

**LOCAL LAW NO. 2-2018 TO AMEND THE SCOTTSVILLE VILLAGE CODE AT PART II “GENERAL LEGISLATION,” BY ADDING CHAPTER 155 “SCOTTSVILLE TREE ORDINANCE”**

BE IT ENACTED, by the Village Board of the Village of Scottsville, County of Monroe, State of New York as follows:

**Section I. Authorization**

The adoption of this Local Law is in accordance with Section 10 of New York’s Municipal Home Rule Law, Section 7-708 of the Village Law of the State of New York, and Section 1-7 of the Village Code of the Village of Scottsville.

**Section II. Title and Purpose**

This Local Law shall be known as and may be cited as Local Law No. 9-2017, to amend the Scottsville Village Code at Part II, “General Legislation,” by adding Chapter 155 “Scottsville Tree Ordinance”.

**Section III. Legislative Finding**

The Scottsville Village Board finds and hereby determines that Scottsville’s trees, one of the Village’s greatest assets, are aging, and the canopy is in need of preservation. Therefore, the Scottsville Forestry Board manages Village trees on public property and serves as an Advisory Board to the Scottsville Village Board. In that capacity, the Village Board hereby adopts the finding of the Scottsville Forestry Board that the Village needs a local law to protect and promote the health, safety, and welfare of both the public citizenry and the trees.

**Section IV. Amendments**

Scottsville Village Code at Part II, “General Legislation,” shall be amended by adding Chapter 155 “Scottsville Tree Ordinance,” as follows:

**CHAPTER 155: SCOTTSVILLE TREE ORDINANCE**

- Article I Purpose
- Article II Applicability and Enforcement
- Article III Definitions
- Article IV Authority to Plant or Remove Trees on Public Lands
- Article V Public Tree Removal
- Article VI Tree Species and Planting Requirements
- Article VII Public Tree Planting Guidelines
- Article VIII Public Tree Care

- Article IX Protection of Trees
- Article X Placing Materials on Public Property
- Article XI Abuse and Mutilation of Trees on Public Property
- Article XII Penalties for Offenses

## Article I. Purpose

### § 155-1. Purpose and objectives of the Scottsville Tree Ordinance.

- A. The purpose of this Chapter is to protect and promote the health, safety, and general welfare of the Village of Scottsville’s residents, visitors, trees, and businesses. Accordingly, this Chapter establishes standards, regulations, and requirements relative to the control, planting, removal, maintenance, and protection of the trees and shrubs located on or about public property, public right-of-ways, and public lands within the Village of Scottsville.
- B. The following are objectives of the Scottsville Tree Ordinance:
  - 1. Minimizing and guarding against dangerous conditions which may result in injury to persons using the public areas of the Village of Scottsville (herein, “Village”);
  - 2. Promoting the enhancement and natural beauty of the Village;
  - 3. Preventing damage to the public parks, public lands, public right-of-ways, sanitary sewer system, storm water sewer system, water mains, streets, sidewalks or other public property;
  - 4. Managing the trees and shrubs within the Village with the goal of stopping the spread of disease and pests; and
  - 5. Promoting a diverse urban forest.
- C. The Village of Scottsville Board of Trustees (herein, “Village Board) finds that the Scottsville Tree Ordinance is needed to protect the general welfare of the community for the following reasons:
  - 1. Trees are proven producers of oxygen, a necessary element for the survival of humankind;
  - 2. Trees appreciably reduce the ever-increasing and environmentally dangerous carbon dioxide content of the air;
  - 3. Trees play a vital role in purifying the air;
  - 4. Trees play an integral role in neutralizing wastewater which passes from the surface to lower groundwater aquifers;
  - 5. Trees, through their root systems, stabilize the soil and play an important and effective part in soil conservation, erosion control, and flood control.
  - 6. Trees are essential and an invaluable physical and psychological addition to the Village, because:

- i. Trees make life more comfortable by providing shade, which cools both the air and land;
  - ii. Trees reduce noise levels and glare; and
  - iii. Trees break the visual monotony of development of land.
- 7. Trees provide numerous important ecological benefits (e.g., provide wildlife habitats);
- 8. The protection of trees within the Village of Scottsville is not only desirable, but essential to the present and future health, safety, and general welfare of all the visitors to and citizens of the Village of Scottsville;
- 9. Some tree species are more beneficial than others as necessary contributors to the Village's environment and it is not necessary to protect each and every tree in order to attain the public benefit derived from a tree protection and replacement rules and regulations;
- 10. A healthy urban forest provides an attractive environment for businesses, residents, and visitors; and is a positive contribution to the local economy; and
- 11. A healthy urban forest improves the quality of life and general welfare of Village residents and neighborhoods, by:
  - i. Reducing energy costs;
  - ii. Increasing property values;
  - iii. Beautifying neighborhoods; and
  - iv. Projecting the image of a thriving, prosperous community.

