



Legislation Text

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Int. No. 110

By Council Members Fisher, Freed and Miller; also Council Member Leffler.

A Local Law to amend the administrative code of the city of New York, in relation to the regulation of vending and to repeal subchapter 27 of chapter 2 of title 20 and subchapter 2 of chapter 3 of title 17 of such code.

Be it enacted by the Council as follows:

Section 1. Legislative Findings and Intent. As an integral part of New York's rich economic history, street vending continues to provide a desirable economic opportunity for many New Yorkers. It also, however, competes with many other important uses for limited sidewalk space, creating a pervasive public safety hazard. Accordingly, careful placement and regulation of street vendors is essential to maintaining public safety and promoting a time-honored business.

The inadequacies of the current regulatory system, compounded by conflicting case law, have led to confusing and convoluted regulations lacking any comprehensive placement mechanism for street vendors. As a result, street vendors are left without any clear and concise direction as to where, when and how to operate. Moreover, the complexities and inconsistencies of the current system diminish the ability to effectively enforce the laws and ensure public safety. This problem has, in recent years, spread beyond the midtown Manhattan core and has adversely affected commercial areas citywide.

Consistent with recent court rulings, the following local law will systematically place street vendors in logical and reasonable locations which will provide them with access to their customers while maintaining the free flow of pedestrian traffic and, thereby, promoting public safety. The local law will create a user-friendly "warrant system" which will identify both vendor and location, thus assuring proper compliance by the single vendor allowable per intersection. Moreover, vendors will have increased opportunities to do business because

the local law codifies additional vending locations in the five boroughs. The council does not intend to establish by action of this local law any property right to a particular location.

The local law promotes freedom of expression by allowing vendors of first amendment protected material to vend without a license and anywhere they wish, so long as they are vending from their person. If they wish to use a free standing display, they will participate in the warrant system described above.

Finally, the local law eases the administrative burden of vendor licensing and regulation by consolidating the process under one agency with the appropriate enforcement power. Most importantly, the local law ensures fairness in both the license issuance and placement processes. In sum, this local law will consolidate, simplify and standardize the entire process for the regulation of vendors for the benefit of both the vendor and the public.

§2. Subchapter 27 of chapter 2 of title 20 of the administrative code of the city of New York is REPEALED.

§3. Subchapter 2 of chapter 3 of title 17 of the administrative code of the city of New York is REPEALED.

§4. Title 20 of the administrative code of the city of New York is amended by adding thereto a new chapter 6 to read as follows:

CHAPTER 6

REGULATION OF VENDING

SUBCHAPTER 1

§20-801 Definitions. For the purposes of this subchapter, the following words and terms shall have the following meanings:

a. "Blockfront". That portion of a sidewalk and the adjacent roadway on one side of a street which lies between two points, each of which is ten feet toward the center of the block from points created by extending the building lines on intersecting streets to the sidewalk curb.

b. "Commissary". A service room, catering establishment, restaurant or any other place in which food, food containers or food supplies are processed, prepared, handled, packed, transferred or stored and directly from which food is distributed to a food vendor or from which any vehicle or pushcart offering food to the public in any public space is supplied.

c. "Commissioner". The commissioner of consumer affairs.

d. "Department". The (department of consumer affairs).

e. "Disabled person". Any person who has or had a physical or mental impairment that substantially limits one or more major life activities and has a record of such an impairment. For the purposes of this subdivision, "physical impairment" means a physiological disorder or condition, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; genitourinary; hemic and lymphatic; or skin and endocrine. It includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, muscular dystrophy, and multiple sclerosis. For the purposes of this subdivision, "mental impairment" means any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. For the purposes of this subdivision, "major life activities" means functions such as walking, seeing, hearing and speaking. For the purposes of this subdivision, a record of such an impairment shall be established by submission to the commissioner of either:

(a) A letter or certificate describing the physical or mental impairment of the applicant which must include the notarized signature of one of the following:

(i) A licensed physician, ophthalmologist, optometrist or psychologist; or

(ii) An authorized representative of a social agency that conducts programs for the disabled in cooperation with an official agency of the state and from which the applicant is receiving services such as, but not limited to, the state office of vocational rehabilitation; or

(b) A previous certification not more than one year old establishing the physical or mental impairment

of the applicant such as, but not limited to, verification of an income tax exemption or social security benefits on the basis of physical or mental impairment.

f. "Disabled veteran". A veteran who is certified by the United States department of veterans' affairs as having a disability rated at ten per centum or more which was incurred by such person during active service in the armed forces of the United States and which disability is in existence at the time of application for a permit under this subchapter.

g. "Distributor". Any person engaged in the sale, consignment, or distribution of food or goods for sale or resale by a vendor. This shall not include an owner of food or goods who personally operates a motor vehicle to transport such food or goods exclusively to and from a location from which the owner will personally sell such food or goods in compliance with all applicable laws.

h. "Exclusive distributor". Any person who has a written agreement with a manufacturer of a food product for the sale of that product by a food vendor licensed pursuant to this subchapter from a vehicle or pushcart to the exclusion of any similar food product manufactured by any other manufacturer.

i. "Food". Any raw, cooked or processed edible substances, beverages, ingredients, ice or water used or intended for use or for sale in whole or in part for human consumption.

j. "Food vendor". A person who hawks, peddles, sells or offers food for sale in any public space.

k. "Food vending business". The business of selling or offering food for sale in a public space engaged in by a food vendor.

l. "General vendor". A person who hawks, peddles, sells, leases or offers to sell or lease goods or services in a public space. This definition shall not include a food or graphic vendor or a person required to be licensed under section 20-229 of subchapter seven of chapter two of this title of this code.

m. "General vending business". The business of selling, leasing or offering to sell or lease goods or services other than food or graphic material, engaged in by a general vendor in a public space.

n. "Goods". All things sold or offered for sale by a vendor.

o. "Graphic material". Any material including newspapers, periodicals, books, pamphlets, paintings, photographs or other similar written or artistic material.

p. "Graphic vendor". A person who exclusively hawks, peddles, sells, leases or offers to sell or lease graphic material in a public space. This definition shall not include a food or general vendor or a person required to be licensed under section 20-229 of subchapter seven of chapter two of this title of this code.

q. "Graphic vending business". The business of selling, leasing or offering to sell or lease graphic material, engaged in by a graphic material vendor in a public space.

r. "Honorable discharge". Any type of discharge or release from the armed forces of the United States other than a dishonorable discharge.

s. "Manufacturer". A person who processes or fabricates food products from raw materials for commercial purposes.

u. "Person". A natural person, partnership, corporation or other association.

v. "Public space". All publicly owned property between the property lines on a street as such property lines are shown on the City map including, but not limited to, a park, plaza, roadway, shoulder, tree space, sidewalk or parking space between such property lines. It shall also include, but not be limited to, publicly owned or leased land, buildings, piers, wharfs, stadiums and terminals.

w. "Pushcart". Any wheeled vehicle or device used by a vendor in a public space, other than a motor vehicle or trailer, which may be moved with or without the assistance of a motor and which does not require registration by the department of motor vehicles.

x. "Services". The furnishing of labor, time or effort.

y. "Stand". A movable, portable or collapsible structure, framework, device, container or other contrivance, other than a vehicle or pushcart, used by a vendor in a public space for the purpose of displaying, keeping or storing any merchandise or article required by him or her while acting as such vendor.

z. "Unemancipated child". Any son, daughter, step-son or step-daughter who is under the age of eighteen, unmarried and living in the same household.

aa. "Vehicle". A motor vehicle or trailer, as defined in the vehicle and traffic law.

bb. "Vend". To hawk, peddle, sell, lease, offer to sell or lease goods or services including food or graphic material in a public space, delivered immediately upon consummation of purchase.

cc. "Vendor". Any person who vends.

dd. "Veteran". Any person who was in active service in the armed forces of the United States and was honorably discharged from such service.

ee. "Warrant". An authorization to vend at a designated location.

§20-802 Requirements for lawful vending businesses. a. It shall be unlawful for any person to act as a food vendor, general vendor or distributor without having first obtained a license in accordance with the provisions of this subchapter.

b. It shall be unlawful to vend from any vehicle, pushcart or stand in a public space without having first obtained a permit for such vehicle, pushcart or stand and a warrant for a designated location in such public space in accordance with the provisions of this subchapter.

c. Except as otherwise provided for in section 20-807 of this subchapter, no more than one license, permit and warrant shall be issued to any person wishing to operate a vending business in accordance with the provisions of this subchapter.

