

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET, ALBANY, NY 12231

(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~~ of Kings Point
Village

Local Law 4 of the year 2021

(Insert Title)

A local law amending the Code of the Village of Kings Point with regard to fees to remove and the replacement of trees.

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

County
City
~~Town~~ of Kings Point
Village

Section 1. The definition of “Specimen Tree” in § 147-2, Definitions, of Chapter 147, Trees, of the Code of the Village of Kings Point, is amended to read as follows:

“SPECIMEN TREE - Any living, woody plant of the following species, if said plant shall have a height which is twelve feet or more above the ground at the base of the plant:

A. Deciduous trees:

- Ash (Fraxinus)
- Birch (Betula)
- Black Locust (Robinia)
- Catalpa (Catalpa)
- Coffee Tree (Gymnocladus)
- Crape Myrtle (Lagerstroemia)

Elm (Ulmus)
Flowering Cherry/Plum (Prunus)
Flowering Crab Apple (Malus)
Flowering Dogwood (Cornus) (governed by state law)
Goldenraintree (Koelreuteria)
Hawthorne (Crataegus)
Hickory (Carya)
Honey Locust (Gleditsia)
Hornbeam (Carpinus)
Horsechestnut (Aesculus)
Japanese Pagoda Tree (Sophora)
Larch (Larix)
Lilac (tree form Syringa)
Linden (Tilia)
Maackia (Maackia)
Magnolia (Magnolia)
Maidenhair (Ginkgo)
Maple (Acer)
Mountain Ash (Sorbus)
Mulberry (Morus)
Oak (Quercus)
Parrotia (Parrotia)
Plane Tree (Platanus)
Sassafras (Sassafras)
Service Berry (Amelanchier)
Sourwood (Oxydendrum)
Stewartia (Stewartia)
Sweet Gum (Liquidambar)
Sycamore (Platanus)
Tulip (Liriodendron)
Tupelo (Nyssa)
Walnut (Juglans)
Willow (Salix)
Yellow Wood (Cladrastis)

Zelkova (Zelkova)

B. Evergreen trees:

Arborvitae (Thuja)

Cedar (Chamaecyparis and Thuja)

Douglas Fir (Pseudotsuga)

Fir (Abies)

Hemlock (Tsuga)

Holly (Ilex)

Pine (Pinus)

Red Cedar (Juniperus)

Spruce (Picea)

Yew (Taxus).”

Section 2. § 147-5, Fees, of said Chapter 147, is amended to read as follows:

“The application fee herein shall be established from time to time by resolution of the Board of Trustees. The fee shall be paid upon submission of the application and shall not be refundable.”

Section 2. Subsection A, of § 147-6, Removal of trees or specimen trees, of said Chapter 147, is hereby amended and a new subsection C is hereby added, to read, respectively, as follows:

“A. Private property. Any tree growing on real property which constitutes a danger to persons or property, including, but not limited to in any way endangering the usefulness of a public sewer or utility lines or which by reason of infestation or blight endangers other trees in the Village, shall be removed or the habit thereof altered by the owner of said real property as directed by the Superintendent. In the event that the property owner fails to comply with the directive of the Superintendent within the time specified by him, the Village may then take the action directed by the Superintendent and assess the cost thereof against the property owner. The directive from the Superintendent shall be in writing, shall clearly state the source of the danger, the action to be taken, the date by which such action must be taken and shall be served on the owner of the real property personally or by certified or registered mail, return receipt requested, addressed to said owner at the last address for said owner on the tax records of the Village. If served by mail, the notice shall be deemed received three days after the notice is deposited in a depository maintained by the United States Postal Service.”

“C. Any tree removed shall be removed to grade.”

