



Government Of Maharashtra

Business Reform Action Plan 2016 **Response by Government of Maharashtra**

Area 4c: NOC for tree felling from Tree Authority/ Appropriate Authority (prior to commencement of construction activities)

82: Define clear timelines mandated through legislation for approval of complete application

Response: **Yes**

Remarks:

For Forest Department : <http://www.mahaforest.nic.in/internal.php?id=40>

A copy of the act is attached for your reference. Refer to the highlighted section 1 C of the Maharashtra Felling of Trees (Regulation) Act, 1965. The clear timeline of 60 days is specified.

For MIDC: A timeline of 60 days is mentioned in circular attached below. It can be found online at the following URL:

<http://oldsite.midcindia.org/NewCirculars/Tree%20Authority%20Guidelines%20Procedure.pdf>

Supporting Documents:

MAHARASHTRA ACT No. XXXIV OF 1964. ¹

[THE MAHARASHTRA FELLING OF TREES (REGULATION) ACT, 1964]

(Received the assent of the Governor on the 4th September 1964; assent first published in the Maharashtra Government Gazette, Part-IV, on the 7th September 1964.)

Amended by Mah. 31 of 1967.

Amended by Mah. 17 of 1987.

Amended by Mah. 19 of 1969.

Amended by Mah. 26 of 1989.

An Act to make better provision for regulating the felling of certain trees in the State of Maharashtra, for the purpose of the preservation thereof.

WHEREAS, it is expedient to make better provision for regulating the felling of certain trees in the State of Maharashtra, for the purpose of the preservation thereof, and for the protection of the soil against erosion and to provide for matters connected therewith; It is hereby enacted in the Fifteenth Year of the Republic of India as follows, namely :—

1. (1) This Act may be called the Maharashtra Felling of Trees (Regulation) Act, 1964. Short title and extent.

(2) It extends to the whole of the State of Maharashtra but excluding an urban area.

2. In this Act, unless the context otherwise requires,—

Definitions.

²[(a) "Code" means the Maharashtra Land Revenue Code, 1966;]

²[(b)] "Collector" includes a Revenue Officer appointed by the State Government to exercise the powers and perform the functions of the Collector under this Act;

²[(c)] "Forest-Officer" means a Forest Officer within the meaning of the Indian Forest Act, 1927;

³[* * * * *]

(d) "Revenue Officer" means a Revenue Officer within the meaning of the ⁴[Code];

(e) "to fell a tree" includes burning or cutting or lopping a tree, to cause substantial damage or destruction thereto;

(f) "tree" means any tree specified in the Schedule; and the State Government may, by notification in the *Official Gazette*, and to or modify the Schedule, after considering the necessity for the protection of any variety of trees; and the provisions of sub-section (2) of section 15 in so far as they relate to laying before, and modification by the State Legislature shall apply in relation to such notification as they apply in relation to any rule made under that section;

⁵[(ff) "Tree Officer" means a 'Forest Officer' not below the rank of a Range Forest Officer;]

¹ For Statement of Objects and Reasons, See *Maharashtra Government Gazette, 1964, Part-V, P. 197.*

² Clauses (a) and (b) were re-lettered as clauses (b) and (c) and before clause (b) as so re-lettered clause (a) was inserted by Mah. 17 of 1987, s. 2 (a).

³ Existing clause (c) was deleted, *ibid.*, s. 2 (b).

⁴ This word was substituted for the words "relevant Code" *ibid.*, s. 2 (c).

⁵ Clause (ff) was inserted by Mah. 26 of 1989 *ibid.*, s. 2.

(g) "urban area" means the area within the limits of a municipality, Municipal Corporation, Municipal Committee, Town Committee, or notified area committee or Cantonment constituted under any law for the time being in force; and includes a local area which is specified by the State Government in the *Official Gazette*, being an area which has a population of not less than five thousand and has not less than three-fourths of male workers engaged in non-agricultural pursuits;

(h) words and expressions used but not defined in this Act shall have the meanings, respectively, assigned to them in the ¹[Code.]

