

VILLAGE OF LARCHMONT
LOCAL LAW # 9-2016

A local law to amend Chapter 263 of Village Code to regulate and strengthen the protection of trees in parks and on streets

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

Section One. Chapter 263 of the Code of the Village of Larchmont (Trees) is hereby repealed and replaced with the following Chapter 263 (Trees) to read as follows:

ARTICLE I. Legislative Intent and Definitions

§ 263-1. Legislative Intent.

The preservation and maintenance of trees is necessary to protect the health, safety, environment, ecosystems and general welfare of the inhabitants of the Village of Larchmont. Trees provide necessary shade, green space and aesthetic appeal, impede soil erosion, aid water absorption, buffer noise, and provide other environmental benefits and generally enhance the quality of life within the Village. The destruction and damage of trees and the indiscriminate and excessive cutting of trees cause barren and unsightly conditions, create surface drainage problems, increase municipal costs to control drainage, impair stability of real property values and adversely affect the character of the community.

The purpose of this chapter is to promote and protect public safety, the general welfare and the environment by regulating the planting, maintenance, and removal of trees on certain property within the Village of Larchmont.

§ 263-2. Definitions.

As used in this article, the following terms shall have the meanings indicated:

PARK TREES

Trees, shrubs, bushes and all other woody vegetation in public parks having individual names and all areas owned by the Village or to which the public has free access as a park.

STREET TREES

Trees, shrubs, bushes and all other woody vegetation on land lying between property lines on either side of all streets, avenues or ways within the Village.

OWNER

Any person or entity, other than the Village of Larchmont.

VILLAGE ARBORIST

An certified arborist who is engaged by the Village from time to time.

Article II. Dutch Elm Disease

§ 263-3. Powers and immunities in regard to Dutch elm disease.

The Board of Trustees of the Village of Larchmont hereby elects to exercise and enjoy by its appropriate officers and employees the powers and immunities prescribed and granted in §§ 164, 165 and 167 of Article 14 of the Agriculture and Markets Law with respect and in regard to the Dutch elm disease within the limits of said Village.

§ 263-4. Effective upon approval of Commissioner.

This article shall be effective only upon the approval of the Commissioner of Agriculture and Markets and under his direction or that of his representatives.

Article III. Park Trees and Street Trees

§ 263-5. Establishment of Parks and Trees Committee.

There is hereby created and established a Village Parks and Trees Committee, an expanded designation of the former Parks Committee, which shall serve in an advisory capacity to the Board of Trustees, the Village Engineer, the General Foreman of the Department of Public Works, and the Village Administrator. Membership shall consist of up to 14 persons, who shall be nominated and appointed by the Board of Trustees.

§ 263-6. Terms of office of Committee members.

The term of each member's office shall be three years, with the exception of the first year of the Committee's existence in which four members shall be given a two-year term. All terms may be renewed. In the event of a vacancy, a successor shall be appointed to fill the unexpired portion of the term.

§ 263-7. Duties and responsibilities of Committee.

The Committee shall provide the Village Board with advice regarding Village parks and the planting of trees within the Village and, when requested by the Village Board, shall consider, investigate, make findings and report and recommend upon any special matter or question coming within the scope of its work.

§ 263-8. Committee operation.

The Mayor shall appoint the Chairman with the approval of the Board of Trustees. The Committee shall make its own rules and regulations and keep a record of its proceedings. A majority of the members shall be a quorum for the transaction of business.

§ 263-9. Review by Village Board.

The Village Board shall have the right to review the acts and decisions of the Parks and Trees Committee. Any person may appeal from any ruling or order of the Parks and Trees Committee to the Village Board, who may hear the matter and make a final decision.

§ 263-10. Recommended species of trees.

The Parks and Trees Committee or other designee of the Village Board of Trustees shall develop and maintain a list of recommended species of trees which he/she recommends as suitable for planting in the Village of

Larchmont, which will be on file with the Village Clerk.

§ 263-11. Spacing of trees.

A. To achieve ideal growing conditions, street or park trees shall be planted, except for special planting designed or approved by the Committee, according to the following guidelines:

- (1) Small trees, up to 25 feet high: 30 feet apart.
- (2) Medium trees, up to 40 feet high: 40 feet apart.
- (3) Large trees, up to 60 feet high: 50 feet apart.

B. When necessary, modification may be made by the Committee, Village Engineer or General Foreman.

§ 263-12. Distance from curb and sidewalk.

The distance trees may be planted from curbs or curblines and sidewalks will be determined by the Committee. If a tree is being planted to replace a tree larger than the prescribed size, the Committee may allow the planting of a tree comparable to the removed tree, provided that it is known to be of a type whose roots will not displace the sidewalk or curb.

§ 263-13. Distance from street corners and fire hydrants.

No street tree or park tree shall be planted closer than 35 feet from any street corner, measured from the point of nearest intersection of curbs or curblines. No street or park tree shall be planted closer than 10 feet from any fireplug or closer than four feet from any gas or water curb boxes. These distances may be reduced at the recommendation of the Parks and Trees Committee where warranted by special circumstances.

