TOWN of GREENBURGH
Local Law No. /2005

A local law creating a new Chapter 260 to replace the existing chapter entitled “Tree Preservation” in the Town Code of the Town of Greenburgh to provide for the preservation and maintenance of trees under New York State Constitution Article IX, and the New York Municipal Home Rule Law § 10.

§ 1. Enactment of Chapter 260 Entitled “Tree Preservation.”

A. § 260-1. Legislative Findings and Intent.
E. § 260-5. Prohibited Activities.
F. § 260-6. Regulated Activities.
M. § 260-14. Enforcement; Penalties for Offenses.
N. § 260-15. Suspension or Revocation of Permit.

§ 2. Severability.

§ 3. Supersession.

§ 4. Effective Date.
§ 1. The Town Board of the Town of Greenburgh hereby adopts a new Chapter 260 entitled “Tree Preservation” as follows:

A. § 260-1. Legislative Findings and Intent.

The preservation and maintenance of trees is necessary to protect the health, safety, environment, ecosystems, community character, and general welfare of the inhabitants of the Town of Greenburgh. Trees provide necessary shade, screening, natural barriers, green space and aesthetic appeal, remove carbon dioxide from the air, impede soil erosion, aid water absorption, provide other environmental benefits and generally enhance the quality of life within the town. The destruction and damage of trees and the indiscriminate and excessive cutting of these trees causes barren and unsightly conditions, destroys vistas, creates surface drainage problems, increases municipal costs to control drainage, impairs stability and value of real property and adversely affects the character of the community. This chapter seeks to address these conditions, while balancing the needs of residents, and provide for:

A. The protection and preservation of as many trees as possible, particularly healthy mature trees, specimen trees and/or trees of select, native or rare species;

B. The replacement of those trees which are removed due to disease or development;

C. The preservation of the greatest possible level of green foliage within the town;

D. The protection, maintenance and reinforcement of suitable wildlife habitats in all areas of the town; and

E. The safe removal of trees, when necessary, and the protection of the public.


The following terms shall have the meanings indicated:

APPLICANT – Any person, corporation, partnership, firm or any other entity making an application pursuant to this chapter.

CAC – The Conservation Advisory Council established pursuant to Chapter 520.

DEAD TREE – A tree that lacks vitality and is lifeless as may be indicated by rot, falling limbs, and lack of normal foliage.

FORESTRY OFFICER – An individual with expertise regarding trees, tree planting and maintenance appointed by the Town Board to enforce and administer the provisions of this chapter.
INJURY TO A TREE – Any act which significantly weakens the tree. This may be injury to the stems, trunk or roots of the tree and may include, but is not limited to, the following acts: removal of excessive numbers of the branches (over pruning), girdling or partial girdling of the tree trunk, large excavations on or around the roots and/or compaction of the roots resulting from the use of construction equipment within the protection root zone (calculated at one foot of radius from the trunk for each inch of tree diameter measured at 4 feet and 1.5 feet per inch for trees larger than 30 inches in diameter), raising or lowering the existing grade, or poisoning (such as by the addition of brine, oil, gasoline, toxins, etc., to the ground around a tree). Injury to a tree shall not include routine pruning designed to increase vitality.

PERSON – Includes one or more persons, corporations, partnerships, associations or any other entity and their respective agents.

SPECIAL TREE – Any tree, chosen for geographical or environmental reasons, on a list adopted by resolution of the Town Board as the “Special Tree List and Report” on file with the Town Clerk. This list shall be promulgated by the CAC and submitted to the Town Board for formal approval as a resolution.

TREE – Any self-supporting woody perennial plant usually with either one main stem or trunk or several trunks with a single leader or main trunk. This definition does not include shrubs, bushes, brush and vines including but not limited to Rhododendron, Mountain Laurel and Wisteria.

TREE REMOVAL – Any act which, directly or indirectly, causes a tree to die or to suffer injury, as defined herein.


