

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 1995**

No. 72

Introduced by Council Members Koslowitz, Dear, Public Advocate (Mr. Green) and Council Member Pagan (by the request of the Mayor); also Council Member Wooten.

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to the placement of fixed stand coin operated rides placed on sidewalks and the licensing of amusement devices, amusement arcades and amusement operators, and to repeal subchapter 3 of chapter 2 of title 20 of the administrative code.

Be it enacted by the Council as follows:

Section 1. Subdivisions g and h of section 19-136 of the administrative code of the city of New York, section 19-136 as renumbered by local law number 104 for the year 1993, is amended to read as follows:

g. Any person who sells or displays or who permits the sale or display of any goods, wares or merchandise in a public space in violation of any of the provisions of this section *other than subdivision j of this section* shall be considered to be an unlicensed general vendor or an unlicensed food vendor and shall be subject to the penalty and enforcement provisions of either subchapter twenty-seven of chapter two of title twenty or subchapter two of chapter three of title seventeen of this code, whichever is applicable. The provisions of sections 19-149, 19-150 and 19-151 shall not apply to such violations.

h. In addition to police officers, officers and authorized employees of the department, the department of consumer affairs, the department of health, and the department of sanitation shall have the power to enforce the provisions of this section, *other than subdivision j of this section*, relating to the sale and display of goods, wares or merchandise in the public space.

§2. Section 19-136 of the administrative code of the city of New York is amended by adding a new subdivision j to read as follows:

j. Fixed stand coin operated rides. 1. For purposes of this subdivision, "fixed stand coin operated ride" shall mean a coin operated ride on a stationary stand which provides an up and down rocking and/or circular motion for the enjoyment of not more than two people at a time.

2. Notwithstanding any inconsistent provision of this section, a fixed stand coin operated ride may be placed on a sidewalk adjacent to a commercial establishment provided that (i) no portion of such ride shall extend further than five feet from the building line

and a width of at least nine and one-half feet shall be maintained on the sidewalk in front of such ride without obstructing pedestrian movement; (ii) such ride shall not be bolted to the sidewalk or chained to a lamppost or other street furniture; (iii) such ride shall be removed from its location on a sidewalk adjacent to a commercial establishment between the hours of 9:00 p.m. and 9:00 a.m. on every day of the week, including Sundays and holidays; and (iv) such ride is in compliance with any other law and with any rules promulgated by the commissioner for purposes of protecting the health, safety, convenience and welfare, and to safeguard the interests of the city.

3. Notwithstanding any other provision of law, such rides may be placed at any location adjacent to a commercial establishment other than those locations where sidewalk obstructions are prohibited on particular streets or in particular locations enumerated in paragraphs five through twenty-eight of subdivision a of this section and any particular streets or locations added to subdivision a of this section by local law on or after January 16, 1996; provided, however, that no more than three such rides may be placed in front of any such commercial establishment.

4. If a fixed stand coin operated ride is placed on the sidewalk in violation of the provisions of this subdivision, any authorized officer or employee of the department or the department of consumer affairs, or member of the police department, is authorized to provide for the removal of such fixed stand coin operated ride to any garage, automobile pound or other place of safety, and such ride may be subject to forfeiture upon notice and judicial determination. If a forfeiture hearing is not commenced, the owner or other person lawfully entitled to the possession of such ride may be charged with reasonable costs for removal and storage payable prior to the release of such device; provided, however, that a fixed stand coin operated ride that is not claimed within thirty days after its removal shall be deemed to be abandoned and may be sold at a public auction after having been advertised in the City Record, the proceeds thereof being paid into the general fund or such unclaimed fixed stand coin operated ride may be used or converted for use by the department or by another city agency or by a not-for-profit corporation.

5. The provisions of subdivision e of this section and sections 19-149, 19-150 and 19-151 of this subchapter shall apply to fixed stand coin operated rides placed on sidewalks.

