

Bill HN 2201

A local law to adopt a new Chapter 77 of the Code of the Village of Hewlett Neck, entitled "Gardeners", providing for the licensing of gardeners and related regulations.

Section one. A new Chapter 77 is hereby adopted, to read as follows:

“Chapter 77 Gardeners

77.1 Definitions.

As used in this Chapter, the following words and phrases shall have the following meaning:

GARDENER

Includes any person who engages in the tending, maintaining, managing, creating or laying out of lawns, gardens, flower beds, shrubbery, trees or landscaping of every nature and description on other than his own property.

PERSON

Includes any individual, firm, partnership or corporation.

PRIVATE PROPERTY

Includes all real property, improved or unimproved, owned by any municipal corporation, corporation, person, partnership, firm, association or otherwise and which is not included in the definitions of "public highway" and "public place" in this section.

PUBLIC HIGHWAY

Includes any street open to the public for its full width from property line to property line, including the sidewalk area, whether or not installed.

PUBLIC PLACE

Includes any real property available to or open to use by all or a majority of the property owners or residents of the Incorporated Village of Hewlett Neck.

77-2 License required.

It shall be unlawful for any person to perform as a gardener in the territorial limits of the Incorporated Village of Hewlett Neck unless he shall have first obtained and shall have then in force Gardener's license as hereinafter provided.

77-3 Application for license; issuance; scope.

- A. Every person who desires to perform as a gardener in the Incorporated Village of Hewlett Neck may apply to the Village Clerk for a license on forms to be furnished by the Village Clerk. Such license shall be granted by the Village Clerk upon payment of the fees as provided for in § 77-5 hereof.
- B. Such license shall cover the licensee as well as all the employees of such licensee.
- C. No license shall be issued to a person if a prior license issued hereunder to such person or to a firm, partnership or corporation of which such person was a principal was revoked, except upon good cause shown by such person at a hearing before the Board of Trustees, when requested by such person.
- D. Elementary, high school students and caretakers residing on property shall be exempt from the provisions of this section.

77-4 Duration of license.

A Gardener's license shall be issued as of the date of granting of the same and shall expire on the last day of December of the same year, unless the same is sooner revoked, as herein provided.

77-5 License fees.

Fees shall be set by resolution of the Board of Trustees.

77-6 Suspension of license.

A. The Board of Trustees, after a hearing, upon at least seven (7) days' notice to the permittee, at which hearing the permittee shall be given an opportunity to be heard, may suspend or revoke any permit issued, in its discretion, for any of the following causes:

- (1) Fraud, misrepresentation or false statement contained in the application for the permit.
- (2) The violation of any provision of this chapter, or any other provision of the Village Code applicable to work in the Village as a gardener, or any of the terms or conditions of the license.
- (3) Conducting of licensee's business, enterprise or activity in an unlawful manner or in such a way as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.
- (4) Any transfer or assignment of the permit to any person, firm or corporation.
- (5) Other good cause.

B. Upon the suspension or revocation of a license, it shall be unlawful for the Gardener to conduct business in the Village of Hewlett Neck until a new permit is issued upon appropriate application.

C. Notice of revocation or suspension of a permit shall be given in writing, setting forth specifically the grounds therefore.

77-7 Regulations.

The following regulations shall be observed by all licensees and their employees:

- A. No licensee or employee of a licensee shall do or perform or cause, suffer or permit any of the following acts:
 - 1) Operate any power or manual lawn mower or other power equipment earlier than 8:00 a.m. nor later than 6:00 p.m. on weekdays or anytime on Saturdays, Sundays or legal holidays; provided, however, that such equipment may be operated between the hours of 9:00 a.m. and 6:00 p.m. on Saturdays, Sundays and legal holidays if not more than one such piece of equipment is in use at any one time and such use is by a person who resides on the property where the equipment is being operated. This subsection shall not preclude the operation at any time of such equipment as may reasonably be required in case of emergency conditions.
 - 2) Place any garbage, refuse, cuttings, leaves, wood or other materials upon any public highway, public place or private property.
 - 3) Shall place or take any action that permits, any garbage, refuse, cuttings, leaves, wood or other materials upon any public highway, public property, public place or private property except at locations and in a manner designated for such placement. Shall scatter nor in using any mechanical or electrical blower cause to be scattered any garbage, refuse, cuttings, leaves, wood or other materials on any public highway, public property, public place, or private property. All lawn cuttings, leaves and debris accumulated from real property located in the Village of Hewlett Neck must be removed by the licensee and disposed of at the licensee's own cost.
 - 4) Park a commercial vehicle on a public street.
- B. The Gardener's license shall be maintained by the licensee or his designee and displayed on the jobsite.

77-8 Renewal.

At any time during the month of December of each current year, the holder of a then valid current and unsuspended license may apply for the renewal and reissuance of such license. No renewal or reissue of license will be made if at the time of application therefor the said license is under a suspension, except upon good cause shown by such licensee after a hearing before the Board of Trustees.

77-9. Penalties.

Any person committing an offense against any provision of this Chapter or any rule or regulation adopted pursuant to this Chapter or any restriction or condition contained in a license issued pursuant to this Chapter or placing any lawn cuttings, leaves and debris on a public highway, public property, public place or private property, in a location or manner not permitted by this Chapter shall be guilty of an offense of this Chapter. Such offense shall be punishable as provided in the general penalty provisions of the Code of the Village of Hewlett Neck.”

Section two. Any local law or provision of the Code of the Village of Hewlett Neck in conflict with this local law is hereby repealed to the extent of such conflict, except that such repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of such local law, ordinance or resolution prior to the effective date of this local law.

Section three. If any clause, sentence, paragraph, section, article, or part of this local law shall be adjudged to be invalid by any court of competent jurisdiction, such judgment shall not affect, impair or invalidate any other part of this local law, or the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, article, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Section four. This local law shall take effect immediately upon adoption and filing pursuant to the Municipal Home Rule Law.