



Department of Consumer and Worker Protection
City of New York
42 Broadway
New York, NY 10004

RE: Comments on Proposed Rules Governing Newsstands

Volunteers of Legal Service (“VOLS”) writes to provide comments on the proposed rules issued by the New York City Department of Consumer and Worker Protection (“DCWP”) to implement Local Law 128 of 2021 and to amend sections of the Rules of the City of New York applicable to newsstands. We appreciate the opportunity to provide feedback on these proposed rules.

Who we are

VOLS is a legal services nonprofit with a mission to bridge the justice gap in underserved communities through increased pro bono legal services. For over 20 years, the VOLS Microenterprise Project has helped existing and aspiring small business owners and entrepreneurs access high-quality free transactional legal services from our dedicated staff and our network of pro bono attorneys. VOLS offers support with entity formation, drafting and reviewing contracts, and understanding industry-specific regulations.

Our perspective

VOLS recognizes that operating a newsstand is a form of entrepreneurship that provides many New Yorkers, particularly immigrants, minorities, and veterans, with crucial economic opportunities. Newsstand operators foster connection within our communities and serve as our eyes on the street.

We believe the proposed rules, to prohibit newsstand licensees from renting the newsstands and to require licensees to derive most of their income, excluding investment income, from the operation of up to two newsstands would benefit small entrepreneurs and the community. We also believe that the proposed rules, to allow business entities to hold newsstand licenses, enables newsstand operators to benefit from the limited liability protection and other advantages of having a business structure.

In our experience, individuals operating newsstands often aren't the same individuals holding the newsstand licenses. There exist informal arrangements in the newsstand system whereby individuals pay “rent” to newsstand licensees for the right to operate the newsstand as sub-licensees. The licensees may serve as the name on the license, but they do nothing more to operate the newsstand. The sub-licensees are the ones who control the purchasing and pricing decisions of the newsstand and assume business risk by paying for the newsstand products themselves. They may also pay the licensees' license renewal costs (not just for the newsstand, but also other related licenses, such as tobacco and electronic cigarette retail dealer licenses) and even any fines incurred by the licensee. Further, in some cases, the sub-licensees have secured their positions in these arrangements by paying significant amounts, essentially constituting key money, to prior sub-licensees. While far from the system envisioned by the city, it is the reality for many newsstand operators. These sub-licensees should have a pathway to assuming the newsstand license in the event of vacancy or abandonment by the license holder.

To that end, we encourage DCWP to consider the following amendments to the proposed rules, to provide a pathway for those who have long operated and worked in newsstands to formally become licensees.

Recommendation 1: The categories of eligible applicants who may apply to operate an existing newsstand upon the death or permanent disability of a newsstand licensee should be expanded to include an individual who was the principal person operating and working in such newsstand up until the time of the licensee's death or disability.

Upon the death or permanent disability of a newsstand licensee, the existing and proposed rules allow someone who was a “one-time employee” of such licensee or someone who “bears another pre-existing, established relationship to such former licensee that included financial dependence on such licensee” to apply for a license to operate the newsstand of such licensee. We recommend clarifying in the proposed rules that someone considered “financially dependent on a licensee” shall include the individual working in such newsstand, overseeing its daily operations, and relying on it as his or her main source of income and livelihood.

Proposed amendment:

§ 2-64(a)(12) – Death or disability of licensee. At the discretion of the Commissioner or his or her designee, upon the death or permanent disability of the [person] individual or sole proprietor who was licensed to operate a newsstand at a location, [DCA] DCWP may accept an application for a license to operate such existing newsstand where:

(A) the applicant provides documentation sufficient to show that the applicant is a dependent spouse, dependent domestic partner, dependent child or one-time employee of the former licensee, or bears another pre-existing, established relationship to such former licensee that included financial dependence on such licensee **or involved the applicant being the principal person operating and working in such newsstand in the twenty-four months preceding the date of such application;**

Recommendation 2: The categories of eligible applicants who may apply to operate an existing vacant newsstand should be expanded to include an individual who was the principal person operating and working in such newsstand prior to the vacancy.

As described above, an individual other than the licensee who works at a newsstand overseeing its daily operations and relying on it as their main source of income and livelihood, should have a pathway to become a licensee of such newsstand, particularly if the newsstand becomes vacant. Under the existing and proposed rules, if a licensee voluntarily abandons their license or has it revoked by DCWP, causing the newsstand to become vacant, the individual who worked at the newsstand and depended on it as their primary source of income would lose their livelihood. Additionally, they would not have priority to obtain a license for the newsstand over someone without any prior connection.

Proposed amendment:

§ 2-64(a)(13) – Application for an Existing Vacant Newsstand.

(A) The Commissioner may accept an application for a license to operate an existing vacant newsstand where:

(i) an applicant is being required to relocate pursuant to subdivision d of section 2-68 of this Part; or

(ii) an applicant has proposed a location that has been approved, but construction of a new newsstand at such approved location has not begun within 150 days from the date that such applicant completed the required paperwork and made the required payment to the franchisee for the newsstand; or

(iii) an applicant, other than the former licensee, was the principal person operating and working in such newsstand in the [twenty-four] months preceding the date of vacancy and was not the former licensee; or

(iv) the Commissioner has determined that such existing vacant newsstand is not necessary to reserve for any other purpose, including but not limited to ensuring availability of newsstands for applicants permitted to apply for a license to operate an existing newsstand under (i), (ii) and (iii) of this subparagraph.

Recommendation 3: DCWP's ability to waive certain license application requirements for a license application to operate an existing vacant newsstand should also apply to a license application to operate an existing newsstand upon the death or permanent disability of the former licensee.

The proposed § 2-63(c) permits DCWP to waive certain license application requirements where an application is being submitted to maintain and operate an existing franchise newsstand. However, as drafted, the proposed rule only permits such a waiver where an application is being submitted for an existing vacant newsstand pursuant to § 2-64(a)(13). While we believe granting DCWP discretion to waive requirements in these circumstances would benefit applicants, we believe that DCWP should also have discretion to waive requirements for applications submitted to obtain a license to operate a newsstand upon the death or permanent disability of its newsstand licensee under § 2-64(a)(12).

Proposed amendment:

§ 2-63 Application Procedures.

[...]

(c) DCWP may waive the requirements of subdivisions a and b of this section where an application is submitted pursuant to paragraph 12 or 13 of subdivision a of section 2-64 of this Part for a license to maintain and operate an existing franchise newsstand.

Recommendation 4: Section 2-64(c)(1) that grants DCWP permission to revoke, or refuse to renew a license for failure to operate a newsstand for two consecutive months should be revised to include an exception for licensees complying with any suspension of their license.

Under the existing and proposed rules, the Commissioner may revoke or refuse to renew a newsstand license upon a finding that the location listed in the license was not utilized for a period of two consecutive months. However, when a newsstand license is suspended, it may take longer than two months for a licensee to either exercise all available options to challenge the reason for suspension or meet the criteria required to lift the suspension. This puts licensees



in a bind that undermines the opportunity they would otherwise have to be heard and to reinstate their license. We propose adding an exception to § 2-64(c)(1) where licensees are merely complying with the suspension of a license.

Proposed amendment:

§ 2-64(c) – Changes in license status. In addition to any other basis for revoking a license, the Commissioner of [DCA] DCWP may revoke [, cancel,] or refuse to renew a license to maintain and operate a newsstand for any of the following reasons: [...]

(1) upon a finding by the Commissioner of [DCA] DCWP that the location listed in the license was not utilized for a period of two consecutive months or more, **except where the location was not utilized to comply with a suspension of the license; [...]**

* * *

We appreciate DCWP's attention to the needs of New York City's newsstand operators, who are among New York City's smallest businesses and yet form an essential part of our communities. Thank you again for the opportunity to provide comments on the proposed rules governing newsstands.

Andrea Tan, Esq.

Microenterprise Project Director

Volunteers of Legal Service

New York City Department of Consumer and Worker Protection

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? The Department of Consumer and Worker Protection (“DCWP” or “Department”) is proposing to add rules to implement Local Law 128 of 2021 allowing businesses to hold newsstand licenses.

DCWP is also proposing to amend several sections of the Rules of the City of New York (“RCNY”) applicable to newsstands to add definitions and amend certain application procedures and siting requirements.

