

VILLAGE OF LARCHMONT  
LOCAL LAW #19 of 2016

A local law to amend the Zoning Law by  
adding regulations concerning  
changes of grade and soil movement

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

**Section One.** Purpose and Intent.

The purpose of this local law is to establish regulations concerning the extent to which one-family residential lots may be regraded, and to establish controls over the amount of soil that may be imported or exported from a site and over the soil moving operations themselves. Regrading of land and moving of soil have the potential to create detrimental impacts on visual aesthetics, drainage, vegetation, and other environmental concerns, and can increase erosion. Also of concern is the type of material used as fill and whether such material is contaminated with pollutants, volatile substances, and chemicals. These regulations will permit such regrading and soil moving with reasonable controls that will protect the health, safety, and welfare of the community.

**Section Two.** Section 381-7 of the Zoning Law of the Code of the Village of Larchmont, concerning definitions, is hereby amended by adding the following definition:

**SOIL**

Any earth, sand, clay, foam, gravel, humus, rock, or dirt, without regard to the presence or absence therein of organic matter, including any synthetic substance used as a substance or in conjunction with soil.

**Section Three.** Section 381-42 of the Code of the Village of Larchmont, currently reserved, is hereby added to read as follows:

§ 381-42. Changes of grade and soil movement.

A. Purpose and applicability. In order to: minimize the extent to which the existing overall topographical character of the one-family residential areas within the Village are changed; minimize the potential negative impacts of substantial grade changes on the community and visual aesthetics; minimize the net amount of soil imported or exported and control the quality of the soil imported; discourage rock blasting and rock chipping; and minimize the removal of trees and established vegetation, destabilization of sloped areas, and the extent and rate of stormwater runoff and soil erosion in accordance with all applicable federal, state, and local regulations, the following provisions shall apply to changes in grade and soil movement.

(1) Maximum increase/decrease in existing grade. For one-family residential lots, changes in topographic contours shall be in accordance with the following:

(a) For each lot, the grading plan should seek to balance areas of fill and excavation, in order to minimize changes to existing topography and also to minimize the net import or export of soil.

(b) At each location across a lot, the maximum allowable change (raising or lowering) in existing grade shall depend on the location's distance from the property line and not exceed the maximum change in grade as set forth in accordance with the following table:

<u>Distance from Property Line</u>	<u>Maximum Change in Grade From Existing Grade</u>
50 feet and greater	Five (5) feet
40-50 feet	Four (4) feet
30-40 feet	Three (3) feet
0-30 feet	Two (2) feet

(c) Retaining walls may be utilized to stabilize horizontal surfaces that are at different elevations, provided such retaining walls comply with the provisions set forth in § 381-41.H. and that they do not have the effect of changing the existing grade beyond the limitations set forth herein.

(d) For the purposes of this subparagraph (1), existing grade shall either be the contour of elevations based upon an up-to-date topographic survey verified in the field of one (1) foot contour lines, or the contour elevations and/or spot elevations as shown on an existing conditions survey map prepared by a Registered Land Surveyor. Said contours or spot elevations shall be based upon North American Vertical Datum (NAVD) of 1988.

(e) In any areas of a lot where regrading occurs, the slope of the finished grade shall not exceed one (1) vertical foot for every four (4) horizontal feet, and shall be properly stabilized and drained in accordance with applicable provisions in the Village Code.

(f) In order to minimize the potential for excessively tall, exposed garage and walk-out basement levels, the maximum differential between the points of highest and lowest finished grade around the exposed surfaces of a building shall not exceed eight (8) feet.

(2) Soil movement.

(a) Soil moving permits required. No person shall import or export or cause more than twenty five (25) cubic yards of soil to be imported or exported within any twelve (12) month period without first obtaining a soil movement permit as hereinafter provided. No construction or building permit nor certificate of occupancy shall be issued until a soil movement permit has been issued. No permit shall be issued for longer than twelve (12) months.

(b) Maximum amounts of soil importation to or exportation from a one-family residential lot.

1. Regardless of whether a building or other permit is being sought, the maximum quantity of soil that may be imported to or exported from a one-

family residential lot shall be the volume in cubic yards that is equal to one-half (1/2) foot multiplied by the lot area (in square feet). Cubic yards of soil generated from excavations for basements and swimming pools shall not be counted toward such maximum quantity of soil. The Planning Board may, for good cause shown, permit greater quantities of soil to be imported or exported, but only to the minimum extent reasonably possible, and only upon a demonstration that the applicant used best efforts to comply with the maximum quantity of soil specified herein.

