

Village of Baxter Estates

Local Law 4 of the year 2006

A local law amending certain provisions of Chapter 161 of the Code of the Village of Baxter Estates with regard to illegally removing or destroying trees

Be it enacted by the Board of Trustees \_\_\_\_\_ of the  
(*Name of Legislative Body*)

Village of Baxter Estates

Section 1. Legislative findings.

- A. Trees within the Village are an integral part of the bucolic nature of the Village and add to the aesthetics, air quality, and quietude of the Village, as well as enhancing property values and, thereby, maintaining the Village's tax base.
- B. Accordingly, a tree on one person's property is an integral enhancement of the neighboring properties and of value to the entire Village.
- C. Despite this Board's adoption of Chapter 161, Trees, to protect trees within the Village, it appears that on occasion, developers and homeowners are ignoring the provisions thereof, willing to pay the fine either as a cost of doing business or as a cost of removing a tree on their premises which they simply wish to remove.
- D. As the value of residences and building lots within the Village increase, developers and homeowners seem willing to pay fines of one thousand five hundred dollars per tree in order to develop their properties in the most expedient manner for themselves and in a manner that will provide to them the greatest profit, without regard to the Village's tree protection legislation.
- E. Significant, mature trees are illegally destroyed solely for reasons of profit, and Village officials and employees have felt themselves bound to require replacement with trees, which pale in comparative size, because of concerns of the cost and the practicability to the person who wantonly violated the Village's tree requirements or the conditions of one of the Village's

departments, boards, or committees, which required the maintenance of such tree as a part of a grant of a permit or other approval.

F. For the best interests of the Village, this Board does not believe it can allow such wanton disregard of the Village's tree regulations and the conditions of the Village's departments, boards, and committees to continue.

G. Although replacement of a tree in size may be extremely costly and difficult, this Board, at this time, believes that such replacement, if so imposed by such department, board, or committee, may be the only way to make proper restitution to the immediate community and Village as a whole for the loss of such tree.

Section 2. Clause "A" of § 161-11, "Removal of Trees without Permit Prohibited; Exception for Emergencies," of Chapter 161, "Trees," of the Code of the Village of Baxter Estates is hereby amended to read in its entirety as follows:

"A. It shall be unlawful for any person or entity, without a permit, to remove, destroy or alter any tree, or the habit of any tree; and it shall be unlawful for any person who owns, or is lessee or tenant with respect to, any real property located within the Village to cause, permit or suffer any person or entity to remove, destroy or alter any tree, or the habit of any tree, located on such real property within the Village."

Section 3. § 161-16, "Penalties for Offenses," of Chapter 161, "Trees," of the Code of the Village of Baxter Estates is hereby amended to read in its entirety as follows:

"Any person who violates any of the provisions of this article shall be deemed guilty of a violation with respect to each tree as to which a violation occurs and, upon conviction thereof, shall be subject to: a fine of not more than \$5,000 for each tree illegally removed, destroyed or substantially altered; a fine of not more than \$5,000 for each replacement tree not planted; and a fine of not more than \$5,000 for any other such violation. Each such violation shall constitute a separate offense and shall be punishable as such hereunder. In addition, this article may be enforced by civil action, including an injunction, and any owner of real property who has violated or permitted a violation of this article may be directed by the Board of Trustees to replace with a new tree (no less than ten inches in circumference three feet above grade) any tree removed in violation of this article. Where such direction has been made, no building permit or certificate of occupancy shall be issued for structures on said real property until such replacement has been completed."

Section 4. Said Chapter 161 is further amended by adding a new section, § 161-17, "Suspension of permit or other approval," to read in its entirety as follows:

“§ 161-17. Suspension of permit or other approval.

- A. In the event that any property owner or any other person performing work with the consent, express or implied, of the property owner shall violate any provision or condition of any permit or other approval of an application from any department, board, or committee of the Village by removing, destroying, or substantially altering any tree or the habit of a tree, or by suffering, permitting, or allowing the removal, destruction, or substantial alteration of any tree or the habit of a tree on such property, such permit or other approval shall be suspended. Such suspension shall continue and no further action shall be taken pursuant to such approval, until such person shall apply to the departments, boards, and/or committees which granted such permits or approvals for modifications thereof based upon the removal, destruction, or substantial alteration of any tree or the habit of such tree or trees. Upon such application, such departments, boards, and/or committees may modify such permits or approvals by implementing such conditions, including, but not limited to, the requirement that one or more new trees of the same height and/or caliper of the illegally removed tree or trees be planted and maintained for a specific period of time, not to exceed five years, or such other condition or conditions as such departments, boards, and/or committees might deem appropriate. Such conditions may also include a prohibition of any further work on such property until the replacement tree or trees have been planted and that a declaration of covenants and restrictions be recorded by the owner of the property, running with the land, to assure that such conditions with regard to such replacement trees shall be enforceable against all future owners.
- B. Notwithstanding anything to the contrary in this section, the Building Inspector shall have the authority to authorize and/or direct that the property owner and/or any other person performing work with the consent, express or implied, of the property owner take such actions as in the sole discretion of the Building Inspector are reasonable and/or necessary to maintain the property in a safe condition and to assure that all relevant storm water, sediment and erosion control, and tree protection measures are implemented and maintained, and that such other actions, as the Building Inspector may determine to be in the best interests of the Village are implemented and maintained until such application has been made, a decision thereon has been rendered by such departments, boards, and/or committees, and the additional conditions, if any, of such departments, boards, and/or committees, has been implemented.”

Section 4. Effective Date. This local law shall take effect immediately.