§3. Subchapter 3 of chapter 2 of title 20 of the administrative code of the city of New York is REPEALED and a new subchapter 3 is added to read as follows:

Subchapter 3

Amusement Devices, Arcades and Operators

§20-211 **Definitions.** Whenever used in this subchapter, the following terms shall mean:

a. "Amusement device" means any contrivance, open to the public, that carries and conveys passengers along, around or over a fixed or restricted course or within a defined area for the purpose of amusing or entertaining its passengers, other than coin-operated amusement devices as defined in subdivision b of this section.

b. "Coin-operated amusement device" means any machine, contrivance, apparatus, booth or other device intended as a game which is operated, played, or permitted to function by the insertion or deposit of any coin, currency, slug, token or thing of value, and which provides amusement, diversion or entertainment. This shall include, but not be limited to, fixed stand coin operated rides as defined in subdivision j of section 19-136 of this code.

c. "Amusement arcade" means any premises wherein there are operated, in any combination, five or more of the amusement devices and/or coin-operated amusement devices defined in subdivisions a and b of this section.

d. "Amusement operator" means any person who maintains or operates any amusement device or any amusement arcade as defined in subdivisions a and c of this section.

e. "Amusement arcade owner" means any person who owns or otherwise has legal possession or title to an amusement arcade as defined in subdivision c of this section.

f. "Amusement device owner" means any person who owns or otherwise has legal possession or title to an amusement device as defined in subdivision a of this section.

g. "Portable amusement device" means an amusement device designed to be operated on the vehicle which is used to transport such device.

h. "Affected community board" means the community board in which an amusement device or amusement arcade would be located if a license were to be granted pursuant to this subchapter.

§20-212 Licenses required. a. It shall be unlawful for any person to act as an amusement operator without first having obtained a license therefor.

b. It shall be unlawful for any person to operate or for the owner to permit the operation of an amusement device unless such owner has first obtained a license for such amusement device.

c. It shall be unlawful for any person to operate or for the owner to permit the operation of an amusement arcade unless such owner has first obtained a license for such amusement arcade.

§20-213 Fees. a. The biennial license fee for an amusement operator's license shall be one hundred dollars.

b. The biennial license fee for each amusement device shall be one hundred dollars, except that where the amusement device is being operated for less than thirty consecutive days, the license fee shall be fifty dollars.

c. The biennial license fee for an amusement arcade shall be three hundred forty dollars.

§20-214 License requirements. a. Generally.

(1) The application shall be made on a form to be provided by the commissioner and shall include such information as the commissioner shall deem pertinent.

(2) Every amusement device owner or amusement arcade owner must submit to the department either a valid certificate of occupancy or an equivalent document duly issued by the department of buildings stating that the premises in which the amusement device or amusement arcade is to be located is situated in an area which is zoned to permit such use or a valid, current permit or special permit granted by the appropriate city agency permitting such use at the given location. If such permit or special permit shall expire or be terminated for any reason during the pendency of any license, the licensee shall present to the department a new permit or special permit authorizing such continued use of the premises for an amusement device or an amusement arcade. If such new permit or special permit is not presented within ten days of the expiration of the prior permit or special permit, such amusement device license or amusement arcade license shall be terminated automatically and without any requirement of notice or hearing by the department.

(3) Within fifteen days of receipt of a new application for a license to operate an amusement device or an amusement arcade, the commissioner shall give notice of such

new application to the affected community board and the council member for that district. The affected community board shall have fifteen days from receipt of the notification to comment on such application to the department.

(4) The commissioner shall promptly notify the affected community board and the council member for that district of the final disposition of any license application that was subject to comment by the community board under paragraph three of this subdivision.

b. Amusement Devices.

(1) In order to apply for an amusement device license, the amusement device owner must present to the department a completed application at least thirty days before the amusement device is to be operated.

(2) Every amusement device owner must submit with his or her license application for an amusement device proof that he or she has purchased insurance or posted cash or other security in an amount not less one million dollars (\$1,000,000) per occurrence or a bond in an amount not less than two million five hundred thousand dollars (\$2,500,000) in the aggregate against liability for injury to persons arising out of the use of the amusement device. In addition, the application must be accompanied by the certificates of insurance for workers' compensation and disability coverage.

