

INC. VILLAGE OF OLD BROOKVILLE
LOCAL LAW # 1 of 1999

"TREES"

A local law to add Chapter 100 "*Trees*" to the Code of the Village of Old Brookville.

BE IT ENACTED by the Board of Trustees of the Incorporated Village of Old Brookville as follows:

SECTION 1. Add Chapter 100 "*Trees*" as follows:

Section 100 TREES

§100.1 - Findings and Purposes.

- A. The Board of Trustees of the Incorporated Village of Old Brookville hereby finds that there is a direct relationship between preservation of and the planting of trees, shrubs and associated vegetation in sufficient number in populated areas of the village and the health, safety and welfare of village residents and that trees, shrubs and associated vegetation are related to the natural, scenic and aesthetic values and the physical and visual qualities of the environment which the village is obligated to protect. Trees and such vegetation reduce noise, provide welcome shade to village residents, preserve the balance of oxygen in the air by removing carbon dioxide and fostering air quality and create a bucolic and rural atmosphere in the village, especially along the roads. Trees also stabilize the soil and control water pollution by preventing soil erosion and flooding, yield advantageous climatic effects and provide a natural habitat for wildlife.
- B. The destructive and indiscriminate removal of trees and related vegetation disrupts the ecological balance in nature and causes increased village costs for proper drainage control, impairs the benefits of occupancy of existing residential properties and impairs the stability and value of both improved and unimproved real property in the area of the destruction and adversely affects the health, safety and general welfare of the residents of the Incorporated Village of Old Brookville.

§100.2 - Definitions.

For the purposes of this chapter, the following terms, phrases and words shall have the following meanings:

APPLICANT - The owner, contract vendee or lessees of real property or its duly authorized agent seeking a permit to substantially alter, destroy or remove trees pursuant to the provisions of the chapter.

HABITAT - The natural growing characteristics of any tree, which includes branch spread and distribution, branch height above ground and root spread and distribution.

PERSON - Any resident of Old Brookville or any individual, firm, partnership, association, corporation, company, public agency, public utility or organization of any kind or agent thereof.

REAL PROPERTY - Includes all unimproved and improved real property within the Incorporated Village of Old Brookville.

SUBSTANTIAL ALTERATION - Any cutting or drastic pruning of the habitat of a tree which impairs, destroys or endangers the life of such tree or its natural symmetry, and shall include but shall not be limited to heavy or unnecessary cutting of top branches (topping) and cutting of major lower limbs (elevating).

TREE - Any woody plant, its root system and the environment within the area defined by the outermost limits of its branches, which is eighteen (18") inches in circumference or greater at a height of four (4) feet above the base of the trunk.

TREE DESTRUCTION OR REMOVAL - The cutting down of a tree or any other act or practice which may reasonably be expected to either, immediately or within the course of time, cause the tree to die after the commission of said act or practice, including but not limited to damage inflicted upon the tree, its root system or trunk as the result of:

- A. Improper use of machinery on or around the tree.
- B. Storage of materials in or around the tree.
- C. Soil compaction.
- D. Altering the natural grade or trenching near the roots to expose the roots or cover the trunk, permitting the infection or infestation of the tree by pests, fungus or harmful bacteria.
- E. Excessive harmful pruning.

- F. Paving with concrete, asphalt or other impervious surfaces within such proximately as to be harmful to the tree.
- G. Application of herbicides or defoliant or poisons.
- H. Girdling.

TREE WARDEN - The duly appointed Tree Warden of the Incorporated Village of Old Brookville.

§100.3 - Creation and Establishment of Tree Warden.

There is hereby created and established a Tree Warden for the Village of Old Brookville, New York who shall be appointed by the Mayor with the approval of the Board of Trustees for a term of one (1) year.

§100.4 - Jurisdiction, Duties and Responsibilities of the Tree Warden.

The Tree Warden shall have:

- A. Original jurisdiction over the granting or denying of tree removal permits for any and all trees on any real property in the Village of Old Brookville except as otherwise provided in this Chapter.
- B. Responsibility for reviewing applications and making recommendations to the Planning Board, the Board of Trustees and the Board of Appeals in connection with the approval of subdivisions, special use permits and site plans by the Planning Board, the issuance of building permits by the Board of Trustees and the granting of variances by the Board of Appeals as hereinafter set forth in § 100.7 et seq.

