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MEMORANDUM

To: Supervisor Catherine Borgia and the Ossining Town Board
George A. Weeks, Chairman, and the Town of Ossining Planning Board

Date: July 14, 2010

Subject: **Revised Tree Protection Law**

As requested, we have *revised* the attached Local Law containing proposed amendments to Chapter 183, Tree Protection, of the Town Code. The attached draft includes the revisions discussed recently with the Town Board.

If anyone has any questions regarding the attached Local Law, please let me know.

David H. Stolman, AICP, PP
President

Attachment

cc: John D. Hamilton
James J. Vanoli, P.E.
Wayne H. Spector, Esq.
Environmental Advisory Committee

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NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET
ALBANY, NY 12231

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

Town of OSSINING

Local Law No. _____ **of the year 2010**

A local law entitled "Local Law # of 2010, Amending Chapter 183, Tree Protection,
of the Town Code."

Be it enacted by the TOWN BOARD
of the

Town of OSSINING **as follows:**

TEXT COMMENCES ON NEXT PAGE

(If additional space is needed, attach pages the same size as this sheet, and number each.)

LOCAL LAW # ___ OF THE YEAR 2010

BE IT ENACTED by the Town Board of the Town of Ossining as follows:

Section 1: Title

This Local Law shall be known and cited as “Local Law #__ of 2010, amending Chapter 183, Tree Protection, of the Town Code.”

Section 2: Legislative Intent

The Town Board believes that Chapter 183, Tree Protection, of the Town Code is in need of some clarification, reorganization and improvement in order to allow said chapter to operate efficiently and effectively, and to thereby provide the desired protection to trees, and the management of the removal of trees in the Town. Further, Chapter 183 does not currently contain any penalty provisions. As such, if said chapter provided disincentives to violators, it would be much more effective than is currently the case. Therefore, the Town Board believes that it is reasonable and appropriate to add penalty provisions to the subject chapter. This local law is determined to be an exercise of the police powers of the Town to protect the public health, safety and welfare of its residents.

Section 3: Code Amendments

Chapter 183, Tree Protection, shall be revised to read as follows:

Chapter 183: TREE PROTECTION

§ 183-1. Title.

This chapter shall be known and may be cited as the "Tree Protection Law Ordinance of the Town of Ossining."

§ 183-2. Legislative findings.

- A. The Town Board of the Town of Ossining finds that trees (as defined below) in the Town are potentially in jeopardy of being destroyed or damaged by possible uncontrolled and unregulated cutting, regrading, drainage alteration, construction or other such acts. The trees in the Town are a valuable natural resource which can serve to benefit the entire Town and surrounding region by one or more of the following:
- (1) Providing shade and cooling the air, ground and buildings.
 - (2) Diffusing glare.

- (3) Reducing soil erosion, especially on steep slopes.
 - (4) Absorbing stormwater runoff and reducing the possibility of flooding.
 - (5) Providing habitat for wildlife and an ecological niche necessary for the protection of species.
 - (6) Buffering views of development and maintain the existing character of the Town.
 - (7) Reducing air, soil and water pollution.
 - (8) Balancing the oxygen in the air by removing carbon dioxide.
 - (9) Reducing wind, resulting in energy efficiency for the heating of buildings during winter.
 - (10) Contributing to the significance of historic buildings, structures and places in the Town.
 - (11) Serving as an amenity that helps to satisfy people's psychological and aesthetic needs.
 - (12) Providing the renewable resource which supplies fuel, building materials and food.
- B. Protection of trees is a matter of concern to the Town. The establishment of regulatory and conservation practices for such protection serves to protect the public health, safety and general welfare by ensuring review, regulation and inspection of any activity affecting trees which might adversely affect the health, safety and general welfare.
- C. Trees form part of the community and visual character of the Town of Ossining.

§ 183-3. Intent.

