



Legislation Text

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Int. No. 809-A

A Local Law to amend the administrative code of the city of New York, in relation to the regulation of outdoor advertising and repealing subdivision 10 of section 26-126.4 of such code in relation thereto

Be it enacted by the Council as follows:

Section 1. Subdivision 10 of section 26-126.4 of the administrative code of the city of New York is REPEALED.

§ 2. Such code is amended by adding a new section 26-127.3 to read as follows:

§ 26-127.3 Illegal outdoor signs; public nuisance. a. A sign with a surface area greater than two 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.

b. The commissioner shall serve a notice of hearing with regard to the proposed nuisance abatement on the owner and mortgagee of record of the building or premises and other persons having a recorded interest in the property in the manner provided in subdivision c of section 26-127.2 of this code for the service of an order of closure. If the sign is under the control of an outdoor advertising company, as defined in section 26-259 of the code, and an address for such company is reasonably ascertainable, the notice shall also be served on such outdoor advertising company by mail to the last known address for such company or, if such company is registered in accordance with section 26-260 of the code, at the address provided to the department by the registrant.

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 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.

d. At such hearing it shall not be a defense that an owner or other person having an interest in the property lacked knowledge of or did not participate in the erection or maintenance of the illegal sign.

e. The commissioner's order of removal shall be posted, mailed and filed in the manner provided in subdivision g of section 26-127.2 of this code for an order of closure.

f. On or after the tenth business day after the posting of such order and upon the written directive of the commissioner, police officers and authorized representatives of the department shall act upon and enforce such order by removing, covering, painting over or otherwise rendering ineffective the illegal sign or its sign structure or both. Such work shall at all times be performed by a licensed sign hanger where required by law. Nothing in this section shall be construed to prohibit an owner or other person having an interest in the property from removing or causing the removal of an illegal sign or its sign structure prior to the arrival of such enforcement officers. On and after the posting of such removal order, no further permits for signs shall be issued for such building or premises pursuant to section 26-253 or sections 27-147, 27-148 and article sixteen of sub-chapter one of title twenty-seven of this code and, if the sign structure is not removed, no further display shall be exhibited on such sign structure unless and until the commissioner rescinds such order. The commissioner may rescind the order if the owner or other person having an interest in the building or premises provides assurance in a form satisfactory to the commissioner that all signs erected or maintained at such building or premises will be in compliance with the zoning resolution, the administrative code or rules adopted pursuant to such provisions. If such order is rescinded, the commissioner shall, upon request of such owner,

mortgagee or other person, provide a certified copy of such rescission which may be filed with the county clerk or register of the county in which such building or premises is located.

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 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.

h. In addition, such costs and expenses shall constitute a lien on the land and building on which the sign was located which may be entered and enforced pursuant to section 26-128 of this code in the same manner as an unpaid fee.

i. The commissioner shall adopt rules to provide for the storage and disposal of any sign or sign structure removed pursuant to this section. If the identity and address of the owner of such property is reasonably ascertainable, notice of the removal shall be sent to the owner within a reasonable period of time after the removal. If such property is not claimed within thirty days after its removal, it shall be deemed to be abandoned and may be sold at a public auction after having been advertised in the City Record and the proceeds paid into the general fund or if the commissioner determines that the property is not saleable, he or she may turn over such property to the department of sanitation for disposal. Property removed pursuant to this section shall be released to the owner or other person lawfully entitled to possession upon payment of the costs of removal and storage as set forth in the rules of the department and any fines or civil penalties imposed for the violation or, if an action or proceeding for the violation is pending in court or before the environmental control board, 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 fines or civil penalties which may be imposed for the violation.

j. For the purposes of this section the terms ‘sign’ and ‘surface area’, in reference to a sign, shall be as defined under section 12-10 of the zoning resolution.

k. An order of the commissioner issued pursuant to subdivision c of this section shall be a final determination of the commissioner for purposes of review pursuant to article seventy-eight of the civil practice law and rules. Notwithstanding any inconsistent provision of paragraph (a) of subdivision six of section six hundred sixty-six of the New York city charter, such order shall not be subject to review by the board of standards and appeals.

