



Legislation Text

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Int. No. 676-A

By Council Members Dear, Nelson, Rodriguez, Lopez, Freed and Marshall; also Council Members Eisland, Harrison, Koslowitz, McCaffrey, Michels, O'Donovan, Wooten, Espada and Robinson.

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

Be it enacted by the Council as follows:

Section one. 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 close proximity 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. For the purposes of this subdivision, a tree in “excellent condition” shall mean a tree which possesses the best qualities of its species and has a full, well-balanced crown and limb structure with leaves of normal size and color, no dead branches, with a solid trunk, intact bark and no nutritional problems; a tree in “good condition” shall mean a tree that with proper maintenance can be restored to excellent condition, has an uneven or mishapen crown, shows signs of insect, pathogen or mechanical damage to the bark or trunk, has leaves somewhat below normal size and quantity, with some dead or broken branches; a tree in “fair condition” shall mean a tree having some or all of the following problems: large, dead limbs with as much as one half of the tree already dead, large cavities in the trunk, major deformities and obvious insect, pathogen or nutritional problems; a tree in “poor condition” shall mean a tree in very degraded

condition with irreversible problems, with over fifty percent dead branches, drastic deformities and severe insect, pathogen or nutritional problems; a tree that is “dead” shall mean a tree that requires removal and has over ninety percent dead branches, an absence or minimal number of leaves, brittle twigs and has completely succumbed to insect, pathogen or nutritional deficiencies.

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] Such replacement shall be completed within thirty days of the completion of construction during the spring or fall planting season.

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 in accordance with subdivision a of this section would be detrimental to the healthy planting or development of such replacement 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 lasts less than thirty days, 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 the number of trees that may be accommodated at the property. 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 locations capable of accommodating such planting as close 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.

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 trees. [The amount of the bond as determined by the commissioner shall be sufficient to cover the cost of replacement.]

e. The commissioner shall promulgate such rules as may be necessary to ensure that trees are properly removed and, where necessary, promptly replaced, in such special natural area districts as have been or shall be created pursuant to the New York city

zoning resolution. Notwithstanding the foregoing, nothing in this section shall be deemed to alter, effect or diminish the requirements of the New York city zoning resolution or other provisions of law.

§2. This local law shall take effect immediately.