

**PROPOSED LOCAL LAW B – 2024
REPLACE CHAPTER 219**

CHANGE TITLE OF CHAPTER TO “TREES” (Shrubs, brush, grass & weeds are dealt with in Property Maintenance)

§ 219-1 Findings; intent.

The Board of Trustees of the Village of Flower Hill ("Board of Trustees") recognizes that trees stabilize the soil, control water pollution by preventing soil erosion and flooding, absorb air pollution, provide us with oxygen, yield microclimatic effects, are a natural barrier to noise, provide a natural habitat for the wildlife in our area and have an intrinsic aesthetic quality. Destruction or removal of trees deprives the residents of the Village of Flower Hill, as well as all sectors of society, of these benefits and disrupts fundamental ecological systems of which they are an integral part. Therefore, it is the intent of the Board of Trustees, in enacting this chapter, to regulate the destruction and removal of trees to secure these benefits for the present and future inhabitants of the Village of Flower Hill.

219-2 Definitions

For the purposes of this section, the following terms shall have the following meanings:

APPLICANT The owner of real property, or his duly authorized agent, seeking a permit to remove trees pursuant to the provisions of this chapter

BOARD OF TRUSTEES The Board of Trustees of the Village of Flower Hill

DECIDUOUS TREE Any tree that loses its leaves annually after the growing season.

EVERGREEN TREE Any non-deciduous tree which has foliage that remains green and functional through more than one growing season.

GIRTH The circumference of a tree trunk, measured anywhere four inches to six inches above the ground-level base of the tree.

HABITAT The natural growing characteristics of a tree, including branch spread and distribution, root spread and distribution and aboveground branch height.

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

PUBLIC RIGHT-OF-WAY The unpaved portion of a public street which abuts private property and lies between the public street and private property.

REAL PROPERTY All property within the metes and bounds of the building lot, including the Village owned right-of-way adjoining said lot.

PUBLIC RIGHT-OF-WAY The unpaved portion of a public street which abuts private property and lies between the public street and private property.

SPECIMEN TREE May be deciduous or evergreen. Usually grown in a prominent position to be viewed from all angles for the beauty of its flower, color or natural growth pattern.

SUBSTANTIAL ALTERATION Any cutting or drastic pruning or altering the grade around the habitat of a tree which impairs, destroys or endangers the life of such tree or destroys its natural symmetry, including but not limited to heavy or unnecessary cutting of top branches or of major lower limbs of a tree. In any event, the removal of more than 50% 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.

TREE Any deciduous or evergreen living woody plant, its root system and the environment within the area, defined by the outermost limits of its branches, the trunk of which is seven inches in diameter or greater at a height of four feet from ground level; minor forest vegetation of any size. Excluded from this definition are landscape shrubs including but not limited to arborvitae, Leyland cypress, holly, juniper, wintercreeper, azalea and rhododendron and the like.

VILLAGE ARBORIST A duly licensed arborist hired by the Village of Flower Hill to determine the conditions of trees with respect to disease, insect attack and danger of falling in connection with a permit application to remove trees pursuant to the provisions of this chapter.

ART. I Protection & Maintenance

§219-3 Protection of trees.

A. Every property owner or occupant shall be responsible for the normal care, including watering, of trees, shrubs and plants located on such property.

B. Willful injury or disfigurement of any tree growing within the Village shall be a violation of this chapter;

C. No person shall in anywise mutilate, girdle, cut, injure or destroy any tree or shrub in or upon any street, highway, parkway or public place in the Village of Flower Hill.

(1) Attach any sign, notice or other object to any tree or fasten any wires, cables, nails or screws to any tree in a manner that could prove harmful to the tree, except as necessary in conjunction with activities in the public interest.

(2) Pour any material on any tree or on nearby ground which could be harmful to the tree.

(3) Cause or encourage any unnecessary fire or burning near or around any tree.

(4) Construct a concrete, asphalt, brick or gravel sidewalk or otherwise fill up the ground around any tree so as to cut off air, light or water from the roots.

(5) Pile building material or equipment around any tree so as to cause injury thereto.