§ 3. Chapter one of title twenty-six of such code is amended by adding a new subchapter four to read as follows:

Subchapter 4

Regulation of Outdoor Signs

Article 1

Maintenance Permit for Outdoor Signs

§26-253 Permit required. 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 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 public park.

b. A permit shall be required pursuant to this section whether or not a permit is required and /or has been issued for the installation, alteration or erection of such sign pursuant to sections 27-147, 27-148 and article sixteen of sub-chapter one of title twenty-seven of this code.

c. For the purposes of this section the term arterial highway shall include all highways that are shown on the master plan of arterial highways and major streets as principal routes, parkways or toll crossings and that have been designated by the city planning commission as arterial highways to which the provisions of sections 42-55 and 32-66 of the zoning resolution shall apply, as shown in appendix C of the zoning resolution.

§ 26-254 Application. Application for a permit or for the renewal of a permit shall be made on forms to be furnished by the department and shall contain such information, as the department shall prescribe. Except as otherwise provided in section 26-255, a permit shall remain in effect for one year and may be renewed annually. The fee for a permit or for its renewal shall be established by rule. The identification number of the permit shall be displayed on the sign or on the building or premises on which the sign is located or both, in a manner to be provided by rule.

§ 26-255 Permit Expiration. A permit issued pursuant to section 26-253 of this code shall expire and be of no further force or effect where: (i) in the case of a sign which is accessory to a principal use within the meaning of section 12-10 of the zoning resolution, there has been a discontinuance of the operation of the principal use to which such sign is accessory, or in the event the sign is no longer in the same ownership as such principal use or is no longer operated and maintained substantially for the benefit or convenience of the owners, occupants, employees, customers, or visitors of the principal use; (ii) in the case of any sign for which a permit has been issued pursuant to section 26-253 of this code, whether or not accessory to a principal use within the meaning of section 12-10 of the zoning resolution, there has been a change in copy which the commissioner has determined renders such sign no longer in compliance with the zoning resolution. The

commissioner shall prescribe by rule procedures for the notification to the department concerning changes in copy which have been made on signs for which permits have been issued under section 26-253 of this code. Nothing herein shall be construed as limiting the ability of any person to apply for a new permit pursuant to section 26-254 of this code.

§ 26-256 Civil penalties. a. Any person who places or maintains a sign on a building or premises without an appropriate permit in violation of section 26-253 of this article shall be liable for a civil penalty of, for a first violation, not more than fifteen thousand dollars and, for a second or subsequent violation, not more than twenty-five thousand dollars. Each day's continuance shall be a separate and distinct violation. Such civil penalties may be recovered in an action in any court of appropriate jurisdiction or in a proceeding before the environmental control board. Such board shall have the power to impose the civil penalties provided for in this section. Notwithstanding the provisions of section six hundred sixty-six of the charter, a notice of violation issued by the department pursuant to this section shall not be subject to review by the board of standards and appeals.

§ 26-257 Construction. This article shall not be construed to grant the right to place or maintain a sign on any building or premises where the placement or maintenance of such sign would otherwise be prohibited pursuant to the zoning resolution, the administrative code or any other provision of law. No permit for a sign issued hereunder shall be deemed to constitute permission or authorization to maintain a sign which is unlawful pursuant to any other provisions of law nor shall any permit issued hereunder constitute a defense in an action or proceeding with respect to such an unlawful sign.

§ 26-258 Exemption. The provisions of this article shall not apply to: (i) signs with a surface area of two 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.

ARTICLE 2

Outdoor Advertising Companies

§ 26-259 Definitions. As used in this subchapter, the following terms shall have the following meanings:

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. 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.

c. The term ‘outdoor advertising business’ means the business of selling, leasing, marketing, managing, or otherwise either directly or indirectly making space on signs situated on buildings and premises within the city of New York available to others for advertising purposes.

d. The term ‘under the control of an outdoor advertising company’ in reference to a sign or sign location means that space on such sign or at such sign location is sold, leased, marketed, managed or otherwise either directly or indirectly made available to others for advertising purposes by such outdoor advertising company.

e. The term ‘sign’ means a sign as defined in section 12-10 of the zoning resolution except that such term shall not include any sign subject to regulation by the department of transportation.

f. The term ‘sign location’ means a building or premises on which an outdoor advertising company is entitled to sell, lease, market, manage or otherwise either directly or indirectly make space on signs available to

customers, irrespective of whether a sign exists on such building or premises.

