



Legislation Details (With Text)

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Int. No. 441

By Council Members Katz and Comrie (by request of the Mayor)

A Local Law to amend the administrative code of the city of New York in relation to the installation and maintenance of newsstands pursuant to a franchise and the placement of advertising on newsstands.

Be it enacted by the Council as follows:

Section 1. Section 20-229 of the administrative code of the city of New York, as amended by local law number 41 for the year 1998, is amended to read as follows:

§20-229 License required. No person shall maintain or operate a newsstand unless licensed pursuant to this subchapter, and unless the operation of the newsstand is his or her principal employment. No license shall be granted to an operator of a newsstand installed and maintained by a franchisee pursuant to a franchise granted pursuant to chapter fourteen of the city charter unless such operator has made the annual payment of the amortized cost of construction or lesser applicable sum for the first year of the term of the

license in accordance with paragraph one of subdivision c of section 20-241.1 of this subchapter. No license shall be renewed for such an operator unless such operator has made the annual payments due for the term of the license that is expiring, including any interest due with respect to any late payment of such cost or sum, and has made the annual payment due for the first year of the term of such renewal, in accordance with paragraph one of subdivision c of such section 20-241.1.

§2. Subdivisions c and d of section 20-231 of the administrative code of the city of New York are amended to read as follows:

c. No new license shall be issued under section 20-229 unless approval for the location has been obtained from the department of transportation. [No] Upon the grant of a franchise to install and maintain newsstands pursuant to chapter fourteen of the city charter, no new license shall be granted except for operation of a newsstand installed and maintained pursuant to such franchise. Except as otherwise provided in subdivision j of this section, no license issued under section 20-229 shall be renewed if the department of transportation determines that the newsstand so licensed poses an obstruction to the free use of sidewalks by pedestrians at the time of review.

d. [No] Except as otherwise provided in subdivision j of this section, no license shall be issued, nor a renewal granted, to any newsstand occupying an area of more than fifty and less than seventy-two square feet unless approval of the area occupied has been obtained from the department of transportation.

§3. Subdivision e of section 20-231 of the administrative code of the city of New York, as amended by local law number 66 for the year 1991, is amended to read as follows:

e. [No] Except as otherwise provided in subdivision j of this section, no newsstand shall occupy an area of more than seventy-two square feet or have a height of over nine feet. However, any newsstand that occupied an area of more than seventy-two square feet on the first day of August, nineteen hundred seventy-nine may continue to operate within that area until the thirty-first day of July, nineteen hundred eighty. [In] Except as otherwise provided in such subdivision j, in no event shall there be less than a width of nine and one-

half feet maintained on the sidewalk for pedestrian movement. The provision of this section requiring that no less than nine and one-half feet be maintained on the sidewalk for pedestrian movement shall not apply to any newsstand which was first licensed by the department prior to the first day of August, nineteen hundred seventy-nine where the person who held the license for such newsstand on the first day of August, nineteen hundred ninety-one continues to be the licensee for such newsstand; provided, however, that, except as otherwise provided in such subdivision j, where a newsstand which was first licensed prior to the first day of August, nineteen hundred seventy-nine is reconstructed in its entirety or in substantial part, which reconstruction was commenced on or after the first day of August, nineteen hundred ninety-one, such newsstand shall be subject to such requirement that no less than nine and one-half feet be maintained on the sidewalk for pedestrian movement.

§4. Subdivision h of section 20-231, as amended by local law number 41 for the year 1998, is amended to read as follows:

h. After November first, nineteen hundred seventy-nine, no newsstand may be operated unless its design has been approved by the art commission. The art commission shall evaluate newsstand designs in conformity with guidelines to be established by the department of city planning. Approval or disapproval of a design submission shall be issued within thirty days of filing an application with the commission.

[Any] Except as otherwise provided in subdivision j of this section, any individual who was licensed on the first day of August, nineteen hundred seventy-nine and whose newsstand occupies an area of fifty square feet or less may continue to operate that structure without approval of its design. Any individual who was licensed on the first day of August, nineteen hundred seventy-nine and whose newsstand occupies an area of between fifty and seventy-two square feet may continue to operate that newsstand without approval of its design until November first, nineteen hundred eighty.

§5. Subdivision i of section 20-231 of the administrative code of the city of New York, as amended by local law number 41 for the year 1998, is amended to read as follows:

i. No advertising shall be placed on any newsstand other than advertising placed by a person granted a franchise to install and maintain newsstands pursuant to chapter fourteen of the city charter on newsstands installed and maintained pursuant to such franchise.

