

**BOARD OF TRUSTEES  
OF THE  
VILLAGE OF LARCHMONT**

**RESOLUTION TO ADOPT PROPOSED  
LOCAL LAWS G, J, K, M, O, AND R OF 2016**

WHEREAS, the Board of Trustees (the Board) of the Village of Larchmont (the Village) is considering taking an action to adopt the following proposed local laws:

<u>Proposed Local Law</u>	<u>Title</u>
G of 2016	A local law to revise the Zoning Law by regulating the location and dimensions of retaining walls and the land surrounding them
J of 2016	A local law to amend the Zoning Law by adding regulations concerning changes of grade and soil movement
K of 2016	A local law to amend the Zoning Law by establishing regulations concerning mechanical rock excavation and additional regulations concerning rock blasting
M of 2016	A local law to amend site plan regulations of the Zoning Law by increasing the regulations of the demolition of improvements and condition of lots following demolition
O of 2016	A local law to amend the Zoning Law by increasing coordination among the Village's land use boards
R of 2016	A local law to amend a grandfathering provision of the Zoning Law

(collectively, the Proposed Local Laws); and

WHEREAS, previous drafts of Proposed Local Law G, J, K, M, and O of 2016 (the Previous Drafts) were discussed during numerous Board work sessions and at a public hearing opened on October 17, 2016, and during those work sessions and public hearing, members of the public in attendance were invited to share their thoughts and many did so, and the Board also received written public comments on the Previous Drafts, and

WHEREAS, the Board, after engaging in such discussions and reviewing the various comments received on the Previous Drafts, directed the Village's attorneys to revise the Previous Drafts, and such revisions culminated in Proposed Local Laws G, J, K, M, and O, which required new public hearings and new notices and distribution thereof; and

WHEREAS, public hearings on the Proposed Local Laws were scheduled for December 19, 2016, at 7:30 p.m., and notice of such public hearings was timely published in the newspaper and circulated in accordance with applicable laws and regulations; and

WHEREAS, all requisite referrals and notices of the Proposed Local Laws and public hearings to the Westchester County Planning Board, neighboring municipalities, and other entities were timely made; and

WHEREAS, on December 5, 2016, the Village received a response from the Westchester County Planning Board affirming that these are matters for local determination; and

WHEREAS, the Board referred the Proposed Local Laws to the Village's Planning Board/Commission and, in a letter dated December 19, 2016, the Planning Board stated that it is their considered opinion that the proposed changes to the local land use laws are consistent with a framework that would facilitate responsible land use policy and practice in harmony with the master plan for the Village of Larchmont and the proposed changes thoughtfully address issues of overbuilding and construction impacts, fairly balancing the interests of individual property owners and the community as a whole; and

WHEREAS, the Board referred the Proposed Local Laws to the Town of Mamaroneck / Village of Larchmont Coastal Zone Management Commission (the CZMC) and, in a letter dated December 2, 2016, the CZMC stated that it had determined that the relevant Proposed Local Laws are consistent with the policies in the Local Waterfront Revitalization Program (the LWRP) and that the Village should move forward with their adoption; and

WHEREAS, the Village received additional written public comments on the Proposed Local Laws; and

WHEREAS, public hearings on the Proposed Local Laws were duly held on December 19, 2016, during which public comments on the Proposed Local Laws were heard;

NOW, THEREFORE, BE IT RESOLVED: that the Board of Trustees ratifies the CZMC's opinion that adoption of the Proposed Local Laws is consistent with the LWRP, finds that the Proposed Local Laws are required in the public interest and are in furtherance of the purposes set forth in Article 7 of the New York State Village Law, and such findings are set forth in the statement attached hereto,

AND BE IT FURTHER RESOLVED: that the Board of Trustees hereby adopts proposed the Proposed Local Laws, and that upon adoption, the Proposed Local Laws will become local laws designated as follows:

