

Bill-HN-04-2024 A Local Law to amend the code of the Village of Hewlett Neck
amending Chapter 137 – Tree Preservation and Protection

137-1. Findings and purpose.

The Board of Trustees hereby finds that there is a direct relationship between preservation and planting of trees and associated vegetation in sufficient quantity in the Village of Hewlett Neck and the health, safety and welfare of Village residents, and that the Village has an obligation to facilitate the stewardship of air, water, land and living resources, and to sustainably protect the environment for the use of this and future generations. Trees and associated vegetation promote natural, scenic, environmental, and aesthetic values, stabilize soil, control water pollution by preventing soil erosion and flooding, absorb air pollution, enhance air quality, yield microclimatic effects, offer a natural noise barrier, provide a natural habitat for wildlife, provide shade to Village residents, create a bucolic atmosphere, and assist with stormwater management. The removal and destruction of trees in the Village deprives the Village residents of these benefits, disrupts fundamental ecological systems and adversely affects the health, safety and welfare of the residents of the Village. The Board also recognizes that recent weather events, including wind, snow and rain events, have impacted trees on Long Island greatly and that some members of the public have become more concerned about the safety of trees in relation to property protection and the relationship between trees and the hillside. The purpose of this chapter is to strike a balance between property protection and personal safety concerns and prevention of the indiscriminate destruction or removal of trees within the boundaries of the Village and to provide for the replacement of trees that may be destroyed or removed.

§ 137-2. Definitions.

For the purpose of this chapter, the following terms, phrases and words shall have the meanings ascribed herein:

APPLICANT

The owners of real property or the duly authorized agent of such owners.

HABIT

The natural growing characteristics of any tree, which includes branch spread and distribution, branch height aboveground and root spread and distribution.

PERSON

Any individual, firm, partnership, association, corporation, company, public agency, public utility or organization of any kind or the agent thereof.

REAL PROPERTY

All real property in the village, whether improved or unimproved.

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. The term "substantial alteration" includes, but is not limited to, destruction or removal of a tree, heavy or unnecessary cutting of top branches (topping), cutting of major lower limbs (severe elevating) or drastic pruning, but shall not include customarily accepted or ornamental pruning as defined by the National Arborist Association's standards for pruning of shade trees.

TREE

Any woody plant which has a trunk of at least seven (7) inches in diameter at a height of four feet six (4.5) inches above the base of the trunk.

VILLAGE OFFICIAL

The Village Building Inspector or such other person as may be designated by the Mayor with the approval of the Board of Trustees.

§ 137-3. Permit required; non-applicability.

A.

It shall be unlawful for any person to remove, destroy or substantially alter the habit of one or more trees on any real property unless a permit has been obtained pursuant to this chapter.

B.

This chapter shall not apply in an emergency situation (as determined by the Village Official) or to the removal, destruction or substantial alteration of any tree made in accordance with an accepted building or landscape plan that is part of an approved subdivision, building permit, site plan or other permit approved by the Village of Hewlett Neck.

§ 137-4. Administration and enforcement.

A.

The Village Official shall administer and enforce this chapter and provide a list of permissible replacement native species trees, as hereinafter provided.

B.

The Village Official shall perform the following duties:

(1)

Receive and keep accurate records of tree removal permit applications.

(2)

Visit and inspect the site and the trees described in the application, as well as contiguous and adjoining lands.

(3)

Grant or deny applications for permits based on the standards for granting permits as described in § 137-6 of this chapter.

§ 137-5. Application for permit.

A.

Any person who proposes to substantially alter one or more trees on any real property within the Village shall make application to the Village Official for a permit for such activity.

B.

The permit application shall be made on such form as may be prescribed by the Village Official and shall include, but not be limited to, the following:

(1)

The names and address(es) of the applicant. If the applicant is a legal entity other than a natural person, the application must state the status of that entity as a corporation, partnership or other legal form and include the name and address of all persons with a beneficial interest in such entity.

(2)

Location of the real property, including the street address.

(3)

Written consent of the owner(s) of the land if the applicant is not the owner(s).

(4)

The number of trees which are proposed to be substantially altered.

(5)

The purpose of the proposed substantial alteration.