- A. Tree protection. Pursuant to General Municipal Law § 96-b, it is declared to be the intent of the Town of Ossining to control, protect, conserve and regulate the use of trees within the Town to ensure that the benefits found to be provided by all trees as set forth in § 183-2 hereof will not be lost and to protect the broader public interest.
- B. Landowner protection. These regulations are enacted with the intent to provide a reasonable balance between the rights of the individual property owners to the free use of their property and the rights of present and future generations of Town residents.
- C. Incorporation with other review procedures. It is the intent of this chapter to incorporate the consideration of tree protection into the Town's existing land use development approval procedures and state environmental quality review

regulations, as well as other local environmental regulations, where applicable. To the maximum extent possible, the review, hearing and decision upon any permit requested under this chapter shall be coincident with similar procedures that the Approval Authority (as defined in § 183-4 of this chapter) may undertake in regard to other applications related to this permit application.

§ 183-4. Definitions.

As used in this chapter, the following definitions shall have the meanings indicated:

APPLICANT — Any individual, firm, partnership, association, corporation, company, organization or other legal entity of any kind, excluding the Town of Ossining and its governmental agencies, who request the Approval Authority to issue a permit, or to whom a permit has been granted under the provisions of this chapter. This chapter shall only serve as a guide to the Town of Ossining and its governmental agencies.

APPROVAL AUTHORITY — The Town agency(ies) or public official(s) empowered to administer the permit procedures of this chapter, as described herein.

CLEAR CUTTING — The cutting, killing and/ or removal of more than 10 trees each having with a DBH of six inches or greater in a given lot, within any twelve-month period.

CROWN — All portions of a tree, excluding the trunk and roots, such as branches, leaves, flowers and other foliage.

DIAMETER AT BREAST HEIGHT (DBH) — Standard measurement of the diameter or caliper of a tree made at four and one-half (4½) feet above ground level on the uphill side.

DRIPLINE — An imaginary, roughly circular line extending from the maximum spread of the limbs of a tree or shrub to the ground.

ENVIRONMENTAL ADVISORY COMMITTEE (EAC) — Environmental Advisory Committee of the Town of Ossining, New York.

~~FLOWERING TREE — Any living woody plant with an erect perennial trunk, a definitely formed crown of foliage, a diameter at breast height of at least three inches and a definite flowering season.~~

INVASIVE SPECIES – A species of plant or animal that is not native to the ecosystem under consideration and whose introduction into the ecosystem causes or is likely to cause economic or environmental harm, or harm to human health.

KILLING A TREE – Any act which causes or is likely to cause the death of a healthy tree.

LOT — Any separately designated parcel as shown on the Town Tax Maps.

ORNAMENTAL TREE – A tree grown for its aesthetic characteristics, with highly visible and decorative flowers, foliage color, fruit and/or bark.

PLANNING BOARD — The Planning Board of the Town of Ossining, New York.

PUBLIC PLACES — Any land owned by the Town of Ossining or any other governmental entity, including the right-of-way of any road.

PUBLIC TREE — Any tree growing in any public road right-of-way, public park, public utility right-of-way or in any other public place. ~~"Public trees" are regulated in § 183-9B herein.~~

RECOGNIZED TREE EXPERT — A forester listed on the New York State Department of Environmental Conservation's approved forester list, a landscape architect licensed in the State of New York, an arborist certified with the National Arborists Association or a similarly qualified individual.

REGULATED BUFFER ZONE — Any area of vegetative screening, as established by an approved site plan, special permit, conditional use permit or subdivision plat or as measured from each perimeter property line of a residential property towards the interior of such property as follows:

Zoning District	Width of Regulated Buffer Zone (feet)
R-40 One-Family Residence	10
R-35 One-Family Residence-Office	10
R-30 One-Family Residence	10
R-20 One-Family Residence	5
R-20A One-Family Residence	5
R-15 One-Family Residence	5
R-15X One-Family Residence-Office	5
R-10 One-Family Residence	3
R-7.5 One-Family Residence	3
R-5 One-Family Residence	3

SIGNIFICANT TREE — A tree on the Town's Significant Tree List.

SIGNIFICANT TREE LIST — A list maintained by the Town and determined by the Town Board on the recommendation of the Environmental Advisory Committee of trees or groves of trees to be significant on the basis of quality, historical significance or other unique characteristic.

TOWN — The Town of Ossining, New York.

TOWN BOARD — The Town Board of the Town of Ossining, New York.

