

# Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County  City  Town  Village  
(Select one.)

of Roslyn Harbor

FILED  
STATE RECORDS

JUL 17 2015

DEPARTMENT OF STATE

Local Law No. 2 of the year 20 15

A local law which amends Chapter 251, "Trees," of the Code of the Village of  
(Insert Title)  
Roslyn Harbor.

Be it enacted by the Board of Trustees of the  
(Name of Legislative Body)

County  City  Town  Village  
(Select one.)

of Roslyn Harbor

as follows:

**INCORPORATED VILLAGE OF ROSLYN HARBOR  
LOCAL LAW 2-2015  
"AMENDMENT TO CHAPTER 251, "TREES"**

**BE IT ENACTED** by the Board of Trustees of the Incorporated Village of Roslyn Harbor as follows:

**SECTION I.** Amend Chapter 251, Article II, entitled "Preservation of Trees" to read as follows:

**ARTICLE II  
Preservation of Trees**

**§ 251-8. Findings.**

- A. The Board of Trustees of the Incorporated Village of Roslyn Harbor hereby finds that there is a direct relationship between preservation of and the planting of trees, shrubs and associated vegetation in sufficient number in the Village and the health, safety and welfare of Village residents. Trees, shrubs and associated vegetation 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, shrubs and associated vegetation reduce noise, provide welcome shade, preserve the balance of oxygen in the air by removing carbon dioxide and fostering air quality, and help retain and/or create a bucolic and rural atmosphere in the Village. Trees, shrubs and associated vegetation also offer a natural barrier to noise, provide a natural habitat for the wildlife in the Village, stabilize the soil and control water pollution by preventing soil erosion and flooding and yield advantageous climatic effects.
- B. The unnecessary and indiscriminate removal of trees causes deprivation of these benefits and disrupts fundamental ecological systems in which they are integrally involved, causes increased Village costs for proper drainage control, impairs the benefits of occupancy of existing residential properties and the stability and value both of improved and unimproved real property in the area of the removal and adversely affects the health, safety and general welfare of the residents of the Village.

**§ 251-9. Definitions.**

For the purpose of this article, the following terms, phrases and words shall have the indicated meanings:

**APPLICANT** — Any person desiring to make a substantial alteration to a tree, including the owner of real property located within the Incorporated Village of Roslyn Harbor, the contract vendee or lessee of such real property or any duly authorized agent of such an owner, vendee or lessee.

**BOARD OF REVIEW** — A committee of at least three members, to be appointed by the Board of Trustees, which shall function and act in accordance with the rules and regulations determined by the Board of Trustees.

**GROWTH CHARACTERISTIC**— The natural growing characteristic of any tree, including branch spread and distribution, branch height above ground and root spread and distribution.

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

**RESIDENCE** — A building on the property used and occupied as a residence for which a certificate of occupancy has been obtained or is proposed to be obtained.

**SPECIMEN TREE**— A tree, designated by the Board of Trustees by resolution, as being one that the Board of Review should endeavor to preserve, due to its species, rarity or size.

**SUBDIVISION** — Two or more contiguous or adjacent plots which are proposed to be improved; any parcel requiring Planning Board review.

**SUBSTANTIAL ALTERATION** -- Any cutting, pruning, elevating or other alteration of the growth characteristic of a tree which impairs or endangers the life of such tree, including but not limited to heavy or unnecessary cutting of top branches (topping), cutting of major lower limbs (severe elevating), excessive compacting or covering of the tree root system, or drastic pruning, but shall not include customarily accepted horticultural procedures.

**TREE** — Any living, woody plant having a trunk 22 inches in circumference at a point five feet above original ground level.

**VILLAGE OFFICIAL** — The Village Engineer, Building Inspector, Village Superintendent of Public Works, Code Enforcement Officer or such other person designated by resolution of the Board of Trustees.

