

**TNH Draft Tree Proposals - Overview of Related Documents**

1. Revised Proposed Tree Policy: This document incorporates much of the current tree policy (Category 2), together with proposed amendments to address sidewalk district projects (Category 1), a process for right-of-way tree removal by permit applicants (Category 3), guidelines for tree removal in connection with tree roots infiltrating a house connection sewer (Category 4) and a tree replanting policy (Section V).
2. Proposed Amendments to Section 2-9(T) (marked to show changes from current provisions): Section 2-9(T) of the Town Code governs tree removal when removal is sought in connection with another activity in which a building permit is required. For example, tree removal associated with construction of a new dwelling.
3. Proposed Amendments to Chapter 20A (marked to show changes from current provisions): Chapter 20A of the Town Code governs tree removal: (a) in the public right-of-way; and (b) from the front yard of private property when not in connection with an activity that requires a building permit.

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These proposed amendments are in many cases intended to address concerns raised by residents or those interacting with the existing Town Code as it relates to trees. Overall, the proposed changes reflect several priorities, some of which have come out of discussions with the Greater Council, including:

- Replanting requirements that are practical, feasible and enforceable
- A new mechanism that comes into play when trees and infrastructure work (such as sidewalks) are in conflict
- The responsibilities and composition of a Town Tree Advisory Committee
- The establishment of a “tree establishment bond” for certain tree replanting situations
- Town policies related to tree removal and replanting
- Evaluation of fines applicable to Chapter 20A

I remain available to discuss specific comments prior to the March 18<sup>th</sup> meeting. While specific written comments will be best, if there is interest, we are also available to discuss the proposals at a meeting held over the phone or zoom. Pre-meeting comments related to the preliminary draft tree proposals can be emailed to me and Mitchell Pitnick for consideration and will not be made part of the formal record. If you wish your comments to be made part of the formal record, email [comments@northhempsteadny.gov](mailto:comments@northhempsteadny.gov).

I appreciate and share the Greater Council’s focus on matters related to tree preservation and tree removal and look forward to a productive and collaborative process.

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**FOR DISTRIBUTION AND PUBLIC COMMENT**

**Town of North Hempstead Tree Policy**

## **FOR DISTRIBUTION AND PUBLIC COMMENT**

### **Town of North Hempstead Tree Policy**

The Town Board is authorized pursuant to Section 20A-4 of the Town Code to adopt and amend the Town's Tree Removal Policy, which governs the removal of trees from a public right-of-way and Town-owned public places. This policy is intended to provide reasonable public notice of the removal of a tree(s), is designed to minimize the removal of trees other than for public safety or other public benefit and sets forth replanting requirements.

Under this policy, the Town has determined that it is necessary to have more than one process for tree removals undertaken by the Town, depending on the circumstances of the tree removal. A *Category 1 Tree Removal* will include trees that are to be removed in conjunction with a sidewalk, curb or other right-of-way project, regardless of size or scope of the project. A *Category 2 Tree Removal* will include all other tree removals by the Town from the public right-of-way, as well as removals from parks or other Town-owned property. Procedures related to a *Category 3 Tree Removal* or *Category 4 Tree Removal* shall be followed by the Town upon application from a private applicant seeking to remove a tree on a public right-of-way and/or private property pursuant to Town Code Chapter 20A.

As defined by the Town Code, a tree is "Any living woody plant 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."

#### **I. CATEGORY 1 TREE REMOVAL** **Sidewalk, Curb Cut or Other Right-of-Way Work**

The Town of North Hempstead Sidewalk District is responsible for maintaining sidewalks within the unincorporated areas of the Town. The Sidewalk District undertakes routine sidewalk replacement projects and capital funded projects. The Sidewalk District also completes repairs and ongoing maintenance on sidewalks that are identified within this policy. Based on the location of sidewalks, it is necessary for the Sidewalk District to address existing conditions during its maintenance and replacement efforts, which include but are not limited to conditions relating to trees and curbs.

The Town is cognizant of the importance of trees for the environmental, health and aesthetic role that they play in the various areas of our Township. As a matter of policy, the Town is committed to preserving existing trees when feasible during sidewalk projects.

The Town is aware of the sometimes inherent conflict in its efforts to preserve existing trees and maintain safe sidewalks and curbs. The Town further recognizes that during certain projects tree roots have caused uplifting and/or damage to sidewalks and/or roadside curbs. Trees will be removed only when necessary to ensure public health, safety and welfare of the constituents of the

Town. Trees removed will be re-planted one for one unless the circumstances dictate otherwise (space restrictions, utility issues, etc.).

