

INCORPORATED VILLAGE OF HUNTINGTON BAY

**PROPOSED LOCAL LAW NO. ____ OF 2025 AMENDING
THE VILLAGE CODE OF THE VILLAGE OF
HUNTINGTON BAY FOR A NEW CHAPTER ENTITLED
“TREE ORDINANCE”**

Be it enacted by the Board of Trustees of the Incorporated Village of Huntington Bay as follows:

Section 1. Amendment.

The Village Code of the Incorporated Village of Huntington Bay is hereby amended for the creation of a new chapter of the Village Code entitled “Tree Ordinance” which shall read as follows:

Section 1. Legislative Intent.

- A. The Board of Trustees of the Incorporated Village of Huntington Bay hereby finds that there is a direct relationship between the planting and management of trees and the preservation of natural vegetation in populated areas of the Village and the health, safety and welfare of Village residents, and that trees and natural 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 and natural vegetation provide privacy to Village residents, reduce noise, provide shade that contributes to energy conservation, 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 and natural vegetation 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 indiscriminate removal of trees and clearing of natural vegetation causes soil erosion and alters the current pattern of storm water runoff and creates flooding on roadways and other real property in the Village which results in increased Village costs for proper drainage control. Said removal and clearing is detrimental to existing residential properties, impairs the stability and value of real property in the area of said removal or clearing and adversely affects the health, safety and general welfare of the residents of the Incorporated Village of Huntington Bay.

Section 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 his duly authorized agent.

CLEARING OF NATURAL VEGETATION - The substantial cutting, clearing and/or removal of contiguous natural vegetation occurring on a property.

HABITAT - The natural growing characteristics of any tree or specimen 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.

MATURE TREE - A woody perennial plant having a single, usually elongated main stem, generally with few or no branches on its lower part, and having a sufficient size depending on the following three categories of trees: canopy, understory or evergreen.

- a. Canopy trees (e.g., *Acer rubrum*, *Fagus grandifolia*, *Tilia*, *Liriodendron*, *Quercus*) having a trunk circumference of 20 inches or greater, 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. Understory trees (e.g., *Cornus florida*, *Cercis*, *Carpinus*, *Nyssa*) having a trunk circumference of 10 inches or greater, 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.
- c. Evergreen trees (e.g., *Juniperus virginiana*, *Ilex opaca*, *Pinus strobus*) having a height of 10 feet or greater.

NATURAL VEGETATION - Plant species found on a property exclusive of any vegetation associated with active agricultural or horticultural activity, home gardens, or formalized landscape or turf areas.

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

REAL PROPERTY - All unimproved and improved real property within the Incorporated Village of Huntington Bay.

SUBSTANTIALLY ALTER/ALTERATION - Any cutting or pruning in excess of that which is necessary to preserve the health of the plant material and/or to maintain its ornamental quality.

SUBSTANTIAL CLEARING - Any cutting or drastic pruning of brush or woody vegetation on a property which alters the runoff pattern of storm water, and/or impairs, destroys or endangers the life of such brush or vegetation or its role as natural habitat.

UNIMPROVED REAL PROPERTY - Any real property on which no residential structure, clubhouse or other place of public assembly has been erected.

Section 3. Permits/Exceptions.

Permits required; exceptions.

- A. It shall be unlawful for any person to perform or cause to be performed the removal or substantial alteration of any mature tree located on any real property within the Village without a permit from the Building Inspector.
- B. It shall be unlawful for any person to perform or cause to be performed the substantial clearing of natural vegetation on any real property located within the Village without a permit from the Building Inspector.
- C. 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 or substantial alteration of any tree is necessary to prevent imminent danger to human life or property.
 - 3. The removal of a dead or diseased tree, provided the presence of the dead or diseased tree to be removed is first verified by a certified Arborist.
 - 4. The removal or substantial alteration of any mature tree or clearing of natural vegetation required for the maintenance of any road, utility right-of-way or easement.
 - 5. The removal or substantial alteration of any mature tree or clearing of natural vegetation pursuant to a removal plan approved by the Board of Trustees in connection with an approved site plan.

Section 4. Permit Fees.

Permit fee.

The fee for any permit required under this chapter shall be established, and amended from time to time, by resolution of the Board of Trustees.

Section 5. Application Procedures.

Application procedure; criteria for permit issuance.

