



Legislation Text

File #: Int 0657-1999, **Version:** *

Int. No. 657

By: The Speaker (Council Member Vallone) and Council Members Pinkett, Spigner, Robles, Clarke, Cruz, DiBrienza, Eisland, Foster, Freed, Harrison, Koslowitz, Lasher, Leffler, Linares, Malave-Dilan, Marshall, Michels, O'Donovan, Perkins, Quinn, Reed, Rivera, Robinson, Rodriguez, Carrion, Henry, McCaffrey, Miller, Moskowitz, Nelson, Povman, Warden and White-read and referred to the Committee on Governmental Operations.

A Local Law to amend the administrative code of the city of New York, in relation to expressive activities on the steps of City Hall and the areas adjacent to the steps, to be known as the City Hall Access Law.

Be it enacted by the Council as follows:

Section 1. Declaration of Legislative Findings and Intent. The Council hereby recognizes that City Hall is the principal seat of government for the city of New York housing both the legislative and executive branches of government. The steps of City Hall and the areas adjacent have long served as settings for press conferences, public ceremonies, and political or other ideological expressive gatherings among individuals engaged in peaceful protest. Government may impose reasonable restrictions on time, place and manner of protected speech, even of speech in a public forum, provided those restrictions are justified without reference to the content of regulated speech, are narrowly tailored to serve significant governmental interest, and leave open alternative channels for communication of information. The Council, however, finds that in recent years, controversies have developed with respect to the circumstances and conditions under which individuals and various groups have been granted or denied access to the steps of City Hall for the purposes of engaging in such expressive activities and such actions have lead to litigation against the city. The Council further recognizes that the right of access to public buildings and the right to petition the government find their source in the United States Constitution, in particular, the First Amendment's free speech and right to petition clauses, as well as the due process clauses of the Fifth and Fourteenth Amendments and the New York State Constitution.

Thus, any denial of access to the steps of our City's seat of government must withstand close scrutiny and be carefully circumscribed. Because the Council recognizes that in providing access to this forum to members of the public, there is a need to balance the compelling concern to preserve safety and security with the fundamental right to freedom of expression, the Council is hereby enacting the City Hall Access Law which will authorize the Department of Citywide Administrative Services (DCAS) to monitor, regulate and manage the use of the steps of City Hall for expressive purposes consistent with constitutional safeguards required by the United States Constitution, the New York State Constitution, and case law interpreting this fundamental freedom.

§2. Chapter 2 of Title 4 of the Administrative Code of the City of New York is hereby amended by adding a new section 4-207, to read as follows:

§ 4-207 a. For the purposes of this section only, the following terms shall have the following meanings:

- (1) "Steps of City Hall" means the steps of City Hall and/or the sidewalk immediately adjacent to the steps of City Hall.
- (2) "Ideological Expressive Gatherings" means picketing, speechmaking, holding vigils, sit-ins, or other expressive conduct that conveys a message supporting or opposing a point of view or has the intent, effect or propensity to attract a crowd or onlookers.

(3) "Commissioner" means Commissioner for the Department of Citywide Administrative Services.

(b) Organizations and individuals are permitted to use the steps of City Hall for the purpose of conducting press conferences, public ceremonies, and political or ideological expressive gatherings subject to the following conditions:

(1) Permits Required for Groups of Over Fifty Individuals. Groups of fifty persons or more shall not engage in press conferences, public ceremonies, and political or other ideological expressive gatherings on the steps of City Hall except pursuant to the terms of a valid and unrevoked permit issued by the

Commissioner in accordance with this local law. Groups of less than fifty may engage in press conferences, public ceremonies, and political or ideological expressive gatherings in one of the areas designated by the Commissioner pursuant to subdivision (d) of this section without a permit, provided, however, that any individuals that have gathered at the same time for the same purpose will be deemed to be a single group for purposes of calculating the number of participants for purposes of this subdivision.

(2) Conduct of Participants. (a) No individual or group shall be permitted to unreasonably interfere with the demonstration of another group or individual;

(b) No individual or group shall build, construct, set up, place or maintain, or attempt such, on the steps of City Hall, any tent, platform, booth, bench, table, sound system, or other structure unless otherwise authorized by the Commissioner.

(3) Maximum Persons Allowed. No press conference, public ceremony, and political or other ideological expressive gatherings shall be permitted on the steps of City Hall in numbers that exceed 150 persons, unless otherwise authorized by the Commissioner. Within the maximum limit of 150 persons set forth herein, individuals or groups shall be permitted on a first come first serve basis, provided, however, that an approved permit will for a particular date and time give a group priority over any other person or group demonstrating without a permit on such date and at such time.

(3) Duration. The permit for any press conference, public ceremony, and political or ideological expressive gatherings on the steps of City Hall shall not exceed three hours on any particular day, unless otherwise authorized by the Commissioner.

(3) Subject Matter. No individual or group shall be denied the right of access or otherwise be limited in access to the steps of City Hall for the purposes of conducting a press conference, public ceremony, and political or other ideological expressive gatherings on the basis of subject matter or the views expressed at such event. Provided however that this provision shall not authorize any individual or group to behave in any manner that would otherwise be unlawful.

(c) Application for Permit. Any group of 50 or more persons or any individual or group or any individual or group desiring the priority afforded to permit holders pursuant to paragraph 1 of subdivision (b) shall, not less than five business days prior to the proposed activity, file with the Commissioner a verified application for a permit. Such application shall be in a form prescribed by the Commissioner but shall include the time and date sought by the applicant and the number of people participating in the activity.

(1) The Commissioner shall act upon the application for a permit within two business days after filing thereof. The Commissioner shall not disapprove of an application unless such application shall result in the maximum allowable number of participants pursuant to paragraph 4 subdivision (b) being exceeded, or exigent circumstances exist pursuant to paragraph 3 of subdivision (c) herein. In the event the Commissioner denies an application he or she shall notify the applicant within two business days after the date upon which the application was filed, stating in writing the reasons for the denial of the permit.

(2) Alternative Permit. The Commissioner, in denying an application for a permit based upon the maximum number of persons being exceeded or exigent circumstances, must offer the applicant an alternative permit for the next available date or time at which such gathering can be accommodated. An applicant desiring to accept an alternative permit shall, within three business days after notice of the action of the Commissioner, file a written notice of acceptance with the Commissioner. An alternate permit shall conform to the requirements of, and shall have the effect of a permit under this local law.

(2) Exigent Circumstances. The Commissioner shall, after consultation with the Police Commissioner and any other official that the Mayor directs, promulgate rules to cause the suspension of activities on the steps of City Hall for exigent circumstances where necessary to assure the preservation of the public safety. The Commissioner shall notify permit holders whose permits were granted prior to such suspension the choice between an alternate location on the date and time set forth in the permit or for a permit immediately following the cessation of the exigent circumstances.

(d) Demonstration zones. The Commissioner shall designate a minimum of three

zones on the steps of City Hall suitable for press conferences, public ceremonies, and political or other ideological expressive gatherings.

(e) Exemptions for Elected Officials. Nothing in this local law shall require any elected official to obtain a permit for press conferences, public ceremonies, and political or ideological expressive gatherings in the lawful discharge of his or her official duties nor shall anything contained in this local law limit such gatherings set forth in this exemption to 150 persons.

§ 4-207 b. Other types of access in relation to City Hall Park.

(1) Notwithstanding any provision in § 4-207a, all other types of access in or about City Hall Park, including the plaza and fountain area, shall be open to the public at all times, subject to reasonable restrictions for safety or other exigent circumstances.

§3. This local law shall take effect ninety days after its adoption.