For these reasons the Town has established the following policy to address these ongoing conflicts:

**1. Identification of work**

The Sidewalk District will undertake projects based on: (a) proactive identification; (b) constituent requests for repair and/or replacement; and (c) requests made by the Town Supervisor and Councilmembers. Requests for large projects should be sent by the Supervisor and Councilmembers to the Sidewalk District prior to the months of August and September for potential inclusion into the following year's Capital Plan. The Sidewalk District also responds to and completes emergency work when necessary.

**2. Inspection of work**

In response to work identified in Paragraph 1 above, the Sidewalk District will inspect work areas to determine the following:

- (a) If a repair of the sidewalk(s) is necessary;
- (b) If a replacement of the sidewalk(s) is necessary;
- (c) If the sidewalk work can be completed without removal of the tree while maintaining safety standards;
- (d) If the sidewalk work requires the removal of a tree(s);
- (e) If a section(s) of curb needs to be replaced or repaired due to the sidewalk work; and

Items (c), (d) and (e) will be determined by an arborist, either under the Town's employ or by an approved contractor. The arborist shall also make recommendations about feasibility and location for tree re-plantings. The Sidewalk District shall be guided by the arborist report. No action with respect to any tree, except in emergency circumstances, shall be taken until such arborist report is obtained.

**3. Determination of final scope of work**

Upon the completion of the inspection specified in Section 2, a final scope of work will be developed. Any action with respect to a tree proposed to be removed or included in the final scope of work shall be supported by the arborist report. Any tree removal recommendations contained in the final scope of work must specify, based on the arborist report, whether the tree must be removed or, in the alternative, can be safely left as is, or whether other steps, such as repositioning of the sidewalk, among others remedies, can be taken that will allow the tree to remain.

#### **4. Notification of work**

The Sidewalk District shall be responsible for providing notification of work to be undertaken when done in connection with a tree removal, to the following:

- (a) The Councilmember for the area in which the work is to be undertaken and their legislative aide prior to the start of work.
- (b) For any tree to be removed, the following notice shall be conspicuously posted on the tree no less than 5 working days prior to the removal of the tree:

#### ***NOTICE OF INTENT TO REMOVE THIS TREE***

*This tree shall be removed under the authority of the Town of North Hempstead in connection with a right-of-way project. An arborist report has been obtained by the Town supporting removal of this tree. A copy of the arborist report can be obtained by contacting 311 or (516) 869-6311.*

- (c) If the public health, welfare or safety is immediately endangered, the tree may be removed without public notice.
- (d) Whenever possible, the Highway Department shall take photographs prior to the tree being cut down, records of which shall be retained in accordance with applicable law.

#### **5. Performance of work**

When necessary, the Sidewalk District shall coordinate sidewalk repair and/or replacement with Highway Department activity, including but not limited to tree and stump removal, etc. Both the tree removal and stump removal must occur prior to any sidewalk work occurring. The Town, its authorized contractor(s), or electrical utility (if the removal involves electrical wires) will complete the work identified.

#### **6. Completion of work**

The Sidewalk District will complete their work and notify the Highway Department of the property or properties that require tree plantings. The Highway Department will follow the replanting policy set forth in the Tree Replanting Policy (see Section IV).

## **II. CATEGORY 2 TREE REMOVAL**

### **All other tree removals performed by the Town**

When the Superintendent of Highways, the Commissioner of Parks and Recreation, the Executive Director of SWMA/Commissioner of Solid Waste, or the Commissioner of Administrative Services intends to have a Town tree cut down from a public right of way, park or other Town owned property<sup>1</sup>, when such work is not done in conjunction with a *Category I Tree Removal* project referenced above, the following steps shall be taken:

