

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

No. 68

Introduced by Council Members Pinkett, Duane, Linares, McCaffrey, Ruiz, Harrison, Rivera, Robinson, Watkins and Eristoff; also Council Members Cruz and Michels.

A LOCAL LAW

To amend the New York city charter and the administrative code of the city of New York, in relation to the issuance of permits for the installation, operation and maintenance of public pay telephones upon the streets and other inalienable property of the city, and in relation to protecting such public pay telephones against graffiti and illegal postings and to repeal section 19-128 of such administrative code.

Be it enacted by the Council as follows:

Section 1. Section 19-128 of the administrative code of the city of New York is hereby REPEALED.

§2. Title 23 of the administrative code of the city of New York is amended by adding a new chapter 4 to read as follows:

§23-401. *Definitions. Whenever used in this chapter:*

a. *"Commissioner" shall mean the commissioner of the department of information technology and telecommunications, or of any successor agency.*

b. *"Department" shall mean the department of information technology and telecommunications, or any successor agency.*

c. *"Owner" shall mean a natural person or business entity which owns, leases, or is otherwise responsible for the installation, operation and maintenance of a public pay telephone.*

d. *"Permit" shall mean an authorization by the department to install, operate and maintain one or more public pay telephones at a location on, over or under a street or other inalienable property of the city.*

e. *"Public nuisance" shall mean the use of a public pay telephone on a regular basis which the commissioner has reasonable cause to believe is in furtherance of unlawful activity.*

f. *"Public pay telephone" shall mean a telephone and associated equipment, from which calls can be paid for at the time they are made by a coin, credit card, prepaid debit card or in any other manner, which is available for use by the public and provides access to the switched telephone network for the purpose of voice or data communications. The*

term "public pay telephone" shall include any pedestal or telephone bank supporting one or more such telephones, associated enclosures, signage and other associated equipment.

g. "Street" shall have the meaning ascribed thereto in subdivision thirteen of section 1-112 of this code.

§23-402 Permit required. No public pay telephone shall be installed, operated or maintained on, over or under any street or other inalienable property of the city without a permit therefor, and unless such installation, operation and maintenance is in accordance with the provisions of this chapter, the rules of the commissioner promulgated pursuant thereto, and the terms and conditions of such permit.

§23-403 Powers of commissioner. a. The commissioner may issue and renew permits under this chapter based upon a determination, at his or her discretion, that issuance or renewal of a permit would be in the best interests of the city, provided that:

1. no permit shall be issued or renewed unless the applicant holds a franchise granted by the city to install, operate and maintain public pay telephones on, over and under the streets and other inalienable property of the city;

2. (i) in the event that the installation of a public pay telephone requires the opening, drilling or other physical alteration of a building facade or other private property, no permit shall be issued or renewed without the written consent of the building owner.

(ii) in the event that the installation of a public pay telephone requires affixing the phone to a building facade or other private property, no permit shall be issued or renewed without the written consent of the building owner.

(iii) in the event the installation of a public pay telephone is to be accomplished in a manner other than as set forth in subsection (i) and (ii) of this section, but requires access through an existing conduit or other opening on a building facade or other private property, or such installation is to be made within six feet of a building line, no permit shall be issued or renewed without the written consent of the building owner or the commercial lessee who shall certify (aa) that the building owner has authorized the lessee to grant such consents; and (bb) that the lessee has provided the building owner or its authorized agent with written notification by certified mail, of the granting of such consent, the name and address of the owner of the public pay telephone and the location of such public pay telephone in relation to the building. Proof of mailing of such notification to the building owner or its authorized agent shall be included in the permit application. It shall be a violation of this chapter where a permittee, without providing justification therefor, fails within a time period specified by the Commissioner to remove a public pay telephone following receipt of a notice from the building owner or its authorized agent by certified mail that he or she objects to the installation, where such notice and copy to the Commissioner are sent within thirty days of receipt of the commercial lessee's consent. Nothing herein shall be construed to limit a building owner or its authorized agent from pursuing such remedies as he or she may have under law with respect to the unauthorized installation of a public pay telephone; and

3. no permit shall be issued or renewed for the installation, operation and maintenance of a public pay telephone at any location where it will unreasonably interfere with the use of a street by the public, or where it will unreasonably interfere with the use of the abutting property.

