

## TREE LAW FOR THE VILLAGE OF PERRY

### SECTION 1. TITLE

This law shall be known as the Tree Law for the Village of Perry in Wyoming County, State of New York.

### SECTION 2. PURPOSE AND INTENT

It is the purpose and intent of this law 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 Village of Perry which are on Village property or within the right-of-way of any public street. It is also the purpose of this law to establish and maintain diversity of tree species and maximize tree canopy through tree planning and preservation.

### SECTION 3. DEFINITIONS

Arterial Street – a high-capacity street (route 246 & 39)

Contractor – a person, company or organization employed to supply necessary skills and services in pruning, trimming or removing trees and shrubs.

Damage – physical or chemical injury or harm done to any tree or shrub.

Fertilize – the application of substances to the plant or the surrounding soil which are required for the optimal growth and health of the tree or shrub.

Landmark Tree – any tree that the Village of Perry Tree Board identifies as rare, endangered or protected according to Village, County, State or Federal law, rule or regulations; one which has significant old age; one which is associated with an historical event or person; one which is a tree species of record size; one which has a unique feature or been determined by the Village of Perry Tree Board to have a valuable scenic enhancement qualities.

Large Tree – a tree which attains a height of 70 feet or more at maturity.

Maintained – to keep a tree in maximum health and vigor.

Master Plan – a document that recommends to the Village Board of Trustees projects for tree planting, maintenance, appreciation and replacement.

Medium Tree – a tree that attains a maximum height of between 30 and 70 feet at maturity.

Minor Pruning – pruning or cutting out of water sprouts, suckers, twigs or branches less than three inches in diameter, or which constitutes less than 15 percent of the tree's foliage bearing area. The work shall retain the natural form of the tree. Removal of dead wood, broken branches, and stubs are included within the definition of minor pruning. Minor pruning in compliance with the Standards and Specifications may be performed by the property owner without obtaining a permit.

Nuisance – a tree which is potentially dangerous, detrimental or hazardous to the health, safety, or function of persons, utilities, or structures in proximately to the tree.

Planting – the placing of tree in soil that will encourage growth and maximum health and vigor.

Preserve – to keep a tree or shrub from harm, damage or danger; to protect and save a tree or shrub.

Private Tree – a tree or shrub not on publicly owned land or within a public street right-of-way. A tree or shrub on privately-owned property.

Prune – to remove dead or living parts from a tree or shrub so as to increase health, vigor and form or to protect traffic, sidewalks and utilities.

Public Property – all property owned by the Village of Perry or public street rights-of-way within the Village.

Public Tree – a tree or shrub with a trunk which is at least partially on publicly owned land or within the right-of-way of a Village public street.

Removal – to take away and remove a tree or shrub including the stump to below ground level.

Replacement – the removal of a dead, dying or diseased tree or shrub followed by the planting of a tree or shrub of the same or different species in the same or adjacent location.

Right-of-Way – the bordering land within 1/5 rods from the center of a Village public street, road, or highway, unless otherwise determined by state or county road authorities.

Rod – 16.5 feet.

Shrub – woody plant with more than one main stem emerging from the ground.

Small Tree – a tree that attains a maximum height of up to 30 feet at maturity.

Spray – the application of any pesticide, fertilizer or other substance to a tree or shrub.

Standards and Specifications – a document that lists up-to-date detailed tree planting and maintenance standards, recommendations, and specifications.

Street Tree – any tree or shrub planted or growing within the right-of-way of a public street, road or highway.

Tree – woody plant with a single central axis (trunk) emerging from ground and acquiring a minimum height of ten (10) feet at maturity.

Trim – to remove parts of a tree or shrub to maintain a desired shape or size.

Utilities – Those entities that provide electricity, gas, sewer, water, telephone and cable television to properties within the Village.

