, the property owner must provide for a clear space of eight feet above the surface of the sidewalk and 14 feet above the surface of the street.
- F. If an obstruction persists, the Village Code Enforcement Officer shall mail a notice, in writing, to the property owner to prune or remove the tree, shrub or plant within 10 days of mailing the notice. If the property owner fails to comply with the notice, the Village may undertake the necessary work and charge the cost for such work to the property owner. If such charge remains unpaid for 30 days, the expense may be added to the next Village tax bill of the property owner.

§ 235-7. Spacing.

- A. The spacing of street trees will be in accordance with the species size classes listed in the Specifications and no trees may be planted closer together than the following: all trees be minimum 20 feet apart, except in special plantings designed by an arborist.
- B. No nuisance trees shall be planted in the Village of Marcellus. Such trees must have the approval of an arborist to be planted and can be removed from Village property if considered a hazard or nuisance.

§ 235-8. Distance from curb and sidewalk.

The distances trees may be planted from curbs or curblines and sidewalks will be in accordance with the three species size classes listed in the Specifications, and no trees may be planted closer to any curb or sidewalk than the following: small trees, two feet; medium trees, three feet; large trees, four feet.

§ 235-9. Distance from street corners and fire hydrants.

No street trees shall be planted closer than 35 feet to any street corner, measured from the point of the nearest intersecting curbs or curblines. No street tree shall be planted closer than 10 feet to any fire hydrant.

§ 235-10. Utilities.

No street tree other than those species listed in Specifications as small trees may be planted under or within 10 lateral feet of any overhead utility wire, or over or within three lateral feet (small or medium), five lateral feet (large), or any underground water line, sewer line, transmission line or other utility. DIG SAFELY. NEW YORK (800/962-7962) shall be contacted in order to locate utilities prior to any planting at proposed sites.

§ 235-11. 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 ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds. The Department of Public Works 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 is injurious to sewers, electric power lines, gas lines, water lines or other public improvements; or is affected with an injurious fungus, insect, or other pest or poses a hazard to the public. This section does not prohibit the planting of street trees by adjacent property owners, providing that the selection and location of said trees is in accordance with the specifications to this chapter.

§ 235-12. Harming public trees.

It shall be unlawful for any person, firm, or corporation to damage, remove, or cause the damage or removal of a tree on public property without written permission from the Superintendent. It shall be unlawful for any person, firm, or corporation to attach any cable, wire, sign, or any other object to any street, park, or public tree.

§ 235-13. Tree topping.

It shall be unlawful for any person, firm, or Village department to top any street tree, park tree, or other trees on public property. 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 as to remove the normal canopy and disfigure the tree. Trees severely damaged by storm or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical, may be exempted from this section at the determination of the Superintendent.

§ 235-14. Pruning, corner clearance (private trees).

Every owner of any tree on private property overhanging any street right-of-way within the Village shall prune the branches so that such branches shall not obstruct the light from any streetlamp or obstruct the view of any street intersection and so that there shall be a clear space of 15 feet 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 menace to the safety of the public. The Village shall have the right to prune or cause the removal of any tree or shrub, in whole or in part, on private property when it interferes with the proper spread of light along the street from a streetlight, interferes with visibility of any traffic-control device, sign or street intersection or constitutes a menace to the safety of the public.

§ 235-15. Dead or diseased tree removal on public domain as well as private property.

The Village shall have the right to cause the removal of any dead or diseased street trees or trees on private property within the Village when such trees constitute a hazard to life and property or harbor insects or disease which constitutes potential threat to other trees within the Village. The Village shall notify in writing the owners of such trees. Removal shall be done by said owners at their own expense within 10 days after the date of service of notice. In the event of failure of owners to comply with such provisions, the Village shall have the authority to remove such trees and charge the cost of removal on the property tax notice.

§ 235-16. Removal of stumps.

All stumps of trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

§ 235-17. Healthy street and park trees.

In order to protect the Village's investment in time and resources in the street program, it shall be unlawful to remove any healthy street tree without prior approval of the arborist.

§ 235-18. Interference with authority of tree program.

It shall be unlawful for any person to prevent, delay, or interfere with agents of the Village tree program while they are engaged in and about planting, cultivating, mulching, pruning, spraying, or removing any street trees, as authorized in this chapter.

§ 235-19. Protection of trees during construction.

Contractors occupying Village streets for building purposes shall place such proper guards about all trees liable to injury as shall effectually protect them.

§ 235-20. Severability.

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

§ 235-21. Penalties for offenses.

Any person, firm, entity or corporation violating or failing to comply with any of the provisions of this chapter shall be guilty of a misdemeanor, and upon conviction thereof shall be fined no more than \$250 for each offense. Each week (Sunday through Saturday) that the violation continues shall be a separate offense.