(6)

A diagram of the area or section of real property where trees are proposed to be substantially altered, whether located on or off the site, or where any disturbance of land is proposed, showing location of all trees, indicating and identifying those trees to be substantially altered and those trees to be preserved or maintained, and the diameter and species of each such tree. Such diagram shall also indicate the name and address of the person who prepared the diagram.

(7)

Location of all existing structures and driveways on the site, including any proposed grade changes that might adversely affect or endanger any trees on the site, and details of how the applicant proposes to maintain and protect trees which are proposed to be preserved or maintained.

(8)

Any additional information which the Village Official may deem necessary for evaluation of the application.

§ 137-6. Standards for granting permits.

In determining whether to grant an application for a permit pursuant to this chapter, the Village Official shall consider all pertinent factors, including but not limited to the following:

A.

The physical condition of the tree(s) proposed to be substantially altered and whether any tree proposed to be substantially altered is a tree worthy of preservation.

B.

The proximity to existing or proposed improvements of trees proposed to be substantially altered, including the necessity of removing one or more of such trees in order to construct proposed improvements.

C.

The ease with which the applicant or owner could alter or revise the proposed development or improvement to accommodate and preserve existing trees.

D.

The effect of the proposed substantial alteration on the ecological systems, including the erosion potential, soil moisture retention and flow of surface waters on the property.

E.

The need for visual screening in transitional zones or relief from glare, blight, commercial or industrial ugliness or any other visual affront.

F.

The effect on the area of substantial alteration as determined by accepted tree management practices and/or the landscaping of the premises.

G.

Any economic or other hardships that would be imposed upon the applicant or owner were the permit denied.

§ 137-7. Permit conditions.

The Village Official shall, as a condition of granting a permit:

A.

Require the planting of the same or agreed upon alternative native species of tree from the list approved by the Village Official for each tree proposed to be substantially altered, which shall be at least two (2) inches in diameter, at a height of four (4) feet above the base of the trunk or at least eight (8) feet in height. The Village Official may, at his discretion, waive part or all of this requirement.

B.

Require the reasonable relocation of proposed driveways, surfaces and subsurface improvements or drainage systems to protect the trees to be preserved.

C.

Regulate the days and hours of substantial alteration.

D.

Require such safeguards as appropriate to minimize the environmental impact of the proposed substantial alteration or any activities in furtherance thereof.

E.

Impose such other reasonable conditions as may be necessary to effectuate the purposes of this chapter.

§ 137-8. Permit application fee.

Each tree removal permit application shall be accompanied by a fee in an amount set from time to time by resolution of the Board of Trustees.

§ 137-9. Penalties for offenses.

A.

Any person who violates any of the provisions of this chapter shall be guilty of an offense and shall be punished by a fine not to exceed \$1,000 for each tree, the habit of which is substantially altered in violation of this chapter. Any person found guilty of violating this chapter may also be required by the court to replace any or all trees the habit of which was substantially altered, with trees of a size and type selected by the Village Official, and to plant said replacement trees within a specified period of time. All such replacement trees must be at least four inches in diameter at

four feet six inches above the base of the trunk. Where such direction for replacement of trees is made, no building permit, certificate of occupancy or certificate of compliance shall be issued until such replacement has been completed.

B.

In addition to any other remedy provided by law, this chapter may be enforced by civil action by the village, including injunctive relief. In such action, the village may also seek a judgment requiring replacement of any or all trees the habit of which was substantially altered, with trees of a size and type selected by the Village Official, and planting of said replacement trees within a specified period of time. All such replacement trees must be at least four inches in diameter at four feet six inches above the base of the trunk. Where such direction for replacement of trees is made, no building permit, certificate of occupancy or certificate of compliance shall be issued until such replacement has been completed.

§ 137-10. Appeals.

Any person aggrieved by a determination of the Village Official under this chapter shall have the right, within 30 days from the date of such determination by the Village Official, to appeal to the Board of Trustees, in writing. Any such written appeal shall identify the manner in which the appellant is aggrieved by the said determination, and shall state the reason for the appeal. The Board of Trustees shall render a decision on the appeal within 60 days of the filing of the appeal, and such determination shall be final and conclusive