§20-803 Unified License, Permit and Warrant application. a. A unified application in such form and detail as the commissioner may prescribe shall be completed by all applicants and, unless exempted by article four of the general business law or if the application is being filed by a not-for-profit organization, shall be accompanied by the fee required by this subchapter. This application may be used by a vendor to apply for a license, permit or warrant or any combination thereof.

b. In addition to any other information required, the commissioner shall require the following

information:

1. The name, home and business address of the applicant and the name, home address and license number of every vendor who will be authorized to operate such applicant's vehicle, pushcart or stand and the legal relationship between such applicant and such vendor; and the name and address of the owner, if other than the applicant, of any vehicle, pushcart, stand, food or goods to be used in the vending business.

2. A description of the food, goods or services to be vended or displayed and a description of the vehicle, pushcart or stand to be used in the vending business.

3. Three prints of a full-face photograph of the applicant taken not more than thirty days prior to the date of the application.

4. Proof that the applicant has obtained a certificate of authority to collect sales taxes pursuant to section eleven hundred thirty-four of the tax law and has a tax clearance certificate from the state tax commission of the state of New York.

5. Whether such applicant is an individual, partnership or other association, or a corporation or limited liability company, and if such applicant is an individual applying for a permit to vend food from a vehicle, pushcart or stand in a public place, whether any of such applicant's unemancipated children hold such permits; if a partnership, limited liability company or other association, the name and address of each partner, member, officer or manager of such entity; if a corporation, the names and addresses of the officers, directors and all shareholders.

6. An applicant who is a non-resident of the city shall provide the name and address of a registered agent within the city or designate the commissioner as his or her agent upon whom process or other notification may be served.

7. If the applicant is not a citizen of the United States, proof that such person is either a permanent resident alien or an alien permitted by law to work in the United States.

8. Proof that the applicant has obtained the appropriate seal of approval from a weights and measures

official for his or her weighing or measuring device or system as required under section one hundred eighty-three of the agriculture and markets law.

9. Proof that the vehicle, pushcart or stand has been inspected by the department and passed such inspection.

c. Upon approval of the application, and in compliance with the terms of section 20-804 of this subchapter, the commissioner shall:

(i) issue a license to the applicant. Such license shall contain the name and business address of the licensee, his or her license number and a non-removable photograph of such licensee.

(ii) issue a permit and permit plate to the applicant for such vehicle, pushcart or stand. Such permit shall contain the name and business address of the permittee, his or her permit number, a description of the food, goods or services to be sold from such vehicle, pushcart or stand, a non-removable photograph of such permittee and the department's telephone complaint number.

(iii) issue a warrant and warrant plate to the applicant for a fixed location on an eligible blockfront. Such warrant shall contain the name and address of the warrantee, a description of his or her fixed location and a site number, his or her permit number, a description of the food, goods or services to be vended at such fixed location, a non-removable photograph of such warrantee and the department's telephone complaint number.

§20-804 Renewal, suspension and revocation of licenses, permits and warrants, and conditions limiting issuance thereof. a. An application for the renewal of a license, permit or warrant, unless exempted by article four of the general business law or if the application is being filed by a not-for-profit organization, shall be filed with the appropriate fee for such renewal with a tax clearance certificate issued by the state tax commission of the state of New York, and with a tax clearance certificate issued by the commissioner of finance of the city of New York, in such form and containing such information as the commissioner shall require, indicating payment of all applicable taxes imposed by title eleven of this code and administered by the commissioner of finance, at least thirty days prior to the expiration of the existing license, permit or warrant. The commissioner of finance

shall charge and collect a fee of ten dollars for issuing a tax clearance certificate.

b. No licensee, permittee or warrantee shall be granted a renewal of a license, permit or warrant unless the licensee, permittee or warrantee is in compliance with the rules promulgated by the commissioner of finance pursuant to subdivision c of this section; provided, however, that the commissioner may excuse such failure which results from illness or disability.

c. The commissioner of finance shall promulgate rules establishing (1) such standards of sales tax payments sufficient to indicate that operating as a vendor is a full-time or part-time occupation of the licensee, permittee or warrantee and (2) that a minimum payment of all applicable sales and business taxes imposed by title eleven of the code and administered by the commissioner of finance have been paid during the preceding calendar year.

d. The renewal of a permit pursuant to this subchapter shall be subject to the permittee presenting a vehicle, pushcart or stand for inspection by the department and in the case of a vehicle or pushcart used to vend food, for inspection by the department of health. Inspections shall be required every six months or such shorter period as the commissioner shall prescribe.

e. The commissioner may refuse to issue or renew a license, permit or warrant to vend in a public place, and may, after due notice and an opportunity to be heard, in addition to any other penalties provided herein, suspend or revoke a license, permit or warrant to vend in a public place, upon the occurrence of any one or more of the following conditions:

1. the applicant, licensee, permittee, warrantee, its officers, directors, shareholders, members, managers or employees have made a material false statement or concealed a material fact in connection with an application for a license, warrant or a permit to vend in a public place;

2. the applicant, licensee, permittee, warrantee, its officers, directors, shareholders, members, managers or employees have been found guilty of two or more violations of this subchapter or any rules promulgated pursuant thereto within a one year period or have been found guilty of a violation of the provisions of part

fourteen of the state sanitary code or of the New York city health code, or the applicant, licensee, permittee, warrantee, its officers, directors, shareholders, members, managers or employees have pending any unanswered summonses for violation of this subchapter or any rules promulgated pursuant thereto;

3. the applicant, licensee, permittee, warrantee, its officers, directors, shareholders, members, managers or employees have been convicted of any offense which, in the judgment of the commissioner, has a direct relationship to such person's fitness or ability to perform any of the activities for which a license, warrant or permit is required under this subchapter or has been convicted of any other offense which, in accordance with article twenty-three-a of the correction law, would provide a justification for the commissioner to refuse to issue or renew, or to suspend or revoke, such license, warrant or permit;

4. the applicant, licensee, permittee, warrantee, its officers, directors, shareholders, members, managers or employees have failed to answer any summons or notice of violation, or appear for a hearing or pay any fine, penalty or judgment duly imposed pursuant to the provisions of this subchapter or any rules promulgated thereunder;

5. the occurrence of fraud, misrepresentation, or false statements made in connection with the selling or leasing of any food, goods or services;

6. the applicant, licensee, permittee, warrantee, its officers, directors, shareholders, members, managers or employees have been convicted of possessing or selling stolen property pursuant to section 165.40, 165.45 or 165.50 of the penal law; or

7. violation of chapter one or subchapter one of chapter five of title twenty of this code or the rules promulgated thereto; provided, however, that in the event of a conflict between the provisions of such chapter and subchapter and the provisions of this subchapter, the provisions of this subchapter shall prevail.

f. The commissioner, for good cause, may, prior to giving notice and an opportunity to be heard, suspend a license, warrant or permit issued pursuant to this subchapter for a period of up to ten days. Notice of such suspension shall be served on the licensee, warrantee or permittee. The commissioner shall provide the

licensee, warrantee or permittee with the opportunity for a hearing within ten days after the notification of suspension, after which the commissioner shall forthwith make a determination as to whether such suspension should continue and the length of such suspension, and in addition may impose any penalty or sanction authorized by this subchapter or any rules promulgated pursuant thereto.

g. Unless otherwise provided in sections 20-806 and 20-807 of this subchapter, the commissioner shall not renew a license to vend where the licensee has died if the licensee is a natural person, or if the licensee is a corporation, where there has been a change in fifty percent or more of the ownership interest in such corporation from the ownership interest existing on the date the permit was issued, where the licensee is a limited liability company, where there has been the addition of any member or where such limited liability company has been dissolved, and where the licensee is a partnership, where there has been the addition of any partner or where such partnership has been dissolved.

§20-805 Vendor license term; renewal; fees. a. All licenses issued pursuant to this subchapter shall be valid for one year unless sooner suspended or revoked. The commissioner shall establish by rule the expiration date of such licenses.

b. A license shall be renewable by the licensee for a term of one year provided that the licensee meets all requirements for renewal, the license has not been revoked or suspended and the licensee has not committed a violation or violations which could be a basis for license revocation or suspension including, but not limited to, those described in section 20-804 of this subchapter.

c. The annual fee for a vendor license or a renewal thereof shall be two hundred dollars, which fee shall be in addition to any other fees required in connection with the operation of the vendor's business pursuant to the New York City Administrative Code and New York Code of Rules and Regulations.

d. The fee for issuing a duplicate license when the original has been lost, destroyed or mutilated shall be twenty-five dollars.

e. A person holding a license pursuant to the provisions of article four of the general business law or a

licensee that is a not-for-profit organization shall be exempt from the payment of fees set forth in this section.

§20-806 New licenses; existing licenses. The number of general vendor licenses in effect pursuant to this code on the first day of September, nineteen hundred seventy-nine shall be the maximum number of general vendor licenses permitted to be in effect.