TREE — For the purposes of this chapter, any living, woody plant with an erect perennial trunk and a definitely formed crown of foliage with a diameter at breast height of six inches or more, unless otherwise specified in § 183-5 of this chapter.

TREE INJURY — Any act which causes or may is likely to cause a tree to die ~~within a three-year period~~. This may include, but is not limited to, any damage caused by stripping the bark from any tree, ~~or~~ setting fire to any tree or causing damage to the roots of any tree.

TREE REMOVAL — Any act that removes a tree from its existing location ~~of cutting down or transplanting a tree~~.

TREE REMOVAL PERMIT — Written authorization under this chapter granted by the Approval Authority to conduct a regulated activity.

TREE EXPERT — An individual professional or professional company appointed by the Town Board who shall provide recommendations to the Approval Authority on the tree removal permit.

§ 183-5. Regulated activities; tree removal permit required.

Except as provided in § 183-6, Activities permitted without tree removal permit, it shall be unlawful to conduct, directly or indirectly, any of the following activities in the Town of Ossining unless a permit is obtained pursuant to § 183-8, Permit application process:

- A. Removal of a tree with a DBH of three inches or greater within a property's regulated buffer zone.
- B. Within or outside of a property's regulated buffer zone, any:
 - (1)~~B.~~ Removal of an ornamental flowering tree, as defined above, with a DBH of three inches or greater.

- ~~(2)C.~~ Removal of a significant tree or regrading activity or utility excavation within the dripline of any significant tree.
- ~~D.~~ ~~Removal of any public tree with a DBH of six inches or greater on slopes over 25% or regrading or utility excavation within the dripline of any tree with a DBH of six inches or greater.~~
- ~~(3)E.~~ Removal of any tree with a DBH of six inches or greater or regrading activity or utility excavation within the dripline of any ~~public~~ tree with a DBH of six inches or greater ~~on slopes over 25%.~~
- ~~(4)F.~~ Removal of any tree with a DBH of six inches or greater in any common open space (such as but not limited to a tree in a condominium project), buffer area, landscaped screening area or conservation area designated on an approved site plan, special permit or conditional use permit or on an approved final subdivision plat or construction plan.
- ~~G.~~ ~~Removal of any tree with a DBH of 12 inches or greater.~~
- ~~(5)H.~~ Clear cutting, as defined in § 183-4 herein.
- ~~(6)~~ Removal of any tree in a wetlands or wetlands buffer area as regulated in Chapter 105, Freshwater Wetlands, Watercourses and Water Body Protection, of this code.

§ 183-6. Activities permitted without tree removal permit.

The following activities are permitted without a tree removal permit:

- A. Removal of any tree not regulated in accordance with § 183-5, Regulated activities; tree removal permit required, of this chapter.
- B. Removal of any tree under an actual or ongoing emergency condition when such immediate tree removal has been determined as being necessary ~~as determined by a Recognized Tree Expert~~ for the protection and preservation of life or property and there is no time to wait for the granting of a tree removal permit.
- C. Forest management activities on properties under § 480-A of the Real Property Tax Law.

- D. Removal of any tree that has been found to be dead, dying, insect-infested or otherwise hazardous as determined in writing on business letterhead of by a Recognized Tree Expert.
- E. Tree pruning that does not damage the basic nature of the tree and which does not reduce the size of the tree by more than one-fourth (1/4).

§ 183-7. General regulations.

- A. No person shall fasten or tie any animal to or attach any sign, bill, card, notice or any advertisement to any tree in any public place or allow any animal under his/her control to injure any such tree.
- B. No person shall place or maintain on the ground in any public place any stone, excess soil or other substance in such manner as may obstruct the free access of air or water to the roots of any tree.
- C. No person shall cause brine, oil, gas, gasoline, liquid dye or other substance deleterious to tree life to pass onto or into the soil about the roots of any tree in any public place.
- D. Trees standing on any lot or land adjacent to any public street or place and having branches projecting into the public street or place shall be kept trimmed by the owner or owners or occupant of the property on which such trees are growing so that the lowest branches shall not adversely interfere with pedestrian or vehicular traffic.
- E. Any tree which is growing on private property which is endangering or in any way may endanger the security or usefulness of a public street, public sewer or other public place shall be considered a public nuisance.
- F. In the case of trees standing on any lot or land having branches which project over an adjacent lot, the owner of the adjacent lot may trim said overhanging branches in order that the branches not adversely interfere with said adjacent lot, so long as said trimming does not adversely affect the viability of the tree(s).

