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Int. No. 427

By Council Members Vacca, Dromm, Garodnick, Cumbo, Koo, Mendez, Rodriguez, Rosenthal and Kallos

A Local Law to amend the administrative code of the city of New York, in relation to newsrack requirements.

Be it enacted by the Council as follows:

Section 1. Subdivisions a, b and d of section 19-128.1 of the administrative code of the city of New York are amended to read as follows:

a. Definitions. For purposes of this section, the following terms shall have the following meanings:

1. "Newsrack" shall mean any self-service or coin-operated box, container or other dispenser installed, used or maintained for the display, sale or distribution of [newspapers or other written matter] publications to the general public. A newsrack may be modular or single.

[2. "Person" shall mean a natural person, partnership, corporation, limited liability company or other association.

3. "Sidewalk" shall mean that portion of a street between the curb lines or the lateral lines of a roadway

and the adjacent property lines, but not including the curb, intended for the use of pedestrians.]

2. "Modular newsrack" shall mean a newsrack that is designed with multiple enclosed compartments to accommodate the display, sale or distribution of multiple publications to the general public.

3. "Single newsrack" shall mean a newsrack that is designed to accommodate the display, sale or distribution of one publication to the general public.

4. "Crosswalk" shall mean that part of a roadway, whether marked or unmarked, which is included within the extension of the sidewalk lines between opposite sides of the roadway at an intersection.

5. "Crosswalk area" shall mean that area of the sidewalk bounded by the extension of the lines of a crosswalk onto the sidewalk up to the building or property line.

6. "Corner area" shall mean that area of a sidewalk encompassed by the extension of the building lines to the curb on each corner.

7. "Board" shall mean the environmental control board of the city of New York.

8. "Close proximity" shall mean a distance adjacent to an area designed to facilitate safe ingress or egress that will reasonably permit and protect such safe ingress or egress.

9. "Owner" shall mean a natural person, partnership, corporation, limited liability company or other association in ownership of one or more newsracks.

10. "Bus stop" shall mean that area of sidewalk which begins at the bus stop sign, continues in the opposite direction of traffic, and ends at the next regulatory sign, or, if there is no sign, at the corner area.

11. "Sidewalk block" shall mean the areas of sidewalk on both sides of a roadway, spanning from one intersection to the next intersection.

12. "Modular newsrack plan" shall mean a plan submitted to the department pursuant to subdivision g of this section.

13. "Historically present publication" shall mean a publication that was offered from a single newsrack on the sidewalk block(s) identified in a modular newsrack plan within the six months immediately preceding submission of such plan to the department.

14. "Publication" shall mean a newspaper, periodical, or other similar written matter.

b. Requirements. It shall be a violation [for any person] to place, install or maintain a newsrack on any sidewalk unless such newsrack is in compliance with the provisions of this section.

1. [The maximum height of any newsrack containing a single publication shall be fifty inches. The maximum width of any such newsrack shall be twenty-four inches. The maximum depth of any such newsrack shall be twenty-four inches.] Newsracks shall be made of materials approved by the department, and shall conform to standards developed by the department regarding the size, shape, and appearance of such newsracks.

2. No newsrack shall be used for advertising or promotional purposes, other than announcing the name and/or website of the [newspaper or other written matter] publication offered for distribution in such newsrack. A publication offered in a modular newsrack installed after January 1, 2015 may display its logo on the door of the space(s) in which it is offered, in a size not to exceed fifty percent of the door space.

3. Each newsrack used to sell [newspapers or other written matter] publications shall be equipped with a coin return mechanism in good working order so as to permit a person to secure a refund in the event that the newsrack malfunctions.

4. The owner [or person in control of each newsrack] shall affix [his or her] to the newsrack the owner's name, address, telephone number, and email address, if any, [on the newsrack] in a readily visible location on the front or sides of the newsrack and shall conform such information to any changes required to be reported to the department in accordance with the provisions of subdivision c of this section. In no event shall a post office box be considered an acceptable address for purposes of this paragraph.