#### SECTION 4. TREE BOARD

##### A. Establishment; membership; terms.

1. The Village Board of Trustees shall create an advisory committee known as the “Tree Board for the Village of Perry”.
2. The Tree Board for the Village of Perry shall consist of at least five (5) uncompensated members, including at least one member of the Village Board of Trustees and one representative from the Department of Public Works. In addition, the Village Code Enforcement Officer shall serve as ex office member of the Committee.
3. Each member shall be appointed by the Board of Trustees for a term of three (3) years, which may be renewed for successive terms.
4. The Village Board of Trustees shall have the right to review the conduct, acts and decisions of the Tree for the Village of Perry and of its individual members. The Board of Trustees shall have the power to remove individual members and to appoint new members as may be necessary.
5. If a Committee member does not serve the full term for reasons other than the expiration of the term, the Village Board of Trustees shall appoint a successor, to serve for the unexpired term.

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

1. Studying, investigating, developing and/or updating the Village’s Tree Standards and Specifications for caring, preserving, pruning, topping, replanting, removing or disposing of trees and shrubs in parks, along Village 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 when needed, and determining areas where such trees could exist but are absent.
4. Establishing lists of recommended and undesirable trees species for the village and recommending to the Superintendent of Public Works they type and kind of trees to be planted upon Village 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 Superintendent of Public Works in an advisory capacity to identify trees for immediate removal.

7. Identifying where no or few trees are present in the right-of-way, and requesting the planting of new trees by the Superintendent of Public Works, including specifying varieties and locations.
8. Providing or updating the Village of Perry Master Tree Plan at least every five (5) years.
9. Serving as a resource to the Village Board of Trustees for a yearly estimate of project costs, and for help with prioritizing project.
10. Upon request made by landowners, proving recommendations to Village residents regarding trees on private property.

#### C. Meetings

1. The Tree Board shall meet a minimum of four (4) times per year. The Tree Board may call additional meetings as needed.
2. If a Tree Board member misses three (3) consecutive meetings, the position will be deemed vacant.

### SECTION 5. AUTHORIZATION

The Tree Board is permitted to purpose regulations, update the Village Tree Standards and Specifications and give specific guidance to both the Village Board of Trustees and the Department of Public Works for the planting, maintenance, removal and replacement of trees and shrubs on publicly owned village property and within the rights-of-way of public streets to ensure safety and/or to preserve or enhance the aesthetics or function of such public sites.

The Tree Board may inspect all tree-related work done on publicly owned property or with the rights-of-way of public streets. The Tree Board shall have the authority to formulate and propose a Tree Master Plan which, after public hearing, may be adopted by resolution of the Village Board of Trustees.

### SECTION 6. POLICY REGARDING TREES

The Village encourages the planting of a large number and a broad diversity of tree species on public and private property, as well as the planning of areas of uniformity with it will enhance beauty, function, or uniqueness.

### SECTION 7. PERMITS

No persons shall remove, damage or plant any tree within the right-of-way of any Village street or upon Village-owned property without documented approval from the Superintendent of Public Works, the Village Tree Board or, when appropriate, the Village Board of Trustees, in accordance with Tree Standards and Specifications maintained by the Tree Board, with the exceptions of adjacent landowners who may do minor pruning and the Department of Public Works and other utilities, which may prune, remove and replace trees interfering with traffic or pedestrian safety or with the provision of electricity, gas, sewer, water, telephone and cable television to properties, in accordance with the Tree Standards and Specifications. Utilities must prune and remove trees in accordance with sound arboricultural practices to a reasonable minimum degree necessary to preserve the function and safety of utilities while also preserving the natural form, symmetry, canopy and number of trees as much as is reasonably possible.

#### SECTION 8. MAINTENANCE AND ABSTRUCTION

No trees shall be planted on Village Property or upon public streets rights-of-way that, at maturity, will likely interfere with overhead utility wires.

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 street lights, 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.

All trees and shrubs which have branches overhanging a public street or sidewalk, shall have said branches trimmed on the street side to a clearance height of at least 16 feet on arterial streets or at least 12 feet on other streets, and on the sidewalk side to a clearance of 8 feet.

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.

When a tree or shrub on private property is found to be in con-compliance with this law, the owner shall be notified thereof and asked to correct the problem in a timely manner.

