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September 23, 2013

Speaker Christine Quinn
Council Member James Gennaro
City Hall
New York, New York

Re: Int. 1088-A (To amend the administrative code of the city of New York, in relation to a study on permeable roadway and sidewalk materials)

Dear Madame Speaker and Council Member Gennaro:

I write on behalf of Natural Resources Defense Council, and our thousands of members in New York City, to express our strong support for Int. 1088-A.¹ This bill would require the Department of Transportation (DOT) and Department of Environmental Protection (DEP) to conduct a study (including a pilot program) of the feasibility of using permeable materials on public roadways and sidewalks, as well as on private roadways, parking lots, and sidewalks, and to make recommendations regarding the use of permeable materials in each of these applications. The bill would also direct DOT and DEP to make a determination as to whether “a uniform standard on the use of permeable materials in sidewalks within the city of New York is appropriate” and, if so, to “make recommendations and exceptions to such uniform standard.” Under the bill, the study, including a report on the pilot program, are required to be submitted to the Council and made publicly available on the DOT website.

The use of natural infrastructure and permeable surfaces to serve as natural sponges and absorb excess stormwater is critical to relieving the city’s overburdened sewer system, thereby ameliorating both flooding risks and chronic overflows of raw sewage into waterways all around the city. Building on much prior work by the Council and the Bloomberg Administration, Int. 1088-A represents another important step towards maximizing the use of such sustainable stormwater management approaches in New York City.

On June 27, 2013, NRDC submitted testimony at a City Council committee hearing in support of an earlier version of this bill, as well as a package of additional bills aimed at helping the City

¹ While we fully support this legislation, we also note, on the following page, two respects in which the bill’s requirements should be strengthened, either through follow-on legislation or through DOT and DEP’s approach to implementing the bill.

prepare for and respond to future storms. As we noted then, Hurricane Sandy has demonstrated New York City's vulnerability to destructive storms and other extreme weather events, which will only become increasingly frequent and severe because of our changing climate. The Mayor's Special Initiative for Rebuilding and Resiliency (SIRR) report acknowledged that the city faces flooding risks not only from Sandy-type storms, in which coastal storm surge accounted for most of the flood damage, but also from larger and more frequent downpours that cause rain-induced flooding in inland areas. As one means to address this problem, the SIRR report recommends that future street reconstruction projects integrate a variety of climate resiliency features, including storm water management best practices and tools that "allow water captured on streets to soak into the ground rather than flow into the sewer system, resulting in lower drainage loads on both sewers and wastewater treatment plants."²

Moreover, as the City has acknowledged in its landmark Sustainable Stormwater Management Plan (2008) and DEP's Green Infrastructure Plan (2010), rain events, *both large and small*, trigger raw sewage overflows throughout much of the city, which can be ameliorated through the widespread integration of porous spaces – including both vegetated spaces and permeable pavements -- into the urban landscape. Since at least the issuance of the Sustainable Stormwater Management Plan in 2008, the City has expressed its intent to further investigate, and develop standards and guidelines for the use of, permeable pavement materials in roadways, sidewalks, and parking lots.

We strongly support Int. 1088-A for expressly mandating, and setting definitive timelines for, the completion of pilot projects and studies and the issuance of specific, actionable recommendations on the use of permeable pavements in multiple applications throughout the city. We especially applaud the bill's mandate that DOT and DEP collaborate on these efforts, which should help to ensure that the end result will advance the goals of DEP's Green Infrastructure Plan to reduce sewage overflows, as well as the city's broader climate adaptation efforts to reduce flooding risks.

We note two respects in which the bill's requirements should be strengthened, either through follow-on legislation or through DOT and DEP's approach to implementing the bill.

First, the bill's provision requiring DOT and DEP to, if appropriate, recommended "standards" for the use of permeable materials applies only to standards for sidewalks. It does not address the potential for standards applicable to public or private roadways or parking lots. We urge the DEP and DOT to include in their study an evaluation of potential standards for these applications as well; we likewise urge the Council to require DOT and DEP to do so. The importance of City-approved, and/or City-mandated, standards for permeable pavement in roadway and parking lot applications is no less than it is for sidewalks.

Second, the bill requires DOT and DEP to determine whether standards for sidewalks are "appropriate" and, if so, to make "recommendations" concerning such standards. The bill stops short of mandating that the agencies actually promulgate standards reflecting their recommendations. We urge DOT and DEP to commit to moving beyond mere

² Special Initiative for Rebuilding and Resiliency report, pg 183.

http://www.nyc.gov/html/sirr/downloads/pdf/final_report/Ch_10_Transportation_FINAL_singles.pdf.

recommendations, and to actually promulgate binding standards consistent with the findings of the study required under Int. 1088-A. If the agencies fail to do so, City Council should be prepared to act promptly on the agencies recommendations and adopt such standards by Local Law.

In sum, we applaud the City Council for this initiative to promote the safe and effective use of permeable paving materials to reduce sewage overflows and flooding, and we stand ready to be of assistance to the Council, DOT, DEP, and other agencies in this ongoing effort.

Sincerely,

A handwritten signature in black ink, appearing to read "Lawrence M. Levine". The signature is fluid and cursive, with a long horizontal stroke at the end.

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