

CHAPTER 28

LOCAL LAW NO. 29 OF 2016

A LOCAL LAW ENTITLED
TREES AND VEGETATION

BE IT ENACTED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF SHOREHAM, AS FOLLOWS:

SECTION 1. ENACTMENT.

A Chapter 28 of the Village Code entitled **Trees and Vegetation** is enacted, as follows:

§ 28-1. **Legislative Intent.**

Trees and other vegetation provide various benefits to the environment, including the stabilization and preservation of soil, the absorption of air pollutants, and the provision of oxygen, natural barriers to noise, and habitats for wildlife, while offering an intrinsic aesthetic quality to the community. The destruction or removal of trees and other vegetation deprives the community of these benefits, while disrupting the ecological systems of which they are an integral part. It is the intent of the Village in enacting this Chapter 28 to regulate the destruction and removal of trees and other vegetation so as to secure these various benefits.

§ 28-2. **Definitions.**

As used in this Chapter 28, each of the following defined terms shall have the meaning indicated:

(1) **large tree** - a live tree having a trunk measuring sixty-two (62) inches or more in circumference at a breast height of four (4) feet above natural grade.

(2) **medium tree** - a live tree having a trunk measuring thirty-eight (38) inches or more in circumference, but less than sixty-two (62) inches in circumference, at a breast height of four (4) feet above natural grade.

(3) **plot** - a parcel of land located in the Village.

(4) **protected tree** - any large tree, medium tree or small tree.

(5) **small tree** - a live tree having a trunk measuring nineteen (19) inches or more in circumference, but less than thirty-eight (38) inches in circumference, at a breast height of four (4) feet above natural grade

(6) **tree** - a woody perennial vegetation, deciduous or otherwise, having a trunk measuring one (1) inch or more in diameter at breast height of four (4) feet above natural grade.

§ 28-3. Removal of Trees and Other Vegetation.

A. Clearing. The owner of any plot shall be permitted to clear such plot of trees and other vegetation subject to the following provisions of this§ 28-3.

B. Limitations on Clearing of Trees and Other Vegetation. Subject to the following provisions of this§ 28-3, the clearing of trees and other vegetation on any plot shall be limited as set forth in the table immediately below, with the understanding that anysuch clearing shall be done in a way that will not cause or intensify water runoff.

Plot Size (in square feet)	Percentage of Plot Area Allowed to be Cleared
1 to 15,000	75%
15,001 to 30,000	60%
30,001 to 60,000	50%
60,001 to 90,000	35%
90,001 to 120,000	30%
120,001 or greater	20%

C. Protected Trees. Subject to the following provisions of this§ 28-3, no person shall be permitted to cut down, kill or otherwise destroy any protected tree by grading, trenching, girdling, root pruning, topping or any equally destructive practice, or by use of poisons or chemicals of any kind.

D. Permitted Removal of Protected Trees The owner of any plot shall be permitted to remove any protected tree, the trunk of which is located entirely on such plot, but only if a permit therefor is issued by the Building Commissioner, the issuance of which shall be based on whether such removal satisfies the following standards:

(1) Removal represents the only feasible alternative to allow the permitted use of such plot;

(2) Removal is necessary to:

(a) Remediate a dangerous condition;

(b) Alleviate any hardship not being self-created or any condition not being typical in the neighborhood; or

(c) Eliminate any diseased tree, or any tree classified as an invasive species under Long Island Invasive Species Management Area guidelines; or

(3) Removal is appropriate for other reasons as stated by an International Society of Arboriculture Certified Arborist.

E. Permitted Removal of Medium Trees. In addition to the removal of any protected tree as permitted under § 28-3D of this § 28-3, but subject to the provision of § 28-3G of this § 28-3, the owner of any plot shall be permitted to remove one (1) medium tree, the trunk of which is located entirely on such plot, in any twelve (12)-month period, but only if a permit therefor is issued by the Building Commissioner.

F. Permitted Removal of Small Trees. In addition to the removal of any protected tree as permitted under § 28-3D of this § 28-3, but subject to the provision of § 28-3G of this § 28-3, the owner of any plot shall be permitted to remove up to three (3) small trees, the trunks of which are located entirely on such plot, in any twelve (12)-month period, but only if a permit therefor is issued by the Building Commissioner.

