

**TOWN OF NORTH HEMPSTEAD
LOCAL LAW NO. 22 OF 2021**

**A LOCAL LAW AMENDING CHAPTER 20A OF THE TOWN CODE
ENTITLED “ENVIRONMENTAL PLANNING AND CONTROL OF TREES”**

BE IT ENACTED by the Town Board of the Town of North Hempstead, as follows:

Section 1. Legislative Intent.

The Board finds that it is in the best interest of the Town of North Hempstead to amend Chapter 20A of the Town Code entitled “Environmental Planning and Control of Trees” to make amendments to the Town’s tree code relative to the preservation of trees on public and private property; and to establish a Tree Preservation Fund and a Tree Advisory Committee to advise on the preservation of trees throughout the Town.

Section 2.

Chapter 20A of the Town Code is hereby amended as follows:

Chapter 20A Environmental Planning, Conservation and Care of Trees

§ 20A-1 Legislative policy.

It is hereby declared to be the legislative policy and intent of the Town Board of the Town of North Hempstead that the protection and nurturing of the natural environment, particularly trees is of critical importance to the current and future residents of this municipality.

§ 20A-2 Findings and intent.

[Amended 4-2-2002 by L.L. No. 5-2002]

- A. The Town Board hereby finds and declares that the preservation of existing trees within the Town is necessary to protect the health, safety and general welfare of the Town of North Hempstead because trees provide shade, screening and a natural habitat for the wildlife of our area, absorb air pollution and reduce levels of carbon dioxide, provide us with oxygen, help moderate climatic extremes and conserve energy, aid water absorption and retention, deter soil erosion and flooding, offer a natural barrier to noise, reduce visual pollution and add to the aesthetic quality of the community. Trees enhance property values and contribute to the significance of historic buildings, structures and places in the Town, and promote and safeguard the ecological, economic and aesthetic environment.
- B. The Town Board further finds that the reduction of trees could impact the scenic natural beauty of the area, disrupt the ecological balance in nature; cause erosion of topsoil; create flood hazards and erosion; reduce property values; and increase the cost of

Adopted: 11/18/21

construction and maintenance of drainage systems through the increased flow and diversion of surface waters.

- C. The Town Board of the Town of North Hempstead hereby declares it in the public interest, convenience and necessity to enact regulations which will preserve existing trees, regulate the removal and substantial alteration of trees, and require the planting of new trees within the jurisdiction of the Town so as to promote and achieve a net increase in the Town's tree canopy to eliminate the aforesaid injurious effects of such tree removal and substantial alteration.

§ 20A-3 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

APPLICANT

Any property owner or his duly authorized agent, or any person claiming a legal interest in real property who makes an application under this chapter.

ARBORIST

A specialist in the planting and maintenance of trees having achieved and holding a certification from the International Society of Arboriculture as an ISA Certified Arborist.

[Added 4-2-2002 by L.L. No. 5-2002]

BORDER

The boundary line of the public right-of-way and the adjacent property owner.

DIAMETER

The measurement equaling the circular distance around a tree at a height of 4 1/2 feet above the base of the trunk divided by 3.14. The diameter of a multistem tree shall be the sum of the diameters of the trunks of each stem.

[Added 4-2-2002 by L.L. No. 5-2002]

FRONT YARD

An open and unoccupied space across the full width of a lot extending from the front line of the lot to the front line of the building or, if no building is present, the back line of the required front yard setback whichever is greater in distance and measured between the side property lines.

[Added 4-2-2002 by L.L. No. 5-2002]

HABIT

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

MINI-GROVE

Adopted: 11/18/21

A planting of six or more native trees in close proximity to each other on Town owned property or at such other locations as may be approved by the Town Board.

PERSON

Any individual, firm, partnership, association, corporation, company or organization of any kind, or agent thereof, but not including the Town, or any other governmental body or municipality or their agents, servants or employees, or a public utility.

PROPERTY OWNER

Any person or persons owning real property as shown by the Nassau County Clerk's records.

PUBLIC RIGHT-OF-WAY

Each street or highway, as the same is defined by the Highway Law of the State of New York, as from time to time amended, which is owned, controlled or otherwise subject to the jurisdiction of the Town.

SAPLING

Any woody plant, dead or alive, which is three inches or more in diameter at a height of three feet above the base of the trunk, including its root system and the environment within the area defined by the outermost limits of its branches.

[Added 4-2-2002 by L.L. No. 5-2002]

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 shall include, but is not limited to, heavy or unnecessary cutting of top branches (topping), cutting of major lower limbs (severe elevating) or drastic pruning or cutting of roots of trees without compensatory cutting of the crown of the tree, but shall not include New York State forestry standards, guidelines or ornamental procedures. In any event, the removal of more than 25% of a tree's crown or limbs, or any cutting or trimming that would be deemed substantial by industry standards (ANSI), shall be a substantial alteration.

