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**Sponsors:** Daniel R. Garodnick, Daniel Dromm, James Vacca, Peter A. Koo, Rosie Mendez, Helen K. Rosenthal, Ben Kallos

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Int. No. 412

By Council Member Garodnick, Dromm, Vacca, Koo, Mendez, Rosenthal and Kallos

A Local Law to amend the administrative code of the city of New York in relation to modular newsracks.

Be it enacted by the Council as follows:

Section 1. Subdivisions c and g of section 19-128.1 of the administrative code of the city of New York is amended to read as follows:

c. Notification to city [of location of newsrack]. 1. (a) [Where a newsrack has been placed or installed on a sidewalk before the effective date of this section, the owner or person in control of such newsrack shall, within sixty days after such effective date,] The owner shall, prior to placing or installing any newsrack on a sidewalk, submit the following information to the commissioner on a form [identifying] or in a manner prescribed by the commissioner: (i) the address of such newsrack; (ii) the name, address, telephone number, and email address of the [newspaper(s) or written matter] publication(s) to be offered for distribution in such newsrack; [and] (iii) the owner's name, address, telephone number, and email address [of the owner or person in control of such newsracks]; (iv) the delivery schedule for the publication(s) to be offered for distribution in

such newsrack; and [representing] (v) a certification that such [newsracks comply] newsrack complies with the provisions of this section.

(b) [Any other owner or person in control of a newsrack shall, prior to placing or installing such newsrack on a sidewalk, submit to the commissioner a form providing the information in clauses (ii) and (iii) of subparagraph (a) of this paragraph.] Within two business days of receipt of the information required in subparagraph a of this paragraph, the department shall provide the owner with a unique identification number for each newsrack. The owner shall affix the unique identification number in a readily visible location on the front or sides of the newsrack within ten days of receipt from the department.

(c) Subsequent to the initial notification requirements set forth in subparagraph a of this paragraph, the owner shall resubmit the information set forth in subparagraph a of this paragraph once a year to the commissioner in accordance with a notification schedule to be established by the commissioner.

2. [Subsequent to the initial notification requirements set forth in paragraph one of this subdivision, the owner or person in control of any newsrack shall submit the information set forth in subparagraph a of such paragraph once a year to the commissioner in accordance with a notification schedule to be established by the commissioner. However, if the number of newsracks owned or controlled by such owner or person increases or decreases by ten percent or more of the number of newsracks that have been included in the most recent notification required to be submitted by such owner or person, such owner or person shall also be required to submit the information set forth in such paragraph within seven days of such change, and provided, further, that such owner or person shall advise the department of any change in his or her name or address] Notwithstanding any other notification requirement herein, if there is a change to any of the information required to be submitted pursuant to subparagraph a of paragraph one of this subdivision, the owner shall submit the information required by such subparagraph with the relevant updated information within seven days of such change.

3. [Notification to the city, as required by paragraphs 1 and 2 of this subdivision, may be submitted to the department electronically.] If an owner removes any newsrack, such owner shall notify the department within seven days of such removal of the number of newsracks removed, the unique identification number of each newsrack removed, and the number of newsracks remaining, and shall certify that the sidewalk and any other affected city property is restored pursuant to paragraph five of subdivision e of this section.

4. Notification to the city, as required by paragraphs one, two, and three of this subdivision, may be submitted to the department electronically.

g. [Severability. If any subdivision, paragraph, subparagraph, sentence or clause of this section is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such

decision shall not affect the validity of the remaining portions of this section.] Submission of modular newsrack plan. 1. No modular newsrack shall be placed or installed on a sidewalk after January 1, 2015 unless such newsrack has been included in a modular newsrack plan approved by the department pursuant to this section.

2. Any person or entity may submit a modular newsrack plan to the department to request replacement of single newsracks with one or more modular newsracks in all or part of a community district or business improvement district. Such plan shall set forth:

(a) each sidewalk block where at least one modular newsrack is being proposed for installation;

(b) the number of different historically present publications on each sidewalk block identified in the plan, and the title of each such publication;

(c) the number of historically present publications that are offered at more than one single newsrack on each sidewalk block identified in the plan, and the title of each such publication;

(d) the number of publications that will be accommodated by modular newsrack on each sidewalk block identified in the plan, which number shall not be less than the number of different historically present publications identified in subparagraph b of this paragraph;

(e) the proposed location on each sidewalk block of each modular newsrack;

(f) the proposed schedule for implementing the plan, including installation of the modular newsrack (s), should the plan be approved by the department;

(g) a mechanism that allows non-historically present publications to apply to the owner for, and without unreasonable delay, be granted, space within a modular newsrack on the sidewalk block(s) identified by such owner, if space exists within such modular newsrack; and

(h) any other information that the department considers necessary to assess the plan.