§ 183-87. Approval Authorities.

The Approval Authority for all applications shall be the Building Inspector, except that the Planning Board shall be the Approval Authority when processing a site plan or subdivision associated with a tree removal application. In such cases, the Planning Board's final approval of the site plan or subdivision application shall be deemed to include the tree removal permit. The Planning Board shall apply the same criteria and procedures as set forth herein for tree removal permits granted by the Building Inspector.

If the Planning Board and another Board both have approval authority over portions of an associated pending application, the Planning Board shall be the Approval Authority for the regulated tree removal.

§ 183-9. Tree Expert.

A. The Town Board shall appoint an individual, professional, or professional company with knowledge of the planting and maintenance of trees, stress, sickness and disease to serve as the Tree Expert for the Town of Ossining.

B. Upon the request of the Building Inspector or Planning Board, the Tree Expert shall review the tree permit application and shall give recommendations to the Approving Authority on whether the permit should be accepted, altered or denied. The Tree Expert shall provide said recommendations within 10 days of the filing of the application for the permit. One extension of no more than 5 days may be granted by the Approval Authority if requested by the Tree Expert.

§ 183-108. Permit application process.

A. Any person proposing to conduct, either personally or by others, a regulated tree removal shall file an application for a tree removal permit with the Approval Authority as hereafter described. The application shall include the following information, except that the Approval Authority may waive such ~~elements~~ information as it deems to be not pertinent or necessary for the proposed activity:

- (1) The name and address of the property owner and applicant, if different.
- (2) The street address and Tax Map designation of the property.
- (3) A statement of authority from the owner of the property for any agent making an application.
- (4) The total amount of land area involved in the action.
- (5) The number of trees involved.
- (6) The purpose of the permit.

- (7) A survey of that area of trees or forest to be disturbed showing the location of all trees (to an accuracy of one foot) and indicating those trees to be removed and those trees to be preserved, their species and their diameter (DBH) and their health status.
 - (8) Specifications for:
 - (a) ~~the protection of trees during development of trees to be preserved, redevelopment, renovation or razing;~~
 - (b) grade changes or other work within the ~~tree's~~ dripline of trees to be preserved;
 - (c) the disposal of trees to be removed; and
 - (d) the replanting or planting of trees, specifying the location, species, size and completion date for ~~seasonal~~ said planting of trees.
 - (9) Where no site plan, special permit, conditional use permit, subdivision or other related permit is involved, Subsections A(7) and (8) above may be waived, and a simple sketch drawn by the applicant may, at the Approval Authority's discretion, be substituted.
 - (10) A statement that the property owner and applicant ~~shall~~ will indemnify and hold the Town and its representatives harmless against any damage or injury in accordance with § 183-17, Inspection and indemnification, of this chapter.
 - (11) An application fee and inspection fee in amounts as set forth in a current fee schedule established from time to time by resolution of the Town Board, unless the applicant for the tree removal permit is simultaneously applying for a building permit, in which case the building permit fee(s) shall take the place of the Tree Removal Permit application fee;s the inspection fee shall be required in either case.
- B. If the tree removal involves clear cutting, additional information may be requested by the approval authority, including but not limited to:
- (1) A description of the anticipated vegetative cover of the tree removal area, including dominant species before and after the tree removal.
 - (2) The location of the tree removal area in relation to property lines, roads, buildings and wetlands within 100 feet thereof.
 - (3) Additional information as needed or deemed necessary by the Approval Authority to evaluate the proposed tree removal in terms of the ~~goals and~~ standards of this chapter.