A. The Town Board shall appoint a qualified Forestry Officer who shall serve at the pleasure of the Town Board to administer and enforce this chapter.

B. The Forestry Officer shall:

(1) Receive and keep accurate records of tree removal permit applications and decisions.

(2) Inspect the trees and site described in the tree removal application, as necessary, based on the standards for granting permits set forth herein, before and after any removal and prior to the release of any bond.

(3) Grant, grant with conditions or deny tree removal permits according to the standards in this chapter, giving reasons for grant, grant with conditions, or denial and specifying conditions for tree removal, restoration or mitigation.
(4) Serve as an advisor to the various boards and the CAC and enforce the decisions of development approval of said boards and the specific conditions imposed by said boards as they relate to trees and landscaping.

(5) Carry out any and all related duties.

C. The Forestry Officer is hereby authorized and empowered to obtain the assistance, when necessary, of an arborist or persons especially qualified by reason of training or experience in tree planting, preservation and landscaping or landscape architecture or engineering, at the applicant’s expense (and with 10 days notice to the applicant), which expense shall be reasonable and customary for such services. If the applicant objects to the hiring of a consultant, the CAC shall make the determination.

D. In determining whether or not a permit should be granted, and if granted whether and what conditions should apply, the Forestry Officer shall consider the following:

(1) The condition of the tree or trees with respect to disease, insect attack, interference with utility services, and the proximity to existing trees, existing structures or proposed structures.

(2) The necessity of removing the tree or trees in order to achieve the applicant’s goals.

(3) The effect of the tree removal on erosion, soil moisture retention, steep slopes, flow of surface waters and drainage.

(4) Whether any tree in question is a tree worthy of preservation due to unusual characteristics such as age, history, size, rarity, financial value, visual importance to the neighborhood, or location in a Conservation District zone as defined in § 285-9 et. seq.

(5) Whether the removal plan will damage, destroy or remove more trees than is reasonably necessary to achieve the goals of the applicant or is not consistent with the stated purposes of this chapter.

(6) Whether the destruction or removal of tree(s) shall leave a barren or vacant, exposed land area thereby substantially altering the aesthetic composition of the land and surrounding area.


The following activities are permitted:

A. Removal of any tree not regulated by this chapter.
B. Routine pruning or trimming of a tree designed to retain the tree’s health, natural habit, balance, stature and contribution to the landscape design.

E. § 260-5. Prohibited Activities.

A. No person shall fasten or attach to any tree any sign, poster, bill, notice or advertisement of any kind in a manner which will damage a tree in any way.

B. No person may injure a tree as defined herein.

F. § 260-6. Regulated Activities.

A. Unless in possession of a tree permit issued pursuant to this chapter, no person shall purposely, carelessly or negligently cut down, remove, wound, break, kill, destroy or commit any act which will lead to the eventual removal of:

(1) Any tree exceeding six inches in diameter measured from the uphill side at 4 feet above the ground at the trunk (or the total sum of the collective diameters of the trunks for a species of tree with multiple trunks).

(2) Any tree designated by the New York State Department of Environmental Conservation as a protected native plant.

(3) Any special tree as defined above.

(4) More than 15 trees greater than 3 inches in diameter (measured at 4 feet from the ground on the uphill side) on one property within 1 calendar year.

B. Any property owner whose plans would require the removal of any tree or trees covered by this chapter shall make application to the Forestry Officer for a tree removal permit. There shall be no site disturbance and the status quo shall be maintained until such time as a tree permit is granted or denied and the appeal process is completed. The Forestry Officer may grant or deny such application on such terms and conditions as he or she may prescribe, subject to full compliance with the statues, law, ordinances, rules and regulations of the town otherwise affecting the property.

C. Notwithstanding any other provision of this chapter, any property owner applying for a building permit, subdivision, variances, site plan, or other permit or approval whose plans would require the removal of any trees shall make application to the Forestry Officer for a tree removal permit and, in such case, the time periods for approval of a permit under this chapter shall be coordinated with such other permit or approval process to the extent practicable. In the event that a property owner requests the removal of any tree which deviates from a plan previously
approved by a Board of the town or the Forestry Officer, application must be made to the Forestry Officer under this chapter.