5. Subject to the limitations set forth in this section, newsracks shall be placed near a curb.

6. A newsrack shall not be placed, installed or maintained: (a) within fifteen feet of any fire hydrant; (b) in any driveway or within close proximity of any driveway; (c) in any curb cut designed to facilitate street access by disabled persons or within two feet of any such curb cut; (d) within close proximity of the entrance or exit of any railway station or subway station; (e) within any bus stop; (f) within a crosswalk area; (g) within a corner area or within five feet of any corner area; (h) on any surface where such installation or maintenance will cause damage to or will interfere with the use of any pipes, vault areas, telephone or electrical cables or other similar locations; (i) on any cellar door, grating, utility maintenance cover or other similar locations; (j) on, in or over any part of the roadway of any public street; (k) unless eight feet of sidewalk width is preserved for unobstructed pedestrian passage; (l) in any park or on any sidewalk immediately contiguous to a park where such sidewalk is an integral part of the park design, such as the sidewalks surrounding Central Park or Prospect Park; (m) on any area of lawn, flowers, shrubs, trees or other landscaping or in such a manner that use of the newsrack would cause damage to such landscaping; [or] (n) within four feet of street furniture; (o) within five feet of a bike share station; (p) within eight feet of a bike rack; (q) within five feet of a department of

environmental protection water sampling station; or (r) where such placement, installation or maintenance endangers the safety of persons or property. Any limitation on the placement or installation of newsracks pursuant to this paragraph shall be no more restrictive than necessary to ensure the safe and unobstructed flow of pedestrian and vehicular traffic, and otherwise to assure the safety of persons and property.

7. [Every newsrack] The department shall develop standards regarding the placement of newsracks including, but not limited to, the manner in which newsracks shall be placed or installed [in a manner that will ensure that such newsrack cannot be tipped] to prevent newsracks from tipping over. In the event of non-compliance with such standards, the commissioner shall issue a notice of correction as provided in subparagraph a of paragraph one of subdivision f of this section.

d. Indemnification and insurance. 1. Each [person who owns or controls] owner of a newsrack placed or installed on any sidewalk shall indemnify and hold the city harmless from any and all losses, costs, damages, expenses, claims, judgments or liabilities that the city may incur by reason of the placement, installation or maintenance of such newsrack, except to the extent such damage results from the negligence or intentional act of the city.

2. Each [person who owns or controls] owner of a newsrack placed or installed on any sidewalk shall maintain a general liability insurance policy naming the city of New York, and its departments, boards, officers, employees and agents as additional insureds for the specific purpose of indemnifying and holding harmless those additional insureds from and against any and all losses, costs, damages, expenses, claims, judgments or liabilities that result from or arise out of the placement, installation and/or the maintenance of any newsrack. The minimum limits of such insurance coverage shall be no less than three hundred thousand dollars combined single limit for bodily injury, including death, and property damage, except that any [person] owner who maintains an average of one hundred or more newsracks at any one time shall maintain such minimum insurance coverage of one million dollars. An insurance certificate demonstrating compliance with the requirements of this subdivision shall be submitted annually by December 31st to the commissioner by the [person who owns or controls] owner of such insured newsracks. Should said policy be called upon to satisfy any liability for damages covered by said policy, the policy must be of such a nature that the original amount of coverage is restored after any payment of damages under the policy. Failure to maintain a satisfactory insurance policy pursuant to this subdivision or failure to submit an annual insurance certificate to the commissioner pursuant to this subdivision, shall be deemed a violation of this section subject to subparagraph b-1 of paragraph one of subdivision f of this section.

§ 2. If any portion of this local law is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such

unconstitutionality or invalidity shall not affect the validity of the remaining portions of this law, which shall continue in full force and effect.

§ 3. This local law shall take effect ninety days after it shall have become a law, except that the commissioner of the department of transportation may take all actions necessary, including the promulgation of rules, to implement this local law on or before the date upon which it shall take effect.

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