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Int. No. 502

By Council Members Katz, Brewer, Comrie, Jackson, McMahon, Perkins, Quinn and Sears

A Local Law to amend the administrative code of the city of New York, in relation to the regulation of outdoor advertising and repealing sections 5, 6, 7 and 8 of local law 14 for the year 2001 in relation thereto.

Be it enacted by the Council as follows:

Section 1. Sections 5, 6, 7, and 8 of local law number 14 for the year 2001 are REPEALED.

§2. Subdivisions a, c and g of section 26-127.3 of the administrative code of the city of New York, as added by local law number 14 for the year 2001, are amended to read as follows:

a. A sign with a surface area greater than [two] three hundred square feet that is erected, maintained, attached, affixed, painted on, or in any other manner represented on a building or premises in violation of the zoning resolution, the administrative code or rules adopted pursuant thereto is hereby declared to be a public nuisance. The commissioner may, after notice and hearing, order the removal of such illegal sign or its sign structure or

both, as hereinafter provided.

c. The office of administrative trials and hearings shall conduct the hearing. The administrative law judge assigned to hear the matter shall submit his or her proposed findings of fact and recommended disposition to the commissioner. If based on such recommended disposition, proposed findings of fact and the record of the hearing the commissioner determines (i) that the sign has a surface area greater than [two] three hundred square feet and, (ii) that the sign has been erected, maintained, attached, affixed, painted on, or in any other manner represented on the building or premises in violation of the zoning resolution, the administrative code or rules adopted pursuant thereto, he or she may order the removal of the illegal sign or its sign structure or both.

g. The costs and expenses for painting over, covering, rendering ineffective or for the removal and storage of such sign and its sign structure may be recovered from the owner of the premises or, if the illegal sign is under the control of an outdoor advertising company and notice was served on such company in accordance with subdivision b of this section, from such outdoor advertising company. Such amounts may be recovered by the city in an action or proceeding in any court of appropriate jurisdiction and, with respect to amounts owed by an outdoor advertising company, by drawing upon any bond posted or other security provided by such company pursuant to section 26-260 of this code. Nothing in this subdivision shall be construed to limit the ability of an owner to seek recovery of such costs and expenses from any other party.

§3. Subdivision a of section 26-253 of the administrative code of the city of New York, as added by local law number 14 for the year 2001, is amended to read as follows:

a. On and after a date to be provided by rule, and subject to the provisions of section 26-258 of this code, it shall be unlawful to place or maintain a sign , as defined in section 12-10 of the zoning resolution, on any building or premises [in zoning districts M 1, M 2, M 3, C 6-5, C 6-7, C 7, or C 8] unless a permit for the maintenance of such sign has been issued by the department pursuant to this article if [:

(i)] such sign is within a distance of [two] seven hundred linear feet from and within view of an arterial

highway or within a distance of two hundred linear feet from and within view of a public park with an area of one half acre or more. [or

(ii) such sign is not within a distance of two hundred linear feet from an arterial highway or a public park with an area of one half acre or more but is within view of an arterial highway or within view of a public park with an area of one half acre or more and there are more square feet in the surface area of such sign than there are linear feet in the distance of such sign from such arterial highway or park.]

§4. Section 26-258 of the administrative code of the city of New York, as added by local law number14 for the year 2001, is amended to read as follows:

§26-258 Exemption. The provisions of this article shall not apply to: [(i)] signs with a surface area of [two] three hundred square feet or less that are located no higher than three feet above the floor of the second story of the building on which the sign is located[; and (ii) advertising signs which have legal non-conforming use status pursuant to the zoning resolution, provided an outdoor advertising company or other person provides evidence of such status in a form satisfactory to the commissioner].

§5. Subdivisions a and b of section 26-259 of the administrative code of the city of New York, as added by local law number 14 for the year 2001, are amended to read as follows:

a. The term "affiliate" means an outdoor advertising company having a controlling interest in another outdoor advertising company or in which such other outdoor advertising company has a controlling interest. In addition, where a person or entity has controlling interests in two or more outdoor advertising companies, such outdoor advertising companies shall be considered affiliates of each other. A "controlling interest" means actual working control, in whatever manner exercised, including without limitation, control through ownership, management, debt instruments or negative control, as the case may be, as defined in rules of the department.

b. The term "outdoor advertising company" means a person, corporation, partnership or other business entity that as a part of the regular conduct of its business engages in or, by way of advertising, promotions or other methods, holds itself out as engaging in the outdoor advertising business. [Such term shall not include

the owner or manager of a building or premises who markets space on such building or premises directly to advertisers.]

§6. Subdivisions c and d of section 26-260 of the administrative code of the city of New York, as added by local law number 14 for the year 2001, are amended to read as follows:

c. Each outdoor advertising company shall post a bond or provide another form of security to the city[, with a surety approved by the department] in an amount to be determined by the department [,] by rule [based on the number of signs and any supporting structures therefor under the control of such company]. The bond or other security shall be conditioned such that the obligor:

(1) will pay all costs incurred by the city pursuant to section 26-127.3 of this code for painting over, covering, rendering ineffective or for the removal and storage of an illegal sign or sign structure under the control of such outdoor advertising company.

