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An Act To Modify the Requirement To Replace Trees Cut Down in Violation of Local Laws

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 30-A MRSA §4452, sub-§3, ¶C-2, as enacted by PL 2007, c. 92, §2, is amended to read:

C-2. Notwithstanding paragraph C, for violations of the laws and ordinances set forth in subsection 5, paragraph Q, the provisions of this paragraph apply. The court ~~must~~may order the violator to correct or mitigate the violation unless the correction or mitigation would result in a threat or hazard to public health or safety, substantial environmental damage or a substantial injustice.

(1) Except for timber harvesting, correction or mitigation of a violation that involves the cutting of a tree or trees ~~must~~may include, but is not limited to, replacement of ~~each~~the tree or trees cut, but ~~not necessarily on a oneforone basis~~, with a tree or trees of substantially similar size and species to the extent reasonably available and feasible.

(2) Except for timber harvesting, correction or mitigation of a violation that involves the cutting of understory vegetation ~~must~~may include, but is not limited to, replacement of the understory vegetation with understory vegetation of substantially similar ~~size and~~ species to the extent reasonably available and feasible.

(3) For violations requiring correction or mitigation pursuant to subparagraph (1) or (2), the violator shall submit to the municipality a reforestation plan developed with and signed by a forester licensed pursuant to Title 32, chapter 76 or other qualified professional. The reforestation plan must include consideration of specified site conditions and address habitat and other riparian restoration, visual screening, understory vegetation and erosion and sedimentation control.

For purposes of this paragraph, "timber harvesting" has the same meaning as in Title 38, section 438B, subsection 1, paragraph C.

For purposes of this paragraph, "understory vegetation" means all saplings that measure less than 2 inches in diameter at 4.5 feet above ground level and all shrubs.

SUMMARY

Current law requires a person who, except for timber harvesting, cuts down a tree or understory vegetation in violation of local land use laws and ordinances to replace the tree or vegetation with a tree or vegetation of similar size and species.

This bill gives the court the discretion to order the replacement of the tree or vegetation, provides that the replacement doesn't have to be on a one-for-one basis and allows the replacement to be of a reasonably similar species only.