TOWN

The Town of North Hempstead, County of Nassau, State of New York.

TOWN OFFICIAL

The official assigned to carry out the administration and enforcement as set forth in § 20A-4 of this chapter.

TREE

Any woody plant, dead or alive, which is six inches or more in diameter at a height of 4 1/2 feet above the base of the trunk, including its root system and the environment within the area defined by the outermost limits of its branches.

Adopted: 11/18/21

[Amended 4-2-2002 by L.L. No. 5-2002]

TREE LAWNS

The portion of a public right-of-way not covered by pavement which lies between the border and the portion of the public right-of-way used for vehicular traffic.

TREE MASTER PLAN

A plan for maintaining, managing, enhancing, and growing the Town's tree resource and increasing the percentage of tree canopy cover over time. The Tree Master Plan shall include the following:

A. A vision statement, goals, objectives, strategies, annual work plan, annual budget, etc.

(i) The objectives shall include long-range planning to promote sustainability and regeneration, species diversity, growth and health of the tree inventory and tree canopy cover and an increase in native tree canopy cover.

(ii) The annual work plan shall apply community-wide and address the planting, maintenance and removal of trees, including recommendations regarding the following:

- (a) The planting of native trees with a goal towards diversity of species that provide environmental benefits;
- (b) A five-year plan to increase and restore the native tree canopy;
- (c) Invasive species management protocols and limitations;
- (d) Best practices related to public trees, including pruning, promoting good soil health and methods to protect tree roots and trunks;
- (e) Collaboration with public utilities related to the trimming of public trees;
- (f) Collaboration with not-for-profit organizations and private entities with respect to tree matters in the Town, including on private property; and
- (g) The locations and plans for Mini-Groves throughout the Town;

§ 20A-4 Authorization and Enforcement.

A. Public right-of-way and Town-owned public places. The Town Board shall adopt a policy governing the planting and removal of trees and saplings in a public right-of-way and Town-owned public places. The policy shall be adopted and may be amended only after a public hearing is held by the Town Board. The policy shall include reasonable public notice of the removal of a tree(s) or sapling; shall be designed to minimize the need for the removal of trees or saplings other than for public safety or other public benefit; and shall include replanting obligations. The Town Board shall consider any recommendations made by the Tree Advisory Committee concerning the policy.

Adopted: 11/18/21

- B. Public rights-of-way. The Superintendent of Highways shall have the authority to promulgate rules and regulations governing the planting, maintenance, removal, fertilization, pruning and bracing of trees and saplings in public rights-of-way in accordance with the Town's tree policy and shall direct, regulate and manage the planting, maintenance and removal of all trees and saplings growing now or hereafter in any public right-of-way.
- C. Town-owned public places. The Commissioner of Parks and Recreation shall have authority over the regulation of the planting, maintenance and removal of trees and saplings in Town-owned public places in accordance with the Town's tree policy so as to ensure safety and preserve the aesthetics of such public site. The Commissioner shall have the authority and duty to supervise or inspect all work done.
- D. Private property. The Commissioner of Buildings shall have the authority over the regulation of the removal and replacement of trees in the front yards of private properties so as to ensure safety and preserve the aesthetics and character of a neighborhood. The Commissioner shall have the authority and duty to supervise or inspect all work performed. [Added 4-2-2002 by L.L. No. 5-2002]

§ 20A-5 (Reserved)

§ 20A-5.1 Permit required; application; notice of completion for tree or sapling removal in tree lawn and public right-of-way.

[Amended 8-21-1990 by L.L. No. 9-1990; 4-2-2002 by L.L. No. 5-2002]

- A. Tree lawn. No person shall remove, destroy or substantially alter the habit of any tree or sapling within any tree lawn, or cause the same to be done, nor plant, spray, fertilize, prune, remove, cut above ground or otherwise substantially alter the habit of any tree on any tree lawn unless:
 - (1) A permit is first obtained from the Superintendent of Highways in accordance with the requirements of this section;
 - (2) The work is undertaken in accordance with an approved landscape plan as part of an approved site plan or building permit application, provided that such a landscape plan is required as part of the site plan or building permit procedure; or
 - (3) The substantial alteration of habit is in accordance with the New York State forestry standards, guidelines or ornamental procedures.
- B. Public right-of-way. Any person who applies for the removal of a tree or sapling in a public right-of-way shall post upon such tree or sapling a notice of the intent to remove the same. The notice shall be in the form of a sign provided by the Superintendent of Highways, and no permit shall be issued until at least seven calendar days have elapsed from the time of posting as evidenced by the receipt of an affidavit of posting by the Superintendent of

Adopted: 11/18/21

Highways.

