

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County City Town Village
(Select one:)

of Plattsburgh

Local Law No. 2 of the year 2011

A local law AMENDING CITY CODE SECTIONS 233-22, 233-12 CONCERNING REMOVAL, TRIM-
(Insert Title)
MING AND PLANTING OF TREES, HEDGES AND OTHER PLANTINGS

Be it enacted by the Common Council of the
(Name of Legislative Body)

County City Town Village
(Select one:)

of Plattsburgh

as follows:

1. City Code § 233-11 is amended in its entirety to read as follows:
§ 233-11. Removal and Trimming of Trees, Hedges and Other Plantings.
01. Intent. The intent of this section is to prevent damage to public sidewalks and under ground utilities, and insure the safe and unobstructed use of public sidewalks.
02. Persons Responsible. The owner of real property that adjoins a public sidewalk is responsible for removing or trimming trees, hedges and other plantings located on his property that the City of Plattsburgh Building Inspector determines
 - a. are causing damage to public sidewalks and under ground utilities
 - b. or, overhang public sidewalks and restrict or obstruct pedestrians.
 - c. or, obstruct a motor vehicle operator's view of traffic at street intersections or entering or exiting driveways on the owner's property, or adjoining property.
 - d. or, are damaged or diseased and may fall and cause injury to pedestrians or motorists.
03. City Right to Remove or Trim. The City of Plattsburgh may remove or trim trees, hedges and other plantings on an owner's property and recover the entire cost thereof from the property owner as provided in § 233-15 of this Article, or otherwise permitted by law, if the owner fails to act after notice from the City of Plattsburgh.
04. Notice. The Building Inspector shall give written notice to property owners of trees, shrubs and plantings on their property that require removal or trimming.
 - a. Notice may be given personally to the owner, or by certified mail return addressed to the property owner at the name and address listed on the City of Plattsburgh's current real property assessment roll.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

b. The Notice shall state the reason for requiring removal or trimming and give the location of the tree, shrub or planting.

c. The Notice shall give the owner not less than 30 days notice to take the required action, unless the condition presents an imminent danger to public safety in which case the notice shall be what is reasonable under the circumstances.

d. The Notice shall advise the property owner that if he fails to take the required action within the time specified in the Notice, and a City department or City retained contractor does the work, the owner will be liable to pay the cost of the work.

e. If the City performs the work, the owner shall be charged for City employee time, equipment use time at then prevailing rental rates for similar equipment, material costs (if any) and an administrative charge equal to 10% of the time, equipment and material charges.

f. If a City retained contractor performs the work, the owner will be liable to pay or reimburse the City the amount paid to the contractor plus an administrative charge equal to 10% of the amount paid the contractor.

g. If after receiving Notice a property owner believes he is not in violation of this law, he may bring an action or proceeding for a review of the Building Inspector's determination in City Court, or another court of competent jurisdiction, within 15 days of the date he received such Notice. The standard of review of the Building Inspector's determination shall be those that apply to the review of administrative decisions under Article 78 of New York Civil Practice Law and Rule. The property owner shall serve a copy of his complaint or petition on the City Clerk, or Corporation Counsel, or Mayor and a copy on the Building Inspector. The complaint or petition, or an accompanying paper shall include the following statement in bold face type: "THE ACTION IN THE NOTICE TO ME IS STAYED PENDING A COURT HEARING". Upon receipt of service the City shall not proceed with the work pending the court's decision unless the Building Inspector determines that the conditions constitute an imminent danger to the public.

05. Report to Common Council. By May 31st of each year the Building Inspector shall file a report with the Common Council that identifies public sidewalks where trees, hedges and other plantings require trimming or removal.

2. City Code § 233-12 is amended in its entirety to read as follows:

§ 233-12. Planting of trees, hedges and shrubs.

01. Definitions:

a. The term "Median Strip" means the area between the street side edge of a public sidewalk and the curb of a City street, or if there is no curb, the edge of the street pavement.

b. The term "Street Line Intersection" means the place where the outer edge of the improved surface of a city street intersects the outer edge of the improved surface of an intersecting street.

02. The City Building Inspector is authorized to issue permits to property owners who wish to plant trees in the Median Strip adjoining their property. No trees, hedges or shrubs shall be planted in a Median Strip within thirty feet (30') from a Street Line Intersection.

03. The City may, at its expense, remove trees and stumps located in Median Strips if it determines the tree is diseased or damaged, or its roots are causing damage to the public sidewalk or underground utilities, or the tree obstructs the vision of motorists.

04. New Plantings. A property owner shall not plant a tree or shrub more than thirty inches high on his property that is within five feet (5') from the edge of a public sidewalk or City street.

Where the property is a corner lot, the property owner may not plant or allow trees, hedges, or

shrubs to grow to a height of more than thirty inches (30") in a triangular area where the street line intersection is the apex of the triangle, the two sides are thirty feet in length and the base is a line between the ends of the two sides. This subsection applies to plantings after the effective date of this section, however, trees or shrubs planted prior to the effective date of this section may be required to be trimmed or removed if there is a violation of the standards of §233-11.02.

3. Effective Date. This Local Law shall take effect upon approval by the Mayor and filing with the Secretary of State.

(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. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on 20____, 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. 2 of 20¹¹ of the (County)(City)(Town)(Village) of City of Plattsburgh was duly passed by the Common Council on 3 November 20¹¹, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the Mayor and was deemed duly adopted (Elective Chief Executive Officer*) on 10 November 20¹¹, 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 2 above.

Renee S. DeWald
Clerk of the county legislative body, City, Town or Village, Clerk or officer designated by local legislative body *Renee A. Heekalo*
Date: 14 Nov 2011

(Seal)

(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 Clinton

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.

John E. Clute
Signature John E. Clute
Corporation Counsel
Title _____

County _____
City of Plattsburgh
Town _____
Village _____

Date: 14 Nov 2011