<u>Proposed Local Law</u>	<u>(Adopted) Local Law</u>	<u>Title</u>
G of 2016	# 18-2016	A local law to revise the Zoning Law by regulating the location and dimensions of retaining walls and the land surrounding them
J of 2016	# 19-2016	A local law to amend the Zoning Law by adding regulations concerning changes of grade and soil movement
K of 2016	# 20-2016	A local law to amend the Zoning Law by establishing regulations concerning mechanical rock excavation and additional regulations concerning rock blasting
M of 2016	# 21-2016	A local law to amend site plan regulations of the Zoning Law by increasing the regulations of the demolition of improvements and condition of lots following demolition
O of 2016	# 22-2016	A local law to amend the Zoning Law by increasing coordination among the Village's land use boards

R of 2016      # 23-2016      A local law to amend a grandfathering provision of the Zoning Law

(collectively, the Local Laws)

AND BE IT FURTHER RESOLVED: that the Board of Trustees directs Village staff to file, publish and circulate the Local Laws in accordance with applicable law and regulations.

**FINDING STATEMENT REGARDING  
PROPOSED LOCAL LAWS G, J, K, M, O, AND R OF 2016**

<u>Proposed Local Law</u>	<u>Title</u>
G of 2016	A local law to revise the Zoning Law by regulating the location and dimensions of retaining walls and the land surrounding them
J of 2016	A local law to amend the Zoning Law by adding regulations concerning changes of grade and soil movement
K of 2016	A local law to amend the Zoning Law by establishing regulations concerning mechanical rock excavation and additional regulations concerning rock blasting
M of 2016	A local law to amend site plan regulations of the Zoning Law by increasing the regulations of the demolition of improvements and condition of lots following demolition
O of 2016	A local law to amend the Zoning Law by increasing coordination among the Village’s land use boards
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(collectively, the “Proposed Local Laws”).

Earlier this year, the Board of Trustees (the Board) of the Village of Larchmont (the Village) enacted a temporary moratorium on certain land use applications that are pending or may subsequently be filed within the Village, during which the Board, working with the Village’s planning consultants, consulting engineers, attorneys, and staff, studied, identified, and formulated a plan to address present and future development impacts and needs, especially with respect to the manner in which increases in housing and buildings, both in terms of number and scale, should be regulated in various zoning districts. This plan culminated in the introduction of seventeen proposed local laws addressing issues such as stormwater regulation, demolitions, maximum floor area ratios, grading and soil importation and exportation, and retaining walls.

The Board held numerous work sessions on both the conceptual ideas and the seventeen proposed local laws, and at each work session, the members of the public in attendance were invited to participate in the discussions, and many did so. On November 21, 2016, the Board adopted eleven out of the seventeen proposed local laws. As a result of the aforementioned discussions, written comments, and other public comments, however, five of the seventeen proposed local laws were revised substantively, culminating in Proposed Local Laws G, J, K, M, and O, and the local law consideration and adoption process began anew for those proposed local laws. New Proposed Local Law R of 2016 extends the grandfathering provision to account for the later date on which the five local laws are adopted.

**Consistency with Comprehensive Master Plan and Comprehensive Zoning Scheme**

The Board finds that Proposed Local Laws are consistent with the Village’s Comprehensive Master Plan (the Plan) in that they fall within the stated objective to achieve a “safe, healthy, pleasant, convenient, and economically sound environment for all of Larchmont’s residents and businesses,” even as the Village

grows (Plan, pp. 82). For example, the Plan provides that “[t]hroughout most of its area, the Village should limit the types of residential development to those which will be compatible with its present character;” and “[a]ll dwellings should provide sufficient area, privacy, comfort, and convenience to meet accepted standards for healthy family living;” and “[t]he attractiveness of the landscape should be preserved and enhanced, wherever possible. Monotony in any future development should be avoided” (Plan, pp. 82-83). As set forth in more detail below, the Proposed Local Laws will help protect the Village’s character, landscape, and the general health, safety, and welfare of its residents, businesses, and visitors.