C. The application for a permit shall be made on such form or forms as may be prescribed by the Superintendent of Highways and shall include:

- (1) Name and address of the applicant; status of legal entity; status of the applicant with respect to the land.
- (2) Purpose of proposed activity for which a permit is required.
- (3) Site of proposed activity, including the section, block and lot number of the property affected or adjacent to the tree.
- (4) An attached sketch or plan of the area showing all existing, heavily wooded areas on the site and showing the tree or sapling type and size range.
- (5) The nature of the proposed activity.
- (6) The reason tree removal is sought.
- (7) The condition of each tree with respect to disease and danger of falling.
- (8) A description of the size and type of each tree to be removed, including common name and/or botanical name.
- (9) Photos of each tree to be removed.
- (10) Written consent of the owner or owners of the property adjacent to the tree, if the applicant is not the owner or sole owner of such property.

D. In making the determination to grant or deny the application, the Highway Superintendent shall be guided by the following criteria, as well as the Town of North Hempstead Tree Policy:

- (1) The necessity of removal.
- (2) The preservation and enhancement of the aesthetics of neighborhoods.
- (3) The ecologic and aesthetic value of trees.
- (4) The ability to replace trees that are removed.
- (5) The significance of the tree for the neighborhood due to:

Adopted: 11/18/21

- (a) The size of the tree;
- (b) The rarity of the species;
- (c) The historical value of the tree;
- (d) Whether the tree is included on the inventory of landmark trees and other significant trees in the Town.
- (6) The effect of removal on:
 - (a) The character of the site with respect to vegetation management practices.
 - (b) Ecological systems.
 - (c) Erosion control at the location in which the tree is to be removed and its impact on the surrounding area.
 - (d) The character of the neighborhood.
- (7) The condition of the tree with respect to disease and danger of falling. In the event that the condition of the tree is not evident, the Highway Superintendent maintains the right to require the applicant to submit proof from a certified arborist.
- (8) Whether the tree endangers the usefulness of a public sewer or utility.
- (9) Whether denial of the permit or the replacement requirement will result in unnecessary hardship or severe financial loss to the applicant.
- E. Any permit granted shall contain a definite description of work allowed by the permit and a definite date of expiration. Any permit shall be void if its terms are violated or if the work is not completed on or before the expiration date, except that, for good cause shown, the Superintendent of Highways may extend the expiration date in cases where the work is substantially completed.
- F. Written notice of completion of the work allowed by the permit shall be given to the Superintendent of Highways within five business days after completion.
- G. This section shall not apply in emergencies wherein the Town official determines that public health, safety or welfare is immediately endangered.
- H. This section shall not apply to the removal of trees located on private property. The removal of such trees is governed by §§ 2-9T, 2-14E, 2-28C(13), 2-75, 70-220, 70-221, 70-222, 70-225M and § 20A-5.2.

Adopted: 11/18/21

§ 20A-5.2 Permit required; application; notice of completion for tree removal on private property.

[Added 4-2-2002 by L.L. No. 5-2002]

- A. No person shall remove, destroy or substantially alter the habitat of any tree to cause the death of any tree which is six inches or greater in diameter and located within a front yard, or cause the same to be done, unless a tree removal permit is first obtained from the Commissioner of Buildings and the action is not in connection with any other activity for which a permit is required under § 2-9A.
- B. The application for a permit shall be made on such forms as may be prescribed by the Commissioner of Buildings and shall include:
 - (1) Name and address of the applicant and status of legal entity.
 - (2) The status of the applicant with respect to the land.
 - (3) Written consent of the owner or owners of the land, if the applicant is not the owner or sole owner.
 - (4) Description and purpose for the proposed activity for which a permit is required.
 - (5) Location of proposed activity, including section, block and lot number and street address of the property(s) affected by or adjacent to the tree.
 - (6) A plot plan of the front yard of the lot drawn to scale to include all existing buildings and trees within and adjacent to said area delineating all trees to be removed, preserved, or planted. The plot plan shall identify each tree proposed for removal or planting with diameter and type, including common name and/or botanical name.
 - (7) Condition of the tree with respect to disease and danger of falling.
 - (8) A diagram showing the proposed location of the required replanting. A copy of the Tree Standards and Specification will be made available to the applicant.
 - (9) Photos of each tree to be removed.
 - (10) A description of the size and type of each tree to be removed, including common name and/or botanical name.
 - (11) Such other information as may reasonably be required by the Building Commissioner to establish compliance with this section, including, but not limited to, the following:
 - (a) A signed statement from a certified arborist indicating the health of the tree.

