



# TOWN OF PENFIELD

3100 Atlantic Avenue, Penfield, NY 14526-9798

## TOWN BOARD LEGISLATIVE AGENDA

Wednesday, September 4, 2024 6:30PM

Supervisor Jeff Leenhouts, presiding

---

- I. Call to Order - Pledge of Allegiance - Roll Call
- II. Communications and Announcements
- III. Public Hearing: To Allow a Former Business Space to be Converted to a Coffee House and to Allow Future Use of the Outbuilding for Ice-cream Sales at 1350 Empire Blvd in the LaSalles Landing Development (LLD) Zoning District
- IV. Public Participation
- V. Additions and Deletions to Agenda
- VI. Approval of Minutes - August 7, 2024
- VII. Petitions
- VIII. Resolutions by Function

### **Law and Finance**

- 24T-141 Authorization for Supervisor to Sign a License and Hold Harmless Agreement to Allow a Fence Within a Walkway Easement at 25 Bramblewood Lane
- 24T-142 Authorization for Supervisor to Sign a License and Hold Harmless Agreement to Allow a Shed within a Storm Drainage Easement at 41 Edenfield Road
- 24T-143 Authorizing Use of State and Local Fiscal Recovery Funds (SLFRF) Under the American Rescue Plan Act (ARPA) to Address Various Town Projects
- 24T-144 State Environmental Quality Review Act (SEQRA) Review and Determination Associated with the Local Law to Amend Town Code to Establish a "Public Tree Law"
- 24T-145 Adopt a Local Law to Amend Town Code to Establish a "Public Tree Law"
- 24T-146 Authorization for the Town Supervisor to Sign a Professional Service Contract with Costich Engineering D.P.C. for Sidewalk Survey and Design

### **Public Works**

- 24T-147 Purchase of One 2025 Chevrolet Silverado 3500 HD
- 24T-148 Purchase of one 2025 Chevrolet Silverado 3500HD with Dump Body, Plow and Salter
- 24T-149 Purchase of one 2025 Chevrolet Silverado 3500 HD with Service Body and Crane

### **Public Safety - None**

### **Community Services - None**

- IX. Old Business
- X. New Business
- XI. Executive Session
- XII. Adjournment: Next Meeting: October 2, 2024

*This meeting will be video recorded and broadcast LIVE via the town's website [www.penfield.org](http://www.penfield.org) and the Town's Government Access Cable Channel 1303.*

*Questions regarding video coverage contact Penfield TV at (585) 340-8661.*

PENFIELD TOWN BOARD RESOLUTION NO. 24T-141

DATE:09/04/2024

BY: Councilperson Lee

COMMITTEE: Law and Finance

NAME: Authorization for Supervisor to Sign a License and Hold Harmless Agreement to Allow a Fence Within a Walkway Easement at 25 Bramblewood Lane – SBL#140.01-3-42

BE IT RESOLVED, that the Town Board of the Town of Penfield hereby authorizes the Supervisor to sign a License and Hold Harmless Agreement with Lisabeth Tinelli, owner of property of 25 Bramblewood Lane, to permit a portion of a fence to encroach into the walkway easement to the Town of Penfield located at 25 Bramblewood Lane in a form and substance acceptable to the Town Attorney.

Moved: \_\_\_\_\_

Seconded: \_\_\_\_\_

Vote:	Berry	_____
	Lee	_____
	Leenhouts	_____
	Ockenden	_____
	Teglash	_____

PENFIELD TOWN BOARD RESOLUTION NO. 24T-142

DATE: 09/04/2024

BY: Councilperson Lee

COMMITTEE: Law and Finance

NAME: Authorization for Supervisor to Sign a License and Hold Harmless Agreement to Allow a Shed  
Within a Storm Drainage Easement at 41 Edenfield Road – SBL#125.03-6-12

BE IT RESOLVED, that the Town Board of the Town of Penfield hereby authorizes the Supervisor to sign a License and Hold Harmless Agreement with Michael and Lori Ianniello, owners of property of 41 Edenfield Road, to permit a portion of a shed to encroach into the storm drainage easement to the Town of Penfield located at 41 Edenfield Road in a form and substance acceptable to the Town Attorney.