§ 263-14. Maintenance, removal and care of Park Trees and Street Trees.

A. The Village shall study, investigate, develop and/or update annually and administer a plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and other public areas. Such plan shall be presented annually to the Village Board for its approval.

B. The following acts as to Street Trees and Park Trees are prohibited: No one, except the Village, shall remove any such tree. No one, except the Village removing or maintaining them, shall chop or cut into such trees or scar their trunks. No one shall drive nails into their trunks or limbs, build fires near trunks or under branches nor pour or deposit substances injurious to growth on soil near such trees, including oil, gasoline, tar, creosote, salt or other injurious substances.

C. The Village shall have the right to plant, prune, maintain and remove trees, plants and shrubs on all streets, alleys, avenues, lanes, squares parks and other public grounds as it may deem necessary to ensure public safety or to preserve or enhance the symmetry and beauty of property of the Village.

D. No person other than the Village shall plant any tree, shrub or other vegetation within the limits

of any public street, right-of-way, park or other public place. The planting of trees by the Village in such locations may be requested through the Parks and Trees Committee.

E. It shall be a goal of the Village that all stumps of street trees shall, within one year, be removed level with or below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

F. The removal of stumps of park trees shall be determined on an individual-case basis, taking into account safety, aesthetics and the environmental value of allowing the stump to deteriorate naturally.

G. Stump removal shall be as complete as the Village budget allows.

H. Special attention shall be given to newly planted trees for the first three years of their siting in order to ensure their health and beauty, recognizing that such new trees represent an investment of Village resources.

I. Any person may request to have the Village Arborist evaluate the condition of a Park or Street Tree. This request must be made to the Village Department of Public Works.

J. No person shall fasten or tie any animal to or attach any sign, bill, card, notice or advertisement to any tree or shrub in any public street, right-of-way, park or public place or allow any animal under his/her control to injure any such tree or shrub.

K. Any person, including public utilities, their agents, servants and employees, is prohibited from climbing trees with the aid of spurs. Any wires of public utilities passing among the branches of trees shall be properly insulated so as to prevent damage to said trees. Guy wires shall not be attached to trees in such a manner as to girdle or restrict growth. When it is necessary to attach any guy wires or cables, such devices shall be attached by means of lag hooks screwed into the trunks or by eyebolts passing through the trunk, and then only with the permission of the Village Department of Public Works.

L. When it is necessary to remove limbs to make clear passage for wires and where the removal of such limbs might injure a tree or spoil its symmetry or otherwise mar its appearance, it shall be necessary to obtain a permit from the Building Department before starting such work. It shall not be necessary to secure a permit for the usual periodical removal of small branches to allow the free passage of wires, but any such work will be subject to inspection by the Village Arborist, and where such work is not up to standard, any expense incurred by the Village in repairing the same will be charged to the public utility responsible.

Article IV. Trees Owned by Parties other than the Village

§ 263-15. Responsibilities of owner

A. The owner of any tree or bush overhanging or otherwise adversely affecting any street or right-of-way within the Village shall, at his/her own expense, maintain such tree or bush so that it shall not obstruct the light from any street lamp, create a traffic safety hazard or obstruct or hinder passage on any street or sidewalk so that there shall be a clear space of eight feet above the surface of the street or the full width of the sidewalk, as the case may be.

B. The owner shall remove, at his/her own expense, all dead, diseased or dangerous trees or bushes, broken or decayed limbs or branches which constitute a danger to the safety of the public.

§ 263-16. Removal of trees; owner expense.

The owner of any tree or bush which the Village deems to constitute a hazard to life or property or to harbor insects or disease which constitutes a potential threat to other trees within the Village shall remove such tree or bush at his own expense within 30 days of written notice to such owner by the Village.

§ 263-17. Prerogative of Village; liability of owner.

The Village shall have the right to take any action which would otherwise be required of any owner pursuant to this article and, if the owner has been given not less than 30 days' written notice of the intention of the Village to do such work and has failed to have such work done, to recover the cost of such action from said owner.

ARTICLE V. Enforcement and Penalties

§ 263-18. Enforcement and Penalties for offenses.

A. This chapter shall be enforced by the Village Building Inspector, Code Enforcement Officer and/or such other party as the Village Board of Trustees may designate from time to time.

B. Any person violating any of the provisions of this chapter shall be guilty of a Violation (i.e. not a misdemeanor or felony) and shall be fined not more than \$500. Each day the violation continues shall constitute a separate offense.

C. In addition thereto, any person violating any provision of this chapter shall be subject to a civil penalty enforceable and collectible by the Village in the amount of \$200 each day the violation continues for every tree.

D. In addition thereto, any person who removes, destroys or damages a Park Tree or Street Tree to the extent that the Village Arborist recommends it be replaced, shall pay to the Village the cost the Village will incur to replace the tree in kind or, if such tree was so large and mature that it cannot be reasonably replaced in kind; the cost of planting multiple trees, in such location(s) as the Village determines, to replace its value to the Village.

Section Two. 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 Three. Effective Date.

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