§100.5 - Prohibited Acts.

- A. No person shall remove, destroy or substantially alter the habitat of any tree on any real property within the Village of Old Brookville without first obtaining approval from the Tree Warden, as hereinafter prescribed, and a tree removal permit, which said permit shall be issued by the Village Clerk.
- B. No tree removal permit shall be required for the removal, destruction or substantial alteration of tree(s) in connection with any building permit issued by the Board of Trustees, any site plan, special use permit or subdivision approval granted by the Planning Board or any variance granted by the Board of Appeals.

- C. No tree, irrespective of dimensions or size, may be removed, destroyed or substantially altered within twenty (20) feet of a side or rear yard or within thirty (30) feet of a front yard.
- D. This Chapter shall not apply to an emergency situation in which the removal, destruction or substantial alteration of any tree is necessary to prevent imminent danger to human life or property or to the removal, destruction or substantial alteration of any tree accomplished pursuant to customarily accepted ornamental or therapeutic practices. In such event, the permission of the Tree Warden and/or Village shall be obtained prior to removal.

§100.6 - Permits for Tree Removal.

A. Before removing, destroying or substantially altering the habitat of one (1) or more trees, such person shall submit an application for a tree removal permit to the Tree Warden by delivering the same to the Village Clerk. The application shall be made on such form as may be prescribed by the Tree Warden and shall include, but not be limited to, the following:

- (1) The name and address of the applicant and the owner of the real property.
- (2) Written consent of the owner or owners of the real property, if the applicant is not the owner.
- (3) Location of the property, including a street number and address and tax map designation.
- (4) Purpose of proposed tree removal or alteration.
- (5) Site of the proposed tree removal or alteration.

B. A sketch or plan of the property indicating some or all of the following may be required by the Tree Warden when deemed necessary to carry out the provisions of this Chapter:

- (1) An outline of existing heavily wooded areas on the site, showing the tree type and range of sizes.
- (2) The location of any existing and proposed improvements and structures on the real property.
- (3) Any proposed grade changes that might adversely affect or endanger any trees on the site and specifications of how to maintain them.
- (4) Designation of all diseased, dead or damaged trees.

- (5) Location of all trees and identification of size and species and identification of the trees to be removed and the trees to be maintained.
- (6) The size, species and planting method of all proposed replacement trees.
- (7) Any additional information that the Tree Warden may reasonably deem necessary for evaluation of the application.

C. The decision of the Tree Warden shall be based on the following criteria:

- (1) The condition of the tree or trees with respect to disease, insect attack and hazardousness, danger of falling, proximity to existing and proposed structures and interference with utility service.
- (2) The necessity of the removal, destruction or alteration of the tree in question in order to implement the stated purpose of the application.
- (3) The effect of the removal, destruction or alteration on ecological systems.
- (4) The environmental effect of the removal, destruction or alteration.
- (5) The aesthetic effect of the removal, destruction or alteration.
- (6) The effect of the removal or alteration on erosion, soil moisture retention, flow of surface water and drainage.
- (7) The character established at the proposed site of removal, destruction or alteration with respect to existing vegetation management practices.
- (8) Whether the tree in question is a specimen tree or is otherwise worthy of preservation due to unusual characteristics such as age, history, size, rarity or visual importance to the neighborhood.
- (9) The impact of any removal or alteration upon existing screening, property values or any road or highway bordering the property.
- (10) Any of the considerations enumerated in §100.1 of this Chapter.

D. The Tree Warden, in making a determination concerning removal of trees on private property in the Village of Old Brookville, may obtain the services of a professional arborist regarding the advisability of removal. The cost of this professional evaluation shall, in all cases, be borne by the applicant.

E. A non-refundable permit application fee in the amount of twenty-five (\$25.00) dollars

per tree proposed to be removed shall be paid with each application.

