

**TOWN OF GRAND ISLAND  
LOCAL LAW No. \_\_\_\_ OF 2019**

**A local law amending the Town of Grand Island Code to add Chapter 181 to establish the policy and procedure for the preservation of trees on Grand Island.**

**Be it hereby enacted by the Town Board of the Town of Grand Island as follows:**

**Section 1:** The Town of Grand Island (“Town”) Code is hereby amended to include Chapter 181, “Tree Preservation of Grand Island,” which shall read in its entirety as follows:

**Section 181-1. Title.**

This Chapter shall be Chapter 181 of the Code of the Town of Grand Island and may be cited as the “Tree Preservation Law of the Town of Grand Island.”

**Section 181-2. Purpose.**

Residents of the Town consistently praise the benefits of a semi-rural environment. Perhaps the most obvious environmental factor which separates the Town from an urban setting is the presence of numerous trees. Unfortunately, this rural landscape image is dramatically changing. Trees are subjected to periodic attacks from invasive species (e.g., Emerald Ash Borer which has decimated a significant portion of the trees within the Town). Measures are needed to make a serious long-term commitment to sustain and enhance our remaining tree populations. The long-term goal is to create and maintain diverse species and minimize any negative impact(s) on trees within the Town.

Specifically, the intent of this chapter is to:

- Protect and promote the public health, safety and general welfare by the preservation and protection of trees within the Town;
- Reduce the clearing, destruction and disturbance of trees and establish guidelines for the limitation of the removal of trees within the Town;
- Reduce flooding, water pollution, effects of wind and air turbulence, visual pollution, sound pollution, soil erosion, levels of carbon dioxide, and return oxygen to the atmosphere;
- Increase groundwater supply while providing shade and habitat for wildlife;
- Conserve and protect property values and otherwise facilitate the creation of a convenient, attractive and harmonious community in keeping with residents’ expressed desire to preserve the rural/agricultural heritage of the Town; and
- Generally preserve and safeguard the ecological and aesthetic environment.

The Town continuously strives to set standards that serve to improve the overall health and well-being of its residents. The goals of the Tree Ordinance are to enhance the aesthetic environment,

to educate the public on importance of tree preservation, and to continue to provide elements essential in establishing and maintaining a strong ecosystem.

### **Section 181-3. Definitions.**

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

A. Trees

Any woody perennial plant (deciduous or coniferous) usually having a single main stem with a minimum diameter of three (3) inches at 4.5 feet above ground level (DBH), generally with few or no branches on its lower part.

B. Park Trees

Trees in public parks.

C. Street Trees

Trees within the right-of-way of all Town streets, avenues or highways.

D. Tree Topping

The severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.

E. Tree Preservation Plan

A document used to evaluate the impact of the proposed construction/activity to an existing landscape.

### **Section 181-4. Town Tree Advisory Board.**

A. Creation and Establishment. There shall be created and established a Town Tree Advisory Board of the Town of Grand Island, New York, which shall consist of seven residents of the Town, who shall be appointed by the Town Supervisor, subject to the approval of the Town Board. The Tree Advisory Board shall annually elect officer(s) and advise the Town Board of the name(s) of such officer(s).

B. Term of office. The term of the persons to be appointed by the Supervisor shall be three years, except that the term of two of the members of the first Board shall be for only one year and the term of two members of the first Board shall be for two years. In the event that a vacancy shall occur during the term of any member, his or her successor shall be appointed by the Supervisor for the unexpired portion of the term.

C. Compensation. Members of the Board shall serve without compensation.

D. Duties and responsibilities. The Tree Advisory Board may consider, research, advise, report, and recommend upon any matter or question pertaining to the protection and enhancement of trees subject to the ordinance. The Tree Advisory Board will strive to raise educate the public on the importance of trees to the Town. Meetings of the Tree Advisory Board shall be called by the Chairperson.

### **Section 181-5. Protection and Planting of Trees.**

A. Damage/or removal. Protection of mature street and park trees shall be a priority. Subject to the provisions of this law, Street Trees and Park Trees of desirable species and good health shall be protected to the greatest extent possible from damage and/or removal during construction, sidewalk repair, utility work above and below ground and other similar activities.

B. Tree care on Town property. The Town shall have the right to plant and maintain Trees within Town rights-of-way of all streets, avenues, highways and other Town grounds, as may be necessary to ensure public safety and to enhance the beauty of such public grounds. (*see* GI Town Code § 407-139).

### **Section 181-6. Species and Locations of Trees.**

A. The Tree Advisory Board shall develop and maintain a list of desirable Street Trees for planting along streets in two size classes based on mature height: small (under 20 feet) and large (over 20 feet). Efforts shall be made to ensure a sufficient diversity of tree species. A list of trees not suitable for planting will also be maintained.

B. The spacing of Street Trees shall be in accordance with the two size classes listed in this chapter. No new Street Trees may be planted closer than the following: small trees 20 feet, large trees 30 feet, except in special plantings designed or approved by a landscape architect, or at the discretion of Town in consultation with the Tree Advisory Board.

