

PUBLIC NOTICE

PLEASE TAKE NOTICE that the Board of Trustees of the Village of Head-of-the-Harbor will hold a public hearing on the 16th day of December, 2009, at 7:00 P.M., at the Village Hall, 500 North Country Road, Head-of-the-Harbor, New York, to consider the adoption of a local law as follows:

LOCAL LAW NO. 7 OF 2009

**A LOCAL LAW AMENDING VILLAGE CHAPTERS 81 and 149
WITH RESPECT TO TREES**

BE IT ENACTED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF HEAD-OF-THE-HARBOR AS FOLLOWS:

SECTION 1. PURPOSE.

The purpose of this local law is to prevent the unnecessary destruction of trees and limit and restrict the removal of trees.

SECTION 2. REPEAL OF VILLAGE CODE § 81-24(M).

Section 81-24(M) is hereby repealed.

SECTION 3. AMENDMENT OF VILLAGE CODE § 149-3.

The definition of "Tree" is amended to read as follows:

TREE - Woody perennial vegetation, deciduous or otherwise, which has a trunk measuring more than [four] six inches in diameter at [any point of measurement and which is six feet tall or more, measured from ground level] breast height (4-1/2 feet above grade).*

* New language is underlined and deleted language is bracketed.

SECTION 4. AMENDMENT OF VILLAGE CODE SECTION 149-4(A).

Section 149-4(A) is amended to read as follows:

A. Unless he is in possession of a permit issued by the Building Department of the Village, no person, firm or corporation or individual connected with such firm or corporation shall purposely or carelessly or negligently cut down, kill or otherwise destroy trees[:]. The cutting, killing, destruction or removal of trees and the disturbance of natural vegetation is prohibited as follows:

SECTION 5. AMENDMENT OF SECTION 149-4.

Section 149-4 is amended as follows: (i) by repeal of § 149-4(A)(1); (ii) by renumbering subsections 149-4(A)(2) through (7) to read (1) through (6); and (iii) by addition of new subsections 149-4(A)(7), 149-4(A)(8) and 149-4(A)(9) as follows:

7. Any provision in this chapter to the contrary notwithstanding the amount of disturbance of natural vegetation inclusive of that allowed under subparagraphs 1 to 7 above shall not exceed the following percentages on all residential lots:

Lot Size (square feet)	Percentage of Site
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

On nonresidential lots, the amount of disturbance of natural vegetation shall be determined by the Planning Board as an element of site plan review, in no event to exceed 50% of the lot.

8. Under all circumstances the destruction of trees by improper grading, trenching, root pruning, girdling, poisoning, topping, removal of bark or any similar practice of equal result is prohibited.

9. Invasive plants, e.g.s. poison ivy, bittersweet and the like, may be removed at any premises provided a) any such removal is limited to invasive plants, b) only hand tools are utilized and c) soil disturbance is minimal.

SECTION 6. ENACTMENT OF § 149-5(D).

Section 149-5(D) is enacted as follows:

D. In no event shall a permit be required hereunder for (i) undertaking legitimate agricultural pursuits; (ii) preservation or restoration of old fields to maintain historic character; or (iii) preservation of preexisting scenic vistas. Subject to the limitations and prohibitions in § 149-4 and further subject to the approval of the Board of Architectural Review, the thinning of trees for the sole purpose of maintaining the health of the nearby trees and clearing incident to construction of a residence a) within the building envelope and b) to conform to the existing topographical contours of the lot shall be permitted.

SECTION 7. ENACTMENT OF § 149-9.

Section 149-9 is enacted as follows:

§ 149-9. Enforcement

The Building Inspector, any Village Code Enforcement Officer and any member of the Village Police Department is hereby vested with authority to enforce the provisions of this chapter, and any enforcement shall include a rebuttable presumption that the person(s) responsible for any violation under this chapter includes but is not limited to the record owner(s) and/or actual occupant(s) of the premises as well as any person actually engaged in the unauthorized removal of trees.

SECTION 8. SEVERABILITY.

Should any part or provision of this local law be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the local law as a whole nor any part thereof other than the part so decided to be unconstitutional or invalid.

SECTION 9. EFFECTIVE DATE.

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

All persons in interest will be heard by the Board of Trustees at the public hearing to be held as aforesaid and may appear in person or by representative. The Village Hall is accessible to handicapped persons.

Dated: November 18, 2009

BY ORDER OF THE BOARD OF TRUSTEES OF
THE VILLAGE OF HEAD-OF-THE-HARBOR

BY: Margaret O'Keefe, Village Clerk