b. The commissioner shall promulgate rules to implement the provisions of this chapter. Such rules shall include, without limitation: (i) a procedure and timetable for review by the department, and other appropriate agencies, including the department of

transportation, of applications for the issuance and renewal of permits to install, operate and maintain public pay telephones at specified locations; (ii) standards governing the location of public pay telephones designed so as to ensure that such telephones will not unreasonably interfere with the use of the street by the public and with use of the abutting property; and (iii) standards and procedures governing the installation, removal, operation, cleaning and maintenance of public pay telephones, including procedures for the expedited removal of any public pay telephone determined to constitute a public nuisance.

c. Permits may contain such other terms and conditions not specifically provided for in this chapter as the commissioner deems necessary to protect the public safety and to safeguard the interests of the city.

§23-404 Term; Termination.

a. A permit for a public pay telephone shall continue in effect for the term of the franchise held by the owner of such public pay telephone, unless the commissioner, after giving the permittee notice and an opportunity to be heard, determines: (i) that as a result of changed conditions, the public pay telephone unreasonably interferes or will unreasonably interfere with the use of a street by the public, or constitutes a public nuisance; or (ii) that removal of the public pay telephone is required in connection with a street widening or other capital project or for other purposes as may be specified by rule of the commissioner. Upon making such determination, the commissioner shall order the removal of the public pay telephone within a reasonable time period. In the event the permittee fails to remove the public pay telephone within the time period specified in such order, the commissioner may remove or cause the removal of the public pay telephone and have repair and restoration work performed at the expense of the permittee, who shall be liable in a civil action for the amount expended by the city.

b. Notwithstanding the provisions of subdivision a of this section, in the event that a public pay telephone is removed in connection with a street widening or other capital project or other improvement specified by rule of the commissioner, the permittee may apply to the commissioner for permission to reinstall the public pay telephone at another location or, following the completion of such street widening, capital project, or other improvement, at or near its original location. Where such permission is granted, the permittee shall not be required to obtain a new permit for the public pay telephone, and the permit previously issued for such public pay telephone shall continue in effect. If such public pay telephone is reinstalled at another location, the permittee may apply to the commissioner for a new permit to install another public pay telephone following the completion of such street widening, capital project or other improvement at or near the original location of the public pay telephone previously removed in connection therewith, provided that the permittee has paid the required fee for such permit.

§23-405 Advertising. A permit issued under this chapter shall not constitute an authorization to place advertising upon a public pay telephone.

§23-406 Fees. The commissioner shall by rule establish fees for the issuance and renewal of permits pursuant to this chapter in amounts sufficient to compensate the city for the administrative expense of issuing or renewing a permit and the expense of inspections and other activities related thereto.

§23-407 Transfers. No permit issued under this chapter shall be transferred except as may be authorized by rule of the commissioner.

§23-408 Violations; Penalties and Other Enforcement.

a. Any owner who installs, operates or maintains a public pay telephone on, over or under any street or other inalienable property of the city without a permit therefor shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than ten thousand dollars and imprisonment of not more than thirty days, or both such fine and imprisonment. Such owner shall, in addition, be liable for civil penalties pursuant to subdivisions c and d of this section.

b. An owner who repeatedly fails to provide phone services from a public pay telephone for any sustained period of time or who fails to provide coinless twenty-four hour 911 service from such public pay telephone shall be in violation of this chapter and shall be liable for a civil penalty of not more than two thousand five hundred dollars for each violation which may be recovered in a civil action or in a proceeding before the environmental control board. In the case of a continuing violation, each day's continuance shall be a separate and distinct offense.

c. An owner who violates any provision of this chapter, or any term or condition of a permit issued pursuant thereto, or any rule promulgated by the commissioner pursuant thereto shall be liable for a civil penalty of not more than one thousand dollars for each violation which may be recovered in a civil action or in a proceeding before the environmental control board. In the case of a continuing violation, each day's continuance shall be a separate and distinct offense.

d. An owner who is liable for a civil penalty for a violation pursuant to subdivision c of this section shall also be liable in a civil action for an additional civil penalty in the amount of the expense, if any, incurred by the city in the removal of the public pay telephone and the performance of related repair and restoration work.