D. A protective barrier shall be placed around the protected trees prior to land preparation or construction activities and shall remain in place until all construction activity is terminated.

E.

No equipment, chemicals, soil deposits or construction materials shall be placed within the protective barriers.

F. Any landscaping activities subsequent to the removal of the barriers shall be accomplished with light machinery or hand labor.

§ 219-4 **Exemptions.**

A. Any person doing business as a public utility subject to the jurisdiction of the New York State Public Service Commission and any duly constituted public agency authorized to provide utility services shall be permitted to trim, prune or alter any tree which may otherwise be lawfully altered by such person to the minimum extent necessary to enable such person to repair existing utility services without having first obtained a permit pursuant to § 219-7 of this chapter.

B. The New York State Department of Environmental Conservation shall be permitted to trim, prune or remove trees pursuant to law without the necessity of obtaining a permit pursuant to § 219-7 of this chapter.

C. The State of New York, Town of North Hempstead, County of Nassau and Village of Flower Hill shall be permitted to trim, prune or remove trees pursuant to law without the necessity of obtaining a permit pursuant to § 219-7 of this chapter.

§ 219-5 **Defacing or damaging of trees by animals prohibited.**

No dog or other animal shall be permitted to stand, walk, vent or run in a manner or at a place where it may cut, deface, uproot or mutilate or commit a nuisance upon any shade or ornamental tree, shrub, grass or plants in or upon any public place or upon any private field, woodland or plot or parcel of land except by specific permission and consent of the owner of said property; and no building or other materials or debris of any kind shall be piled or maintained against any tree or shrub.

219-5 **Planting and maintenance in public areas.**

A. Planting, cutting and destruction of trees.

(1) No tree, shrub or plant shall be planted in or upon any road, street, parkway, highway or other public place in the Village of Flower Hill until a permit therefor has been issued by the Building Superintendent

(2) No stem, branch, leaf, fruit, berry, flower or seed of any tree, shrub or flower on any such road, street, parkway, highway or public place shall be cut, broken or destroyed; nor shall the root of any such tree, shrub or plant be destroyed or interfered with in any way by any individual or by any officers, servants or employees of a public or private corporation until a permit shall have been issued therefor by the Building Superintendent

(3) Permits under the provisions of this section of this chapter may be issued by the Building Superintendent without charge upon application being made therefor in writing.

B. On any corner lot, no wall, fence or other structure shall be erected or altered and no hedge, tree, shrub or other growth shall be maintained so as to obscure the view and create a dangerous traffic hazard. For the purpose of this chapter, a "traffic hazard" is deemed to be created by any fence, wall or other structure or any hedge, tree, shrub or other growth maintained on premises located at road intersections and which fence, wall or other structure, hedge, tree, shrub or other growth, in the opinion of the Village of Flower Hill Board of Trustees, so obstructs the view of operators of motor vehicles as to create traffic hazard.

ART II Tree Removal

§ 219-6 Trimming; removal of dangerous trees.

A. The owner or person in control of a premises shall keep the trees in the sidewalk area fronting on said premises trimmed so that overhanging limbs will not interfere with passersby on the sidewalk or roadway. Such limbs shall be kept trimmed at all times to allow a passage space of not less than 13 feet above the roadway, measured at a point five feet from the curblin. Trees that are dangerous or interfere with vehicle or pedestrian traffic shall be removed at the direction of the Board of Trustees.

B. No person who owns, leases, controls or otherwise occupies or possesses real property in the Village shall, without a permit, cause, suffer, permit or allow the removal, destruction or the substantial alteration of the habitat of any tree located on real property in the Village, nor shall any person or business without a permit remove, destroy or substantially alter the habitat of any tree located on real property in the Village if said tree, or any trunk thereof where such tree has more than one trunk, shall have a diameter, as defined herein, of the following size, as measured at any point from

ground level to a height of four feet six inches from the ground. In the event a tree is split, the measurement shall be taken at the point just below the juncture of the split:

- (1) For specimen trees, a diameter of 2.5 inches or greater.
- (2) For all other evergreen trees, a diameter of 4.5 inches or greater.
- (3) For all other deciduous trees, a diameter of 7.5 inches or greater.

