

**Chapter 36**

**BRUSH, GRASS, WEEDS, TREES**

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**[HISTORY: Adopted by the Board of Trustees of the Village of Cold Spring 9-8-70 as L.L. No. 2-1970. Amendments noted where applicable.]**

**GENERAL REFERENCES**

**Littering - See Ch. 59.**

**Nuisances- See Ch. 78.**

**Trees -See Ch. 122.**

**§ 36-1. Declaration of policy.**

It is hereby declared to be the policy of the Board of Trustees of the Village of Cold Spring to improve and protect property and life from fire hazards and health hazards, and to provide for the proper use of land so as to prevent unhealthful, hazardous or dangerous conditions from trees and woody shrubs, and due to the accumulation of brush, grass, rubbish, weeds, debris or other material. Properties within the Village must be kept clean and free from vermin and noxious weeds; be properly maintained; and kept free of nuisances, hazards, debris and litter. Further, it is found and declared that by reason of lack of maintenance and progressive deterioration, certain properties have the further

effect of creating blighting conditions that, if not curtailed and removed, will grow and impact the entire community. By reason of timely regulations and restrictions, the public health may be protected, blighted areas prevented and the desirability and amenity value of properties maintained. By this Chapter the Village Board seeks to regulate the removal and prevention of such dangers to health, life and property by requiring the owners of land to cut, trim or remove such hazards, and upon default thereof, cause the same to be done by the municipality and assess the costs against the real properties involved.

## **Article I**

### **§ 36-2. Authority of Village Board.**

Pursuant to the authority vested in the Village Board of Trustees by §4-412 of the New York State Village Law, the Board of Trustees of the Village of Cold Spring may require the owners of land to cut, trim or remove Dangerous Trees (see Article II), woody shrubs, brush, grass, rubbish, weeds, debris or other materials from real property in the Village of Cold Spring whenever said Village Board shall find such items to exist in such a manner as to constitute a fire hazard or danger to life or property or to create an unsafe condition in regard to property or life or safety within the Village of Cold Spring.

### **§ 36-3. Action by Village Board.**

Whenever said condition is reported to exist and is communicated to the Village Board of Trustees, a resolution shall be adopted that:

- A. Identifies the condition which exists.
- B. Designates the property by street address and Village Tax Map No. identification, with the last known name and address of the owner thereof (the information on the village tax rolls shall be sufficient for this purpose).
- C. Requires said owner to cut, trim or remove said woody shrubs, brush, grass, rubbish, weeds, debris or other materials.
- D. Designates a time within which such work shall be completed, giving not less than five (5) days from the receipt of said notice.

A copy of said resolution shall be served upon the owner of such lands.

### **§ 36-4. Notice to owners. [Amended 3-27-79 by L.L. No. 4-1979]**

A copy of the resolution described in § 36-3 shall be served upon the last known owner of said lands by, personal service upon the landowner or the landowner's representative, or by certified/registered mail, addressed to the last known address of such owner as shown on the latest assessment rolls.

**§ 36-5. Failure to comply.**

Whenever the notice referred to in § 36-4 hereof has been so served upon the owner of said land and said owner fails to comply with the requirements of such notice within the time provided therein, the Village Board shall authorize the work to be done, pay the cost thereof, record the charges and proceed to assess said charges against the real property involved and such charge shall constitute a lien and charge on the real property upon which it is levied until paid or otherwise satisfied or discharged and shall be collected by the Village Treasurer in the manner provided by law for the collection of delinquent taxes.

**Article II Dangerous Trees**

**§ 36-6. Definition.**

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

**DANGEROUS TREE**

Any tree or any part thereof which is either dead, diseased, decayed or, due to other causes, is in such a state that there exists a clear and present danger of said tree or any part thereof falling due to natural causes so that the free and lawful usage of sidewalks or of public streets or highways could be impaired or endangered, or so that a structure or building located on lands adjoining the premises on which said dangerous tree is located could be damaged should the dangerous tree or any part thereof fall, or so that any person lawfully in the vicinity of said dangerous tree could receive bodily injury from the same should the dangerous tree or part thereof fall.

**§ 36-7. Dangerous Tree: Complaint; inspection; report; notice.**

A. Immediately upon receipt of a written complaint signed by a complainant that a Dangerous Tree exists on private property within the Village of Cold Spring, the Highway Department or the Code Enforcement Officer of the Village of Cold Spring shall make an on-site inspection of the Dangerous Tree. Following that inspection, the Highway Department or the Code Enforcement Officer shall make a written report to the Cold Spring Village Board at the next regularly scheduled Village Board meeting. In the event that the Highway Department or the Code Enforcement Officer discovers a Dangerous Tree in the course of their duties, notwithstanding the absence of a written signed complaint, they shall report the same in writing to the Village Board at its next regularly scheduled meeting.

B. After considering the written report of the Highway Department or the Code Enforcement Officer, the Village Board, if it concurs that a Dangerous Tree exists based upon said report, shall so notify the owner of the land upon which the Dangerous Tree exists. The notice shall be in writing and shall direct the landowner to remove the Dangerous Tree or portion thereof within five (5) days after service of notice upon the landowner. The notice shall also designate a time within which the Village Board will

hold a public hearing in the event the property owner does not complete the required work.

C. Service of the notice upon the landowner may be made by personal service upon the landowner or his/her representative; or by registered/certified mail, mailed to the address of the landowner as set forth in the latest completed assessment roll of the Village. Service shall be complete and the five-day (5 day) period shall commence to run upon the filing of the affidavit of personal service or the affidavit of mailing with proof of mailing filed in the Village Clerk's office.

**§ 36-8. Dangerous Tree: Failure of owner to act.**

In the event that the owner of the property on which the Dangerous Tree is located fails to act within the five-day (5 day) period set forth in the notice, then the Village Board, after holding the public hearing, shall have the right to proceed to remove or trim the Dangerous Tree, provided that it first causes an inspection of the Dangerous Tree to be made by an arborist certified by the International Society of Arboriculture (ISA Certified Arborist), a representative of the New York State College of Forestry, a representative of the New York State Department of Environmental Conservation, or an equivalent expert with qualifications in the field of forestry and that the Village Board receives a written report from the inspector confirming the existence of a Dangerous Tree and recommending such removal or trimming. Following receipt of such a report, a copy thereof shall either be personally served on the landowner or be forwarded to the landowner by certified mail, return receipt requested. The Village Board may cause such Dangerous Tree to be removed or trimmed not sooner than five (5) days after the date of the filing of an affidavit of personal service or the filing of the affidavit of mailing with proof of mailing in the Village Clerk's office. All costs and expenses in connection with the inspection, removal or trimming of the Dangerous Tree shall be assessed upon the land upon which the Dangerous Tree was located.

**§36-9 Removal in cases of emergency.**

When conditions warrant immediate need for removal or trimming of a tree on private property, the Village may permit such emergency action without following the steps outlined above in Sections 36-7 & 36-8. The reasons for such emergency action shall be documented by the Highway Department or Code Enforcement Officer and a certified arborist. In these emergency situations the Village shall use its best efforts to notify the property owner at least twenty-four hours prior to taking action so that the property owner may remedy the emergency situation themselves.