When and where is the hearing? DCWP will hold a public hearing on the proposed rule. The public hearing will take place at 11AM on Monday, April 29, 2024. The public hearing will be accessible by phone and videoconference.

- To participate in the public hearing via phone, please dial +1 646-893-7101.
- To participate in the public hearing via videoconference, please follow the online link:
 - <https://tinyurl.com/3jbmd8ft>
 - Meeting ID: 231 517 021 702
 - Passcode: CiZMd6

How do I comment on the proposed rules? Anyone can comment on the proposed rules by:

- **Website.** You can submit comments to DCWP through the NYC rules website at <http://rules.cityofnewyork.us>.
- **Email.** You can email comments to Rulecomments@dcwp.nyc.gov.
- **By speaking at the hearing.** Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak. You can sign up before the hearing by email at Rulecomments@dcwp.nyc.gov. You can also sign up on the phone or videoconference before the hearing begins at 11AM on April 29, 2024. You can speak for up to three minutes.

Is there a deadline to submit comments? Yes. You must submit any comments to the proposed rule on or before April 29, 2024.

What if I need assistance to participate in the hearing? You must tell DCWP’s External Affairs division if you need a reasonable accommodation of a disability at the hearing. You must tell us if you need a sign language interpreter. You may tell us by email at Rulecomments@dcwp.nyc.gov. Advance notice is requested to allow sufficient time to arrange the accommodation. Please tell us by April 22, 2024.

Can I review the comments made on the proposed rules? You can review the comments made online on the proposed rules by going to the website at <http://rules.cityofnewyork.us/>. A few days after the hearing, all comments received by DCWP on the proposed rule will be made available to the public online at <http://www1.nyc.gov/site/dca/about/public-hearings-comments.page>.

What authorizes DCWP to make this rule? Sections 1043, 2203(f) and 2203(h)(1) of the New York City Charter and section 20-104 of the New York City Administrative Code authorize the Department of Consumer and Worker Protection to make these proposed rules. This proposed rule was included in DCWP’s regulatory agenda for this Fiscal Year.

Where can I find DCWP’s rules? The Department’s rules are in title 6 of the Rules of the City of New York.

What laws govern the rulemaking process? DCWP must meet the requirements of section 1043 of the City Charter when creating or changing rules. This notice is made according to the requirements of section 1043 of the City Charter.

Statement of Basis and Purpose of Proposed Rule

The Department of Consumer and Worker Protection (“DCWP” or “Department”) is proposing to modify several sections of the Rules of the City of New York (“RCNY”) to implement Local Law 128 of 2021, which amended the administrative code to allow businesses, not just individuals, to hold newsstand licenses. This law also specified that renting or attempting to rent the newsstand is a basis for revocation or denial of a license.

DCWP is additionally proposing to amend several sections of the rules applicable to newsstands to add definitions and amend certain application procedures and siting requirements. These rules reflect current changes to the sidewalk landscape and address issues that have arisen in the inspection of newsstand locations and the approval and renewal of newsstand licenses. Specifically, these rules:

- Update newsstand license application requirements to clarify when consent is required from the adjacent property owner, specify that a newsstand site must pass construction tests related to belowground infrastructure, and explain that a newsstand application may be placed on hold pending a conflicting capital project;
- Update the timeline for newsstand construction;
- Clarify that failure to reimburse the newsstand franchisee for a new or previously constructed newsstand may result in denial of the newsstand application;
- Provide that license applicants or existing newsstand licensees may utilize existing vacant newsstand under certain circumstances;
- Clarify elements of the requirement for a clear path around the newsstand;
- Update siting requirements for proposed newsstand locations to reflect new sidewalk features such as bike share parking and further explain siting requirements for existing sidewalk features;
- Explain what constitutes a hazardous condition impacting the location of a newsstand for a license application or renewal;
- Explain newsstand siting requirements in pedestrian plazas.

Sections 1043, 2203(f) and 2203(h)(1) of the New York City Charter and section 20-104 of the New York City Administrative Code authorize the Department of Consumer and Worker Protection to make these proposed rules.

New material is underlined.

[Deleted material is in brackets.]

“Shall” and “must” denote mandatory requirements and may be used interchangeably in the rules of this department, unless otherwise specified or unless the context clearly indicates otherwise.

Section 1. Part 1 of subchapter G of chapter 2 of Title 6 of the Rules of the City of New York is amended to read as follows:

Subchapter G: Sidewalk Stands

Part 1: Newsstands

§2-61 Definitions.

As used in this Part, the following terms shall be defined as follows:

(a) **Area occupied.** "Area occupied" means the sidewalk space under DOT's jurisdiction occupied by the newsstand operation and its operators when a newsstand is in operation, including any space occupied by the stand itself and its racks, tables, doors and everything else that prevents ordinary use of the sidewalk.

(b) **Capital Project.** “Capital Project” has the same meaning as set forth in subdivision (1) of section 210 of the New York City Charter.

(c) **Catchment area.** "Catchment area" means the area within a radius of 500 feet of the location at which a newsstand is licensed to operate.

[(c)] (d) **Change in location or expansion of the area occupied.** "Change in location or expansion of the area occupied", as used particularly in [Paragraph] paragraph 2 of [Subdivision] subdivision k of [Section] section 20-231 of the Code and [Subdivision] subdivision (c) of section 2-68 of these rules means, a change in location or expansion of the area occupied by a newsstand such that the footprint of the new newsstand overlaps with the footprint of the old newsstand.

[(d)] (e) **Code.** "Code" means the Administrative Code of the City of New York.

[(e)] (f) **Disabled person.** "Disabled person" means a person who has a physical impairment that substantially limits one or more of such person's major life activities and who has documentation of such an impairment.

[(f)] (g) **Disabled veteran.** The term “veteran” has the same meaning as set forth in section 3101 of the New York City Charter. "Disabled veteran" means any veteran who has sustained one or more of the following impairments while performing service [to] for the United States of America:

(1) impairment requiring use of a wheelchair; or

(2) impairment requiring the use of braces, crutches or other artificial support; or

(3) impairment caused by amputation; or

(4) total or partial impairment of hearing or sight causing insecurity or likelihood of exposure to danger in public places.

[(g)] (h) [DCA] DCWP. ["DCA"] "DCWP" means the Department of Consumer [Affairs] and Worker Protection of the City of New York.

[(h)] (i) **DOT.** "DOT" means the Department of Transportation of the City of New York.

[(i)] (j) **Franchise.** "Franchise" means a franchise granted pursuant to Chapter 14 of the New York City Charter to construct, install, and maintain newsstands in the city of New York. For purposes of this Part of Subchapter G of Title 6, the date upon which a franchise is granted is the date on which such franchise is registered with the Comptroller of the City of New York in accordance with Chapter 14 of the New York City Charter.

[(j)] (k) **Franchisee.** "Franchisee" means a person granted a Franchise.

[(k)] (l) **LPC.** "LPC" means the Landmarks Preservation Commission of the City of New York.

[(l)] (m) **Major life activities.** "Major life activities" means functions such as walking, seeing, hearing, and speaking.

[(m)] (n) **Newsstand.** "Newsstand" means a not readily removable stand or booth operated primarily for the sale of newspapers and periodicals.

(o) **NYPD.** “NYPD” means the New York City Police Department.

(p) **Open programmatic areas.** “Open programmatic areas” mean those areas within a pedestrian plaza designated for moveable seating and tables, events, performances, markets or other activities.

[(n)] (q) **PDC.** "PDC" means the New York City Public Design Commission, formerly the Art Commission.

(r) Pedestrian plaza. "Pedestrian plaza" means an area designated by DOT as such for pedestrian circulation, use and enjoyment on property under the jurisdiction of DOT, including but not limited, to property mapped as public space or property within the bed of a roadway, and which may contain amenities such as tables, seating, trees, plants, lighting, bike racks, or public art.

[(o)] (s) Physical impairment. "Physical impairment" means a physiological disorder or condition, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; genitourinary; hemic and lymphatic; or skin and endocrine. It includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, muscular dystrophy, and multiple sclerosis.

(t) Plaza amenity. "Plaza amenity" means any feature installed in or on a pedestrian plaza designated as such by DOT, including but not limited to chairs, tables, planters, benches, kiosks, utilities or canopies.