§ 26-260 Registration of outdoor advertising companies. a. On and after a date to be provided by rule, it shall be unlawful for an outdoor advertising company to engage in the outdoor advertising business or, by way of advertising, promotions or other methods, hold itself out as engaging in the outdoor advertising business unless such company is registered in accordance with this article and the rules of the department. Such rules shall establish a procedure pursuant to which the department may require the single registration of an outdoor advertising company and its affiliates. An outdoor advertising company and its affiliates made subject to single registration shall be considered a single outdoor advertising company for purposes of this article.

b. Application for registration or the renewal of registration shall be made on forms to be furnished by the department and shall contain such information, as the department shall prescribe. Registration shall remain in force for one year and may be renewed annually. The fee for such registration and for the renewal of such registration shall be established by rule.

c. Each outdoor advertising company shall post a bond 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 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 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, (iii) such company has been found liable for civil penalties under section 26-262 of this code on repeated 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, (iv) 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) 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.

§ 26-261 Display of name and registration number of outdoor advertising company; location of signs.

a. An outdoor advertising company shall provide the department with a listing with the location of all signs and sign locations under the control of such outdoor advertising company in such form, containing such information and filed at such periodic intervals, as the department shall prescribe by rule. 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. 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 are in compliance with the zoning resolution, the administrative code and rules relating thereto. The commissioner shall make all listings filed pursuant to this subdivision accessible to the public.

b. On and after a date to be prescribed by rule, the commissioner shall require that each outdoor advertising company display, in a manner to be provided by rule, on each sign under its control or on the building or premises where each sign under its control is located or both, (i) the name and registration number of such company and, (ii) unless a permit is not required, the permit identification number for the installation, alteration or erection of the sign 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 the sign pursuant to section 26-253.

§ 26-262 Criminal and civil penalties for violations by outdoor advertising companies; other enforcement. a. (1) Notwithstanding any other provision of law, an outdoor advertising company shall be liable for a civil penalty if a sign under its control has been erected, maintained, attached, affixed, painted on, or in any other manner represented on a building or premises in violation of any provision of the zoning resolution, administrative code or rules adopted pursuant thereto relating to signs.

(2) It shall be unlawful for an outdoor advertising company to sell, lease, market, manage or otherwise make available to others for advertising purposes space on a sign that has been erected, maintained, attached, affixed, painted on or in any other manner represented on a building or premises in violation of any provision of the zoning resolution, administrative code or rules adopted pursuant thereto or to enter into any agreement for such purpose.

(3) On and after a date to be provided by rule, it shall be unlawful for an outdoor advertising company to sell or otherwise transfer control of a sign or sign location or of any right of such company to sell, lease, market, manage or otherwise make space on a sign or at a sign location available to others for advertising purposes to an outdoor advertising company that is not registered in accordance with this article and the rules of

the department.

(4) An outdoor advertising company that violates any of the provisions of paragraphs one, two or three of this subdivision shall be subject to a civil penalty of, for a first violation, not more than fifteen thousand dollars and, for a second or subsequent violation, not more than twenty-five thousand dollars.

(5) Notwithstanding any inconsistent provision of law, an outdoor advertising company shall, upon being found guilty, be subject to fines or imprisonment or both pursuant to sections 26-126 or 26-248 of the code if a sign under its control has been erected, maintained, attached, affixed, painted on, or in any other manner represented on a building or premises in violation of any provision of the zoning resolution, administrative code or rules adopted pursuant thereto relating to signs.

b. On and after a date to be provided by rule, an outdoor advertising company that engages in the outdoor advertising business or, by way of advertisement, promotion or other methods holds itself out as engaging in the outdoor advertising business without registering with the department pursuant to this article, or, after such registration has been revoked or not renewed pursuant to subdivision d of section 26-260 of this code continues to engage in such business beyond a date specified by the commissioner in his or her determination to revoke or not renew, shall be guilty of a misdemeanor subject to a fine not to exceed five thousand dollars or a sentence of imprisonment of not more than one year or both such fine and imprisonment for each offense. In the case of a continuing violation each day's continuance shall be a separate and distinct violation. Such company shall also be liable for a civil penalty of, for a first violation, not more than fifteen thousand dollars and, for a second or subsequent violation, not more than twenty-five thousand dollars. Each day's continuance shall be a separate and distinct violation.

c. Civil penalties may be recovered in an action in any court of appropriate jurisdiction or in a proceeding before the environmental control board. Such board shall have the power to impose the civil penalties provided for in this section. Notwithstanding the provisions of section six hundred sixty-six of the charter, a notice of violation issued by the department pursuant to this article shall not be subject to review by

the board of standards and appeals.