D. In no event shall a tree removal permit be issued for the removal of any tree within a designated buffer area or conservation easement area, or specifically designated or under consideration by the Historic and Landmarks Preservation Board, or specifically preserved by the Town Board, Planning Board or Zoning Board of Appeals as a condition of any development approval, unless the Forestry Officer determines said tree is diseased or hazardous to life or property.

E. A licensed professional and insured tree service shall be required, unless the requirement is waived in writing by the Forestry Officer.


A. Requirements

(1) All applications for tree removal permits shall be made in writing and verified under oath upon forms prescribed by the Forestry Officer. The amount of the application fee shall be set by the Town Board and shall accompany the application.

(2) The applicant shall submit plans showing existing and proposed structures on a map or plan at a scale no smaller than one inch equals 40 feet. The Forestry Officer may require a contour map if he or she deems it appropriate. Hand drawn representations may be permitted, at the discretion of the Forestry Officer, where no more than ten (10) trees are to be removed. Where trees are to be removed, all existing trees on the subject property within forty feet of the trunk of the tree(s) proposed to be removed (specifying types and sizes), shall be shown and the reasons for removing said tree(s) shall be set forth. The plans may provide for replacement tree(s) and/or shrubs to be planted as appropriate and, if so, must specify their location and type.

(3) Prior to the submission of the application and until a permit is granted or denied and the appeal process completed, the trunk of all trees slated for removal shall be encircled with orange tape at 4 feet above the ground.

(4) A licensed professional and insured tree service shall be required for tree removals. The applicant shall state the name and address of the tree service and provide a copy of the tree service’s certificate of insurance. The Forestry Officer may, in writing, waive the requirement in an appropriate case such as the removal of trees less than 15 feet in height. A licensed and insured contractor may be used where the tree removal is part of an approved construction plan and it is approved by the Forestry Officer. The contractor’s address and a copy of the certificate of insurance shall be provided.
(5) The Forestry Officer may require additional information such as the design of walls, grading, disposition and design of storm drainage and any other information pertinent to the individual circumstances.

(6) When necessary to ensure protection of trees, the Forestry Officer may require the applicant to select, subject to the approval of the Forestry Officer, and pay for a qualified inspector to supervise the orderly development of the land and ensure the protection of the trees.

(7) When necessary to ensure the protection of trees and required plantings, the Forestry Officer may require that the applicant furnish the town with a performance bond as approved by the Town Attorney in an amount sufficient to cover 90% of the protection, planting and restoration work to be completed in accordance with the plans accompanying all applications. The remaining 10% of the cost of restoration and replanting shall be in cash and deposited by the applicant in a special tree preservation escrow account maintained by the town. The total amount of the bond and cash deposit shall reflect all restoration and protection costs and shall be in accordance with each set of individual circumstances. Upon completion of all planting and restoration work to the satisfaction of the Forestry Officer, the performance bond shall be canceled and replaced with a maintenance bond to be approved by the Town Attorney and to run for a term of two full growing seasons. The growing season for Westchester County is March through October. The ten-percent cash in escrow shall remain on deposit with the town until the maintenance bond is canceled. If new trees or shrubs planted as part of the restoration work do not survive two full growing seasons, the term of the maintenance bond shall be extended to run for a term of two full growing seasons from the time of any necessary replanting.

B. The Forestry Officer may refuse to accept an application until the applicant has complied with each of the requirements set forth herein. The Forestry Officer shall, within 10 business days from the date the application is deemed complete, notify the applicant of his or her intent to approve or disapprove the permit application.

C. There shall be no site disturbance and no trees or branches on the site shall be cut or pruned or broken until the administrative appeal process is completed.