## Article II. Applicability and Enforcement

### § 155-2. Applicability and Enforcement of the Scottsville Tree Ordinance.

- A. The terms, provisions, and requirements of this Chapter shall apply to all trees, shrubs, and woody vegetation located on or about public property, public right-of-ways, public parks, or other public lands within the Village, and also to any development or circumstance which has the potential to adversely impact public trees.
- B. It shall be the duty of the Village of Scottsville Code Enforcement Officer (herein, "Code Enforcement Officer"), in consultation with the Village of Scottsville Department of Public Works (herein, "Department of Public Works") Public and the Village of Scottsville Forestry Board (herein, "Forestry Board"), to enforce the provisions, requirements, and obligations of this Chapter.

## Article III. Definitions

### § 155-3. Definitions.

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

**ABUTTER**

One whose property touches or adjoins along a border, or with a projecting part, the property of another. The Village Board is the designated agency of the Village of Scottsville under whose jurisdiction the trees, shrubs, bushes, and all other woody plants on public property fall.

**DRIPLINE**

The area directly below the canopy of the tree out from the trunk to the greatest extent of the branches.

**EVIDENCE OF TREE DECLINE**

Including but not restricted to: large areas of dieback of the canopy, and poor live crown ratio (e.g., less than 30%), dead and decaying wood in trunk, sparse live canopy, substantial epicormic growth on branches and trunk, substantial insect attack, multiple areas of wood decay lesions in branches and trunk.

**FORESTRY BOARD**

The Forestry Board is created pursuant to General Municipal Law § 20. The Forestry Board shall be an advisory Board to the Board of Trustees of the Village of Scottsville.

**HIGHWAY**

The entire width of every public way or right-of-way when part thereof is open to the use of the public, as a matter of right, for the purposes of vehicular, bicycle or pedestrian traffic.

**LARGE TREES**

Those species which habitually or at maturity attain a height of 45 feet or more.

**MEDIUM TREES**

Those species which habitually or at maturity attain a height of 30 to 45 feet.

**NOTICE**

A written or verbal announcement as given by authority of the Village.

**PERSON**

Any individual, firm, partnership, association, corporation, company, organization, or entity of any kind.

**PROPERTY OWNER**

The person owning such property within the Village of Scottsville, as shown by the Town of Wheatland Tax Assessor's records, unless proof to the contrary is available.

**PUBLIC HAZARD**

A condition of any tree, shrub, bush or other woody plant, or any substantial portion of a tree, shrub, bush or woody plant, which constitutes a hazard to life and property or harbors insects or disease which constitutes a potential threat to other trees, shrubs, bushes or woody plants within the Village.

**PUBLIC PROPERTY**

All property owned, leased, or occupied by the Village of Scottsville or any of its administrative agencies or departments.

**PUBLIC RIGHT-OF-WAY**

The entire width between the dedicated boundaries of all public streets, roads, boulevards, alleys, and includes all sidewalks and public parking strips located within any such boundaries.

**PUBLIC TREES**

All trees, shrubs, bushes, and woody vegetation on public property, including Village parks and right-of-ways.

**SMALL TREES**

Those species which habitually or at maturity attain a height of 30 feet or less. Such trees shall be planted underneath where three-phase and single-phase electrical wires exist.

**STREET**

The entire width of every public way or right-of-way when part thereof is open to the use of the public, as a matter of right, for the purposes of vehicular, bicycle or pedestrian traffic.

**STREET TREES**

Trees, shrubs, bushes, and all other woody vegetation on land lying within public right-of-ways, streets, avenues, sidewalk, public ways, and public property within the Village.

