

**INCORPORATED VILLAGE OF SANDS POINT
BOARD OF TRUSTEES**

LOCAL LAW NO. 12 OF 2024

**AMENDING CHAPTER 157, "TREES" OF THE CODE OF
THE VILLAGE OF SANDS POINT**

WHEREAS, the Board of Trustees (the "Village Board") of the Incorporated Village of Sands Point (the "Village") has recommended the enactment of a Local Law to amend Chapter 157, "Trees" of the Village Code; and

WHEREAS, the Village Board finds that there is a direct relationship between the preservation and plating of trees in the Village and the health, safety, and welfare of Village residents; and

WHEREAS, the Village Board finds that trees are related to the natural, scenic, and aesthetic values and the physical and visual qualities of the environment which the Village is obligated to protect; and

WHEREAS, the Village Board finds that it is necessary and appropriate to establish regulations to identify trees that have been approved by the Village for removal; and

WHEREAS, this Local Law was introduced by the Village Board on February 28, 2023; and

WHEREAS, it is hereby determined that pursuant to the provisions of the State Environmental Quality Review Act, 8 N.Y.E.C.L. Section 0101 et seq. and its implementing regulations, Part 617 of 6 N.Y.C.R.R., that the adoption of this local law is a "Type II" Action within the meaning of Section 617.5(c)(26) of 6 N.Y.C.R.R.; and

WHEREAS, this Local Law was the subject of a duly noticed public hearing in accordance with New York State Village Law and the Village Code before the Village Board on July 23, 2024, at which all interested persons were heard.

NOW THEREFORE, BE IT ENACTED by the Board of Trustees of the Incorporated Village of Sands Point:

Section 1. Chapter 157 of the Village Code, Tress, be and is hereby amended to read in its entirety as follows:

§ 157-1 Findings.

- A. The Village Board finds that there is a direct relationship between the preservation and planting of trees in sufficient number in populated areas of the Village, and the health,

safety, and welfare of Village residents and that trees are related to the natural, scenic, and aesthetic values and the physical and visual qualities of the environment which the Village is obligated to protect. Trees reduce noise, provide welcome shade and privacy to Village residents, preserve the balance of oxygen in the air by removing carbon dioxide and fostering air quality, and create a bucolic and rural atmosphere in the Village, especially along the roads. Trees also stabilize the soil and control water pollution by preventing soil erosion and flooding, yield advantageous climatic effects, and provide a natural habitat for wildlife.

- B. The destructive and indiscriminate removal of trees causes increased Village costs for proper drainage control, impairs the benefits of occupancy of existing residential properties, impairs the stability and value of both improved and unimproved real property in the area of the destruction, and adversely affects the health, safety, and general welfare of the residents of the Village.
- C. It is the intention of the Board of Trustees that this chapter supersede Local Law No. 2 of 1990, as amended by Local Law No. 10 of 1990.

§ 157-2 Definitions.

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

Applicant

The owner, contract vendee, or lessee of Real Property or their duly authorized agent.

Habit

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

Improved Real Property

Any Real Property on which a residential structure, clubhouse, or other place of public assembly has been erected.

Person

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

Real Property

Includes all unimproved and improved real property within the Village.

Substantial Alteration

Any cutting or drastic pruning or elevating the habit of a Tree which impairs, destroys, or endangers the life of such Tree or its natural symmetry and shall include, but shall not be limited to, heavy or unnecessary cutting of top branches and cutting of major lower limbs.

Tree

A woody perennial plant having a single, usually elongate main stem generally with few or no branches on its lower part.

Unimproved Real Property

Any Real property on which no residential structure, clubhouse, or other place of public assembly has been erected.

Village

The Incorporated Village of Sands Point

Village Board

The Board of Trustees of the Village

§ 157-3 Prohibited acts; permit required; exceptions.

- A. Permit for large trees. It shall be unlawful for any Person without a permit to remove, destroy, substantially alter, or to cause the removal, destruction, or substantial alteration of any Tree or the Habitat of any Tree, located on any Real Property within the Village, having a trunk circumference greater than 20 inches, which circumference shall be measured at a point four feet six inches above ground level, except in the case where a Tree has been removed without benefit of a permit, in which case the trunk circumference shall be measured at the highest point remaining at or above ground level.
- B. Permit for any tree. It shall be unlawful for any Person without a permit to remove, destroy or substantially alter or to cause the removal, destruction or substantial alteration of any Tree of any size located on any Unimproved Real Property within the Village.
- C. In conformity with customary standards and practice, it shall be unlawful for any Person to use pink or orange ribbons on Trees for any purpose, including Tree removal applications, unless authorized by the Village. Ribbons, other than pink or orange, may be used by a landscape architect, arborist, or contractor in connection with a pending Tree removal application. Ribbons on Trees for any other purpose are prohibited.
- D. The foregoing provisions of this section shall not apply to:
 - (1) Horticultural pruning done pursuant to customarily accepted ornamental or therapeutic practice, which does not substantially alter the Habitat of the Tree.
 - (2) Any emergency situation in which the removal, destruction, or substantial alteration

of any Tree is necessary to prevent imminent danger to human life or property.