**PLL G of 2016: A local law to revise the Zoning Law by regulating the location and dimensions of retaining walls and the land surrounding them**

As stated above, Board enacted the temporary moratorium earlier this year to have the opportunity to study and assess present and future development impacts and needs, especially with respect to the manner in which increases in housing and buildings, both in terms of number and scale should be permitted. Recently, the Village has experienced an increase in the construction – or proposed construction – of new or modified homes that are out-of-scale and disharmonious with others nearby. Part of this disharmony occurs when retaining walls are utilized to support the resulting necessary or desired changes in grade. Depending on their size, location, and construction materials, retaining walls can decrease open space and light and air, create a feeling that the land is overcrowded and hemmed in, can endanger the visual character of the community, negatively affect drainage and stormwater runoff, and create erosion slumping and other negative environmental issues and impacts on the health, safety, and welfare of the Village.

Entitled, “A local law to revise the Zoning Law by regulating the location and dimensions of retaining walls and the land surrounding them,” PLL G also contains regulations concerning the aesthetic design of the retaining walls. These new regulations will permit the installation of retaining walls pursuant to reasonable controls that will mitigate their potential impacts on their neighborhood, environment, and Village.

At the same time, however, the Board recognizes that in limited circumstances, compliance with the new height and location regulations may be excessively difficult, if not nearly impossible. It is appropriate in such limited circumstances, therefore, to authorize the Planning Board to permit retaining walls at greater heights and in locations varying from those specified. Such authority, however, is not unfettered. The applicant must demonstrate that it used best efforts to comply with the height and location standards, and the Planning Board must find that there is good cause to vary the standards and may only do so to the minimum extent reasonably possible.

For the reasons set forth herein, this local law is in furtherance of the purposes set forth in Article 7 of the New York State Village Law, and the Board finds that it is in the best interests of the Village to adopt PLL G.

**PLL J of 2016: A local law to amend the Zoning Law by adding regulations concerning changes of grade and soil movement**

As stated in the purpose and intent clause of PLL J, entitled, “A local law to amend the Zoning Law by adding regulations concerning changes of grade and soil movement,” the 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. Changes in topographical character can require the

removal of trees and established vegetation, increase stormwater runoff, and destabilize sloped areas. Changes in grade can also require the installation of retaining walls which, as stated above, raise other issues. Increasing a property's grade dramatically can lead to a feeling that the land is overcrowded, decrease light, air, and the feeling of open space, and endanger the visual character of the community. A home built at the top of such grade, for example, can have the appearance of towering over neighboring homes, even when such home complies with the Village's maximum height regulations. To mitigate these issues, PLL J implements limitations on changes in grade

Also of concern is the type of material used as fill and whether such material is contaminated with pollutants, volatile substances, and chemicals. In addition to the concern for the users and inhabitants of the property, the Board recognizes that contaminants do not care for boundary lines. The Village has, over time, worked very hard to increase the stability of various infrastructure and to control both the quantity and quality of stormwater to, in part, protect against pollutants entering its watercourses and Long Island Sound. Regulating the type of fill material will increase protection of the environment, community, and marine life.

Soil moving operations can negatively impact the community, and PLL J contains new regulations concerning such operations. Such regulations will, among other things, reduce dust, protect trees and vegetation, and protect valuable topsoil.

It is important to note that as a result of public comments expressing concern that the formula for calculating the maximum quantity of soil that may be imported to or exported from a lot may be too restrictive, PLL J as revised now excludes from such calculation soil generated from excavations for basements and swimming pools.

For the reasons stated above, this local law is in furtherance of the purposes set forth in Article 7 of the New York State Village Law, and the Board finds that is in the best interests of the Village to adopt PLL J.

**PLL K of 2016: A local law to amend the Zoning Law by establishing regulations concerning mechanical rock excavation and additional regulations concerning rock blasting**

The mechanical excavation of rock can create disturbances and detrimental impacts on aural aesthetics. Such impacts can be better controlled and limited, and PLL K, entitled, "A local law to amend the Zoning Law by establishing regulations concerning mechanical rock excavation and additional regulations concerning rock blasting," intends do just that by limiting the number of days during which such operations may occur, limiting the times and days of such operations, prohibiting certain operations on testing days, and limiting the number of pieces of rock excavating equipment permitted on a lot at the same time.

