

**INC. VILLAGE OF PLANDOME
PROPOSED LOCAL LAW B-2017
ADDITION OF NEW CHAPTER 154**

A local law to add new Chapter 154, “Trees, Private, to the Code of the Village of Plandome. The Code was adopted by Local Law 1-1996 by the Board of Trustees on July 9, 1996 and last amended by Local Law 4-2015 adopted by the Board of Trustees on May 11, 2015.

SECTION 1. Add new Chapter 154 entitled, “*Trees, Private,*” to the Code of the Village of Plandome to read as follows:

§154-1. Findings; intent.

§154-2. Definitions.

§154-3. Removal or substantial alteration of trees.

§154-4. Permit required, application.

§154-5. Guidelines for determining application.

§154-6. Procedures for making and reviewing application to Design Review Board; appeals

§154-7. Penalties and remedies.

1541. Findings; intent.

The Board of Trustees of the Incorporated Village of Plandome hereby finds: that it has been established that trees stabilize the soil and control water pollution by preventing soil erosion and flooding, absorb air pollution, provide us with oxygen, yield advantageous microclimatic effects, have an intrinsic aesthetic quality, protect and increase property values, offer a natural barrier to noise and provide a natural habitat for wildlife, and that the removal or destruction of trees causes deprivation of these benefits and disruption of the fundamental ecological system of which they are an integral part. It is the intent of this chapter to promote the health, welfare and safety of the present and future residents of the Incorporated Village of Plandome by regulating the removal and destruction of trees within its boundaries so as to secure for them these benefits.

154- 2. Definitions.

As used in this chapter, the following terms have the meanings indicated:
APPLICANT - The owner of real property or, the duly authorized agent of such owner, seeking a permit to remove a tree or trees, or to conduct activities that may require protection of trees on such property from damage or destruction.
DESIGN REVIEW BOARD -The Design Review Board of the Incorporated Village of Plandome.

DIAMETER AT BREAST HEIGHT —The diameter of a tree measured at a height four feet

six inches from the ground.

HABIT – The natural growing characteristics of any tree, which include branch spread and distribution, branch height above ground and root spread and distribution.

PERSON – Any individual, firm, partnership, association, public utility, corporation, company, or other entity of any kind, or any agent, employee or contractor thereof.

PROTECTED ZONE – That ground area around a tree consisting of a circle the radius of which is the distance from the tree trunk at ground level to a point under the furthestmost tip of the most extended branch of such tree.

REMOVAL - The actual removal, or causing the effective removal through damaging, poisoning or harming by other direct or indirect actions, that a reasonable person would expect to cause the death of a tree, either immediately or within the course of time.

SUBSTANTIAL ALTERATION – Any cutting, pruning, elevating or other alteration of the habit of a tree which impairs or endangers the life of such tree or destroys its natural symmetry, and includes but is not limited to heavy or unnecessary cutting of top branches (topping), cutting of major lower limbs (severe elevating) and drastic pruning, but shall not include customarily accepted maintenance or ornamental procedures.

TREE – Any living woody plant, including its root system and the environment within the area defined by the outermost limits of its branches, the trunk of which has a Diameter At Breast Height of ten inches or more, and such other trees as may be designated by the Village as historically or environmentally significant.

UNLAWFUL ACT – The performance of any act or the creation of any condition prohibited by this local law or any regulations established or directions issued pursuant to its terms or the failure to comply with any requirements established by such local law, regulations, or directions.

VILLAGE -The Incorporated Village of Plandome.

VILLAGE OFFICIAL – The village building inspector or such other person as may be duly appointed by the Mayor and the Board of Trustees to carry out any of the duties set forth in this local law.

§154-3. Removal or substantial alteration of trees.

A. It shall be an unlawful act for any person to remove or substantially alter a Tree on any non-Village owned property within the Village unless:

- (1) A permit is first obtained from the Village Official in accordance with the provisions of this ordinance and the regulations promulgated thereunder; or
- (2) The work is done as specified in a site plan accepted and approved by the Design Review Board as part of an approved building permit for the real property on which such Tree is located; or
- (3) The alteration of habit by the pruning of such Tree is in accordance with customarily accepted maintenance or ornamental procedures; or
- (4) In the event of a life- or property-threatening circumstance requiring the emergency removal or substantial alteration of a Tree, in which case the Village Official, or, in his absence, the Foreman of the Department of Public Works, or a person designated by the Mayor, may authorize the removal or substantial alteration, which shall be certified in writing by the person giving such authorization either before or after the event as circumstances require.

§154-4. Permit required; application.

