

## VILLAGE OF AIRMONT

LOCAL LAW #\_\_ of 2015 Amending Section 195, titled Trees, adding Article III addressing tree maintenance and management

A LOCAL LAW TO AMEND section 195 of the Village Code of the Village of Airmont adopting legislation to regulate tree removal

BE IT ENACTED by the Village Board of the Village of Airmont as follows:

**Title:** Article III. Residential Tree Maintenance and Management

**Title:** §195 - 26. Purpose

**Body:** The Board of Trustees of the Village of Airmont has determined that both the existing character of the community and the control of erosion are highly dependent on the wooded landscape and streetscape and hereby enacts the following legislation:

- A. To control and regulate indiscriminate and excessive removal, cutting and destruction of Significant Trees in order to regulate and prevent conditions which result in increased surface runoff, soil erosion, and pollution of protected waters/wetlands.
- B. To comply with the requirements of the 2003 EPA Storm water Phase II of the Clean Water Act by identifying trees as “green infrastructure” and including their protection as part of the Village’s Storm water Management Plan.
- C. To preserve an important attribute of the Village, by encouraging owners of existing developed lands to reduce removal of canopy trees and mature trees when making improvements to real property.
- D. To maintain the stability and value of real property by preserving existing Significant Trees and woodland aesthetics.
- E. To ensure the continuation of the wooded character of the Village.

**Title:** §195 - 27. Definitions

**Body:**

**DRIP LINE:** A line on the ground surrounding the trunk of a tree that conforms to the widest extent of the tree's canopy.

**EMERGENCY SITUATION:** An immediate significant threat to life, health or property.

**CANOPY COVER TREE:** A tree which at maturity will achieve a canopy spread of forty or more feet in diameter.

**CROWN THINNING:** The selective pruning of branches throughout the canopy of a tree to reduce wind resistance, which may be considered as necessary forestry practice for the purpose of exemption from this ordinance.

**SIGNIFICANT TREE:** A plant with a woody main trunk with branches and a trunk with a circumference greater than twenty four (24) inches measured at its widest point, with a sound trunk showing no extensive decay or hollow; with less than 20% radial trunk dieback; and no major insect or pathological problem; of such species as achieves a canopy spread of forty or more feet in diameter upon maturity.

**TOPPING:** The removal of a tree's leafy crown, creating stubs of the large vertical leader stems, which shall be considered as removal under this ordinance if performed on a Significant Tree.

**Title:** §195 - 28. Tree Maintenance and Management Operations

**Body:**

A. Prohibited Activities.

With the exception of exemptions set forth in Section 3, no person shall do or cause to be done by others, either purposely, carelessly or negligently, the destruction, removal or substantial injury of a Significant Tree without an approved tree cutting permit, through cutting, poisoning or changing the soil elevation surrounding the trunk and drip line in a manner to have an adverse affect on the health of the tree upon private property within the Village of Airmont.

B. Tree Removal Permits.

Except where an emergency situation exists, as outlined in Definitions above, an approved Significant Tree removal permit must be obtained from the Village Building Department prior to the removal of any Significant Tree. Application may be made by the property owner or agent, such as a licensed tree removal company.

#### C. Exemptions.

Notwithstanding the restrictions of Section 1 above, the following activities shall be exempt from this ordinance:

1. Removal of trees directed by municipal, county, state or federal authority pursuant to law.
2. Removal of trees which appear to cause structural damage to buildings, foundations or retaining walls.
3. The cutting, destruction or removal of a tree which endangers public safety and proves an imminent peril, based on the determination of a Licensed Arborist.
4. The pruning and trimming of trees in a manner that is not harmful to the health of the tree.
5. Removal of a tree or trees that is dead or dying, as certified by a Licensed Arborist.
6. Pruning or removal of trees within the right of way by utility companies or highway maintenance for maintenance of utility wires or pipelines.

#### D. Approval.

A permit for the removal of a Significant Tree or Trees may be issued by the Building Inspector provided that no more than three (3) Significant Trees are removed in a 12 month period.