Restriction
on felling
of trees.

3. (1) Notwithstanding any custom, usage, or law for the time being in force, or the decree or order of a Court, or anything contained in any instrument to the contrary, no person shall fell any tree or cause such tree to be felled in any land, whether of his ownership or otherwise, except with the previous permission in writing of a ²[Tree Officer] duly empowered by the State Government in that behalf ^{3*} * * *

⁴[(1A) If any person wishes to fell a tree, he shall apply in writing to the ⁵[Tree Officer] empowered under sub-section (1) for permission in that behalf.

(1B) The ⁵[Tree Officer] on receipt of an application—

(a) shall acknowledge the application within seven days;

(b) may, after due enquiry, either grant or refuse the permission, applied for in accordance with the provisions of rules made under section 15 :

Provided that, no such permission shall be refused if the tree is dead, diseased or windfallen, or if it has silviculturally matured, ⁶[or if it constitutes obstruction to traffic, or if it is substantially damaged or destroyed by fire, lightning, rain, or other natural causes,] or if it constitutes an obstruction to efficient cultivation :

⁷[Provided further that such permission shall be granted subject to the condition that the applicant shall plant equal number of trees of the same or any other species as the Tree Officer may direct on the same site or other suitable place in the vicinity in the ensuing planting season;]

(1C) If the ⁸[Tree Officer] fails to inform that applicant of his decision within ⁸[sixty days] from the date of acknowledgement of the application, or from the date of receipt of the application, if the application is not acknowledged, the permission applied for shall be deemed to have been granted.]

(2) Any person aggrieved by an order of the ⁵[Tree Officer] refusing to grant permission under ⁹[sub-section (1B)] may, within thirty days of the receipt of such order, appeal to the Collector. Subject to such rules of procedure as may be prescribed, the Collector may, after giving such person a reasonable opportunity of being heard, pass such order on the appeal as he thinks just and proper.

¹ This word was substituted for the words "relevant Code" by Mah. 17 of 1987, s. 2 (d).

² These words were substituted for the words "Revenue Officer not below the rank of a Deputy Collector" by Mah. 26 of 1989, s. 3 (a).

³ The portion beginning with the words "and in accordance with the Provisions of rules" and ending with the words "or if it constitutes an obstruction to efficient cultivation" was deleted by Mah. 31 of 1967, s. 2 (a).

⁴ Clauses (1A) to (1C) were inserted, *ibid.*, s. 2 (b).

⁵ These words were substituted for words "Revenue Officer" by Mah. 26 of 1989, s. 3 (b), (c) (i), (d) (i) and (e) (i) respectively.

⁶ These words were inserted, *ibid.*, s. 3 (c) (ii).

⁷ The proviso was added, *ibid.*, s. 3 (c) (iii).

⁸ These words were substituted for the words "ninety days", *ibid.*, s. 3(d) (ii).

⁹ These words, brackets, figures and letters were substituted for the words, brackets and figures "sub-section (1)", *ibid.*, s. 3(e) (ii).

¹[3A. (1) If in the opinion of the Tree Officer the number of trees in any land (other than the land falling in any permanent drought-prone area identified by the State Government) is not adequate according to the standards prescribed by rules made under section 15, the Tree Officer may, by order, after giving a reasonable opportunity to the owner or occupier of the land of being heard, require him to plant such trees or additional trees, as the case may be, at such places in the land as may be specified in the order ; and the owner or occupier of the land shall comply with the order by planting such trees or additional trees in the ensuing planting season.

Power of
Tree Officer
to order
planting of
trees.

(2) It shall be the duty of the owner or occupier of the land who is required by an order made under sub-section (1) to plant a tree or trees to ensure that they grow properly and are well preserved.