[(p)] (u) Replacement newsstand. "Replacement newsstand" means either:

(1) a newsstand that replaces a newsstand at the same location, provided that the license issued pursuant to §20-229 of the Code for the newsstand that is being replaced is in full force and effect on the date a franchise is granted; or

(2) a newsstand constructed and installed at any location approved by DOT to replace a newsstand that the City requires, for any reason, to be permanently removed from the location for which it is licensed, provided such license is in full force and effect at the time removal is required.

[(u)] (v) Vault. Vault means any space below the surface of the street, that is enclosed except those openings that are used exclusively to descend into the cellar or basement of any building via steps.

§ 2-62 Introduction.

(a) Purpose. The rules of this Part 1 of Subchapter G of Title 6 are promulgated pursuant to the Code to ensure that while serving the public, newsstands do not unduly interfere with pedestrian circulation or unduly conflict with street obstructions or the design of their surroundings.

(b) Scope. These rules govern applications for licenses and the renewal of licenses for newsstands, the replacement of licensed newsstands with newsstands to be constructed and installed by a franchisee, the temporary relocation of newsstands, and the general operation of newsstands.

§ 2-63 License Application Requirements.

(a) Documents to be submitted for [DCA] DCWP, DOT, PDC or LPC and Community Board review. The application for a license to maintain and operate a newsstand must include the following documents:

(1) Applications for newsstand licenses shall be made on forms approved by [DCA] DCWP.

(2) Site plan at 1/4" = 1' scale on paper no larger than 11" x 17", showing all items for which clearance requirements are set forth in [6 RCNY] § 2-65 of this Part, within 25 feet of either side of the proposed newsstand location. The site plan must indicate the dimensions of the proposed newsstand and the distance from each listed obstruction. All plans, elevations and details that form a part of the application must be clearly labeled and drawn to scale, and such plans must give all necessary measurements to locate a proposed newsstand in relation to curb lines, property lines and buildings including entrances, marquees, canopies, fixed awnings, standpipes or siamese connections, other projections from buildings, fixed planters, planting beds, distinctive sidewalks or landscape treatments, sidewalk cafés, stoop line stands, bus stop shelters, bus stop zones, elevated railroad structures, parking meters, access plates, ventilation and other grills, and all other street obstructions listed in [6RCNY] § 2-65 of this Part. Except as otherwise provided in subdivision (b) of this section concerning newsstands to be constructed by a franchisee, plans that are required for review by PDC or LPC must be accurately drawn to scale, with elevations and cross-sections, as detailed in this [Subdivision] subdivision (a).

(3) Two sets of photographs (5" × 7" or larger) taken within 30 calendar days prior to submission from eye-level (approximately 5 feet high) showing existing street obstructions and views that would be obstructed by placement of the newsstand, taken in both directions parallel to the curb line (2 photographs), and the elevation of the facade of the building(s) or landscaping facing the site where the newsstand would be located indicating street obstructions and all entrances on the block-face to every building within 25 feet of either side of the proposed newsstand, taken perpendicular to the curb line. The applicant should take as many photographs as necessary to explain the location. At least one photograph should indicate the approximate outline of the plan of the proposed newsstand on the sidewalk. Photographs that do not reflect the current streetscape will not be accepted.

(4) Permission must be obtained in writing from the property owner(s) for any newsstand located within 3 feet of their property. This permission must be signed by the property owner(s) before a notary public. This requirement applies to both curb-line and property-line newsstands within 3 feet of any part of the private property, including but not limited to fixed awnings, marquees, canopies, or any other overhead building projection or fixtures that may extend from the property.

(b) Applications for newsstands to be constructed by franchisee. An applicant for a license to operate a newsstand to be constructed by a franchisee must select the size and interior accessories that are available pursuant to the franchise and must indicate his or her selection in the application. Both new and replacement newsstands must be limited to the sizes that are available pursuant to the franchisee.

(c) DCWP may waive the requirements of subdivisions a and b of this section where an application is submitted pursuant to paragraph 13 of subdivision a of section 2-64 of this Part for a license to maintain and operate an existing franchise newsstand.

§ 2-64 Application Procedures.

(a) *Procedures for applications for new licenses.*

(1) [DCA] DCWP will process no more than two applications from a single applicant at any given time. For purposes of this limit, an individual or sole proprietor cannot submit more than two applications in his or her name, in the name of a dependent child, or in the name of a business entity of which the individual or sole proprietor is a shareholder, partner, officer, director, member or manager. A business cannot submit more than two applications in the name of the business, and/or the name of a shareholder, partner, officer, director, member or manager of the business, and/or the name of a related business entity, such as another corporation, partnership, or limited liability company with a common shareholder, partner, officer, director, member or manager or in which a common shareholder, partner, officer, director, member or manager has a direct or indirect interest.

(2) Within 30 calendar days before the application is filed, the applicant must provide the owner of record, or owner's agent, of each building or lot directly adjacent to the site of the proposed newsstand, with notice that a newsstand application will be submitted within 30 calendar days to the [DCA] DCWP. Such notice must be made by certified mail. The notice shall specify the dimensions of the proposed stand and the distance and direction it will be located from the closest intersection. Proof that such notice was given is required at the time the completed application is submitted to the [DCA] DCWP. The applicant must submit a copy of such notice, the certified mail receipt, and an affidavit attesting to the mailing of such notice.

(3) Within 5 business days after receipt of a completed application, [DCA] DCWP shall forward a copy of such application and relevant documents to the Community Board for the district in which the newsstand is proposed to be located. The Community Board may, within 60 calendar days of receipt of such application, provide comments to [DCA] DCWP with respect to any of the factors addressed in these rules, and its suggestions as to the peak hour(s) and day(s) of pedestrian congestion for the proposed location. If the Community Board provides no comments within 60 calendar days, it shall be deemed to have waived its opportunity to comment. [DCA] DCWP shall forward the Board's comments within 5 business days of receipt to DOT, and, should DOT approve the application, to PDC or LPC.

(4) DOT shall review the location of the proposed newsstand for its compliance with the requirements of [6 RCNY] § 2-65(a) of this Part and conduct pedestrian level of service counts in accordance with [6 RCNY] § 2-65(a)(4) of this Part at the peak times and days, including those times and days suggested by the Community Board. DOT shall determine whether the location is acceptable within 60 calendar days of receipt of the Community Board's comments or the expiration of the Community Board's 60 calendar day period in which to provide comments if no comments are received from the Board. DOT shall transmit its

determination to [DCA] DCWP within 5 business days of such determination. Such determination expires one year from the date of transmittal to DCWP.

(5) DOT determination.

(A) [DCA] DCWP shall, within 5 business days of receipt of DOT's determination, transmit the results of such determination to the applicant.

(B) If DOT disapproves the location, the application shall be deemed denied. The applicant may resubmit an amended application, provided:

(i) the applicant pays an additional \$50 reapplication fee;

(ii) the amended application is submitted within 30 calendar days of the date of [DCA's] DCWP's notification to the applicant of DOT's determination;

(iii) such application has not been previously amended; and

(iv) such amended application is limited to a site that is located in front of the same building and on the same block-face of the site identified in the original application.

(C) If DOT approves the location identified in the application, the applicant must, within 30 calendar days of the date of [DCA's] DCWP's notification to the applicant of DOT's approval, submit to [DCA] DCWP the materials required for PDC or LPC review in accordance with paragraph (7) of this [Subdivision] subdivision (a).

(6) PDC or LPC review. If the proposed stand is located on a landmark site or within an historic district, [DCA] DCWP shall transmit the application to the LPC, which shall conduct its review under this Part in lieu of a PDC review. If the proposed stand is located anywhere else, [DCA] DCWP shall transmit the application to the PDC. The PDC or the LPC shall review the appropriateness of the proposed newsstand's relationship to its surroundings.

(7) Notification of PDC or LPC determination. The PDC or the LPC, as appropriate, shall notify [DCA] DCWP of its determination. Within 5 business days of receipt of PDC or LPC determination, [DCA] DCWP shall transmit the results of such determination to the applicant and send a copy of the notice to the Community Board. Prior to the start of construction, DCWP may request a DOT inspection if there have been any changes to the dimensions of the newsstand.