Moved: \_\_\_\_\_

Seconded: \_\_\_\_\_

Vote:	Berry	_____
	Lee	_____
	Leenhouts	_____
	Ockenden	_____
	Teglash	_____

BY: Councilperson Lee

Law and Finance Committee

NAME Authorizing Use of State and Local Fiscal Recovery Funds (SLFRF) Under the American Rescue Plan Act (ARPA) to Address Various Town Projects

WHEREAS, the Town of Penfield received a total of \$3,825,732.08 under the American Rescue Plan Act Local Fiscal Recovery Funds, and

WHEREAS, the Town has abided by the terms and conditions for expending and reporting the use of said federal funds and has a remaining balance of \$559,885 that needs to be allocated, and

WHEREAS, the Town Board carefully reviewed eligible projects and selected a final list of priority projects with estimated costs, with the understanding that specific dollar amounts for each project may be subject to change. The projects and estimated costs are provided below.

- Active Transportation plan - \$100,000
- Security improvements (cameras, door access) at the Town Hall, Penfield Community Center and Shadow Pines Property - \$100,000
- MS4 mapping - \$100,000
- Community Center AC unit for Penfield Community Center gym - \$150,000
- Resurface Veterans Park tennis courts - \$75,000
- New lighting in the Penfield Public Library children’s room - \$28,000

NOW THEREFORE BE IT RESOLVED, the Town Board authorizes the expenditure of the remaining balance across the projects outlined above;

AND BE IT FURTHER RESOLVED, that Town Board recognizes the above funding amounts are estimates and authorizes the Town Comptroller to reassign any remaining ARPA funds among the projects specified above, as may be needed;

AND BE IT FURTHER RESOLVED, these projects will be completed in accordance with the Town’s procurement policies and all applicable federal and state regulations and guidelines.

Moved: \_\_\_\_\_

Seconded: \_\_\_\_\_

Vote:

Berry	_____
Lee	_____
Leenhouts	_____
Ockenden	_____
Teglash	_____

BY: Councilperson Lee

Committee: Law and Finance

NAME State Environmental Quality Review Act (SEQRA) Review and Determination Associated with the Local Law to Amend Town Code Town Code to Establish a “Public Tree Law”

WHEREAS, the Town Board of the Town of Penfield is considering an amendment to Town Code to establish a “Public Tree Law;” and

WHEREAS, the Penfield Town Board was best suited to act as “lead agency” within the meaning of the State Environmental Quality Review Act (SEQRA) and has designated itself as “lead agency” pursuant to SEQRA; and

WHEREAS, the action was classified as an unlisted action pursuant to the SEQRA; and

WHEREAS, the Town Board has considered the action, reviewed the Environmental Assessment Form, thoroughly analyzed any relevant areas of environmental concern associated with this action and determined that no significant adverse environmental impacts will result from the foregoing action of adopting the foregoing local law.

NOW, THEREFORE, BE IT RESOLVED, the Town Board makes a negative declaration for the purposes of SEQRA, and authorizes the Supervisor to sign Part 3 of the EAF, thus concluding its environmental review.

Moved: \_\_\_\_\_

Seconded: \_\_\_\_\_

Vote: Berry \_\_\_\_\_

Lee \_\_\_\_\_

Leenhouts \_\_\_\_\_

Ockenden \_\_\_\_\_

Teglash \_\_\_\_\_

PENFIELD TOWN BOARD RESOLUTION NO. 24T-145

DATE: September 4, 2024

BY: Councilperson Lee

Law & Finance Committee

NAME Adopt a Local Law to Amend Town Code to Establish a “Public Tree Law”

WHEREAS, the Town Board of the Town of Penfield has considered a local law to establish legislation to regulate how Town-owned trees are preserved and maintained; and

WHEREAS, the Town of Penfield Energy and Environmental Conservation Committee recommended the Town of Penfield adopt the Town Tree Law and pursue Tree City USA status; and

WHEREAS, the Penfield Town Board, acting as lead agency pursuant to the requirements of the State Environmental Quality Review Act (SEQRA) classified this as an unlisted action; and

WHEREAS, the Town Board conducted a public hearing on the matter on November 1, 2023 in conformance with NYS Municipal Home Rule Law; and

WHEREAS, the Town Board completed the environmental review of the proposed action and adopted a negative declaration, which concluded SEQRA; and

WHEREAS, the Public Tree Law necessitates the creation of a town forestry plan to guide future decisions related to public trees.