**SUBSTANTIAL EVIDENCE OF TREE HAZARD AND DECLINE**

Including, but not restricted to: obvious instability of root plate, such as evidence of soil heave, loss of structural roots, root decay, poor structural integrity of trunk due to significant wood decay, large cavities, internal cracking, poor large branch attachments such as severe bark inclusions, poor attachment of regrowth after lopping and/or storm damage.

**TOPPING**

The severe cutting back of limbs to stubs larger than three inches in diameter within a tree's crown to such a degree as to remove the normal canopy and which disfigures the tree.

**TREE AT MATURITY**

A tree which is twenty-five (25) to thirty-five (35) years old.

**UTILITY INSTALLATIONS**

The physical apparatus which comprises, delivers, and supplies the following systems: gas, electric, water, cable television, internet, telephone, sanitary sewer, and storm water.

**VILLAGE**

Shall refer to Village employees and/or elected officials with specific authority under this Chapter.

**WOODY VEGETATION**

Trees, shrubs, plants, and any other vegetation with a woody stem.

**Article IV. Authority to Plant Trees on Public Lands**

§ 155-4. Request to have tree planted on public property or a public right-of-way.

- A. Trees planted on public property are the responsibility of the Village. An adjacent property owner or other person who wants a tree planted on the public right-of-way shall make a request to the Village for referral to the Forestry Board and Department of Public Works for consideration. Street trees will be planted according to policies, regulations, and criteria established pursuant to this Chapter. The Department of Public Works shall be responsible for the coordination of all public tree planting and any coordination with utility companies.

§ 155-5. Guiding principles for the planting of trees on public property.

- A. All trees planted on public lands as specified by this section shall be located and planted with the approval of the Department of Public Works after the advisement of the Forestry Board. In the performance of such work, consideration shall be given to the following guiding principles, which are considered to be of primary importance in maintaining the Village forest:
  - 1. Trees that must be removed shall be replaced by a new planting, either on site or somewhere in the Village forest, depending on site restrictions, feasibility or other mitigating circumstances.

2. Wherever feasible, trees shall be planted near old and dying ones in anticipation of their removal.
3. Species selected may vary, depending on mitigating factors of the site as provided for in § 155-14 of this Chapter
4. In an effort to reforest areas of the Village devoid of trees, all available sites shall be considered to receive tree plantings except in cases where it can be shown with authoritative supporting evidence that there are proven and substantial factors leading to significant health, safety, hazard or property damage implications at or around the site where the tree is to be located (*for the factors considered during site assessment, see § 155-14*).

§ 155-6. Assessment of expenses incurred by Village due to a violation of this Chapter.

- A. Whenever any tree is planted or set out in violation of any provision of Scottsville Village Code Chapter 155: Scottsville Tree Ordinance, it shall be lawful for the Department of Public Works to remove or cause removal of the same.
- B. All expenses incurred by the Village in connection with the removal of a tree planted or set out in violation of Scottsville Village Code Chapter 155: Scottsville Tree Ordinance, including legal expenses, shall be assessed against the land of the real property owner responsible for such planting violation and shall be levied and collected in the same manner as provided in Article 5 of the New York State Village Law for the levy and collection of a special ad valorem levy.
- C. After a determination to remove or cause to be removed a tree planted or set out in violation of this Chapter is made, the Code Enforcement Officer shall mail a Notice to the responsible property owner at the last known address as shown on the Village Tax Assessment Rolls. Such Notice shall be mailed 10 days prior to any tree removal.

§ 155-7. Appeal.

- A. Appeal of a decision to remove a tree planted or set out in violation of this Chapter may be made by a property owner to the Village Board.
- B. Appeals shall be made in writing and submitted to the Village Clerk on or before the day prior to the scheduled removal date.
- C. The Village Board shall use the criteria and regulations contained in §§ 155-13 through 155-15 of this Chapter when making an appeal determination.
- D. A decision of any appeal shall be made within 60 days of receipt of said appeal and made available by the Village Clerk.

§ 155-8. Request for not planting a tree on public property or a public right-of-way.

A. Any request for not planting a tree on public property or a public right-of-way will only be considered where there are proven and substantial factors leading to significant health, safety, hazard or property damage implications at or around the site where the tree is to be located.