§20-807 Limits on new and existing food vendor permits. a. 1. (a) On and after July thirtieth, nineteen hundred eighty-three, no new full-term food vendor permits shall be issued until the number of such permits which are in effect is less than three thousand. Thereafter, the maximum number of such permits which may be in effect shall be three thousand and no new food vendor permits shall be issued in excess of such maximum number. Notwithstanding the limitations on the issuance of new full-term food vendor permits, a food vendor permit issued prior to July thirtieth, nineteen hundred eighty-three which is in effect shall be renewable by the licensee to whom the permit was issued subject to the provisions of subparagraph (f) of this paragraph and provided that all other requirements for renewal under the provisions of this subchapter and any rules promulgated pursuant thereto are complied with, the license or warrant of the person to whom the food vendor permit was issued or the permit has not been revoked or suspended and the licensee has not committed a violation or violations which could be a basis for permit, warrant or license revocation or suspension.

(b) (i) On and after March fifteenth, nineteen hundred ninety-five, without increasing the number of full-term food vendor permits which may be in effect in accordance with subparagraph (a) of this paragraph, two hundred full-term food vendor permits shall be designated for use exclusively in specified boroughs as follows:

(A) fifty of such full-term food vendor permits shall authorize the holders thereof to vend food from any vehicle or pushcart in any public place in the borough of the Bronx where food vendors are not prohibited from vending;

(B) fifty of such full-term food vendor permits shall authorize the holders thereof to vend food from any vehicle or pushcart in any public place in the borough of Brooklyn where food vendors are not prohibited from vending;

(C) fifty of such full-term food vendor permits shall authorize the holders thereof to vend food from any vehicle or pushcart in any public place in the borough of Queens where food vendors are not prohibited from vending; and

(D) fifty of such full-term food vendor permits shall authorize the holders thereof to vend food from any vehicle or pushcart in any public place in the borough of Staten Island where food vendors are not prohibited from vending.

(ii) After the initial issuance of such food vendor permits, the commissioner shall establish a separate waiting list for each of the relevant boroughs to be administered in accordance with procedures to be established by rules of the commissioner. The commissioner may by rule limit the number of places on each such waiting list.

(c) On and after January first, nineteen hundred ninety-five, full-term food vendor permits shall be issued only to persons who at the time of application for a food vendor permit have not had a full-term permit revoked or suspended and who satisfy the commissioner that they are fit and able to conduct, maintain or operate a food vending business. Except as otherwise provided in item (b) of clause 2 of paragraph b of this subdivision, no person shall be issued more than one food vendor permit, whether full-term or temporary.

(d) The issuance or renewal of a full-term food vendor permit pursuant to this subchapter shall be subject to the permittee, within three months after the certification of a complete application therefor, presenting a pushcart or vehicle for inspection by the department of health and within six months after such certification, passing such inspection.

(e) The commissioner shall establish a separate waiting list for the issuance of full-term food vendor permits pursuant to this subchapter to be administered in accordance with requirements to be established by rules of the commissioner. The commissioner may by rule limit the number of places on such waiting list.

(f) Except as otherwise provided in item (b) of clause 2 of paragraph b of this subdivision, on and after January first, nineteen hundred ninety-six, and on every renewal date thereafter, a food vendor permit holder

may not renew more than one food vendor permit, whether full-term or temporary. Such food vendor permit shall be renewed provided that all other requirements for renewal under the provisions of this subchapter and any rules promulgated pursuant thereto are complied with, the license or warrant of the person to whom the permit was issued or the permit has not been revoked or suspended and such person has not committed a violation or violations which could be a basis for permit, warrant or license suspension or revocation.

2. (a) Notwithstanding the provisions of paragraph one of this subdivision limiting the number of full-term food vendor permits that are authorized to be issued, the commissioner may issue up to a maximum of one hundred additional full-term food vendor permits authorizing the holders thereof to vend pursuant to the terms and conditions described in this subchapter from any vehicle or pushcart in any public place in the city of New York where food vendors are not prohibited from vending. Such food vendor permits shall be issued only to natural persons who at the time of application for a permit hereunder are not holders of a full-term food vendor permit issued pursuant to paragraph two of this subdivision and who have not had a full-term permit revoked or suspended. No person shall be issued more than one food vendor permit. Such food vendor permits shall be issued in the order in which applications for such permits are received in accordance with the preferences specified in subparagraph (b) of this paragraph and the procedures established by the commissioner. The issuance or renewal of a full-term food vendor permit pursuant to this paragraph shall be subject to the permittee, within three months after the certification of a complete application therefor, presenting a pushcart or vehicle for inspection by the department and the department of health and, within six months after such certification, passing such inspection. After the initial issuance of such permits, the commissioner shall establish a waiting list, not to exceed four hundred in number, to be administered in accordance with procedures to be established by rules of the commissioner.

(b) Preferences shall be given in the issuance of food vendor permits pursuant to this paragraph and in the placement on such waiting list to the following categories of persons in the following order:

(i) Veterans who on August second, nineteen hundred ninety-one held a valid general vendor's license

issued by the department of consumer affairs pursuant to the provisions of this code then in effect by virtue of having claimed a disability.

(ii) Disabled veterans.

(iii) Disabled persons.

(iv) Veterans.

(c) A person who has been issued a food vendor permit pursuant to this paragraph shall not be eligible to obtain a full-term food vendor permit authorized by paragraph two of this subdivision if at the time of application for a full-term food vendor permit authorized by such paragraph two such person is a holder of a full-term food vendor permit issued pursuant to this paragraph or such person has had a full-term food vendor permit issued pursuant to this paragraph revoked or suspended.

b. 1. On and after July thirtieth, nineteen hundred eighty-three, no new temporary permits shall be issued until the number of such permits which are in effect is less than one thousand. Thereafter, the maximum number of such permits which may be in effect shall be one thousand and no permits shall be issued in excess of such maximum number. Notwithstanding the limitations on the issuance of new temporary permits, a temporary permit issued prior to July thirtieth, nineteen hundred eighty-three shall be renewable by the licensee to whom the permit was issued within one year of its expiration date subject to the provisions of subparagraph 2 of paragraph b of this subchapter and provided that all other requirements for renewal under the provisions of this subchapter and any rules promulgated pursuant thereto are complied with, the license of the person to whom the permit was issued or the permit has not been revoked or suspended and the licensee has not committed a violation or violations which could be a basis for license or permit revocation or suspension.

2. (a) Except as otherwise provided in item (b) of this clause, on and after January first, nineteen hundred ninety-six, and on every renewal date thereafter, a permit holder may not renew more than one permit, whether full-term or temporary. Such permit shall be renewed provided that all other requirements for renewal under the provisions of this subchapter and any rules promulgated pursuant thereto are complied with, the

license of the person to whom the permit was issued or the permit has not been revoked or suspended and such person has not committed a violation or violations which could be a basis for permit, license or warrant suspension or revocation.

(b) (i) Notwithstanding any other provision of law to the contrary, on and after May fifth, nineteen hundred ninety-seven, any person who is an exclusive distributor or a manufacturer of a food product and who on February third, nineteen hundred ninety-five was an exclusive distributor or a manufacturer of such food product who held more than one temporary permit issued pursuant to this subchapter, may be issued the number of additional temporary permits such person held on February third, nineteen hundred ninety-five and, in addition, may continue to hold one full-term permit issued pursuant to this subchapter if such exclusive distributor or manufacturer held one full-term permit issued pursuant to this subchapter on May fifth, nineteen hundred ninety-seven. A written agreement evidencing an exclusive distributorship shall be proof satisfactory that an applicant for multiple temporary permits was an exclusive distributor of a food product on February third, nineteen hundred ninety-five and is an exclusive distributor of a food product at the time of such application. Any written agreement evidencing an applicant's status as an exclusive distributorship on February third, nineteen hundred ninety-five shall have been in effect on such date.

(ii) Any person who is eligible for the issuance of additional temporary permits pursuant to subitem (i) of this item shall be issued a maximum of sixty temporary permits.

(iii) Additional temporary permits shall be issued pursuant to subitem (i) of this item only to persons who are eligible therefor who have not at the time of application for such additional temporary permits had a permit issued pursuant to this subchapter revoked or suspended and who satisfy the commissioner that they are fit and able to conduct, maintain and operate a food vending business. Such permits shall be renewed provided that all other requirements for renewal under the provisions of this subchapter and any rules promulgated pursuant thereto are complied with, the license or warrant of the person to whom the permits were issued has not been revoked or suspended and such person has not committed a violation or violations which would be a

basis for permit, license or warrant suspension or revocation.

(iv) Nothing contained in subitem (i) of this item shall be construed as authorizing the issuance of full-term or temporary permits in excess of the numbers of such permits that are authorized to be issued pursuant to paragraph b of this subchapter.

c. For purposes of determining the number of full-term or temporary food vendor permits held by a permittee the following provisions shall apply:

1. A natural person shall be deemed to hold the full-term or temporary food vendor permit issued in the name of such natural person s unemancipated child, a partnership in which such natural person is a partner, a corporation in which such natural person is an officer, director or shareholder, or a limited liability company in which such natural person is a member, manager or officer.