A. Any applicant desiring a Tree removal permit pursuant to section 154-3A(1) of this Chapter shall submit a written application to the Village Official, together with any filing fee that may from time to time be required by resolution of the Board of Trustees. The application shall include the following information:

- (1) The name and address of the applicant, and, if the applicant is a legal entity, its status;
- (2) Status of the applicant with respect to the real property on which the Tree(s) is located;
- (3) Written consent of the owner of such real property if the applicant is not the owner;
- (4) Name of the person preparing any map, diagram or drawing submitted with the application;
- (5) The location of the property by street address and lot numbers as shown on the Nassau County Land and Tax Map;
- (6) The designation of any Tree(s) proposed to be removed or substantially altered pursuant to the permit being sought;

(7) A diagram or photograph of the real property specifically designating the area or areas of proposed Tree removal or substantial alteration;

(8) The purpose of the proposed removal or substantial alteration.

B. Any applicant desiring to remove or substantially alter one or more Trees pursuant to section **3A(2)** of this Chapter, in connection with construction, alteration or other work for which a building permit is required, in addition to complying with subsection A of this section, shall submit a site plan pursuant to Section 175-34.3(C) of this Code, which, in addition to information required thereunder, shall include the following information:

(1) The location of all proposed structures and driveways on the property;

(2) Any proposed grade changes that might adversely affect or endanger any trees on the site other than those for which the permit is being sought;

(3) The proposed use of any area on the property from which a Tree is proposed to be removed or substantially altered pursuant to the permit being sought;

(4) A description of the methods intended to be used to protect any trees on the site, other than those for which the permit is being sought, from damage during the work under the building permit applied for, which methods shall comply with any regulations for such protection that the Design Review Board may from time to time adopt;

(5) A description of the methods to be used to preserve, after construction is concluded, all remaining trees and their root systems from damage due to further activities such as landscaping and corrective action at the building site, and the means of providing water and nutrients to their root systems thereafter;

(6) A designation of all materials to be planted with an indication of the size, species, methods of planting and location;

(7) Any other information that the Design Review Board may deem necessary or desirable in determining the application.

§154-5. Guidelines for determining application.

The decision of the Village Official under Section 3A(1) or Design Review Board under Section ~~154-~~3A(2) to permit the removal or substantial alteration of a Tree or Trees shall take into account the following considerations:

A. The location and size of the Tree or Trees to be removed or substantially altered;

- B. The condition of the Tree or Trees with respect to disease and potential for creating hazardous conditions;
- C. The proximity of the Tree or Trees to existing or proposed structures and utility appurtenances;
- D. The reason for the proposed removal or substantial alteration;
- E. The environmental effect of the proposed removal or alteration, including but not limited to the effect on erosion, soil moisture retention, the flow of surface waters and drainage, the water table, water quality and aquifer recharge, air movement and air quality, noise pollution or abatement and other existing vegetation;
- F. The number and density of trees in the area and the effect of the proposed removal or alteration on property values of the neighborhood;
- G. Whether any Tree(s) sought to be removed or substantially altered is worthy of preservation because of unusual characteristics such as age, size, history, rarity, financial value, or visual importance to the neighborhood;
- H. The adequacy of the plans for protection of remaining trees from damage during construction and for providing for the preservation of such remaining trees after construction is concluded;
- I. The extent to which the removal or substantial alteration would impair existing buffering between the property and neighboring sites and the extent to which such impairment would adversely affect the use, enjoyment and value of such neighboring property;
- J. The extent to which any adverse impacts of the proposed removal or substantial alteration are mitigated by proposed replanting of new trees or other vegetation;

The ease with which the applicant can revise a proposed improvement or construction to accommodate existing trees;

- K. The economic hardship that would be imposed on the applicant if the permit were denied.

For help in making these assessments, the Design Review Board shall have the authority to engage a professional arborist as needed, with any costs to be paid by the applicant.

§154-6. Procedure for making and reviewing applications to Design Review Board; appeals.

- A. The procedures for making and reviewing applications under this Article shall be those

set forth in section 175-34.3 of the code as modified from time to time by such regulations as the Design Review Board may issue pursuant to section 175-34.3(0) of the Code.

B. Appeals from adverse determinations shall be taken as provided in section 175-34.6 of the Code.

§154-7. Penalties and remedies.

A. A violation of any of the provisions of this chapter shall constitute a violation under the Penal Law of the State of New York and each such a violation shall be subject to a fine of not more than twenty five thousand dollars (\$25,000). Each Tree which is cut down, removed or destroyed and each Tree the habitat of which is substantially altered in violation of the provisions of this chapter shall constitute a separate violation.

B. In addition to the above penalties, any owner of real property who has violated or permitted a violation of this chapter upon such real property may be directed by the Design Review Board to replace, with new trees having a Diameter At Breast Height as may be reasonably determined by such Board, any Trees removed, destroyed, or substantially altered in violation of this chapter. Where such a direction has been made, no building permit or certificate of occupancy shall be issued for structures on such real property until such direction has been fully complied with. Each Tree not replaced in accordance with such a direction shall constitute a separate violation under this section.

C. In addition to any other remedy provided by this law, this chapter may be enforced by a civil action or proceeding by the Village, including a proceeding for injunctive relief.

SECTION II. The local law shall take effect upon the filing with the Department of State.