B. The following circumstances do not justify a negative decision regarding whether to plant a tree on public property or a public right-of-way:

1. Speculation on potential problems that the tree may or may not cause in twenty-five (25) to thirty-five (35) years;
2. The tree at maturity may cause a problem;
3. The tree's flower, leaf or fruit fall may cause nuisance at the tree's maturity;
4. The tree causes a person's view to be disrupted;
5. The tree does not suit the existing or proposed landscape;
6. An unsubstantiated fear of tree failure at the tree's maturity; and
7. The tree will be too large or too high at the tree's maturity.

§ 155-9. Request for the Village to refrain from planting a tree on public lands.

A. A request for the Village to refrain from planting a tree on public right-of-way shall be submitted to the Superintendent of the Department of Public Works (or official designee), who, with a representative of the Forestry Board and/or professional municipal forestry consultant, shall review said request, visit and assess the site, and render a decision based on factors which have significant health, safety, hazard or property damage implications at or around the site where the tree is to be located.

B. Any cost incurred by a request requiring the services of the professional municipal forestry consultant shall be paid by the party making the request.

C. Should a citizen desire to engage the services of a professional municipal forestry consultant for the purposes of rendering an opinion, that opinion shall be submitted in writing to the Village Clerk's Office within five (5) days after their request to not plant a tree on a public right-of-way is made.

D. Any consultant hired by a citizen shall possess the following credentials and submit proof of said credentials with the written opinion:

1. International Society of Arboriculture certified arborist; and
2. International Society of Arboriculture tree risk assessment qualification.

## Article V. Public Tree Removal

§ 155-10. Tree removal from public property and public right-of-ways.

- A. Removal of trees on public property, public right-of-ways, and public lands shall be the responsibility of the Village.
- B. The Superintendent of the Department of Public Works (or the official designee) in consultation with the Forestry Board shall determine whether a tree or shrub planted on public property, public right-of-ways, or public lands is dead, hazardous, or would be hazardous to the safety of the community.
- C. After a determination has been made that a tree or shrub planted on public property, public right-of-ways, or public lands is dead or hazardous to the safety of the community, the Superintendent of the Department of Public Works (or the official designee) in consultation with the Forestry Board shall have the power and authority to remove such tree or shrub from public property, public right-of-ways, and public lands.

§ 155-11. Factors generally considered justification for tree removal.

- A. When reviewing a request for the removal of an existing tree from public property, public right-of-ways, or public lands, the following factors shall be taken into consideration:
  - 1. Whether the tree is dead or dying;
  - 2. Whether the tree is infected with a disease which cannot be treated successfully;
  - 3. Whether the tree contains a pathogen and there is a reasonable possibility that the pathogen could spread to other trees in the immediate vicinity;
  - 4. Whether the tree is structurally unstable, except that a leaning tree is not necessarily indicative of a structurally unstable tree;
  - 5. Whether the tree is preventing essential grade changes or reasonable utility installations;
  - 6. Whether a tree is preventing a reasonable means by which building, zoning, subdivision, health, public safety, or other municipal requirements are to be satisfied.
  - 7. Where storm damage has caused 50% or more of the tree canopy to be broken or damaged.

- B. Claims of a tree being unsightly or unattractive does not make said tree eligible for removal unless one or more of the above factors are present.

§ 155-12. Factors not generally considered justification for tree removal.

- A. The following factors, when standing alone, are not generally considered justification for tree removal:
  - 1. To stop flower, leaf or fruit fall from causing a nuisance;
  - 2. To increase general natural light;

3. To enhance views;
4. To allow for a proposed development. Although vegetation removal may be considered under the Planning Board site plan review process, it is not a valid reason for removal under this Chapter;
5. To reduce shade created by a tree;
6. To reduce fruit, resin, or bird/bat droppings on vehicles;
7. To stop insects and animal from causing nuisance;
8. In order to facilitate the minor lifting of driveways, paths, and paving.
9. Damage to fences due to branch failure;
10. Non-structural damage to roof structures, outbuildings, garden structures, walls.
11. Damage to underground services (such as sewer lines, water services and the like), where there are feasible alternatives to mitigate or solve problems and retain the tree, and the tree is significant to the urban forest;
12. In order to construct a fence;
13. Tree does not suit the existing or proposed landscape;
14. Unsubstantiated fear of tree failure;
15. To allow for landscape work;
16. Dropping of dead wood (would be considered if tree is deemed a hazard); and
17. Tree too large or high.