(8) Construction of stand. The license applicant is required to reimburse the franchisee, to the extent required by the franchise, for the costs of construction and installation by such franchisee of a newsstand that is not a replacement newsstand, as defined in [6 RCNY] § 2-61 of this Part. No license shall be issued to the applicant and no construction of a proposed newsstand shall begin until the franchisee provides [DCA] DCWP with satisfactory proof that the costs of construction, to the extent required by the franchise, have been paid or provided for by or on behalf of the applicant to the satisfaction of the franchisee. The franchisee must obtain all necessary construction, electrical, street opening, and other permits and approvals as well as conduct all required tests of the proposed location site, including but not limited to test pits before commencing construction and comply with all other requirements of Article 36 of General Business Law, 16 NYCRR Part 753 (also known as Industrial Code 53) and NYC Highway Rules before excavation begins. DOT may also direct the franchisee to perform preliminary test pits if site conditions indicate that a vault, void, subway station or tunnel may interfere with installation of the newsstand, even if not required under law. Construction must [be completed] begin within 150 calendar days from the date [of PDC or LPC approval. If] that the applicant completes the required paperwork and makes the required payment to the franchisee for the newsstand. In the event that construction is not completed within such period due to conditions over which the franchisee or the applicant for a license have no control, [DCA] DCWP shall have discretion to extend the timeframe for such construction for a reasonable period beyond the initial 150 calendar days. If, after DOT inspection of the proposed newsstand site, but prior to construction of such newsstand, conditions surrounding such site change so that the newsstand would no longer comply with the siting criteria in [6 RCNY] § 2-65 of this Part, or if preliminary test pits or full excavation reveals the presence of an underlying condition which would make installation unfeasible such as the presence of a vault, void, subway station or tunnel as approved, or if it is determined that the sidewalk does not have sufficient depth required to contain any conduits to electrical connections or structure foundation, it shall be the responsibility of the applicant for a license to identify an alternate location that fully complies with such siting criteria and to obtain approval of such alternate location from [DCA. DOT, as well as the PDC or LPC. DCA] DCWP, DOT, as well as the PDC or LPC. If the franchisee is

unable to obtain any necessary permits or approvals due to the fact that the newsstand site is located within a capital project area, the newsstand installation shall be placed on hold until the capital project is complete and permits can be obtained.

(9) Notice of completion of construction. DOT shall notify [DCA] DCWP of the completion of the newsstand. The [applicant] franchisee must submit, for [DCA] DCWP and PDC records, [8" × 10" color archival-quality] photographs of all sides of the newsstand, including at least one photograph each of the front, back, and both sides of the newsstand. Each photograph must be clearly marked on the back to indicate the stand's location, the applicant's name, the view of the stand depicted in the photograph, and the date the photograph was taken.

(10) [DCA] DCWP verification. Within 15 business days of receipt of the notice that construction has been completed, [DCA] DCWP and/or DOT shall complete their inspections of the newsstand to verify that it has been built according to approved plans.

(11) Grant of license.

(A) Within 5 business days after the inspections required by paragraph (10) of this subdivision (a), [DCA] DCWP shall notify the applicant whether the newsstand is satisfactory.

(B) If the newsstand is found to be satisfactory, the applicant shall, in the case of the construction of a newsstand that does not replace an existing newsstand already licensed to the applicant, provide DCWP with proof that the applicant has applied for a New York State certification of authority to collect sales tax and must pay the remaining license fee within 30 business days of the date DCWP sends the notification of subparagraph A of this paragraph. DCWP may extend this deadline upon good cause shown. [No license shall be granted by DCA absent receipt of such certification.]

(C) If [DCA] DCWP or DOT finds that the newsstand has not been constructed in accordance with the approved plans or at the correct location, [DCA] DCWP shall not issue a license until the stand is constructed in accordance with approved plans and at the correct location in accordance with the timing requirements in paragraph (8) of this subdivision (a).

(D) DCWP may deny an application at any time before the license is issued if the applicant has failed to reimburse the franchisee for a new or previously constructed newsstand, to the satisfaction of the franchisee.

(E) DCWP may deny an application upon a finding by the Commissioner of DCWP that the applicant is attempting to rent the newsstand;

(F) After DCWP grants the license, the franchisee or DOT shall furnish the keys to the applicant.

(12) Death or disability of licensee. At the discretion of the Commissioner or his or her designee, upon the death or permanent disability of the [person] individual or sole proprietor who was licensed to operate a newsstand at a location, [DCA] DCWP may accept an application for a license to operate such existing newsstand where:

(A) the applicant provides documentation sufficient to show that the applicant is a dependent spouse, dependent domestic partner, dependent child or one-time employee of the former licensee, or bears another pre-existing, established relationship to such former licensee that included financial dependence on such licensee;

(B) the applicant [demonstrates to DCA] attests that [the operation of such newsstand will be his or her principal employment] such person will have no other income, excluding investment income, which exceeds the income such person earns from the operation of the newsstand or newsstands; [and]

(C) the applicant is a person to whom the grant of such license would be in the interests of fairness [The Commissioner may grant a license to such an applicant who meets the burden of demonstrating eligibility to operate such an existing newsstand where the conditions in this paragraph (12) have been met, the applicable license and application fees have been paid, the New York certification of authority to collect New York sales tax has been provided, and the newsstand meets all other applicable requirements of this Part including, but not limited to, a qualifying inspection by DOT]; and

(D) the applicant provides documentation sufficient to show that the licensee is dead or permanently disabled.

(E) The Commissioner may grant a license to such an applicant who demonstrates eligibility to operate such an existing newsstand where the conditions in this paragraph (12) have been met, the applicable license and application fees have been paid, the New York State certification of authority to collect New York State sales tax has been provided, and the newsstand meets all other applicable requirements of this Part including, but not limited to, a qualifying inspection by DOT.

(13) Application for an Existing Vacant Newsstand.

(A) The Commissioner may accept an application for a license to operate an existing vacant newsstand where:

(i) an applicant is being required to relocate pursuant to subdivision d of section 2-68 of this Part; or

(ii) an applicant has proposed a location that has been approved, but construction of a new newsstand at such approved location has not begun within 150 days from the date that such applicant completed the required paperwork and made the required payment to the franchisee for the newsstand; or

(iii) the Commissioner has determined that such existing vacant newsstand is not necessary to reserve for any other purpose, including but not limited to ensuring availability of newsstands for applicants permitted to apply for a license to operate an existing newsstand under (i) and (ii) of this subparagraph.

(B) The Commissioner may grant a license to operate an existing vacant newsstand where such newsstand meets all other applicable requirements of this Part including, but not limited to, having passed a qualifying inspection by DOT. The Commissioner may only grant such license to an applicant where:

(i) the applicant demonstrates or the Commissioner determines a condition in subparagraph (A) of this paragraph has been met,

(ii) the applicant attests that they will have no other income, excluding investment income, which exceeds the income such person earns from the operation of the newsstand or newsstands,

(iii) the applicant has paid the applicable license and application fees, and

(iv) the applicant has provided the New York State certification of authority to collect New York State sales tax.

(b) License renewal.

(1) The licensee shall obtain from [DCA] DCWP the appropriate renewal application form.

(2) Pursuant to § 20-231(c) of the Code, DOT shall inspect all newsstands, including those of 50 square feet or less, at the time they are constructed by the franchisee or in the year 2008, whichever comes first, and every 6 years following 2008, to determine whether their locations comply with the applicable size and siting requirements of [6 RCNY] § 20-231 of the Code and § 2-65 of this Part. Renewal of licenses within such 6 year interval shall not be contingent upon an inspection by DOT, except where DOT's previous determination was based on a mistake of fact.

(3) No license shall be renewed for any newsstand that was first licensed and has been in existence at the same location since prior to August 1, 1991 if the newsstand fails to comply with any provision of the Code or the siting requirements of [6 RCNY] § 2-65(b)(2) of this Part. If the location of such newsstand does not meet the siting requirements of [6 RCNY] § 2-65(b)(2) of this Part, such newsstand may either be reduced in size at the same location to the extent a newsstand that complies with such siting requirements is available pursuant to the franchise or be relocated to a site that complies with the siting requirements that are applicable to newsstands that were first licensed on or after August 1, 1991, set forth in [6 RCNY] § 2-65(b)(1) of this Part within the catchment area of such newsstand in accordance with the process described in [6 RCNY] § 2-68(e) of this Part.

