

VILLAGE OF ASHAROKEN

LOCAL LAW NO. # 3-2021

**A LOCAL LAW AMENDING CHAPTER 112 OF THE CODE
OF THE VILLAGE OF ASHAROKEN ENTITLED "TREES"**

BE IT ENACTED by the Board of Trustees of the Village of Asharoken as follows:

Section One. Legislative Intent.

The Board of Trustees finds that it serves the public health, safety and general welfare of the Village of Asharoken and that it is in the best interests of the Village of Asharoken to amend Chapter 112 of the Code of the Village of Asharoken entitled "Trees" to further regulate the removal of trees.

Section Two. Amendment to Section 112-2

Section 112-2 is hereby amended to provide as follows:

§ 112-2. Definitions.

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

REMOVAL - Includes but is not limited to: cutting or knocking or dragging down; physically removing; poisoning; ringing the tree; excessive peeling of bark; damaging, compacting or overburdening the roots; using herbicides or fire or cutting in a manner so as to bring about the ultimate death of a tree.

SUBSTANTIALLY ALTER - Any cutting or pruning in excess of the normal cutting or pruning necessary to preserve the health of the tree and/or to maintain its ornamental quality.

STEEP SLOPE - Any slope of 15% or greater.

TREE - A living woody perennial plant that is either deciduous or evergreen, regardless of its condition or health.

Section Three. Amendment to Section 112-4

Section 112-4 is hereby amended to provide as follows:

§ 112-4. Exceptions.

Notwithstanding § 112-3, above, no such permit shall be required for:

- A. Normal trimming and cutting of trees by a utility company to maintain utility lines or cables.
- B. Removing a tree which presents an imminent peril to life or property. In such instance, the owner and/or his agent must provide evidence that an imminent danger exists in the form of either photographs evidencing the potential damage or a police report. Such removal may be authorized by the Mayor, a Trustee, the Building Inspector or any police officer employed by the Village of Asharoken.
- C. Removing a tree that presents a danger to a public street, a public place or a public utility or to public property. Such removal may be authorized by the Mayor, the a Trustee Deputy Mayor, the Building Inspector or by any police officer employed by the Village of Asharoken.
- ~~D. Establishment of a tree-free area immediately adjacent to a structure, which area shall include all points within 15 feet of the perimeter of said structure.~~
- ~~E. Maintaining the usefulness of a cesspool.~~

Section Four. Amendment to Section 112-5

Section 112-5 is hereby amended to provide as follows:

§ 112-5 Issuance of permits.

- A. Applications for a permit shall be on forms supplied by the Village and signed by the property owner. The forms are to be submitted to the Village Clerk and are to be accompanied by a plan, if applicable, as specified in § 112-6 below.
- B. The Conservation Board shall be responsible for the issuance of tree permits for individual undeveloped and developed parcels of property, when such permits are being issued in the absence of any construction activity at the site. The Planning Board shall be responsible for issuing permits for parcels under subdivision review as part of the subdivision process. The Building Inspector shall be responsible for issuing permits when the permit shall be applied for as part of a construction project on the property and such permit shall be issued concurrently with the applicable building permit. A copy of each approved permit shall be filed with the Village Clerk by the applicable issuing authority.

C. Since the intent of this chapter is to prevent the indiscriminate removal of trees, the reviewing authority shall use reasonable judgment when examining an application. Factors to be considered during the review process shall include, but not be limited to, the following criteria:

- (1) Minimizing the impact on trees of the siting of roadways, drainage structures, houses, accessory buildings, driveways, patios, tennis courts, etc.
- (2) The use of reasonable horticultural and wood lot practices, including, but not limited to, the thinning of trees that interfere with or choke off the normal growth of other trees and the pruning of trees to encourage their natural growth.
- (3) The effect of removal on ecological systems, including, but not limited to, drainage, stormwater runoff, trees on adjacent properties, and steep slope stability.
- (4) The character of the surrounding community.
- (5) The need to remove or alter the trees in question for reasons of safety, to preserve a preferred species and/or to avoid congestive overgrowth.
- (6) The maintenance or establishment of a vista.
- (7) To preserve trees native to Asharoken, including, but not limited to, the cedar, the hickory, the oak and the beach plum.
- (8) Establishment of a tree-free area immediately adjacent to a structure, which area shall include all points within 15 feet of the perimeter of said structure.

D. The Conservation Board shall render its decision within 10 days after it receives an application for a permit for an individual undeveloped and developed parcel from the Village Clerk, unless the Conservation Board shall advise the applicant that the total number of trees to be removed makes it impracticable for it to act within the prescribed time frame. In such cases, the Conservation Board shall render its decision within 30 days after it receives an application. Once issued, such permit shall be effective for a period of one year from the date the permit is issued.

E. Permits for parcels under subdivision review shall be issued by the Planning Board when the subdivision plat is approved and the map is signed by the Chairman of the Planning Board. This permit shall be effective for one year from the date of issuance.

F. Permits for individual developed or undeveloped parcels, where the tree removal is part of construction to be performed at the site, shall be issued concurrently with the applicable building permit. This permit shall be effective for a period of one year from the date of issuance.

Section Five. Severability.

If any section, subsection, clause, phrase or other portion of this Local Law is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body or other authority of competent jurisdiction, such portion shall be deemed a separate distinct and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect.

Section Six. - Effective Date.

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

Material underlined is added; material ~~striketrough~~ is deleted.