B. While the above listed factors are generally not considered a substantive justification for removal when standing alone, they would be considered a justification for removal when pursuant to the recommendation of a professional arborist:

1. The factor has proven to have a significant detrimental impact on the health and safety of the community;
2. The factor has property damage implications; or
3. The tree is in poor health.

## Article VI. Tree Species and Planting Requirements

§ 155-13. Tree species requirements.

A. The Forestry Board shall develop and maintain a list of appropriate and desirable trees for planting along streets in three size classes based on habitual growth and/or mature height, as follows:

1. Small (under 30 feet);
2. Medium (30 to 45 feet); and
3. Large (over 45 feet).

- B. Before planting, all public trees must be inspected and approved by the Department of Public Works and/or their designee.
- C. Efforts shall be made to ensure a sufficient diversity of tree species.
- D. A List of tree species not suitable for planting shall be promulgated by the Village Forestry Board.
- E. The selection of tree species shall be based in part on the desire to have a diverse urban forest and on the tree species that can best tolerate soil conditions and traffic pertaining to the proposed site. Overplanting of one tree species can result in insect infestations and diseases leading to the destruction of a large number of trees in one area or even throughout the entire Village. The Village Forestry Board shall endeavor to limit any one species of tree within a site to between 5% and 10% of a total. This ensures that the Village's tree population will be protected from widespread destruction due to insects and disease, and thereby, assist in the maintenance of a long-lived and healthy urban forest.

§ 155-14. Factors to be considering during site assessment for public tree planting.

A site assessment for the placement of a public tree shall consider the following factors:

1. Hardiness zone;
2. Light conditions;
3. Heat;
4. Wind;
5. Soil pH;
6. Soil texture and type;
7. Soil compaction levels;
8. Soil drainage characteristics;
9. Salt levels from winter road spray;
10. Utility wires, poles, and structures;
11. Proximity to buildings and structures;
12. Rooting space;
13. Underground utilities; and
14. Proximity to the public travel way of vehicles, bicycles, and pedestrians.

## Article VII. Public Tree Planting Guidelines

§ 155-15. Tree spacing requirements.

- A. The spacing of public trees will be done in accordance with the criteria shown herein for the three size classifications listed in § 155-13(B) of this Chapter.

- B. A public tree shall not be planted closer together than the space as determined by accepted industry standards. Spacing requirements shall also be dictated by the species of the tree to be planted, except in special plantings approved by the Forestry Board and/or designed and approved by a landscape architect or arborist.
- C. The distance a public tree may be planted from curbs, curb lines, and sidewalks shall be in accordance with the three species size classes listed in § 155-13(B) of this Chapter.
- D. A public tree shall not be planted closer to any curb or sidewalk than is advisable for the healthy development of root structure and preservation of surrounding infrastructure.
- E. A public tree shall not be planted where it will obstruct the sight lines of vehicular traffic at any intersection or street corner.
- F. A public tree shall not be planted within ten (10) feet of any fire hydrants or fireplug.
- G. A public tree shall not be planted under or within ten (10) feet—and/or a distance determined to be satisfactory by the utility company, professional forester, or professional arborist—of any overhead three-phase or single-phase electric utility wire, except:
  - 1. Those tree species designated as small trees by the Forestry Board.

## Article VIII. Public Tree Care

### § 155-16. Requirements and responsibilities for public tree care.

- A. 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 in the furtherance of the stated purpose of this Chapter. All tree pruning on public property, public right-of-ways, and public lands shall conform to the ANSI A300 standards for tree care operations and shall be performed, or caused to be performed, by the Department of Public Works.
- B. Village personnel shall coordinate all tree planting, removal and maintenance with the Forestry Board, except in cases of emergency where prompt action is necessary to protect the safety of the community or to prevent property damage.

- C. The Department of Public Works in consultation with the Forestry Board may remove, cause to be removed, or order to be removed, any tree or part thereof in accordance with Article V of this ordinance.
- D. This section does not prohibit the planting of public trees by adjacent property owners, providing that the selection and location of said trees is in accordance with the standards stated in Articles 6 and 7 of the Scottsville Tree Ordinance.

§ 155-17. Requirements of property owner for tree pruning and maintenance.

Pursuant to 19 NYCRR § 1226.1, New York State adopted the 2015 International Property Maintenance Code. Section 302.2 of the 2015 International Property Maintenance Code is hereby incorporated by reference, which states: sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair and maintained free from hazardous conditions.