C. This chapter shall not apply in any emergency situation in which the removal, destruction or substantial alteration of any tree or specimen tree is necessary to prevent imminent danger to human life or property. In such event, the permission of the village shall be obtained prior to removal. This chapter shall not apply to nursery stock intended for sale.

§ 219-7 **Required removal.**

A. Private property. Any tree or specimen tree growing on private real property which is endangering or, in the opinion of the Board of Trustees or the Building Inspector, constitutes a danger to a public street or to public places or which in any way endangers the usefulness of a public utility shall be removed or trimmed by the owner of the real property within 14 days after receipt of a notice from the Board of Trustees. In the event that the property owner fails to remove or trim such tree or specimen tree within said time, the Board of Trustees may then remove or trim said tree or specimen tree and assess the cost thereof against the property owner.

B. Public property. Nothing herein shall limit the authority of the Building Inspector or his designee to remove or alter any tree or specimen tree he deems necessary to protect the health, safety and welfare of the village residents.

§ 219-8 **Removal, destruction or alteration of trees.**

A. It shall be unlawful for any owner of real property, or any other person, to cause, permit or allow the removal, destruction or substantial alteration of the habitat of a tree as defined in §219- 2 of this chapter within the Village of Flower Hill, unless:

- (1) A permit is first obtained from the Building Department upon approval of the Village Arborist;
- (2) The work is done as specified in an accepted and approved landscape plan as part of an approved subdivision or building permit for the real property in question;
- (3) The alteration of habitat by the pruning of trees in accordance with customarily accepted ornamental procedures; or

(4) In the event of a life- or property-threatening circumstance requiring the removal, destruction or substantial alteration of the habit of a tree, the Building Superintendent or his/her proxy may authorize the removal, destruction or alteration which shall be certified in writing by the person giving such authority, either before or after the event, as circumstances require.

B. The removal of the tree(s) is necessary for the construction or any improvement for which a valid building permit has been issued upon submission of a landscape plan approved by the Village Arborist.

§ 219-9 Permit required; application; hearing.

A. If a person shall deem it necessary to remove, destroy or substantially alter the habitat of a tree as defined in § 219-2 of this chapter on any real property within the Village of Flower Hill and such person does not have an accepted landscape plan as part of an approved subdivision or building permit and the alteration of habitat is not in accordance with customarily accepted ornamental procedures, then such person shall first make application for a permit to the Superintendent of the Building Department.

(1) Upon receipt of the application, the Village Arborist shall visit and inspect the site to determine the condition of the tree with respect to disease, insect attack and danger of falling. The Village Arborist shall certify in writing whether the tree is healthy or diseased and submit such certification to the Superintendent of Buildings who shall make a decision as to whether the permit should be granted.

(2) The applicant is responsible for paying the Village Arborist inspection fee. A permit will not be granted if the Village Arborist has not had an opportunity to inspect the site and certify the tree's condition.

B.

The application shall include but not be limited to the following:

(1) The name and address of the applicant and owner, if not the same.

(2) The purpose of the proposed tree removal, destruction or alteration.

(3) The site of the proposed tree removal, destruction or alteration.

(4) An attached plan or sketch of the area clearly indicating the following:

(a) An outline of the site showing the location and size of existing trees.

(b) The location and size of tree(s) to be removed destroyed or altered.

(c) The location of any improvements on the property, existing or proposed.

(d) The name and address of the Tree Removal contractor who must be licensed under Section 147-4

(e) Any additional information that the Building Department may deem necessary for evaluation of the application.

C. The decision of the Superintendent of the Building Department shall take into account the following considerations:

- (1)** The location and size of the tree(s) to be removed, destroyed or altered.
- (2)** The condition of the tree(s) with respect to disease and potential for creating hazardous conditions.
- (3)** The proximity of the tree(s) to existing or proposed structures and utility appurtenances.
- (4)** The reason for the removal.
- (5)** The character established at the site or proposed site with respect to existing trees or other vegetation in the immediate vicinity, locality or village.
- (6)** The environmental effect of the removal, destruction or alteration.
- (7)** The aesthetic effect of the removal, destruction or alteration.
- (8)** The intentions of the applicant to replant additional tree(s) at the site.
- (9)** Any of the considerations enumerated in § 219-1 of this chapter.
- (10)** An application fee in the sum set forth in Chapter A243, Fees, Charges and Deposits, shall accompany an application for a permit hereunder.

