

Adopted: 11/9/2020

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Local Law No. 10, Year 2020

A local law to amend Chapter 121 of the Code of the Village of Sea Cliff, in relation to tree preservation and protection.

Section one. Sections 121-201, 301(A), 302, 701(B), 701(C), 701(D), 701(E), 701(F)(1), 701(F)(2), 702(A), 702(B), 702(C), 703, 704, and 1101 of Chapter 121 of the Code of the Village of Sea Cliff are hereby amended, to read:

§121-201. The definition of the term “SUPERINTENDENT” is deleted and the following term is added:

BUILDING DEPARTMENT – The Building Department of the Village, or its authorized designee.

§121-301(A). The Commission shall consist of up to three (3) members, each appointed by the Mayor, subject to the approval of the Board of Trustees. The members of the Commission shall serve without compensation and be residents of the Village. The term of each resident member shall be a one-year term, each commencing at 12:00 noon of the first Monday in April. Any Commission member appointed at any time other than as aforesaid shall be appointed for a term set to expire on the immediately forthcoming first Monday in April, at 12:00 noon. If a vacancy occurs, a successor may be appointed, and such appointment shall be for the unexpired portion of the member’s existing term.

§121-302. Power and Authority.

The Commission shall serve as an advisory commission with the following powers and authority:

A. Tree removal permit applications. The Commission shall review tree removal applications and make recommendations and/or provide advice in accordance with the review procedure provided herein. The Commission does not grant or deny applications, as that power is vested herein with the Building Department.

B. Upon written request by the Building Department or the Administrator, the Commission may provide advice concerning the removal and/or replacement of any trees in the Village, including any trees in the public right-of-way. While trees in the public right-of-way do not require a tree removal application or permit, the Board of Trustees, after consultation with the Commission, may, by

resolution, adopt policy guidelines for the care and maintenance of trees in the public right-of-way.

C. Upon written request of the Board of Trustees, the Planning Board or the Zoning Board of Appeals, the Commission may provide advice concerning the removal or planting of any tree.

D. The Village may maintain and update a preferred species list. The Commission may provide the Village with recommendations for inclusion on the preferred species list.

§121-701(B). The application shall be made on such forms as may be prescribed by the Building Department or the Superintendent and shall include, but not be limited to, the following:

- (1) The name and address of the applicant.
- (2) The purpose of the proposed removal, destruction or substantial alteration.
- (3) A sketch or plan depicting the location of the property (including all cross streets) and the tree(s) that contains information sufficient for the Building Department to identify the exact tree(s) that are identified for removal on the application. Such information may include references to buildings, structures, other trees and/or roadway locations. Additionally, the applicant must mark the tree(s) proposed for removal with tape, ribbon or a large tag before any site visit by the Building Department and/or Commission members.
- (4) The name of the tree company to perform the work under the permit.
- (5) Written consent of the owner or owner of the real property, if the applicant is not the property owner.
- (6) Any additional information that the Building Department deems necessary for evaluation of the application.

§121-701(C). The application shall be filed with the Building Department, and upon receipt of an application to remove a tree, the Building Department may refer the application to the Commission for its review and advice, in accordance with this chapter.

§121-701(D). Criteria for Building Department determination and recommendations by the Commission. The decision of the Building Department, and any recommendations provided by the Commission, shall be based on the following criteria:

(1) The condition of the tree or trees that the applicant seeks to remove with respect to disease and/or danger of falling, proximity to existing or proposed structures and interference with utility services.

(2) The necessity of the removal or alteration of the tree or trees.

(3) The potential for impact of the removal upon ecological systems, including any impact on a hillside, if the tree or trees are located on a hillside or impact a hillside.

(4) The character established at the proposed site of removal with respect to existing vegetation management, impact on stormwater runoff, and/or impact on the stability of the hillside in the area of the tree or trees.

(5) The impact of any removal or alteration on the existing screening of any public street, public property or private property bordering the real property that is the subject of the application.

(6) The tree or trees cause unnecessary hardship by substantially interfering with a permitted and intended use of the property. Applicant must submit a description of the intended use and why the tree or trees present an unnecessary hardship.

§121-701(E). Tree removal permit. If the Building Department determines that a tree removal permit should be issued, within 10 business days after making such determination, the Building Department shall issue such tree removal permit, subject to any conditions imposed by the Building Department, including provision for replanting as provided in §121-702 herein. Such permit shall be valid for a period of time as determined by the Board of Trustees from time to time, as adopted by resolution of the Board of Trustees.