§ 155-18. Public tree topping is prohibited.

- A. It shall be prohibited and unlawful for any person, firm, or Village employee to top any tree on public property, public right-of-ways, and public lands.
- B. “Topping” is defined as the severe cutting back of limbs to stubs larger than three (3) inches in diameter within the tree's crown, to such a degree so as to remove the normal canopy and disfigure the tree. Crown reduction by a qualified professional arborist or professional forester may be substituted, where appropriate.
- C. Trees severely damaged (by storms or other causes) may be exempted from the prohibition against topping, after a determination is made by the Forestry Board and the superintendent of the Department of Public Works (or official designee), in the following situations:
  - 1. The severely damaged tree is under utility wires or utility installations; and
  - 2. The severely damage tree is under, near, or about other obstructions which make normal pruning practices impractical.

§ 155-19. Tree maintenance performed by a utility company.

- A. Tree limbs and branches that grow near high voltage electrical conductors and utility installations shall be maintained, by the applicable utility company, in a manner which keeps the limbs and branches clear of said electrical conductors and utility installations. Any tree maintenance performed by a utility company must be done in compliance with any binding franchise agreement with the Village.

- B. When a permit is given by the Code Enforcement Officer to a telephone, internet, cable television, electric power, gas, light, water, or other public utility corporation to trim trees or shrubs, the amount of trimming shall be limited by the actual necessities of the service of the company, and such trimming shall be done in a neat and workmanlike manner with a saw and not an ax or hatchet, and all the conditions placed in said permit by the Code Enforcement Officer shall be observed and obeyed; and an employee or agent of the public utility corporation operating under such permit must, upon request of any property owner, forthwith give his or her full name and address and the name of the corporation by whom he or she is employed and for whose benefit such work is being done.

§ 155-20. Removal of public tree stumps.

All stumps of public trees shall be removed a minimum of four (4) inches below the surface of the ground so that the top of the stump shall not project above the surface of the ground. The area must be restored with topsoil and seeded as necessary.

§ 155-21. Commercial tree servicing, landscaping, and gardening activities.

Persons, firms or corporations engaged in the business of tree servicing, landscaping, and /or gardening who are hired to remove any tree or trees or to cut any branches or limbs therefrom, or to engage in landscaping or gardening work or similar services, shall, at their own cost and expense, dispense of all materials resulting from said work, including but not limited to all trees or parts thereof that are cut down or trimmed, shrub or hedge cuttings, mowed grass, yard rakings and similar matters, and must not place such materials on or in any street or public place or between the curb and the sidewalk in front of any premises for disposal by a Village Department or agency.

## Article IX. Protection of Trees

§ 155-22. Tree removal and replacement.

- A. In order to maintain the overall forest, reasonable efforts shall be made to replace trees that are removed and to protect quality trees that are endangered.
- B. Trees removed by decision of the Forestry Board or by natural causes shall be replaced somewhere in the urban forest on a one-for-one basis within one year, subject to the availability of sufficient funds.
- C. The location and species of any replacement tree shall be determined by the Department of Public Works in consultation with the Forestry Board.

§ 155-23. Protection of trees during construction.

- A. Suitable guards, pursuant to § 155-26, shall be placed around all nearby trees in or on any highway, park or other public property so as to prevent injury to such trees, and further precautions as may be required shall be taken to prevent damage to said trees by breaking, debarking, scratching, or burning, when such trees are near:
  - 1. The erection or repair of any building or structure;
  - 2. The grading, paving or curbing of any street;
  - 3. Sidewalk construction or repair;
  - 4. Any work on the surface or below the surface of the street;
  - 5. Any work on utility installations (above and below ground); and
  - 6. Other similar construction activities which pose a threat to trees.
  
- B. In the event of accidental damage to or destruction of a tree or shrub in or on any highway, park or other public property, report thereof shall be made by the person(s) causing said damage within 48 hours to the Code Enforcement Officer. Repair or replanting necessitated by such damage or destruction shall be done by the Department of Public Works in consultation with the Forestry Board. The Code Enforcement Officer shall collect the expense of such repairs or replanting from the person or persons responsible for the damage caused by intentional or negligent conduct. Such charges shall be derived from an acceptable shade tree evaluation chart.
  