Adopted: 11/18/21

- (b) An erosion control plan.
 - (c) Reserved.
 - (d) A survey noting the location of any existing structures and utilities endangered by the tree.
 - (e) Alternative mitigation if the tree acts as a visual and/or noise barrier to a road or highway.
 - (f) Proposed methods to ensure the protection of remaining trees. A copy of the Tree Standards and Specifications to be promulgated by the Town Board, subject to the advice of the Tree Advisory Committee, will be made available to the applicant.
 - (g) Flagging of each tree to be removed.
- C. In making the determination to grant or deny the application, the Building Commissioner shall be guided by the following criteria:
- (1) The necessity of removal.
 - (2) The preservation and enhancement of the aesthetics of neighborhoods.
 - (3) The ecologic and aesthetic value of trees.
 - (4) The ability to replace trees that are removed.
 - (5) The significance of the tree for the neighborhood due to:
 - (a) The size of the tree;
 - (b) The rarity of the species;
 - (c) The historical value of the tree;
 - (d) Whether the tree is included on the inventory of landmark trees and other significant trees in the Town.
 - (6) The effect of removal on:
 - (a) The character of the site with respect to vegetation management practices.
 - (b) Ecological systems.
 - (c) The screening of any road or highway bordering the property in question.
 - (d) Erosion control from the parcel on which the tree is to be removed and its impact on

Adopted: 11/18/21

adjacent parcels.

- (e) The character of the neighborhood.
 - (7) The condition of the tree with respect to disease and danger of falling. In the event that the condition of the tree is not evident, the Commissioner of Buildings maintains the right to require the applicant to submit proof from a certified arborist.
 - (8) The proximity of the tree to existing structures.
 - (9) Whether the tree endangers the usefulness of a public sewer or utility.
 - (10) Whether denial of the permit or the replacement requirement will result in unnecessary hardship or severe financial loss to the applicant.
- D. Any permit granted shall contain a description of work allowed by the permit and [~~shall contain~~] a date of expiration. Any permit shall be void if its terms are violated or if the work is not completed on or before the expiration date, except that, for good cause shown, the Commissioner of Buildings may extend the expiration date in cases where the work is substantially completed.
- E. The Building Commissioner shall be given at least 24 hours' notice of the starting of work under a tree removal permit.
- F. Written notice of completion of the work allowed by the permit shall be given to the Building Commissioner within five working days after completion.
- G. Display of permit. Any permit issued under this chapter shall be conspicuously displayed on the frontage of the premises for which it was issued so as to be easily visible from the nearest public street. The permit shall be posted at all times during the performance of the work and shall not be removed until such time as the authorized tree work has ended and the Building Department has issued a certificate of tree planting to close out the permit. A property owner or permit holder who fails to post a permit shall be deemed in violation of this chapter.
- H. The Building Commissioner shall issue a certificate of tree planting if it is found that the proposed tree removal and tree replacement, and any payment required into the Tree Preservation Fund, has been completed substantially in accordance with the permit and the laws applicable thereto. A photo of each replacement tree that is planted shall be maintained in the certificate of tree planting file.

§ 20A-6 Removal of trees constituting a nuisance.

- A. Public rights-of-way and Town-owned public places. If, in the opinion of the Town official,

any tree on a public right-of-way or Town-owned public place constitutes a hazard to adjoining public rights-of-way or to persons using the adjoining public rights-of-way and if such hazard cannot be effectively eliminated by trimming the tree or taking other precautionary steps available to the Town that will allow the tree to remain, or if its roots are causing excessive damage to the curb, gutters or sidewalks and such damage cannot be remedied without the removal of the tree, or if the tree or its roots unduly interferes with any public sewer or house connection sewer or public utility, the Town official may remove the tree or consent to its removal in accordance with this chapter and the Town of North Hempstead Tree Policy. A permit shall be required for a tree removal under this section.

