

Local Law No. 10 – 2023

This local law shall be known as the “Town of Mamaroneck Tree Law”.

BE IT ENACTED by the Town Board of the Town of Mamaroneck

Section 1 – Purpose:

The Town Board finds and declares that the preservation of trees, as defined herein, within the Town is necessary to protect the health, safety and general welfare of the Town because trees provide shade, impede soil erosion, aid water absorption and retention, inhibit excess runoff and flooding, enhance air quality, offer a natural barrier to noise, provide a natural habitat for wildlife, provide screening, enhance property values and add to the aesthetic quality of the community. However, the Town Board also recognizes that property owners have the right to develop, use and enjoy their properties. This law strikes a balance between the rights of property owners and the maintenance of trees within the Town.

Section 2 – Amendment of a current section of the Mamaroneck Code:

Chapter 207 of the Code of the Town of Mamaroneck hereby is repealed and the following substituted in its place:

Chapter 207

Trees

- § 207-1 **Legislative Intent**
- § 207-2 **Definitions.**
- § 207-3. **Regulated activities; permit required.**
- § 207-4 **Activities permitted by right**
- § 207-5 **Activities absolutely prohibited**
- § 207-6 **Permit application process; approving authority**
- § 207-7 **Tree replacement**
- § 207-8 **Period that must elapse before an additional permit can be issued**
- § 207-9 **Tree Planting Fund**
- § 207-10 **Issuance of permit with conditions**
- § 207-11 **Issuance of permit**
- § 207-12 **Suspension or revocation of permit**
- § 207-13 **Term**
- § 207-14 **Compliance with applicable provisions required**
- § 207-15 **Appeals**
- § 207-16 **Action upon completion of work**
- § 207-17 **Penalties for offenses**

§ 207-18 Phase-in of this chapter

§ 207-1 Legislative Intent.

The Town Board finds and declares that the preservation of trees, as defined herein, within the Town is necessary to protect the health, safety and general welfare of the Town because trees provide shade, impede soil erosion, aid water absorption and retention, inhibit excess runoff and flooding, enhance air quality, offer a natural barrier to noise, provide a natural habitat for wildlife, provide screening, enhance property values and add to the aesthetic quality of the community. However, the Town Board also recognizes that property owners have the right to develop, use and enjoy their properties. This law strikes a balance between the rights of property owners and the maintenance of trees within the Town.

§ 207-2 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

APPLICANT

A person requesting a tree removal permit.

APPLICATION

A request to remove trees made pursuant to this chapter.

APPROVING AUTHORITY

For an application to remove 7 or fewer regulated trees, the Town Environmental Planner shall be the approving authority.

For an application that requests a clearing or is part of either an application for site plan approval, residential site plan approval, subdivision approval, a special use permit and/or a wetlands and watercourses permit issued pursuant to Chapter 114 of the Town Code, the Planning Board shall be the approving authority.

ARBORIST

An individual who has demonstrated knowledge and competency as evidenced by a current International Society of Arboriculture arborist certification.

CALIPER

The diameter of a tree trunk six inches above the ground.

CLEARING

Removal of more than 7 regulated trees from any lot within any twelve-month period.

CRITICAL ROOT ZONE

The circular area surrounding a tree that must be protected from compaction, fill or trenching to attempt to ensure the survival of the tree. That area is determined by multiplying the diameter of the tree at breast height (DBH) by 18 and is measured from the center of the tree's trunk measured from the outside of the tree trunk. For example, a tree with a DBH of 12 inches has a critical root zone with a radius of 216 inches, measured from the center of the tree to the circumference of the circle that is the critical root zone.

DEAD TREE

A tree with a DBH of six inches or more that the Town arborist demonstrates, to the satisfaction of the Environmental Planner, is dead or has been damaged so that it cannot be salvaged or is in an advanced state of decline (where an insufficient amount of live tissue, green leaves, limbs or branches exist to sustain life).