(4) No license shall be renewed for any newsstand that was first licensed on or after August 1, 1991, if DOT determines pursuant to an inspection, scheduled and conducted in accordance with paragraph (2) of this subdivision (b), that the newsstand fails to comply with any provision of the Code or the siting requirements of [6 RCNY] § 2-65(b)(1) of this Part. If the location of such newsstand does not meet the siting requirements of [6 RCNY] § 2-65(b)(1) of this Part, such newsstand may either be reduced in size at the same location to the extent a newsstand that complies with such siting requirements is available pursuant to the franchise or be relocated to a site that complies with such siting requirements within the catchment area of such newsstand in accordance with the process described in [6 RCNY] § 2-68(e).

(5) Prior to issuing a license renewal, [DCA] DCWP [shall] may first determine that the newsstand is in good repair, free of advertising, other than advertising placed on the newsstand by a franchisee, [does not exceed 72 square feet in area (or 50 square feet, if applicable)], and conforms with the previously approved plans for such newsstand or, if constructed and installed by a franchisee, has not been altered. If the newsstand is not in compliance, DCWP will notify the operator in writing and allow the operator two weeks from date of mailing of the notice to put the newsstand into compliance. If the operator fails to put the newsstand into compliance after two weeks, then DCWP will deny the renewal.

(c) *Changes in license status.* In addition to any other basis for revoking a license, the Commissioner of [DCA] DCWP may revoke [, cancel,] or refuse to renew a license to maintain and operate a newsstand for any of the following reasons:

(1) upon a finding by the Commissioner of [DCA] DCWP that the location listed in the license was not utilized for a period of two consecutive months or more;

(2) upon a finding by the Commissioner of [DCA] DCWP that the licensee is not using the newsstand primarily for the sale of newspapers and periodicals;

(3) that a judgment has been entered against the licensee for failure to pay the franchisee the cost of the construction and installation of a newsstand in accordance with § 20-229 of the Code; [or]

(4) that a non-temporary change in conditions has rendered or will render the newsstand a hazard because it obstructs pedestrian flow or the flow of vehicular traffic or for any other reason. A licensee may propose the relocation of such newsstand in accordance with the process in subdivision (d) of [6 RCNY] § 2-68 of this Part; or

(5) upon a finding by the Commissioner of DCWP that the licensee is renting or attempting to rent the newsstand to another person.

(d) *Alteration or enlargement of newsstands.* The licensee shall make no structural alteration to a newsstand that is constructed and installed by a franchisee. The licensee of any other newsstand shall maintain such newsstand in conformity with previously approved plans for such newsstand and shall make no structural alteration in the newsstand without the approval of [DCA] DCWP. The enlargement of a newsstand requires the application for a new license in accordance with the process and procedures for applications for new licenses, except as otherwise provided for newsstands that are to be constructed by a franchisee to replace newsstands in existence at the time of the grant of a franchise in accordance with § 20-231(k) of the Code and [6 RCNY] § 2-68 of this Part.

(e) *Fees.* The holder of a license to maintain or operate a newsstand, including a licensee of a newsstand constructed and installed by a franchisee, shall be liable for the payment to the department of the biennial fee for a license to maintain or operate a newsstand in accordance with § 20-230(b) of the Code.

§2-65 Siting Requirements for Newsstands.

(a) **New newsstands.** The clearance requirements of this subdivision (a) apply to applications for the issuance of a license to install, construct and operate newsstands at locations at which no newsstand is licensed at the time of the application.

(1) Clear path.

(A) All newsstands shall be installed so as to allow a straight unobstructed path ("clear path") for pedestrian circulation on the sidewalk, which must measure at least 9 1/2 feet of the sidewalk's width and cannot contain a longitudinal grade-change of more than 5 percent within the clear path.

(B) Clearance for pedestrians for curb-line newsstands. When reviewing the relationship of newsstands to other obstructions on the sidewalk, a principal concern is the maintenance of a straight clear path of 9 1/2 feet in front of the stand. In addition, there must be a clearance of 15 feet on either side of the 9 1/2 foot clearance in front of the stand. (See § 2-70.1, Illustrations 1 and 2.)

(C) Clearance for pedestrians for property-line newsstands. For property-line newsstands, the distance from

curb to newsstand must be as provided in the Code, which requires a minimum clear path of 9 1/2 feet. In addition, the 9 1/2 foot clearance must extend 15 feet on either side of the newsstand. Newsstands shall not be installed within 3 feet of the property line without the property owner's written permission. (See § 2-70.1, Illustration 3.)

(D) There shall not be any grate or cellar door included as a part of the clear path directly in front of the proposed stand, [or] beneath it or in the 15 feet clearance on either side of the newsstand.

(2) Clearances in general.

(A) Newsstands may not be located within 1 [foot, 6 inches] 1/2 feet of any curb line of a street or within 10 feet of the property line extended at the intersection of any two streets. (See § 2-70.1, Illustration 4.)

(B) A minimum distance of 15 feet measured parallel to the curb must be maintained between the newsstand and other newsstands, bus shelters, automatic public toilets, computer information kiosks, enclosed or unenclosed sidewalk cafes, and subway entrances and exits, including elevators, except for stands at the rear of subway entrances or exits, as provided in §20-231(f) of the Code.

(C) A 15 foot clearance is required from curb cuts leading to garages, driveways, parking lots, gas stations and truck service areas, city-authorized bike share and micro-mobility parking areas, way finding kiosks, and planters installed at the curb line. All clearances from such curb cuts must also meet DOT safety and operational requirements.

(D) A 10 foot clearance is required from property lines extended at the intersection of two streets (see § 2-70.1, Illustration 4), fire hydrants (in any direction), standpipes (in any direction), siamese connections (in any direction), crosswalks (in any direction), pedestrian ramps (in any direction).

(E) A 5 foot clearance is required from the edge of tree [pit, in any direction, or a canopy] pits or planting areas (in any direction), benches, elevated subway stanchions or support structures, or building canopies or marquees.

(F) A 3 foot clearance is required from street lights and traffic signal poles, street signs, parking meters, telephones, fixed litter baskets, and mail boxes, in any direction.

(G) A 2 foot clearance, in any direction, is required from ventilation or other grills, cellar doors, [manholes] utility access covers, access plates, [adjoining building vaults or transformer vaults, street signs, parking meters, telephones, fixed litter baskets,] and valve boxes [, and mail boxes].

(H) A 1 1/2 foot clearance is required from curbs, measured perpendicular to the curb-line. The newsstand shall be oriented away from the adjacent roadway. In a pedestrian plaza the newsstand may be oriented towards the roadway if it meets all other siting criteria.

(I) If DOT determines that a proposed location for a newsstand would place it directly above or [adjacent to] within 15 feet of an underground vault[, and that the proximity of the stand to such a vault could reasonably pose a hazard], as defined in § 2-61(u), the proposed location shall be rejected.

(J) Newsstands may not be placed under fire escapes.

(K) Newsstands may not extend into taxi stands [or], bus stops, ambulette stops, or any designated for-hire-vehicle passenger pick-up or drop-off locations.

(L) Newsstands may not be placed within the frontage of any building having more than 3 floors of retail use, measured from a line drawn between the curb and the edges of each building.

(M) Newsstands may not be placed within 15 feet of any other obstruction, such as scaffolding or construction material, that is present at the time at which the proposed site for the newsstand is inspected by DOT. If the removal of such obstruction may be reasonably expected within one year, an applicant for a new newsstand may propose such a site for placement of a newsstand upon the removal of such

obstruction. [DCA] DCWP shall keep all such applications on file for a maximum of one year from the date of application. It shall be the responsibility of the applicant to notify [DCA] DCWP that such obstruction has been removed. After one year, any such application that is still pending for any reason, including the continued presence of such obstruction, shall be denied.

(N) An 8 foot clearance is required from a bicycle rack.

(O) A 5 foot clearance is required from any fixed, above-grade object, unless otherwise specified.

(P) Newsstands may not be placed on or within 25 feet of a bridge, viaduct, overpass or other elevated roadway.

(Q) If a newsstand is to be placed on a sidewalk containing above-ground or at-grade street improvements requiring a Revocable Consent from DOT, the newsstand must comply with the siting distances required under section 7-04 of the Revocable Consent Rules contained in Title 34, Chapter 7 of the Rules of the City of New York.

(3) Clearances from elements of buildings.