§ 157-4 Application procedure; criteria for permit issuance.

- A. Application for a permit shall be made to the Building Department.
- B. The application shall be made on such forms as may be prescribed by the Building Department and shall include, but not be limited to, the following:
 - (1) The name and address of the Applicant.
 - (2) The purpose of the proposed removal or alteration.
 - (3) The site of the proposed removal or alteration.
- C. A sketch or plan of the area indicating the following may be required by the Building Department when deemed necessary to carry out the provisions of this chapter:
 - (1) An outline of existing heavily wooded areas on the site, showing the Tree type and range of sizes.
 - (2) The location and size of Trees to be removed.
 - (3) The location of any improvements on the Real Property.
 - (4) Any additional information that the Building Department may reasonably deem necessary for evaluation of the application, except that no new survey of the property or survey location of Trees may be required unless there is controversy as to whether a Tree is located on the property.
- D. The decision of the Building Department shall be based upon the following criteria:
 - (1) The condition of the Tree with respect to disease and danger of falling, proximity to existing or proposed structures, and interference with utility services.
 - (2) The necessity of the removal or alteration of the Tree in question.
 - (3) The effect of the removal or alteration thereof on ecological systems.
 - (4) The character established at the proposed site of removal or alteration with respect to existing vegetation management practices.
 - (5) The impact of any removal or alteration upon existing screening of any contiguous properties or any road or highway bordering the property.

§ 157-5 Permit fee.

Permits shall be issued at a fee as set forth in Chapter 82 of the Village Code.

§ 157-6 Required removal.

- A. Any Tree or shrub growing on private real property which is endangering or, in the opinion of the Building Department of the Village, constitutes a danger to a public or private street or road or to persons or vehicles thereon, or to public places, or which in any way endangers the usefulness of a public sewer shall be removed or trimmed by the owner of the Real Property within 14 days after receipt of written notice from the Village. In the event that the property owner fails to remove or trim such Tree or shrub within said time, the Village may then remove or trim said Tree or shrub and assess the cost thereof against the property owner.
- B. Nothing herein shall limit the authority of the Village to remove or alter any Tree or shrub it deems necessary to protect the health, safety, and welfare of Village residents.

§ 157-7 Replacement.

The Building Department may require the planting of the same or an agreed upon alternative species of Trees which are as nearly comparable in type and size as practical to the Trees to be removed, when the individual character of the Trees or the ecological setting requires special consideration as a condition for the issuance of a permit for removal. The location for planting of the replacement Trees shall be specified, in writing, by the Building Department prior to issuance of the permit for removal.

§ 157-8 Appeals.

- A. Any Person aggrieved by any final determination of any Village official in the exercise of the authority herein granted shall have the right to appeal to the Board of Zoning Appeals, the decision of which shall be final and conclusive.
- B. An appeal shall be in writing, stating the decision appealed from and the reasons for the appeal and in all other ways comply with the Village's procedure for such an appeal to the Board of Zoning Appeals.

§ 157-9 Penalties for offenses.

Any Person who shall violate any of the provisions of this chapter shall be deemed guilty of a violation and, upon conviction thereof, shall be subject to a fine of not more than \$5,000 for each tree unlawfully removed, destroyed, or substantially altered pursuant to § 157-3(B); a fine of not more than \$5,000 for each replacement tree not planted; and a fine of not more than \$5,000 for any other violation under this chapter. Each such violation shall constitute a separate offense and shall be punishable as such hereunder.

§ 157-10 Additional rights and remedies not affected.

Nothing herein contained shall abridge or alter any rights or remedies now or hereinafter existing,

nor shall this chapter nor any provisions thereof nor any rule or regulation promulgated thereunder be construed as estopping the Village from exercising its right and fulfilling its obligations to protect the public health and welfare. In addition to all other remedies available to the Village, this chapter shall be enforceable by injunction in an action brought in the Supreme Court.

Section 2. Severability. If a court of competent jurisdiction determines that any clause, sentence, paragraph subdivision, or part of this local law or the application thereof to any person, firm or corporation or circumstance is invalid or unconstitutional, the Court's order or judgment shall not affect, impair or invalidate the remainder of this local law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision or part of this local law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Section 3. Effective Date. This Local Law shall take effect immediately upon filing with the Secretary of State.

On motion made by Trustee Karabatos, seconded by Trustee Ackerman, the foregoing Local Law was enacted upon the following vote:

Mayor Peter A. Forman voting	-	aye
Deputy Mayor Jeffrey Moslow voting	-	aye
Trustee Elena Karabatos voting	-	aye
Trustee Sloane Ackerman voting	-	aye
Trustee Danny Khazai voting	-	aye

Dated: Sands Point, New York
July 23, 2024

Filed: Sands Point, New York
July 24, 2024