(3) Where the owner or occupier fails to comply with an order made under sub-section (1) the Tree Officer may, after giving a reasonable opportunity to such owner or occupier of making representation and without prejudice to any other action which may be taken against the defaulter under this Act take necessary action himself and recover the expenditure incurred therefor from the owner or occupier, as the case may be, after giving a notice of demand for the amount payable by him. If the amount is not paid within the time specified by the Tree Officer in the notice, it shall be recovered along with interest at six per cent. per annum and other incidental expenses, if any.]

4. Any person who, ²[without permission being granted or deemed to have been granted] to fell any tree, fells any such tree or causes it to be felled, shall be liable to such penalty not exceeding one thousand rupees as the ³[Tree Officer] empowered under section 3 may, after holding an enquiry and giving such person an opportunity of being heard, deem fit to impose; and the ³[Tree Officer] may further order that any such tree to be felled (which is not the property of Government) shall be forfeited to the State Government ⁴[along with the tools, boats, vehicles or other conveyances used in felling and removing, any such tree.]

Penalty for
felling trees
in contraven-
tion of
section 3.

5. (1) Every Revenue Officer, Forest Officer and Police Officer shall be bound—
(a) to give immediate information of any contravention of section 3 to the officer empowered under that section and of the intention or preparation to commit such contravention which may come to his knowledge;

Contraven-
tion of
section 3 to
be reported
by certain
officers.

(b) to take all reasonable measures in his power to prevent such contravention which he may know or have reason to believe is about or likely to be committed.

(2) Any Revenue Officer, not below the rank of an Aval Karkun or Naib-Tahsildar, Forest Officer not below the rank of a Range Forest Officer and Police Officer not below the rank of a Sub-Inspector may enter upon any land, where he has reason to believe that any tree has been or is being felled, in contravention of section 3 and seize such felled tree or any loppings thereof, together with its produce and tools, boats, ⁵[vehicles and other conveyances] used in committing such contravention, place on such property a mark indicating that the same has been so seized and shall make a report of such seizure to the ⁶[Tree Officer empowered] under section 3.

(3) Where any property is seized under sub-section (2), the officer seizing it, shall keep the property in his own custody, or in the custody of any of his subordinates, and shall be responsible for the due custody thereof :

¹ This section was inserted by Mah. 26 of 1989, s. 4.

² These words were substituted for the words "without obtaining permission" by Mah. 31 of 1967, s. 3.

³ These words were substituted for words "Revenue Officer" by Mah. 26 of 1989, s. 5 (a).

⁴ These words were added, *ibid*, s. 5 (b).

⁵ These words were substituted for the words "vehicle or cattle", *ibid*, s. 6 (a) (i).

⁶ These words were substituted for the words "Revenue Officer empowered", *ibid*, s. 6 (a) (ii).

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Provided that, where the property seized is subject to speedy and natural decay or when the expense of keeping it in custody is likely to exceed its value, the officer seizing it may sell it at once :

Provided further that, where such property cannot conveniently be removed, the officer seizing it may, at the instance of the person interested in the property, leave it at the place where it has been seized in the charge of the person interested in the property or in the charge of any respectable person as will undertake to keep such property on his entering into a bond with one or more sureties in an amount not less than the value of the property, that he will take proper care of such property, and produce it when called for.

(4) If the property so seized is not ordered to be forfeited to the State Government under section 4, that property shall be returned to the person from whom it was seized.

(5) If any claim is set up by a third person to the property seized as aforesaid, the ¹[Tree Officer] empowered under section 3 shall inquire into claim and may admit or reject it, after hearing such person in respect thereof.

Procedure in cases to be dealt with under this Act. ²[6. Subject to the provisions of this Act and the rules made thereunder, the provisions of Chapters XII and XIII of the Code shall apply in relation to cases dealt with under this Act as those provisions apply in relation to cases of unauthorised felling of trees dealt with under the Code.]

Award of penalty or confiscation not to interfere with other punishments. 7. The award of any penalty or confiscation of any property under this Act shall not prevent the inflicting of any punishment to which the person affected thereby is liable under any other law.