NOW, THEREFORE, BE IT

RESOLVED, AND HEREBY ENACTED BY THE TOWN BOARD OF THE TOWN OF PENFIELD AS FOLLOWS:

Local Law No. 8 of 2024, set forth in attached Schedule A; and

BE IT FURTHER RESOLVED, after its adoption by the Town Board of the Town of Penfield, this local law shall take effect immediately upon its filing with the Office of the Secretary of State of the State of New York; and

BE IT FURTHER RESOLVED, the Town Board directs appropriate town staff to take the steps necessary to prepare the forestry plan in a timely manner to ensure the effective and efficient implementation of this local law.

Moved: \_\_\_\_\_

Seconded: \_\_\_\_\_

Vote: Berry \_\_\_\_\_

Lee \_\_\_\_\_

Leenhouts \_\_\_\_\_

Ockenden \_\_\_\_\_

Teglash \_\_\_\_\_

PENFIELD TOWN BOARD RESOLUTION NO. 24T-146

DATE September 4, 2024

BY Councilperson Lee

Law and Finance COMMITTEE

NAME Authorization for the Town Supervisor to Sign a Professional Service Contract with Costich Engineering D.P.C. for Sidewalk Survey and Design

WHEREAS, the Town Board desires to have new sidewalks designed and installed along Five Mile Line Road, Plank Road and Jackson Road; and

WHEREAS, Costich Engineering D.P.C. is the Town of Penfield’s survey consultant for 2023-24, per resolution number 23T-25, dated January 4, 2023 and is providing professional services for the sidewalk design.

NOW THEREFORE BE IT RESOLVED, that Costich Engineering D.P.C. be authorized to conduct the survey and complete the necessary design work for the construction of the aforementioned sidewalks, at the request of the Town Board; and

BE IT FURTHER RESOLVED, that the Supervisor is authorized to sign a contract with Costich Engineering D.P.C., as outlined according to the submitted proposal and project scope, in an amount not to exceed \$48,681.00.

Moved: \_\_\_\_\_

Seconded: \_\_\_\_\_

Vote: Berry \_\_\_\_\_

Lee \_\_\_\_\_

Leenhouts \_\_\_\_\_

Ockenden \_\_\_\_\_

Teglash \_\_\_\_\_



PENFIELD TOWN BOARD RESOLUTION NO. 24T-147 DATE: September 4, 2024

BY: Councilperson Ockenden

COMMITTEE: Public Works

NAME: Purchase of one 2025 Chevrolet Silverado 3500HD

WHEREAS, the Deputy Director of Public Works desires to purchase one 2025 Chevrolet Silverado 3500HD crew cab, long bed pickup truck, from Franklin County piggyback Contract # 23-0908-01, from DeNooyer Chevrolet, 127 Wolf Road, Albany NY, for a total cost of \$68,229.10; and

WHEREAS, funds for said purchase were allocated in the 2024 Highway Department Budget (DA0-5130) for said vehicle;

NOW, THEREFORE, BE IT RESOLVED, that the Deputy Director of Public Works be, and hereby is, authorized to purchase said vehicles.

Moved: \_\_\_\_\_

Seconded: \_\_\_\_\_

Vote: Berry \_\_\_\_\_

Lee \_\_\_\_\_

Leenhouts \_\_\_\_\_

Ockenden \_\_\_\_\_

Teglash \_\_\_\_\_

PENFIELD TOWN BOARD RESOLUTION NO. 24T-148 DATE: September 4, 2024

BY: Councilperson Ockenden

COMMITTEE: Public Works

NAME: Purchase of one 2025 Chevrolet Silverado 3500HD with Dump Body, Plow, and Salter

WHEREAS, the Deputy Director of Public Works desires to purchase one 2025 Chevrolet Silverado 3500HD regular cab with dump body, plow, and salter, from Franklin County piggyback Contract # 23-0908-1, from DeNooyer Chevrolet, 127 Wolf Road, Albany NY, for a total cost of \$87,180.34; and

WHEREAS, funds for said purchase were allocated in the 2024 Parks Department Budget (A00-7110) for said vehicle;

NOW, THEREFORE, BE IT RESOLVED, that the Deputy Director of Public Works be, and hereby is, authorized to purchase said vehicle.