Tree Removal Permits for any circumstances not found above require the approval of the Planning Board. In addition to any other requirements, the Building Inspector may request the advice and assistance of the Village Engineer or other consultants before approving a Significant Tree removal permit.

#### E. Planning Board Review Standards.

For applications deemed by the Building Inspector as requiring Planning Board Review Standards, the Board shall ensure the property is restored in a safe and attractive manner to provide proper buffering and to adhere to the legislative purpose as laid out in this section.

**Title:** §195 - 29. License Required

**Body:**

A. License required. No person shall fell, cut, trim, or remove any tree for hire within the Village, without a license.

B. Application. Applications for such license shall be filed with the Village Clerk. The application shall contain the name and address of the applicant with proof thereof; whether the applicant is an individual, partnership or corporation; name and address of agent to receive process. The license fee required by this chapter shall accompany the application, and a receipt therefore shall be attached to the application. In addition, a policy of insurance required by this chapter shall be attached to said application and a copy of license issued by the County of Rockland. [See paragraphs D and E, respectively, below.]

C. License fee. The license fee shall be as established by resolution of the Village Board.

D. Insurance. Each licensee shall file with the Village Clerk an insurance policy issued by an insurance company authorized to do business in the State of New York. Said policy shall insure the licensee in the sum of at least \$250,000 against liability per incident as may be imposed or awarded by law, and \$500,000 in the aggregate, as may be imposed or awarded by law on account of bodily injury or death of any person or persons not covered by Workers' Compensation Law, and in the sum of at least \$250,000, against liability as may be as imposed or awarded by law on account of damage to or destruction of property, in connection with the felling, cutting, trimming or hauling of trees for hire. The policy shall be endorsed to provide that it may not be cancelled by the carrier except upon at least 30 days' advance written notice to the Village Clerk. In the event such insurance is so cancelled and the licensee shall fail to replace the insurance with an acceptable substitute policy, the license shall be automatically suspended until proof of such insurance shall be provided to the Village Clerk.

E. Granting of license. Upon the completion and filing of said application, payment of said license fee and providing proof of insurance

and possessing a home improvement tree services (Code 15) license issued by the County of Rockland as determined by the Village Clerk, the Village Clerk shall grant the license. The Village Clerk shall keep a register of each license so issued, the number of licenses issued, the name of the person or firm to whom said license is issued and the date of issuance and the date of expiration. Denial of a license by the Village Clerk may be appealed to the Village Board in writing, which Board shall consider the appeal at the next regular meeting of the Village Board, provided same is no less than 10 days from receipt of the appeal. The Village Board shall render a decision within 15 days of hearing the appeal.

F. License expiration. Each license shall expire on December 31 of the year of issuance.

**Title:** §195 - 30. Costs and Penalties

**Body:**

A. The application cost for a Significant Tree removal permit shall be as established by resolution of the Village Board.

B. The penalty for violating this ordinance shall be no less than \$150 and no more than \$1000 per instance.

C. Removal, cutting or destruction of a significant tree without a completed and approved permit shall be deemed a violation of this ordinance. Removal of each significant tree shall be a separate violation.

D. The owner of the company, as well as the owner of the property where the removal was performed, shall be in violation of this ordinance and shall be liable for penalties upon conviction.

**Title:** §195 - 31. Suppression of the Village Law

**Body:**

This Local Law is enacted pursuant to the authority of Section 10 (1) (ii)(3) of the Municipal Home Rule Law authorizing villages to adopt local laws which may amend or supersede any provision of the Village law in relation to the property, affairs of government of the Village or in relation to any other enumerated subject matters in such Section 10.

**Title:** §195 - 32. Separability

**Body:**

Should any section, sentence or provision of this local law be determined by any court of competent jurisdiction to be unconstitutional or invalid in any way, such determination shall not affect the validity of this local law as a whole or any part thereof other than the part expressly so determined to be unconstitutional or invalid.

**Effective Date:**

This local law shall take effect immediately upon its filing with the Secretary of State or otherwise provided by Law.