Inquiries and proceedings to be judicial proceedings. 8. All inquiries and proceedings before any ¹[Tree Officer] shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code. XLV
of
1860.

Officers to be public servants. 9. The Officers exercising powers or discharging any duties or functions under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. XLV
of
1860

Execution of order for payment of money. 10. Any sum the payment of which has been directed by any ¹[Tree Officer] or State Government under this Act shall be recoverable from the person ordered to pay the same as an arrear of land revenue.

Bar of proceedings. 11. No suit or proceedings shall lie against the State Government or against any person empowered to exercise powers or to perform duties or discharge functions under this Act, for anything in good faith done or purporting to be done under this Act.

¹ These words were substituted for the words "Revenue Officer" by Mah. 26 of 1989, s. 6(b), s. 7 and s. 8, respectively.

² This section was substituted for the original by Mah. 17 of 1987, s. 4.

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Act, 1964

12. Subject to such conditions (if any) as may be imposed, the State Government may, if it is necessary so to do in the public interest, by notification in the *Official Gazette*, exempt any local area from all or any of the provisions of this Act. Exemption.

13. Nothing in section 3 shall apply to the felling of any tree for preventing damage to person or property or for abating any nuisance on one's own land. Savings.

14. The provisions of this Act shall be in addition to the provisions of any other law for the time being in force prohibiting or regulating the felling of trees. Provisions of this Act to be in addition to any other law for the time being in force.

15. (1) The State Government may, subject to the condition of previous publication, make rules to carry out the purposes of this Act. Power to make rules.

(2) Every rule made under this section shall be laid as soon as may be, after it is made, before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and, if before the expiry of the session in which it is so laid or the session immediately following both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made and notify such decision in the *Official Gazette*, the rule shall, from the date of such notification, have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of any thing previously done or omitted to be done under that rule.

SCHEDULE

[See section 2 (f)]

1. *Terminalia Chebula* (Hirda).
- ¹[2. *Teak*]
- ²[3. *Madhuca Latifolia* (Mahua, Mhowra or Mahu)]
4. *Tamarindus Indica* (Tamarind, Chinch or Imli).]
- ³[5. *Mangifera Indica* (Mango)]
6. *Artocarpus Integrifolia* (Jack)].
- ⁴[7. *Acacia Catechu* (Khair)].

¹ Entry 2 was added *vide* G. N., R. & F. D., No. TRS. 1165/152115, dated the 19th January 1968.

² Entries 3 and 4 were added *vide* G. N., R. & F. D., No. TRS. 1069/17631/B, dated the 27th December 1969.

³ Entries 5 and 6 were substituted *vide* G. N., R. & F. D., No. TRS. 1080/36954/929-G-7, dated the 9th January 1981.

⁴ Entry 7 was added *vide* G. N., R. & F. D., No. TRS. 1169/187626-B, dated the 7th December 1970.

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- ¹[8. *Santalum* (Sandal).]
- ²[9. *Pterocarpus marsupium* (Bija).
10. *Adina cordofolia* (Haldu).
11. *Ougelia dalbergioides* (Tiwas).]
- ³[12. *Terminalia tomentosa* (Ain).]
- ³[13. *Terminalia Peniculata* (Kinjal or Kindal).]
- ⁴[14. *Hardwickia binata* (Anjan).
15. *Syzigium cumini* (Jambhul).]
- ³[16. Mangrove.

Explanation.—For the purposes of this entry, “Mangrove” includes *Rhizophora mucronata* (Lamk), *Rhizophora apiculata* (Biam), *Ceriops candolleana* (Ara), *Kandelia rheedei* (Wight), *Bruguiera gymnorhiza* (Lamk), *Lumnitzera recemosa* (Willd), *Sonneratia apetala* (Buch Ham), *Sonneratia acida* (Dinn), *Avicenia officinalis* (Linn), *Avicenia marina* (Linn), *Acanthus ilicifolius*, *Aegiceras majus* and *Salvadora persica* (Linn).]