- C. Residents shall first obtain a written permit from the Code Enforcement Officer when:
  - 1. Undertaking any construction or development activity (including, but not limited to, the excavation of any ditches, tunnels, or trenches, or the laying of pavement) within the dripline or radius of ten (10) feet, whichever is greater, of any Village tree or shrub; and
  - 2. Moving or parking vehicles associated with any construction or development activity which may damage or affect any tree or shrub on Village property.

§ 155-24. Requirements for guarding trees during construction.

- A. The zone of protection shall include the ground beneath the canopy of the tree and shall be enclosed with a substantial fence, frame, or box centered around the tree, not less than four feet high.
  
- B. All trees or shrubs on any public street, public property, public right-of-way, or public lands directly impinging on any excavation or construction of any building, structure or street work shall be guarded as follows:

1. For trees or shrubs with a crown spread of eight (8) feet or less, a substantial fence, frame, or box not less than four (4) feet high and eight (8) feet square shall surround the tree or shrub. All building material, dirt, or other debris shall be kept outside this barrier; and
2. For trees or shrubs with a crown spread of over eight (8) feet, a fence not less than four (4) feet high shall be placed at least at the tree or shrub's dripline or at a radius of a distance in feet from the tree equal to the diameter of the trunk in inches DBH (diameter breast height: four feet), whichever is greater. All building material, dirt, or other debris shall be kept outside this barrier.

The above requirements may be waived by the Department of Public Works in consultation with the Forestry Board if there is good cause.

§ 155-25. Exigent circumstances exception.

In the event of an immediate threat to life, property, vital utility, significant health, safety, hazard or property damage exists, the Superintendent of the Department of Public Works (or official designee) shall have the right to act without appeal or consultation, in order to advance the protection of trees and take whatever action is necessary to preserve life, property, utilities, health and safety.

## Article X. Placing Materials on Public Property

§ 155-26. Impeding the free passage of water, air, fertilizer, and roots.

No person shall deposit, place, store, or maintain upon any public place within the Village municipality any stone, brick, sand, wood, steel, concrete, asphalt products or other materials which may impede the free passage of water, air or fertilizer to the roots of any tree growing therein, except by written permit of the Code Enforcement Officer.

## Article XI. Abuse or Mutilation of Trees on Public Lands

§ 155-27. Harming public trees is prohibited.

A. The following is strictly prohibited:

1. Cutting a public tree.
2. Carving a public tree.
3. Topping a public tree.
4. Injuring a public tree with intent to harm.
5. Attaching a rope to a public tree.

6. Attaching a wire to a public tree.
7. Attaching a nail, screw, or pin to a public tree.
8. Attaching any adhesive device or instrument to a public tree.
9. Attaching advertisements to a public tree;
10. Attaching posters to a public tree
11. Allowing any gaseous, liquid or solid substance which is harmful to trees to come in contact with a public tree.
12. Setting a fire or permitting a fire to burn, when such fire or the heat from the fire will injure any portion of a public tree.

## Article XII. Penalties for Offenses

§ 155-28. Penalties for violating the Scottsville Tree Ordinance.

- A. A violation of this Chapter is punishable by a fine payable to the Village of not less than \$125.00 and not more than \$250.00 for each day of the violation.
- B. With regard to restitution, the injury, mutilation, or death of a tree, shrub, or other plant caused by a violation of the Scottsville Tree Ordinance, the estimated value of the cost of the tree calculated using metrics of approximate age, species, size of such replacement of such shall be borne by the person found guilty of the violation. The replacement value of trees and shrubs shall be determined in accordance with the current edition of Valuation of Landscape Trees, Shrubs, and Other Plants, as published by the International Society of Arboriculture, and/or current market value.

### **Section V. Validity and Severability**

Should any word, section, clause, paragraph, sentence, part or provision of this Local Law be declared invalid by a Court of competent jurisdiction, such determination shall not affect the validity of any other part hereof.

### **Section VI. Repeal, Amendment, and Supersession of Other Laws**

All other ordinances or local laws of the Village of Scottsville which are in conflict with the provisions of this Local Law are hereby superseded or repealed to the extent necessary to give this Local Law force and effect during its effective period.

### **Section VII. Effective Date**

This Local Law will take effect upon filing in the office of the New York State Secretary of State.