(A) Except as provided in subparagraph (B) and (C) of this paragraph (3), a 15 foot clearance as measured parallel to the curb is required from significant entrances to major buildings, defined as entrances to hospitals, emergency rooms or other medical facilities, schools and universities, houses of worship, governmental buildings, any entrance to the elevator lobby of a building having non-residential uses above the street level floor and having 16 floors in height or more with a frontage of at least 100 feet on narrow streets or 140 feet on wide streets, any entrance to the lobby of a hotel, any entrance from a bank to the street providing access to tellers for members of the general public, excluding automatic teller machine (ATM) rooms, unless the ATM entrance also serves as the main entrance to the bank, entrances to theaters, and entrances to box offices. Such clearances shall be measured from a line drawn between the curb and the nearest edge of such entrance (see § 2-70.1, Illustration 5). For purposes of this paragraph (3), the definition of "narrow" and "wide" streets in §12-10 of the New York City Zoning Resolution shall apply.

(B) A 10 foot clearance is required from service or freight entrances.

(C) A 5 foot clearance is required from all other retail entrances and building entrances.

(D) For the purposes of this paragraph, "entrance" shall mean the physical entry point of ingress and egress directly into and from the adjacent property.

(4) Pedestrian level of service. No newsstand will be permitted at any location where DOT has determined that the level of service that would be created by the proposed stand at that location for the peak 15 minutes of the peak hour has a pedestrian flow rate equal to or greater than 11 people per minute per linear foot of clear path. [Pedestrian level of service shall be determined by dividing the number of pedestrians counted during the peak 15 minutes of the peak hour by the sidewalk width less the sum of 4.5 feet to allow for pedestrian behavior and the width of any other obstructions. In the case of a curb-line newsstand, sidewalk width is the distance from the face of the newsstand to the building line. In the case of a property-line newsstand, sidewalk width is the distance from the face of the newsstand to the curb-line. DOT shall include in its determination any portion of the area between the building line and the property line which it finds to be immediately adjacent to and level with the public sidewalk, open to the sky, and substantially unobstructed along its entire length, and level, paved, and accessible so as to provide a useable walking surface.]

(A) Pedestrian level of service shall be determined by dividing the number of pedestrians counted during the peak 15 minutes of the peak hour by the clear path less the sum of 4.5 feet to allow for pedestrian behavior and the width of any other obstructions.

(B) In the case of a curb-line newsstand, clear path shall be determined pursuant to § 2-65(a)(1)(B). DOT shall include in its determination any portion of the area between the building line and the property line which it finds to be immediately adjacent to and level with the public sidewalk, open to the sky, and

substantially unobstructed along its entire length, and level, paved, and accessible so as to provide a useable walking surface.

(C) In the case of a property-line newsstand, clear path shall be determined pursuant to section 2-65(a)(1)(C).

(5) Hazardous conditions. No license to maintain and operate a new newsstand shall be issued for any such newsstand if DOT determines that it otherwise creates a hazardous condition. For purposes of this paragraph, a hazardous condition shall include, but not be limited to, the location of a newsstand within the sidewalk space between the building face and bollards placed along the curb line, the location of a newsstand within 15 feet of a security zone administered/authorized by the NYPD Counter Terrorism Task Force, the New York City Fire Department, the New York City Office of Emergency Management or within 10 feet of a public or private building encompassed by improvements approved by the NYPD for security purposes. In addition, in a pedestrian plaza, a hazardous condition shall include the location of a newsstand within ten feet of any permanently affixed connection point(s) to power, sound, water and/or other services.

(6) New newsstands within pedestrian plazas.

(A) All new newsstands within pedestrian plazas shall be located within the bounds of the sidewalk as determined by the original curb-line of the street, and shall comply with all the siting requirements set forth in paragraphs (1), (2), (3), (4) and (5) of this subdivision.

(B) All new newsstands shall also comply with the following clearances measured parallel to the curb:

(i) Newsstands shall be at least 12 feet from the front-facing side of any backed fixed seating element, or any side of a backless fixed seating element. Fixed seating elements may include seat walls, steps, boulders, blocks or any other elements measuring 5 inches to 3 feet in height and at least 4 inches deep.

(ii) Newsstands shall be at least 15 feet from any plaza amenity, as defined in §2-61 of this Part.

(iii) Newsstands shall not be located in any fire lanes or fire access zones, as determined by the New York City Fire Department.

(iv) Newsstands shall not be located within any open programmatic areas, as defined in §2-61 of this Part.

(v) A 5 foot clearance is required from stand alone or in-ground utility connection point(s).

(vi) Newsstands shall be at least 15 feet from any structure and associated in-ground connections (such as vaults, anchors or footings) within the pedestrian plaza, whether permanent or temporary and recurring.

(vii) Newsstands shall not be located on any permeable paving, which may be part of any subsurface green infrastructure.

(C) A list of all designated pedestrian plazas is posted on DOT's website.

(b) Renewals and replacement newsstands.

(1) Post 7/31/1991 newsstands. No license to maintain and operate a newsstand shall be renewed for any newsstand that was first licensed on or after August 1, 1991, if DOT determines pursuant to an inspection, scheduled and conducted in accordance with subdivision (c) of this section, that the newsstand:

(A) reduces the area maintained [on the sidewalk] adjacent to the newsstand for pedestrian movement below a width of 9 1/2 feet;

(B) places the proposed newsstand within 5 feet of a fire hydrant;

(C) creates a level of service at the proposed location for the peak 15 minutes of the peak hour of a pedestrian flow rate equal to or greater than 11 people per minute per linear foot of clear path, as

determined by DOT. The pedestrian level of service shall be determined by the method described in [6 RCNY] §2-65(a)(4) of this Part;

(D) places the proposed newsstand within 15 feet of a subway entrance or exit (except for newsstands located at the rear of subway entrances in accordance with §20-231(f) of the Code);

(E) extends into the area encompassed by the extension of the property lines from the buildings to the curb at the intersection of two streets and the area 10 feet on either side of such lines;

(F) extends into a bus stop;

(G) otherwise creates a hazardous condition. For purposes of this [subparagraph (G)] paragraph, a hazardous condition shall include, but not be limited to, the location of a newsstand less than [one foot, 6 inches] 1 1/2 feet from the curb, under a fire escape, within any fire lanes, within [ten] 10 feet of a driveway or parking lot or within [two] 2 feet from underground access points, such as utility access [openings] covers, ventilation grills, or cellar doors, or the location of a newsstand within 15 feet of a security zone administered/authorized by the NYPD Counter Terrorism Task Force, the New York City Fire Department, the New York City Office of Emergency Management or with 10 feet of a public or private building encompassed by improvements approved by the NYPD for security purposes. In addition, in a pedestrian plaza, a hazardous condition shall include the location of a newsstand within 10 feet of any permanently affixed connection point(s) to power, sound, water and/or other services.

(2) Pre-8/1/1991 newsstands. No license to maintain and operate a newsstand shall be renewed for any newsstand that was first licensed and has been in existence at the same location since prior to August 1, 1991 which fails to comply with any applicable provision of the Code, or:

(A) reduces the area maintained [on the sidewalk] adjacent to the newsstand for pedestrian movement below a width of 9 1/2 feet;

(B) places the proposed newsstand within 5 feet of a fire hydrant;

(C) creates a level of service at the proposed location for the peak 15 minutes of the peak hour of a pedestrian flow rate equal to or greater than 11 people per minute per linear foot of clear path, as determined by DOT. The pedestrian level of service shall be determined by the method described in [6 RCNY] §2-65(a)(4) of this Part;

(D) places the proposed newsstand within 15 feet of a subway entrance or exit (except for newsstands located at the rear of subway entrances in accordance with §20-231(f) of the Code);

(E) extends into the area encompassed by the extension of the property lines from the buildings to the curb at the intersection of two streets;

(F) otherwise creates a hazardous condition. For purposes of this [subparagraph F] paragraph, a hazardous condition shall include, but not be limited to, the location of a newsstand less than 1 1/2 feet from the curb, under a fire escape, within any fire lanes, within ten feet of a driveway or parking lot or within 2 feet from underground access points, such as utility access covers, ventilation grills, or cellar doors, or the location of a newsstand within 15 feet of a security zone administered/authorized by the NYPD Counter Terrorism Task Force, the New York City Fire Department, the New York City Office of Emergency Management or with 10 feet of a public or private building encompassed by improvements approved by the NYPD for security purposes. In addition, in a pedestrian plaza, a hazardous condition shall include the location of a newsstand within ten feet of any permanently affixed connection point(s) to power, sound, water and/or other services.

