STATE OF NEW YORK

10709

IN ASSEMBLY

September 18, 2024

Introduced by COMMITTEE ON RULES -- (at request of M. of A. L. Rosenthal) -- read once and referred to the Committee on Local Governments

AN ACT to amend the public health law, the town law and the administrative code of the city of New York, in relation to prohibiting the removal of managed natural landscapes

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Sections 1320 and 1321 of the public health law are renumbered sections 1321 and 1322 and a new section 1320 is added to read as follows:

§ 1320. Definitions. 1. For the purposes of this title:

(a) "Managed natural landscape" shall mean a planned, intentional, and maintained planting of native or non-native grasses, wildflowers, forbs, ferns, shrubs, or trees, including but not limited to rain gardens, meadow vegetation, and ornamental plants. Managed natural landscapes does not include turf grass lawns left unattended for the purpose of returning to a natural state and any ragweed or other species of weed, plant or growth which is noxious or detrimental to the public health, or the seed, pollen or other emanation therefrom, when carried through the air or otherwise dispersed, is noxious or detrimental to the public health.

(b) "Meadow vegetation" shall mean grasses and flowering broad leaf plants that are native to, or adapted to, the state of New York, and that are commonly found in meadow and prairie plant communities, not including noxious weeds.

(c) "Ornamental plants" shall mean grasses, perennials, annuals, and groundcovers purposefully planted for aesthetic reasons.

(d) "Rain garden" shall mean a lawn comprised mostly of grasses commonly used in regularly cut lawns or play areas, including but not limited to bluegrass, fescue, and ryegrass blends, intended to be maintained at a height of no more than eight inches.

§ 2. Section 1321 of the public health law, as renumbered by section one of this act, is amended to read as follows:

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

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§ 1321. Noxious weeds and growths; declaration of nuisance. 1. Whenever in any health district there shall be growing on any property therein any ragweed or other species of weed, plant or growth which is noxious or detrimental to the public health, or the seed, pollen or other emanation therefrom, when carried through the air or otherwise dispersed, is noxious or detrimental to the public health, the local board of health of any such health district may take and file upon its records what it shall regard as sufficient proof to authorize a declaration that the existence of any such growth is a nuisance or danger to the public health, and may thereupon enter the same upon its records as a nuisance and order the same to be removed, destroyed or otherwise abated on any property wherever found.

2. The local board of health may also take and file among its records what it shall regard as sufficient proof to authorize a declaration that at any season or period of the year there exists a particular and imminent danger to the public health by reason of the approaching period of pollination of any such growth and may enter such determination upon its record.

3. A managed natural landscape on private property where such managed natural landscape plants and grasses in excess of eight inches in height have gone to seed and maintained within the bounds of such private property shall not be declared a nuisance.

§ 3. Subdivision 4 of section 1322 of the public health law, as renumbered by section one of this act, is amended to read as follows:

4. The provisions of this section and of section thirteen hundred [~~twenty~~] **twenty-one** of this [~~chapter~~] **title** shall not operate to deprive the local legislative body of any municipality or county of the power to enact local laws in relation to any matter in respect to which such power would otherwise exist, nor shall it limit such power. If this power otherwise exists, any provision of this section and of section thirteen hundred [~~twenty~~] **twenty-one** of this [~~chapter~~] **title** may be superseded, supplemented or amended by local law in the same manner and to the same extent as such provisions could be superseded, supplemented or amended had this section and section thirteen hundred [~~twenty~~] **twenty-one** of this [~~chapter~~] **title** not been enacted.

§ 4. Subdivision 5-a of section 64 of the town law, as amended by chapter 230 of the laws of 1963, is amended to read as follows:

5-a. Removal of fire and health hazards and weeds. The town board may require the owners of land to cut, trim or remove from the land owned by them brush, grass, rubbish, or weeds, or to spray poisonous shrubs or weeds on such land, and upon default may cause such grass, brush, rubbish or weeds to be cut, trimmed or removed and such poisonous shrubs or weeds to be sprayed by the town and the total expense of such cutting, trimming, removal or spraying may be assessed by the town board on the real property on which such brush, grass, rubbish, weeds or poisonous shrubs or weeds were found, and the expense so assessed shall constitute a lien and charge on the real property on which it is levied until paid or otherwise satisfied or discharged and shall be collected in the same manner and at the same time as other town charges. If the owner of said lands is a non-resident, a notice to so cut, trim or remove such brush, grass, rubbish or weeds or to spray such poisonous shrubs or weeds mailed to such owner addressed to his last known address shall be sufficient service thereof. The provisions of this subdivision shall not apply within the property lines of any lands or highway easements owned by another municipal corporation or political subdivision of the state **or to a private property owner maintaining a managed natural**

landscape consistent with subdivision three of section thirteen hundred twenty-one of the public health law.

§ 5. Section 17-145 of the administrative code of the city of New York is amended to read as follows:

§ 17-145 Dangerous buildings, places and things; declaration as nuisance. **a.** Whenever any building, erection, excavation, premises, business pursuit, matter or thing, or the sewerage, drainage or ventilation thereof, in the city, in the opinion of the board, whether as a whole or in any particular, shall be in a condition or in effect dangerous to life or health, and whenever there shall be growing on any property any ragweed or other species of weed, plant or growth which is noxious or detrimental to the public health, or the seed, pollen or other emanation whereof, when carried through the air or otherwise dispersed, is noxious or detrimental to the public health, the board may take and file among its records what it shall regard as sufficient proof to authorize its declaration that the same, to the extent it may specify, is a public nuisance, or dangerous to life or health; and may thereupon enter the same in its records as a nuisance, and order the same to be removed, abated, suspended, altered, or otherwise improved or purified, as such order shall specify. The borough presidents and the commissioner of transportation are authorized to furnish the department with information in writing as to properties and locations where such noxious weeds and growths may be found.

b. The provisions of this section shall not apply if such private property owner is maintaining a managed natural landscape that is consistent with subdivision three of section thirteen hundred twenty-one of the public health law.

§ 6. This act shall take effect immediately.