

**VILLAGE OF BABYLON**

**LOCAL LAW 3 of 2019**

**AMENDMENT TO THE VILLAGE CODE**

**CHAPTER 336 TREES**

**BE IT ENACTED** by the Board of Trustees of the Incorporated Village of Babylon as follows:

Chapter 336 Article II Trees of the Code of the Village of Babylon is hereby deleted in its entirety to add new Sections 336-1 through Section 336-7 to read as follows:

**Chapter 336**

**TREES**

**§336-1. Title.**

**§336-2. Purpose and Intent.**

**§336-3. Definitions.**

**§336-4. Tree Advisory Board.**

**§336-5. Protection of Public Tree Health.**

**§336-6. Injuries to trees prohibited.**

**§336-7. Penalties for offenses.**

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**§336-1. Title.**

This law shall be known as the Public Tree Law for the Village of Babylon, Suffolk County, State of New York.

**§336-2. Purpose and Intent.**

This law is enacted pursuant to the provisions of Village Law and the General Municipal Law to establish a public Tree Advisory Board in the Village of Babylon in order to achieve the following purposes:

- A. Promote efficient and cost-effective management of the Village's community forest by assuring that decisions regarding the care and maintenance of public trees are consistent within the Village and in accordance with an overall tree management plan.
- B. Reduce the village's exposure to liability by eliminating sources of tree related hazards as they become evident and by reducing occurrences of tree hazards through improved care and maintenance.
- C. Maintain all public trees in a healthy and attractive condition through good cultural practices (i.e. accepted standards of maintenance).
- D. Establish and maintain the maximum sustainable tree cover in order to protect and enhance the environment and the character of the Village.
- E. Establish and maintain an optimal level of age and species diversity through the use of an ongoing tree inventory and tree management plan.
- F. Centralize tree management under a voluntary, permanent Tree Advisory Board.
- G. Maintain a system that clearly identifies roles for Tree Advisory Board members and community volunteers and facilitates the coordination of tree work between these entities and the Village's staff, elected officials, Village Horticulturist and Highway Department.
- H. Assist the Village Board in establishing and maintaining a tree management budget and the means for funding it.
- I. Foster community support through regular educational outreach, and encourage good citizen tree management practices through knowledge sharing

### §336-3. Definitions.

As used in this chapter or as may be relevant in the operation of the Tree Advisory Board, the following terms shall have the meanings indicated:

#### 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.

#### 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.

#### CALIPER

The diameter of a tree trunk, taken six inches aboveground for up to and including four-inch caliper size, and the diameter at breast height for larger trees.

#### CANOPY COVER

The projected measurement 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 or caliper of a tree trunk at the height of 4 1/2 feet aboveground.

#### HAZARDOUS TREE

Any tree 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.

#### PUBLIC TREE

Any tree located on public property, within a public easement or public right of way including trees growing in the strip of land between the edge of the street and the sidewalk. For properties not laid out on a filed subdivision plat, the public right of way includes public property only and is not intended to include the private property of any landowner.

## TREE CITY, USA

A program sponsored by the National Arbor Day Foundation in cooperation with the USDA Forest Service and the National Association of State Foresters which gives recognition to communities for providing a basic level of human and financial resources to manage their community forests.

## TREE CUTTING

Any removal, breaking, pruning, destruction or injury of any tree covered by the provisions of this chapter.

## TREE INVENTORY

An inventory of existing public trees, where possible, within the Village, indicating species, location, size, age and condition. Inventories of Village trees should include street trees, park trees, public trees and roadside trees.

## TREE LAWN

That part of the public right of way not covered by sidewalk, lying between the property line and the edge of pavement, including but not limited to the strip of land between the edge of the street and the sidewalk.

## TREE MANAGEMENT PLAN

A written plan used to guide the Village on key goals and objectives as they relate to the overall health and maintenance of the Villages' public trees, which includes recommendations on tree maintenance and improvements, tracks and analyzes the inventory of trees and provides a simple, organized strategy for the implementation of the key goals and objectives.

## TREE NURSERY

The plot, parcel or piece of land or part thereof owned, leased or donated to the Village where trees are cultivated for transplanting.

## VILLAGE BOARD

The Mayor and Board of Trustees of the Village of Babylon.

### **§336-4. Tree Advisory Board.**

- A. Composition of the Advisory Board. There is hereby created a Village Tree Advisory Board for the Village of Babylon. The Board shall consist of five members, no fewer than three of whom shall be residents of the Village of Babylon. Knowledge of horticulture and/or arboriculture is highly desirable, but shall not be a requirement for membership on the Advisory Board. The Advisory Board shall be appointed by the Village Board by resolution. The initial terms of

office for the members of the Advisory Board shall be three years for two members; two years for two members; and one year for one member. Thereafter, on the expiration of a member's term, subsequent appointments shall be for a term of three years. All appointments to fill vacancies shall be for the unexpired term. The Village Board shall appoint a member of the Advisory Board to act as Chairman. Each appointment shall be for 3 years.