Moved: \_\_\_\_\_

Seconded: \_\_\_\_\_

Vote: Berry \_\_\_\_\_

Lee \_\_\_\_\_

Leenhouts \_\_\_\_\_

Ockenden \_\_\_\_\_

Teglash \_\_\_\_\_

PENFIELD TOWN BOARD RESOLUTION NO. 24T-149 DATE: September 4, 2024

BY: Councilperson Ockenden

COMMITTEE: Public Works

NAME: Purchase of one 2025 Chevrolet Silverado 3500HD with Service Body and Crane

WHEREAS, the Deputy Director of Public Works desires to purchase one 2025 Chevrolet Silverado 3500HD regular cab with service body and crane, from Franklin County piggyback Contract # 23-0908-01, from DeNooyer Chevrolet, 127 Wolf Road, Albany NY, for a total cost of \$87,499.82; and

WHEREAS, funds are available in the 2024 Sewer Department Budget (S10-8120) totaling \$80,000.00; and

WHEREAS, the Town Board approves appropriation of \$7,499.82 from the Unassigned General Fund Balance as an amendment to the 2024 Sewer Department Budget (S10-1820) to fund this purchase in full;

NOW, THEREFORE, BE IT RESOLVED, that the Deputy Director of Public Works be, and hereby is, authorized to purchase said vehicles.

Moved: \_\_\_\_\_

Seconded: \_\_\_\_\_

Vote:	Berry	_____
	Lee	_____
	Leenhouts	_____
	Ockenden	_____
	Teglash	_____

## **Schedule A**

### **Town of Penfield**

#### **Local Law No. 8 of 2024**

##### **Public Trees**

Be it enacted by the Town Board of the Town of Penfield as follows:

##### **Section 1. Title**

This local law shall be known as the “Public Trees Law” of the Town of Penfield.

##### **Section 2. Establishing Chapter 170 in the Penfield Town Code**

The following regulations shall be added to the Penfield Town Code as Chapter 170 **Public Trees**.

###### **170-1 Legislative Intent and Purpose.**

It is the intent and purpose of this local law to enhance the quality of life and the present and future health, safety, and welfare of all residents, to enhance property values, and to ensure proper planting and care of trees on public property. The Town Board herein delegates the authority and responsibility for managing Public Trees, establishes practices governing the planting and care of trees on public property, and makes provision for the emergency removal of Public Trees, or limb thereof, on public property under certain conditions.

###### **170-2 Authority.**

- A. Delegation of authority and responsibility. The Department of Public Works and/or their designee shall have the authority and the responsibility to plant, prune, maintain, and remove Public Trees within the guidelines of the Town Arboricultural Specifications and Standards of Practice, the Town Design and Construction Specifications, and the Town Forestry Plan. This shall include the maintenance, mitigation, or removal of any Public Tree, or limb thereof, that is deemed a hazard.
- B. Coordination among Town departments. The Department of Public Works and/or their designee shall coordinate with other Town departments to develop and review the Town Arboricultural Specifications and Standards of Practice, the Town Design and Construction Specifications, and the Town Forestry Plan to ensure compliance with this Law.
- C. Interference. No person shall hinder, prevent, delay, or interfere with the Department of Public Works and/or their designee while maintaining, mitigating, or removing any Public Tree, or limb thereof, that is deemed a hazard. The Department of Public Works and/or their designee shall be responsible for consulting the Town

Arboricultural Specifications and Standards of Practice and the Town Forestry Plan when determining whether a hazard exists. Coordination among the Department of Public Works and other Town departments to identify a hazard may be needed if the tree, or limb thereof, does not pose any immediate risks.

- D. Liability. Nothing contained in this chapter shall be deemed to impose liability upon the Town, the Town Board or individuals, companies or corporations hired by the Town, 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 Town.