- C. All information relating to a tree removal permit application, including but not limited to the application ~~itself~~ and additional required materials or information (if any) shall be maintained on file in the office of the Town Building and ~~Planning~~Engineering Department.
- D. When the Building Inspector is the Approval Authority, two copies of the application information for tree removal permits under this chapter shall be submitted to the Town Clerk at least 15 days prior to the proposed tree removal date. When a Board is the Approval Authority, the number of copies and the submission schedule of the information shall be the same as for the related application before the Board. The Building Inspector shall receive a copy of all Tree Removal Permit applications.
- E. The Approval Authority, upon receipt of an application meeting the requirements of this ~~chapter section~~ for proposed clear cutting or in association with an application for subdivision or site plan approval, shall refer ~~such~~ the application to the Environmental Advisory Committee for its review and report. For ~~such~~ referrals from the Building Inspector, the Environmental Advisory Committee shall ~~make~~ submit a written report for consideration by the Approval Authority within ~~30~~ 40 days of the ~~referral~~ received date by the EAC. The Approval Authority, upon receipt of all other applications meeting the requirements of this chapter, may refer such applications to the EAC for its review and report. For ~~such~~ referrals from any other Approval Authority, the Environmental Advisory Committee shall submit a written report to the ~~for consideration by the~~ Approval Authority within ~~10~~ 30 days of the ~~referral~~ received date by the EAC; one extension of no more than 5 days may be granted by the Approval Authority if requested by the EAC. ~~or within such other period as may be specified by the Approval Authority.~~ The Approval Authority shall give consideration to the Environmental Advisory Committee's report, assuming that the report is rendered in a timely manner.
- F. ~~Application for tree removal permits may relate to multiple activities regulated under this chapter and may be issued for a program of related activities to take place during the 60 day period following the issuance of the tree removal permit, or as otherwise specified by the Approval Authority.~~
- FG. The Building Inspector may refer applications for tree removal permits which involve clear cutting to the Planning Board for the Board's advisory opinion. In such cases, the Planning Board may hold a public hearing on the tree removal permit, and the Planning Board shall in all cases render its recommendation to the

Building Inspector within 35 days of the application being referred by the Building Inspector. Referring the application to the Planning Board shall extend the Building Inspector's time-frame for rendering a decision on the tree removal permit by 35 days. Notice of a public hearing by the Planning Board in accordance with this section shall be given in a newspaper of general circulation in the Town and to adjacent property owners at least 10 days prior to such hearing date.

§ 183-119. Determination by Approval Authority.

- A. In making its determination to grant, grant with conditions or deny a tree removal permit under this chapter, the factors to be considered by the Approval Authority shall include, but shall not necessarily be limited to, the following:
- (1) Whether the proposed tree removal is consistent with the purpose and findings of this chapter, as set forth in § 183-2 above.
 - (2) Whether the proposed tree removal will have a deleterious effect on the health, safety or general welfare of the residents of the Town of Ossining or its neighboring communities.
 - (3) The physical condition of the tree(s) proposed for removal (species, size and health) shall be identified with regard to their relative value of preservation.
 - (4) The effect of disturbance on the existing trees by accepted forest management practices, including the effect on ecological systems, erosion and sedimentation potential and the relationship to the surrounding vegetation and habitat.
 - (5) The effect of disturbance or removal of existing vegetation on the historical context and the scenic resources of the surrounding community.
 - (6) The effect of disturbance or removal due to utility placement that might damage a tree or spoil the symmetry or otherwise mar the appearance of a tree or trees.
 - (7) Whether the proposed action will have adequate safeguards for the protection and preservation of the environment.
 - (8) The possible or practicable alternatives to the tree removal.
- B. Notwithstanding any other factors, the removal of a regulated tree may be favored by the Approval Authority if:
- (1) The tree(s) is located near existing or proposed improvements, especially if:
 - (a) The tree(s) is within three feet of an existing or proposed sidewalk or driveway;

- (b) The tree(s) is within 10 feet of an existing or proposed cesspool, dry well, leaching pit, septic tank or field or other subsurface improvement;
 - (c) The tree(s) is within 10 feet of any other existing or proposed structure; or
 - (d) The proposed subsurface improvement, structure, sidewalk, driveway or roadway cannot be relocated.
- (2) The tree removal(s) will have a positive effect upon matters, including but not necessarily limited to:
- (a) Drainage patterns in the vicinity.
 - (b) Growth of existing or proposed adjacent vegetation.
 - (c) Property values and aesthetics of nearby properties and that of the property owner.
 - (d) Solar access of nearby properties and that of the property owner.
 - ~~(e) Wildlife habitat.~~
- (3) The property owner ~~shall~~will replant replacement trees of a similar species or add other vegetation to offset the negative effects of the tree removal, based upon an approved graphic plan.
- (4) The tree is an invasive species.
- (5) If the presence of the tree would cause hardship or endanger the public or the property of the owner or of an adjoining owner.
- (6) If the tree substantially interferes with a permitted use or the enjoyment of the property.
- (7) If the tree is diseased or threatens the health of other trees.