D. All decisions or determinations made by the Forestry Officer to grant a permit with or without conditions pursuant to this chapter, with the exception of permits issued under § 260-8(C), shall be sent by the applicant by certified mail within 5 days to all property owners within a 100 foot radius of the perimeter of the site and to the CAC. In the event the subject site is within 100 feet of a condominium, notice shall be given to the condominium’s managing agent instead of each individual condominium owner. The applicant shall provide an affidavit of mailing to the Forestry Officer evidencing the date the decision was mailed and to whom it was mailed (if notification is required) and the date the trees were
marked with orange tape. This notice requirement may be waived, in writing, in instances where:

(1) There is a need for the action to be taken promptly, in that the tree would (i) endanger the public or public property, (ii) endanger the person or property of the owner, or (iii) endanger the person or property of an adjoining property owner.

(2) The tree trunk is within 10 feet of an existing house or garage, at the discretion of the Forestry Officer if he or she determines that there will be no or minimal impact on the adjacent properties.


A. The determination of the Forestry Officer shall be based upon the species of the tree, the degree of injury and the likelihood of the survival of the tree, economic considerations of land use and consideration of the general welfare and the overall environment of the area, in accordance with § 260-3(D), except that it shall be subject to such review as authorized below. No permit shall be issued until the time to appeal has expired.

B. The Forestry Officer or his or her designee may, as a condition of granting the permit application, require the applicant to replace a tree which is the subject of the application with replacement trees or shrubs or other forms of remediation under conditions specified in the permit.

C. In the event that the Forestry Officer determines that a tree or trees pose a hazard to life or property, the Forestry Officer shall have the right to grant immediate approval for the removal of said tree or trees, waiving all notices as required under this chapter. In the event that such approval is granted, the Forestry Officer, subsequent to the cutting of said tree or trees, shall have the authority to require compliance with § 260-7(A)(5) to the extent necessary and to require appropriate remediation in accordance with § 260-8(B).

D. No permit shall be required to remove or cut down any tree when it is necessary for the immediate protection of public health, safety or property. In the event a tree is removed or cut down pursuant to this subsection, within three (3) business days after such act, the person on whose property the tree is located shall submit to the Forestry Officer a letter or other appropriate documentation explaining and confirming the nature of the immediate threat and, in addition, may be required to obtain documentation from a certified arborist. In addition, the Forestry Officer shall have the authority to require compliance with § 260-7(A)(5) and to require appropriate remediation in accordance with § 260-8(B).

E. The Forestry Officer has the right to deny permits for tree removal if he or she feels that the best interests of the public are not served by the proposed removal in
accordance with § 260-3(D). The Forestry Officer may revoke any permit if the work is not proceeding according to permit and in an orderly and diligent manner.


A. Any person aggrieved, affected or interested in the determination or decision of the Forestry Officer shall have the right, within 15 days from the date of mailing of the decision of the Forestry Officer, to appeal the decision of the Forestry Officer to the Town Board for a hearing and final determination, with a copy of the appeal to the CAC, which shall within 10 days schedule such appeal for public discussion at a CAC meeting and make a recommendation to the Town Board within 10 days of the close of the CAC’s publicly noticed discussion. The Forestry Officer shall notify the applicant of the appeal by certified mail. Any permit issuance by the Forestry Officer shall be stayed pending a final determination by the Town Board.

B. The appellant shall provide notice of the date the appeal shall be heard by the CAC and the Town Board to all property owners within a 100 foot radius. In the event the subject property is within 100 feet of a condominium, the condominium’s managing agent shall be notified instead of each individual condominium owner.

C. Any final determination of the Town Board shall be stayed for a period of 7 days and may be appealed by application to the Supreme Court of the State of New York within 30 days of the filing of the decision with the Town Clerk.


A. All persons who remove trees or cause trees to be removed shall restore the area by backfilling all holes and by creating an acceptable grade and covering, subject to approval by the Forestry Officer. Any tree or trees covered by this chapter damaged during construction or development of the property shall be replaced, where appropriate, in accordance with the permit. Where existing trees are so large and mature that they cannot be replaced, the Forestry Officer may require the planting of multiple trees instead. Minor tree damage shall be repaired in accordance with accepted tree surgery practice.

