

**INCORPORATED VILLAGE OF OLD WESTBURY
BOARD OF TRUSTEES**

LOCAL LAW NO. 3 OF 2020

**AMENDING CHAPTER 128, "LANDSCAPING" OF THE
CODE OF THE VILLAGE OF
OLD WESTBURY**

WHEREAS, the Board of Trustees has recommended the enactment of a local law amending Chapter 128, "Landscaping", relating to the penalties for offenses that violate Chapter 128 within the Village; and

WHEREAS, this Local Law was introduced by the Board of Trustees on February 18, 2020; and

WHEREAS, the Board finds that this Local Law is a Type II Action pursuant to the New York State Environmental Quality Review Act ("SEQRA"); and

WHEREAS, this Local Law was the subject of a duly noticed public hearing in accordance with New York State Village Law and the Village Code before the Board on March 16, 2020;

BE IT ENACTED by the Board of Trustees of the Incorporated Village of Old Westbury as follows:

Section 1. Chapter 128, "Landscaping", of the Village Code of the Village of Old Westbury be and is hereby amended to read as follows:

§ 128-1 **License and vehicle permit sticker required.**
[Amended 11-15-1999 by L.L. No. 9-1999; 1-17-2012 by L.L. No. 1-2012]

Except as provided herein, all persons, companies or corporations (collectively referred to as "landscaper"), who perform any landscaping functions in the Village of Old Westbury, whether operating as a business or operating individually, shall be licensed in accordance with this chapter. In addition, each vehicle and truck, used in connection with any landscaping business conducted within the Village, shall be required to have a landscaping permit sticker affixed to the front windshield of the vehicle or truck. Landscaping functions may be performed without a license by the owner or occupant of the property on which the work is being performed or by part-time laborers or property caretakers hired by a property owner or occupant. Landscaping functions may also be performed without a license on property used by country clubs or not-for-profit institutions, provided that such work is performed by the employees of the club or institution.

§ 128-2 **Activities regulated.**

For purposes of this chapter, a landscaping function shall include but is not limited to the cultivation, fertilization, seeding, planting, cutting, trimming, pruning or maintenance of grass, shrubs, plants, trees or other foliage.

§ 128-3 **Work done without license prohibited; responsibility for license.**

No landscaper shall perform any landscaping function within the Village of Old Westbury without first obtaining a license to do so from the Village Clerk. All landscaping work by an unlicensed landscaper is hereby prohibited. No property owner or occupant shall permit any unlicensed landscaper to perform any landscaping function on his or her property. Licenses shall be obtained by the proprietor of the landscaping business or by a corporate officer.

§ 128-4 **Application procedure.**

[Amended 5-20-1985 by L.L. No. 3-1985]

Any landscaper desiring a license required by this chapter shall make application on forms prescribed by the Village Clerk.

§ 128-5 **Fees.**

[Amended 11-15-1999 by L.L. No. 9-1999; 5-16-2016 by L.L. No. 4-2016]

A. A fee of \$200 shall be charged to each applicant upon issuance of a landscaping license.

B. A fee of \$25 shall be charged for each landscaping permit sticker.

§ 128-6 **Expiration of license and permit sticker; renewal.**

[Amended 11-15-1999 by L.L. No. 9-1999]

A. All licenses and permit stickers issued pursuant to this chapter shall expire on the last day of December in the year in which they have been issued.

B. Licenses may be renewed upon payment of an annual fee of \$100 before February 1 of the year proceeding the expiration of the license. Licensees that fail to submit a timely application for renewal shall be required to pay annual fee of \$100 and an additional renewal late fee of \$50.

C. Permit stickers may be renewed upon payment of an annual fee of \$10 before February 1 of the year proceeding the expiration of the permit sticker.