2. A corporation shall be deemed to hold the full-term or temporary food vendor permits issued in the name of:

(a) an officer, director or shareholder of such corporation;

(b) another corporation where such corporation and such other corporation share a common officer, director or shareholder, or such corporation or any of its officers, directors or shareholders has any direct or indirect interest in such other corporation;

(c) a limited liability company where such corporation or any of its officers, directors or shareholders is a member, manager or officer of such limited liability company, or such corporation or any of its officers, directors or shareholders has any direct or indirect interest in such limited liability company; or

(d) a partnership where such corporation or any of its officers, directors or shareholders is a partner in such partnership, or such corporation or any of its officers, directors or shareholders has any direct or indirect interest in such partnership.

3. A limited liability company shall be deemed to hold the full-term or temporary food vendor permits issued in the name of:

(a) a member, manager or officer of such limited liability company;

(b) another limited liability company where such limited liability company and such other limited liability company share a common member, manager or officer, or such limited liability company or any of its members, managers or officers has any direct or indirect interest in such other limited liability company;

(c) a corporation where such limited liability company or any of its members, managers or officers is an officer, director or shareholder in such corporation, or such limited liability company or any of its members, managers or officers has any direct or indirect interest in such corporation; or

(d) a partnership where such limited liability company or any of its members, managers or officers is a partner in such partnership, or such limited liability company or any of its members, managers or officers has any direct or indirect interest in such partnership.

4. A partnership shall be deemed to hold the full-term or temporary food vendor permits issued in the name of:

(a) a partner of such partnership;

(b) another partnership where such partnership is a partner in such other partnership, such partnership and such other partnership share a common partner, or such partnership or any of its partners has any direct or indirect interest in such other partnership;

(c) a corporation where such partnership or any of its partners is an officer, director or shareholder in such corporation, or such partnership or any of its partners has any direct or indirect interest in such corporation; or

(d) a limited liability company where such partnership or any of its partners is a member, manager or officer in such limited liability company, or such partnership or any of its partners has any direct or indirect interest in such limited liability company.

d. Temporary permits and temporary licenses issued pursuant to this subchapter shall be valid only during the period of time beginning on April first and ending on October thirty-first of each calendar year.

§20-808 Permit and warrant terms; renewals; fees. a. All permits and warrants issued pursuant to this subchapter shall be valid for one year unless sooner suspended or revoked. The commissioner shall establish by rule the expiration date of such permits and warrants.

b. A permit shall be renewable by the permittee for a term of one year provided that the permittee meets all requirements for renewal, the permit has not been revoked or suspended and the permittee has not committed a violation or violations which could be a basis for permit revocation or suspension including, but not limited to, those described in section 20-804 of this subchapter.

c. A warrant shall be renewable by the warrantee for a term of one year provided that in no case shall the designated location be the same designated location for more than four consecutive renewal terms, that the warrantee meets all requirements for renewal, the warrant has not been revoked or suspended and the warrantee has not committed a violation or violations which could be a basis for warrant revocation or suspension including, but not limited to, those described in section 20-804 of this subchapter. The commissioner shall establish procedures that establish criteria including but not limited to changes in the conditions in and around a warranted location that provide a preference upon the renewal of a warrant for the warrantee's existing location designation but such preference shall not extend beyond the fourth renewal term. Notwithstanding the foregoing provisions of this paragraph the commissioner shall establish warrant renewal provisions for disabled veterans which provide for retention of the same designated location by the warrantee for so long as the disabled veteran vendor continues to legally vend and said location is warrantable.

d. The annual fee for a permit for a vehicle, pushcart or stand utilized by a vendor and a warrant or the renewal of either or both shall be one hundred dollars.

e. The fee for issuing a duplicate permit or warrant when the original has been lost, destroyed or mutilated shall be twenty-five dollars.

f. A person holding a permit or warrant pursuant to the provisions of article four of the general business law or a not-for-profit organization shall be exempt from the payment of fees set forth in this section.

g. The fees provided for herein shall be in addition to any fees required in connection with the operation of the vendor's business pursuant to the New York City Administrative Code and the New York Code of Rules and Regulations.

§20-809 Permit Required; Vehicle, Pushcart and Stand Approval. a. No vendor, except for a graphics vendor, shall vend from other than a vehicle, pushcart or stand.

b. No vendor shall operate his or her vehicle, pushcart or stand without a permit, issued pursuant to sections 20-803 or 20-807 of this subchapter.

c. The commissioner, in consultation with the art commission and such other city agencies as the commissioner deems appropriate, shall adopt generic designs and establish standards relating to the size and configuration of vehicles, pushcarts and stands that may be utilized by vendors to vend in a public space.

d. Any vehicle, pushcart or stand that complies with the standards established by the commissioner but is not consistent with the design adopted pursuant to the provisions of this section shall require the approval of the commissioner and the art commission prior to the issuance of a permit.

e. No vehicle, pushcart or stand used pursuant to the requirements of this subchapter shall display advertising for any goods, food, or business, other than for such goods or food as are sold from such vehicle, pushcart or stand.

§20-810 Warrant required. a. The commissioner shall establish by rule application procedures for the issuance of warrants in addition to those provided in this subchapter. Only the holder of both a license and a permit may receive a warrant, except where the permittee is a partnership, corporation, limited liability company or other association in which case the permittee shall be eligible to receive a warrant with a license issued to an officer, director, or shareholder of the corporation or, in the case of a partnership, to a partner thereof, with the further exception that a graphic vendor may receive a warrant without also holding a license.

b. All warrants shall comply with the provisions of section 20-812 of this subchapter.

c. No vendor, except an exclusive distributor or manufacturer that has been issued multiple temporary

food vending permits pursuant to section 20-807 of this subchapter, shall be issued more than one warrant.

d. The commissioner shall establish a procedure for the assignment of warrants to ensure that no category of vendor dominates or is excluded from any geographic area.

e. The commissioner shall establish warrant application and renewal procedures to provide a preference for disabled veterans consistent with the provisions of article four of the general business law.

f. In the event that a warrant has been issued for a location where, subsequent to the issuance of such warrant, the physical circumstances on the street or blockfront have changed so that the location is no longer in compliance with the provisions of sections 20-811, 20-812 or 20-813 of this subchapter then, upon written notification to the warrantee, such warrant shall be revoked. In such a case, the commissioner shall make every reasonable effort to accommodate the vendor at the nearest available warrantable location or other available warrantable location of the vendor's choice.

g. The commissioner may, in exercise of his or her discretion, deny the issuance of a warrant for an otherwise warrantable location as prescribed in sections 20-811, 20-812, and 20-813 of this subchapter if in his or her determination, and as explained in a written notification to the applicant, public health, safety or welfare or aesthetics require such action. In such a case, the commissioner shall make every reasonable effort to accommodate the vendor at the nearest available warrantable location or other available warrantable location of the vendor's choice.

§20-811 Warrantable locations; Restrictions on vending in certain areas. a. One vendor may be warranted pursuant to the provisions of sections 20-802, 20-803, 20-804 and 20-810 of this subchapter to vend on each blockfront that is on a street where vending is not otherwise prohibited by the provisions of this subchapter.

b. Vendors shall be prohibited from vending on both sides of the following streets between the hours of seven am and nine pm seven days a week, except as noted below:

Manhattan:

8th Street: 3rd Ave. to 6th Ave.

13th Street: 4th Ave. to Broadway

14th Street: 3rd Ave. to 6th Ave.

15th Street: Irving Pl. to Union Sq. East

16th Street: Fifth Ave. to Union Sq. West

17th Street: Park Ave. So. to Broadway

23rd Street: Lexington Ave. to 7th Ave.

32nd: Street: Park Ave. to 7th Ave.

33rd: Street: Park Ave. to 7th Ave.

34th Street: Park Ave. to 8th Ave.

**41st Street: 7th Ave. to 8th Ave.

*42nd Street: 1st Ave. to 11th Ave. (except the southside 5th Ave. to Ave. of the Americas)

47th Street: 5th Ave. to Ave. of the Americas

57th Street: 3rd Ave. to 8th Ave.

77th Street: York Ave. to 2nd Ave.

79th Street: York Ave. to Lexington Ave.

86th Street: York Ave. to Park Ave.

125th Street: Morningside Ave. to 5th Ave.

Astor Place: 3rd Ave. to Broadway

Avenue of Americas: W. Houston St. to 13th St.

Avenue of Americas: 31st St. to 59th St.

Broad Street: Entire Street

Broadway: Bowling Green to Leonard St.

Broadway: 3rd St. to 9th St.

Broadway: 13th St. to 14th St.

*Broadway: 31st St. to 70th St.

Canal Street: Bowery to Ave. of the Americas

Central Park West (west side of street only): 60th St. to 62nd St.