§121-701(F)(1). The applicant shall pay a permit fee as prescribed from time to time by resolution of the Board of Trustees. If a tree that is the subject of a tree removal permit is confirmed by the Building Department to be dead at the time of application and/or permit issuance, the tree removal permit fee shall be waived. Unless a specific provision in this chapter provides otherwise, any fee required to be paid as prescribed in this chapter may only be waived upon application to, and grant by, the Board of Trustees.

§121-701(F)(2). In making a determination concerning the removal of any trees on private property in the Village, the Building Department, either on its own or as recommended by the Commission, may require a report from a professional arborist to be chosen by the Building Department. Whenever an inspection and report by a professional arborist is required by the Building Department, a fee as prescribed from time to time by resolution of the Board of Trustees shall be charged to the applicant. Whenever extensive efforts are required, additional fees may be charged to the applicant for the direct costs associated with such efforts.

§121-702(A). Except as otherwise provided herein, for each tree removed pursuant to a tree removal permit as provided in §121-701, the applicant either shall replant a tree on the property from which the permitted tree is being removed or shall deposit in the Village Tree Releaf Fund a sum as prescribed from time to time by resolution of the Board of Trustees, in accordance with the provisions of this chapter. The requirements in this section shall not apply if (i) the tree that is the subject of the tree removal permit is sought to be removed because it is dead and the Building Department confirms the tree to be dead at the time of application and/or permit issuance or (ii) a tree is removed pursuant to §121-703.

§121-702(B). Except where otherwise authorized by the Building Department, any tree replanted pursuant to this chapter shall be subject to all of the following requirements:

- (1) Be of a size and species as approved by the Building Department.
- (2) Be planted in a location approved by the Building Department.
- (3) Be bailed and burlapped and shall not be less than two (2) inches in diameter nor less than eight (8) feet high. Trees shall be nursery-grown, and a nursery inspection certificate shall be available covering all replanted trees.
- (4) Be planted using the best current, commercial practices for successful tree planting.
- (5) Be consistent with the preferred species list.
- (6) Any other reasonable requirements of the Building Department.

§121-702(C). Upon the planting of the tree or trees, the applicant shall request that the Building Department certify that the tree or trees have been planted. If requested by the Building Department, the Commission may provide the Building Department with such certification. Failure to obtain such certification within the time provided in the permit shall be deemed a violation of this chapter and shall be subject to the penalties provided in this chapter.

§121-703. Emergency Tree Removal.

In the event of an emergency, all necessary and proper action may be taken with regard to the removal of trees by a resident to ensure the safeguarding of family and property. In this event, there shall be no fee charged for the removal of such tree and the replacement provisions provided in section 121-702 shall be waived. The burden shall be on the resident to demonstrate to the Building Department that an emergency existed, that appropriate, measured and necessary

action was taken and that professional and expert services were utilized. Failure to show an emergency existed and that fair, necessary and appropriate action was taken will subject the action taken to any applicable requirements and/or penalties in the Village Code. In determining whether an emergency exists, in addition to the general considerations set forth in this section, the Board of Trustees may adopt, from time to time, guidelines applicable for determination as to whether the removal of a tree constitutes an emergency.

§121-704. This section shall be modified by replacing the term “Superintendent” with the term “Building Department”, in each instance.

§121-1101. Appeals.

Any person aggrieved by any act or determination of the Building Department, Commission, or Board of Trustees, after first exhausting all procedures provided in this chapter, shall have the right to appeal to the Zoning Board of Appeals. Such appeal must be taken within 60 days after the filing of the applicable determination, specifying the grounds thereof and the relief sought. The Zoning Board of Appeals may make a determination applying the same considerations as are set forth in this chapter and may impose appropriate conditions upon the granting of any appeal. §Unsafe buildings are governed by Article XXI of this Chapter.

Section two. Any local law, ordinance, or resolution of the Village of Sea Cliff in conflict with this local law is hereby repealed to the extent of such conflict, except that such repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of such local law, ordinance or resolution prior to the effective date of this local law.

Section three. If any clause, sentence, paragraph, section, article, or part of this local law shall be adjudged to be invalid by any court of competent jurisdiction, such judgment shall not affect, impair or invalidate any other part of this local law, or the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, article, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Section four. This local law shall take effect immediately upon adoption and filing of such law pursuant to the Municipal Home Rule Law.