e. In addition to authorized officers and employees of the department, officers and employees of the department of transportation who are designated by the commissioner shall have the power to issue summonses and appearance tickets returnable in the criminal court and notices of violation returnable before the environmental control board for violations of the provisions of this chapter.

f. An owner of a public pay telephone shall be liable for a violation by his or her employee, agent or independent contractor of the provisions of this chapter, or any term or condition of a permit issued pursuant thereto, or any rule promulgated by the commissioner pursuant thereto, made in the course of performing his or her duties.

g. An owner who submits an application for a public pay telephone permit containing a certification made by a commercial lessee pursuant to subparagraph (iii) of paragraph 2 of subdivision a of section 23-403 of this chapter, knowing that such certification contains a false statement or false information, shall be guilty of a misdemeanor.

h. The commissioner may request the corporation counsel to institute any action or proceeding that may be appropriate or necessary to restrain, correct or abate a violation of the provisions of this chapter.

i. 1. If the commissioner has reasonable cause to believe that an owner, or any employee, agent or independent contractor of such owner, has violated the provisions of this chapter, or any term or condition of a permit issued pursuant thereto, or any rule promulgated by the commissioner pursuant thereto, the commissioner may (i) notify the owner of the condition identified by the commissioner as a violation and specify the action that must be taken to correct the condition in such manner and within such period of time as shall be set forth in such notice, and (ii) shall afford the owner an opportunity

to contest the commissioner's notice in a manner to be set forth in rules of the commissioner. Upon final determination by the commissioner and failure of such owner to correct the condition in the manner and within the period of time specified by the commissioner, the commissioner shall be authorized, at his or her discretion:

aa. to remove or cause the removal of any public pay telephone which is installed, operated or maintained on, over or under any street or other unalienable property of the city without a permit therefor. Notwithstanding the foregoing, notice shall be provided pursuant to this subdivision prior to removal only where the name and address of the owner is shown on the public pay telephone or can be readily identified by the commissioner by virtue of a trademark prominently displayed on the public pay telephone.

bb. to revoke a permit and, upon revocation, to further order the removal of the public pay telephone. In the event the permittee fails to remove the public pay telephone and to perform related repair and restoration work within the time period specified by such order, the commissioner may remove or cause the removal of the public pay telephone and have repair and restoration work performed at the expense of the permittee, who shall be liable for the amount expended by the city;

cc. to render a public pay telephone inoperable except for the purpose of emergency telephone service through the 911 system or an operator. Such action may continue until the violation has been corrected to the satisfaction of the commissioner and payment has been made of all civil penalties imposed for the violation and any fees for any administrative expense or expense of additional inspections incurred by the city as a result of such violation. The commissioner shall affix to any public pay phone rendered inoperable pursuant to this paragraph a notice advising the public that the phone may be used only for emergency telephone service through the 911 system or an operator and setting forth the provisions of subdivision h of this section. Any device utilized by the commissioner for the purpose of rendering a public pay telephone inoperable shall be designed so as to permit the unimpaired use of the public pay telephone upon the removal of the device;

dd. to suspend review of all applications for the issuance or renewal of permits filed by such owner pursuant to this chapter. Such suspension may continue until the violation has been corrected to the satisfaction of the commissioner and payment has been made of all fines or civil penalties imposed for the violation, any costs incurred by the city for removal and related repair or restoration work, and any fees for any administrative expense or expense of additional inspections incurred by the city as a result of such violation;

2. Notwithstanding the provisions of paragraph one of this subdivision, if the commissioner determines that an imminent threat to life or property exists, the commissioner may remove or cause the removal of a public pay telephone, and have repair and restoration work performed at the expense of the owner, without affording the owner an opportunity to be heard prior to such removal. An owner who is a permittee or whose name and address is shown on the public pay telephone shall be provided notice and an opportunity to be heard five days after such removal in accordance with rules of the commissioner.

