

TOWN OF NORTH HEMPSTEAD

Overview of Major Changes to Protect Trees

The Town Board is considering revisions to the Town's Tree Policy and two tree-related local laws concerning tree preservation and tree removal and growth of the tree resource in the Town. The proposed amendments incorporate many of the changes suggested by the public and town departments. Below is an overview of the major changes in this current set of proposals designed to protect trees in North Hempstead.

Overall Highlights

- **Updates legislative intent.** Legislative intent in Chapter 20A has been updated to detail the importance of preserving existing trees, listing many of the numerous environmental and aesthetic benefits trees provide and specifically acknowledging that **trees help moderate climactic extremes**. This section also includes a statement that the Town Board declares it to be in the public interest **to promote and achieve a net increase in the Town's total tree canopy**.
- **Establishes a Tree Preservation Fund** to be spent on tree plantings and other tree related initiatives. This fund will be funded by "in-lieu" payments (see below), Tree Establishment Bond forfeits (see below) and voluntary donations.
- **Re-establishes a Tree Advisory Committee** that will **include members of the public and an arborist**. The code provides a list of specific tasks for the committee to work on and provide input, including the following:
 - Developing a **tree master plan**.
 - Recommending the types of trees to be planted, including native species and a **"Right Tree, Right Place" policy**.
 - Recommending a plan to assess and map the **Town's tree inventory and tree canopy cover** and document it over time.
 - Recommending, in consultation with the Comptroller, the use of funds for the Tree Preservation Fund.
 - Recommending a **management plan to address ivy growth** on trees in the public right-of-way and in parks.
 - Recommending new legislation to the Town Board related to maintaining, protecting and enhancing the Town's trees.

[See complete list in § 20A-14]

- **Increases the size of replacement trees** for public and private property: must be three inches in diameter measured at 4 ½ feet.
- Adds clarification that removal of a dead tree also requires a permit.
- **Adds requirements to permit application** for a tree removal on private property, including photo of tree to be removed.

- **Makes replanting requirements more enforceable by revising 50% diameter rule and requiring “in-lieu” payments when property does not have space for the requisite number of trees.**
 - The existing requirements required replanting of 50% of the total tree diameter removed and were determined to be unenforceable, because many properties throughout the Town cannot accommodate so many trees. The new provisions require the following replanting requirements: 1 tree if the tree removed is between 1-24”, 2 trees if the tree removed is between 25-30” and 3 trees if the tree is over 30”.
 - In addition, when the requisite number of trees cannot be planted in a particular location, the applicant must make an “in-lieu” payment to the Tree Preservation Fund for the planting of replacement tree(s) elsewhere. The amount of each “in-lieu” payment will be set by the Town Board, and is currently expected to be \$300/tree.
- **Eliminates inconsistency in how a tree is defined.** The code had referred to trees as both 6 inches or greater and also as 10 inches or greater. Now, the standard measurement for a tree will be uniform at 6 inches.
- **Provides for “Mini-Groves”.** Adds definition for “Mini-Grove”, which is the 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. The Tree Advisory Committee will help determine the locations for Mini-Groves as part of an effort to increase the tree canopy cover.
- **Improves notice requirements.** Tree removal notices and other tree related information will be included on the Town’s website. Residents can sign up to receive tree removal notices via email for trees proposed to be removed within their zip code.

Chapter 2-9(T) of Town Code

This section applies to the removal of trees on private property (anywhere on the property) when the removal is in conjunction with another permit for construction.

- **Ensures that trees planted as part of new construction survive.** Establishes a two-year Tree Establishment Bond in the case of new construction.
 - This is to ensure that trees planted as part of the construction of a new commercial building or residential dwelling survive. Under the revised provisions, the applicant must deposit a sum in the amount of 100% of total landscaping costs (not less than \$1000 per replacement tree). The bond is only released if the tree survives for two years. Otherwise, the money is applied to the Tree Preservation Fund.
- **Improves notice requirements.** Applicants removing trees as part of construction must display the permit conspicuously.
 - This was added to make it easier to enforce non-permitted tree removals.

- **Requires tree barriers during construction.** Applicants must use protective tree barriers prior to land preparation or construction activity that could damage any tree on a property.
- **Improves permitting requirements.** New Certificate of Tree Planting to be issued by Building Department.
 - The new provisions include a certificate of tree planting when removal and replanting have been completed. In addition, a photo of the tree that is planted is included in the file.
- **Increase in penalties** for second and subsequent violations under Chapter 2.