B. Private property.

- (1) If, in the opinion of the Superintendent of Highways, any tree on private property constitutes a danger to a public right-of-way, to the public or to public property or in any way endangers the usefulness of a public sewer or public utility, the Superintendent shall issue a notice to the property owner to remove such tree or substantially alter its habit within 10 days. Upon failure by the property owner to do the same, the Superintendent of Highways shall schedule a hearing, giving not less than 10 days' notice, to allow the property owner an opportunity to show the work to be unnecessary.
- (2) If, after the hearing, the Superintendent of Highways determines that removal or alteration of the habit of the tree is necessary, the property owner shall cause such work to be done within 10 days after receiving written notice of the results of the hearing. Upon the failure by the property owner to have such work performed, the Superintendent of Highways may cause such work to be done by the Town, and the total expense thereof shall be borne by the property owner. The expense so incurred shall be assessed by the Town Board on the real property on which the tree is located and shall constitute a lien on the real property on which it is levied until paid or otherwise satisfied or discharged and shall be collected in the same manner and at the same time as other charges.
- (3) If the property owner is a nonresident, a notice to remove or alter the habit of a tree on his property mailed to his last known address shall be sufficient service thereof.
- (4) Emergency tree removal on private property. In the event that any accident or natural disaster shall cause a tree(s) to be in danger of falling or otherwise be in such condition as to seriously endanger persons or property, the owner of such tree(s) shall immediately contact the Commissioner of Buildings describing the location of the tree(s), extent of the damage, and any emergency measures required to resolve the problem. Upon verbal approval by the Building Commissioner, the owner shall immediately remedy such situation and shall immediately take all such necessary steps to make said location safe and secure. Such owner must apply for a tree removal permit within 48 hours after such natural disaster or serious accident shall have occurred. [Added 4-2-2002 by L.L. No. 5-2002]

Adopted: 11/18/21

- B. Private property sewer connection. If, in the opinion of the Commissioner of Buildings, any tree on a private property, including its root system, unduly interferes with any house sewer connection, the Commissioner of Buildings may consent to its removal upon application therefor.

§ 20A-7 Replacement of trees in tree lawn.
[Amended 3-11-1980 by L.L. No. 3-1980]

- A. Removal by Superintendent of Highways. Whenever the Superintendent of Highways deems it necessary to remove, or cause to be removed, a tree or trees from a tree lawn in connection with the paving or repair of a sidewalk or the paving or widening of the portion of a public right-of-way used for vehicular traffic or for any other reason, the Town shall replant such trees or replace them in accordance with the Town of North Hempstead Tree Policy.
- B. Removal pursuant to permit. Whenever a person removes, or causes to be removed, a tree or trees from a tree lawn pursuant to § 20A-5.1 of this chapter, such person shall replant or replace such trees in accordance with the Town's tree policy. Such requirement shall be a condition contained in any permit so issued, and the notice of completion filed by the permit holder pursuant to § 20A-5.1E shall establish that the permit holder has complied with this condition of the permit.

§ 20A-8 Public utilities.

- A. Any person doing business as a public utility and subject to the jurisdiction of the New York State Public Service Commission and any duly constituted public agency authorized to provide utility service shall notify the Superintendent of Highways of planned intent to work in any public right-of-way, where activity includes the removal or alteration of the habit of any tree, at least five business days prior to commencing such work, whenever possible. The Superintendent of Highways shall review such notice and, where necessary, impose reasonable conditions and standards so as to promote the preservation and good health of trees.
- B. Except in emergencies wherein the public utility determines that public health, safety or welfare will be affected, a public utility shall post a notice upon any tree in a public right-of-way at least five business days prior to the planned work, the form of which notice shall conform to § 20A-5.1B of this chapter.
- C. Whenever a public utility removes, or causes to be removed, a tree or trees from a tree lawn, the public utility shall replant or replace such trees in accordance with this chapter and the Town of North Hempstead Tree Policy. All required plantings shall occur between April 1 and December 1 and within 90 days after the tree removal.

Adopted: 11/18/21

[Added 3-11-1980 by L.L. No. 3-1980]

§ 20A-9 Replacement of trees in front yard of private property.

[Added 4-2-2002 by L.L. No. 5-2002]

Each tree removed of a diameter of six inches or greater is subject to the tree replacement guidelines enumerated in this chapter. Failure to comply with the tree replanting requirements set forth in this section shall constitute a separate and distinct offense hereunder.