B. The Forestry Officer may require that tree stumps be removed, not cut flush, except where the Forestry Officer determines that the stumps may be left for aesthetic purposes, to prevent soil erosion or for other reasons. After the planting of trees pursuant to this chapter, removal of all debris in the disturbed area shall be made immediately. The property where such planting is done must be left in a neat and orderly condition in accordance with good and acceptable planting and tree surgery practice.
C. All tree planting, tree dressing and associated restoration work must be substantially completed within one year from the date of issuance of the permit, except that the permit may be extended by the Forestry Officer, who shall have the discretion to grant such an extension subject to the applicant’s request to the Town Board, upon a recommendation from the CAC. Under all circumstances the performance bond obtained by the permit holder shall continue in full force and effect until there has been full compliance and approval of all restoration work required by the Forestry Officer. In the event that the planting and restoration work has not been substantially completed within one year and no permit extension has been applied for or granted, the Forestry Officer shall have the right to consider the permit abandoned and declare the performance bond in default, and may apply the escrow deposit and/or the proceeds of the bond to perform all required planting and restoration work. By accepting a permit, the holder thereby agrees to this procedure and grants unconditional access to the land for such restoration purposes.

D. All newly planted trees including trees required to be replaced by this subparagraph which fail to survive for two full growing seasons shall be replaced by the permit holder at no expense to the town. Said replacement shall be made within 60 days following written demand for such replacement from the Forestry Officer or within an extended period of time as may be specified. Should the permit holder fail to replace the trees pursuant to demand within the required period of time, the Forestry Officer has the right to serve a summons and/or declare the maintenance bond, if any, in default and apply the escrow cash deposit and/or the proceeds of the bond to replace the required trees.


No final certificate of occupancy or certificate of completion shall be issued by the Building Inspector until all required planting, tree dressing and associated restoration work shall be completed to the satisfaction of the Forestry Officer, except that between the first day of November and last day of February the permit holder may obtain a temporary certificate of occupancy or completion, and all planting and restoration work must be completed to the satisfaction of the Forestry Officer on or before the first day of May or the certificate of occupancy or completion shall be null and void. The escrow cash deposit and the bond obtained by the permit holder shall continue in full force and effect until the planting and restoration work has been completed. Should the permit holder fail to complete the restoration work on or before June 1 next following the issuance of the permit, the Forestry Officer shall have the right to declare said performance bond in default and apply the escrow cash deposit and the proceeds of the bond to restore the land.


No owner, lessee or occupant of any land or any part thereof shall permit or maintain on any such lot or land any trees, shrubs or bushes or parts thereof which are infected or
infested with organisms which cause or tend to cause disease, destruction or damage to such trees, shrubs or bushes and which spread by passing from such trees, shrubs or bushes to other trees, shrubs or bushes thereby causing destruction or damage to the property of others and becoming a public nuisance. It shall be the duty of any such owner, lessee or occupant to destroy and remove all such organisms on notice from the Town.


A. No employee, department, agency, commission or authority of the town or any firm or individual retained by the town shall propose to or shall cut down, kill or otherwise destroy any healthy tree in any town park or on other town property, with the exception of town highways, without first filing a statement with the Town Board. In the event that the Parks Department determines that a tree or trees are hazardous to life or property, the Commissioner of Parks and Recreation shall have the right to grant immediate approval for the removal of said tree or trees without filing a statement with the Town Board. For any tree(s) to be removed from a town right-of-way, approval shall be sought from the Highway Superintendent.

(1) The statement required above shall be made in writing on a form approved by the Town Board. Such statement shall specify the particular type of work to be performed, the exact location, a general description of the tree or trees that shall be removed, a sketch plan if appropriate and required, together with the reasons for the removal of said tree.

(2) Upon filing said statement with the Town Board, notification shall be sent to the owners of record of land within 500 feet from the tree or trees to be removed.