Chambers Street: Centre St. to West St.

Columbus Avenue: 66th St. to 67th St.

Cortlandt Street: Entire Street

Delancy Street: Orchard St. to Essex St.

Dey Street: Entire Street

*Eighth Avenue: W. 31st St. to W. 53rd St.

Fifth Avenue (east side of street only): 81st St. to 84th St.

Fifth Avenue: Washington Sq. No. to W. 12th St.

Fifth Avenue: 16th St. to 20th St.

Fifth Avenue: 32nd St. to 61st St.

First Avenue: E. 42nd St. to E. 48th St.

Fourth Avenue: 7th St. to 9th St.

Fourth Avenue: 13th St. to 14th St.

Grand Street: Clinton St. to Broadway

Greenwich Avenue: Christopher St. to 6th Ave.

Greenwich Street: Albany St. to Liberty St.

Greenwich Avenue: Christopher St. to W. 11th St.

Lafayette Street: 7th St. to Astor Pl.

Lexington Avenue: E. 40th St. to E. 60th St.

Lexington Avenue: E. 68th to E. 70th St.

Lexington Avenue: E. 75th St. to E. 79th St.

Lexington Avenue: E. 84th St. to E. 88th St.

Madison Avenue: E. 33rd St. to E. 85th St.

Nassau Street: Entire Street

Park Avenue: E. 46th St. to E. 59th St.

Park Avenue : E. 32nd St. to E. 42nd St.

Second Avenue: E. 41st St. to E. 43rd St.

Second Avenue: E. 57th St. to E. 60th St.

*Seventh Avenue: W. 27th St. to W. 53rd St.

St. Marks Place: 2nd Ave. to 3rd Ave.

Third Avenue: 7th St. to 9th St.

Third Avenue: E. 39th St. to E. 60th St.

Third Avenue: E. 68th St. to 70th St.

Union Square East: 14th St. to 17th St.

Union Square West: 14th St. to 17th St.

Vanderbilt Avenue: E. 42nd St. to E. 47th St.

Wall Street: Water St. to Broadway

**West 43rd Street: Broadway to 8th Ave.

**West 44th Street: Broadway to 8th Ave.

**West 45th Street: Broadway to 8th Ave.

**West 46th Street: 7th Ave. 8th Ave.

**West 47th Street: Ave. of the Americas to 8th Ave.

**West 48th Street: Broadway to 8th Ave.

**West 49th Street: Broadway to 8th Ave.

**West 50th Street: Broadway to 8th Ave.

**West 51st Street: Broadway to 8th Ave.

**West 52nd Street: Broadway to 8th Ave.

**West 53rd Street: Broadway to 8th Ave.

BROOKLYN:

13th Avenue: 37th St. to 55th St.

18th Avenue: McDonald Ave. to 60th St.

48th Street: 9th Ave. to Ft. Hamilton Pkwy.

49th Street: 9th Ave. to Ft. Hamilton Pkwy.

86th Street: 4th Ave. to Ft. Hamilton Pkwy.

86th Street: 18th Ave. to 25th Ave.

Adams Street: Fulton St. to Tillary St.

Albee Square West/Gold Street: Fulton St. to Tillary St.

Batchelder Street: Emmons Ave. to Shore Pkwy. Service Rd. (eastbound)

Bedford Avenue: Emmons Ave. to Ave. X

Boerum Place: Fulton St. to Livingston St.

Bond Street/Gold Square: Livingston St. to Fulton St.

Bragg Street: Sheepshead Bay Rd. to Voorhies Ave.

Brigham Street: Sheepshead Bay Rd. to Shore Pkwy. Service Rd. (eastbound)

Brighton Beach Avenue: Ocean Pkwy. to Corbin Pl.

Brown Street: Emmons Ave. to Shore Pkwy. Service Rd. (eastbound)

Church Avenue: Coney Island Ave. to Nostrand Ave.

Coney Island Avenue: Parkside Ave. to Ave. P

Court Street/Cadman Plaza: Clinton St. to Atlantic Ave.

Coyle Street: Emmons Ave. to Shore Pkwy. Service Rd. (eastbound)

Cropsey Avenue: Bay 50th St. to Bay 24th St.

DeKalb Avenue: Fulton St. to Ashland Pl.

Dooley Street: Emmons Ave. to Shore Pkwy. Service Rd. (eastbound)

East 15th Street: Emmons Ave. to Shore Pkwy. Service Rd. (eastbound)

East 16th Street: Emmons Ave. to Shore Pkwy. Service Rd. (eastbound)

East 19th Street: Emmons Ave. to Shore Pkwy. Service Rd. (eastbound)

East 21st Street: Emmons Ave. to Shore Pkwy. Service Rd. (eastbound)

East 22nd Street: Emmons Ave. to Shore Pkwy. Service Rd. (eastbound)

East 23rd Street: Emmons Ave. to Shore Pkwy. Service Rd. (eastbound)

East 24th Street: Emmons Ave. to Shore Pkwy. Service Rd. (eastbound)

East 26th Street: Emmons Ave. to Shore Pkwy. Service Rd. (eastbound)

East 27th Street: Emmons Ave. to Shore Pkwy. Service Rd. (eastbound)

East 28th Street: Emmons Ave. to Shore Pkwy. Service Rd. (eastbound)

East 29th Street: Emmons Ave. to Shore Pkwy. Service Rd. (eastbound)

Elm Place/Duffield Street: Livingston St. to Myrtle Ave.

Emmons Avenue: Shore Blvd. to Knapp St.

Emmons Avenue: E. 14th St. to Knapp St.

Fifth Avenue: 44th St. to 59th St.

Fifth Avenue: 84th St. to 88th St.

Fourth Avenue: 84th St. to 88th St.

Flatbush Avenue Extension: Tillary St. to Fulton St.

Flatbush Avenue: Fulton St. to St. John's Pl./Plaza St.

Flatbush Avenue: Parkside Ave. to Ave. I

Flatlands Avenue: E. 86th St. to Utica Ave.

Ford Street: Emmons Ave. to Shore Pkwy. Service Rd. (eastbound)

Fulton Street: Flatbush Ave. to Rockwell Pl.

Fulton Street: Adams St./Boerum Pl. to Flatbush Ave.

Gallatin Place/Lawrence Street: Livingston St. to Tech Pl.

Graham Avenue: Broadway to Boerum St.

Graham Avenue: Broadway to Flatbush Ave. Ext.

Grand Street: Bushwick Ave. to Union Ave.

Hanover Place: Livingston St. to Fulton St.

Harring Street: Emmons Ave. to Shore Pkwy. Service Rd. (eastbound)

Hoyt Street/Bridge Street: Livingston St. to Tillary St.

Hudson Place: Fulton St. to DeKalb Ave.

Johnson Street/Tech Place: Jay St. to Prince St.

Kings Highway: Ocean Ave. to Ocean Pkwy.

Knapp Street: Emmons Ave. to Voorhies Ave.

Liberty Avenue: Drew St. to Crescent St.

Livingston Street: Flatbush Ave Ext. to Boerum Pl./Adams St.

Mermaid Avenue: Stillwell Ave. to W. 20th St.

Montague Street: Court St. to the Promenade

Myrtle Avenue: Duffield St. to Prince St.

Nevins Street: Livingston St. to Flatbush Ave. Ext.

Nostrand Avenue: Emmonds Ave. to Ave. X

Nostrand Avenue: Ave. D to Foster Ave.

Ocean Avenue: Emmons Ave. to Shore Pkwy. Service Rd. (eastbound)

Oriental Boulevard: West End Ave. to Oxford St.

Pierrepont Street: Cadman Pl. to Henry St.

Pitkin Avenue: Legion St. to Thatford Ave.

Poole Lane: Emmons Ave. to Shore Pkwy. Service Rd. (eastbound)

Red Hook Lane/Pearl Street: Livingston St. to northern extremity

Remsen Street: Court St. to Henry St.

Rockwell Place: Fulton St. to DeKalb Ave.

Seventh Avenue: Flatbush Ave. to 15th St.

Sheepshead Bay Road: Emmons Ave. to Ave. Z

Shore Boulevard: Emmons Ave. to Pembroke St.

Shore Parkway Service Road (eastbound): E. 14th St. to E. 19th St.

Shore Parkway Service Road (eastbound): E. 19th St. to Ocean Ave.

Shore Parkway Service Road (eastbound): Ocean Ave. to Knapp St.

Smith/Jay Street: Livingston St. to Johnson St./Tech Pl.

Stillwell Avenue: Neptune Ave. to Boardwalk

Surf Avenue: W. 20th St. to W. 23rd St.

Surf Avenue: W. 5th St. to W. 20th St.

Tenth Avenue: 47th St. to 50th St.

Tillary Street: Adams St. to Gold St.