### **170-3 Terms defined.**

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

**DAMAGE** – any injury to or destruction of a tree, including but not limited to uprooting; severance of all or part of the root system or main trunk; storage of material on or compaction of surrounding soil; a substantial change in the natural grade above a root system or around a trunk; surrounding the tree with impervious paving materials; or any trauma caused by accident or collision.

**HAZARD** – any tree, or limb thereof, that has an infectious disease or insect; is dead or dying; obstructs the view of traffic signs or the free passage of pedestrians or vehicles; threatens electrical, telephone, gas, or any municipal water or sewer infrastructure; or poses a risk to public health, safety, and welfare.

**PUBLIC PROPERTY** – all grounds and rights-of-way (ROWs) owned by the Town.

**PUBLIC TREE** – any tree or woody vegetation on Town-owned property or Town rights-of-way.

**TOP or TOPPING** – the non-standard practice of cutting back of limbs to stubs within a tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.

**TOWN ARBORICULTURAL SPECIFICATIONS AND STANDARDS OF PRACTICE** - detailed specifications and standards of practice regarding such arboricultural activities as planting site and tree selection, site preparation and Public Tree planting, maintenance, remediation, mitigation, removal, replanting, and replacement. Standards for notifying affected residents shall be defined for each arboricultural activity. The Town shall consider national tree care standards, such as the American National Standards Institute (ANSI) A300, as well as consult an arborist when producing or updating these specifications and standards.

**TOWN DESIGN AND CONSTRUCTION SPECIFICATIONS** - the official design specifications for the development of any property within the Town. The primary goal of

these specifications is to promote proper design and construction of publicly dedicated facilities that will serve the residents of the Town.

TOWN FORESTRY PLAN – the official written review and description of Town forestry status and goals, such as documenting the Town Arboricultural Specifications and Standards of Practice, conducting Public Tree surveys, planting trees, and sponsoring educational programs for the public. The Town shall retain the services of a professional arborist as a consultant when producing or updating this plan.

**170-4 Tree Planting and care standards.**

- A. Establishment of Tree Planting and Care Standards. All planting of Public Trees shall conform to the Town Design and Construction Specifications and the Department of Public Works and/or their designee shall see that all Public Trees are properly cared for and maintained within the guidelines of the Town Arboricultural Specifications and Standards of Practice.
- B. Requirements of franchise utility companies. The maintenance of Public Trees for utility clearance shall conform to all applicable utility industry standards.

**170-5 Prohibition against harming Public Trees.**

- A. It shall be unlawful for any person, firm, or corporation to damage, remove, or cause the damage or removal of a tree on public property without written permission from the Department of Public Works.
- B. It shall be unlawful for any person, firm, or corporation to top any Public Tree. Trees severely damaged by storms or other causes, where best pruning practices are impractical may be exempted from this provision at the determination of the Department of Public Works and/or their designee.
- C. Any person, firm, corporation, or Town department performing construction near any Public Tree(s) shall consult with the Department of Public Works and shall employ appropriate measures to protect the tree(s), according to procedures contained in the Town Design and Construction Specifications and the Town Arboricultural Specifications and Standards of Practice.

**170-6 Adjacent owner responsibility.**

- A. It shall be unlawful for any adjacent property owner to plant, prune, maintain, or remove trees on public property. Adjacent property owners may plant, prune, maintain, and remove trees up to their property line, but not beyond it.
- B. The Department of Public Works and/or their designee shall notify a property owner to prune or remove a tree or plant growing on his or her property that obstructs or interferes with pedestrians or the view of drivers, thereby creating a hazard. If the hazard persists, the Department of Public Works and/or their designee may prune or remove the hazard up to the private property line, but not beyond it.

**170-7 Violations and penalties.**

Violation of any provision of this article shall be subject to penalties set forth in § 1-14 of the Town Code.

### **170-8 Interpretation.**

Where the conditions imposed by any provision of this chapter are less restrictive than comparable conditions imposed by any other provision of this chapter or of any other law, resolution or regulation, the provisions which are more restrictive shall govern.

### **Section 3. Severability**

The invalidity of any word, section, clause, paragraph, sentence, part, or provision of this Local Law shall not affect the validity of any other part of this Local Law, which can be given effect without such part or parts.

### **Section 4. Effective Date**

This Local Law shall take effect immediately upon filing in the office of the Secretary of State of New York as provided by law.