¹ Entry 8 was added *vide* G. N., R. & F. D., No. TRS. 1165/152115-B, dated the 15th May 1973.

² Entries 9, 10 and 11 were added *vide* G. N., R. & F. D., No. TRS. 1165/152115-B, dated the 9th March 1974.

³ Entries 12, 13 and 16 were added *vide* G. N., R. & F. D. No. TRS. 1085/812399/G-7, dated the 28th January 1987.

⁴ Entries 14 and 15 were added *vide* G. N., R. & F. D., No. TRS. 1075/4962-G-6, dated the 16th January 1976.

MAHARASHTRA INDUSTRIAL DEVELOPMENT CORPORATION
(A Government of Maharashtra Undertaking)

Circular

No.MIDC/Dy.C.E.O.(Env.)/2016/A98080

Date :- 30/03/2016

Sub. :- Tree Authority guidelines/procedure.

Ref. :- Office order No. MIDC/CP/B91092/2015 dtd.03.08.2015
issued by CEO, MIDC.

MIDC has appointed as a special planning authority by MRTP Act 1966 and as per Maharashtra (Urban Areas) Protection & Preservation of Tree Act, 1975 the said authority can constitute a Tree Authority in accordance with the provisions of the said Act for protection and preservation of trees and granting permission expeditiously within the jurisdiction of MIDC. Therefore, MIDC constituted its Tree Authority & the officer functioning as SPA for particular area are as Tree Officer for the area under jurisdiction vide above referred office order.

a) The guidelines for felling /re-plantation/trimming of tree are as follows :

1) Application to the Tree Officer /Tree Authority :-

The applicant /plot holder shall make an application in prescribed format to the Tree Officer/Tree Authority alongwith application fees of Rs.6000/- in cash or DD. As per **Annexure- I** The required documents for the application are :

- a) Details of Plot.
- b) Approved plan, if any.
- c) Photographs of the trees with numbering.
- d) The location details of the trees to be fallen shown on the map.
- e) The location details of new plantation /re-plantation.
- f) Affidavit as per **Annexure- II** on bond of Rs.100/-.

2) Scrutiny of the application :-

The concerned Tree Officer shall scrutinise the application and raise query, if any. The queries shall be complied by the applicant. The date of

compliance of the application will be treated as a date of receipt of application.

3) Inspection report by Tree officer :-

After receiving the application, the Tree officer will inspect the site and make the enquiry with adequate public notice by advertising in the local news paper as well as by affixing a notice on a conspicuous part of the tree which is required to be felled, for inviting any suggestion/ objection. The expert committee appointed by Tree Authority may also inspect the site and present their recommendations regarding the application. The Tree Officer will send the application and inspection report (**Annexure III**) with suggestion/ objection, if any in 30 days to the Tree Authority.

4) Decision by Tree Authority :-

The Tree Authority may give permission with or without conditions or refuse it within a period of 60 days from the date of receipt of the application. Such permission shall not be refused if, in the opinion of the Tree Authority, the tree is dead, diseased, wind fallen, poses a danger to life or property or obstructs traffic. However, no tree shall be felled until 15 days after such permission is given.

5) Decision within 60 days :-

If the Tree Authority fails to inform the applicant of its decision **within sixty days**, from the date of the receipt of the application by it, or if the receipt of the application has been acknowledged by it within this period, from the date of acknowledgement of the receipt of the application, the permission applied for shall be deemed to have been granted.

6) Permission by Tree Authority with conditions :-

Where permission to fell a tree is granted, subject to the condition that the applicant shall plant the trees in proportion of 2 (two) trees against 1 (one) fallen tree, of the same or suitable species on the same or another suitable place then applicant shall plant the required trees within 30 days from date on which tree is fallen or such extended time as the Tree officer may allow in this behalf.