(2) will pay all fines or civil penalties imposed against such company pursuant to this article.

d. The department may revoke, suspend or refuse to renew the registration of an outdoor advertising company or impose fines or other penalties where it is determined by the commissioner, after notice and the opportunity to be heard, that (i) such company has made statements that it knew or should have known are false in any application or certification filed with the department, (ii) such company has failed to comply with subdivision a of section 26-261 of this code or the rules adopted pursuant to its provisions by failing to file a listing of [all] signs and sign locations under its control as specified in such section within the time and in the manner required by department rules or by filing an incomplete listing of signs and sign locations under its control as specified in such section, (iii) such company has been found liable for [civil penalties] or has admitted to violations of the zoning resolution under section 26-262 of this code on [repeated] three or more occasions[, and has failed to adopt and implement appropriate corrective action and internal control measures in a timely fashion pursuant to the department's rules]within a thirty-six month period, where such violations relate to the erection, maintenance, attachment, affixing, painting , or representation in any other manner on a

building or premises of advertising signs in a manner contrary to the zoning resolution, and such signs are located within a distance of seven hundred feet from and within view of an arterial highway or within two hundred feet from and within view of a public park with an area of one half acre or more, (iv) such company has been found liable for or has admitted to violations of the zoning resolution, administrative code or rules adopted pursuant thereto relating to signs violations on six or more occasions within a thirty-six month period, [(iv)] (v) such company has failed to pay any civil penalties imposed pursuant to section 26-262 or amounts owed to the city pursuant to section 26-127.3 of this code or, [(v)] (vi) such company has violated the department's rules pertaining to outdoor advertising companies. No application for registration by an outdoor advertising company or any affiliate thereof shall be accepted for filing by the department for a period of five years after revocation of or the refusal to renew the registration of such outdoor advertising company pursuant to this subdivision. The department shall not accept or process any applications for permits to install, erect or alter signs pursuant to section 27-147, 27-148 and article sixteen of sub-chapter one of title twenty-seven of this code or for the maintenance of signs pursuant to section 26-253 where such applications are filed by or where such signs are under the control of an outdoor advertising company or any affiliate thereof after the registration of such outdoor advertising company has been revoked or not renewed or during the term of any period of suspension of such registration. The commissioner may settle any proceeding in which the revocation, suspension or renewal of an outdoor advertising company's registration is at issue upon such terms and conditions as he or she may deem appropriate including but not limited to the agreement of an outdoor advertising company to remove signs along with supporting sign structures as a condition for the dismissal of such proceeding..

§7. Subdivision a of section 26-261 of the administrative code of the city of New York, as added by local law number 14 for the year 2001, is amended to read as follows:

a. An outdoor advertising company shall provide the department with a listing with the location of [all] signs, sign structures and sign locations under the control of such outdoor advertising company in accordance

with the following provisions:

(1) The listing shall include all signs, sign structures and sign locations on buildings or premises located (i) within a distance of seven hundred linear feet from and within view of an arterial highway; or (ii) within a distance of two hundred linear feet from and within view of a public park with an area of one half acre or more.

(2) In addition to the signs, sign structures and sign locations required to be reported pursuant to paragraph one of this subdivision, the commissioner may, by rule, expand the scope of such listing to include the reporting of other signs, sign structures and sign locations, as specified in such rule.

(3) The listing shall be in such form, containing such information and filed at such periodic intervals, as the department shall prescribe by rule.

(4) Such listing shall also indicate the permit identification numbers for the erection, alteration or installation of such signs pursuant to section 27-147, 27-148 and article sixteen of sub-chapter one of title twenty-seven of this code and [, if applicable,] for the maintenance of such signs pursuant to section 26-253, unless a permit is not required pursuant to such provisions, as well as the name and license number of the master or special sign hanger who hung or erected each such sign.

(5) Such listing shall contain a certification by an architect or engineer, co-signed by a responsible officer of the outdoor advertising company that all signs [under the control of such outdoor advertising company] reported on such listing are in compliance with the zoning resolution[, the administrative code and rules relating thereto].

(6) The commissioner shall make all listings filed pursuant to this subdivision accessible to the public.

§8. Subdivision d of section 26-262 of the administrative code of the City of New York, as added by local law number 14 of the year 2001, is amended to read as follows:

d. On and after a date to be provided by rule, it shall be unlawful to erect, maintain, attach, affix, paint on, or in any other manner represent on a building or premises any sign that is under the control of an

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unregistered outdoor advertising company. In addition to or as an alternative to any other remedies or penalties provided under any other provision of law, the commissioner may commence a proceeding for the removal of such sign or its sign structure or both in accordance with the procedures set forth in section 26-127.3 of this code for the abatement of a nuisance and any such sign and its structure is hereby declared to be a public nuisance pursuant thereto. All of the provisions of section 26-127.3 shall apply to the removal of a sign pursuant to this section except that a sign under the control of an unregistered outdoor advertising company may be removed whether or not it is in compliance with the zoning resolution, the administrative code or rules adopted pursuant thereto, and irrespective of whether it has a surface area greater than [one] three hundred [fifty] square feet.

§9. This local law shall take effect immediately.

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