DIAMETER AT BREAST HEIGHT (DBH)

The diameter of a tree 4 1/2 feet above-ground level on the uphill side. DBH shall be recorded in inches.

ENVIRONMENTAL PLANNER

The Town's Environmental Planner or another person designated by the Town Board to act in that capacity.

EXCESSIVE PRUNING

Removal of more than 25% of the crown of a tree within any twelve-month period.

HAZARDOUS TREE

A tree with a DBH of six inches or more that the Town arborist demonstrates, to the satisfaction of the Environmental Planner, poses a threat to the safety of the owner of the property or members of that person's family or their real or personal property or to the safety of members of the public or their real or personal property.

INJURY

Damage to a tree foreseeably leading to the tree's death or permanent damage to the health of the tree, including a wound resulting from any activity, including but not limited to excessive pruning, cutting, trenching, excavating, altering the grade, paving or compaction, bruising, scarring, tearing or breaking roots, bark, trunk, branches or foliage or application of herbicide or poisoning.

INVASIVE SPECIES

Plants listed as prohibited or regulated by the New York State Part 575 list of Prohibited and Regulated Invasive Species contained in 6CRR-NY.V.C.575 or any regulation that replaces it.

PERSON

Any individual person, firm, partnership, association, corporation, limited liability company, organization or legal entity of any kind other than public agencies, municipal corporations and utility companies.

PLANNING BOARD

The Planning Board of the Town of Mamaroneck.

PLANTING PLAN

A plan that identifies areas where existing trees are to be preserved and where proposed replacement trees and other plants are to be located as well as areas of vegetation to remain after the proposed project is completed.

REGULATED TREE

A tree with a DBH of six inches or more, a dead tree or a hazardous tree. A replacement tree also shall be considered a regulated tree regardless of its DBH.

REMOVAL

Removal of a tree, includes not only the complete cutting down of a regulated tree but also cutting so that only the trunk, trunk fragments or a stump remain.

REPLACEMENT TREE

A tree that is required to be planted pursuant to this chapter.

STRUCTURAL DEFECT

Any naturally occurring or secondary condition such as cavities, poor branch attachment, cracks, or decayed wood in the trunk, crown, or roots of a tree that may contribute to structural failure.

TOWN ARBORIST

An arborist employed or contracted by the Town.

TOWN BOARD

The Town Board of the Town of Mamaroneck, New York.

TREE PLANTING FUND

A fund to receive the payment of fees in situations where tree replacement requirements, in whole or in part, cannot be met on-site.

TREE REMOVAL PERMIT

A permit issued pursuant to this chapter.

§ 207-3. **Regulated activities; permit required.**

A person shall be allowed to remove a regulated tree within the unincorporated area of the Town only if a tree removal permit for the removal of such tree shall have been issued.

§ 207-4. **Activities permitted by right.**

The following activities are permitted by right:

A.

Removal of any tree that is not a regulated tree provided the tree is located on property owned by the person removing it or is being removed with the consent of the property owner.

B.

Routine care and maintenance. Pruning of less than 25% of the crown of a regulated tree during any twelve-month period is considered routine care and maintenance.

C.

Provided a tree removal permit is obtained in advance:

1. Up to 7 regulated trees can be removed from any lot having an area of 20,000 square feet or more during any twelve-month period.

2. Up to 5 regulated trees can be removed from any lot having an area greater than 7,500 square feet but less than 20,000 square feet during any twelve-month period.

3. Up to 3 regulated trees can be removed from any lot having an area of 7,500 square feet or less during any twelve-month period.

4. Notwithstanding the foregoing limitation on the number of regulated trees that can be removed during any twelve-month period, a person also may remove any regulated tree that

(i) in the opinion of the approving authority, substantially interferes with a permitted use of the property, or

(ii) is a hazardous tree, or

(iii) the Town arborist certifies to the satisfaction of the Environmental Planner that due to an approved cut or fill of land elsewhere on the property where the tree is located, it is reasonable to expect that the tree will become hazardous or die or

(iv) is a dead tree.