C. No new Street Trees may be planted within the right-of-way or closer than 2 feet from any curb or sidewalk except at the discretion of the Town Board with the advice of the Highway Superintendent and the Tree Advisory Board. No new street trees shall be planted closer than 10 feet from any fire plug. (*see* GI Town Code § 407-109).

### **Section 181-7. Injury to Trees.**

A. No person shall cut or otherwise injure any Street Tree; provided, however, that the Town of Grand Island Highway Department, or a person authorized in writing by the Highway Superintendent, may cut or trim trees Street Trees where such trimming or cutting is in the interest of public health, safety and/or welfare; and further provided, that necessary cutting or trimming of Street Trees shall be permissible without advance permission of the Highway Superintendent in emergency situations where and to the extent necessary to preserve public health, safety and welfare. Notwithstanding this subparagraph, nothing in this provision shall impair the right of any private utility to trim trees as necessary within any utility easement nor reduce or abrogate the obligation of any private utility to maintain utility lines in a safe manner. It shall not be necessary to get advance authorization to remove any storm-damaged tree that blocks traffic, creates a traffic hazard or in any way is detrimental to public safety or well-being.

B. No person shall fasten any sign, wire, rope or other material to, around or through any Street Tree or Park Tree in the Town of Grand Island, except by written permission from the Town, excepting cases of emergency.

### **Section 181-8. Removal of Trees.**

A. The Town shall have the right to require the removal of Trees on private property within the Town, when such trees constitute a hazard to life and/or property. The Town shall notify, in writing, the owners of the property with such trees.

B. The Town may remove or cause to be removed, any tree or part thereof on public property which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines or other public improvements. Trees removed by the Town or by natural causes may be replaced on a one-for-one basis within a year. The location and species of any replacement tree shall be determined by the Town with the advice of the Tree Advisory Board.

### **Section 181-9. Removal of Trees on Commercial Property or Housing Developments.**

A. Permits are required when Tree removal is occasioned by any development or land use or change thereof requiring site or subdivision plan approval by the Town of Grand Island.

B. As part of any required site or subdivision plan application, an application for a tree removal permit shall be made to the Town Clerk's office and forwarded to the Tree Advisory Board and shall include, at a minimum, the following information:

- (1) Name and address of the applicant and owner if not the same.
- (2) Site of the proposed tree removal.
- (3) Purpose of the proposed tree removal.
- (4) An attached Tree Preservation Plan of the area indicating the following:
  - a. The approximate location and number of tree(s) to be removed;
  - b. The location of any improvements on the property, existing or proposed;
  - c. Topographic information, if unique features are present (e.g., ravines, creek, wetlands); and
  - d. Any additional information that the Town Board may deem necessary for evaluation of the application (Tree Preservation Plan).

C. The Town Board may establish by resolution the fee to be charged, collected and received for the review of each tree removal application. The fee will go to a fund to be used exclusively for tree purchase and replanting. The fee will be waived if the removed trees are replaced with a recommended species from a list provided by the Tree Advisory Board.

D. Mitigation Measures. Where a Tree removal permit is required, the applicant must make provisions for mitigation measures. Replacement of Trees from the Tree Advisory Board's

recommended list may be required as a condition to approval. Trees planted in new developments or new construction must be consistent with the Town's landscape requirements (Chapter 407, Article XXIX). A tree maintenance plan must be submitted and adhered to (*see* GI Town Code §407-140 Landscaping Plans).

E Standards for permit review may include all factors the Town Board considers relevant, including the following:

- (1) The extent to which use of the property requires cutting down, killing or destroying trees;
- (2) Any hardship to the applicant that will result from a modification or denial of the requested permit;
- (3) The desirability of preserving any tree by reason of its size, age or some other outstanding quality, such as uniqueness, rarity or status as a landmark or species specimen;
- (4) The extent to which the area would be subject to increased water runoff and other environmental degradation due to removal of the trees;
- (5) The heightened desirability of preserving tree cover in densely developed or densely populated areas;
- (6) The need for visual screening in transitional zones or relief from glare or other negative visual impacts; and
- (7) All the other factors enumerated in the beginning of this chapter.

F. Permit issuance.

- (1) Tree removal permits shall be issued by the Town Board upon recommendation on the application by the Tree Advisory Board.
- (2) Review of application; time period. If the tree removal permit application is not acted upon within sixty (60) days after receipt by the Tree Advisory Board, it shall be deemed approved.

#### **Section 181-10. Review by Town Board.**

The Town Board will have the right to review any decisions regarding trees.

#### **Section 181-11. Enforcement and Penalties for Offenses.**

Enforcement of this Chapter shall be the responsibility of the code enforcement officer. Violations of any of the provisions of this Chapter shall be punishable by a fine of not more than \$250. Each day's continuance of a violation after notice shall be deemed a separate and distinct violation and shall be punishable accordingly.

**Section 181-12. Severability**

Should any part or provision of this local law be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof other than the part held to be invalid.

**Section 2. Effective Date.** This local law shall be effective immediately upon filing with the New York Secretary of State.