C. With consideration of the above factors, the proposed tree removal may be granted by the Approval Authority with conditions or denied if:

- (1) The tree(s) is a significant tree, as defined in this chapter;
- (2) The tree removal(s) will have a significant negative effect upon, ~~among other things~~ including, but not limited to, the following:
 - (a) Erosion potential and drainage patterns in the vicinity;
 - (b) Growth of existing adjacent vegetation;
 - (c) Property values and aesthetics of nearby properties;
 - (d) Solar access of nearby properties and that of the property owner; or

- (e) Wildlife habitat; or
- (3) The tree(s) to be removed is a species listed on the New York State list of endangered trees or trees of special concern.

D. Notification of decision.

- (1) In the case where the Building Inspector is the Approval Authority, the applicant will be notified of tree removal permit decisions within 15 days of the application being received by the Town. The Building Inspector may extend this time frame by no more than 5 days for good cause.
- (2) In the case where a Board is the Approval Authority, the applicant shall be notified of the permit decision according to the schedule set forth for other approvals or permit applications pending before the Board.

§ 183-~~1210~~. Issuance of tree removal permit with conditions.

Any tree removal permit issued pursuant to this chapter may be issued with conditions. Such conditions may be attached as the Approval Authority deems necessary to ensure compliance with the policies and provisions of this chapter. The Approval Authority may, as a condition of granting a tree removal permit:

- A. Require reasonable improvements, such as relocation of proposed foundation walls, driveways, surface and subsurface improvements or drainage systems, to preserve a specific tree or forest area.
- B. Regulate days and hours of the tree removal operation.
- C. Require that each tree to be cut or removed be marked at two points, one low enough on the stump to be visible after tree removal.
- D. Require such safeguards as appropriate to minimize the environmental impact of such removal operations.
- E. Require the replanting of an equal or greater number of trees of the same or similar species as those removed, at the Approval Authority's discretion, based on the size and condition of the trees removed, based upon an approved graphic plan.
- F. The Approval Authority may require, prior to the commencement of tree removal authorized under any permit pursuant to this chapter, that the applicant shall post a bond or other security acceptable to the Approval Authority in an amount and with surety and conditions sufficient to secure compliance with the conditions and limitations set forth in the permit, as shall be determined by the Approval Authority.

§ 183-~~1311~~. Removal and restoration.

A. All persons who remove a tree or cause a tree to be removed, with or without a permit, as applicable, shall restore the area by backfilling all holes and by creating an acceptable grade. After the planting of trees, 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 practices, as may be determined by the Approval Authority.

B.A. Removal of any tree may involve the following actions:

- (1) The tree trunk and limbs shall be removed. ~~Further, after the Building Inspector has made a post-removal inspection, the stump and any roots remaining above grade may be required to be removed completely.~~
- (2) The disturbed area may be required to be backfilled, replanted and/or reseeded.
- (3) The applicant shall remain responsible for the acts of employees, contractors or subcontractors.

C. If a public tree is removed, the remover must replace that tree with at least one of the same or similar species at the same location or another location agreed upon by the Approval Authority.

§ 183-~~1412~~. Significant tree list.

The Environmental Advisory Committee shall compile a proposed Significant Tree List, as defined in this chapter, upon enactment of this chapter and through nominations from tree owners, the Town Historian and other interested parties, for recommendation to the Town Board as the Town's Significant Tree List.

§ 183-~~1513~~. Stop-work orders.

- A. The Approval Authority may suspend or revoke a tree removal permit in the form of a stop-work order if it finds that the applicant has not complied with any or all of the terms of such permit, has exceeded the authority granted in the permit or has failed to undertake the project in the manner set forth in the approved application.
- B. The Approval Authority may also issue a stop-work order to any person who conducts an activity for which a tree removal permit is required but has not been obtained.