The Environmental Planner can dispense with a report from the Town arborist if the Environmental Planner can determine that a tree is either hazardous or dead without the need for a report.

In making judgments pursuant to § 207-4 C., the approving authority shall act reasonably.

D.

1. A tree removal permit is not required to remove a regulated tree for the protection of the owner of the property or members of that person's family or their real or personal property or for the protection of members of the public or their real or personal property when removal is necessitated due to an actual or ongoing emergency, defined as a serious situation or occurrence that happens unexpectedly and demands immediate action; however, the property owner shall notify the Environmental Planner of the removal and provide evidence as to why such tree was removed within 15 days after removal.
2. A property owner who causes a regulated tree to be removed due to an actual or ongoing emergency shall comply with the rules for replacing trees provided in § 207-7 and be subject to the fines imposed and the consequences that result from failing to comply with this law provided in § 207-17.

E.

A property owner will not be required to obtain a tree removal permit or to plant replacement trees if a tree on the property owner's property falls without human action.

§ 207-5. Activities absolutely prohibited.

A.

Except in situations where § 207-4 D. is applicable, it shall be unlawful for any person to remove a regulated tree without obtaining a tree removal permit in advance.

B.

It shall be unlawful for any person, other than the Town, to remove a tree within a public right-of-way or on Town-owned property without the Town's permission. No department, agency, commission, authority or employee of the Town or any firm or individual retained by the Town shall remove five or more regulated trees located within an area of 2,500 square feet, or less without first notifying the Town Board of its intention to do so.

C.

It shall be unlawful for any person to cause such injury to a tree so that it is likely that the tree will become a dead tree or a hazardous tree.

D.

It shall be unlawful for any person to remove a tree with a DBH of thirty-six inches or more unless it is determined by the Environmental Planner to be a hazardous tree or a dead tree or unless it

(i) in the opinion of the approving authority, substantially interferes with a permitted use of the property, or

iii) the Town arborist certifies to the satisfaction of the Environmental Planner that due to an approved cut or fill of land elsewhere on the property where the tree is located, it is reasonable to expect that the tree will become hazardous or die.

The Environmental Planner can dispense with a report from the Town arborist if the Environmental Planner can determine that a tree is either hazardous or dead without the need for a report.

In making judgments pursuant to § 207-5 D., the Environmental Planner shall act reasonably.

§ 207-6. Permit application process; approving authority.

A.

Any person seeking to conduct any activity listed in § 207-3 shall file an application for a tree removal permit with the approving authority.

1. Applications to the Environmental Planner

The Application shall include the following information:

- a. The name, postal and email addresses and telephone number of the property owner and the applicant, if the applicant is not the property owner,
- b. The street address of the property where the removal is sought,
- c. A statement from the property owner authorizing an applicant to make the application for a tree removal permit,
- d. A general description of the proposed removal,
- e. A planting plan based on the tree replacement requirements in § 207-7. The planting plan shall include the location of all proposed replacement trees, a list of all proposed replacement trees that identifies the species (by common or botanical name), size and quantity. The approving authority may waive the requirement to plant replacement trees, in whole or in part, if it determines that, because of site constraints, it is impracticable or impossible to replace certain trees, or where the approving authority determines that, because of relevant site planning considerations, tree replacement is not warranted. The approving authority shall require payment of a fee to the Tree Planting Fund to satisfy the unmet portion of tree replacement requirements computed in accordance with §207-9A.,

- f. The name, postal and email addresses and the telephone number of the applicant's contractor,
- g. Any other information that the Environmental Planner deems is reasonably necessary in order to evaluate the application, and
- h. The fee required for a Tree Removal Permit. If work is commenced prior to the permit being issued, the applicant shall be liable for the fine prescribed by § 207-17 A.