D. Upon the submission of an application, inspection by the Village Arborist if required, and upon approval by the Superintendent of the Building Department, the Village shall issue a permit. All work to be performed pursuant to a duly issued permit for the removal of trees shall be limited to weekdays from 8:00 a.m. to 6:00 p.m., excluding federal holidays.

§ 219-10 **Replacement of trees.**

The Superintendent of the Building Department may require the planting of one or several of the same or agreed upon alternate species of trees as are 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 for the issuance of a permit for tree removal. The location for planting of the replacement trees shall be agreed upon between the applicant and the Superintendent of the Building Department prior to issuance of a permit for removal.

§ 219-11 **Required removal.**

A. Maintenance.

- (1)** The maintenance and care of any tree growing within a public right-of-way shall be the responsibility of the private property owner whose property abuts the public right-of-way. Maintenance of trees shall include all necessary trimming, pruning and removal of trees as required by the Superintendent of the Building Department.

(2) Maintenance shall also include the trimming or removal of any tree or bush that obstructs the line of sight of a person accessing a public street, as determined by the Superintendent of the Building Department.

B. Any tree growing on private real property or within a public right-of-way which is endangering or, in the opinion of the Superintendent of the Building Department, constitutes a danger to the public, public street or to a public place, or which in any way endangers the usefulness of a public sewer or public utility, shall be removed or trimmed by the owner of real property within 14 days of receiving notice from the Building Department, unless the danger is imminent, in which case the work shall be completed within one business day of receiving notice. In the event that the owner fails to remove or trim such tree within said time, the Superintendent of the Building Department may then arrange for the removal or trimming of said tree and assess the cost thereof against the property owner.

C. Nothing herein shall limit the authority of the Superintendent of the Building Department to remove or alter any tree that is growing on public or private property or a public right-of-way if he deems it necessary to protect the health, safety and welfare of the Village residents.

D. No new trees shall be planted within the public right-of-way unless authorized by the Superintendent of the Building Department.

§ 219-12 **Penalties for offenses.**

A. Any person who shall violate any provision of this chapter shall be deemed guilty of a violation, and, upon conviction thereof, the court may impose a fine of no less than \$5,000 and no more than \$10,000 per tree illegally removed, destroyed or substantially altered. The court, in addition to any penalties imposed, may order any person convicted of violating the provisions of this chapter to replace the tree(s) illegally removed, destroyed or substantially altered with the same species or agreed-upon alternate species having approximately the same diameter. Each such violation shall constitute a separate offense and shall be punishable as such hereunder.

B. In addition to any penalties which may be imposed pursuant to Subsection **A**, any person who violates any provision of this chapter may be ordered to restore the premises damaged by the unlawful removal, destruction or alteration of trees to such suitable conditions as the Board of Trustees may require. In the event that the property is not restored within a reasonable time, as determined by the Board of Trustees, they may restore, or cause to be restored, such real property, and all costs incidental to such restoration shall be assessed against the real property in question and shall be a lien against said real property in the same manner as real estate taxes, with the same force and effect.

§ 219-13 **Administration.**

This chapter shall be administered by the Board of Trustees, which shall have the authority to promulgate rules and regulations for the effective administration of this chapter consistent with the intent of this chapter as stated in § **219-1**. It shall have the authority to hire a licensed arborist or a landscape architect as a consultant, subject to the approval of the Board of Trustees.

§ 219-14 **Appeals.**

A. Any person aggrieved by any act or determination of the Superintendent of the Building Department in the exercise of the authority herein granted shall have the right to appeal to the Board of Trustees within 30 days after the determination is made, by filing an application for a Special Use Exception Permit

B. An appeal shall be in writing, stating the decision appealed from and the reasons for the appeal. The determination of the Board of Trustees shall be binding and conclusive.