- 1) A notice of intent to remove such tree shall be posted on the tree for a period of not less than five (5) business days;
- 2) Simultaneously with the posting of such notice, notice by e-mail shall be given to the Supervisor, the Council Member in whose district the tree is located and 311;
- 3) The notice posted on the tree shall include the statement that any resident who would like to object to the removal of the tree shall call 311 on or before a date certain;
- 4) 311 shall immediately notify both the Supervisor and the appropriate Council Member when an objection is received, including the name, address, telephone number and e-mail address of each such resident calling to object;
- 5) Either the Supervisor or the Council Member may request that an independent arborist be retained to inspect the tree and make recommendations as to whether the tree must be removed or, in the alternative, can be safely left as is, or whether trimming or other precautionary steps can be taken that will allow the tree to remain;
- 6) If a report is requested by either the Supervisor or Council Member, no action shall be taken until such report is provided to both. Following receipt of the report, unless the Supervisor and/or Council Member direct otherwise, the recommendation of the arborist shall be followed by the Department having jurisdiction;
- 7) The Town shall maintain a list of independent arborists qualified to make a report when one is requested. In no event shall such arborist be hired to cut down the tree;
- 8) If the public health, welfare or safety is immediately endangered, the tree may be removed without public notice. In such a case, the Supervisor and Council Member shall be notified in advance by e-mail or telephone, if possible. Whenever possible, photographs shall be taken by the Highway Department prior to the tree being cut down;

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<sup>1</sup> The provisions of this category shall not apply to the Town/SWMA landfill properties in Port Washington. Maintenance of the landfill is governed by a 1992 consent decree as well as a Town/SWMA DEC agreement. Lands surrounding the transfer station and around the retention basins, as well as SWMA administration property remain subject to the provisions of this category.

- 9) The Highway Department will follow the replanting policy set forth in the Tree Replanting Policy (see Section IV).

### **III. CATEGORY 3 TREE REMOVAL**

#### **By a private applicant for tree removal on a public right-of-way pursuant to Town Code § 20A-5.1**

- A. When the Superintendent of Highways receives a permit application seeking to have a Town tree cut down from a public right of way (not done in conjunction with a *Category 1 or Category 2 Tree Removal* and not related to a curb cut application), the following steps shall be taken:
  - (1) Simultaneously with the Superintendent of Highways providing the applicant with a notice of intent to remove such tree, the Superintendent of Highways shall notify by e-mail the Supervisor, the Council Member in whose district the tree is located and 311;
  - (2) The notice posted on the tree shall include the statement that any resident who would like to object to the removal of the tree shall call 311 on or before a date certain;
  - (3) 311 shall immediately notify both the Supervisor and the appropriate Council Member when an objection is received, including the name, address, telephone number and e-mail address of each such resident calling to object;
  - (4) Either the Supervisor or the Council Member may request that an independent arborist be retained by the Town to inspect the tree and make recommendations as to whether the tree must be removed or, in the alternative, can be safely left as is, or whether trimming or other precautionary steps can be taken that will allow the tree to remain;
  - (5) If a report is requested by either the Supervisor or Council Member, no permit shall be issued by the Highway Department until such report is provided to both. Following receipt of the report, unless the Supervisor and/or Council Member direct otherwise, the recommendation of the arborist shall be followed by the Highway Department;
  - (6) The Town shall maintain a list of independent arborists qualified to make a report when one is requested. In no event shall the Town retain an arborist who has also been hired by the applicant to cut down the tree; and
  - (7) The Highway Department will follow the replanting policy set forth in the Tree Replanting Policy (see Section IV).
- B. When the Superintendent of Highways receives a permit application seeking to have a Town tree cut down from a public right of way in conjunction with a curb cut application, the Superintendent of Highways shall be guided by the following criteria in making the determination to grant or deny the application:
  - (1) The ability of the applicant to rearrange the layout of the proposed curb cut to minimize the removal of trees.
  - (2) The necessity of removal of the tree in question.

- (3) The condition of the tree with respect to disease and danger of falling. In the event that the diseased condition of the tree is not evident, the Superintendent of Highways maintains the right to require the applicant to submit proof from a New York State certified arborist.
- (4) The proximity of the tree to proposed or existing curb cut.
- (5) The significance of the tree in regard to:
  - [a] The size of the tree.
  - [b] The rarity of the species.
  - [c] The historical value of the tree.
- (6) The effect of removal on:
  - [a] The character of the location with respect to vegetation management practices.
  - [b] Ecological systems.
  - [c] The existing screening of any road or highway bordering the location in question.
  - [d] Erosion control from the location on which the tree is to be removed and its impact on adjacent parcels.
- (7) Whether a denial of the permit will result in unnecessary hardship or severe financial loss to the applicant.

