



## Legislation Text

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Int. No. 423-A

By Council Members Katz, Liu, Nelson and Perkins

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 Sections 5, 6, 7, and 8 of local law number 14 for the year 2001 are REPEALED.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. Subdivision 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, is amended to read as follows:

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. Subdivisions a and b 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] are amended to read as follows:

a. The commissioner may, in his or her discretion, when necessary in the public interest, establish a permit requirement for signs maintained in the areas described in this section in accordance with the provisions of this article and the rules of the department. On and after a date to be provided by [rule] the rules establishing

such a permit requirement, 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] nine 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].

(b) Where a sign maintenance permit has been established by the commissioner pursuant to section 26-253 (a) [A] such permit shall be required for all signs maintained in the areas described in section 26-253 (a), and not otherwise excluded under section 26-258, 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.

§4. Section 26-254 of such code, as added by local law number 14 for the year 2001, is amended to read as follows:

§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] a period to be determined by rule 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.

§5. Section 26-258 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:

§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] signs under the control of an outdoor advertising company and included on a certified list of signs, sign structures and sign locations under the control of such company required to be filed with the department pursuant to subdivision a of section 26-261 of the code.

§6. Subdivisions a, b, c, and d 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.]

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, whether such advertising directs attention to a business, profession, commodity, service or entertainment conducted, sold, or offered on the same or a different zoning lot and whether such sign is classified as an advertising sign pursuant to section 12-10 of the zoning resolution.

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

§7. Subdivisions b, 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:

b. Application for registration or the renewal of registration shall be made on forms to be furnished by the department, may be made through electronic means, and shall contain such information[, ] as the department shall prescribe. Registration shall remain in force for [one year] two years and may be renewed [annually]. The fee for such registration and for the renewal of such registration shall be established by rule and may be based on the number of signs in the registered inventory.

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 shall be conditioned such that the obligor] to cover:

(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[.]; and

(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, sign structures 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, sign structures 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 committed 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, as defined in section 12-10 of the zoning resolution, at locations where the display of such advertising signs is not permitted under the zoning resolution, or at locations where the display or such advertising signs violate the size, height, or illumination provisions of the zoning resolution, and such signs are located within a distance of nine hundred linear feet from and within view of an arterial highway or within two hundred linear feet from and within view of a public park with an area of one half acre or more, (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. 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.

§8. 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 located (i) within a distance of nine 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 or upon such other conditions, 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] be accompanied by (a) 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] (b) copies of proof that the sign complies with the zoning resolution and a certification by the sign's owner that to the best of the certifier's knowledge and belief the information so provided by such sign is accurate, or (c) a written opinion by the Department , stating that the sign to which the opinion refers complies with the zoning resolution. Notwithstanding any inconsistent provision of this article, where, in accordance with the department's rules, the department renders an opinion, determination or decision relating to whether a sign is non-conforming or whether it is located in proximity to an arterial highway as defined by the zoning resolution, such decision, determination or opinion shall be appealable to the board of standards and appeals in accordance with applicable law. If a timely appeal to such board is taken the department shall not issue a notice of violation with respect to such sign pending a determination of such appeal by such board.

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

§9. 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 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 ] two hundred [fifty] square feet.

§10. Section 27-177 of such code, as amended by local law 14 for the year 2001, 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 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] permitted



for [the use of replaceable] changeable 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.

§11. 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.

§12. Section 1 of this local law shall take effect immediately

§13. Sections 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11 of this local law shall take effect on July 1, 2005 and prior to such date the Commissioner shall promulgate rules.