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Int. No. 388

By Council Members Addabbo, Jr., Clarke, Comrie, Dilan, Fidler, Gennaro, Gerson, Jackson, Koppell, Liu, Nelson, Reed, Seabrook, Sears, Serrano, Weprin and Yassky

A Local Law in relation to amending the Administrative Code of the City of New York, in order to eradicate forest insects and forest tree diseases.

Be it enacted by the Council as follows:

Section 1. Declaration of legislative findings and intent. Over 5 million trees comprise New York City’s urban forest, with approximately 2.5 million street or park trees under the jurisdiction of the Department of Parks and Recreation (DPR). New York City Charter §533 (a) (11) imposes upon DPR the authority and obligation to protect, preserve and sustain this urban forest. One major threat is the Asian Longhorned Beetle, which damages hardwood trees by tunneling through the bark and laying eggs, whose larvae spread, infest and ultimately destroy trees. There is no known predator to this insect in North America, and unless detection and

eradication of the beetle occurs quickly, the City's urban forest could be destroyed, and the beetle could spread into the forests of the northeast. The United States Department of Agriculture (USDA) has created a quarantine zone covering sections of Brooklyn, Queens and Manhattan in efforts to contain this significant threat. In 2002, DPR found 212 infested trees within the quarantine zone, and the beetle was detected outside the zone in Jersey City, New Jersey. Monitoring of public trees is an ongoing citywide effort conducted by the USDA, New York State Department of Agriculture and Markets (NYSDAM) and DPR. Because early detection, rapid treatment, and inoculation are the most powerful ways of combating this insect and other predator and disease threats to the City's urban forest, access to all trees is essential. The Council has been told by officials from the USDA, NYSDAM, and DPR that gaining access to trees on private property has become difficult. Since preservation and enhancement of the City's urban forest and surveying and early detection of the beetle, other predators and diseases is crucial, the Council finds it necessary to allow limited access upon private property where necessary, to combat this threat.

§2. Chapter 1 or Title 18 of the of the Administrative Code of the City of New York is amended by adding thereto a new section 18-105.1, to read as follows:

§ 18-105.1 Trees under private or public ownership; Control of harmful insects and other harmful diseases. Notwithstanding the provisions of section five hundred thirty three of the New York City charter and sections 18-104 and 18-105 of this title, the following provisions apply to prevent and control the spread of forest insects and forest tree diseases:

a. Definitions. (1) "Quarantine zone" shall refer to that area in which there is a known infestation and a prohibition is imposed on the movement of trees, dead wood, plants and/or other vegetation from such area.

(2) "Barrier" or "protective zone" shall refer to an area in which preventive measures are imposed to prevent the spread of the infestation in the area.

b. The department may enter into cooperative agreements with any state, the federal

government, any foreign government, any other political subdivision of New York state or private individuals in furtherance of the purposes of this section.

c. The department may accept and expend private gifts of money or public funding for control and prevention work in furtherance of this section.

d. The department may conduct necessary investigations for the purpose of discovering better methods of control or prevention of spread of harmful insects and harmful diseases.

e. Notwithstanding the provisions of section 18-105 of this chapter, duly authorized agents of the department may, upon 3 days written notice to the owner or occupant, enter upon any private property for the sole purpose of determining if any tree or trees on such property are infested with a harmful insect or harmful diseases, and the extent of such infestation.

f. The commissioner may by order establish quarantine districts in any part or parts of the city, and prohibit the movement of materials that may be harboring harmful insects or harmful diseases in any of their different forms. Upon the issuance of such an order, the department shall cause a certified copy of the same to be filed in the office of the clerk of each county in which a quarantine district has been established, and shall give such other notice as it may deem necessary. Such order shall be effective on the tenth day from filing, as it may from time to time be amended until such time as it is repealed.

g. The department shall have discretionary authority to inoculate trees or take other remedial action in or near areas infested by harmful insects or harmful diseases.

h. The commissioner may take steps to establish barrier or protective zones for the purpose of preventing the spread of harmful insects and harmful diseases, and in so doing shall have the authority and right, upon 3 days written notice to the owner or occupant, to enter upon private lands for this purpose, and thereon make such modifications in the composition of the forest growth as it may deem necessary. In such barrier or protective zones, trees or other vegetation may be sprayed, cut, destroyed, or otherwise treated when deemed necessary in the judgment of the commissioner.

i. No person shall resist or obstruct the work of any person authorized by the commissioner who is acting in furtherance of the purposes of this section.

§ 3. This local law shall take effect immediately upon its enactment.

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