- A. Application for a permit pursuant to this Chapter shall be made to the Building Inspector.
- B. The application forms shall include, but shall not be limited to, the following:
 - 1. The name and address of the applicant.
 - 2. The purpose of the proposed removal, substantial alteration or clearing.
 - 3. The site of the proposed removal, substantial alteration or clearing.
 - 4. Unless waived by the Building Inspector, a sketch or plan of the area indicating the following:
 - i. An outline of existing heavily wooded areas showing the tree type and range of sizes.

- ii. The location and size of trees to be removed or substantially altered and the perimeter of areas which are not to be disturbed.
 - iii. The location of any existing or planned improvements on the real property.
 - iv. Any additional information that the Building Inspector may reasonably deem necessary for evaluation of the application.
- C. The decision of the Building Inspector regarding whether or not to issue a permit shall be based upon the following criteria:
 - 1. The condition of the tree with respect to public safety, disease and danger of falling, proximity to existing or proposed structures and interference with utility services or intended use of the land.
 - 2. The necessity for the removal, substantial alteration or clearing in question.
 - 3. In cases where removal or substantial alteration is requested due to the poor health or condition of a tree, the information contained within any arborist report submitted in connection with the application.
 - 4. The effect of the removal, substantial alteration or clearing on the ecosystem and possible presence of protected habitat.
 - 5. The effect of the proposed removal, substantial alteration or substantial clearing on the established character of the site.
 - 6. The impact of proposed removal, substantial alteration or substantial clearing upon existing screening of any contiguous properties or any roads bordering the property.
 - 7. Whether it is the applicant's intention to replant trees and revegetate the property in accordance with a submitted landscaping plan.
- D. The Building Inspector's action on a request for a permit pursuant to this Chapter shall be referred to the Board of Trustees for site plan approval when:
 - 1. The tree removal or clearing of natural vegetation is proposed in connection with a project for which site plan approval is required pursuant to this Code;
 - 2. The permit requests permission to remove any trees relative to the size of the property or any tree with a circumference of 113 inches (thirty-six-inch diameter) or greater, measured at a point four feet six inches above ground level;
 - 3. The permit requests permission to clear 1,000 square feet or more of contiguous natural vegetation; or
 - 4. The Building Inspector and/or Village Engineer determines, in their discretion, that the extent of the requested tree removal or clearing and site conditions are such that natural drainage, erosion, or slope stability on or around the subject property will be negatively and substantially impacted.

Section 6. Replacement.

Vegetation replacement.

As a condition to the issuance of a permit for the removal, substantial alteration or substantial clearing of natural vegetation, the Building Inspector and/or Village Engineer 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 and vegetation to be

removed when warranted by the individual character of the trees or vegetation or the ecological setting. Large projects should include a plan prepared by a Landscape Architect.

Section 7. Enforcement.

- A. The Village Building Inspector, Code Enforcement Officer and/or Village Police Department are hereby vested with the authority to enforce the provisions of this Chapter.
- B. It shall be a rebuttable presumption, for the purpose of enforcing this Chapter, that the owner or occupant on whose land any tree has been destroyed or substantially altered without the necessary permit is the person responsible for performing or permitting the act complained of.

Section 8. Penalties for Offenses.

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 less than \$1,000 and not more than \$3,000 for each mature tree unlawfully removed or substantially altered without a permit and a fine of not more than \$1,000 for any other violation under this chapter. Each such violation shall constitute a separate offense and shall be punishable as such hereunder. When pursuing a fine for a violation of this chapter, the Village may take into consideration whether replacement trees or vegetation have been planted. A violation that causes damage may result in the resident being responsible for the amelioration of same.

The Building Inspector shall stop all work and construction activity on any premises where a violation of this chapter has occurred. No work shall resume until violation is remedied.

Section 10. Additional Rights and Appeals.

Any person aggrieved by a decision of the Building Inspector with respect to this Chapter shall have the right to appeal the decision to the Board of Zoning Appeals within 30 days of the date of filing of the determination in the office of the Village Clerk.

*** END OF PROPOSED CODE ***

Section 2. Severability.

If any clause, sentence, paragraph, section, or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder hereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part hereof directly involved in the controversy in which judgment should have been rendered.

Section 3. Effective date.

This local law shall take effect immediately upon its filing with the office of the Secretary of State.