#### **IV. CATEGORY 4 TREE REMOVAL**

**By a private applicant for tree removal on a public right-of-way or private property pursuant to Town Code Chapter 20A, when tree roots infiltrate the house connection sewer.**

In reviewing an application for tree removal from a public right-of-way or private property in connection with an application for removal based on tree roots interfering with a house connection sewer, the Superintendent of Highways or the Commissioner of Buildings shall require the following prior to issuing a tree removal permit:



- 1) A paid invoice from a plumber or other drain cleaning service professional for work performed on the house connection sewer at the property resulting from damage caused by tree roots (from the tree sought to be removed) having infiltrated the house connection sewer causing damage.

## **V. REPLANTING POLICY**

- A. Any tree removed by the Town shall require the Highway Department to replant a tree in accordance with the following:

The properties requiring a replacement tree(s) will be included in the nearest scheduled planting schedule. The Highway Department will be responsible for maintaining a list of properties requiring tree(s) planting and keep a record confirming the date when such plantings occur.

Use of root barriers will be implemented where possible. Appropriate tree species for planting shall be determined by the Town's Tree Advisory Board, in consultation with the Town's horticulturist and/or arborist (whether a town employee or contractor). Replacement tree(s) will be based on available stock and the most appropriate tree species for the location(s) with a focus on disease resistant, drought resistant, deep rooted species to ensure a long life and avoid future sidewalk lifts, if applicable. If, based on the recommendation of an arborist, a replacement tree is unable to be planted at said property due to physical restrictions in the utility trip/right-of way area, the Highway Department will review the Tree Planting Service Requests and choose the next-in-line service request (based on creation date) and plant the replacement tree at that location (if suitable for tree planting).

Educational material will be provided to the property owner(s) on tree maintenance when the replacement tree(s) is planted. This material will be focused on best practices for watering and maintaining the tree both at its current age and moving forward.

- B. The above provisions notwithstanding, in any case where a property owner or utility seeks to plant or replant a tree in the Town's Right-of-Way, the following process shall be complied with:

- 1) The property owner or utility shall file a tree planting permit application with the Highway Department together with the requisite permit fee, prior to undertaking any tree planting.
- 2) If a property owner or utility procures a tree meeting the Town's tree planting specifications, the property owner or utility may arrange with the Highway Department for the planting of the tree in the adjacent Right-of-Way. No permit is required if the Town plants the tree.

**VI. Effective Date**

This policy shall become effective immediately upon its adoption by the Town Board.

DRAFT

**FOR DISTRIBUTION AND PUBLIC COMMENT  
TOWN OF NORTH HEMPSTEAD  
LOCAL LAW NO. OF 2021**

**A LOCAL LAW AMENDING CHAPTER 2 OF THE TOWN CODE  
ENTITLED "ADMINISTRATION AND ENFORCEMENT"  
Section 2-9(T)**

**FOR DISTRIBUTION AND PUBLIC COMMENT**

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

**A LOCAL LAW AMENDING CHAPTER 2 OF THE TOWN CODE  
ENTITLED “ADMINISTRATION AND ENFORCEMENT”**

**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 2 of the Town Code entitled “Administration and Enforcement” to make amendments to the tree removal permit requirements in Town Code Section 2-9(T) relative to the preservation of trees on private property.

**Section 2.**

Chapter 2 of the Town Code is hereby amended as follows:

§ 2-9 Permit required; application.

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T. Tree removal permits.

(1) No person, firm or corporation shall remove, **destroy or substantially alter the habitat of any tree to cause the death of** any tree or trees on private property without first obtaining a tree removal permit.  
[Amended 6-19-2012 by L.L. No. 10-2012]

- (a) If the removal of a tree(s) on private property is in connection with another activity for which a permit is required under § 2-9A of this Code, a tree removal application as described in this subsection is required. In this section a “tree” is defined as any living woody plant which is six inches or more in diameter at a height of 4 ½ 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. **In this section, the removal of a non-living tree shall require a permit hereunder.**
- (b) If the removal of a tree(s) on private property is not in connection with any other activity for which a permit is required under § 2-9A of this Code **and is located in the front yard of a parcel,** [an applicant] **the tree removal** is

subject to the [~~definitions and tree removal~~] application **and replacement** requirements [~~as described~~] **set forth** in Chapter 20A.