West End Avenue: Shore Blvd. to Shore Pkwy. Service Rd. (eastbound)

Willoughby Street: Adams St. to Ashland Pl.

Queens:

165th Street: Archer Ave. to Hillside Ave.

Fresh Pond Road: Myrtle Ave. to 60th Ave.

Grand Avenue: 61st St. to 74th St.

Jamaica Avenue: 170th St. to 146th St.

Junction Boulevard: L.I. Expwy to 57th St.

Junction Boulevard: Roosevelt Ave. to 34th Ave.

Liberty Avenue: 103rd Ave. to Van Wyck Expwy

Metropolitan Avenue: 80th to Mt. Olivet Crescent

Myrtle Avenue: Wyckoff Ave to Woodhaven Blvd.

Roosevelt Avenue: 79th St. to Junction Blvd.

Roosevelt Avenue: Union St. to Prince St.

Steinway Street: 25th Ave. to Broadway

Bronx:

149th Street: Bergen Ave. to Melrose Ave.

East 161st Street: River Ave. to Sherman Ave.

Fordham Road: Webster Ave. to Jerome Ave.

Grand Concourse: E. 170th St. to Elliot Pl.

Jerome Avenue: E. 170th St. to Elliot Pl.

Southern Boulevard: 163rd St. to Westchester Ave.

Third Avenue: 148th St. to 156th St.

West 170th Street: Jerome Ave. to Grand Concourse

Walton Avenue: E. 170th St. to Elliot Pl.

Westchester Avenue: Bergen Ave. to Melrose Ave.

Wills Avenue: 148th St. to 3rd Ave.

On streets marked with a single asterisk (*) vending is prohibited between the hours of seven am and midnight.

On streets marked with a double asterisk (**) vending is prohibited between the hours of seven am and midnight on Wednesdays, Saturdays and Sundays and vending is permitted on all other days.

c. Notwithstanding any other provisions of this section only one vendor shall be warranted pursuant to the provisions of sections 20-802, 20-803, 20-804 and 20-810 of this subchapter to vend at any of the blockfronts formed by the intersection of two or more streets.

d. General vendors shall be prohibited from vending on any street which is in a C4, C5 or C6 district as provided in the zoning resolution of the city of New York and no warrants shall be issued for vending by a general vendor within such districts.

e. Vendors shall be prohibited from vending on any blockfront in a residential district where commercial use is not permitted on the ground floor by the provisions of the zoning resolution of the city of New York and no warrants shall be issued within such areas.

f. No vendor shall vend within the geographical areas under the jurisdiction of the department of parks and recreation or the department of business services unless written authorization therefor has been obtained from the commissioner or president of such department or corporation, but nothing therein contained shall exempt any vendor from obtaining a license in accordance with this subchapter.

§20-812 Restrictions on the placement of vehicles, pushcarts and stands. a. No warranted location for a vending business shall:

1. be located on or adjacent to any sidewalk unless such sidewalk has at least a twelve-foot wide clear pedestrian path to be measured from the boundary of any private property to any obstructions in or on the sidewalk, or if there are no obstructions, to the curb. In no event shall any pushcart or stand be placed on any part of a sidewalk other than that which abuts the curb.

2. occupy more than eight linear feet of public space on any sidewalk parallel to the curb.

3. occupy more than three linear feet to be measured from the curb toward the property line.

4. be located against display windows of fixed location businesses.

5. be located on the median strip of a divided road-way unless such strip is intended for use as a pedestrian mall or plaza.

6. be located within any bus stop or taxi stand.

7. be located within twenty feet from any entranceway to any building, store, theater, movie house, sports arena or other place of public assembly.

8. be located within fifteen feet, measured parallel to the curb line, from any bus stop shelter, automatic public toilet, newsstand, computer information kiosk, enclosed or unenclosed sidewalk cafe or subway entrances or exits.

9. be located within ten feet from any fire hydrant, standpipe, siamese connection, driveway (which distance must also meet the department of transportation's safety and operational requirements) or from any corner. For purposes of this subdivision, ten feet from any corner shall be measured from a point where the property line on the nearest intersecting block face, when extended, meets the curb.

10. be located within five feet from any tree trunk, bench, canopy, disabled access ramp or any non-computer information kiosk.

11. be located within three feet from any street light or traffic signal pole.

12. be located on or within two feet from any ventilation or other grill, manhole, access plate, transformer or other vault, subway access grate, street sign poles, parking meters, fixed litter baskets, public telephones, mailboxes, tree pits, planters, valve boxes, or cellar doors.

§20-813 Restrictions and Requirements in Operation of Vending Business. a. All food or goods, including packaging, associated with a vending business shall be kept in or under the vending vehicle, pushcart or stand. No such food or goods, including packaging, other than an adjoining acceptable waste container, shall be placed upon any public space adjacent to the vending vehicle, pushcart or stand.

b. Each vendor who vends from a vehicle, pushcart or stand in the roadway shall obey all traffic and

parking laws and rules as now exist or as may be promulgated, but in no case shall a vendor vend so as to restrict the continued maintenance of a clear passageway for vehicles.

c. Where exigent circumstances exist and a police officer or other authorized officer or employee of any city agency gives notice to a vendor to temporarily move from any location such vendor shall not vend from such location. For the purposes of this subdivision, exigent circumstances shall include, but not be limited to, unusually heavy pedestrian or vehicular traffic, existence of any obstructions in the public space, an accident, fire or other emergency situation, a parade, demonstration or other such event or occurrence at or near such location.

d. No vendor shall vend using the surface of the sidewalk, or a blanket or board placed immediately on the sidewalk or on top of a trash receptacle or cardboard boxes to display merchandise. No vendor display may exceed five feet in height from ground level. The display may not be less than twenty-four inches above the sidewalk where the display surface is parallel to the sidewalk, and may not be less than twelve inches above the sidewalk where the display surface is vertical. Where a rack or other display structure is placed on top of or above a table or other base, the size of the base shall not be less than the size of the display structure placed thereon. Nothing shall be placed on the base so as to exceed the size limitations contained in this section.

e. No general or graphic vendor shall sell or offer for sale any item directly from any parked or double parked motor vehicle.

f. No general or graphic vendor shall use electricity, electrical generating equipment or oil, propane or gasoline powered equipment, devices or machinery of any kind.

g. The placement of a vending vehicle, pushcart or stand shall not interfere with pedestrian or motorist sight lines necessary for traffic safety.

§20-814 Display of license, warrant, permit plate and warrant plate. a. The vendor's license and warrant shall be worn conspicuously by him or her at all times while he or she is operating as a vendor.

b. The permit and warrant plates shall be firmly affixed to the vending vehicle, pushcart or stand in a

conspicuous place.

§20-815 Notification of change. The commissioner shall be notified of any change in the information provided on an application for a license, permit or warrant within ten days of such change.

§20-816 Bookkeeping requirements. Each vendor shall keep such written records as the commissioner may prescribe of all daily gross sales, purchases and expenses and receipts therefor and shall make such available for inspection by an authorized officer or employee of any city agency.

§20-817 Duties of licensees, permittees and warrantees. Each person issued a vendor license, permit to vend from a vehicle, pushcart or stand in a public place, and a warrant for a fixed location shall:

- a. Maintain his or her vehicle, pushcart or stand in good, clean, workable and defect free condition.
- b. Permit regular inspections by the department of any vehicle, pushcart or stand used in the operation of his or her business, any premises under his or her control in which food, goods or services intended to be sold or offered for sale by him or her as a vendor is prepared, processed, unpacked or stored and present such vehicle, pushcart or stand for inspection at such place and time as may be designated by the department.
- c. Provide to the commissioner or any other authorized officer or employee of the city requesting such information, on a semi-annual basis, or more often if required by rule promulgated by the commissioner, the addresses and names of the owners of such service rooms, commissaries or the manufacturers, suppliers or distributors from whom such licensee receives his or her food or goods and also the address at which such vendor stores his or her food or goods or any vehicle, pushcart or stand used in the operation of the vending business.
- d. Each applicant, licensee, permittee and warrantee shall notify the department in writing by registered mail, return receipt requested, within three business days of receipt of a notice of service of a summons for a violation relating to conducting, maintaining or operating a vending business and a conviction of such applicant, licensee, permittee, warrantee, its officers, directors, shareholders, members, managers or employees for any offense occurring after the filing date of the application for a license or permit or warrant or a renewal

thereof or occurring during the term of the license, permit or warrant.

e. Not use or permit anyone else to use a vending vehicle, pushcart or stand for vending any foods, goods or services other than those authorized for sale by the commissioner unless prior written approval has been obtained from the commissioner; provided, however, that an exclusive distributor who has been issued more than one temporary permit pursuant to subitem (i) of item (b) of clause 2 of paragraph b of section 20-807 of this subchapter must primarily vend or permit anyone else using a pushcart, stand or vehicle for which such exclusive distributor has a temporary permit to primarily vend the food product that was the subject of the exclusive distribution agreement that such exclusive distributor had with a manufacturer on February third, nineteen hundred ninety-five, and, provided further, that a manufacturer who has been issued more than one temporary permit pursuant to subitem (i) of the item (b) of clause 2 of paragraph b of section 20-807 of this subchapter must primarily vend or permit anyone else using a pushcart, stand or vehicle for which such manufacturer has a temporary permit to primarily vend the product that such manufacturer sold from a pushcart or vehicle on February third, nineteen hundred ninety-five.

f. A food vendor while acting as such shall only vend items which the commissioner, after consultation with the commissioner of health or board of health, has authorized or otherwise approved.

g. Surrender his or her license, permit, warrant and plate(s) promptly to the commissioner upon revocation, suspension, termination or expiration of his or her license, warrant or permit.