The applicant also asked to deposit Rs.10000/- per fallen tree. This amount will be refunded after 3 years. It shall be duty of applicant or occupier of the land which is directed to plant a tree to see that the tree grows properly and is well preserved and shall give a report to the Tree Officer once in a six months about the conditions of such tree or trees for a period of three years.

The applicant or occupier of any land fails to comply with any order made (under Section of 8, 9 or 10 of the Act, the Tree Authority or the Tree Officer, as the case may be) after giving a reasonable opportunity to such owner or occupier of being heard (forfeit the deposit, in full or in part to the Tree Authority) and without prejudice to any other action which may be taken against the defaulter under this act, take the necessary action and recover the expenditure incurred therefore from the owner or the occupier as the case may be.

Above guidelines are issued with the approval of CEO, MIDC.

**Dy. Chief Executive Officer (Env.)
MIDC (HQ), Mumbai-093.**

1. Copy submitted to Chief Executive Officer, MIDC, Mumbai-93 for favour of information please.
2. Copy f.w.c.s. to HOD's in MIDC for information.
3. Copy f.w.c.s. to Chief Engineers in MIDC for information.
4. Copy to all SE's in MIDC for information.
5. Copy to All Jt. CAO / Dy. CAO for information.
6. All Executive Engineers in MIDC
7. All SPA's in MIDC.
8. Copy to guard file.

Annexure- I

To,
The Tree Authority,
MIDC, Andheri (E),
Mumbai-093.

**Sub. :- Permission for felling of tree /Trimming of tree / Re-plantation of tree
under proposed development in _____ industrial area.**

Pursuant to Section 8 (2) of the Maharashtra (Urban Areas) Protection & Preservation of Tree Act, 1975. I, undersigned hereby applying for felling of tree /Trimming of tree/Re-plantation in Plot No._____, _____ industrial area. The details are as below :

- 1) Name of applicant :- _____
- 2) Location details :- _____ Industrial Area. Plot No. _____

Sr. No.	Location Detail	Number of trees at present	Number of trees proposed for felling/ trimming/ Re-plantation	Number of trees to be kept as it is.	Reasons of felling of tree / Trimming of tree/ Re-plantation

The location plan of the trees is attached herewith for your reference. Hereby I am giving assurance for Tree plantation/ Re-plantation & maintenance for the scheduled period of 3 years as per the directives of the tree authority. I am ready to submit the security deposit towards authority for the said purpose.

Yours faithfully,

(Applicant)

Documents to be attached with application –

- 1) Details of Plot.
- 2) Approved plan, if any
- 3) Photographs of trees to be fallen
- 4) Affidavit under Sect.11 (2)

Annexure- II

Affidavit

Date :-

To,
The Tree Officer,
MIDC_____.

Pursuant to Section 11 (2) of the Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975. I hereby solemnly affirm that I shall abide by the Section No.8/9/10 of the aforesaid Act. Further I declare that I will plant the trees properly & preserve the same with existing trees. After plantation/ re-plantation I will preserve the trees for 3 years & will submit the report after every 6 months period to the authority. Further accordingly to the orders, I am ready to pay the security deposit. I am also aware that the security deposit will be forfeited if orders under section 8 & 9 of the above act are violated.

I am aware that, I will be liable for the legal action for violation of the act.

Sign of Applicant

Annexure- III

To,
The Tree Authority,
MIDC, Andheri (E),
Mumbai-093.

Sub. :- Site Inspection Report

The site inspection report regarding tree cutting in _____ Incl.
Area is submitted as follows :

Date :-

Time :-

1)	Name of Tree/ branches to be fallen	:	Name & Number of each species 1) 2) 3)				
2)	Age, height & Girth of tree	:	Name of species				
			Age				
			Height				
			Girth Size				
3)	Reason for which tree/ branches to be fallen	:					
4)	Location details of tree (to be shown on the plan)	:					
5)	Any possibility that the purpose will be solved without felling of tree/ branches ?	:					
6)	Remarks	:					

SPA /Tree Officer
..... MIDC