(3) Every amusement device owner must submit proof that an inspection of the amusement device was made by the department of buildings, and that such amusement device passed an elevator and/or electrical control inspection prior to the issuance or renewal of a license.

(4) Every portable amusement device shall be equipped with a stairway on either or both sides thereof so that the stairway in use at any time for access to or egress from such portable amusement device shall at all times be within a reasonable distance from the sidewalk, such distance to be determined at the discretion of the commissioner. The operator of such portable amusement device shall not at any time permit any person to be admitted to the portable amusement device or to depart therefrom except by the stairway.

c. Amusement Arcades.

(1) The commissioner, at the time an amusement arcade license application is made, may prescribe conditions for the operation of such amusement arcade in order to minimize adverse effects on the surrounding area, including, but not limited to, prescribing hours of operation and requirements for security and supervision. After a license is granted, the commissioner may prescribe such conditions from time to time upon notice and opportunity to be heard.

(2) Each coin-operated amusement device located within an amusement arcade shall display a sign, located and designed so as to be discernible by all players and prospective players, setting forth the rules of play, including the price of the game.

(3) Where the amusement arcade owner or the amusement operator in the amusement arcade offers free games or prizes, signs shall be required to set out with clarity the number of wins or the score required to obtain a free game or prize; provided, however, that no amusement arcade owner or amusement operator in the amusement arcade shall offer money prizes or awards or such other prizes or awards which are redeemable or may be redeemed in money at the amusement arcade or any other establishment or which may be used as a credit or allowance or which may be exchanged for any money, credit or allowance.

d. Placement and Operation. No amusement device or coin-operated amusement device or group of amusement devices and/or coin-operated amusement devices shall be placed or operated in such a manner as to obstruct, or cause by the congregating of persons, an obstruction to, or interfere with, any public corridor or passageway, or to obstruct the entrance or exit to any premises. No amusement device or coin-operated amusement device or group of amusement devices and/or coin-operated amusement devices shall be placed on a public sidewalk in front of or adjacent to an amusement arcade.

§20-215 Nothing in this subchapter shall be construed to authorize gambling or the use of gambling devices.

§20-216 Location of Coin-Operated Amusement Devices. *a. No person shall operate a coin-operated amusement device within two hundred feet of a public or a private elementary or secondary school.*

b. The provisions contained in subdivision a of this section shall not apply to fixed stand coin operated rides as defined in subdivision j of section 19-136 of this code.

c. Any person who violates the provisions of this section or any rules promulgated hereunder shall be guilty of a class B misdemeanor. In addition, the commissioner may, upon due notice, hold hearings to determine whether violations of the provisions of this section have occurred. Such notice shall contain a concise statement of the facts constituting the alleged violation and shall set forth the date, time and place of the hearing. Upon a finding of a violation of the provisions of this section, the commissioner shall be authorized to impose a civil penalty of not more than five hundred dollars.

§4. Notwithstanding any other provision of law, any license issued by the commissioner of consumer affairs pursuant to subchapter 11 of chapter 2 of title 20 of the administrative code of the city of New York prior to the effective date of this local law shall become null and void and be of no further effect as of the effective date of this local law. Notwithstanding any other provision of law, if the holder of any such license surrenders the license within 60 days after the effective date of this local law to the department of consumer affairs, such holder shall be entitled to receive a refund of an amount equal to the fee for such license prorated to the unexpired portion of the license term.

§5. No action or proceeding, civil or criminal, pending at the time when this local law shall take effect shall be affected or abated by the adoption of this local law or by anything contained herein and all such actions or proceedings may be continued notwithstanding the adoption of this local law.

§6. This local law shall take effect on January 16, 1996.

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 August 17, 1995, and approved by the Mayor on September 1, 1995.

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 72 of 1995, Council Int. No. 537-A) contains the correct text and:

Received the following vote at the meeting of the New York City Council on August 17, 1995: 44 for, 0 against.

Was approved by the Mayor on September 5, 1995.

Was returned to the City Clerk on September 5, 1995.

JEFFREY D. FRIEDLANDER, Acting Corporation Counsel