- (2) If any such tree removal occurs within the six months prior to the filing of an application for a permit required by § 2-9A, the removal of a tree or trees is deemed to have taken place in connection with the permit required by § 2-9A. This subsection shall not apply to any tree removal that occurred within the six-month period prior to the effective date of this subsection.
  - (3) In addition to the information required by §2-9B of this Code, an application for a tree removal permit shall also include the following information:
    - (a) The name and address of the applicant and status of legal entity.
    - (b) The status of the applicant with respect to the land.
    - (c) Written consent of the owner or owners of the land, if the applicant is not the owner or sole owner.
    - (d) The location of the property, including the section, lot and block number and street address.
    - (e) The reason tree removal is sought.
    - (f) The condition of each tree with respect to disease and danger of falling.
    - (g) A description of the size and type of each tree to be removed, including common name and/or botanical name.
    - (h) Photos of each tree to be removed.**
    - (i) A diagram showing the proposed location. The location of any replacement tree shall be approved by the Building Commissioner.**
- ~~(h)~~**(i)** Such other information as may be reasonably be required by the Building Commissioner to establish compliance with this section, including, but not limited to the following:
- [1] A signed statement from a New York State certified arborist indicating the health of the tree.
  - [2] An erosion control plan.

- [3] [~~Photos of each tree to be removed.~~] **Reserved**
  - [4] A survey noting the location of any structures or utilities endangered by the tree.
  - [5] Alternative mitigation if the tree acts as a visual and/or noise barrier to a road or highway.
  - [6] Proposed methods to ensure the protection of remaining trees. A copy of the Tree Standards and Specifications will be provided to the applicant.
  - [7] Flagging of each tree to be removed.
- (4) In making the determination to grant or deny the application, the [b]Building [e]Commissioner shall be guided by the following criteria:
- (a) The ability of the applicant to rearrange the layout of proposed structures to minimize the removal of trees.
  - (b) The necessity of removal or alteration of the tree in question.
  - (c) The condition of the tree with respect to disease and danger of falling. In the event that the diseased condition of the tree is not evident, the Building Commissioner maintains the right to require the applicant to submit proof from a New York State certified arborist.
  - (d) The proximity of the tree to proposed or existing structures.
  - (e) Whether the tree endangers the usefulness of a public sewer or public utility.
  - (f) The significance of the tree in regard to:
    - [1] The size of the tree.
    - [2] The rarity of the species.
    - [3] The historical value of the tree.
  - (g) The effect of removal on:
    - [1] The character of the site with respect to vegetation management practices.
    - [2] Ecological systems

- [3] The existing screening of any road or highway bordering the property in question.
- [4] Erosion control from the parcel on which the tree is to be removed and its impact on adjacent parcels.
- (h) Whether a denial of the permit will result in unnecessary hardship or severe financial loss to the applicant.
- (5) Tree replacement guidelines. Each tree removed of a diameter of six inches or greater **shall be** subject to the tree replacement guidelines enumerated in this subsection. **Failure to comply with the tree replanting requirements set forth in this section shall constitute a separate and distinct offense hereunder.**
- (a) ~~[Fifty percent of the total tree diameter removed must be replaced.]~~ **Replacement tree(s) must be a minimum of six feet in height; measured from the base of the trunk to the end of the upper most point of the tree. Except as provided for in § 2-9(T)(5)(d):**
- [1] Each tree removed having a diameter measuring between six inches to thirty inches shall require a replacement tree to be planted.**
- [2] Each tree removed having a diameter greater than thirty inches will require the planting of two replacement trees.**
- (b) The tree(s) to be planted in replacement shall be located on the same parcel from which the tree(s) is proposed to be removed.
- (c) ~~[The proposed location of the new tree(s) shall be approved by the Building Commissioner.]~~
- ~~[(d)]~~ The tree(s) to be planted in replacement shall be from a similar size class or from a larger size class as the tree(s) removed, **unless a smaller size class is determined to be more appropriate, as determined by the Tree Advisory Committee.** Size classes are enumerated in the Tree Standards and Specifications to be promulgated by the ~~[Building Commissioner]~~ **Tree Advisory Committee established pursuant to Chapter 20A.**
- ~~[(e)]~~**d** If the Building Commissioner determines that 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** ~~[trees to be replaced with shrubbery, provided the plant selection has met his prior approval, as a~~

~~condition of a tree removal permit. If the site does not permit the planting of shrubs, the Building Commissioner shall require the applicant to~~ **payment of** an additional fee to the ~~[Commissioner of] Building[s]~~ **Department for each tree unable to be planted** in ~~[an]~~ **the** amount ~~[determined by the applicant and confirmed by the Commissioner to be equal to the estimated cost of the required number of trees and/or shrubs]~~ **set forth in § 20A-12. The fee shall be allocated to the Town's Tree Preservation Fund.**

~~(f)~~**e**) All required tree plantings shall occur between April 1 and December 1 and 90 days after the tree removal.

