

Chapter 206. Trees

Article I. Protection and Maintenance

§ 206-1. Findings.

A. The Board of Trustees of the Incorporated Village of Plandome Manor hereby finds that there is a direct relationship between the preservation of and the planting of trees in sufficient number in populated areas of the Village and the health, safety and welfare of the Village residents and that trees 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 reduce noise, provide welcome shade and privacy to Village residents, preserve the balance of oxygen in the air by removing carbon dioxide and fostering air quality, and create a pleasant atmosphere in the Village, especially along the roads. Trees 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 destructive and indiscriminate removal of trees causes increased Village costs for proper drainage control, impairs the benefits of occupancy of existing residential properties, impairs the stability and value of both improved and unimproved real property in the area of the destruction, and adversely affects the health, safety and general welfare of residents of the Incorporated Village of Plandome Manor.

§ 206-2. Definitions.

For purposes of this chapter, the following terms, phrases and words shall have the following meanings:

APPLICANT

The owner or his duly authorized agent.

DIAMETER AT BREAST HEIGHT (DBH)

The measurement of a tree diameter taken 4.5 feet above ground level.

HABIT

The natural growing characteristics of any 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.

PERSON

Any individual, including but not limited to any resident of Plandome Manor, or any firm, partnership, association, corporation, company, public agency, public utility or organization of any kind, or an agent thereof.

REAL PROPERTY

Includes all improved and unimproved real property within the Incorporated Village of Plandome Manor.

SUBSTANTIAL ALTERATION

Any cutting or drastic pruning or elevating the habit of a tree which impairs, destroys or endangers the life of such tree or its natural symmetry and shall include but shall not be limited to heavy or unnecessary cutting of top branches or major lower limbs.

TREE

A wood perennial plant having a single, usually elongated main stem, generally with few or no branches on its lower part.

UNIMPROVED REAL PROPERTY

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

Article II. Tree Removal

§ 206-3. Prohibited acts; permit required.

A. Prohibited acts.

(1) It shall be unlawful for any person without a permit to remove, destroy or substantially alter any tree with a **DBH of 6.5 inches or more** or the habit of said tree or to cause, order, direct, permit or allow the removal, destruction or substantial alteration of said tree or habit of said tree located on any improved real property within the Incorporated Village of Plandome Manor.

(2) It shall be unlawful for any person without a permit to remove, destroy or substantially alter 12 or more trees **regardless of DBH** or the habit of said trees or to cause, order, direct, permit or allow the removal, destruction or substantial alteration of any tree or habit of any tree located on any improved real property within the Incorporated Village of Plandome Manor

(3) As to any parcel of land located in an R-110 Zone, the requirements of Subsection **A(1)** shall only apply as to that portion of said parcel abutting any residential zone in the Village of Plandome Manor and, further, shall apply only to a depth of 50 feet from the line demarcating the abutting residential zone in the Village of Plandome Manor.

B. It shall be unlawful for any person without a permit to remove or destroy any tree or to cause, order, direct, permit or allow the removal or destruction of any tree of any size located on any unimproved real property within the Incorporated Village of Plandome Manor.

C. The foregoing provisions of this section shall not apply to:

(1) Horticulture pruning done pursuant to customarily accepted ornamental or therapeutic practice which does not substantially alter the habit of the tree.

(2) Any emergency situation in which the removal, destruction or substantial alteration of any tree is necessary to prevent imminent danger to human life or property. However, any tree removed in an emergency situation shall be replaced in accordance with §206-5 herein.

§ 206-4. Tree removal permits.

A. No person, firm or corporation shall remove any tree or trees on private property without first obtaining a tree removal permit.

(1) If the removal of a tree(s) on private property is in connection with another activity for which a permit is required under § **88-5A** of this Code, a tree removal permit application as described in this section is required. In this section a "tree" is defined as any **living woody plant which has a DBH of 6.5 inches or more**, including its root system and the environment within the area defined by the outermost limits of its branches.

(2) If the removal of a tree(s) on private property is not in connection with any other activity for which a permit is required under § **88-5A** of this Code, an applicant is subject to the tree removal permit application requirements of this section.

B. If any such tree removal occurs within the six months prior to the filing of an application for a permit required by § **88-5A**, the removal of a tree or trees is deemed to have taken place in connection with the permit required by § **88-5A**. This subsection shall apply to any tree removal that occurred within the six-month period prior to the effective date of this subsection.

C. In addition to the information required in § **88-5B** of this Code, an application for a tree removal permit shall also include the following information:

(1) The name and address of the applicant and status of legal entity.

(2) The status of the applicant with respect to the land.

(3) Written consent of the owner or owners of the land, if the applicant is not the owner or sole owner.

(4) The location of the property, including the section, lot and block number and street address.

(5) The reason tree removal is sought.

(6) The condition of each tree with respect to disease and danger of falling.

(7) A description of the size and type of each tree to be removed, including common name and/or botanical name.

(8) Such other information as may reasonably be required by the Building Inspector to establish compliance with this section, including, but not limited to, the following:

(a) A signed statement from a New York State certified arborist indicating the health of the tree.

- (b) An erosion control plan.
- (c) Photos of each tree to be removed.
- (d) A survey noting the location of any structures or utilities endangered by the tree.
- (e) Alternative mitigation if the tree acts as a visual and/or noise barrier to a road or highway.
- (f) Proposed methods to ensure the protection of remaining trees. A copy of Tree Standards and Specifications will be provided to the applicant.
- (g) Flagging of each tree to be removed.