§20-818 Transferability. a. No license, permit, plate or warrant issued under this subchapter shall be sold, lent, leased or in any manner transferred or assigned unless prior approval of the commissioner has been obtained.

b. No vehicle, pushcart or stand used to vend in a public place shall be sold, lent, leased or in any manner transferred or assigned with a license, permit, plate or warrant that has been issued under this subchapter attached thereto.

c. A transfer in violation of this section shall be deemed to have occurred where, if a corporation is the

licensee, warrantee or permittee, there has been a change in fifty percent or more of the ownership interest in such corporation from the ownership interest existing on the date the license, warrant or permit was issued, or where the licensee, warrantee or permittee is a limited liability company, where there has been the addition of any member, and where the licensee, warrantee or permittee is a partnership, where there has been the addition of any partner. Furthermore, any such transfer in an exclusive distributor or a manufacturer who has been issued more than one temporary permit pursuant to item (b) of clause 2 of paragraph b of section 20-807 of this subchapter shall result in the automatic revocation of all such additional temporary permits issued to such persons pursuant to such provision.

d. Notwithstanding the provisions of subdivisions a, b and c of this section:

1. the commissioner may, in his or her discretion, transfer a permit or warrant to a dependent husband, wife or child of an incapacitated or deceased person to whom the permit or warrant was issued under this subchapter;

2. an exclusive distributor or a manufacturer who has been issued more than one temporary permit pursuant to item (b) of clause 2 of paragraph b of section 20-807 of this subchapter may lease a vehicle, stand or pushcart owned by such exclusive distributor or manufacturer with such exclusive distributor's or manufacturer's temporary permit attached thereto to a person licensed as a food vendor pursuant to this subchapter if (a) such exclusive distributor or manufacturer files with the department the bill of sale or other proof of ownership for such vehicle or pushcart with a duly issued sales tax receipt attached thereto; (b) such lease agreement sets forth the food product which may be primarily sold using such vehicle or pushcart; and (c) such lease agreement is approved by the department, provided, however, that if such lease agreement is not approved or disapproved within thirty calendar days after such lease agreement is filed with the department, such lease agreement shall be deemed to be approved by the department. The commissioner shall promulgate rules establishing the standards by which the department shall evaluate such lease agreements and such standards shall include, but not be limited to, requirements that such lease agreements are the result of an arm's

length negotiation between the parties thereto. Subleasing of any such vehicle or pushcart owned by such exclusive distributor's or manufacturer's temporary permit and warrant attached thereto is strictly prohibited. Authorized officers and employees of the department and the department of investigation may assist the commissioner and the department in effectuating the provisions of this paragraph. Any violation or violations of the provisions of this paragraph or any rules promulgated hereunder by an exclusive distributor or a manufacturer who has been issued more than one temporary permit pursuant to item (b) of clause 2 of paragraph b of section 20-807 of this subchapter may be the basis for suspension or revocation of all the permits and warrants issued to such exclusive distributor or manufacturer pursuant to this subchapter.

§20-819 Prohibitions. It shall be unlawful for any person to sell, give or otherwise transfer any food or goods to an unlicensed vendor for resale in a public space or to rent or otherwise knowingly transfer any vehicle, stand or pushcart for use by an unlicensed vendor in a vending business in a public space.

§20-820 Hearings. Unless otherwise specifically provided, notice and hearings upon denial of an application, the suspension or revocation of a license, permit or warrant shall be in accordance with the rules promulgated by the commissioner.

§20-821 Distributor license required. a. It shall be unlawful for any individual to transport food or goods by means of a motor vehicle, as defined in the vehicle and traffic law, to a public space for sale or other transfer to a vendor, without having first obtained a distributor license in accordance with the provisions of this subchapter.

b. Where the distributor does not personally drive the vehicle, he or she shall cause the driver to carry proof of the distributor license, which the driver shall furnish upon demand to any officer or agent empowered to enforce the law. No distributor shall permit any driver he or she employs to engage in, on the distributor's behalf, any of the activities for which a distributor's license is required unless such driver complies with all rules promulgated pursuant to this subchapter.

c. It shall be unlawful for any person to operate a commissary, or place of food distribution, or a place

wherein five or more pushcarts used to vend food, or more than one vehicle used to vend food are stored, without first obtaining a food vendor license.

§20-822 Distributor license term; renewal; fees. a. All distributor licenses issued pursuant to this section shall be valid for one year unless sooner suspended or revoked. The commissioner shall establish by rule the expiration date of such licenses.

b. A distributor license shall be renewable by the licensee for a term of one year provided that the licensee meets all requirements for renewal, the license has not been revoked or suspended and the licensee has not committed a violation or violations which could be a basis for license revocation or suspension including, but not limited to those described in section 20-804 of this subchapter.

c. The annual fee for a distributor license shall be two hundred dollars.

d. The fee for issuing a duplicate distributor license when the original has been lost, destroyed or mutilated shall be twenty-five dollars.

§20-823 Distributor license applications. a. Each person applying for a distributor license, or renewal thereof, shall file an application in such form and detail as the commissioner may prescribe and shall, except for not-for-profit organizations, pay the license fee required by this section.

b. In addition to any other information required, the commissioner shall require the following information:

1. The name and home and business address of the applicant;
2. The name and home and business address of the owner, if other than the applicant, of the food or goods to be delivered;
3. A description of the type of food or goods to be delivered;
4. Three prints of a full-face photograph of the applicant taken not more than thirty days prior to the date of the application;
5. Proof that the applicant has obtained from the state tax commission of the state of New York a

certificate of authority designating the applicant's sales tax identification number;

6. An applicant who is a non-resident of the city shall provide the name and address of a registered agent within the city or designate the commissioner as his or her agent upon whom process or other notification may be served;

7. If an applicant is not a citizen of the United States, proof that such applicant is either a permanent resident alien or an alien permitted by law to work in the United States.

8. Upon approval of an application the commissioner shall issue a distributor license to the applicant. Such license shall contain the name and address of the licensee, his or her license number and a non-removable photograph of such licensee.

§20-824 Delivery vehicle identification required. a. No person shall engage in any activity for which a distributor license is required unless the motor vehicle used therefor is identified in the manner prescribed by law or rule.

b. Any vehicle used by a distributor to transport food or goods to a vendor must be visually identified by a sign conspicuously displayed on the side of the vehicle. The following information shall be clearly and legibly displayed on such sign: the distributor licensee's name, address and business telephone number; the words "Vending Distributor"; and the department's telephone complaint number. The letters and numerals of such display shall not be less than one and one-half inches in height, with a width of at least one-quarter of an inch, and shall be colored black or white, whichever is most prominent against the background color.

c. Signs used to identify delivery vehicles may be removable, but must be securely fastened whenever the vehicle is used to deliver or remove goods to or from a vendor. The sign must remain securely attached throughout the time it takes to load or unload the food or goods.

§20-825 Enforcement. a. Authorized officers or employees of the department, public health sanitarians or other authorized officers or employees of the department of health, and police officers shall have the power to enforce all laws and rules relating to vendors and distributors. This provision shall in no way restrict any

other power granted by law to any officer or employee of the city.

b. Any police officer or other authorized officer or employee of the city may seize any vehicle, pushcart or stand or other such device and its contents where:

1. the vendor (i) does not have a permit; or (ii) does not have a license; or (iii) does not have a warrant; or (iv) is in a location for which it is not warranted; or (v) is vending on property owned by the city and under the jurisdiction of a city agency including, but not limited to, the department of parks and recreation or the economic development corporation without the written authorization of the commissioner or president of such department or corporation. Such vehicle, pushcart, stand, goods or food shall be subject to forfeiture as provided in section 20-826 of this subchapter.

2. a vendor is operating any vending business in violation of sections 20-810, 20-811, 20-812 or 20-813 of this subchapter.

c. Authorized officers or employees of the department, public health sanitarians or other authorized officers or employees of the department of health, and police officers are authorized to provide for the removal of such food, goods, vehicle, pushcart or stand to any garage, automobile pound or other place of safety, and the owner or other person lawfully entitled to the possession of such vehicle, pushcart, stand, food or goods may be charged with reasonable costs for removal and storage payable prior to the release of such food, goods, vehicle, pushcart or stand.