- A. Replacement tree(s) must be a minimum diameter of 3 inches, measured at 4 1/2 feet in height above grade or above the root collar. Except as provided for in § 20A-9(D):
- (1) Each tree removed having a diameter measuring between six inches to twenty-four inches shall require one replacement tree to be planted.
 - (2) Each tree removed having a diameter measuring greater than twenty-four inches to thirty inches shall require two replacement trees to be planted.
 - (3) Each tree removed having a diameter greater than thirty inches shall require three replacement trees to be planted.
 - (4) The following shall apply in determining the diameter of each tree unlawfully removed: the tree shall be measured at a height of 4 1/2 feet above the base of the trunk, otherwise the measurement shall be taken at the stump. Where the diameter of a removed tree cannot be ascertained, three replacement trees shall be required for replanting.
- B. The tree(s) to be planted in replacement shall be located in the front yard of the same parcel from which the tree(s) is proposed to be removed.
- C. The tree(s) to be planted in replacement shall be from a similar size class or from a larger size class, unless a smaller size class is determined to be more appropriate, as determined by the Building Commissioner. Size classes are enumerated in the Tree Standards and Specifications to be promulgated by the Town Board, subject to the advice of the Tree Advisory Committee, established pursuant to Chapter 20A.
- D. If the Building Commissioner determines that the front yard of the site does not allow for the planting of the required number of trees, the Building Commissioner shall require the applicant to plant the maximum number of trees possible, with any remaining requirement satisfied by the payment of an additional fee to the Building Department for each tree unable to be planted in the amount set forth in the Town of North Hempstead Fee Schedule. The fee shall be allocated to the Town's Tree Preservation Fund in accordance with § 20A-13.

Adopted: 11/18/21

- E. All required plantings shall occur between April 1 and December 1 and within 90 days after the tree removal.
- F. If plantings cannot occur within 90 days of the removal due to the above planting time restrictions specified in § 20A-9E, the Commissioner of Buildings may require the applicant to deposit a performance bond or a cash deposit in the form of a certified check with the Commissioner of Buildings in an amount which shall be determined by the Commissioner to be equal to the estimated cost of planting the required number of trees and, if applicable, stabilizing the site. The term of said deposit or performance bond shall not exceed a period of six months, and the deposit or bond shall not be released until the plantings have been satisfactorily completed in accordance with the approved tree removal permit.
 - (1) In the event of a default, such bond or cash deposit shall be forfeited to the Town Building Department and the funds shall be applied to the Tree Preservation Fund. If a permittee is found to be in violation of the conditions of the tree removal permit, the Commissioner of Buildings shall determine the remedy of the violation; however, in no circumstances shall such forfeiture of the bond serve as a remedy of the violation.
 - (2) Upon satisfactory completion of the contemplated work in accordance with the application and this chapter, such bond or cash deposit shall be released by the Commissioner of Buildings. Satisfactory completion of the work shall be evidenced by the Commissioner of Buildings.

§ 20A-10 Abuse of trees.

- A. Unless specifically authorized by the Superintendent of Highways, no person shall intentionally damage, cut, carve, mutilate, transplant, ~~or~~ remove, injure or destroy any tree on a public right-of-way, attach or maintain any rope, wire, nails, advertising posters or other contrivance to any tree in a public right-of-way, allow any gaseous, liquid or solid substance which is harmful to such trees to come in contact with them or set fire or permit any fire to burn when such fire or the heat therefrom will injure any portion of any tree in a public right-of-way, except that a notice to remove a tree may be posted on that tree pursuant to § 20A-5.1B of this chapter. [Amended 3-11-1980 by L.L. No. 3-1980]
- B. Whenever necessary and practical, in the opinion of the Superintendent of Highways, all trees in a public right-of-way or on Town-owned property within a radius of 10 feet of any excavation or construction performed by any person shall be guarded by a fence, frame or box of not less than four feet in height and eight feet square or at a distance in feet from the tree equal to the diameter of the tree. All dirt, debris, rubble or building or construction material shall be kept outside the enclosure.
- C. No person shall deposit, place, store or maintain upon any Town-owned public place any stone, brick, sand, concrete or other materials which may impede the free passage of water,

Adopted: 11/18/21

air and nutrients to the roots of any tree growing therein except by written permission of the Superintendent of Highways or the Commissioner of the department having jurisdiction over the location.

§ 20A-11 Tree removal permit fees for tree removal on private property.

[Added 4-2-2002 by L.L. No. 5-2002]

- A. All permit fees prescribed in this section shall be collected by the Building Department, and no permits shall be issued by the Building Commissioner until such fees have been paid.
- B. The "estimated cost" herein referred to means the amount of money that would ordinarily be expended for healthy trees and shrubs.
- C. For a permit for the removal of trees, the fee shall be in the amount indicated in the Town of North Hempstead Fee Schedule. [Amended 4-11-2006 by L.L. No. 5-2006]

§ 20A-12 Rebuttable Presumptions.

- A. There shall be a rebuttable presumption that the owner or occupant, on whose land any tree has been removed, cut down, destroyed or substantially altered without the necessary permit, is responsible for performing or allowing the act to occur, except on publicly-owned or maintained land, or other public right-of-way.
- B. There shall be a rebuttable presumption that the person or business entity who removed, cut down, destroyed or substantially altered a tree without the necessary permit had the permission of the property owner or occupant of the land to perform such activity, except on publicly-owned or maintained land or other public right-of-way.