An application for a tree removal permit submitted to the Environmental Planner shall be approved, approved with conditions (§ 207-10), denied (for example, an application made during the period prohibited by [§ 207-8]) or returned to the applicant with a request for further information within 30 days of the receipt of a complete application. If the Environmental Planner requests additional information, the application shall not be considered complete until the Environmental Planner receives such additional information. An application shall not be considered complete until the applicant obtains all other permits (except a building permit) that must be obtained in order to perform the project that requires the removal of trees. If the tree removal permit is denied, the applicant will be notified in writing by the Environmental Planner of the reasons for the denial. If the Environmental Planner does not act upon an application for a tree removal permit within 30 days after the application is complete, the application shall be deemed granted and a tree removal permit shall issue.

2. Applications to Planning Board

The application shall include:

- a. The items listed in § 207-6 A (1) (a through f); however, the applicant will not need to reproduce separately the items that it shall have filed in connection with an application for site plan approval, residential site plan approval, subdivision approval, a special use permit and/or a wetlands and watercourses permit issued pursuant to Chapter 114 of the Town Code and the required planting plan may be incorporated into the landscaping plan required by the Planning Board in connection with the above listed applications,
- b. Any other information that the Planning Board deems is reasonably necessary in order to evaluate the application, and
- c. The fee required for a tree removal permit. If work is commenced prior to the Tree Removal Permit being issued, the applicant shall be liable for the fine prescribed by § 207-17A.

An application for a tree removal permit submitted to the Planning Board may be returned to the applicant with a request for further information. If the Planning Board requests additional information, the application shall not be considered complete until the Planning Board receives such additional information. An application shall not be considered by the Planning Board until it is complete. If the tree removal permit is denied, the applicant will be notified in writing by the Environmental Planner of the reasons for the denial.

This law shall not limit the number of regulated trees that the Planning Board can allow to be removed for the development of a vacant lot. A lot whose principal use has been removed during the previous twenty-four months shall not be considered a vacant lot.

Nothing in this law shall prevent the Planning Board from authorizing the removal of more trees than this law otherwise would allow if in the opinion of the Planning Board, it is appropriate to do so.

B.

Any site for which an application has been submitted shall be subject to inspection upon notice to the property owner and/or the applicant at any reasonable time, including weekends, by the approving authority or its designated representatives. By making an application for a tree removal permit, the property owner shall be deemed to have given its consent to such inspection.

C.

All items submitted in connection with an application for a tree removal permit, including the application itself, shall be maintained in the office of the Building Department.

D.

The Building Department shall maintain a record of the lots for which tree removal permits are issued by either the Environmental Planner or the Planning Board, the date of each permit and the number of regulated trees approved for removal by each permit.

§ 207-7. **Tree replacement.**

A.

Tree replacement shall occur on-site, except where the approving authority determines that, because of site constraints, it is impractical or impossible to do so, or where the approving authority determines that replacement trees would unduly prevent the use or enjoyment of the property or where the approving authority determines that, because of relevant site planning considerations, it is not warranted. If the approving authority determines that less than all of the required number of replacement trees can be planted on-site, the approving authority shall require the payment of a fee to the Tree Planting Fund to satisfy the unmet portion of tree replacement.

B.

The number of replacement trees shall be determined as follows:

Two replacement trees for each removed regulated tree having a DBH between 6 inches and 12 inches.

Three replacement trees for each removed regulated tree having a DBH greater than 12 inches but less than 18 inches.

Four replacement trees for each removed regulated tree having a DBH of more than 18 inches.

C

Replacement trees must have a caliper of at least two and one-half inches and must be a species selected from the list of approved species maintained by the Environmental Planner which may be updated from time to time. Except where the approving authority determines that it is impractical to do so, at least 50% of replacement trees shall be trees that grow to a height of at least 40 feet when mature.

D.

When 10 or more replacement trees are required, no single tree genus can account for more than one-third of total number of replacement trees. Exceptions to this requirement may be authorized by the Environmental Planner, when specific conditions warrant such a change.

E.

Replacement trees shall be ecologically compatible with the site and neighboring properties. Invasive species shall not be allowed under any circumstances. Standards for transplanting of trees and shrubs shall follow the guidelines found in the International Society of Arboriculture publication "Tree and Shrub Planting Manual."

