

**INCORPORATED VILLAGE OF OLD FIELD
BOARD OF TRUSTEES**

Proposed Local Law No. ____ of 2025 amending Chapter 108 of the Village Code (Trees) to address substantial alteration/substantial clearing of diverse natural habitat and amending penalties associated with such substantial alteration

Be it hereby enacted by the Board of Trustees of the Incorporated Village of Old Field as follows:

Section 1. Enactment.

Chapter 108 of the Village Code entitled "Trees" is hereby amended as follows:

Chapter 108. Trees and Clearing.

§ 108-1. Legislative intent.

- A. The Board of Trustees of the Incorporated Village of Old Field hereby finds that there is a direct relationship between the preservation of and the planting of trees and shrubs in sufficient number in populated areas of the Village and the health, safety and welfare of Village residents. The Board of Trustees also finds that trees and shrubs 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 shrubs reduce noise, provide welcome shade, maintain visual and noise privacy buffers between Village residents, preserve the balance of oxygen in the air by removing carbon dioxide, and foster air quality and create a bucolic and rural atmosphere in the Village, especially along the roads. Trees and shrubs 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 and shrubs 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 the residents of the Incorporated Village of Old Field.
- C. The Village also recognizes the negative consequences that have been demonstrated with extensive lawn landscape, including decreased biodiversity, decreased pollinator insects, decreased avian presence compared to undisturbed native habitat, as well as increased energy consumption, noise,

runoff of harmful nutrients, and potential for unhealthy chemicals to be transported into our homes by foot traffic.

§ 108-2. 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.

DIVERSE NATURAL HABITAT

Landscape consisting of an undisturbed mixture of vegetation that is not invasive, such as, but not limited to, trees with an understory of woody vegetation or meadows of low-lying mixture of herbaceous graminoid species.

ENVIRONMENTAL CONSERVATION COMMISSION “ECC”

The Commission duly established by the Board of Trustees pursuant to Chapter 23 of the Code of the Village of Old Field.

IMPROVED REAL PROPERTY

Any real property on which a residential structure, clubhouse or other place of public assembly has been erected.

INVASIVE SPECIES

Species that are non-native to the ecosystem under consideration, and whose introduction or excessively aggressive propagation causes or is likely to cause economic or environmental harm or harm to human health. (6 CRR-NY V C 575 Notes). The Village maintains a list of invasive species whose eradication is promoted.

LAWN

Landscape covered by a monoculture of turf grass.

MATURE TREE

A woody perennial plant having a single, usually elongate 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*) have a trunk circumference of 16 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*) have 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*) have a height of 10 feet or greater.

PERSON

Any resident of Old Field or any individual, firm, partnership, association, corporation, company, public agency, public utility or organization of any kind or agent thereof.

REAL PROPERTY

Includes all unimproved and improved real property within the Incorporated Village of Old Field.

SUBSTANTIAL ALTERATION aka Substantial Clearing

Any action that diminishes the health and vigor of diverse natural habitat, or that alters the runoff pattern, or impairs, or endangers the existing diverse natural habitat of the property in question, including, but not limited to, any tree topping, excessive or improper cutting or pruning of live trees or diverse natural habitat, including grade changes around or near a tree, compacting or overburdening of roots, excessive irrigation of a tree, or trenching in the root zone of a tree, but does not include periodic trimming, shaping, thinning or pruning of a live tree or shrub to preserve or protect its health, growth or appearance, in accordance with accepted arboricultural standards and practices. Any action that involves the use of heavy equipment, such as a bulldozer, backhoe, excavator, skid steer, trencher, and the like, is presumed to constitute substantial alteration.

UNDERSTORY

The underlying layer of low native vegetation, usually associated with trees.

UNIMPROVED REAL PROPERTY

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

§ 108-3. Prohibited acts; permit required; exceptions.