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 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 sign 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 hundred fifty square feet.

e. Notwithstanding any other provision of law to the contrary, an outdoor advertising company, or any affiliate thereof, that has been found guilty of a misdemeanor or liable for a civil penalty pursuant to subdivision b of this section or whose registration has been revoked pursuant to subdivision d of section 26-260 of this code shall be considered ineligible for the award of any city franchise or concession, and shall be prohibited from administering any advertising program on behalf of a city franchisee or concessionaire, for a period of five years following judgment or decision.

§26-263 Investigations. The department may investigate any matter within the jurisdiction conferred by this article and shall have full power to compel the attendance, examine and take testimony under oath of such persons as it may deem necessary in relation to such investigation, and to require the production of books, accounts, papers and other evidence relevant to such investigation. The department of investigation may, at the request of the commissioner, assist the department in any investigation conducted pursuant to this section.

§4. Section 27-177 of such code is amended to read as follows:

§27-177 General requirements.

All applications for permits to erect or alter signs or sign installations shall be subject to the requirements of articles nine and ten of this subchapter. In addition, each such application shall set forth the name and business address of the licensed sign hanger who is to perform or supervise the proposed work and, if the sign or sign location is under the control of an outdoor advertising company, as defined in section 26-259 of this code, the name and, where provided by rule, the registration number of such outdoor advertising company. The application shall be accompanied by satisfactory evidence of compliance with the provisions of the workers' compensation law. Each permit shall have an identification number and shall authorize the erection, alteration or installation of the type of display described in the application. The identification number of the permit and, if the sign is under the control of an outdoor advertising company, the name and, where provided by rule, the registration number of such outdoor advertising company shall be displayed on the sign or on the building or premises on which the sign is located or both in a manner to be provided by rule. If a sign is otherwise in compliance with the administrative code, the zoning resolution and rules adopted pursuant to such provisions, the changing of copy on an existing permitted sign, specifically designed for the use of replaceable copy, and the painting, repainting, cleaning or other normal maintenance and repair of an existing permitted sign, not involving structural changes, shall not require a new permit pursuant to this article and sections 27-147 and 27-148 of the code. The changing of copy on a permitted sign not designed for the use of replaceable copy or any structural change of the sign or sign structure shall require a new permit pursuant to this article and sections 27-147 and 27-148 of the code. No permit for the erection, alteration or installation of a sign or sign structure issued pursuant to this article and sections 27-147 and 27-148 of the code shall be deemed to constitute permission or authorization to maintain a sign which would otherwise be illegal without a maintenance permit for an outdoor sign as required pursuant to section 26-253 of the code or which is otherwise illegal pursuant to any other provision of law nor shall any permit issued hereunder constitute a defense in an action or proceeding with respect to such an unlawful sign.

§5. The initial application for registration of an outdoor advertising company pursuant to section 26-260 of the administrative code, as added by section 3 of this local law, shall include report to the department of buildings identifying: (a) all signs and supporting structures therefor and (b) all sign locations that are under the control of such outdoor advertising company and located in: (i) zoning districts in which signs for advertising purposes are not permitted; (ii) areas within a distance of two hundred linear feet from and within view of an arterial highway, as such term is defined under subdivision c of section 26-253 of the administrative code, as added by section 3 of this local law; and (iii) areas 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. Notwithstanding any provision to the contrary of section 26-260 of the administrative code, as added by section 3 of this local law, the commissioner of buildings shall refuse to accept and may return the initial application for registration of an outdoor advertising company: (i) where such business fails to submit the report required by this section; or (ii) the commissioner has reasonable cause to believe that such report contains an incomplete or inaccurate listing of signs or sign locations which are required to be included therein. In the event a company whose initial application for registration has been rejected by the commissioner of buildings pursuant to this subdivision fails thereafter to submit a report acceptable to the commissioner within a time frame specified by the department of buildings, and the commissioner, after notice and opportunity to be heard, affirms his or her determination that such company has not satisfied the requirements of this section, then such outdoor advertising company shall be deemed in violation of subdivision a of section 26-260 of the administrative code, as added by section 3 of this local law, and shall be subject to all provisions of section 26-262 of the administrative code, as added by section 3 of this local law, which apply to an outdoor advertising company which has not registered with the department of buildings. The department shall revoke the registration of an outdoor advertising company if it is subsequently determined by the commissioner, after notice and opportunity to be heard, that such company has filed an incomplete or inaccurate listing of signs which are required to be included in the report provided for under this section, and such company knew or should have known that the listing was incomplete or inaccurate.