§ 207-8. Period that must elapse before an additional permit can be issued.

1. There shall be a period of time when a tree removal permit for the same property cannot be issued. A tree removal permit shall not be issued for any property for which a tree removal permit was issued prior to the first anniversary of the preliminary letter of completion for the work done pursuant to such permit (*see* § 207-16), or in the case of a permit which does not require the planting of replacement trees, prior to the first anniversary of the deposit into the Tree Planting Fund that a property owner is required to make pursuant to § 207-9. The prohibition upon the issuance of a tree removal permit shall apply even if title to the property is transferred.
2. A tree removal permit may be issued within the time period where issuance of such permit would be prohibited by paragraph 1 of section 207-8, if the prior tree removal permit had been issued for the removal of a hazardous tree or a dead tree.
3. A property owner may apply for a tree removal permit during the period when this section prohibits the issuance of such permit if during that period a tree on that property becomes a hazardous tree or a dead tree. A property owner who causes a hazardous tree

or a dead tree to be removed shall comply with the rules for replacing trees provided in § 207-7 and be subject to the fines imposed and the consequences that result from failing to comply with this law provided in § 207-17.

4. If a replacement tree does not survive for one year after the Environmental Planner issues a preliminary letter of completion, the Environmental Planner shall determine whether the property owner must plant the requisite number of trees to replace the replacement trees that died or may pay an amount into the Tree Planting Fund that equals the number of replacement trees that did not survive multiplied by \$300.00 or a combination of both. Upon the issuance of a preliminary letter of completion after these new trees are planted or the payment into the Tree Planting Fund, the property owner shall be allowed to apply for a tree removal permit.

If a tree planted to replace a replacement tree that did not survive for one year after the Environmental Planner had issued a preliminary letter of completion itself dies within one year of the issuance of a preliminary letter of completion for its planting, the property owner may either plant the requisite number of trees to replace the replacement trees that died or may pay an amount into the Tree Planting Fund that equals the number of replacement trees that did not survive multiplied by \$300.00 or a combination of both.

§ 207-9. **Tree Planting Fund.**

A.

When a property owner is required to make a payment to the Tree Planting Fund, the amount of such payment shall equal the product of the multiplication of the number of required replacement trees that will not be planted on-site by \$300.00.

B.

The Tree Planting Fund shall be the fund that receives (i) payments from property owners who cannot satisfy tree replacement requirements because the approving authority determines that due to site constraints some or all of the required number of replacement trees cannot be planted on-site and (ii) the payment of any fine imposed by this chapter. In addition, any person may donate to the Tree Planting Fund.

C.

(1) Amounts on deposit in the Tree Planting Fund shall be used for the sole purpose of planting and maintaining Town owned trees, shrubs, and other permanent plant materials and other applicable landscaping projects on Town-owned property.

(2) Proposed landscaping may include trees, shrubs, and other permanent plant materials. Planting and maintenance shall include purchase, transportation, mulching, watering, fertilizing, trimming, fencing and associated labor. The Tree Planting Fund may be used to fund other associated project tasks including the purchasing equipment to be used for watering plantings, the purchase and/or installation of irrigation systems to support plantings, design, tree inventory,

construction of tree pits, and soil amendments that enhance and promote long-term sustainability of plantings.

(3) If feasible, the amounts on deposit in the Tree Planting Fund first should be applied to projects located close to lots where tree removal has occurred.

§ 207-10. Issuance of permit with conditions.

Any tree removal permit may contain such conditions as the approving authority deems necessary to ensure compliance with the legislative intent of this chapter. Examples of conditions that may be imposed upon a tree removal permit include but are not limited to, the alteration of the planting plan submitted by the applicant so that replacement trees are planted on-site in locations other than the locations shown on such plan or the imposition of the requirement to deposit money into the Tree Planting Fund instead of planting replacement trees on-site.

§ 207-11. Issuance of permit.