3. The procedures set forth in this subdivision shall be employed by the commissioner in addition to or in lieu of the other remedies set forth in this section and shall not be construed to limit the power of the commissioner to commence a civil action

or proceeding before the environmental control board, or the require that the commissioner resort to any procedure set forth in this subdivision as a prerequisite to the commencement of any such action or proceeding.

j. It shall be a misdemeanor for any person: (i) to remove any device installed by the commissioner pursuant to subparagraph aa of paragraph one of subdivision g of this section or to otherwise make operable a public pay telephone upon which such a device has been installed; or (ii) to remove or deface any notice affixed to a public pay telephone pursuant to such paragraph of such subdivision. Such misdemeanor shall be punishable upon conviction by a fine of not more than ten thousand dollars or imprisonment for not more than thirty days or both such fine and imprisonment.

k. Any public pay telephone removed pursuant to this section which is not claimed by the owner within thirty days of removal shall be deemed to be abandoned. All abandoned public pay telephones may be sold at public auction after having been advertised in the City Record and the proceeds paid into the general fund or such abandoned telephones may be used or converted for use by the department or by another city agency. A public pay telephone shall be released to the owner upon payment of the costs of removal, repair and restoration work, and of storage, any fees for any administrative expense or expense of additional inspections incurred by the department as a result of the violation, or, if an action or proceeding for the violation is pending in a court or before the environmental control board, upon the posting of a bond or other form of security acceptable to the commissioner in an amount which will secure the payment of such costs and any fines or civil penalties which may be imposed for the violation.

§3. Subparagraph k of paragraph 1 of subdivision c of section 1404 of the New York city charter, as added by chapter 720 of the laws of 1991, is amended to read as follows:

(k) the construction, maintenance and repair and obstruction or closure of public roads, streets, highways, parkways, bridges and tunnels which are within the jurisdiction of the department of transportation and the department of information technology and telecommunications; and

§4. Clause (i) of subparagraph a of paragraph 2 of subdivision d of section 1404 of the charter of the city of New York, as amended by chapter 720 of the laws of 1991, is amended to read as follows:

(i) service of a notice of violation of any provisions of the charter or administrative code the enforcement of which is the responsibility of the fire commissioner, the commissioner of buildings, the commissioner of environmental protection, the commissioner of transportation [or], commissioner of ports and trade or the commissioner of the department of information technology and telecommunications and over which the environmental control board has jurisdiction, may be made by delivering such notice to a person employed by the respondent on the premises the occupancy of which caused such violation; and

§5. a. Notwithstanding any provisions to the contrary of section 23-402 of the administrative code of the city of New York, as added by section 2 of this local law, all licenses previously issued to the telephone company pursuant to former sections 19-131 or 19-128 of the administrative code of the city of New York shall remain in full force and effect for a period of three years following the effective date of this local law or until ninety days following such date as the telephone company may be granted a franchise to install, operate and maintain public pay telephones, whichever is the earlier; provided, however, that a public pay telephone licensed pursuant to former sections 19-131 or 19-

128 of the administrative code of the city of New York may be subject to removal pursuant to the provisions of subdivision a of section 23-404 of the administrative code of the city of New York as added by section 2 of this local law. Notwithstanding any provisions to the contrary of paragraph 1 of subdivision a of section 23-403 of the administrative code of the city of New York, as added by section 2 of this local law, and subject to compliance with the provisions of section 6 of this local law, during the period in which such existing licenses remain in full force and effect, the commissioner of the department of information technology and telecommunications may issue permits pursuant to chapter 4 of title 23 of the administrative code of the city of New York, as added by section 2 of this local law, for the installation, operation and maintenance of new public pay telephones by the telephone company. Such permits shall expire three years following the effective date of this local law, unless the telephone company is granted a franchise to install, operate and maintain public pay telephones, in which case they shall continue in effect for the term of the franchise.

