



Legislation Text

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Int. No. 1458

By Council Members Miller, Koo, Rodriguez, Borelli, Adams, Holden, Van Bramer, Brannan, Koslowitz and Yeger

A Local Law to amend the administrative code of the city of New York, in relation to notices of violation issued by the department of transportation for sidewalks enrolled in the department of parks and recreation's trees and sidewalks program

Be it enacted by the Council as follows:

Section 1. Section 18-151 of the administrative code of the city of New York, as added by local law number 65 for the year 2017 and renumbered by local law number 133 for the year 2017, is amended to read as follows:

§ 18-151 Street tree maintenance information [posted online].

a. The department shall post on its website certain information relating to street tree maintenance and sidewalk repair. Such information shall be updated not less frequently than quarterly and shall, at a minimum, include the following:

1. The approximate date and location of each upcoming, regularly scheduled street tree pruning, street tree stump removal and street tree planting;

2. The date, location and status of each street tree pruning, street tree stump removal and street tree planting that occurred within the previous six months;

3. For each planned sidewalk repair to address sidewalk damage that was (i) reported through a 311 citizen service center request or reported by other means of notification and (ii) caused by a street tree under the jurisdiction of the department:

(a) The approximate date and location of such repair; and

(b) The date of the initial request for repair.

4. For work to address sidewalk damage (i) that was caused by a street tree under the jurisdiction of the department and (ii) where such repair or inspection commenced in the previous six months:

(a) For each sidewalk repair or inspection, the date, location and status of such repair or inspection, including the sidewalk rating that resulted from such inspection; and

(b) For each sidewalk inspection, the number of notifications concerning such damage received through the 311 citizen service center request or reported by other means of notification in the 90 day-period preceding commencement of such work.

b. Upon the department's determination that a sidewalk is in need of repair due to damage caused by a street tree under the jurisdiction of the department, the department shall notify the owner of the abutting property in writing which sidewalk flags the department plans to repair and which sidewalk flags abutting the same property the department does not plan to repair. Such notice shall include a detailed diagram of the property that clearly indicates which sidewalk flags the department plans to repair.

c. The department and the department of transportation shall jointly maintain a computerized database. Such database shall contain information for every address that the department has included in a program by which the department repairs, reconstructs or repaves sidewalk flags due to damage caused by a street tree under the jurisdiction of the department. Such database shall include diagrams indicating which sidewalk flags the department plans to repair and which sidewalk flags abutting the same property the department does not plan to repair.

§ 2. Subdivision c of section 19-152 of the administrative code of the city of New York, as amended by local law number 120 for the year 2018, is amended to read as follows:

c. Whenever the department shall determine that a sidewalk flag should be installed, constructed, reconstructed, or repaved, or that a vacant lot should be fenced, or a sunken lot filled or a raised lot cut down, it may order the owner of the property abutting on such sidewalk flag or the owner of such vacant, sunken or

raised lot by issuing a violation order to perform such work. Such order shall provide a detailed explanation of the inspection and the sidewalk defects according to sidewalk flags including a detailed diagram of the property and defects by type. Prior to issuing an order requiring an owner to install, construct, reconstruct or repave a sidewalk flag, the department shall first determine whether the department of parks and recreation has included such flag in a program by which the department of parks and recreation repairs, reconstructs or repaves sidewalk flags due to damage caused by a street tree under the jurisdiction of the department of parks and recreation, and the order shall note which sidewalk flags the department of parks and recreation has included in such program. The order shall also inform the owner of the existence of the borough offices within the department together with an explanation of the procedures utilized by the borough office as provided for in paragraph [eighteen] 18 of subdivision a of section [twenty-nine hundred three of the New York city] 2903 of the charter as well as a complaint and appeal process, including the right to request a reinspection and then the right to appeal by filing a notice of claim with the office of the comptroller of the city of New York and thereafter a petition for appeal and commence a proceeding to review and/or correct the notice of account and/or the quality of the work performed under the direction of or by the department as provided herein and the procedures as to how to appeal by filing a notice of claim with the office of the comptroller of the city of New York and how to file a petition and commence a proceeding to review and/or correct the notice of account and/or the quality of the work performed as provided herein and the location, where the forms may be obtained. Such order shall specify the work to be performed, an estimate of the cost of the work to repair the defects and the order shall also specify a reasonable time for compliance, provided that the time for compliance shall be a minimum of 75 days. The department shall, by appropriate regulations, provide for a reinspection by a different departmental inspector than the inspector that conducted the first or original inspection upon request of the property owner to the appropriate borough office. Where appropriate, the department shall notify the property owner of the date of reinspection at least five days prior to the reinspection date. Such inspector conducting the reinspection shall conduct an independent inspection of the property without access to the reports from the first

inspection. The inspector conducting the reinspection shall file a new report and the department shall issue a new order to the owner specifying the results of the reinspection with a detailed diagram of the property and defects by type. Such order shall also advise the owner of the procedures utilized by the borough office as provided for in paragraph [eighteen] 18 of subdivision a of section [twenty-nine hundred three of the New York city] 2903 of the charter and also of the right to challenge the notice of account and/or the quality of the work performed by filing a notice of claim with the office of the comptroller and thereafter a petition and commence a proceeding to review and/or correct the notice of account and/or the quality of the work performed under the direction of or by the department as provided in sections 19-152.2 and 19-152.3 of the code and specify the procedures as to how to appeal by filing a notice of claim with the office of the comptroller of the city of New York and how to file a petition and commence a proceeding to review and/or correct the notice of account and/or the quality of the work performed and the location where the forms may be obtained.

§ 3. Subdivision e of section 19-152 of the administrative code of the city of New York, as amended by local law number 120 for the year 2018, is amended to read as follows:

e. Upon the owner's failure to comply with such order or notice within 75 days of service and filing thereof, or within [ten] 10 days if such period is fixed by the department pursuant to subdivision d of this section, the department may perform the work or cause same to be performed under the supervision of the department, the cost of which, together with administrative expenses, as determined by the commissioner, but not to exceed [twenty] 20 percent of the cost of performance, shall constitute a debt recoverable from the owner by lien on the property affected or otherwise. Upon entry by the city collector, in the book in which such charges are to be entered, of the amount definitely computed as a statement of account by the department, such debt shall become a lien prior to all liens or encumbrances on such property, other than taxes. An owner shall be deemed to have complied with this subdivision if he or she obtains a permit from the department to perform such work as specified in the order within the time set forth therein and completes such work within [ten] 10 days thereafter. Notwithstanding the foregoing provisions, if an owner shows that the department of parks and

recreation included any portion of the sidewalk abutting the property in a program by which such department repairs, reconstructs or repaves sidewalk flags due to damage caused by a street tree under the jurisdiction of such department, then costs and expenses incurred by the department of transportation for work performed under this subdivision shall be waived, except with respect to sidewalk flags that the department of parks and recreation expressly indicated that it would not repair pursuant to such program.

§ 4. This local law takes effect immediately, except that section three of this local law takes effect immediately and is retroactive to and deemed to have been in effect as of March 1, 2005.

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