**§ 251-10. Permit required; exceptions.**

- A. It shall be unlawful for any person, without a permit, to substantially alter, prune, cut, girdle, remove or destroy any tree on any real property located within the Incorporated Village of Roslyn Harbor.
- B. This article shall not apply to an emergency situation in which the removal, destruction or substantial alteration of any tree is necessary to prevent imminent danger to human life or property. If such an action is necessary, the Village Clerk shall be notified and thereafter provided notice in writing within 10 days of the action taken the reason and supporting evidence and documentation to substantiate said action.
- C. Nothing in this section shall be construed to prohibit the alteration of growth characteristic of any tree, provided it is not a substantial alteration and that it is being done in accordance with customarily accepted horticultural procedures.

D. This Article shall not apply to any tree on private recreational club grounds that is located more than 200 feet from the Club's property line.

**§ 251-11. Application for permit.**

A. Application for a permit in accordance with § 251-10A shall be made to the Village Clerk for referral to the Board of Review and shall be accompanied by the fee required by § 251-12 of this article.

B. The application shall be made on such form as may be reasonably prescribed by the Board of Trustees, which shall include but not be limited to the following:

(1) Name and address of applicant.

(2) Name, address and qualifications of the person or entity who or which will remove, destroy or substantially alter the tree or trees.

(3) A statement of the reason for the proposed removal or alteration.

(4) If the application is for a new subdivision, a survey of the real property showing the location of all buildings and structures.

(5) A scaled sketch or plan of the area showing:

(a) An outline of existing heavily wooded areas on the real property.

(b) The location, size, and general type of trees to be removed.

(c) The location of any existing improvements on the real property, including but not limited to buildings, structures, dry wells, driveways, sidewalks, etc.

(d) Any additional information which may be deemed reasonably necessary by the Board of Review for evaluation of the application.

(6) Where tree removal is occasioned by a development or land use for which an application for subdivision approval, site plan approval and/or a building permit is required, a copy of the preliminary subdivision plan or site plan shall be submitted to the Board of Review and approved pursuant to this article after preliminary approval is granted by the Planning Board and prior to the issuance of a building permit.

(7) A New York State certified Arborist shall sign the application certifying the condition of the trees to be removed.

C. Procedures.

(1) Trees to be removed must be tagged in the field and listed on a site plan.

(2) After issuance of permit, Applicant shall notify Village Clerk prior to commencing work.

- (3) If replacement trees are required to be planted, they shall be shown on the site plan and listed as to species and size.
  - (4) Replacement trees are to be planted within 12 months of the issuance of the permit and verified by the Building Inspector.
- D. The decision of the Board of Review, when deciding whether or not to grant a permit pursuant to this article, shall consider the following criteria:
- (1) The condition of the trees with respect to disease, insect infestation, 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 trees in question.
  - (3) The effect of the removal or alteration of the tree or trees upon the ecological systems, including but not limited to drainage and soil conditions.
  - (4) The impact of the removal or alteration upon existing screening with respect to adjoining property owners or of any road or highway bordering the property.
  - (5) The species of the tree and whether it is a specimen tree.
  - (6) If a tree is within 15 feet of the foundation of a residence it may be removed without further review.

**§ 251-12. Fees.**

The application fee shall be as provided in Chapter 125, Fees and Deposits.

**§ 251-13. Required removal.**

- A. Private property. See Article I, Dangerous Trees, of this chapter. The provisions of this article are incorporated by reference.
- B. Public property. Nothing herein shall limit the authority of the Village to remove or alter any tree, shrub, or other vegetative growth it deems necessary to protect the health, safety and welfare of the Village residents.

**§ 251-14. Replacement.**

The applicant may be required by the Board of Review, as a condition to the issuance of a permit for tree removal, to plant replacement trees. The Board of Review shall designate the number and size of replacement trees to be planted. The Applicant may select the species to be planted from the approved Village list. The location for planting of the replacement trees shall be agreed upon between the Board of Review and the Applicant prior to the issuance of a permit for removal. Replacement trees must be planted within 12 months of the issuance of the permit and be warranted by the Applicant to survive for 1 year after the building Inspector has certified that the replanting was completed with the required plant materials in the designated area, all in a workmanlike manner.

