



## SUBCHAPTER 4 REGULATION OF OUTDOOR SIGNS

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## \*\*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.

**\*\*Local Law 14-2001.**