§ 20A-13 Tree Preservation Fund

A. Establishment of Tree Preservation Fund. The Comptroller of the Town of North Hempstead is hereby directed to establish a separate line item under the Town's general fund which will be designated as the Tree Preservation Fund. All fees which are required pursuant to this chapter to be paid into said fund shall be delivered to the Town's Comptroller and segregated into a separate line item of the general fund. The money in the Tree Preservation Fund shall be used for the planting and maintaining of trees by the Town, as directed by the Town Board in consultation with the Tree Advisory Committee.

B. Purpose. The Tree Preservation Fund shall be a fund to receive in-lieu payments from applicants to satisfy tree replacement requirements as set forth in this chapter and § 2-9(T), which cannot be met on-site where the Building Commissioner determines that it is impracticable, impossible or

Adopted: 11/18/21

not warranted based on site constraints or relevant site planning considerations, including but not limited to the location of utilities, underground or aboveground structures, paved surfaces, existing trees, topography or insufficient space. In addition, any public or private entities that wish to donate to the Town of North Hempstead to provide trees to be planted may donate to the Tree Preservation Fund for said purpose.

C. Applicability. The Tree Preservation Fund applies to all private properties seeking tree removal permits in the Town of North Hempstead pursuant to this chapter and § 2-9(T).

D. Use of funds.

(1) Payments and contributions to the Tree Preservation Fund shall be used for the sole purpose of planting and maintaining trees, including watering, fertilizing, pruning and trimming, and other applicable landscaping projects for public benefit. Funds should, if feasible, first be applied to projects within the closest proximity to where the tree removal has occurred.

(2) Funds in the Tree Preservation Fund shall be administered by the Town's Comptroller in consultation with the Tree Advisory Committee. Projects and fund allocation shall be approved by the Town Board.

(3) Proposed landscaping may include trees, shrubs, and other permanent plant materials. Planting and maintenance includes purchase, transportation, mulching, watering, fencing and labor associated with replacement plantings, and other applicable landscaping. The Tree Preservation Fund may be used to fund other associated project tasks including the installation of irrigation systems to support plantings, design, tree inventory, Tree Master Plan, tree boxes, tree grates (tree grates may only be installed following approval by the Tree Advisory Committee) and soil amendments that enhance and promote long-term sustainability of plantings. Public lands include parks, preserves, public open spaces, community and civic facilities, and land within public rights-of-way within the Town.

(4) The Town's Comptroller, in consultation with the Tree Advisory Committee, shall provide an annual report of the Tree Preservation Fund to include an itemized list of receipts and expenses, a list of projects completed, and the current balance remaining in the fund. The Annual Report shall also include a list of proposed projects and an estimated budget for the following year. The Annual Report shall be submitted to the Town Board annually by June 15 for review and approval.

E. Required Contribution.

(1) The Building Commissioner shall have the right to require, in lieu of replacement and replanting of a tree(s) that was removed on private property in connection with Section 2-9(T) and in the front yard of private property pursuant to Chapter 20A, the payment of a fee, in the amount indicated in the Town of North Hempstead Fee Schedule, which shall not be less than \$300 per tree. These funds will be paid into the Town of North Hempstead Tree Fund account, with the moneys used for the purposes set forth in this section.

Adopted: 11/18/21

(2) Payment into the Tree Preservation Fund shall be made prior to the issuance of any certificate of tree planting issued by the Building Department related to the tree removal.

§ 20A-14 Tree Advisory Committee.

A. The Town Board, by resolution, shall re-establish its Tree Advisory Committee for the Town of North Hempstead. Said Tree Advisory Committee members shall serve without compensation and at the pleasure of the Town Board. The Tree Advisory Committee shall be comprised of seven members of the public who live or work in the Town of North Hempstead, together with such Town Employees as the Town Board may designate. Each Member of the Town Board may appoint one member of the public to the committee. The Town Board shall designate the chair of the committee. All appointments are subject to confirmation by the Town Board. Members of the Tree Advisory Committee shall serve terms of three years, except for the first committee, where two terms shall be for three years; three terms shall be for two years; and two terms shall be for one year. Vacancies on the Committee shall be filled in the same manner as the original appointment, except that a vacancy occurring other than by the expiration of term of office shall be filled only for the remainder of the unexpired term. Members shall be persons who have knowledge of trees and shrubs and their planting and maintenance, but professional forester or arborist experience shall not be required, except as provided for herein. In addition to any other members, a member of the Town Board and an ISA certified arborist shall serve on the Tree Advisory Committee. The members of the Tree Advisory Committee shall be publicly available and listed on the Town's website, together with their terms.