No tree removal permit shall be issued until the applicant or the property owner pays (i) the fees required for making the application and (ii) the amount required to be paid to the Tree Planting Fund to satisfy the unmet portion of the tree replacement requirements.

§ 207-12. Suspension or revocation of permit.

A.

(1) The Building Inspector, an Assistant Building Inspector, the Engineer, any Code Enforcement Officer, the Director of Building Code Enforcement and Land Use Administration, or the Environmental Planner may issue a stop-work order for violations of this chapter. Persons receiving a stop-work order shall be required to halt all land development activities, except those activities that correct the violations that led to the stop-work order or remove a hazardous condition. The stop-work order shall be in effect until the Town confirms that the violation has been satisfactorily corrected. Failure to address a stop-work order in a timely manner may result in civil or monetary penalties in accordance with the enforcement measures authorized in this chapter.

(2) The Building Inspector, an Assistant Building Inspector, the Engineer, the Director of Building Code Enforcement and Land Use Administration, or the Environmental Planner may suspend or revoke a tree removal permit if the applicant has not complied with any of the material terms of such tree removal permit, has exceeded the authority granted in the permit, or has failed to undertake the project in the manner set forth in the Application. Such suspension or revocation shall be accompanied by a stop-work order.

B.

A stop-work order and/or suspension or revocation of a tree removal permit shall be delivered personally to the applicant or the property owner or sent by certified mail, addressed to the applicant at the address shown on the tree removal permit and sent by certified mail to the property owner at the address of the property for which such permit was issued. Immediately upon the receipt of a stop-work order if personally delivered or on the third day following the mailing of such order, all work being undertaken pursuant to the tree removal permit shall cease.

§ 207-13. **Term.**

A tree removal permit shall be valid for two years from the date of its issuance unless a different term is otherwise specified by the approving authority. Tree removal permits may be renewed by the approving authority if a request for such renewal is submitted before the expiration of the original tree removal permit or a renewed permit. Standards for issuance of renewals shall be the same as the standards for issuing tree removal permits.

§ 207-14. **Compliance with applicable provisions required.**

No tree removal permit shall eliminate the obligation of the applicant and the property owner to comply in all respects with the applicable provisions of any other federal, state or local law or regulation, including but not limited to the securing of any other required permit or approval.

§ 207-15. **Appeals.**

A.

If an application is denied or issued with conditions by the Environmental Planner, the property owner may appeal such determination to the Planning Board.

(1)

The appeal must be made within 30 days after the Environmental Planner shall have mailed the determination to the property owner. The appeal must be in writing and must set forth the errors that the property owner asserts were made by the Environmental Planner.

(2)

In prosecuting the appeal, the property owner shall comply with the notification requirements of Chapter 144 of the Town Code except that the properties to which mailing notice of the appeal shall be the properties that are within one hundred linear feet from each of the lot lines and corners of the subject property.

(3)

The Planning Board shall review the appeal at the earliest regularly scheduled meeting that allows the property owner to comply with the notification requirements of Chapter 144 of the

Town Code and shall, based upon the standards contained herein and the facts of the matter, either (i) deny the appeal, or (ii) grant the appeal and direct the Environmental Planner either to issue a tree removal permit or strike one or more of the conditions attached to the permit that the Environmental Planner issued. The Planning Board shall file its determination with the Town Clerk within 5 business days after it is rendered.

(4)

A tree removal permit shall be stayed pending determination of the appeal.

B.

A property owner may bring a proceeding to review a determination by the Planning Board in the manner provided by Article 78 of the Civil Practice Law and Rules. Such proceeding must be commenced within 30 days after the filing the Planning Board's determination in the office of the Town Clerk.

§ 207-16. Action upon completion of work.

A.

Within 30 days after completion of the removal of all trees for which a tree removal permit shall have been issued and the planting of all replacement trees, the applicant shall notify the Environmental Planner of such completion.

B.

