

# Local Law Filing

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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~~ of Kings Point  
~~Village~~

Local Law 10 of the year 2019

*(Insert Title)*

A local law amending Chapter 147, Trees, of the Code of the Village of Kings Point.

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

~~County~~  
~~City~~  
~~Town~~ of Kings Point  
~~Village~~

Section 1. § 147-2, Definitions, in Chapter 147, Trees, of the Code of the Village of Kings Point, is hereby amended by deleting the definition of “Building Inspector”, by deleting subsection C of the definition of “Specimen Tree”, by amending the definition of “Substantial Alteration”, by adding the definition of “Permit”, and by adding the definition of “Superintendent”, the new definitions of “Permit”, “Substantial Alteration”, and “Superintendent”, to read, respectively, as follows:

“PERMIT – Any approved tree removal application, written official document, or verbal order given by the Superintendent to allow the substantial alteration of a tree.”

“SUBSTANTIAL ALTERATION – Any of the following, which, in the opinion of the Superintendent, endangers the health of a tree or significantly impairs its size or natural symmetry:

A. The cutting down, removing, or other destruction of a tree.

- B. Any other cutting, pruning, topping, or elevating of a tree.
- C. The burying of a tree's roots and trunk with dirt, soil, gravel, mulch, sand, impervious material, or otherwise."

"SUPERINTENDENT – The Superintendent of the Village Building Department or such Superintendent's designee or such other person designated by the Village Board of Trustees to exercise the powers and discretion provided for the Superintendent in this chapter."

Section 2. § 147-3, Prohibitions, in said Chapter 147, is hereby amended to read as follows:

**"§ 147-3. Prohibitions.**

- A. It shall be unlawful for any person to substantially alter a specimen tree without a permit.
- B. It shall be unlawful for any person who owns or occupies real property to cause, suffer, permit, or allow the substantial alteration of a specimen tree on that property without a permit.
- C. It shall be unlawful for any person to substantially alter any tree if said tree has a diameter of six inches or more at a point that is four feet six inches above the ground at the lowest point of the base of the tree without a permit.
- D. It shall be unlawful for any person who owns or occupies real property to cause, suffer, permit, or allow the substantial alteration of a tree on said real property if that tree has a diameter of six inches at a point that is four feet six inches above the ground at the lowest point of the base of the tree, without a permit."

Section 3. § 147-7, Replacement, in said Chapter 147, is hereby amended to read as follows:

**"§ 147-7. Replacement.**

- A. As a condition to the issuance of a permit under this chapter, the Superintendent shall require replacement trees to replace the trees to be substantially altered. The applicant and the owner of the real property affected shall each be responsible for planting replacement trees as specified in the permit.
- B. Any person who substantially alters a tree, and any person who solicits, requests, commands, importunes, or intentionally aids another person to engage in the substantial alteration of a tree, and any owner or occupant of real property who causes, suffers, permits, or allows a tree on said property to be substantially altered

in violation of this chapter shall plant replacement trees.

- C. The number of replacement trees shall be equal to the total inches in diameter of all of the trees to be replaced, measured at a point four feet six inches above the ground at the lowest point of the base of the tree, as determined by the Superintendent, divided by 6. All replacement trees shall be deciduous specimen trees unless otherwise specified by a Village board. The size of the tree shall be no less than 3-inches in diameter. The location where it shall be planted, and the date by when it shall be planted, shall be determined by the Superintendent. In the event that a tree has been so substantially altered that the Superintendent cannot accurately determine such total diameter, the Superintendent shall estimate such total diameter based upon such information as the Superintendent may have. Replacement trees shall be documented as part of a submittal for tree permit approval.
- D. Based upon the health of the tree being replaced, and the number and location of other trees on the real property affected, or the approval granted by any Village board, the Superintendent may require fewer replacement trees than otherwise required by this section.
- E. In order to guarantee the planting of replacement trees required pursuant to this section, the Superintendent may require the applicant or property owner to deposit with the Village a sum of money to be held as a deposit for liquidated damages in the event that the applicant or property owner fails to plant a replacement tree in accordance with the directives of the Superintendent. Such sum, as determined by the Superintendent, shall be equal to twice the cost of the purchase and planting of all of the required replacement trees. Because the loss to the Village of the natural, scenic, and aesthetic values and the physical and visual qualities of substantially altered trees by the failure of the applicant or property owner to plant the required replacement trees cannot easily be determined, two and one-half percent of the deposit shall be taken as liquidated damages by the Village for each day after the last day specified by the Superintendent for the planting of all of the replacement trees has past. For good cause, the Superintendent may, from time to time, extend the last day for planting. Such liquidated damages may be taken by the Village each day after that last day for planting has past or at any time thereafter.
- F. Any trees required to be planted pursuant to this section shall be maintained in good health for not less than five years from planting, and if, in the sole discretion of the Superintendent, they are not in good health, they shall be replaced substantially in kind, as selected and directed by the Superintendent, by the owner of the property.

- G. In addition to the liquidated damages provided for herein, the each day after the date set by the Superintendent to plant a replacement tree that such tree is not planted shall be deemed a separate and distinct violation of this chapter by each of the person or persons obligated to plant such tree.”

Section 4. Effective date. This local law shall take effect immediately.