B. The Tree Advisory Committee shall meet at least quarterly, and more frequently when deemed necessary by the chair, for the following purposes:

(1) Prepare and issue a draft annual report to the Town Board by June 15 of each year.

(a) The draft annual report shall include the following:

(i) A summary of Town tree-related activities for the preceding year (including the number of the Town's tree plantings, tree related service requests and such other information as the Tree Advisory Committee shall reasonably deem necessary);

(ii) A community-wide Tree Master Plan recommending actions for the upcoming year;

(iii) An assessment and reporting on the Town's tree inventory and tree canopy cover beginning with the first year such information is available.

(b) The draft annual report, subject to any amendments by the Town Board, shall become the final annual report following adoption by the Town Board and shall be made available on the Town's website;

Adopted: 11/18/21

- (2) Assure compliance with the requirements relating to the Town's designation as a Tree City USA;
- (3) Assist the Comptroller in the preparation of the Annual Report of the Tree Preservation Fund as set forth in this chapter;
- (4) Work with the Grants Coordinator to identify available sources of funding for activities of the Tree Advisory Committee and the Town related to trees;
- (5) Develop and recommend to the Town Board modifications to the Tree Standards and Specifications, including recommendation for a "Right Tree, Right Place" policy, which may identify varieties and tree species suitable for planting in the Town, prioritizing native species and appropriate underwire trees, and identifying trees that are neither suitable nor desirable for planting in the Town. The Tree Advisory Committee may recommend through its representative from the Highway Department that the Town have the approved tree species planting list, and any amendments thereto, be reviewed by an independent certified arborist;
- (6) Make recommendations to the Town Board concerning the following:
 - A. New or amended legislation and policies related to the maintenance, protection and enhancement of the trees in the Town;
 - B. An assessment plan to measure and map the Town's tree canopy cover and document it over time, which shall be included in the Tree Advisory Committee Annual Report when available;
 - C. A management plan to address ivy growth on trees in the public right-of-way and within parks;
 - D. Programs and projects relating to Town trees with the goal of increasing public awareness of the economic, health and environmental benefits of trees;
 - E. The maintenance, selection and planting of trees located within the curbside or public right-of-way or on Town owned property;
 - F. An assessment plan to measure and map the Town's inventory of street trees, landmark trees and other significant trees in the Town, which shall be provided to the Members of the Town Board, Highway Superintendent and Commissioner of Buildings, along with the reasons for such designation, as part of the Tree Advisory Committee Annual Report;
 - G. To recommend, in consultation with the Comptroller, the use of funds in the Tree Preservation Fund, for the purposes outlined in § 20A-13;

Adopted: 11/18/21

H. The inclusion or modification of tree-related information and other resources on the Town's website.

(7) Meet with tree and other subject matter experts to further the objectives set forth in this code; and

(8) Perform such other duties as the Town Board may assign to the Tree Advisory Committee.

§ 20A-15 Penalties for offenses.

[Amended 8-21-1990 by L.L. No. 9-1990; 4-2-2002 by L.L. No. 5-2002; 12-8-2009 by L.L. No. 20-2009]

A. Any person who violates any of the provisions of this chapter shall be deemed guilty of a violation and shall be liable for a fine of not less than \$350 nor more than \$1,000 or imprisonment for not more than 15 days, or both, for conviction of a first offense; for conviction of a second or subsequent offense, both of which were committed within a period of five years, by a fine of not less than \$600 nor more than \$2,000 or imprisonment for not more than 15 days, or both. Each violation shall constitute a separate offense and is punishable accordingly.

B. ___ Civil penalties. In addition, this chapter may be enforced by civil action, including an injunction, and any person who has violated or permitted a violation of this chapter may be directed by the Town to replace any trees removed, destroyed or substantially altered in violation of this chapter with new trees as required hereunder by this code.

C. Separate violations. The removal, destruction or substantial alteration of the habitat of each tree that is removed, destroyed or of which the habitat has been substantially altered, or the failure to replace as directed each tree hereunder required to be replaced, in violation of this chapter, shall constitute a separate violation pursuant to this chapter.

§ 20A-16 Severability.

If any clause, sentence, paragraph, section, word or part of this chapter is adjudged by any court of competent jurisdiction to be invalid, the judgment shall not affect, impair or invalidate the remainder of this chapter but shall be confined in its operation to the clause, sentence, paragraph, section or part of this chapter directly involved in the controversy in which such judgment is rendered.

§ 20A-17 When effective.

This chapter shall take effect immediately upon filing with the Secretary of State.

Section 3.

This Local Law shall take effect immediately upon filing with the Secretary of State.