3. Any person or entity submitting a modular newsrack plan to request replacement of single newsracks with one or more modular newsracks pursuant to this subdivision shall provide a copy of such modular newsrack plan to the community board for each community district in which a modular newsrack is proposed to be located within such plan. Within forty-five days of the receipt of the plan, the community board shall forward any comments on such plan to the department.

4. Any owner that has already obtained approval from the department prior to January 1, 2015 to install modular newsracks need not submit a new modular newsrack plan pursuant to this subdivision, provided, however, that the restrictions on the placement of single newsracks contained in subdivision n of this section

shall not take effect in such community district or business improvement district until such owner submits a modular newsrack plan for department approval pursuant to this section, and provided further that such owner must submit a modular newsrack plan in order to install any additional modular newsracks.

§ 2. Section 19-128.1 of the administrative code of the city of New York is amended by adding new subdivisions h through p to read as follows:

h. Consultation with publications. Any person or entity submitting a modular newsrack plan to request replacement of single newsracks with modular newsracks pursuant to subdivision g of this section shall contact all of the historically present publications in the plan in order to discuss the proposed location of each modular newsrack on the identified sidewalk block(s), and to offer such publications first access to a space within a modular newsrack. Proof of such communication shall be submitted to the department along with the modular newsrack plan.

i. Review of modular newsrack plan. The department shall take into consideration any comments received from a community board on a modular newsrack plan and shall review the modular newsrack plan for its conformity to the following criteria:

1. sufficient modular newsrack space exists to accommodate all historically present publications identified in the plan;

2. every historically present publication identified in the plan was offered a space within a modular newsrack on that same sidewalk block;

3. implementation of such plan will not violate subdivision b of this section;

4. the plan contains a mechanism that allows non-historically present publications to apply for and, without unreasonable delay, be granted space within a modular newsrack on the identified sidewalk block(s) in accordance with the provisions of this section, if space exists within such modular newsrack;

5. the plan was submitted to the applicable community board(s) as required; and

6. the plan includes any other information that the department considers necessary to assess the plan.

j. Modification of modular newsrack plan. The department may require modification of a modular newsrack plan based on comments received from a community board on such plan and in order to ensure that the criteria contained in subdivision i of this section are satisfied.

k. Compliance with modular newsrack plan. Modular newsrack plans shall be implemented in compliance with their terms and the provisions of subdivision i of this section. In the event of non-compliance,

the commissioner shall issue a notice of correction as provided in subparagraph a of paragraph one of subdivision f of this section.

1. Allocation of publication space. 1. The modular newsrack owner must accommodate a publication's request for space within its modular newsrack(s) within ninety days of receipt of such request, if space is available in such modular newsrack. In the event of non-compliance, the commissioner shall issue a notice of correction as provided in subparagraph a of paragraph one of subdivision f of this section.

2. A publication shall not be placed in more than one space in any modular newsrack. A publication may be placed in two modular newsracks upon the same sidewalk block, provided that all other publications seeking a space in a modular newsrack on such sidewalk block have been offered a space. If a publication is placed in two modular newsracks on the same sidewalk block and another publication seeks a space on such sidewalk block, the publication with two spaces on such sidewalk block must promptly vacate one of the two modular newsracks.

m. Notice by modular newsrack owner. Upon department approval of a modular newsrack plan, modular newsrack owners must submit written notice to all owners of single newsracks located on the sidewalk block(s) identified in an approved modular newsrack plan. Such notice shall state that modular newsracks have been approved by the department for operation on such sidewalk block(s) in accordance with such plan. A copy of such notice, along with proof of notice to all owners of single newsracks located on the sidewalk block (s) identified in an approved modular newsrack plan, shall be submitted to the department prior to installation of the modular newsracks.

n. Distance restriction. 1. No single newsrack shall be placed on a sidewalk block containing a modular newsrack except as provided in this subdivision. The owner of any single newsrack located on the sidewalk block(s) identified in an approved modular newsrack plan shall remove such single newsracks within thirty days after receiving the written notice provided by the modular newsrack owner pursuant to subdivision m of this section. In the event of non-compliance, the commissioner shall issue a notice of correction as provided in subparagraph a of paragraph one of subdivision f of this section.

2. Single newsracks may only be placed on a sidewalk block containing a modular newsrack when insufficient modular newsrack space exists for the publication to be contained in such modular newsrack.

o. Modular newsrack cost and fees. The modular newsrack owner shall bear the entire cost of maintaining its newsrack and shall not charge any fee to publications occupying space in its modular newsrack (s), except for reasonable fees as set forth by the department relating to the initial purchase of newsrack doors, including any coin mechanisms, and repair or replacement of newsrack doors and door parts. In the event of

non-compliance, the commissioner shall issue a notice of correction as provided in subparagraph a of paragraph one of subdivision f of this section. The department shall make available on its website, and annually update, a schedule of fees relating to the initial purchase of newsrack doors and repair or replacement of newsrack doors and door parts.

p. Severability. If any subdivision, paragraph, subparagraph, sentence or clause of this section is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this section.

§ 3. 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.

§ 4. 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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