~~(f)~~**f**) ~~If~~ plantings cannot occur within 90 days of the removal due to the above planting time restrictions, 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 applicant and confirmed by]~~ the Commissioner to be equal to the estimated cost of planting the required number of trees ~~[and/or shrubs]~~ 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.

~~(a)~~ **1**) In the event of a default, such bond or cash deposit shall be forfeited to the ~~[Town Parks Department for additional plantings in Town parks,]~~ **Building Department and the funds shall be applied to the Tree Preservation Fund.** ~~[and the applicant shall]~~ **If a permittee is** ~~[be]~~ found to be in violation of the conditions of the tree removal permit~~[-]~~, ~~[T]~~**he** 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.

~~(b)~~ **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.

**(6) A two year tree establishment bond will be required where trees have been removed on a parcel in conjunction with or to facilitate the construction**



**of a new commercial building or residential dwelling in which tree replanting is required.**

**(a) The applicant shall deposit a two year tree establishment bond or a cash deposit in the form of a certified check with the Commissioner of Buildings after the Commissioner of Buildings approves the trees at the final inspection and prior to issuance of the certificate of occupancy. The bond or escrow amount shall be 100 percent of the total landscaping costs, but in no case shall be less than \$1,000 per required replacement tree. If a bond is offered, it shall be executed by a surety or guaranty company qualified to transact business in the State of New York and acceptable to the Town.**

**(b) Two years after the date of the bond or escrow account being provided, the Commissioner of Buildings shall inspect the site and make a determination of whether the required trees are viable, and if so, the Town may release the bond or escrow account upon approval by the Commissioner of Buildings. In the event of a default, such bond or cash deposit shall be forfeited to the Building Department and the funds shall be applied to the Tree Preservation Fund.**

**([6]7)** In the event the Building Commissioner denies a request for a tree removal permit, the applicant may appeal his decision to the Board of Zoning and Appeals pursuant to § 70-225M.

**([7]8)** No permit shall be issued for tree removal unless:

- (a)** The application is accompanied by plans for the development of the land from which such tree is to be removed and of any other land on the same tax lot or lots; or
- (b)** The application demonstrates a serious threat to public health and safety, which can be solved by removal of such tree.

**(9) Prior to land preparation or construction activity that could damage any tree on a property a protective barrier shall be placed around the tree. Such protective barrier shall remain in place until all construction activity is terminated. If the construction or development of a property results in damage to a tree on the property requiring its removal, such tree shall be subject to the provisions of this section. Minor tree damage shall be repaired in accordance with accepted tree surgery practice.**

**(10) The Building Commissioner shall issue a certificate of completion if it is found**

**that the proposed tree removal and tree replacement has been completed substantially in accordance with the permit and the laws applicable thereto.**

- (11) No certificate of occupancy shall be issued by the Building Commissioner until all tree planting and associated restoration work shall be completed to the satisfaction of the Building Commissioner except that, where a certificate of occupancy is applied for between December 1 and April 1, the permit holder shall submit an agreement, in writing, to the Town signed by the permit holder to ensure compliance with all planting and restoration work to the satisfaction of the Building Commissioner on or before the first day of May next following the making of the agreement.**

**Section 3.**

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

DRAFT

FOR DISTRIBUTION AND PUBLIC COMMENT  
TOWN OF NORTH HEMPSTEAD  
LOCAL LAW NO. OF 2021

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

**FOR DISTRIBUTION AND PUBLIC COMMENT**

**TOWN OF NORTH HEMPSTEAD  
LOCAL LAW NO. 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 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:

§ 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 maintenance of the physical environment, including land, water, air and other physical features[;] within this Town are of greatest concern to this legislative body and to the residents of this municipality. It is further declared to be the intent of the Town Board that this concern can best be served by regulation and control emanating from this Town Board as set forth in this chapter.

§ 20A-2 Findings and intent.

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

Since it has been long recognized that trees provide a natural habitat for the wildlife of our area, absorb air pollution, provide us with oxygen, deter soil erosion and flooding and offer a natural barrier to noise, and that the wanton and indiscriminate destruction of trees could decimate 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, resulting in the encouragement of substandard development; and increase the cost of construction and maintenance of drainage systems through the increased flow and diversion of surface waters, the Town Board of the Town of North Hempstead hereby declares it in the public interest, convenience and necessity to enact regulations which will control the removal of or changes or damages to trees within the jurisdiction of the Town to eliminate the aforesaid injurious effects of such tree removal, changes or damages.