- C. The Approval Authority shall set forth in writing its findings and reasons for revoking or suspending a permit pursuant to this section and shall keep a copy in the permit application file.
- D. The Approval Authority shall require the remediation and/or restoration of any violations of the conditions of the permit.

§ 183-~~1614~~. Term.

- A. No tree removal permit shall be valid for more than ~~60~~ 120 days after approval of an application for same by the Approval Authority, unless otherwise specified by the Approval Authority. All permits shall expire upon completion of the work specified therein. Permits may be renewed by the Approval Authority. Standards for issuance of renewals may be the same as for the issuance of original permits.
- B. A tree removal permit may be issued for related activities taking place during the 120-day period following the issuance of said permit, or as otherwise specified by the Approval Authority.

§ 183-~~1715~~. Compliance with applicable provisions.

No permit granted pursuant to this chapter shall remove an applicant's obligation to comply in all respects with the applicable provisions of any other federal, state or local law or regulation, including but not limited to the securing of any other required permit or approval.

§ 183-~~1816~~. Appeals.

Aggrieved applicants may appeal decisions of the ~~Building Inspector~~ Approval Authority by means of the procedure specified for zoning matters in Chapter 200, Zoning, of the Ossining Town code.

§ 183-~~1917~~. Inspection and indemnification.

Any site for which an application has been submitted shall be subject to inspection upon notice to the property owner and applicant at any reasonable time, including weekends and holidays, by the Approval Authority or its designated representatives. The property owner and applicant, by making application for a permit, shall be deemed to have given consent to such inspection. The property owner and applicant shall indemnify and hold the Town of Ossining harmless against any damage or injury that may be caused by or arise out of any entry onto the subject property in connection with the processing of the application, during tree removal or within one year after the completion of the work.

§ 183-2018. Action upon completion of work.

- A. Within 30 days after completion of all tree removals authorized under a tree removal permit issued in accordance with this chapter, the applicant shall notify the Building Inspector of such completion.
- B. Within 30 days of such notification of completion of work, the Building Inspector shall inspect the tree removal site for compliance with all conditions of the tree removal permit.
 - (1) When all tree removal(s) authorized under a tree removal permit are deemed to be completed in an acceptable fashion, the Building Inspector shall issue a certificate of completion.
 - (2) When tree removals authorized under a tree removal permit are deemed unacceptable, the Approval Authority shall so notify the applicant. The notification of the noncompliance shall include a list of all conditions in violation of the terms of the tree removal permit, shall specify the required remediation and shall specify a time limit for the correction of all items so listed.

§ 183-2119. Penalties for offenses.

~~Any person who violates any provision of this chapter or who performs a tree injury as defined herein shall be guilty of an offense. Any associated site plan approval, special permit, conditional use permit, subdivision approval, building permit or certificate of occupancy will be suspended or revoked until steps taken by the offender meet the satisfaction of the Approval Authority. This violation is also punishable by a fine, as set from time to time by the Ossining Town Board, and remedial actions, possibly including the replanting of trees. For a second and for each subsequent offense within a one year period, the offender shall be guilty of a violation, punishable by a fine as set from time to time by the Ossining Town Board and a term of imprisonment of not more than 15 days, or both. Each violation shall be a separate and distinct offense and, in the case of a continuing offense, each day's continuance thereof shall be deemed a separate and distinct offense.~~

- A. Any person who violates any provision of this chapter shall be guilty of an offense, punishable by a fine of not more than \$1,000. For a second and subsequent offense within a one-year period, the violator shall be guilty of a violation punishable by a fine of not more than \$2,000 or a term of imprisonment of not more than 15 days, or both. Each tree removed, cut down or destroyed in violation of this chapter shall amount to a separate offense.

B. In addition to any other penalty, any person, firm or corporation or individual connected with such firm or corporation violating any provision of this chapter shall be subject to a civil penalty enforceable and collectible by the Town in the amount of \$500 for each and every tree removed, cut down or destroyed in violation of this chapter.