PLL K, as revised, is the result of many discussions among the members of the Board, Village staff, consultants, and attorneys, and members of the public in attendance at Board meetings, plus other comments received. Much of the discussion focused on the number of days during which rock excavation and blasting operations may occur, as great concern was expressed about the impacts ongoing operations have on the community. Of particular concern involve the development of multiple lots following subdivision. The Board believes that the time frames set forth in PLL K strike a reasonable balance between the needs of the property owner and the needs of the community.

The Board recognizes, however, that certain circumstances may necessitate an extension of the number of days during which mechanical rock excavation operations may occur. To that end, PLL K provides mechanisms through which such extensions may be granted. Such mechanisms, however, require certain amounts of proof, and the extensions granted must be reasonable under the circumstances.

For the reasons set forth herein, this local law is in furtherance of the purposes set forth in Article 7 of the New York State Village Law, and the Board finds that it is in the best interests of the Village to adopt PLL K.

**PLL M of 2016: A local law to amend site plan regulations of the Zoning Law by increasing the regulations of the demolition of improvements and condition of lots following demolition**

The existing Village Code requires site plan approval for demolition of over 20% of the gross square footage of existing improvements located on a single lot within any twenty-four month period. PLL M, entitled, “A local law to amend site plan regulations of the Zoning Law by increasing the regulations of the demolition of improvements and condition of lots following demolition,” provides that such approval must also include demolition management and site restoration plans and that, in the event a site plan application for new improvements is pending, demolition cannot occur until all permits and approvals for the new improvements have been obtained.

PLL M provides more definitive standards for what must be addressed during the demolition approval process, and such definitive standards will better protect visual aesthetics, trees, and other vegetation during and following demolition. The postponing of demolition where a site plan application for new improvements is pending until all permits and approvals for the new improvements have been obtained will also serve to protect visual aesthetics and make for a more cohesive development approval process.

For the reasons set forth herein, this local law is in furtherance of the purposes set forth in Article 7 of the New York State Village Law, and the Board finds that it is in the best interests of the Village to adopt PLL M.

**PLL O of 2016: A local law to amend the Zoning Law by increasing coordination among the Village’s land use boards**

The Village of Larchmont has many land use boards, such as the Planning Board, the Board of Architectural Review, and the Zoning Board of Appeals. As its title, “A local law to amend the Zoning Law by increasing coordination among the Village’s land use boards,” states, PLL O will increase coordination among the Village’s land use boards during consideration of applications for significant projects. As stated in the purpose and intent clause of the local law, having the land use boards exchange views on such applications at the earliest state in the process is expected to benefit all involved. While the Village’s existing Zoning Law provides for a pre-submission conference, PLL O provides a more definitive process through which the exchange of ideas can occur. This process is expected to streamline the development application review process and potentially reduce plan development – and plan revision – costs. For the reasons stated forth herein, this local law is in furtherance of the purposes set forth in Article 7 of the New York State Village Law, and the Board finds that it is in the best interests of the Village to adopt PLL O.

**PLL R of 2016: A local law to amend a grandfathering provision of the Zoning Law**

As stated above, the Board adopted eleven of the original seventeen local laws on November 21, 2016. Local Law #17-2016 concerned the amendment of grandfathering provisions of the Zoning Law following amendments, and Section Nine of that local law provided that except with respect to amendments concerning mechanical rock excavation and blasting, amendments to the Zoning Law adopted between October 17, 2016, and November 21, 2016, shall not affect development(s) for which final subdivision approval or site plan approval was granted before October 17, 2016. Due to the revisions to and reintroduction of PLL G, J, K, and M, to capture these additional amendments to the Zoning Law, it is necessary to extend this grandfathering provision to local laws adopted through and including December 31, 2016. The Board finds that this provision is reasonable in such situations, given the costs incurred and time expended on such applications and their status in terms of the application review process. For these reasons, this local law is in furtherance of the purposes set forth in Article 7 of the New York State Village Law, and the Board finds that it is in the best interests of the Village to adopt PLL R.

### **Conclusion**

Again, for the reasons stated herein, the Board finds that adoption of these proposed local laws are in the best interests of the Village. They will help protect the environment, as well as the health, safety, and welfare of the Village. They are also in keeping with the Village's Comprehensive Master Plan and are in furtherance of the purposes set forth in Article 7 of the New York State Village Law.