G. Tree Removal Limitation. The removal of any medium tree under § 28-3E of this § 28-3 and/or removal of any small tree under § 28-3F of said § 28-3 shall not exceed three (3) such removals in any twelve (12)-month period, be any such removal in the form of the removal of one (1) medium tree and two (2) small trees, or the removal of three (3) small trees.

H. Surface Water Runoff. Removal of any protected tree under this § 28-3 shall be done in a way that will not cause or intensify surface water runoff.

I. Invasive Plants and Shrubbery/Dead Trees and Other Vegetation. The following vegetation may be removed provided soil disturbance resulting therefrom is minimal.

(1) Poison ivy, barberry, bittersweet and other similar invasive plants.

(2) Dead trees or other dead vegetation.

§ 28-4. Exemptions.

Tree removal or cutting by any utility company or public agency is exempt from the provisions of this Chapter 28.

§ 28-5. Village Property.

Except as conducted by the Village or its authorized representative, no tree or other vegetation on Village property, including any Village street right-of-way, shall be cut, killed, destroyed, removed or otherwise damaged by any person, except as otherwise approved in writing by the Planning Board as set forth in

§ 26-10(8) of Chapter 26 of the Village Code.

§ 28-6. Appeals.

Any owner of a plot denied a permit under § 28-3 hereinabove may without fee appeal said denial to the Village Board. Any such appeal shall be by letter delivered to the Village Clerk within thirty (30) days after the owner receives a written denial from the Building Commissioner. Upon any such appeal the Village Board may consider among other things:

(1) The absence of harm to the neighborhood or community if there is a grant of relief.

(2) The availability of feasible alternatives to a grant of relief.

(3) The significance or lack thereof of the tree(s) as a specimen or as historic plant or as a resource beneficial to the community at large.

(4) The opinion of an international society of arboriculture certified arborist.

Unless waived by the Village Board, any consideration of an appeal shall occur at a public hearing.

§ 28-7. Enforcement.

[Amended 5-14-2019 by LL 1 of 2019]

This Chapter 28 may be enforced by the Building Commissioner, Building Inspector or any Village Code Enforcement Officer, each of whom is hereby vested with authority to enforce the provisions of this Chapter 28. In the event of enforcement of this Chapter 28 by reason of a claim of destruction or removal of a tree or trees in violation of this Chapter 28, the following shall apply:

- (1) Clearing of any land area including its alteration from its natural state by reason of human and/or mechanical activity shall allow a rebuttable presumption the cleared area contained one or more trees protected by

the provisions of this Chapter 28.

- (2) Upon the exercise of any such rebuttable presumption there shall also be a rebuttable presumption the tree or trees were live, were not dead or dangerous, no part of any said tree or trees was diseased or dying, the owner or occupant on whose land said clearing has occurred is responsible for the removal or destruction of any tree or trees thereon and the person or persons who removed or destroyed any said trees had the permission of the owner or occupant.

§ 28-8. Penalties.

Any person who violates any provision of this Chapter 28 shall, upon conviction, be subject to the following penalties:

(1) For a first offense, a fine of up to one thousand (1,000) dollars.

(2) For a second offense, a fine of up to one thousand, five hundred (1,500) dollars.

(3) For each subsequent offense, a fine of up to two thousand (2,000) dollars.

(4) Such person shall be required to replace any tree removed in violation of this Chapter 28 with a tree appropriate in size and character, given the size and character of any such removed tree, as established by the Village Board.

§ 28-9. Repealer.

This local law upon its effect date shall in all respects repeal and supersede §§ 4, 36, 41 and 1000 of Village Ordinances of 1951, 1967 and 1989, and Village Tree Preservation Local Law No. 2 of 2005, and any similar local law heretofore adopted by the Village Board, each of which is hereby repealed.

§ 28-10. SEQRA.

Enactment of this local law is a Type II action under 6 NYCRR §§ 617.5(c)(6) and (27).

§ 28-11. Severability.

If any provision of this Chapter 28 is ruled unconstitutional or invalid, such ruling shall not affect the validity of any other provision of said chapter or said chapter as a whole.

SECTION 2. EFFECTIVE DATE.

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

Effective Date: December 12, 2016