

A local law to amend Chapter 115 of the Code of the Village of Hewlett Neck, in relation to obstruction or encumbering of public right-of-ways and adjoining property owners obligations relating to trees impeding the public right-of-way.

Section one. A new Article V, entitled “Obstruction, Impeding or Encumbering of Public Right-of-ways”, is hereby amended to read as follows:

“Article V. Obstruction, Impeding or Encumbering of Public Right-of-ways.

§115-17. No person shall obstruct, encumber or impede any public right-of-way in the Village.

§115-18. For purposes of this article, the term “Trees” shall include parts of trees.

§115-19. Trees located on private property or in the public right-of-way abutting private property shall be maintained by abutting private property owners on which the base of the tree shall be located. Any damage resulting from the failure to maintain, or costs associated with the maintenance or protection of, any such trees shall be the responsibility of the private property owner on which any portion of the base of the tree is located.

§115-20. Notwithstanding the obligation of a private property owner to maintain and/or protect Trees located in the public right-of-way and on private property, any Tree which falls onto a public right-of-way or is felled onto a public right-of-way, in a manner that obstructs, encumbers or impedes vehicular or pedestrian traffic on the paved portion of any public roadway, and which Tree, prior to such falling or felling, was located on private property or in the right-of-way abutting private property, shall be removed in the manner provided in this section. The Village may take such action as is determined appropriate by the Village or a Village employee or contractor responsible for the maintenance of the public roadways to remove the Tree from the public roadway. In performing such removal, the Village may place the remains of the Tree on either the right-of-way in front of the abutting private property, or on the abutting private property, on which all, or a portion of, the Tree was located prior to its falling down or being felled. In such instance, the private property owner shall remain responsible for such removal, and upon the Village providing written notice of such Village action to the property owner, by regular mail, the property owner shall have 10 days to remove the remains of the Tree. In addition, except

where the retention of any remaining portion of the Tree constitutes a potential hazard, as determined by the Building Department, with notice of such hazard provided in writing to the property owner, the property owner shall remove any remaining portion of the Tree, including any stumps and exposed roots, within 30 days of notice to do so from the Village. If the Building Department determines that retention of any portion of the Tree that neither fell nor was felled onto the public roadway constitutes a potential safety hazard, the Building Department shall so notify the property owner in writing, and the owner shall take such action as directed by the Building Department.

§115-21. Failure to comply with any order or direction of the Village or the Village Building Department, shall constitute a violation of this article, and be subject to penalties as provided in the Village Code.

§115-22. Any fees or costs incurred by the Village relating to the enforcement of any private property owner obligation created by this article, including enforcement of any directive or order of the Village, shall be the responsibility of the property owner. A private property owner shall reimburse the Village within 30 days after written notice of such fees or costs is provided to the property owner by the Village Clerk. If such reimbursement is not made within 30 days after demand, the amount so unpaid shall be included as an additional assessment against the property in the same manner as taxes due the Village, in the manner provided by law.

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.