(3) The Town Board shall be stayed from making any decision or determination for a period of 15 days from the date of mailing. In the event that any person, firm, organization or corporation aggrieved, affected or interested in the removal of said tree or trees shall file an objection with the Town Board, in writing, at least five days prior to the next regularly scheduled Town Board meeting, said Town Board shall not make any decision or determination until its next regular or special Town Board meeting following the filing of said objection.

B. All contracts entered into by the town with firms or individuals for work to be performed on town-owned land, excluding town highways, shall contain a provision that there shall be complete compliance with this section of this chapter.

N. § 260-14. Enforcement; Penalties for Offenses.

A. This chapter shall be enforced by the Forestry Officer, his or her designees, the Greenburgh Police Department, or such others as the Town Board may designate,
except where such enforcement is vested with the Highway Superintendent by the laws of the State of New York.

B. Any person violating any of the provisions of this chapter shall be guilty of a violation and upon conviction shall be subject to fines per tree as follows:

<table>
<thead>
<tr>
<th>Tree Diameter</th>
<th>Fine</th>
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<tbody>
<tr>
<td>Trees 3 inches to 6 inches in diameter</td>
<td>$200.00</td>
</tr>
<tr>
<td>Trees greater than 6 inches but not greater than 9 inches in diameter</td>
<td>$250.00</td>
</tr>
<tr>
<td>Trees greater than 9 inches but not greater than 12 inches in diameter</td>
<td>$720.00</td>
</tr>
<tr>
<td>Trees greater than 12 inches but not greater than 18 inches in diameter</td>
<td>$1,620.00</td>
</tr>
<tr>
<td>Trees greater than 18 inches in diameter</td>
<td>$2,700.00</td>
</tr>
<tr>
<td>Tree within conservation (or buffer) areas or trees of select or rare species</td>
<td>$5,000.00</td>
</tr>
</tbody>
</table>

Fines per tree shall be doubled in the event that more than 15 trees over 3 inches in diameter (measured at 4 feet from the ground) on a site are cut, if any tree is injured, cut or broken while the appeal process is pending, if offense(s) are repeated or if any tree is sold for board. Each day the violation continues shall constitute a separate offense and penalties shall accrue until the permit is issued by the Forestry Officer in accordance with this chapter. No permit may issue, and if previously issued, shall be revoked, until such violation is resolved and a remediation plan accepted.

C. Any person violating any provision of this chapter not covered by B may be subject to a civil penalty enforceable and collectible by the town in the amount of $1,000 each day the violation continues for every tree.

D. The violator will also be required to replace in kind or in accordance with the permit each tree injured, removed, killed or destroyed in accordance with this chapter.

O. § 260-15. Suspension or Revocation of Permit.

A. The Forestry Officer or his or her designee may suspend or revoke a permit or issue a stop work order if he/she finds that the applicant or permittee or their representative agents have not complied with any or all of the terms and conditions of such permit, has exceeded the authority granted in the permit, has failed to undertake the project in the manner set forth in the approved application or has provided information, in whole or in part, which subsequently proves to be false, deceptive, incomplete or inaccurate.

B. The Forestry Officer shall set forth in writing in the file it keeps regarding permit applications, its findings and reasons for revoking or suspending a permit pursuant to this section.
§ 2. Severability.

If any clause, sentence, paragraph, section or part of this ordinance or the application thereof to any person or circumstances shall be adjudged by any court of competent jurisdiction to be invalid, such order or judgment shall be confined in its operation to the controversy in which it was rendered and shall not affect or invalidate the remainder of any part thereof to any other person or circumstances and to this end the provisions of each section of this law are hereby declared to be severable.

§ 3. Supersession.

Pursuant to Municipal Home Rule Law § 22, this local law is intended to supersede any inconsistent provision of law.

§ 4. Effective Date.

This law shall take effect 90 days after filing in the office of the Secretary of the State of New York in accordance with the provisions of the Municipal Home Rule Law.