

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 1993**

No. 45

Introduced by Council Members Alter, Spigner, Millard and Cerullo III; also Council Members Marshall and Pagan.

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to applying certain restrictions to general vendors who exclusively vend written matter.

Be it enacted by the Council as follows:

Section 1. Legislative findings. The council hereby finds and declares that a threat to the public health, safety and welfare exists due to the practice of permitting general vendors who exclusively vend written matter to vend on sidewalks without subjecting them to certain placement and location restrictions which have been found to be necessary to protect the health, safety and welfare of the public. The council further finds that this threat to the public health, safety and welfare is exacerbated by the placement of vending tables and similar devices on sidewalks along major commercial thoroughfares, blocking the access of emergency services, including fire and police personnel, to the entrances of buildings and to fire hydrants; impeding pedestrian movement and causing pedestrian congestion at major tourist points and transportation facilities; and, impeding the movement of police foot patrols along the sidewalks.

In 1982 the council exempted general vendors who exclusively vend written matter from otherwise applicable placement and location requirements. At that time there were so few of these vendors that their exclusion from these requirements did not have a significant adverse impact on public health, safety and welfare. Subsequently, when the council prohibited all general vendors from displaying and vending from the surface of sidewalks, vendors of written material were included in this prohibition. However, the council finds that since that time, the enormous proliferation of these vendors necessitates that certain of the restrictions applicable to other vendors, such as those prohibiting them from operating near subway and building entrances and exits and those which restrict vending on certain congested streets, now be made applicable to vendors who exclusively vend written matter.

The council further finds that in keeping with its original intention in enacting these exemptions to balance the safety needs of the public with the constitutional rights of vendors of written materials, vending from tables, carts, stands or other such devices should be prohibited at such times and on such blocks that have been previously found, or that are found in the future, after a hearing, to be regularly too congested to permit any other vending. Thus, the council further declares that the policy of the city of New York shall be that vending written matter without a vehicle, table, stand, cart or other similar device shall be lawful on sidewalks, in accordance with existing limitations, unless exigent circumstances exist, and that vending with the use of a vehicle, table, cart, stand or other similar device shall be lawful on blocks and at times where either food vending or general vending is permitted, provided the table, stand, cart or other similar device used by the vendor of written materials occupies no greater sidewalk space than that permitted for other general vendors.

§2. Section 20-468 of the administrative code of the city of New York is hereby amended by adding a new subdivision f to read as follows:

f. If a general vendor who exclusively vends written matter conducts such business with the use of a vehicle, pushcart or stand, or 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, on any street and at any time where both (i) general vending is prohibited pursuant to subdivision 1 of section 20-465 of this subchapter; and (ii) food vending is prohibited pursuant to subdivision 1 of section 20-465 of this subchapter or pursuant to subdivision 1 of section 17-315 of this code, any authorized officer or employee of the department or member of the police department is authorized to provide for the removal of such general vendor's goods, vehicle, pushcart or stand to any garage, automobile pound or other place of safety.

§3. Section 20-473 of such code is hereby amended to read as follows:

§20-473 Exemptions for general vendors who exclusively vend written matter. General vendors who exclusively vend written matter are exempt from the following provisions of this subchapter: sections 20-454, 20-455, 20-456, 20-457, 20-459, 20-461, 20-462, 20-463 and 20-464; [the requirement contained in subdivision a of section 20-465 that the vending operation be conducted on a sidewalk with at least a twelve foot wide pedestrian path, but in no case shall a general vendor who exclusively vends written matter vend so as to restrict the continued maintenance of a clear passageway for pedestrians and vehicles, and in no event shall any pushcart or stand which encompasses an area greater than fifteen square feet or a height of over three feet be placed on any part of the sidewalk other than that which abuts the curb; the prohibition contained in subdivision c of section 20-465 against the touching or leaning of a vending vehicle, pushcart, stand, written matter or any other item related to the operation of a vending business against any building or structure; subdivision d of section 20-465, except that no vending pushcart, stand or written matter shall be located against display windows of fixed location businesses; the prohibition contained in subdivision e of section 20-465 of vending within ten feet of any subway entrance or exit, driveway or any crosswalk at any intersection by a vendor whose business location, including all appurtenances related to the operation of the vending business, encompasses, in total, an area up to and including fifteen square feet, except that such vending and appurtenances shall not be located within any such driveway, subway entrance or exit or any crosswalk

at any intersection;] [subdivisions] *subdivision g* [and *i*] of section 20-465; subdivision *j* of section 20-465, except that nothing herein shall be construed to deprive the commissioner of the department of parks and recreation of the authority to regulate the vending of written matter in a manner consistent with the purpose of the parks and the declared legislative intent of this subchapter; [the prohibition contained in subdivision *k* of section 20-465 against vending during a parade, demonstration or other such event or occurrence at or near such location, insofar as such vending or event does not constitute an exigent circumstance;] subdivision *l* of section 20-465, *except that on any street where both general vending is prohibited pursuant to subdivision 1 of section 20-465 of this subchapter and food vending is prohibited pursuant to subdivision 1 of section 20-465 of this subchapter or pursuant to subdivision 1 of section 17-315 of this code, general vendors who exclusively vend written matter shall not be permitted to vend with the use of any vehicle, pushcart or stand*; sections 20-466 and 20-467; subdivisions *c* and *d* of section 20-468; section 20-469 and 20-470; and subdivision *a*, and paragraph one of subdivision *c* of section 20-472.

§4. Section 20-474 of such code is amended to read as follows:

§20-474 **Procedures for recovery of written matter that has been removed.** A general vendor who exclusively vends written matter and who has had any written matter, or any vehicle, pushcart or stand removed under the provisions of [subdivision] *subdivisions [k] b, e or f* of section [20-465] *20-468* of this subchapter may serve upon the officer in charge of the police department facility 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 chapter one of this title and all other laws, rules and regulations applicable thereto, of the [charge of failing to comply with such section] *violation underlying the removal of such written matter, 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 written matter 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 [such vendor failed to comply with the requirements of subdivision *k* of section 20-465 of this subchapter] *the violation underlying the removal of such written matter, vehicle, pushcart or stand occurred*. Such charge for removal and storage, which shall be established by the police commissioner by regulation 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.

§5. This local law shall take effect immediately.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of the City of New York, passed by the Council on May 13, 1993, and approved by the Mayor on June 1, 1993.

CARLOS CUEVAS, City Clerk, Clerk of the Council

CERTIFICATION PURSUANT TO MUNICIPAL HOME RULE LAW §27

Pursuant to the provisions of Municipal Home Rule Law §27, I hereby certify that the enclosed Local Law (Local Law 45 of 1993, Council Int. No. 444-A) contains the correct text and:

Received the following vote at the meeting of the New York City Council on May 13, 1993: 48 for, 1 against.

Was approved by the Mayor on June 1, 1993.

Was returned to the City Clerk on June 1, 1993.

JEFFREY D. FRIEDLANDER, Acting Corporation Counsel