C. In addition to any other penalty, the violator will be required to replace, in kind, each and every tree removed, cut down or destroyed in violation of this chapter. If a tree was so large and mature that it cannot be replaced, the Approval Authority may require the planting of multiple trees instead. If the Approval Authority determines that there is not sufficient space on-site for the planting of multiple trees, the Approval Authority may allow a portion of said tree to be planted on an alternate site, such as on public property, with the permission of the Town Board. Minor tree damage shall be repaired in accordance with accepted tree surgery practices. All trees which fail to survive for a period of two years following planting shall be replaced by the violator at no expense to the Town or the owner of the land, if other than the violator. Said replacement shall be within 60 days following written demand for such replacement from the Approval Authority or within an extended period of time as may be specified.

D. No certificate of occupancy shall be issued for any new construction on the property on which occurred any violation of this chapter unless and until the provisions of the chapter have been complied with. Further, any site plan approval, special permit, conditional use permit, subdivision approval or building permit associated with the violation will be suspended or revoked until steps taken by the offender meet the satisfaction of the Approval Authority. Work may only resume upon the issuance of a certificate of completion by the Building Inspector.

E. Any mitigation work must be approved by and performed to the satisfaction of the Approval Authority.

§ 183-22. Enforcement.

The Town Board hereby designates the Building Department with the responsibility of the enforcement of the rules and regulations of this chapter.

§ 183-2320. Existing or prior operations or projects.

The provisions of this chapter shall not apply to any land use, improvement or development for which a valid, existing final approval shall have been obtained prior to the effective date of this chapter, from the authority or authorities of the Town of Ossining having jurisdiction over such land use. As used in this section, the term "final approval" shall mean:

- A. In the case of the subdivision of land, approval of a final plat as the term is defined in § 276 of the Town Law.
- B. In the case of a site plan, special permit or conditional use permit not involving the subdivision of land, approval by the appropriate Board.
- C. In those cases not covered by Subsection A or B above, the issuance of a building permit for the commencement of the use, improvement or development for which such permit was issued or, for those uses, improvements and developments for which the Town of Ossining does not require such permits, the actual commencement of the use, improvement or development of the land.

§ 183-~~2421~~. Amendments.

This chapter may be amended by the Town Board after due notice and public hearing.

§ 183-~~2522~~. Severability.

If any clause, sentence, paragraph, section or part of this chapter shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 183-~~2623~~. When effective.

This local law shall become effective immediately upon publishing and posting as required by law.

Section 4. Ratification, Readoption and Confirmation

Except as specifically modified by the amendments contained herein, the Code of the Town of Ossining as adopted and amended from time to time thereafter is otherwise to remain in full force and effect and is otherwise ratified, readopted and confirmed.

Section 5: Inclusion in Code

It is the intention of the Ossining Town Board and it is hereby enacted that the provisions of this local law shall be included in the Code of the Town of Ossining; that the sections and subsections of this local law may be renumbered or relettered to accomplish such intention; and that the word “local law” shall be changed to “chapter,” “section” or other appropriate word, as required for codification.

Section 6: Renumbering

The location and numerical designation of this local law and the sections included herein shall be delegated to the discretion of the codifier, General Code, which may renumber this local law and sections as are necessary to accommodate these amendments.

Section 7: Codification

This local law shall be incorporated into the Code of the Town of Ossining and shall be assigned a chapter number and appropriate section numbers by the codifier, General Code, in accordance with the numbering system of the Code.

Section 8: Codifier's Changes

This local law shall be included in the Code of the Town of Ossining. The codifier shall make no substantive changes to this local law, but may renumber, rearrange and edit it without first submitting it to the Ossining Town Board. Any such rearranging, renumbering and editing shall not affect the validity of this local law or the provisions of the Code affected thereby.

Section 9: Separability

The provisions of this Local Law are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this Local Law or their petition to other persons or circumstances. It is hereby declared to be the legislative intent that this Local law would have been adopted if such illegal, invalid or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and if such person or circumstance to which the Local Law or part hereof is held inapplicable had been specifically exempt there from.

Section 10: Effective Date

This Local Law shall take effect immediately upon adoption and filing with the Secretary of State as provided by the Municipal Home Rule Law.