F. The Village Clerk shall be responsible for the actual issuance of a tree removal permit if and when the Tree Warden determines to grant it.

§100.7 - Land Development Procedures.

A. Planning Board Review:

(1) If any trees are to be removed, cut, destroyed or substantially altered as a consequence of any proposed subdivision of real property or site plan review or special use permit then, simultaneously with the submission of an application to the Planning Board for approval of any such site plan, special use permit or subdivision map, the applicant shall submit to the Tree Warden three (3) sets of such site plan, special use or subdivision map together with a tree survey prepared by a licensed land surveyor showing the location of all trees on the plan or map, the size of such trees and the type or species thereof, and showing the effect of any proposed construction and/or grading on said tree survey as will enable the Tree Warden to physically inspect the site and make recommendations to the Planning Board and designate to the Planning Board trees to be saved by the applicant.

(2) The Tree Warden shall submit a written report to the Planning Board which shall include, but not be limited to, trees which he has recommended for preservation and recommending whether there are other measures or amendments to the plan or map which the Planning Board should consider for the preservation of trees.

B. Board of Zoning Appeals

(1) In the event that any trees are to be removed, cut, destroyed or substantially altered as a consequence of any application to the Board of Appeals, then, simultaneously with the submission of an application to said Board, the applicant shall submit to the Tree Warden a sketch or plan as provided in Section 100.6(B) of this Chapter.

(2) The Tree Warden shall review the application and submit his written recommendations to the Board of Appeals concerning the application.

C. Board of Trustees

(1) In the event that any trees are to be removed, cut, destroyed or substantially altered as a consequence of any construction, whether an addition, expansion or new structure for which a building permit is required, then, simultaneously with the submission of a building permit application to the Board of Trustees, the applicant shall submit to the Tree Warden a copy of such application together with a sketch or plan as provided in Section 100.6(B) of this Chapter

(2) The Tree Warden shall review the application and submit his written

recommendations to the Board of Trustees concerning the application.

§100.8 - Required Removal of Trees.

- A. Private Property. Any tree growing on private real property which is endangering or, in the opinion of the Tree Warden or the Building Inspector of the Village of Old Brookville, constitutes a danger to a public street or to public places or which in any way endangers the usefulness of a public sewer or a public utility shall be removed or trimmed by the owner of the real property within fourteen (14) days after receipt of such notice from the Tree Warden. In the event that the property owner fails to remove or trim such tree within said time, the Tree Warden may then remove or trim said tree and assess the cost thereof against the property owner.
- B. Public Property. Nothing herein shall limit the authority of the Village to remove or alter any tree or specimen tree it deems necessary to protect the health, safety and welfare of the village residents.

§100.9 - Replacement.

The Tree Warden may require the planting of the same or an agreed upon alternate species of trees which are as nearly comparable in type and size as practical to the trees to be removed, when the individual character of the tree(s) or the ecological setting requires special consideration, as a condition to the issuance of a permit for tree removal. The location of planting of the replacement trees shall be agreed upon prior to issuance of the permit for removal.

NOT PERTINENT TO
BUILDING PLANS UNLESS SPECIFIED

§100.10 - Appeals.

- A. Any person aggrieved by any act or determination of the Tree Warden in the exercise of the authority herein granted shall have the right to appeal to the Village Board of Trustees whose decision shall be final and conclusive.
- B. An appeal shall be in writing stating the decision appealed from and reason for the appeal.

§100.11 - Penalties for Offenses.

Any person who shall violate any provision of this Chapter or any rule, regulation or specification promulgated thereunder shall be punishable by a fine of up to \$5,000 and/or imprisonment for up to fifteen (15) days for each violation. Each tree that is removed, destroyed or

substantially altered shall constitute a separate offense punishable as provided for herein.

§100.12 - Construal of Provisions.

Nothing herein contained shall abridge or alter any rights or acts or remedies now or hereinafter existing, nor shall this Chapter, nor any provision thereof, nor any rule or regulation promulgated thereunder be construed as estopping the People of the Village of Old Brookville from exercising its rights and fulfilling its obligations to protect the public health, safety and welfare.

SECTION 2.- This local law shall take effect immediately.