

Chapter 138

TREES

[HISTORY: Adopted by the Board of Trustees of the Village of Saddle Rock 1-5-2005 by L.L. No. 1-2005. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 48.
Streets and sidewalks — See Ch. 126.
Subdivisions — See Ch. 129.
Zoning — See Ch. 151.

§ 138-1. Findings and purpose.

- A. It has been established that trees provide a natural habitat for the wildlife of our area, absorb air pollution, provide oxygen, deter soil erosion and flooding and offer a natural barrier to noise. As the removal of trees deprives us of these benefits and disrupts the ecological balance in nature, it is therefore the purpose of this chapter to prevent the indiscriminate destruction and removal of trees in the Village of Saddle Rock.
- B. The Board of Trustees further notes the findings of the New York State Environmental Quality Review Act, including the extent to which the Village is obligated to serve as a steward of air, water, land and living resources, and the extent to which the Village is obligated to protect the environment for the use of this and further generations. It is the intent of the Board of Trustees to recognize these responsibilities in part, by providing these procedures, as well as to preserve the health, welfare and general character of the community, which is reflected in the abundance of trees in the Village of Saddle Rock.

§ 138-2. Definitions.

For the purpose of this chapter, the following terms, phrases and words shall have the meanings ascribed herein:

APPLICANT — The owners of real property or the duly authorized agent of such owners.

HABIT — The natural growing characteristics of any tree, which includes branch spread and distribution, branch height above ground and root spread and distribution.

PERSON — Any individual, firm, partnership, association, corporation, company, public agency, public utility or organization of any kind or the agent thereof.

REAL PROPERTY — All real property in the Village, whether improved or unimproved.

SUBSTANTIAL ALTERATION — Any cutting, pruning, elevating or other alteration of the habit of a tree which impairs or endangers the life of such tree or destroys its natural symmetry. The term "substantial alteration" includes, but is not limited to, destruction or removal of a tree, heavy or unnecessary cutting of top branches (topping), cutting of major lower limbs (severe

elevating) or drastic pruning, but shall not include customarily accepted or ornamental pruning as defined by National Arborist Association's standards for pruning of shade trees.

TREE — Any woody plant, its root system and the environment within the area defined by the outermost limits of its branches, which is at least seven inches in diameter at a height of four feet six inches above the base of the trunk.

VILLAGE OFFICIAL — The Village Building Inspector or such other person as may be designated by the Mayor with the approval of the Board of Trustees.

§ 138-3. Permit required; nonapplicability.

- A. It shall be unlawful for any person to remove, destroy or substantially alter the habitat of one or more trees on any real property unless a permit has been obtained pursuant to this chapter.
- B. This chapter shall not apply in an emergency situation (as determined by the Village Official) or to the removal, destruction or substantial alteration of any tree made in accordance with an accepted building or landscape plan that is part of an approved subdivision, building permit, site plan or other permit approved by the Village of Saddle Rock.

§ 138-4. Administration and enforcement.

- A. The Village Official shall administer and enforce this chapter and choose replacement trees, as hereinafter provided.
- B. The Village Official shall perform the following duties:
 - (1) Receive and keep accurate records of tree removal permit applications.
 - (2) Visit and inspect the site and the trees described in the application, as well as contiguous and adjoining lands.
 - (3) Grant or deny applications for permits based on the standards for granting permits as described in § 138-6 of this chapter.

§ 138-5. Application for permit.

- A. Any person who proposes to substantially alter one or more trees on any real property within the Village shall make application to the Village Official for a permit for such activity.
- B. The permit application shall be made on such form as may be prescribed by the Village Official and shall include, but not be limited to, the following:
 - (1) The names and address(es) of the applicant. If the applicant is a legal entity other than a natural person, the application must state the status of that entity as a corporation, partnership or other legal form.
 - (2) Location of the real property, including the street address.