2. Up to twenty five (25) net cubic yards of soil that is imported or exported shall be permitted as-of-right for all one-family residential lots. Regardless of quantity, documentation shall be provided to the Building Department prior to import or export activities identifying the origination and off-site destination points. Should the soil not be from a natural unimpacted borrow source, data shall be provided in accordance with New York State Department of Environmental Conservation, Division of Environmental Remediation guidance document DER-10, as amended from time to time, to demonstrate that the materials are free of contaminants and are suitable for the intended use.

3. A soil moving permit from the Building Inspector shall be required if the amount of soil to be imported or exported exceeds twenty five (25) net cubic yards, but is less than one hundred and eighty five (185) net cubic yards. As part of the permitting process, all documentation required under § 381-42.A.(2)(b)(2) shall be submitted. In addition, for processed or manufactured materials not from an unimpacted borrow source, data shall be furnished from a New York State Certified Laboratory demonstrating that the soil is free of contaminants and suitable for the intended use. A signed chain of custody form shall also be furnished for all imported or exported materials. If material is not from a natural unimpacted borrow source, the processing facilities' applicable state's registration or permit documentation shall be provided to the Building Department.

4. A soil moving permit from the Planning Board shall be required when the amount of soil to be imported or exported meets or exceeds one hundred eight five (185) net cubic yards. All documentation required under § 381-42.A.(2)(b)(3) shall be submitted.

5. The Building Inspector and Planning Board shall not issue a soil moving permit unless the applicant demonstrates that the amount of soil to be imported or exported is no greater than is reasonably necessary for the development and use of the lot.

(c) Soil moving operations. In all operations for which a soil moving permit is required, the following operational requirements shall apply:

1. Prior to the start of the soil moving operations, the following must be performed: (a) sediment barriers shall be installed and maintained throughout the duration of the project for which soil is being imported or exported in accordance with all federal, state, and local regulations; (b) tree protection

measures shall be installed pursuant to the Building Inspector's approval. The Building Inspector may also, at his/her discretion, require the limits of the soil disturbance to be delineated with construction fencing and other reasonable measures to protect adjoining and adjacent property, including streets, sidewalks, drains, and catch basins.

2. The top layer of soil to a depth of six (6) inches shall not be removed from the lot, but shall be stockpiled on the lot separately from any other soil stockpiled and respread over the lot after the remainder of the soil has been moved or after construction has been completed. All stockpiles shall be covered securely with a tarpaulin to protect the topsoil and to prevent flying dust and other nuisances.

3. All boulders, tree stumps, and other debris that are uncovered during soil moving operations shall be removed from the lot.

4. In dry weather, the ground where soil moving operations are conducted shall be dampened to prevent flying dust.

5. To prevent spillage of soil, no trucks shall be loaded above the level of the sides of the truck. Each day, at the applicant's sole expense, all adjoining streets, sidewalks, and paved surfaces shall be cleaned of any spillage of soil or other debris. All truckloads shall be covered securely with a tarpaulin and, if necessary, the soil therein shall be treated with water or chemicals to prevent flying dust. The Building Department may require designation of an on-site soil- or mud-tracking control area to prevent tracking of soil and mud onto public streets. The tracking control may be accomplished with a fabric-lined gravel bed area or other means reasonably required by the Building Department.

6. All debris, including soil, arising from the soil moving operations shall be removed from the surface of any Village catch basin, and the Village Administrator shall be notified immediately. If the Village Administrator determines that the catch basin needs to be cleaned more thoroughly, the Village will undertake the work and charge the expense thereof to the owner as a lien against the lot.

7. At the conclusion of soil moving operations or construction, the lot shall be graded to conform to the approved contour lines and grades and stabilized to prevent erosion.

8. All excavation, removal, and other mandatory groundcover work, including restoration of property to final grades and subsequent seeding, must be completed within twelve (12) months from the date of the permit.

9. Soil moving operations, including loading or unloading, are prohibited between 5:00 p.m. and 8:00 a.m., Monday through Friday, and all day on Saturday, Sunday, and federal and state public holidays.

**Section Four.** 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 Five.** Effective Date.

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