Within 30 days of such notification, the Environmental Planner shall conduct an inspection to determine whether there has been compliance with all the terms of the tree removal permit. If the Environmental Planner determines that there has been compliance and/or the required funds have been deposited into the Tree Planting Fund, the Environmental Planner shall issue a preliminary letter of completion. If all of the replacement trees survive for one year after the Environmental Planner issues a preliminary letter of completion, the Environmental Planner shall issue a final letter of completion. If any of the replacement trees do not survive for one year after the Environmental Planner issues a preliminary letter of completion, the property owner shall replace the replacement trees that did not survive with a like number of replacement trees and the notification and letter of completion process stated above shall pertain to such replacement trees.

C.

If the Environmental Planner determines that there has not been compliance with all the terms of the tree removal permit or that not all replacement trees have been planted and/or the funds required to have been deposited into the Tree Planting Fund have not been deposited, the Environmental Planner shall so notify the applicant and the property owner. The notification shall include a list of items to be corrected. If the violations listed by the Environmental Planner

are not corrected within 30 days of the notification, the applicant and the property owner shall be liable for the fine prescribed in § 207-17B.

§ 207-17. **Penalties for offenses.**

A.

Any person who removes a regulated tree without complying with this chapter shall be guilty of a violation within the meaning of NY Penal Law § 10.00 (3) and upon conviction, shall be punished by the imposition of a fine of

- \$300.00 per tree for the removal of trees having a DBH between 6 inches and 12 inches,
- \$600.00 per tree for the removal of trees having a DBH greater than 12 inches but not greater than 18 inches and
- \$900.00 per tree for the removal of trees having a DBH larger than 18 inches.

In addition, any person who removes a regulated tree without complying with this chapter shall be required to plant the number of replacement trees and/or make the payment to the Tree Fund that the property owner would have been required to plant or pay if such person had obtained a tree removal permit.

B.

Any person who does not comply with a notification given by the Environmental Planner pursuant to § 207-15 C. shall be guilty of a violation within the meaning of NY Penal Law § 10.00 (3) and upon conviction, shall be punished by the imposition of a fine of \$500.00 plus a fine of \$300.00 for each replacement tree that the property owner failed to plant plus double the amount of the funds that the property owner was required to deposit into the Tree Planting Fund.

C.

Each violation of a provision of this chapter shall be a separate and distinct offense. In addition, any offender may be ordered by the court to replant trees that were improperly removed, insofar as that is possible. The court shall specify a reasonable time for completion of such restoration, the sufficiency of which shall be determined by the Environmental Planner. The fines remitted to the Town shall be deposited into the Tree Planting Fund.

D.

In addition of being liable for the fines contained in § 207-17A., any person who removes a regulated tree without having first received a tree removal permit or who does not comply with a notification given by the Environmental Planner pursuant to § 207-16C. shall be precluded from applying for a tree removal permit for the removal of trees from the property for which the tree removal permit had been issued for the 12-month period commencing with the month that such removal or non-compliance with a notification given by the Environmental Planner pursuant to § 207-16C. is discovered by the Town.

E.

In addition to the penalties set forth above in § 207-17, the Building Inspector shall not issue a building permit, temporary certificate of occupancy or certificate of occupancy for any property on which a violation of this chapter occurred until such violation is cured.

F. For the purpose of this section, the property owner also shall be liable for the fines and subject to the penalties imposed by this section due to the actions of any person who violates §§ 207-17 A., B., C. or D.

§ 207-18. Phase-in of this chapter.

This chapter shall apply to lots having an area of 7,501 square feet or more on the ninetieth day after this local law is filed with the Secretary of State.

This chapter shall apply to lots having an area of 7,500 square feet or less, on the first anniversary of the date when this chapter became effective with respect to lots having an area of 7,501 square feet or more.

Section 3 – Severability:

Should any provision of this Local Law be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration of unconstitutionality or invalidity shall not affect any other provisions of this Local Law, which may be implemented without the invalid or unconstitutional provisions.

Section 4 – Effective Date:

This Local Law shall become effective on the ninetieth day after this law is filed with the Secretary of State.