- B. Authority of the Advisory Board. The Tree Advisory Board is an advisory body to the Village's staff, elected officials, Village Horticulturist and Highway Department.
- C. Compensation and Funding. The members of the Tree Advisory Board shall not be compensated for their services. A function of the Tree Advisory Board shall be to solicit grants and funds in order to carry out their intended purposes, which include to achieve and maintain the Village be designated as a Tree City, USA.
- D. Professional assistance. The Advisory Board may, if necessary to fulfill its functions, utilize the services of licensed professionals to assist the Advisory Board. Requests for such professional services shall be made to the Village, and hiring of such professionals, with the recommendation of the Advisory Board, shall be made by the Village Board. The Advisory Board may also consult with the Village horticulturist to achieve the goals set forth in §336-2.
- E. Meetings. The Advisory Board shall meet regularly as they so determine. The Advisory Board shall adopt rules and regulations, not inconsistent with this Chapter, for the conduct of meetings, responsibilities of appointed members, and the conduct of the business of the Advisory Board and shall file a copy of the rules and regulations, and any amendments thereto, with the Village Clerk.
- F. Tree Management Plan. The Tree Management Plan will compile and organize all public tree related data of concern to village government and will offer guidance for tree maintenance and improvements based on the goals outlined in §336-2 above. It will include long term planning, tree planting and maintenance programs for all Public Trees and tree pits in the village and may include recommendations and goals related to shrubs, vines and other plant species located on public property and in the Village's public easements and public rights of way as these goals relate to public trees.
- G. Recommendations for tree selection, maintenance, removal and care. The Advisory Board shall make recommendations to the Village's staff, elected officials, Recreation Board, Village Horticulturist and Highway Department for the selection, planting, maintenance and care of trees along public highways, public easements and public rights of way or within Village parks and on Village property. The Advisory Board may work in conjunction with the Village horticulturist when making said recommendations. The Village Highway Department and Village Horticulturist shall, except in cases of emergency, consult with the Advisory Board before removing or ordering the removal of any tree of significance. In providing such advice, the Advisory Board may examine the

subject tree(s) and may consult with the Village horticulturist. The Advisory Board may also make recommendations to the Highway Department and Village Horticulturist concerning those trees which present a hazard because of death, age, infectious disease, insect infestation or overgrowth which obstructs street lights and traffic and street signs, or any other condition which requires the treatment, cutting or removal of the tree.

- H. Dissemination of tree information. The Advisory Board shall assist the officers and employees of the Village, as well as residents, in the dissemination of information regarding the importance of selection, planting and maintenance of trees within the Village, whether on public or private property.
- I. Other responsibilities. The Advisory Board shall fulfill such other and further responsibilities imposed upon it by the Village Trustees, from time to time, as may reasonably be necessary to affect the purposes and intent of this chapter.

#### **§336-5. Protection of Public Tree Health.**

- A. Sidewalk-root conflict mitigation. During repair or repaving of sidewalks and streets within the village, reasonable care shall be taken to preserve the root structure of public trees. Applications made to the Highway Department for a street or sidewalk opening permit under Chapter 308 ("Streets and Sidewalks") of the Village Code shall make note of the location of all public trees within 10 feet of the proposed work area, and any application noting such tree involvement shall be forwarded to the Tree Advisory Board for an advisory opinion about necessary protective measures prior to approval. The Highway Department shall also notify the Tree Advisory Board of any planned municipal sidewalk work that could potentially impact public tree root structures and shall consult with the Advisory Board on strategies for preserving root structure and tree health while achieving the village's sidewalk repair and repaving goals.
- B. Cooperation with utility pruning work. Utility companies or their agents or contractors shall notify the Village of Babylon in writing at least 2 weeks before engaging in routine Tree Cutting of any public trees upon or overhanging the streets, sidewalks and public rights of ways proposed in connection with efforts to prevent the trees from coming in contact with utility wires, lines or cables. Routine trimming of trees near utility lines must be done in accordance with accepted industry standards by experienced arborists so as to provide for continued reliable service to utility customers while maintaining a healthy and aesthetically attractive shade tree canopy in the Village. A copy of the utility's notification letter shall be immediately forwarded to the Tree Advisory Board in order that appropriate cooperation can be initiated.

**§336-6. Injuries to trees prohibited.**

- A. No person shall in any way mutilate, injure or destroy any public tree within the Village.
- B. No person shall place or maintain upon any tree lawn any materials which may impede the free passage of water, air and fertilizer to the roots of any tree growing therein

**§336-7. Penalties for offenses.**

- A. Any person committing an offense against any provision of this chapter shall, upon conviction thereof, be guilty of a violation pursuant to the Penal Law of the State of New York, punishable by a fine not exceeding \$250 or by imprisonment for a term not exceeding 15 days, or by both such fine and imprisonment. The continuation of an offense against the provisions of this chapter shall constitute, for each day the offense is continued, a separate and distinct offense hereunder.
- B. In addition or as an alternative to the above-provided penalties, the Board of Trustees may also maintain an action or proceeding in the name of the Village in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this chapter.