(3) Renewals and replacement newsstands in pedestrian plazas.

(A) Post 7/31/1991 newsstands. No license to maintain or operate a newsstand within a pedestrian plaza shall be renewed for any newsstand that was first licensed on or after August 1, 1991, if DOT determines pursuant to an inspection, scheduled and conducted in accordance with subdivision (c) of this section, that such newsstand:

(i) does not comply with all the requirements set forth in paragraph (1) above;

(ii) places the newsstand within any open programmatic areas as defined in §2-61 of this Part;

(iii) places the newsstand within 20 feet from any designated performances areas; or

(iv) places the newsstand on permeable paving, which may be part of any subsurface green infrastructure.

(B) Pre-8/1/1991 newsstands. No license to maintain and operate a newsstand within a pedestrian plaza shall be renewed for any newsstand that was first licensed and has been in existence at the same location since prior to August 1, 1991 which fails to comply with any applicable provision of the Code, or:

(i) does not comply with all the requirements set forth in paragraph (2) above;

(ii) places the newsstand within any open programmatic areas as defined in §2-61 of this Part;

(iii) places the newsstand within 20 feet of any designated performance areas; or

(iv) places the newsstand on permeable paving, which may be part of any subsurface green infrastructure.

(B) The requirements of subparagraph (A) of this paragraph shall not apply to any newsstand installed prior to DOT's designation of a pedestrian plaza immediately around the newsstand.

(4) Tests performed by the franchisee. Renewal applications and replacement locations may be denied if a site fails any necessary construction test performed by the franchisee, including but not limited to test pits.

(c) **Inspections by DOT.** Except as otherwise provided in [6 RCNY] § 2-68 of this Part with respect to the reconstruction of newsstands by a franchisee, DOT shall conduct an inspection of newsstands in the year 2008 and every six years thereafter in connection with applications to renew licenses to operate such newsstands to determine whether such newsstands comply with applicable requirements of the Code and this Part, including the applicable clearances in paragraph (1) or (2) of subdivision (b) of this section.

(d) **Franchise newsstands.** If the PDC or the LPC has approved the type and design of a model of a new newsstand to be constructed and installed by a franchisee after the grant of a franchise, the PDC or LPC shall review the appropriateness of the franchise model for the proposed location and the design relationship of the proposed newsstand to its surroundings.

§ 2-66 Operations.

(a) *Display of merchandise.* Licensees shall not display or offer for sale merchandise from any public space adjacent to the licensed newsstand, whether on racks, shelves, tables, doors, boxes, crates, or from any portion of the newsstand exterior. Nothing may be affixed to or built into the exterior sides, rear or roof of the newsstand, except for advertising placed on the exterior of a newsstand by a franchisee. Nothing may be hung on rope, twine, or similar material affixed to the exterior sides, rear or roof of the newsstand. No sales may take place other than at the front of the newsstand.

(b) *Advertising.* A licensee shall not place any advertising on any exterior side of a newsstand and shall not interfere with or cover or otherwise block the view of any advertising placed by a franchisee on the exterior of a newsstand.

(c) *Electricity.* A licensee shall not lease, assign, or sell the use of the licensed newsstand's electricity.

(d) *Alteration of design.* The licensee shall make no structural alteration in the design or dimensions of a newsstand constructed or installed by a franchisee.

(e) *Construction of future newsstands.* After the grant of a franchise, no person shall construct or install a newsstand other than a franchisee.

§ 2-67 Temporary Interruptions of Newsstand Operation.

If a capital project set to start within six months or a legally permitted but temporary sidewalk obstruction due to construction, demolition and/or similar activities substantially affects the conditions around the newsstand so that such conditions cause or will cause the newsstand to no longer comply with the siting criteria in [6 RCNY] § 2-65 of this Part or otherwise pose a threat to the free use of the sidewalk by pedestrians, the Commissioner shall have the authority, upon notice and an opportunity to be heard, to temporarily suspend a newsstand's operation until the obstruction is removed. In such cases, the operator may apply to [DCA] DCWP for a temporary relocation of the newsstand pursuant to the procedures specified in subdivision (d) of [6 RCNY] § 2-68 of this Part.

§ 2-68 Review, Approval, Replacement and Relocation of Newsstands Constructed by a Franchisee.

(a) *Scope.* This section applies to the review, approval, replacement, and relocation of newsstands constructed and installed pursuant to a franchise to replace newsstands that are in existence on the date of the grant of the franchise and that are not in violation of any of the provisions of § 20-231 of the Code or this Part. DOT shall determine whether such newsstands require a change in size or location pursuant to the franchise, and shall perform any inspections necessary to make its determination.

(b) *If DOT determines that no change in size or location is required.* Notwithstanding any other provision of § 20-231 of the Code, this Part, or the second undesignated paragraph of § 15-205 of the Code, a newsstand subject to this section, the location or dimensions of which were not in violation of the provisions of § 20-231 of the Code or this Part at the date of the grant of a franchise and which complies with all of the terms and conditions of such franchise, may be reconstructed at such location by such franchisee if such reconstruction does not change the location of such newsstand or expand the area occupied by such newsstand for any reason, including compliance with the requirements of any provision of law in effect at the time of such reconstruction, such as the requirements of the Americans with Disabilities Act.

(c) *If DOT determines that location or size must change.* If such reconstruction will result in a change in location or an expansion of the area occupied by the newsstand for any reason, including compliance with the requirements of any provision of law in effect at the time of such reconstruction, such as the Americans with Disabilities Act, such stand may be reconstructed at the changed or expanded location, provided that the location complies with the following siting criteria:

(1) With respect to newsstands first licensed at the same location prior to August 1, 1991:

(A) Such newsstand may be reconstructed at such changed or expanded location provided such location does not violate any of the clearance criteria in paragraph (2) of subdivision (b) of [6 RCNY] § 2-65 of this Part.

(B) If the reconstruction at such changed or expanded location of a newsstand that was first licensed at the same location prior to August 1, 1991 would violate any of the clearance criteria in paragraph (2) of subdivision (b) of [6 RCNY] § 2-65 of this Part, then (i) such newsstand may be relocated in accordance with the process defined in subdivision (d) of this section to a location that meets the criteria applicable to newsstands first licensed on or after August 1, 1991, in paragraph (1) of subdivision (b) of [6 RCNY] § 2-65 of this Part or (ii) the licensee may select a newsstand that is available pursuant to the franchise that would occupy an area that was equal to or smaller than the area occupied by the newsstand it replaces and that meets the criteria specified in paragraph (2) of subdivision (b) of [6 RCNY] § 2-65 of this Part.

(2) With respect to newsstands first licensed on or after August 1, 1991:

(A) Such newsstand may be reconstructed at such changed or expanded location provided such location does not violate any of the clearance criteria in paragraph (1) of subdivision (b) of [6 RCNY] § 2-65 of this Part.

(B) If the reconstruction at such changed or expanded location of a newsstand that was first licensed on or after August 1, 1991 would violate any of the criteria in paragraph (1) of subdivision (b) of [6 RCNY] § 2-65 of this Part, then (i) such newsstand may be relocated in accordance with the process defined in subdivision (d) of this section to a location that meets the criteria applicable to newsstands first licensed on or after August 1, 1991 in paragraph (1) of subdivision (b) of [6 RCNY] § 2-65 of this Part or (ii) the licensee

may select a newsstand that is available pursuant to the franchise that would occupy an area that is equal to or smaller than the area occupied by the newsstand it replaces and that meets the criteria specified in subdivision (d) of this section to a location that meets the criteria in paragraph (1) of subdivision (b) of [6 RCNY] § 2-65 of this Part.

(d) *Relocation of Newsstands.*

(1) General rule. On or after the grant of a franchise, a newsstand, the location of which fails to meet the siting criteria for the renewal of the license of such newsstand in paragraph (1) or (2), as applicable, of subdivision (b) of [6 RCNY] § 2-65 of this Part, or which must be relocated for any other reason, including but not limited to capital projects scheduled to start within six months, shall cease operation and shall be removed from such location. A newsstand required by the provisions of this paragraph to be relocated at any time shall be eligible to be relocated to a site within the catchment area, provided such site is identified by the licensee and meets the siting criteria applicable to the renewal of licenses for newsstands first licensed on or after August 1, 1991, in paragraph (1) of subdivision (b) of [6 RCNY] § 2-65 of this Part.