Notwithstanding the provisions of section six hundred sixty six of the charter, such determinations by the commissioner shall not be subject to review by the board of standards and appeals. The commissioner shall make all reports filed pursuant to this section accessible to the public.

§6. (a) In addition to the report described in section 5 of this local law, an outdoor advertising company may elect to include in its initial application for registration pursuant to section 26-260 of the administrative code, as added by section 3 of this local law, a compliance plan, prepared in such form and according to such standards as shall be specified by rules of the department of buildings with regard to such plans and amendments thereto, which plan shall include a schedule for the permanent removal of all signs and any supporting structures therefor which were installed, erected, attached, affixed, painted on, or in any other manner represented on a building or premises prior to December 22, 2000 which are identified in the report submitted pursuant to section 5 of this local law. Such removal shall take place within three annual periods following the commissioner's acceptance of the compliance plan, based on his or her determination that such plan satisfies all requirements of this section. The removal schedule included with such compliance plan shall provide for the removal of equal numbers of signs and any supporting structures therefor during the course of each of such three annual periods, at regular intervals within such annual periods as specified by rule of the department. Such compliance plan shall not include signs which have legal non-conforming use status pursuant to the zoning resolution, provided the outdoor advertising company provides evidence of such status in a form satisfactory to the commissioner. Notwithstanding any provisions to the contrary of subdivision a of section 26-261 of the administrative code, as added by section 3 of this local law, an outdoor advertising company shall not be required to submit a certification pursuant to such subdivision with respect to signs included in the compliance plan provided that the sign is in compliance with the schedule for its removal pursuant to such plan.

(b) For each sign and any supporting structure therefor included in a compliance plan, the outdoor advertising company shall submit to the department of buildings as part of such compliance plan an instrument,

in a form satisfactory to the commissioner of buildings, executed by all persons parties or entities to whom notice is required to be given pursuant to subdivision b of section 26-127.3 of the administrative code, as added by section 2 of this local law, and binding upon all successors and assigns, consenting to: (i) removal of such sign and any supporting structure therefor in accordance with the schedule for removal set forth in the compliance plan; and (ii) entry by the commissioner, police officers, and authorized representatives of the department upon the building or premises on which the sign and any supporting structure therefor is located for purposes of removal of such sign and any supporting structure therefor by the city, without further proceedings, in the event that such sign and any supporting structure is not removed in accordance with the schedule included in such compliance plan. Such instrument shall be filed and recorded with the clerk or register of the county in which the sign is located.

(c) As part of a compliance plan, the outdoor advertising company shall also post a bond 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, size and other features of signs and any supporting structures therefor identified in the compliance plan. The bond shall be conditioned such that the obligor will pay all costs incurred by the city with respect to the removal of such signs and any supporting structures therefor in accordance with the consents set forth in instruments filed with respect to such signs pursuant to paragraph b of this section. Nothing herein shall be construed to affect the obligation of an outdoor advertising company to post a bond pursuant to subdivision c of section 26-260 of the administrative code, as added by section 3 of this local law, with respect to signs not eligible for inclusion in the compliance plan.

(d) The commissioner shall refuse to accept and may return a compliance plan submitted pursuant to this section where he or she determines that it does not satisfy the requirements of this section and rules promulgated pursuant thereto. In the event a company whose initial compliance plan has been rejected by the commissioner of buildings pursuant to this subdivision fails thereafter to submit a compliance plan acceptable to the commissioner within a time frame specified by the department of buildings, and the commissioner, after

notice and opportunity to be heard, affirms his or her determination that such company has not satisfied the requirements of this section, then such outdoor advertising company shall be deemed subject to section 7 of this local law. Notwithstanding the provisions of section six hundred sixty-six of the charter, such determination shall not be subject to review by the board of standards and appeals.

(e) Notwithstanding any provisions to the contrary of section 26-262 of the administrative code, as added by section 3 of this local law, where a sign and any sign structure therefor is included in a compliance plan accepted by the commissioner, no civil penalties or criminal fines and/or imprisonment may be imposed with respect to such sign upon an outdoor advertising company or other party for any violations of the zoning resolution, the administrative code or rules adopted pursuant thereto (except for violations which involve the creation or maintenance of a hazardous condition), nor shall the commissioner of buildings seek the removal of such sign pursuant to section 26-127.3 of the administrative code, as added by section 2 of this local law; provided, however, that: (i) the outdoor advertising company is in compliance with the schedule for removal of such sign and any supporting structure therefor set forth in the compliance plan; and (ii) the size, height or degree of projection of such sign and any supporting structure therefor has not been increased or enlarged after December 22, 2000. Upon acceptance of a compliance plan pursuant to this section, the commissioner of buildings shall discontinue any administrative, judicial or other enforcement proceedings pending as of such date with respect to such sign (other than collection activities with respect to previously adjudicated violations), unless the commissioner has reasonable cause to believe that the size, height or degree of projection of such sign and any supporting structure therefor has been increased or enlarged after December 22, 2000. Nothing herein shall be construed to prevent the imposition of civil penalties or criminal fines and/or imprisonment upon an outdoor advertising company or other party for violations of the zoning resolution, the administrative code or rules adopted pursuant thereto, with respect to signs which are not eligible for inclusion in a compliance plan submitted pursuant to this section.