Section 3. Subsections C and D of § 147-7, Replacement, of said Chapter 147, are hereby amended and new subsections H and I are hereby added, to read, respectively, as follows:

“C. The maximum number of replacement trees shall be equal to the total inches in diameter (DBH) 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, plus ten percent. 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 three inches in diameter (measured 6” above grade as per nursery standard). 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. The Superintendent may require fewer replacement trees than otherwise required by this section. However, except as provided in subsections H and I, in no event shall the minimum number of replacement trees be fewer than one tree of 3 inch caliper or more per tree removed regardless of size. In determining that requirement, the Superintendent may consider:

- (1) The health of the tree being replaced.
- (2) The species of the tree being replaced. As examples, but not limited to, if the species:
 - (a) was invasive, such as Ailanthus, Norway Maple, Black Locust, and Mulberry; or
 - (b) a nuisance that caused staining from fruit or sap, such as Mulberry, Black Cherry, and Pine.
- (3) The number, health, and location of other trees on the real property affected.
- (4) The ability to allow sun to reach solar panels, pools, and play areas.
- (5) The removal was of a tree that by its size or otherwise presented a medium to high risk of personal injury or property damage, including, but not

limited to damage to subsurface facilities and foundations.

(6) The requirements or suggestions of any previous approval granted by any Village board.

“H. In the event that the Superintendent determines that a tree to be removed is dead, dying, diseased, dangerous, invasive, infested, or causing or threatening to cause damage to a structures or other facility, such as, but not limited to, power lines and and subsurface pipes, the Superintendent is authorized to waive the requirement for replacement trees. The Superintendent may require the person requesting the removal of a tree based upon this subsection to provide a certified arborist or other professional’s certification of the need or other basis for the removal of the tree.”

“I. In the event that the Superintendent determines that it is not feasible to plant any or all of the replacement trees required in accordance with the provisions of this section, the person responsible for the planting of those replacement trees shall pay to the Village a sum equal to what would have been the cost of purchasing and planting the replacement trees. Such sum shall be as set forth from time to time by resolution of the Board of Trustees.”

Section 4. § 147-8, Protection of Trees, of said Chapter 147, is hereby to read as follows:

“All trees on property on which demolition, excavation, grading, or construction activity is conducted shall be guarded with a substantial fence at all times when any of said activities are taking place. The fence shall be at least four feet high and shall completely enclose the trunk of the tree at a distance from the trunk equal to the greater of one foot for each one inch of the tree's diameter at a point 4-foot 6-inches (DBH) above grade at the base of the tree, or four feet. On application of the owner or the owner's agent the Building Inspector may waive the necessity of the fence for one or more trees where he finds that distance, existing natural features or man-made structures afford adequate protection for such tree or trees. No person shall conduct any demolition, excavation, grading or construction activity on a property without erecting and maintaining thereon the fences above required.”

Section 5. Effective date. This local law shall take effect immediately.

(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. 4 of 2021 of the ~~(County)(City)(Town)(Village)~~ of Kings Point was duly passed by the Board of Trustees on January 25, 2021, in accordance with the applicable provisions of law.
(Name of Legislative body)

2. ~~(Passage by local legislative body with approval, no disapproval or re-passage after disapproval by the Elective Chief Executive Officer¹.)~~

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)~~
~~(Name of Legislative body)~~
~~(re-passed after disapproval)~~ by the _____ and was deemed duly _____
(Elective Chief Executive Officer¹)
adopted on _____ 20____, in accordance with the applicable provisions of law.

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____
~~(Name of Legislative Body)~~
and was ~~(approved)(not approved) (re-passed after disapproval)~~ by the _____
(Elective Chief Executive Officer¹)
on _____ 20__. 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
~~(Name of Legislative Body)~~
~~(approved)(not approved) (re-passed after disapproval)~~ by the _____
(Elective Chief Executive Officer¹) 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.

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 _____

¹ 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.

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.

Clerk of the county legislative body, City,
Town or Village Clerk or officer designated
by local legislative body

GOMIE PERSAUD, VILLAGE CLERK-TREASURER

(Seal)

Date: _____