b. In the event the telephone company is granted a franchise to install, operate and maintain public pay telephones, it may request the issuance of permits pursuant to this local law with respect to any or all of its existing public pay telephones for which a license previously issued pursuant to former sections 19-131 or 19-128 of the administrative code is in effect in accordance with subdivision a of this section no later than thirty days following the date such franchise is granted. Such application shall consist of a letter identifying the location and license number of each existing public pay telephone for which the telephone company seeks a permit. Any existing public pay telephone for which the telephone company does not seek issuance of a permit shall be removed by the telephone company within sixty days following the date the franchise is granted and, if not so removed, shall be subject to removal pursuant to section 23-408 of the administrative code of the city of New York, as added by section 2 of this local law. Failure to remove such a public pay telephone shall also be deemed a violation for purposes of subdivisions b and c of section 23-408 of the administrative code of the city of New York, as added by section 2 of this local law. Notwithstanding any other provisions to the contrary of section 23-403 of the administrative code of the city of New York, as added by section 2 of this local law, the commissioner shall, no later than ninety days following the date the franchise is granted, issue permits pursuant to this local law for the existing public pay telephones for which the telephone company has requested a permit pursuant to this subdivision, unless: (aa) within sixty days following the date the franchise is granted the commissioner has objected to the continued maintenance and operation of an existing public pay telephone upon the basis that such continued maintenance and operation would be inconsistent with this local law, or would not be in compliance with the rules of the commissioner, or of any federal or state regulatory authority having jurisdiction over the provision of public pay telephone service; and (bb) such condition has not been cured within the time frame specified by the Commissioner. The telephone company shall remove all existing public pay telephones for which a permit has not been granted pursuant to this paragraph on or before the one hundred twentieth day following the date the franchise is granted and, if not so removed, such telephones shall be subject to removal pursuant to section 23-408 of the administrative code of the city of New York, as added by section 2 of the local law. Failure to remove such a public pay telephone shall also be deemed a violation for purposes of subdivisions b and c of section 23-408 of the administrative code of the city of New York, as added by

section 2 of this local law. No fees shall be required for permits requested under this subdivision.

c. For a period of three years following the effective date of this local law or until such date as the telephone company may be granted a franchise to install, operate and maintain public pay telephones and the terms of the franchise agreement governing compensation to the city thereby take effect, whichever is the earlier, the telephone company shall pay to the city such commissions on revenues derived directly or indirectly from any public pay telephones maintained under license or permit as have been established by agreement between the telephone company and the city, provided, that such city standard public pay telephone commissions shall be paid at not less than the rate in effect as of June 1, 1995. In the event the telephone company fails to pay any such commissions, the commissioner of the department of information technology and telecommunications may suspend the issuance of permits to the telephone company pursuant to subdivision a of this section until such commissions are paid.

§6. a. Notwithstanding any provisions to the contrary of section 23-402 of the administrative code of the city of New York, as added by section 2 of this local law, and subject to compliance with the provisions of subdivision b of this section, an owner of a public pay telephone for which a license has not been issued pursuant to former sections 19-128 and 19-131 of the administrative code of the city of new York shall not be deemed in violation of the provisions of such section for failure to have obtained a permit for such public pay telephone, where such telephone was installed prior to the effective date of this local law, unless and until one of the following has occurred: (i) the owner has declined to respond to the request for proposals or other solicitation of proposals issued by the commissioner of the department of information technology and telecommunications for the purpose of entering into franchise agreements for the installation, operation and maintenance of public pay telephones within the time period specified in such request for proposals or other solicitation of proposals and thirty days have elapsed following such failure to respond; (ii) the commissioner has determined not to propose the award of a franchise to such owner to the franchise and concession review committee and thirty days have elapsed following notification to such owner of the commissioner's determination; or (iii) the franchise and concession review committee has determined not to approve a proposed franchise agreement for such owner and thirty days have elapsed following notification to such owner of the committee's determination; provided, further, that such public pay telephone shall not be deemed in violation of the provisions of section 23-402 of the administrative code of the city of New York, as added by section 2 of this local law if, within any such thirty day period, the owner enters into an agreement for the sale of such public pay telephone to another person who, at the time such agreement is concluded, is either a potential franchisee or has been awarded a franchise, and ownership of such public pay telephone is transferred within thirty days after such agreement is concluded.

b. The provisions of subdivision a of this section shall apply only where: (i) such owner has submitted to the department a registry identifying the location of each telephone installed and activated prior to the effective date of this local law and the date of activation for each such telephone; (ii) the owner has certified, upon a form specified by the commissioner, that all telephones identified in the registry have been installed and are maintained and operated in accordance with all applicable safety standards and requirements; (iii) the owner has paid to the city an annual interim occupancy fee for each