§ 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 certified by New York State.

[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.

**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 living woody plant 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.

## 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 living woody plant 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. **The removal of a non-living tree shall require a permit hereunder.**

[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; the plan documents objectives for long-range planning to promote sustainability, species diversity, growth and health of the tree inventory; the plan should encompass, but is not limited to, vision statement, goals, objectives, strategies, annual work plan, annual budget, etc.**

§ 20A-4 Enforcement.

- A. 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 in public rights-of-way and shall direct, regulate

and control the planting, maintenance and removal of all trees growing now or hereafter in any public right-of-way.

- B. Town-owned public places. The Commissioner of Parks and Recreation shall have authority over the regulation of the planting, maintenance and removal of trees in Town-owned public places so as to ensure safety and preserve the aesthetics of such public site. [~~He~~] **The Commissioner** shall have the authority and duty to supervise or inspect all work done.
- C. Public right-of-way and Town-owned public places. The Town Board shall adopt a policy governing the removal of trees from 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) and shall be designed to minimize the need for the removal of trees other than for public safety or other public benefit. [Added 3-21-2006 by L.L. No. 4-2006]
- 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. [~~He~~] **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 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 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 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

may be issued until at least five [working] **business** days have elapsed from the time of posting as evidenced by the receipt of an affidavit of posting by the Superintendent of Highways. **In addition to the requirements of this code, the Superintendent of Highways shall follow the procedures outlined in the Town of North Hempstead Tree Policy, adopted by resolution pursuant to § 20A-4(C), with respect to considering and issuing tree removal permits under this section.**

- 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. Any permit granted shall contain a definite description of work allowed by the permit and shall contain 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.
- E. Written notice of completion of the work allowed by the permit shall be given to the Superintendent of Highways within five [working] **business** days after completion.



- F. This section shall not apply in emergencies wherein the Town official determines that public health, safety or welfare will be affected.
- G. 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.

§ 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 [~~40~~] six inches or greater in diameter and located within a front yard 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. The location of any replacement tree shall be approved by the Building Commissioner.**
  - (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.**

(~~8~~**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 New York State certified arborist indicating the health of the tree.
  - (b) An erosion control plan.
  - (c) [~~Photos of each tree to be removed.~~] **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 Building Commissioner will be provided 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; and
    - (c) The historical value of the tree.
  - (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 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 New York State 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. Written notice of completion of the work allowed by the permit shall be given to the Building Commissioner within five working days after completion.

**F. The Building Commissioner shall issue a certificate of completion 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.**

§ 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, or if its roots are causing excessive damage to the curb, gutters or sidewalks, or if **the tree or its roots** unduly interferes with any **public** sewer [system] **or house connection sewer** or

public utility, the Town official may remove the tree or consent to its removal.

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, he 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.

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

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

§ 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** [~~at the discretion of the Superintendent of Highways~~].

- 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 at the discretion of the Superintendent of Highways. Such requirement by the Superintendent of Highways 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 [~~working~~] **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 intent of this subsection.
- B. [~~Whenever possible~~] **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 the Town of North Hempstead Tree Policy** [~~at the discretion of the Superintendent of Highways~~]. **All required plantings shall occur between April 1 and December 1 and 90 days after the tree removal.**

[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 [~~40~~] **six** inches or greater is subject to the tree replacement guidelines enumerated in this section[;]. **Failure to comply with the tree replanting requirements set forth in this section shall constitute a separate and distinct offense**

**hereunder.**

A. ~~[Fifty percent of the total tree(s) diameter removed must be replaced].~~ **Replacement tree(s) must be a minimum of six feet in height; measured from the base of the trunk to the end of the upper most point of the tree. Except as provided for in § 20A-9(D):**

**(1) Each tree removed having a diameter measuring between six inches to thirty inches shall require a replacement tree to be planted.**

**(2) Each tree removed having a diameter greater than thirty inches will require the planting of two replacement trees.**

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 proposed location(s) of the new tree(s) shall be approved by the Building Commissioner.]~~

~~[D.]~~ 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 Tree Advisory Committee.** Size classes are enumerated in the Tree Standards and Specifications to be promulgated by the ~~[Building Commissioner]~~ **Tree Advisory Committee established pursuant to Chapter 20A.**