- A. It shall be unlawful for any person to perform substantial alterations (as defined in § 108-2) on any real property within the Village of Old Field without a permit.**
- B. No permit need be secured for the following:**
 - (1) Horticultural pruning of woody vegetation and trees done pursuant to customarily accepted ornamental or therapeutic practice as defined by American National Standards Institute ANSI A300 Pruning Standards, developed by the Tree Care Industry Association (TCIA) and supported by the International Society of Arboriculture (ISA), which are the authoritative sources for accepted pruning practices in professional**

arboriculture. All work performed must not negatively impact the health of the woody vegetation and trees.

(2) The removal of any tree or shrub or substantial alteration authorized by the Board of Trustees in accordance with a plan approved by the Board of Trustees in connection with an approved site plan.

(3) 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. In the case of an emergency, photographic or other evidence of the emergency condition shall be sent to the Village Clerk prior to any removal, if at all practicable. If not practicable, then such evidence shall be submitted within 7 days of the commencement of the tree work necessitated by the emergency. "Emergency" shall be defined as creating an imminent danger to persons or property. If no such evidence is submitted, then a violation will be presumed to have taken place. If it is determined by the ECC that an emergency existed, no permit or fee shall be required

C. A permit (with no fee required) must be secured for the following:

(1) Removal of approved invasive species identified in the list of invasive species maintained or adopted by the Village, except if such removal alters the runoff pattern of stormwater or removes non-invasive vegetation.

(2) The removal of any trees located within any required setback or buffer area and located within the following distance of the primary residential structure's foundation, existing or proposed:

a. Front and side yards, on parcels having a lot area of:

[1] Less than two acres: 25 feet.

[2] At least two acres, but less than three acres: 35 feet.

[3] At least three acres: 50 feet.

b. Rear yard, on parcels having a lot area of:

[1] Less than two acres: 35 feet.

[2] At least two acres, but less than three acres: 50 feet.

[3] At least three acres, but less than five acres: 100 feet.

[4] At least five acres: 150 feet.

(3) The removal of any dead tree that is still standing.

§ 108-4. Administration.

A. The Board of Trustees may adopt rules and regulations for efficiently discharging its responsibilities under this chapter.

B. The Board of Trustees in making a determination concerning removal of trees or shrubs may obtain the services of a professional arborist regarding the advisability of removal. The cost of such professional evaluation shall, in all cases, be borne by the applicant.

§ 108-5. Application procedure; criteria for permit issuance.

- A. An application for a permit shall be made to the Board of Trustees.
- B. The application shall be made on such forms as may be prescribed by the Board of Trustees and shall include but not be limited to the following:
 - (1) The name and address of the applicant.
 - (2) The purpose of the proposed removal or alteration.
 - (3) The site of the proposed removal or alteration.
- C. A sketch or plan of the area indicating the following may be required by the Board of Trustees when deemed necessary to carry out the provisions of this chapter:
 - (1) An outline of existing heavily wooded areas on the site, showing the tree and shrub types and range of sizes.
 - (2) The location and size of trees not to be removed along the perimeter of areas which are not to be disturbed by tree cutting, clearing or alterations.
 - (3) The location of any improvements on the real property.
 - (4) The extent of the unimproved real property that exists as lawn or is proposed to become lawn.
 - (5) Any additional information that the Board of Trustees may reasonably deem necessary for evaluation of the application, except that no new survey of the property or survey location of trees may be required unless there is controversy as to whether a tree is located on the property.
- D. The decision of the Board of Trustees shall be based upon the legislative intent of this chapter and the following criteria:
 - (1) The condition of the trees or shrubs 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 of the removal or alteration of the trees or shrubs in question.
 - (3) The effect of the removal or alteration thereof on the ecosystem and possible presence of protected habitat.
 - (4) If diverse natural habitat buffers of at least 20' width do not exist along the side and rear yard borders, then the extent of unimproved real property to be covered by lawn shall remain less than 34%. If 20' buffers will be present, then the extent of unimproved real property to be covered by lawn shall remain less than 50%. This percent of area coverage criterion shall apply to proposed activities that result in creating new lawn areas or expansion of existing lawn areas occurring after the effective date of this Ordinance. Absent any proposed site development activity, properties covered by lawfully existing lawns as of the effective date of this Ordinance shall not be required to be brought into compliance with the provision of this Section. The criterion will apply to proposed site development that would result in expansion of the areal extent of lawn.**
 - (5) The character established at the proposed site of removal or alteration with respect to existing vegetation management practices.