telephone identified in the registry in the amount of \$75.00; and (iv) the commissioner has not objected to the continued maintenance and operation of such telephone as identified and certified in such registry upon the basis that such continued maintenance and operation: (aa) poses a danger to life or property; (bb) unreasonably interferes with the use of a street by the public; (cc) unreasonably interferes with the use of the abutting property; (dd) is a public nuisance within the meaning of subdivision e of section 23-401 of the administrative code of the city of New York, as added by section 2 of this local law; or (ee) interferes with a street widening or other capital project, or, if the commissioner has so objected, the condition which gave rise to such objection has been timely cured. A public pay telephone for which an objection has been made and not timely cured shall be removed immediately by the owner, and if not removed, shall be subject to removal pursuant to section 23-408 of the administrative code of the city of New York. Failure to remove such a public pay telephone shall also be deemed a violation for purposes of subdivisions b and c of section 23-408 of the administrative code of the city of New York, as added by section 2 of this local law. The commissioner shall promulgate rules governing the format and contents of such registries, the documentation of the information set forth therein, the certification to be provided in connection therewith, a timetable for submission of registries, and a procedure for payment of interim occupancy fees. Such rules shall allow for the payment of the interim occupancy fee in quarterly installments and shall include a mechanism for the prorated application of an interim fee towards payment of a permit fee in the event the owner is awarded a franchise prior to expiration of the annual interim period.

c. Any owner who does not submit a registry and pay to the city interim occupancy fees in the manner provided in the rules promulgated pursuant to subdivision b of this section and in accordance with the timetable established thereunder shall immediately remove all public pay telephones installed prior to the effective date of this local law other than telephones licensed pursuant to former sections 19-128 and 19-131 of the administrative code of the city of New York. Upon failure to remove such telephones such telephones shall be subject to removal pursuant to section 23-408 of the administrative code of the city of New York, as added by section 2 of this local law. The failure to submit a registry in accordance with the timetable established pursuant to the rules promulgated pursuant to subdivision b of this section shall also be deemed a violation of section 23-402 of the administrative code of the city, as added by section 2 of this local law, for which an owner shall be guilty of a misdemeanor pursuant to subdivision a of section 23-408 of the administrative code of the city of New York, as added by section 2 of this local law.

d. Notwithstanding any provisions to the contrary of paragraph 1 of subdivision a of section 23-403 of the administrative code of the city of new York, as added by section 2 of this local law, the commissioner of the department of information technology and telecommunications may issue permits pursuant to chapter 4 of title 23 of the administrative code of the city of New York, as added by section 2 of this local law, for the installation, operation and maintenance of new public pay telephones to an owner of a public pay telephone other than the telephone company who has not been awarded a franchise to install and maintain public pay telephones, provided, that: (i) such owner has submitted a registry and paid to the city interim occupancy fees in the manner provided in the rules promulgated pursuant to subdivision b of this section; and (ii) none of the following has occurred: (aa) the owner has declined to respond to the request for proposals

or other solicitation of proposals issued by the department of information technology and telecommunications for the purpose of entering into franchise agreements for the installation, operation and maintenance of public pay telephones within the time period specified in such request for proposals or other solicitation of proposals; (bb) the commissioner has determined not to propose the award of a franchise to such owner to the franchise and concession review committee; or (cc) the franchise and concession review committee has determined not to approve the proposed franchise agreement for such owner. Permits issued pursuant to this subdivision shall expire upon the occurrence of any of the foregoing. In the event the owner is granted a franchise to install, operate and maintain public pay telephones, such permits shall continue in effect for the term of the franchise.

