

**TOWN OF PINE PLAINS  
LOCAL LAW NO. 2 OF 2010**

**Section 1 – Title.**

This local law shall be known as the "Pine Plains Tree Law".

**Section 2 - Legislative Intent and Purpose.**

The Town Board enacts this law to achieve the following purposes:

- A. Providing a mechanism for the removal, and pruning of trees on public and private lands which impact public highways and other public property in the Town, which pose a hazard to the general public;
- B. Establish and maintain the maximum sustainable amount of tree cover on public and private lands which impact public highways and other public property in the Town;
- C. To help insure that trees which pose a hazard to the general public are removed and/or pruned in accordance with sound arboricultural practices;
- D. Protect and enhance the character of the Town by assuring that decisions regarding the removal and pruning of trees are consistent within sound arboriculture practices and
- E. Preserve the natural beauty and community character of the Town.

**Section 3 - Definitions.**

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

**Arborist** – Trained specialist certified by the International Society of Arboriculture or one of its chapters or other nationally recognized arboricultural organizations with expertise in tree management.

**Arboriculture** – The cultivation of trees and shrubs, including the study of how they grow and respond to cultural practices and the environment, as well as aspects of cultivation such as selection, planting, care, and removal.

**Canopy Cover** – A measurement or projection of the total crown size that a tree or trees in a specified area will attain at maturity.

**Crown** – All portions of a tree, excluding the trunk and roots, such as branches and foliage.

**dbh (diameter at breast height)** – The diameter of a tree trunk at the height of 4.5 feet above ground.

**Easement (highway)** – As used in this law, refers to the areas on private land that adjoin Town, County or State roads and over which the Town has jurisdiction or rights to use or control for purposes of protecting the health, safety and welfare of pedestrians and motor vehicles utilizing the said highways.

**Hazardous Tree** – Any tree which constitutes a public nuisance by virtue of having an infectious disease or insect problem, being dead or dying, having limbs that obstruct street lights, traffic lights, etc., or a tree that poses a threat to public safety from falling limbs.

**Heritage Tree** – A tree identified by inventory, or other study of the Town's Conservation Advisory Council which has certain unique or noteworthy characteristics or values including endangered species, rarity, age or historical significance to make that tree deserving of special protection under this law.

**Public Tree** – A tree on publicly owned land (such as library and school grounds and grounds of municipal buildings) which is not park land.

**Roadside Tree** – A tree growing within the boundaries of any municipally owned highway and on any private property within any easement or right-of-way of a municipal highway not owned in fee simple title by that municipality.

**Specimen Tree** – A mature tree (not a Heritage Tree) which is an excellent example of a species in structure and aesthetics with a minimum diameter of 18 inches at 4.5 feet dbh above ground or a minimum crown spread of 15 feet.

**Topping** – Severe cutting back of limbs within the tree's crown to such an extent that the tree is disfigured by loss of its natural form.

**Tree Cutting** – Any removal, breaking, -pruning, destruction or injuring of any tree covered by the provisions of this law.

**Section 4 - Removal or Pruning of Trees Which Interfere with Public Streets, Sidewalk and Property.**

- A. The Town, through its Highway Department, shall have the authority to prune the branches of any Roadside Tree, or any tree overhanging any street or right-of-way within the Town, so that the branches shall not obstruct the light from any street lamp 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.

- B. The Town shall have the authority to prune or remove all dead, diseased or dangerous trees or broken or decayed limbs of any Roadside Tree or any tree on private and public property which constitute a hazard to the safety of the public. The Town shall have the authority to prune any tree 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.
  
- C. The Town shall have the authority to cause the removal, pruning or treatment of any dead, diseased or other Roadside Tree or any tree on private property within the Town when such tree which constitutes a hazard to public highways, public ways or other public property within the Town. The Town through its Highway Superintendent or Town Clerk will notify in writing the owners of such tree. A copy of said notice shall be provided to the Town Board and the Town's Conservation Advisory Council. The notice shall inform the property owner of the need for removal, pruning and/or treatment of the tree, as the case may be. Removal, or treatment or pruning of the tree to remedy the hazardous condition shall be performed by the property owner at his or her own expense within sixty (60) days after the date of service of notice unless a shorter time period is specified in the Notice. Upon completion of the removal, or treatment or pruning, to remedy the hazardous condition, the property owner shall notify the Highway Superintendent or the Town Clerk, in writing, of the completion of the work so that the Highway Superintendent can inspect the work. In the event of the failure of the owner to comply with such provisions, the Town shall have the authority to remove, treat or prune such trees and may, in its discretion, charge the cost of the removal, treatment or pruning as a municipal lien to be levied as a special assessment or tax against the owner of land upon which the tree was situated. Notices pursuant to this section shall be deemed to be given when delivered personally to the property owner or when sent by certified mail, return receipt requested to the address of the owner of the property as shown on the latest tax assessment roll.

