

1028

2015-2016 Regular Sessions

I N   S E N A T E

January 8, 2015

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Introduced by Sen. AVELLA -- read twice and ordered printed, and when printed to be committed to the Committee on Cities

AN ACT to amend the administrative code of the city of New York, in relation to requiring municipal and government agencies, and individual members of the public to abstain from disposing and destroying of public trees, tree parts that are involved in property damage, personal injury or death to persons from trees growing within and across the public-right-of-ways, including parks and street trees

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. This act shall be known and may be cited as "Yingyi's law".  
2     S 2. The administrative code of the city of New York is amended by  
3     adding a new section 4-209 to read as follows:  
4     S 4-209 PUBLIC TREES. 1. THE PARKS AND RECREATION DEPARTMENT AND ALL  
5     RELEVANT AGENCIES SHALL CONTRACT WITH A FULL-TIME INDEPENDENT CONSULTING  
6     ARBORIST TO INSPECT, DIAGNOSE AND ANALYZE FOR DEFECTS AND DISEASE ALL  
7     PUBLIC TREES, TREE PARTS INVOLVED IN PROPERTY DAMAGE, PERSONAL INJURY OR  
8     DEATH WITHIN FORTY-EIGHT HOURS. SUCH CONSULTING ARBORIST SHALL GENERATE  
9     A REPORT WHICH WILL BE PUBLICLY AVAILABLE ON-LINE WITHIN THIRTY DAYS OF  
10    SUCH INSPECTION.  
11    2. THE CONDITION AND CAUSE OF THE TREE FAILURE SHALL BE DOCUMENTED.  
12    TREES AND/OR TREE PARTS SHALL BE INSPECTED, ANALYZED AND DIAGNOSED FOR  
13    DEFECTS, DISEASE AND DETERMINE PRESUMED/OPINION AS TO THE CAUSE OF FAIL-  
14    URE BY A FULL-TIME INDEPENDENT CONSULTING ARBORIST (CA) TRAINED AND  
15    SKILLED IN TREE DIAGNOSTIC PRACTICES, LAB SAMPLING, PHOTO DOCUMENTATION,  
16    FORENSICS AND LEGALLY BINDING REPORT WRITING. THE CONSULTING ARBORIST  
17    WITH THIS SKILL SET SHALL BE A MEMBER OF THE NATIONAL ORGANIZATION  
18    REPRESENTING THE PROFESSION-THE AMERICAN SOCIETY OF CONSULTING ARBORISTS  
19    (ASCA) AND PREFERABLY REFERRED TO AS A REGISTERED CONSULTING ARBORISTS  
20    (RCA) BY THAT ORGANIZATION.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

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1 3. THE INSPECTION/SAMPLING AND DIAGNOSIS MUST BE MADE WITHIN  
2 FORTY-EIGHT HOURS OF THE INCIDENT. EVERY EFFORT SHALL BE MADE TO PROVIDE  
3 THE CONSULTING ARBORIST WITH ACCESS TO THE SPECIMEN AT THE INITIAL SITE  
4 OF OCCURRENCE AND OR ANY SUBSEQUENT LOCATION THAT THE SPECIMEN HAS BEEN  
5 MOVED TO FOR STORAGE AND PRESERVATION WITHIN THE BOROUGH OF OCCURRENCE  
6 IN THE CITY OF NEW YORK.

7 4. EVERY REASONABLE EFFORT MUST BE MADE TO SAVE AND PRESERVE THE TREE  
8 AND/OR TREE PART SAMPLE AT THE SCENE OF THE INCIDENT. IN THE EVENT THAT  
9 AN INDEPENDENT CONSULTING ARBORIST IS UNABLE TO VISIT THE SITE TO SECURE  
10 THE SPECIMEN OR SPECIMENS IN A REASONABLE PERIOD OF TIME, A CHAIN OF  
11 CUSTODY SHALL BE ESTABLISHED BY THE CITY OF NEW YORK DEPARTMENT OF PARKS  
12 AND RECREATION FORESTRY AND/OR CLIMBER AND PRUNER PERSONNEL.

13 5. IN THE EVENT THE TREES INHABIT PROPERTIES BELONGING TO OTHER AGEN-  
14 CIES SUCH AS THE BOARD OF EDUCATION, OR DCAS, MTA, STATE DOT, NYCHA ETC.  
15 THE CHAIN OF CUSTODY REVERTS TO THE INDIVIDUAL AGENCY. THE CITY SHALL  
16 MAINTAIN A LIST OF APPROVED CONSULTING ARBORISTS, CREATED FROM THE ISSU-  
17 ANCE OF A REQUEST FOR PROPOSALS. A REPRESENTATIVE FROM THE INDIVIDUAL  
18 AGENCIES SHALL BE DESIGNATED TO CALL THE APPROVED ARBORISTS.

19 6. RESULTS ON THE FINDINGS ABOUT THE CONDITION OF TREES AND/OR TREE  
20 LIMBS INVOLVED IN PERSONAL INJURIES AND PROPERTY DAMAGE MUST BE MADE  
21 PERMANENTLY AVAILABLE ON-LINE WITHIN THIRTY DAYS OF THE INCIDENT ON A  
22 WEBSITE MAINTAINED BY THE CITY OF NEW YORK; AND THAT THE INDEPENDENT  
23 REPORTING IN THE FORM OF A CONSULTING ARBORIST REPORT SHALL OCCUR BY THE  
24 CONSULTING ARBORIST WHO WILL VERIFY THE PERFORMED TREE AND/OR TREE PART  
25 DIAGNOSIS AND LAB ANALYSIS. THE FORMAT OF SUCH REPORT FOR ON-LINE INTER-  
26 NET AVAILABILITY SHALL BE DETERMINED BY THE CITY OF NEW YORK.

27 7. IN THE EVENT OF STORMS OR A SERIES OF STORMS THAT RESULT IN A LARGE  
28 VOLUME OF TREE LOSSES OR TREE FAILURES THAT CAUSE PROPERTY DAMAGE,  
29 PERSONAL INJURIES OR DEATH TO PERSONS, EVERY REASONABLE EFFORT MUST BE  
30 MADE TO MARK, LABEL AND IDENTIFY THE TREE/TREE PARTS AT THAT LOCATION BY  
31 THE CONSULTING ARBORIST, ONCE CONTACTED.

32 S 3. This act shall take effect immediately.