§20-826 Forfeiture Proceedings. a. In addition to any penalties imposed pursuant to subdivision a of section 20-828 of this subchapter upon any person found guilty of violating sections 20-802, 20-804, 20-809, 20-810, 20-811, 20-812, 20-813 or 20-821 of this subchapter, all property seized pursuant to this subchapter shall be subject to forfeiture upon notice and judicial determination. Notice of the institution of the forfeiture proceeding shall be in accordance with the provisions of the civil practice law and rules.

b. The police department having custody of the seized property, after judicial determination of forfeiture shall, upon a public notice of at least five days, sell such forfeited property at public sale. The net proceeds of

such sale shall be paid into the general fund of the city. In the alternative, any such property may be used or converted to use for the purpose of any city, state or federal agency, or for charitable purposes, upon consultation with the human resources administration and other appropriate city agencies, and the police commissioner shall report annually to the city council on the distribution of such property.

c. Whether or not a forfeiture proceeding is commenced, the owner or other person lawfully entitled to the possession of such food, goods, vehicle, pushcart, or stand or other device may be charged with the reasonable cost for removal and storage payable prior to the release of such food, goods, vehicle, pushcart, or stand or other device, unless the charge of unlicensed vending has been dismissed.

§20-827 Seizure of perishable food. In the event that a seizure made pursuant to this subchapter shall include any perishable item of food which cannot be retained in custody without such item becoming unwholesome, putrid, decomposed or unfit in any way, the commissioner may order such item destroyed or otherwise disposed of provided, however, that written notice of such destruction or other disposition setting forth an itemized description of the property, the reason for its destruction or other disposition, and the date when it was destroyed or otherwise disposed of be mailed to the food vendor from whom it was seized within twenty-four hours after such disposition. A copy of such notice shall be kept on file by the department for a period of one year.

§20-828 Penalties. a. Any person who violates the provisions of sections 20-802, 20-804, 20-809, 20-810, 20-811, 20-812, 20-813 or 20-821 of this subchapter shall be guilty of a misdemeanor punishable by a fine of not less than two hundred fifty dollars nor more than one thousand dollars, or by imprisonment for not more than three months or by both such fine and imprisonment. In addition, any police officer may seize any vehicle used to transport goods to a vendor, along with the food or goods contained therein, where the driver is required to but cannot produce evidence of a distributor's license. Any vehicle, goods or food so seized may be subject to forfeiture upon notice and judicial determination. If a forfeiture proceeding is not commenced, the owner or other person lawfully entitled to possession of such vehicle, goods or food may be charged with the reasonable

cost for removal and storage payable prior to the release of such vehicle, goods or food unless the charge of unlicensed distributing has been dismissed.

b. Except as provided in subdivision a of this section, a person who violates any provision of this subchapter or any of the rules promulgated hereunder shall be guilty of an offense punishable by the court as follows:

1. For a first violation, a fine of not less than twenty-five dollars nor more than fifty dollars.

2. For a second violation within a period of one year of the date of a first violation, a fine of not less than fifty dollars nor more than one hundred dollars.

3. For a third violation within a period of two years of the date of a first violation, a fine of not less than one hundred dollars nor more than two hundred fifty dollars, in addition to the remedy provided for in subdivision f of this section.

4. For any subsequent violations within a period of two years of the date of a first violation, a fine of not less than two hundred dollars nor more than one thousand dollars, in addition to the remedy provided for in subdivision f of this section.

c. 1. In addition to the penalties prescribed by subdivision a of this section, any person who violates, or any person aiding another to violate, the provisions of sections 20-802, 20-804, 20-809, 20-811, 20-810 or 20-812 of this subchapter shall be liable for a civil penalty of not less than two hundred fifty dollars nor more than one thousand dollars together with a penalty of two hundred fifty dollars per day for every day during which the unlicensed business operated.

2. In addition to the penalties prescribed by subdivision b of this section, any person who violates any provision of this subchapter, other than sections 20-802, 20-804, 20-809, 20-810, 20-811, 20-812, 20-813 or 20-821, or any of the rules promulgated hereunder shall be liable for a civil penalty as follows:

(a) For a first violation, a penalty of not less than twenty-five dollars nor more than fifty dollars.

(b) For a second violation within a period of one year of the date of a first violation, a penalty of not less

than fifty dollars nor more than one hundred dollars.

(c) For a third violation within a period of two years of the date of a first violation, a penalty of not less than one hundred dollars nor more than two hundred fifty dollars, in addition to the remedy provided for in subdivision f of this section.

(d) For any subsequent violations within a period of two years of the date of a first violation, a penalty of not less than two hundred fifty dollars nor more than one thousand dollars, in addition to the remedy provided for in subdivision f of this section.

d. A proceeding to recover any civil penalty authorized pursuant to the provisions of subdivision c of this section shall be commenced by the service of a notice of violation which shall be returnable to the environmental control board. The board shall have the power to impose the penalties prescribed by subdivision c of this section.

e. Any person who violates the provisions of section 20-810 or 20-811 of this subchapter and any rules promulgated thereunder shall be guilty of a misdemeanor punishable by a fine of not more than five hundred dollars, or by imprisonment for not more than thirty days or by both such fine and imprisonment.

f. Any person issued a vendor license, permit or warrant pursuant to this subchapter who commits two or more violations of the provisions of this subchapter and any rules promulgated thereunder within a one year period shall have his or her vendor license, permit or warrant revoked.

§20-829 Failure to display and produce license, permit or warrant; presumptive evidence of unlicensed, unpermitted or unwarranted activity. a. In any civil or criminal action or proceeding, failure by a vendor who is required to be licensed pursuant to the provisions of this subchapter to display and exhibit upon demand a vendor's license in accordance with the provisions of this subchapter to any police officer, public health sanitarian or other authorized officer or employee of the department or other city agency shall be presumptive evidence that such vendor is not duly licensed.

b. In any civil or criminal action or proceeding, failure by any person who is required to obtain a

distributor's license pursuant to the provisions of this subchapter, or failure by the driver of such person, to exhibit upon demand a distributor's license in accordance with the provisions of this subchapter to any police officer or authorized officer or employee of the department or other city agency shall be presumptive evidence that such person is not duly licensed.

c. In any civil or criminal action or proceeding, the failure of any vehicle, pushcart or stand which is required to be permitted pursuant to the provisions of this subchapter to have a permit plate affixed thereto in accordance with the provisions of this chapter shall be presumptive evidence that such vehicle, pushcart or stand is not duly permitted.

d. In any civil or criminal action or proceeding, failure by a vendor who is required to have a warrant pursuant to the provisions of this subchapter to display and exhibit upon demand a such warrant in accordance with the provisions of this chapter to any police officer, public health sanitarian or other authorized officer or employee of the department or other city agency shall be presumptive evidence that such vendor is not duly warranted.

§20-830 Procedures for recovery of graphic material that has been moved. A graphic vendor who has had any graphic material or any vehicle, pushcart or stand removed under the provisions of section 20-825 of this subchapter may serve upon the officer in charge of the police department facilities in which the property is located notice of a request for the return of such property either before or after a judicial or administrative determination, conducted in accordance with this subchapter and all other laws and rules applicable thereto, of the violation underlying the removal of such graphic material, vehicle, pushcart or stand has been made irrespective of the result of such determination. Unless the judicial or administrative proceeding has terminated in favor of such vendor, the owner, or other person lawfully entitled to the possession of such vehicle, pushcart, stand or graphic material which has been removed under the aforementioned provisions shall be charged with reasonable costs for removal and storage, payable upon or after the judicial or administrative determination that the violation underlying the removal of such graphic material, vehicle, pushcart or stand occurred. Such charge

for removal and storage, which shall be established by the police commissioner by rule shall be made part of the fine, penalty or judgment rendered in the judicial or administrative proceeding and shall be paid, to the police department property clerk by the judicial or administrative body receiving such fine, penalty or judgment.

§20-831 Rules. The commissioner shall make such rules as deemed necessary for the proper implementation and enforcement of this subchapter.

§20-832 Exemptions. a. In addition to the exemptions already provided in this subchapter, the commissioner may promulgate rules exempting any not-for-profit organization including, but not limited to, a government agency, charitable, educational, religious or other such organization from compliance with any of the provisions of this subchapter.

b. The commissioner may promulgate rules modifying any of the provisions of this subchapter, in appropriate circumstances, in order to implement neighborhood-specific comprehensive vending programs.

§5. This local law shall take effect one hundred twenty days after its enactment into law, provided, however, that the commissioner may promulgate any necessary rules and take any other actions necessary for the timely implementation of this local law prior to such effective date.

2/2/98

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