**Section 5 – Conservation Advisory Council ("CAC")**

- A. In performing its functions, the Town Board, and its Highway Superintendent, shall, where practicable, consult with the Town's CAC. The CAC may, from time to time, provide the Town and the Highway Superintendent with a list of trees within the Town which present a hazard to the public and which are in need of removal or pruning. The CAC shall also provide the Town and the Highway Superintendent with a list of any Heritage trees within the Town which it has identified.
  
- B. The CAC, upon receipt of any notification to a property owner for removal, pruning, or treatment of any dead, diseased Roadside Tree or

other tree on private property within the Town, may, in its discretion, inspect the tree in question and make recommendations to the owner and the Highway Superintendent regarding the need for removal and manner in which such removal should occur. The CAC shall also, where appropriate, make recommendations to the property owner and the Highway Superintendent for pruning and treatment of said tree if it determines that removal of the tree or trees in question is not necessary by application of sound arboricultural practices.

- C. Should any dispute arise with regard to the need for the removal of a tree or the method of removal, pruning or treatment of a tree, the property owner may retain the services of an arborist to provide the necessary advice and recommendations to the Town, and to the Highway Department. The Town may, in its discretion, hire its own arborist to review the property owner's arborist report, or to otherwise make recommendations to the Town Board with regard to the removal, treatment and/or pruning of the tree. Any dispute regarding the removal, treatment and/or pruning of the tree shall be resolved by the Town Board.
- D. The Town Highway Department personnel may, from time to time, be trained and guided in correct pruning techniques by a professional arborist retained by the Town.

#### **Section 6 – Basic Standards for Tree Trimming and/or Removal**

- A. A tree canopy should, where possible, be preserved intact except where it obstructs light from tree lamps or views from street intersections.
- B. The space 15' from the ground may be kept free of branches above the street and sidewalk.
- C. All trees should be removed, or pruned, as the case may be, in accordance with standards of good arboricultural practice.
- D. Neither topping nor the removal of all limbs on one side of the tree is permitted, except in cases where it is determined by an arborist retained by the Town that such topping or removal is necessary to remove an existing hazard or preserve the health of the tree.
- E. Except in cases of emergency, Heritage trees shall be removed or pruned only after the Town consults with an arborist. The Town shall follow the recommendations of the arborist in the tree removal and/or pruning.
- F. Cut branches and/or felled trees on private property shall become the personal property of the property owner. However, the Town shall have the discretion to remove any cut branches and/or trees from private

property if the same are not removed from the private property within a period of two weeks after cutting is complete if in the opinion of the Town Highway Superintendent the cut branches and/or trees constitute a hazard to the public or interfere with the use of the public right-of-way.

#### **Section 7 – Coordination with Public Utilities and Authorities**

The Highway Department shall make best efforts to consult with public utility authorities prior to their seasonal pruning along power line easements. The utility shall be provided with a copy of this Local Law and the Town shall make best efforts to have the public utility adhere to the goals and procedures set forth in this Local Law.

#### **Section 8 – Penalties for Offenses.**

- A. Any person or entity who violates any of the provisions of this law shall be deemed and held to be guilty of an offense and, upon conviction, shall be fined a sum not to exceed \$250.00, or imprisoned for not more than fifteen (15) days, or both, for each offense. Each week during which the violation shall continue shall be held and deemed to be a separate offense.
- B. The Code Enforcement Officer shall have the authority to issue appearance tickets and prosecute violations of this section. In addition, appearance tickets may also be issued by the Police Department and prosecution of such offenses may also be made by the Town Attorney or Attorney to the Town.
- C. In addition to criminal remedies, the Town shall have the right to seek injunctive relief in a court of competent jurisdiction against any person violating the provisions of this law.

(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. 2 of 2010 of the (County)(City)(Town)(Village) of PINE PLAINS was duly passed by the Town Board on June 24, 2010, in accordance with the applicable provisions of law.  
(Name of Legislative Body)

**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)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted (Elective Chief Executive Officer\*) 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)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. (Elective Chief Executive Officer\*)

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)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (Name of Legislative Body) (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 town 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 November \_\_\_\_\_ 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 cities of said county as a unit and a majority of the qualified electors of the towns 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.

(Seal)

Judy Staupp  
Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: June 29, 2010

**(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)**

STATE OF NEW YORK  
COUNTY OF DUTCHESS

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

W. J. Rapley  
Signature  
Attorney to the Town of Pine Plains  
Title

County \_\_\_\_\_  
City of PINE PLAINS  
Town \_\_\_\_\_  
Village \_\_\_\_\_

Date: JUNE 25, 2010