~~[E]~~**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 ~~[the]~~ **any remaining requirement satisfied by the** trees to be replaced with shrubbery, ~~provided the plant selection has met his prior approval, as a condition of a tree removal permit. If the site does not permit the planting of shrubs, the Building Commissioner shall require the applicant to~~ **payment of an additional fee to the Building Department for each tree unable to be planted** to the ~~[Commissioner of Buildings]~~ in ~~[an]~~ **the** amount ~~[determined by the applicant and confirmed by the Commissioner to be equal to the estimated cost of the required number of trees and/or shrubs]~~ **set forth in § 20A-12. The fee shall be allocated to the Town's Tree Preservation Fund.**

~~[F]~~**E.** All required plantings shall occur between April 1 and December 1 and 90 days after the tree removal.

~~[G]~~**F.** If plantings cannot occur within 90 days of the removal due to the above planting time restrictions specified in § 20A-9~~[F]~~**E.**, 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~~

~~applicant and confirmed~~] by the Commissioner to be equal to the estimated cost of planting the required number of trees ~~[and/or shrubs]~~ 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.** ~~[Parks Department for additional plantings in Town parks, and the applicant shall be]~~ **If a permittee is** found to be in violation of the conditions of the tree removal permit~~[-T]~~, **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, transplant or remove 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-5B 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, air and nutrients to the roots of any tree growing therein except by written permission of the ~~[Commissioner of Parks and Recreation]~~ **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 fees prescribed in this section shall be collected by the Building ~~Commissioner~~ **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 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 permit fees and other 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 permit fees and 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 or impossible to do so, or where the Building Commissioner determines that, because of relevant site planning considerations, it is not warranted. 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 fertilizing, pruning and trimming, and other applicable landscaping projects for public benefit on public property or private property within a public easement within the Town of North Hempstead. 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 November 15 for review and approval.**

**E. Required Contribution.**

**(1) Tree removal on private property in connection with Section 2-9(T). The required contribution shall be \$500.00 per tree required but unable to be replaced.**

**(2) Tree removal on front yard of private property pursuant to Chapter 20A. The required contribution shall be \$500.00 per tree required but unable to be replaced.**

**(3) Payment into the Tree Preservation Fund shall be made prior to the issuance of any Certificate of Completion issued by the Building Department related to the tree removal.**

**§ 20A-13 Tree Advisory Committee.**

**A. The Town Board has heretofore established a Tree Advisory Committee for the Town of North Hempstead. Said Tree Advisory Committee members shall serve without compensation and at the pleasure of the Supervisor.**

**B. The Tree Advisory Committee shall meet at least quarterly for the following purposes:**

**1) Make recommendations concerning new or amended legislation related to the protection and enhancement of the trees of the Town;**

**2) Identify varieties and tree species suitable for planting in the Town;**

**3) Compile an inventory of street trees, landmark trees and other significant trees in the Town;**

**4) Make recommendations concerning the development of a community forestry work plan addressing the planting, maintenance and removal of trees;**

**5) Promote programs and projects that protect and improve Town trees and increase public awareness of the economic and environmental benefits of trees;**

**6) To administer, in consultation with the Comptroller, the funds in the Tree Preservation Fund;**

**7) Make recommendations to the Town Board regarding the maintenance, selection and planting of trees located within the curbside or public right-of-way or on Town owned property. The recommendations of the Committee must be approved by the Town Board;**

**8) Make recommendations for the development of a Tree Master Plan, which shall be reviewed and updated annually;**

**9) To assist the Comptroller in the preparation of the Annual Report as set forth in § 2-9T(5)(d)(1)(d)(4);**

**10) To assure compliance with the requirements relating to the Town's designation as a Tree City USA;**

**11) The Tree Advisory Committee shall issue an annual report to the Town Board by November 15 of each year, which shall include a summary of tree-related activities for the year; and**

**12) Perform such other duties as the Supervisor may assign to the Tree Advisory Committee.**

§ 20A-1[2]4 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 \$[45]350 nor more than \$[5]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 \$[3]600 nor more than \$[1]2,000 or imprisonment for not more than 15 days, or both. Each violation shall constitute a separate offense and is punishable accordingly.

**B. 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 having a minimum height of six feet measured from the base of the trunk to the end of the upper most point of the tree, and a diameter not less than 6 inches when measured at a height of 4 1/2 feet above the base of the trunk.**

§ 20A-1[3]5 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-1[4]6 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.