#### SECTION 9. NUISANCE AND CONDEMNATION

Any street tree or tree planted on property owned by the Village of Perry 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 Superintendent of Public Works, when made aware of such nuisance, shall abate the nuisance in a timely manner, with tree replacement whenever possible. The Superintendent of Public Works or the Village Tree Board may also request the replacement of unsightly trees. Trees should be added, removed and replaced in accordance with the Standards and Specifications.

The Tree Board or the Superintendent of Public Works shall inform the Village Board of Trustees of any private tree not maintained in compliance with the provisions of this Local Law or which is dead or dangerous and request that written notice thereof be served on the property owner. Such notice shall specify in detail the nature of the Tree Board's or Superintendent's recommendations.

#### SECTION 10. PROTECTION OF TREES

Prior to development, redevelopment, razing or renovating of any land within the Village, 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 with any needed assistance from the Department of Public Works to transplant, when practical, other rare, endangered or protected plants to other sites within the Village favorable for the growth and survival of such plants.

No person shall excavate any ditches, tunnels, trenches, or lay any drive within a radius of 20 feet from any "landmark tree" upon public property without written approval from the Village Board of Trustees.

No persons 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, 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 with injure any portion of any such tree without written approval from the Superintendent of Public Works, in consultation with the Village Tree Board.

For private property, upon the discovery of any destructive or communicable disease of other pestilence which 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 Superintendent of Public Works shall notify the Village Board of Trustees and request that the owner of the property upon which such diseased or infested 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 property is deemed to be imminent or serious, the Zoning Officer of the Village of Perry or the Perry Police Department 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.

For public property, upon the discovery of any destructive or communicable disease or other pestilence which 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 Superintendent of Public Works thereof and request that it be corrected within a reasonable time.

#### SECTION 11. REMOVAL AND REPLACEMENT OF TREES

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 Superintendent of Public Works. Trees should be added, removed, and replaced in accordance with the Standards and Specifications.

#### SECTION 12. INTERFERENCE WITH PLANTING, MAINTENANCE AND REMOVAL

No person, firm, organization or corporation shall prevent, delay, or interfere with the Tree Board, Village Board of Trustees, Department of Public Works, or contractors in the execution of enforcement of this law including the planting, maintaining, mulching, trimming, pruning, fertilizing, spraying, preserving or removing of any tree, shrub, or plant in any right-of-way or public place within the Village of Perry.

#### SECTION 13. APPEALS AND FAILURE TO COMPLY

Any person who received 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 Village Board of Trustees, in writing, of the specific nature and reason(s) of the objection and request a hearing thereon. The hearing shall be held within ten (10) days of notice from the appellant. Within ten (10) days after such hearing, the Village Mayor, in consultation with the Village board of Trustees and the Tree Board shall render a decision and notify the appellant of the decision.

#### SECTION 14. VIOLATIONS



Failure within twelve (12) days after receiving written notice of violation of the Tree Law to comply with said and the requirements of this Law shall be a violation of this Law, and each day's neglect and refusal to comply with the terms of said notice shall constitute a separate offense.

Any person, whether as principal, agent or employee, violating or assisting in violation of any of the provision of this Law shall, upon conviction thereof, be sentenced to pay a fine not exceeding three hundred dollars (\$300.00) and costs of suite and, in default of payment of fine and costs, of suit and, in default of payment of fine and costs, to undergo imprisonment for not more than thirty (30) days.

#### SECTION 16. LOCAL GOVERMMNEMTN LIABILITY DISCLAIMER

Nothing contained in this law shall be deemed to impose liability upon the Village, the Village Board of Trustees, the Tree Board, the Department of Public Works, or individuals, companies or corporations hired by the Village, 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/her property from constituting a hazard or an impediment to travel or vision upon any street, sidewalk, park or other public place within the Village of Perry.

Should any section of this Tree Law be found to be unconstitutional, that finding shall in no way effect the other sections of this Tree Law which shall remain in effect.

#### SECTION 16. EFFECTIVE DATE

This law shall take effect upon filing with the Office of the NYS Secretary of State.