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Int. No. 341

By Council Member Recchia, Jr., Brewer, Comrie, Fidler, Foster, Gerson, Jennings, Koppell, McMahon, Provenzano, Quinn, Sanders, Stewart, Felder, Nelson, Clarke, Gentile, Liu, Reed, Rivera and Sears

A Local Law to amend the administrative code of the city of New York, in relation the replacement of trees removed during construction projects.

Be it enacted by the Council as follows:

Section 1. Section 18-107 of the administrative code of the city of New York, is hereby amended to read as follows:

§18-107 Replacement of trees removed during construction. a. Any individual, firm, or corporation that [intends to remove] during construction removes, destroys or severely damages any tree that is within the jurisdiction of the commissioner, shall [post a bond with the commissioner to insure that within thirty days after the], within thirty days of the completion of such construction, replace, at the expense of the permittee, all such trees [removed, destroyed or severely damaged shall be replaced] with trees to be located in as close proximity as possible to the location of the removed, destroyed or severely damaged trees [at the expense of the permittee]. [The total caliper of all trees planted in the course of restoration shall in no event be less than the total caliper of all trees removed.] The number of replacement trees shall be determined by measuring the sum of the basal areas of all trees removed, destroyed or severely damaged which shall mean the cross-sectional area, including the bark, of such trees measured at a point four

and one-half feet from the ground. The sum of the basal area of the replacement trees shall be equal to the sum of the basal area of all trees removed, destroyed or severely damaged where all such trees are in excellent condition. In the event that some or all of such trees are in only good, fair or poor condition or are dead, the number of replacement trees shall be reduced accordingly. Replacement shall be made with 2 ½ to 6 inch caliper trees, [and/or directed by the department horticultural officer. The replacement shall be made in the spring or fall season, as determined by such horticultural officer.]

b. Notwithstanding the provisions of subdivision a of this section, the commissioner may extend the period of time within which the replacement of trees is required when such replacement would not occur within a tree planting season or when the commissioner determines that replacement of one or more trees in accordance with subdivision a of this section would be detrimental to the healthy planting or development of such replacement tree or trees. An application for an extension of time in which to comply with subdivision a shall be made by the permittee no later than thirty days prior to the completion of construction or, when such construction occurs entirely within a thirty day period, no later than the date such construction is completed.

c. Where the commissioner, in consultation with the permittee, determines that it is not feasible to plant the total number of replacement trees at the subject property, the permittee shall only be required to plant at that property the number of trees that is feasible. In making such determination, the commissioner shall consider such criteria as the physical configuration of the subject property, construction and engineering constraints and utility and other infrastructure requirements. In such case, the remaining replacement trees shall be planted at other locations as close as possible to the property from which the trees were removed, destroyed or severely damaged as the commissioner deems feasible. It shall be the responsibility of the permittee to propose in writing to the commissioner such alternate locations and the number of trees the permittee believes may be planted at each such location so that provision is made for the planting of each remaining replacement tree. Where the commissioner determines that a proposed alternate location or the number of replacement trees proposed to be planted at an alternate location is not feasible, the commissioner may select such other locations as are necessary to accommodate planting all of the remaining replacement trees. The justification for the selection of any alternate location for the planting of remaining replacement trees shall be set forth in writing, shall be kept on file at the department and shall be available for public examination upon request.

d. Prior to the removal of one or more trees subject to the provisions of this section, the permittee shall post a bond in an amount equal to the estimated aggregate cost to the city of replacing such tree or trees. [The amount of the bond as determined by the commissioner shall be sufficient to cover the cost of replacement.]

§2. This local law shall take effect immediately after it is enacted into law.