(f) The provisions of section 26-253 of the administrative code, as added by section 3 of this local law,

shall not apply to a sign under the control of an outdoor advertising company which is included in a compliance plan accepted by the commissioner, provided that the outdoor advertising company is in compliance with the schedule for removal of such sign and any supporting structure set forth in the compliance plan.

(g) The sale, lease, or other transfer of control of a sign, and any supporting structure therefor identified in a compliance plan shall not affect the schedule for the removal of such sign and any supporting structure in accordance with the schedule included in the compliance plan, and any outdoor advertising company which assumes control of such sign and any sign structure shall be responsible for compliance with the terms of the compliance plan with respect thereto. In the event an outdoor advertising company which has submitted a compliance plan pursuant to this section assumes control of a sign and any supporting structure therefor required to be included in the report provided for under section 5 of this local law but not previously included in a compliance plan, such company shall amend its compliance plan to include such sign and supporting structure in the plan, in accordance with rules of the department.

(h) In the event a sign and any supporting structure therefor is not removed in accordance with the schedule included within a compliance plan, or in the event the registration of the outdoor advertising company which submitted such compliance plan is revoked pursuant to subdivision i of this section, the commissioner shall, in addition to or in lieu of seeking any and all remedies provided for under this local law, be authorized to remove such sign and any supporting structure therefor in accordance with the consents set forth in the instrument filed with respect to such sign pursuant to paragraph (b) of this section.

(i) Notwithstanding any provisions to the contrary of subdivision d of section 26-260 of the administrative code, as added by section 3 of this local law, in the event that an outdoor advertising company has failed to remove all signs and any supporting structures therefor in accordance with the compliance plan by the end of any of the three annual periods following the commissioner's acceptance of the compliance plan, registration of such company shall be subject to revocation.

(j) The commissioner shall make all compliance plans filed pursuant to this section accessible to the

public.

§7. An outdoor advertising company which does not submit a compliance plan pursuant to section 6 of this local law shall be subject to all criminal, civil and other remedies provided for in this local law for any violation of the zoning resolution or the administrative code or rules adopted pursuant thereto with respect to signs under its control, without limitation. Notwithstanding any provision to the contrary of subdivision d of section 26-260 of the administrative code, as added by this local law, relating to the circumstances under which the commissioner is authorized to revoke the registration of an outdoor advertising company, the commissioner of buildings shall, after notice and opportunity to be heard, revoke the registration of any such outdoor advertising company where such company has been found liable on three or more occasions by the environmental control board or a court of competent jurisdiction for violations of the zoning resolution or the administrative code or rules adopted pursuant thereto with respect to signs under its control identified in the report submitted by such outdoor advertising company pursuant to section 5 of this local law, on the basis that such signs are advertising signs, as defined in section 12-10 of the zoning resolution, which are located in: (i) zoning districts in which signs for advertising purposes are not permitted; (ii) areas within a distance of two hundred linear feet and within view of an arterial highway, as such term is defined under subdivision c of section 26-253 of the administrative code, as added by section 3 of this local law; or (iii) areas 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.

§8. All terms as used in sections 5, 6 and 7 of this local law shall be as defined in subchapter four of chapter one of title twenty-six of the administrative code, as added by this local law. The commissioner of buildings shall promulgate rules as necessary for the administration and implementation of sections 5, 6 and 7 of this local law.

§9. Severability. If any clause, sentence, paragraph, section or part of this local law or the application thereof to any person or circumstance shall for any reason be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this local law or the application

thereof to other persons or circumstances, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered and to the person or circumstance involved.

§10. This local law shall take effect ninety days after it shall have been enacted into law provided that the department may promulgate rules or take any administrative actions to implement its provisions prior to such effective date.