(6) The impact of any proposed alteration with regard to diverse natural habitat perimeter buffers intended to screen any contiguous properties or any road or highway bordering the property.

(7) The applicant's intention to replant trees and revegetate the property.

(8) The applicant's payment of a monetary fee to mitigate for the lost vegetation in lieu of replacing the tree(s) or replanting the equivalent area of vegetation that is cleared on the property. Such fees shall be deposited into a trust fund to be used by the Village exclusively for the planting of trees and other vegetation on public property within the Village.

- E. No permit shall be issued until such time as the Environmental Conservation Commission has made a recommendation to the Board of Trustees with regard to the application or, in the event that such a recommendation has not been made, at least 45 days have passed following the date that the application was filed with the Village Clerk.
- F. A permit that is issued is valid for a period of 60 days subject to extension at the discretion of the Village.
- G. A copy of any tree removal permit which is granted shall be immediately available from the resident of vendor of the subject property until all approved work is completed and attested to by the resident. If work commences or continues without permit availability a stop work order shall be issued and there shall be a rebuttable presumption that the work was performed without a permit.

§ 108-6. 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.

§ 108-7. Replacement.

The Board of Trustees 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 shrubs to be removed, when the individual character of the trees or shrubs or the ecological setting requires special consideration as a condition for the issuance of a permit for removal. The quantity, size, species and location of replacement trees shall be based on the recommendation of the Environmental Conservation Commission.

§ 108-8. Enforcement; penalties for offenses.

- A. **The Building Inspector or Code Enforcement Officer may at any time during the pendency of the permit issue a stop work order where a violation of this chapter has occurred, and the Building Department shall be prohibited from issuing any Certificate of Occupancy or additional permits for construction at the property or permitting work to resume until the violation has been corrected to the satisfaction of the Board of Trustees.**

- B. Within 7 days after completion of all activities authorized under a permit issued in accordance with this chapter, the applicant shall attest to the Village Clerk of such completion and provide photographic evidence that the completed work complied with and did not exceed the work authorized by the permit.**
- C. If the applicant fails to submit adequate photographic evidence, the Board of Trustees may order Code Enforcement to photograph the completed work. If the photographic evidence is insufficient to determine compliance, the Board may request the ECC or authorized agent to inspect the site to evaluate compliance with all conditions of the permit.**
- D. When all activities authorized under a permit have been deemed to be completed in an acceptable fashion by the Board, the Village shall record completion of the permit and shall cancel or return any bond or any other security collected in connection with said permit.**
- E. If any activities authorized under a permit have been found to be completed in a non-compliant fashion, the Village will take one of two actions. If the non-compliance can be corrected, the resident will be provided an opportunity to do so. If the resident fails to take such corrective action or noncompliance cannot be effectively remedied, Code Enforcement shall be immediately notified to issue an appearance ticket.**
- F. 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 \$500 and not more than \$5000 for each tree unlawfully removed, negatively impacted or substantially altered without a permit, and a fine of not less than \$500 nor more than \$1,500 and for any other violation under this chapter. Each such violation shall constitute a separate offense and shall be punishable with fines per tree increased by 25% if occurring within a 24-month period.**
- G. In addition to any fine pursuant to Subsection B above, any person who violates any provision of this chapter or any conditions imposed upon the issuance of a permit to this chapter shall be ordered to restore the premises damaged by the unlawful removal of trees or shrubs or substantial alteration to such suitable conditions as the Board of Trustees may require. In the event that such person refuses or fails to restore the real property to a condition ordered by the Board of Trustees or its designee, the Board may enforce such requirement, inter alia, by a civil action pursuant to New York State Village Law § 7-714.**

§ 108-9. 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 nor any provisions thereof nor any rule or regulation promulgated thereunder be construed as estopping the Village of Old Field from exercising its right 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.

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 filing with the New York Secretary of State.