§ 128-7 **Regulations.**

[Amended 5-20-1985 by L.L. No. 3-1985; 6-19-2017 by L.L. No. 8-2017]

The following rules and regulations shall apply:

- A.** The application of pesticides and insecticides by anyone by means of engine-powered spraying or dusting devices shall not take place prior to 8:00 a.m. on any day that landscaping work is permitted, and the applier shall give such notice as shall be required by the rules and regulations to the Village Clerk or his designee and to all occupants of abutting properties, unless such property is more than 200 feet from the area in which the spray is to be applied. All such chemicals shall be contained within the property.
- B.** No landscaper shall perform landscaping work on Sunday or any federal holiday, unless the Chief of Police or the Mayor grants permission, in writing, to perform the work.
- C.** Landscaping work may be performed by landscapers only during the hours of 8:00 a.m. through 5:00 p.m., Monday through Friday, and 9:00 a.m. through 5:00 p.m. on Saturday, excluding any federal holiday unless otherwise permitted by the Chief of Police or the Mayor in writing.
- D.** No one shall abandon, blow, dump, deposit, discard, leave, or rake leaves, grass or other debris onto the public highway or right-of-way or onto adjoining property. As a precondition to the issuance of a license, a landscaper will be required to furnish proof that he, she or it has a permit to deposit leaves, grass clippings and other debris at a duly licensed depository.
- E.** No one shall spill or dump oil, gasoline or other petroleum products or any pesticides on the public highway or right-of-way or anywhere on the ground. No equipment shall be filled or refilled except over a drop cloth or other device designed to catch and retain any accidental spillage.
- F.** All work shall be performed in accordance with the laws, ordinances and rules and regulations of the United States, New York State, Nassau County and the Village of Old Westbury. Every applicant for a license shall review the applicable laws, ordinances, rules and regulations and shall so state that the applicant and all of its employees are familiar with such prior to the issuance of any license.

- G.** To the extent that any country club within the Village uses its employees to conduct landscaping work, such Country club shall be exempt from the regulations as set forth in Subsections **B** and **C** above.
- H.** No landscaper shall be permitted to burn any materials on any property within the Village.
- I.** The Board of Trustees may promulgate, by resolution, such additional rules and regulations as it deems necessary to further the purposes of this chapter.

§ 128-8 **Penalties for offenses.**
[Amended 12-16-2013 by L.L. No. 2-2013]

Each and every violation of any provision of this chapter or of any of the rules and regulations promulgated hereunder shall be punishable by fine of not less than \$1,000.00 and no more than \$5,000.00.

§ 128-9 **Revocation and suspension of license.**

In addition to the penalties set forth in § **128-8**, the Board of Trustees may revoke or suspend any license issued pursuant to this chapter after notice to the licensee and after a duly noticed public hearing. The Board of Trustees may take such action if, in its discretion, such action is warranted due to the licensee's deliberate or willful disregard of the standards imposed by this chapter or by any other Village, county, state or federal law or due to two or more violations of this chapter or any other law.

§ 128-10 **License to be in possession of person performing work.**

The license issued pursuant to this chapter, or a photocopy signed by the licensee, shall be in the actual possession of the person performing the work at the site.

§ 128-11 **Procedure for review of actions revoking license.**

Any review of the revocation of any license by the Building Inspector shall be pursuant to Article 78 of the Civil Practice Law and Rules.

Section 2. Chapter 150, "Peddling and Soliciting" of the Village Code of the Village of Old Westbury shall otherwise remain in full force and effect.

Section 3. Severability. If a court determines that any clause, sentence, paragraph subdivision, or part of this local law or the application thereof to any person, firm

or corporation or circumstance is invalid or unconstitutional, the Court's order or judgment shall not affect, impair or invalidate the remainder of this local law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision or part of this local law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Section 4. Effective Date. This Local Law shall take effect immediately upon filing with the Secretary of State.

On motion made by Trustee Baker, seconded by Trustee Novick, the foregoing Local Law was enacted upon the following vote:

Fred J. Carillo, Mayor	-	Aye
Marina Chimerine, Deputy Mayor	-	Absent
Cory Baker, Trustee	-	Aye
Jeffrey Brown, Trustee	-	Aye
Edward Novick, Trustee	-	Aye

Dated: Old Westbury, New York
March 16, 2020

Filed: Old Westbury, New York
March 17, 2020