

VILLAGE OF LARCHMONT
LOCAL LAW # 10-2016

A local law to amend the Zoning Law regarding tree removal, preservation,
and planting in connection with subdivision and site plan approval

Be it enacted by the Board of Trustees of the Village of Larchmont as follows:

Section One. Section 381-68-N of the Zoning Law of the Code of the Village of Larchmont is hereby repealed and replaced with the following Section 381-68-N to read as follows:

§ 381-68-N Work in anticipation of a Site Plan application; Trees; Penalties for tree removal.

A. Definitions.

(1) For purposes of this § 381-68-N the term Mature Tree shall mean any deciduous tree with a trunk measurement of eight inches or greater in diameter at fifty four inches above the ground on the uphill side; or any evergreen tree with a height of fifteen feet or more above the ground on the uphill side.

(2) For the purposes of this § 381-68-N the term Landscape Plan shall mean a plan prepared by and bearing the seal of a Landscape architect. Provided, however, in an appropriate case, the Planning Board may permit the Landscape Plan to be prepared by an arborist or other qualified professional. If applicants wish to have the Landscape Plan prepared by a party other than a registered Landscape Architect, this topic should be discussed with the Planning Board at the pre-submission conference. The Landscape Plan shall show the proposed landscaping for the project. Without limiting the generality of the foregoing, the Landscape Plan shall provide the specific details regarding removal and planting of trees as is provided below. It shall be within the authority of the Planning Board to approve, disapprove or require modifications to the Landscape Plan. The purpose of this § 381-68-N is to provide for and encourage the preservation and maintenance of trees for their benefits which include, but are not limited to, soil stabilization, drainage control, oxygen production, shade, and aesthetic appeal.

B. Prohibition on site work.

(1) No site work in anticipation of Site Plan Approval may be performed until such Site Plan Approval is obtained. Without limiting the generality of the foregoing, no filling, excavating, removal of any topsoil, gravel, dirt, sand, shrubs, trees or any other such material for the purpose of erecting a building or structure or otherwise for the purpose of construction may be carried out anywhere on the subject property until Site Plan Approval, if required for the proposed construction, is first obtained for the proposed construction.

(2) If the prohibition set forth in Subsection B(1) above is violated, no Site Plan application will be processed until the violation is remediated in accordance with a remediation plan approved by the Planning Board. The Planning Board may require,

among other things, that such remediation plan provide for the replacement in kind of any trees, shrubs, or other material which has been removed in violation of this Section. Additional penalties as provided for in Subsection D. below shall also apply.

C. Landscape plan; preservation of mature trees and other vegetation

(1) Each application for Site Plan Approval shall include a Landscape Plan which must show, unless otherwise determined by the Planning Board, (i) all existing Mature Trees on the entire property which is the subject of the Site Plan application, (ii) which Mature Trees are to be removed or destroyed, specifying their types and sizes, and (iii) the reasons they are being removed and/or destroyed. The Planning Board shall have the authority to require new trees to be planted, and, with input from the Parks and Trees Committee, to specify their location and type, and to require replacement of existing trees in kind or with such trees of such type as the Planning Board (with input from Parks and Trees) determines are appropriate in the circumstances.

(2) The applicant shall design the development plan in such a manner as to minimize the number of Mature Trees to be removed or destroyed in order to accommodate the development. Where feasible, the Planning Board may require proposed improvements to be relocated or removed in order to preserve Mature Trees. It will not be deemed feasible to require such relocation or removal where doing so would substantially interfere with a permitted use.

(3) On sites in the Village's "R", "W" and "MF" Zoning Districts which are devoid of Mature Trees or sparsely populated with such trees, the Planning Board may require the installation of supplemental trees. A baseline design standard for such supplementation shall be that the trees have a diameter of at least three inches and that there will be an overall density of one tree for three thousand square feet of land area or fraction thereof.

(4) In addition to the requirements for Mature Trees, the Planning Board shall also have the authority to require the preservation or enhancement of other vegetation on the site. The reasons for requiring such preservation or enhancement may include, but shall not be limited to, aesthetic value due to species or location, or that removal of existing vegetation would excessively alter drainage or effect the stability of slopes.

(5) The Construction Management Plan for the project shall include the methods that will be employed to protect existing trees and other vegetation on the site during construction. The Planning Board shall have the authority to approve, disapprove or require the modification of such Construction Management Plan.

(6) Trees which have been designated for preservation, including supplemental trees, shall be deemed to be required site improvements, and their preservation and replacement, as necessary, including the replacement of trees damaged during construction, shall remain the responsibility of the applicant and subsequent property owners. In addition to any other bonding required by the Planning Board in connection with the Site Plan Approval, the Planning Board shall require a bond, letter of credit or cash deposit, calculated to provide sufficient funds for the replacement of trees to be

preserved or supplemental trees which may be damaged during construction. Such bonding shall be for a period of at least one year after all improvements in connection with the Site Plan have been completed. Prior to release of the bond or other security, the trees shall be inspected to insure that they have not been damaged and that future growth will be characteristic of the species.

(7) The requirements herein for tree preservation shall not apply to lots for existing houses in a new subdivision, provided that such lots and houses will not be altered to accommodate development of the subdivision. However, this provision shall not relieve the subdivider and Site Plan applicant of the responsibility to include in the tree preservation plan for the subdivision/Site Plan any Mature Tree located within 50 feet of a new lot or required subdivision improvement. When lots for existing houses have been excluded from the tree preservation plan, the landscape architect shall set forth on the plan which lots have been excluded and shall certify that the plan does include all Mature Trees located within 50 feet of a new lot or other subdivision improvement and that surrounding development will not substantially alter the environment of the trees on such lot.

D. Violations; penalties. It shall be a violation of law for any person or entity to remove, damage or fail to preserve any tree or vegetation which they were not permitted to remove or damage, or which they were required to preserve, pursuant to the terms of this Section 381-68-N of the Code of the Village of Larchmont.

(1) In addition to any other penalties provided for violation of this Site Plan law or failure to adhere to the details of an approved site plan, any person violating any of the provisions of this Section 381-68-N of the Code of the Village of Larchmont shall be guilty of a Violation (i.e. not a misdemeanor or felony) punishable by a fine of up to \$500.00. Each day a violation continues shall constitute a separate offense, and

(2) No building, demolition or excavation permit may be issued, and if previously issued shall be revoked, nor shall any certificate of occupancy be issued until such violation is cured in accordance with Subsection (3) below, and

(3) Any person or entity who removes, damages, destroys or fails to preserve any tree or other vegetation in accordance with this Section 381-68-N shall replace, in kind, each and every tree and other vegetation which has been removed, damaged or destroyed. If such a tree was so large and mature that it cannot reasonably be replaced, the Building Inspector, upon advice of the Village Arborist, may require the planting of multiple trees. If multiple trees cannot be planted on the site of the violation, other available spaces on public property may be used to accommodate the balance of the required planting.

Section Two. Section 381-69-H of the Code of the Village of Larchmont is hereby amended by adding thereto a new Subsection R to read as follows:

R. The provisions of Section 381-68-N of the Site Plan Article of this Code shall apply as well to Subdivisions and Subdivision applications. In each case where Section 381-68-N uses the words "Site Plan", these words, for purposes of this Section 381-69-H.R, shall be deemed to read

“Subdivision”. Where Section 381-69-N uses the phrase “this Section 381-69-N”, it shall be deemed for the purposes hereof to read “this Section 381-69-H.R”.

Section Three. Severability.

If any section, subsection, clause, phrase, or other portion of this Local Law is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body or other authority of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect.

Section Four. Effective Date.

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