To ensure that replanting will be timely and properly completed, the Applicant may either plant the replacement trees before the issuance of the permit, or post with the Village a deposit of \$500 per tree, or such other amount as the Board of Trustees shall establish by resolution. If the replacement trees are certified by the Building Inspector as being properly planted within 12 months from the issuance of the permit, the deposit will be refunded to the applicant. If not completed and certified within the 12 month period, the deposit will be deemed abandoned and will become the Village's fund to be used for the beautification of the Village, as the Trustees so determine.

**§ 251-15. Appeals.**

Any person aggrieved by any determination of the Board of Review in exercise of the authority granted by this article shall have the right to appeal, stating in writing the reasons for the appeal to the Zoning Board of Appeals. The determination of the Zoning Board of Appeals on said appeal shall be final and conclusive.

**§ 251-16. Protection of trees during construction.**

The following regulations shall be complied with during construction following the granting of a tree removal permit:

- A. Restriction of vehicles to construction areas. There shall be no excavation on the site before the Board of Review has approved the location of the stakeout of the drives, parking sites, building sites, and other areas shown on the plan. Construction equipment shall be limited to the actual area to be graded according to the approved plans. No vehicles of any kind shall pass over areas shown on the plan. Construction equipment shall be limited to the actual area to be graded according to the approved plans. No vehicles of any kind shall pass over areas to be left in their natural state according to the approved plans. No material or temporary soil deposits shall be placed within six feet of any existing tree. No heavy equipment shall be operated in such a manner as to break, tear, bruise, decorticate or otherwise injure any living or dormant tree or its root structure.
- B. Protective barriers. During construction the permittee shall provide appropriate barriers around existing trees not scheduled for removal.
- C. Responsibility of permittee. The permittee shall be fully responsible for any damage caused to existing trees and shall also be responsible for replacing any such damaged trees as well as any trees which are removed in violation of this article. He shall bear the responsibility for both his own employees and any contractors and subcontractors.

**§ 251-17. Substantial Alteration of a tree without a permit.**

Any owner of real property, who has substantially altered a tree without a permit, or has allowed, or permitted a tree to be substantially altered on their property without a permit, shall be required to deposit into the Village's beautification fund \$1,500 per tree for each tree with a circumference less 36 inches and \$2,500 for each tree with a circumference greater than 36 inches. For this section, circumference shall be measured at the base of the tree stump. After

the owner is given written notice by the Village of payment due under this section, all pending building permits shall be suspended and no building permit or certificate of occupancy shall be issued until payment is made in full. If payment is not received within 90 days, it shall be added to the next Village tax bill.

**§ 251-18. Penalties for offenses.**

Any person who shall violate any of the provisions of this article, or shall permit, or allow a violation to occur shall be deemed guilty of a violation and upon conviction thereof shall be subject to a fine as provided in Chapter 1, Article I of this Code per tree. In addition, this article may be enforced by civil action, including an injunction.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No. 2 of 20 15 of the ~~(County)(City)(Town)~~(Village) of Roslyn Harbor was duly passed by the Board of Trustees on July 9, 20 15, in accordance with the applicable provisions of law.  
*(Name of Legislative Body)*

~~**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_, and was (approved)(not approved) (repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted on \_\_\_\_\_ 20  , in accordance with the applicable provisions of law.~~  
*(Name of Legislative Body)*  
*(Elective Chief Executive Officer\*)*

**3. (Final adoption by referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_, and was (approved)(not approved) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_.  
*(Name of Legislative Body)*  
*(Elective Chief Executive Officer\*)*

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on \_\_\_\_\_ 20 \_\_\_\_\_, in accordance with the applicable provisions of law.

~~**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_, and was (approved)(not approved) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 20 \_\_\_\_\_, in accordance with the applicable provisions of law.~~  
*(Name of Legislative Body)*  
*(Elective Chief Executive Officer\*)*

\* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

~~5. (City local law concerning Charter revision proposed by petition.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_ 20\_\_\_\_ became operative.~~

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 20\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the ~~qualified electors of the towns of said county considered as a unit voting at said general election, became operative.~~

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.

*Valerie Onorato*

Clerk of the ~~county~~ legislative body, ~~City~~ ~~Village~~ Clerk officer designated by local legislative body, Valerie Onorato

Date: 7/9/15

(Seal)