- (3) Written consent of the owner(s) of the land if the applicant is not the owner(s).
- (4) The number of trees which are proposed to be substantially altered.
- (5) The purpose of the proposed substantial alteration.
- (6) A diagram of the area or section of real property where trees are proposed to be substantially altered, whether located on or off the site, or where any disturbance of land is proposed, showing location, of all trees, indicating and identifying those trees to be substantially altered and those trees to be preserved or maintained, and the diameter and species of each such tree. Such diagram shall also indicate the name and address of the person who prepared the diagram.
- (7) Location of all existing structures and driveways on the site, including any proposed grade changes that might adversely affect or endanger any trees on the site, and details of how the applicant proposes to maintain and protect trees which are proposed to be preserved or maintained.
- (8) Any additional information which the Village Official may deem necessary for evaluation of the application.

§ 138-6. Standards for granting permits.

In determining whether to grant an application for a permit pursuant to this chapter, the Village Official shall consider all pertinent factors, including but not limited to the following:

- A. The physical condition of the tree(s) proposed to be substantially altered and whether any tree proposed to be substantially altered is a tree worthy of preservation.
- B. The proximity to existing or proposed improvements of trees proposed to be substantially altered including the necessity of removing one or more of such trees in order to construct proposed improvements.
- C. The ease with which the applicant or owner could alter or revise the proposed development or improvement to accommodate and preserve existing trees.
- D. The effect of the proposed substantial alteration on the ecological systems, including the erosion potential, soil moisture retention and flow of surface waters on the property.
- E. The need for visual screening in transitional zones or relief from glare, blight, commercial or industrial ugliness or any other visual affront.
- F. The effect on the area of substantial alteration as determined by accepted tree management practices and/or the landscaping of the premises.
- G. Any economic or other hardships that would be imposed upon the applicant or owner were the permit denied.

§ 138-7. Permit conditions.

The Village Official shall, as a condition of granting a permit:

- A. Require the planting of the same or agreed upon alternative species of tree for each tree

proposed to be substantially altered, which shall be at least two inches in diameter, at a height of four feet above the base of the trunk, or at least eight feet in height. The Village Official may, at his discretion, waive part or all of this requirement.

- B. Require the reasonable relocation of proposed driveways, surfaces and subsurface improvements or drainage systems to protect the trees to be preserved.
- C. Regulate the days and hours of substantial alteration.
- D. Require such safeguards as appropriate to minimize the environmental impact of the proposed substantial alteration or any activities in furtherance thereof.
- E. Impose such other reasonable conditions as may be necessary to effectuate the purposes of this chapter.

§ 138-8. Permit application fee.

Each tree removal permit application shall be accompanied by a fee in an amount set from time to time by resolution of the Board of Trustees.

§ 138-9. Penalties for offenses.

- A. Any person who violates any of the provisions of this chapter shall be guilty of an offense and shall be punished by a fine not to exceed \$1,000 for each tree, the habitat of which is substantially altered in violation of this chapter. Any person found guilty of violating this chapter may also be required by the court to replace any or all trees the habitat of which was substantially altered, with trees of a size and type selected by the Village Official, and to plant said replacement trees within a specified period of time. All such replacement trees must be at least four inches in diameter at four feet six inches above the base of the trunk. Where such direction for replacement of trees is made, no building permit, certificate of occupancy or certificate of compliance shall be issued until such replacement has been completed.
- B. In addition to any other remedy provided by law, this chapter may be enforced by civil action by the Village, including injunctive relief. In such action, the Village may also seek a judgment requiring replacement of any or all trees the habitat of which was substantially altered, with trees of a size and type selected by the Village Official, and planting of said replacement trees within a specified period of time. All such replacement trees must be at least four inches in diameter at four feet six inches above the base of the trunk. Where such direction for replacement of trees is made, no building permit, certificate of occupancy or certificate of compliance shall be issued until such replacement has been completed.

§ 138-10. Appeals.

Any person aggrieved by a determination of the Village Official under this chapter shall have the right, within 30 days from the date of such determination by the Village Official, to appeal to the Board of Trustees, in writing. Any such written appeal shall identify the manner in which the appellant is aggrieved by the said determination, and shall state the reason for the appeal. The Board of Trustees shall render a decision on the appeal within 60 days of the filing of the appeal, and such determination shall be final and conclusive.