e. In the event an owner of a public pay telephone other than the telephone company is granted a franchise to install and maintain public pay telephones, such owner may apply for the issuance of permits pursuant to chapter 4 of title 23 of the administrative code of the city of New York, as added by section 2 of this local law, with respect to any or all of the public pay telephones identified in a registry submitted pursuant to subdivision c of this section for which : (i) the commissioner made no objection or an objection was timely cured; and (ii) annual interim occupancy fees have been paid; provided however, that the provisions of subparagraph iii of paragraph 2 of subdivision a of Section 23-403 of the administrative code of the city of New York, as added by Section 2 of this local law, shall not apply with respect to an application for issuance of a permit for a public pay telephone where such public pay telephone was installed in the manner described in such subparagraph and activated on, or before August 1, 1994, and has been in continuous use since such activation date. Such applications shall be made no later than thirty days following the date the franchise is granted. Any such public pay telephone for which such owner does not so apply for issuance of a permit shall be removed by the owner within sixty days following the date the franchise is granted and, if not so removed, shall be subject to removal pursuant to section 23-408 of the administrative code of the city of New York, as added by section 2 of this local law. Failure to remove such a public pay telephone shall also be deemed a violation for purposes of subdivisions b and c of section 23-408 of the administrative code of the city of New York, as added by section 2 of this local law. In reviewing an application for the issuance of a permit for an existing public pay telephone made pursuant to this section, the commissioner shall notify the owner of any condition which renders the continued maintenance and operation of such telephone inconsistent with the provisions of this local law, or out of compliance with the rules of the commissioner, or of any federal or state regulatory authority having jurisdiction over the provision of public pay telephones and which, if cured by the owner within such time period as may be specified by the Commissioner, shall render such telephone eligible for receipt of a permit pursuant to this local law. An owner shall not be required to remove an existing public pay telephone for which the owner has submitted an application for a permit pursuant to this paragraph unless and until the earlier of the following has occurred: (aa) the owner fails to timely cure a condition specified in a notification provided by the commissioner pursuant to this paragraph; or (bb) the application for such permit is denied. Any such public pay telephone, if not removed within thirty days of such occurrence, shall be subject to removal pursuant to section 23-408 of the administrative code of the city of New York as added by section 2 of this local law. Failure to remove such a public pay telephone shall

also be deemed a violation for purposes of subdivisions b and c of section 23-408 of the administrative code of the city of New York, as added by section 2 of this local law. Nothing in this section shall be construed to limit the commissioner's authority to issue or deny permits at his or her discretion, or to otherwise pursue the remedies for violations set forth in section 23-408 of the administrative code of the city of New York, as added by section 2 of this local law.

§7. The commissioner may by rule extend any time period provided for in sections 5 and 6 of this local law, based upon a determination that such extension would be in the best interests of the city.

§8. All records of the department of transportation relating to the licensing of public pay telephones shall be transferred to the department of information technology and telecommunications according to a timetable to be established by such agencies.

§9. The department of information technology and telecommunications shall, upon the effective date of this local law and so far as not inconsistent with the provisions of this local law, be authorized to continue any business, proceeding or other matter commenced by the department of transportation pursuant to former section 19-128 of the administrative code of the city of New York.

§10. Subdivision a of section 10-117 of the administrative code is amended to read as follows:

a. No person shall write, paint or draw any inscription, figure or mark of any type on any public or private building or other structure or any other real or personal property owned, operated or maintained by a public benefit corporation, the city of New York or any agency or instrumentality thereof or by any person, firm, or corporation, *or any personal property maintained on a city street or other city-owned property pursuant to a franchise, concession or revocable consent granted by the city*, unless the express permission of the owner or operator of the property has been obtained.

§11. Subdivision a of section 10-119 of the administrative code, as amended by local law 111 for the year 1993, is amended to read as follows:

a. It shall be unlawful for any person to paste, post, paint, print or nail any handbill poster, notice, sign or advertisement upon any curb, gutter, flagstone, tree, lamppost, awning post, telegraph pole, telephone pole, public utility pole, public garbage bin, bus shelter, bridge abutment, elevated train structure, highway fence, barrel, box, parking meter, mailbox, traffic signal stanchion, tree box, bench, traffic barrier [or] , hydrant, *public pay telephone, any personal property maintained on a city street or other city-owned property pursuant to a franchise, concession or revocable consent granted by the city* or other such item or structure in any street, or to direct, suffer or permit any servant, agent, employee or other person under his or her control to engage in such activity, provided, however, that this section shall not apply to any handbill, poster, notice, sign or advertisement so posted by or under the direction of the council, or by or under the direction of any city agency, or pursuant to a franchise, concession or revocable consent granted pursuant to chapter fourteen of the charter.

§12. This local law shall take effect one hundred eighty days after it shall have been enacted into law provided that sections 10 and 11 become effective immediately. The commissioner of the department of information technology and telecommunications and the environmental control board shall be authorized, prior to the one hundred eighty day effective date, to promulgate rules or take any other actions necessary for the timely implementation of this local law.

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 68 of 1995, Council Int. No. 121-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