§6. Section 20-231 of the administrative code of the city of New York is amended by adding a new subdivision j to read as follows:

j. A newsstand, the location or dimensions of which were not in violation of the provisions of this subchapter or any rule promulgated pursuant thereto at the time of the grant of a franchise to install and maintain newsstands pursuant to chapter fourteen of the city charter, may be reconstructed at such location by such franchisee, provided that such reconstruction does not expand or change the location of such newsstand for any reason, including compliance with the requirements of any provision of law in effect at the time of such reconstruction, such as the requirements of the Americans with Disabilities Act.

§7. Subchapter 7 of title 20 of the administrative code of the city of New York is amended by adding a new section 20-241.1 to read as follows:

§20-241.1 Newsstands installed and maintained pursuant to a franchise. a. Construction. Upon the grant of a franchise to install and maintain newsstands pursuant to chapter fourteen of the city charter, no operator or other person shall construct or install a newsstand other than a franchisee granted such a franchise. Newsstands installed and maintained pursuant to such a franchise shall comply with all applicable law, rules and regulations.

b. Transition. Upon the grant of a franchise to install and maintain newsstands pursuant to chapter fourteen of the city charter, each operator of a newsstand licensed pursuant to this subchapter shall be provided with notice when such newsstand structure is to be replaced by a newsstand installed and maintained pursuant to such franchise at a location approved by the department of transportation. The newsstand operator shall have the option of removing the existing structure or such structure shall be removed by the franchisee granted such franchise. Operation of the newsstand licensed pursuant to this subchapter shall cease during such

time as the newsstand is replaced. Upon being notified of the completion of the replacement of the newsstand, the licensee may resume operation pursuant to the terms of his or her license and the provisions of this subchapter.

c. Costs, fees. 1. An operator of a newsstand that has been constructed pursuant to such a franchise shall be liable for payment of the lesser of (i) the cost, which shall include interest on any unpaid balance at the rate of three percent per year, of the construction of the newsstand by the franchisee granted such franchise in accordance with this subdivision, or (ii) the sum of forty-five thousand dollars. Such cost or lesser sum shall be amortized over the period commencing with the construction of such newsstand by such franchisee and ending upon the expiration of the term of such franchise. An operator shall make payments to the franchisee of the amortized cost of construction or lesser sum in annual installments, the first of which shall be due at the beginning of the term of the license and the second of which shall be due at the beginning of the second year of such term. Late payment of the annual installment due at the beginning of the second year of the term of the license shall be subject to an additional charge for interest at the rate of one and one-half percent per month. The obligation to make such annual payments shall apply to any successor to the operator who first operates the newsstand constructed pursuant to such franchise. The department shall determine the applicable construction costs for purposes of this paragraph, which costs shall be limited to the costs incurred by the franchisee and certified by the franchisee to the department, and shall determine the allocation of such costs among the operators and their successors during the term of the franchise.

2. An operator of such a newsstand shall be liable for the payment to the department of the biennial fee for a license to operate a newsstand payable in accordance with subdivision b of section 20-230 of the code.

d. Enforcement. Notwithstanding any other provision of law to the contrary, the commissioner shall be authorized, after notice and an opportunity to be heard, to order any person who is unlawfully operating a newsstand that has been constructed or installed by a person other than the franchisee in violation of

subdivision a of this section to remove such newsstand within seven days of the issuance of such order. Such order shall be posted at the premises of such newsstand. If such person does not remove such newsstand within seven days of the issuance of such order, an authorized officer or employee of any city agency or a police officer is authorized to provide for the removal of such person's newsstand and the contents thereof to a place of safety. If such newsstand or the contents thereof are not claimed within thirty days after their removal, they shall be deemed to be abandoned and may be either sold at a public auction after having been advertised in the City Record, the proceeds thereof being paid into the general fund, used or converted for use by the department or another city agency, or otherwise disposed of. Newsstands and the contents thereof that are removed pursuant to this subdivision shall be released to the owner or other person lawfully entitled to possession upon payment of the costs for removal and storage and any civil penalty imposed for the violation or, if an action or proceeding for the violation is pending, upon the posting of a bond or other form of security acceptable to the department in an amount which will secure the payment of such costs and any penalty which may be imposed for the violation. In the event that any removal made pursuant to this subdivision shall include any perishable items, goods, or food products which cannot be retained in custody without such items, goods, or food products becoming unwholesome, putrid decomposed or unfit in any way, they may be delivered to the commissioner of health and mental hygiene for disposition pursuant to the provisions of section 17-323 of this code.

§8. This local law shall take effect on the later of the date on which it is enacted into law or the date upon which a resolution authorizing the department of transportation to grant nonexclusive franchises for the installation, operation and maintenance of coordinated franchise structures is passed by the city council, whichever date is later, provided that the department of consumer affairs and the department of transportation may take any actions necessary to effectuate the provisions of this local law prior to its effective date, including the promulgation of rules prior to such date.