Chapter 20A of Town Code

This section applies to the removal of trees in: (i) the front yard of private property when the removal is NOT in connection with construction activity; and (ii) the right-of-way.

- **Renaming this section** of the Code from “Environmental Planning and Control of Trees” to “Environmental Planning, Conservation and Care of Trees”
- Major revisions to legislative intent (discussed above).
- **Improves permitting requirements:** Requires additional information in a permit application for tree removal in right-of-way, including reason, condition of tree, photo of tree, and additional information that the Highway Department must take into consideration.
 - These revisions were expanded to clarify that applications for removal of trees in the Town right-of-way are subject to the same review as applications for removal of trees on private property.
- **Revises nuisance tree removal provisions:** More restrictive removal provisions when a tree is deemed a nuisance.
 - The proposed amendments clarify a need to determine whether a hazard that is the reason for removal can be effectively eliminated by trimming the tree or other means, or if damage caused by the tree can be remedied without the removal of the tree.
- **Adds new provision to aid in enforcement:** New rebuttable presumption provision that the owner/occupant of a particular parcel is responsible for actions taken with respect to trees on that parcel (except for in the right-of-way).
- **Establishes new Tree Preservation Fund** (also discussed above).
 - The proposed amendments include a new segregated fund into which certain payments/fees related to trees are to be deposited, including the payments in-lieu of planting (when planting of replacement trees is impracticable, impossible or not warranted).

- Tree Preservation Fund uses: 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.
- **Re-establishes a Tree Advisory Committee** to include residents and arborist (also discussed above).
 - The composition and purposes of the Tree Advisory Committee have been greatly expanded. The Tree Advisory Committee will members of the public, together with Town Employees.
 - Tree Advisory Committee will deliver an annual report. This is important to give visibility and transparency to the activities of the Tree Advisory Committee.
- **Increases penalties** for violations of Chapter 20A. An increase to the penalties for removal of tree on private property (or failure to replant a tree) is proposed as follows:
 - For first violation, \$350 (increase from \$150) to \$1,000 (increase from \$500)
 - For second violation, \$600 (increase from 300) to \$2,000 (increase from \$1,000)

Changes in proposed Tree Policy

The policy covers tree removal and planting on the Town's right-of-way and in other public places.

- **Adds arborist input to sidewalk projects.** Addition of new section that provides a mechanism for arborist review when sidewalk work is being done.
 - This was added due to the concern that sidewalk work results in the loss of trees, and currently an arborist is not a part of the process. Under the new policy, an arborist will have input in the determination whether the sidewalk work can be completed without removal of a tree, as well as making recommendations about feasibility and location for tree re-plantings. In addition, in cases where trees must be removed due to sidewalk work, a notice will be posted on the tree, and a copy of the arborist report will be placed on the Town's website.
- **Improves notice provisions.** More stringent notice provisions that apply when a tree is to be removed by the Town in the right-of-way.
 - Notice provisions have been changed from 5 business days to 7 calendar days. In addition, the new policy requires that notices be oriented towards pedestrian and vehicular traffic whenever possible, the text shall be black lettering on a bright orange or similar background. Residents may submit their email addresses and contact information to be notified when a tree is posted in their zip code. In addition, the arborist reports will be placed on the Town's website.
- Addition of new section that requires notice provisions to be applicable when an applicant applies to remove a right-of-way tree.
 - This was added due to the concern that when homeowners apply to remove trees in a right-of-way, the notice provisions that are applicable when the Town proposes to remove right-of-way trees did not apply.

November 8, 2021

- **Clarifies removal of tree interfering with sewer.** Clarification of what evidence is necessary when an applicant applies to remove a tree based on roots interfering with a house sewer connection.
- **Requires tree replanting in right of way to be a long-term priority.** Properties requiring a tree planting in the right-of-way shall not be removed from the replanting list maintained by the Town until a tree planting has occurred.
 - This was added to clarify that replanting is a priority, even if the current property owner is not in favor of replanting in the right-of-way, and to keep properties on the replanting list until the right-of-way planting is complete.
- **Clarifies the Town's Request a Tree Program.**
 - This was added so that residents are aware that they can request a right-of-way trees.

Conclusion

These proposed revisions would show that the Town is committed to preserving trees, increasing the tree canopy cover, planting the right types of trees in the appropriate places, and enforcing the provisions of the code. They provide that the Town will work with the Tree Advisory Committee and outside groups to continue this effort.