D. In making the determination to grant or deny the application, the Building Inspector shall be guided by the following criteria:

- (1) The ability of the applicant to rearrange the layout of proposed structures to minimize the removal of trees.
- (2) The necessity of removal or alteration of the tree in question.
- (3) The condition of the tree with respect to disease and danger of falling. In the event that the diseased condition of the tree is not evident, the Building Inspector maintains the right to require the applicant to submit proof from a New York State certified arborist.
- (4) The proximity of the tree to proposed or existing structures.
- (5) Whether the tree endangers the usefulness of a public sewer or public utility.
- (6) The significance of the tree in regard to:
 - (a) The size of the tree.
 - (b) The rarity of the species.
 - (c) The historical value of the tree.
- (7) The effect of the removal on:
 - (a) The character of the site with respect to vegetation management practices.
 - (b) Ecological systems.
 - (c) The existing screening of any road or highway bordering the property in question.
 - (d) Erosion control from the parcel on which the tree is to be removed and its impact on adjacent parcels.
- (8) Whether a denial of the permit will result in unnecessary hardship or severe financial loss to the applicant.

E. In the event that the Building Inspector denies a request for a tree removal permit, the applicant may appeal his decision to the Board of Zoning Appeals.

F. No permit will be issued for tree removal unless:

(1) The application is accompanied by plans for the development of the land from which such tree is to be removed and of any other land on the same tax lot or lots; or

(2) The application demonstrates a serious threat to public health and safety which can be solved by removal of such tree.

Article III. Tree Replacement

§ 206-5. Tree replacement guidelines.

Each tree removed of with a DBH of 6.5 inches or greater shall be subject to the tree replacement guidelines enumerated in this section:

A. Each tree removed shall be replaced with tree with a DBH of 3.5 inches or greater. ~~If 12 or more trees with regardless of DBH are proposed to be removed, then one-half the total number of trees removed must be replaced with trees with a DBH 3.5 inches or more.~~

B. The tree(s) to be planted in replacement shall be located ~~in the front yard on the same parcel from which the tree(s) is proposed to be removed~~ in an area of the property that complements existing or proposed structures.

C. The proposed location of the new tree(s) shall be approved by the Building Inspector, ~~unless the tree removal is part of a plan subject to review of the Design Review Board. If the Design Review Board shall have jurisdiction over the application, it shall approve the location of new tree(s)~~

D. The tree(s) to be planted in replacement shall be from a similar size class or from a larger size class as the tree(s) removed. Size classes are enumerated in the Tree Standards and Specifications to be promulgated by the Building Inspector.

E. If the Building Inspector determines that the site does not allow for the planting of the required number of trees, the Building Inspector shall require the applicant to plant the maximum number of trees possible ~~and with any remaining trees to be replaced with shrubbery, provided the plant selection has met his prior approval as a condition of a tree removal permit. If the site does not permit the planting of shrubs, the Building Inspector shall require~~ the applicant to ~~shall~~ pay an additional fee to the Incorporated Village of Plandome Manor in an amount ~~to be determined by the applicant and confirmed by the Building Inspector to be equal to the estimated cost of the required number of trees and/or shrubs,~~ to be established by resolution of the Board of Trustees. The fees collected pursuant to this section shall be used to create a tree planting program for the Village of Plandome Manor.

F. If the application proposes the removal of 12 or more trees regardless of DBH, the applicant shall only be required to replace one-half of the total number of trees removed. However, the applicant shall be required to pay a fee to the Incorporated Village of Plandome Manor in an amount to be

established by resolution of the Board of Trustees for the 50% of trees will not be replaced, plus an additional fee if the applicant cannot replace at least 50% of the trees removed.

F. All required tree planting shall occur between April 1 and December 1 and 90 days after the tree removal. If plantings cannot occur within 90 days of the removal due to the above planting time restrictions, the Building Inspector shall require the applicant to ~~deposit a performance bond or a~~ **make a** cash deposit in the form of a certified check ~~with the~~ **payable to the** Incorporated Village of Plandome Manor in an amount which shall be determined by ~~the applicant and confirmed~~ by the Building Inspector to be equal to the estimated cost of planting the required number of trees and/or shrubs and, if applicable, stabilizing the site. The term of said deposit ~~or performance bond~~ shall not exceed a period of six months, and the deposit ~~or bond~~ shall not be released until the plantings have been satisfactorily completed in accordance with the approved tree removal permit.

(1) In the event of a default, such ~~bond or~~ cash deposit shall be forfeited to the Incorporated Village of Plandome Manor for ~~additional plantings in Village parks or property~~ **the Village's Tree Planting Program**, and the applicant shall be found to be in violation of the conditions of the tree removal permit. The Building Inspector shall determine the remedy of the violation; however, in no circumstances shall such forfeiture of the ~~bond~~ **deposit** serve as a remedy of the violation.

(2) Upon satisfactory completion of the contemplated work in accordance with the application and this chapter, such ~~bond or~~ cash deposit shall be released by the Building Inspector **with the approval of the Board of Trustees**. Satisfactory completion of the work shall be evidenced by the Building Inspector.

§ 206-6. Penalties for offenses.

Any person who willfully violates any provision of this chapter or any final determination or order of the Incorporated Village of Plandome Manor Code Enforcement Officer or Board of Trustees made in accordance with this chapter shall, in addition, be guilty of a violation, punishable as provided in Chapter 1, General Provisions, Article I, Penalties and Assessments.

§ 206-7. Additional rights and remedies not affected.

Nothing herein contained shall abridge or alter any rights or remedies now or hereinafter existing, nor shall this chapter or any provisions thereof or any rule or regulation promulgated thereunder be construed as stopping the Village of Plandome Manor from exercising its rights and fulfilling its obligations to protect the public health and welfare. In addition to all other remedies available to the Village, this chapter shall be enforceable by injunction in an action brought in the Supreme Court.