(2) If the licensee is unable to identify a compliant site within the catchment area to which a newsstand may be relocated in accordance with subdivision (d) of this section, the licensee of such newsstand may apply for a license for a new newsstand in accordance with the applicable provisions of the Code and subdivision (a) of [6 RCNY] § 2-64 of this Part.

(e) *Procedures.*

(1) All existing newsstands for which the licenses are in full force and effect as of July 13, 2006 may be replaced by the franchisee pursuant to the requirements of this chapter and according to a schedule devised by DOT and [DCA] DCWP at their sole discretion.

(2) Replacement of a newsstand at the location of the existing newsstand or the relocation of a newsstand within the catchment area of such newsstand in accordance with subdivision (d) of this section shall not require a renewal of the license for such newsstand prior to the expiration of the term of such license.

(3) The licensee shall not be required to submit an application for a license for a new newsstand pursuant to [6 RCNY] § 2-63 of this Part or to comply with the requirements of [6 RCNY] § 2-64 of this Part in order to operate the newsstand reconstructed pursuant to this subdivision (e) unless there is no location that complies with the applicable siting requirements in [6 RCNY] § 2-65 of this Part within the catchment area in which such newsstand is located. The licensee must comply with the applicable siting requirements in [6 RCNY] § 2-65 of this Part.

(4) [DCA] DCWP or DOT shall notify the licensee by certified mail, addressed to the licensee at the address provided by such licensee on his or her most recent application for a license or renewal of a license, of his or her option to arrange for removal of his or her newsstand structure by a person other than the franchisee, and of a time period in which the franchisee will otherwise remove and reconstruct the licensee's newsstand. Such notice shall be mailed by [DCA] DCWP or DOT at least 30 calendar days prior to the first day of such time period during which the franchisee is scheduled to remove and reconstruct the licensee's newsstand. [DCA] DCWP shall deem a licensee to have waived his or her right to arrange for removal of the newsstand by a person other than the franchisee unless [DCA] DCWP or DOT receives, as required by the notice, within 15 calendar days of the date such notice was mailed, written notice from the licensee that such licensee intends to arrange for the removal of his or her newsstand structure by a person other than the franchisee. Any removal by a person other than the franchisee shall be completed at least 5 calendar days prior to the first day of the period during which the franchisee is otherwise scheduled to remove and reconstruct the licensee's newsstand. Any removal of a newsstand by a person other than the franchisee shall comply with all applicable laws, rules, regulations, and standards to ensure the protection of public safety, including but not limited to the deactivation of any electrical current to the newsstand premises.

(5) If the licensee does not elect to or waives his or her option to elect to have his or her newsstand removed by a person other than the franchisee, then the franchisee may remove and reconstruct the licensee's newsstand during the period indicated in the notice referred to in paragraph (4) of this subdivision (e) and the licensee shall have no right to intervene in that process. If the licensee elects to have his or her newsstand removed by a person other than the franchisee, but fails to have removed his or her newsstand at least 5 calendar days prior to the first day of the period during which the franchisee is otherwise

scheduled to remove and reconstruct the licensee's newsstand, the franchisee may remove and reconstruct the licensee's newsstand and the licensee shall be subject to all applicable provisions of [6 RCNY] § 2-69 of this Part.

(6) All newsstand contents must be removed from the newsstand by the licensee prior to the first day of the period during which the franchisee is scheduled to remove and reconstruct the licensee's newsstand. If the licensee fails to remove said contents within this timeframe, the licensee shall be subject to all applicable provisions of [6 RCNY] § 2-69 of this Part.

(7) The operation of the newsstand shall cease during such time as the franchisee constructs and installs the replacement newsstand and shall not resume until the licensee receives notification from [DCA] DCWP or DOT that he or she may resume operations.

(8) The franchisee shall obtain the necessary construction, electrical, street opening, and other permits or approvals required for the construction and installation of the replacement newsstand.

(9) DOT may deny any proposed relocation site if the site fails any necessary construction tests conducted by the franchisee, including but not limited to test pits.

§ 2-69 Enforcement.

(a) *General.* Failure to comply with any of the requirements of this Part or the applicable provisions of the Code or any other law that applies to the construction, reconstruction, relocation and operation of a newsstand may result in the exercise by the Commissioner of powers granted to him or her in Chapter 1 of Title 20 of the Code, including the power to impose fines and penalties and to suspend or revoke [or cancel] any license issued by him or her in accordance with the applicable procedures and provisions of such Chapter.

(b) *Obligation to cooperate with replacement of newsstands by franchisee.* During the removal, reconstruction, relocation, and continuing operation of the licensee's newsstand, the licensee shall not:

(1) Impede or interfere with the removal, reconstruction and/or relocation of the newsstand;

(2) Create a hazardous condition; or

(3) Impede physical access to the newsstand by the franchisee after completion of construction for the purpose of making reasonable repairs or improvements to such stand, or for ongoing maintenance by the franchisee, or for an inspection to determine compliance with applicable law.

(c) *Waiver of options.*

(1) Failure to remove a newsstand at least 5 calendar days prior to the first day of the period during which the franchisee is otherwise scheduled to remove and reconstruct the licensee's newsstand, as provided in notice given pursuant to paragraph (4) of subdivision (e) of [6 RCNY] § 2-68 of this Part, shall be considered a waiver of a licensee's written election to arrange for non-franchisee removal.

(2) Failure of a licensee to communicate an available choice of interior accessories of a replacement newsstand in a timely manner may result in waiver of the right to choose such interior accessories.

(3) Failure to cooperate in any aspect of the transitional procedures contained in subdivision (e) of [6 RCNY] § 2-68 of this Part, or in any other procedure contained in this Part, may result in the forfeiture of options otherwise available to the licensee.

§ 2-70 Inquiries and Complaints.

Direct all inquiries and complaints to:

Department of Consumer [Affairs] and Worker Protection
42 Broadway
New York, NY 10004

Telephone: 311

§ 2-70.1 Illustrations.

Illustration 1: Typical full block front plan showing clear path for curb-line newsstand.

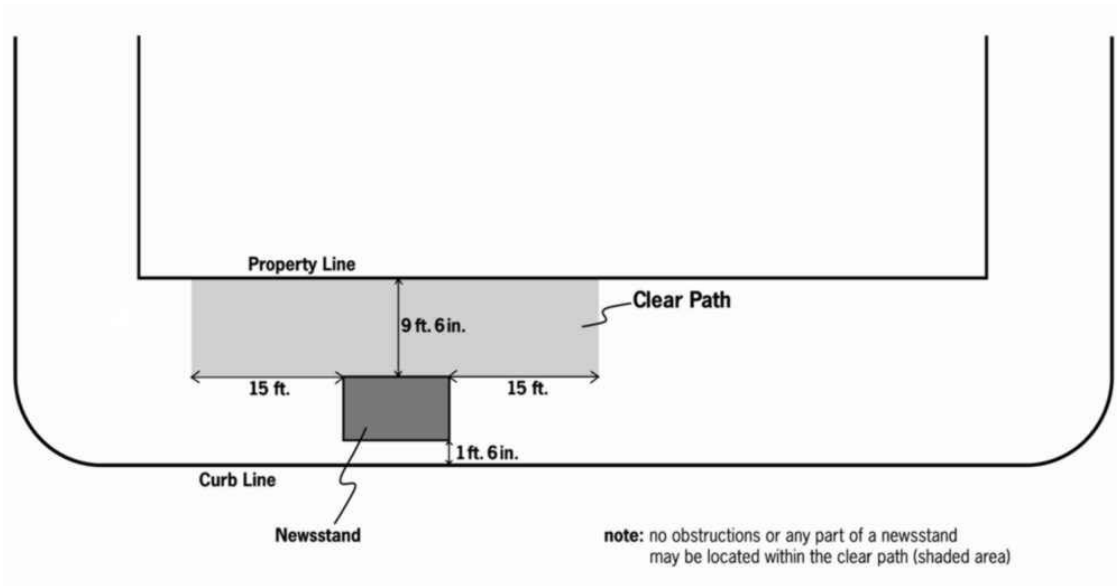


Illustration 2: Illustrative example showing clear path.

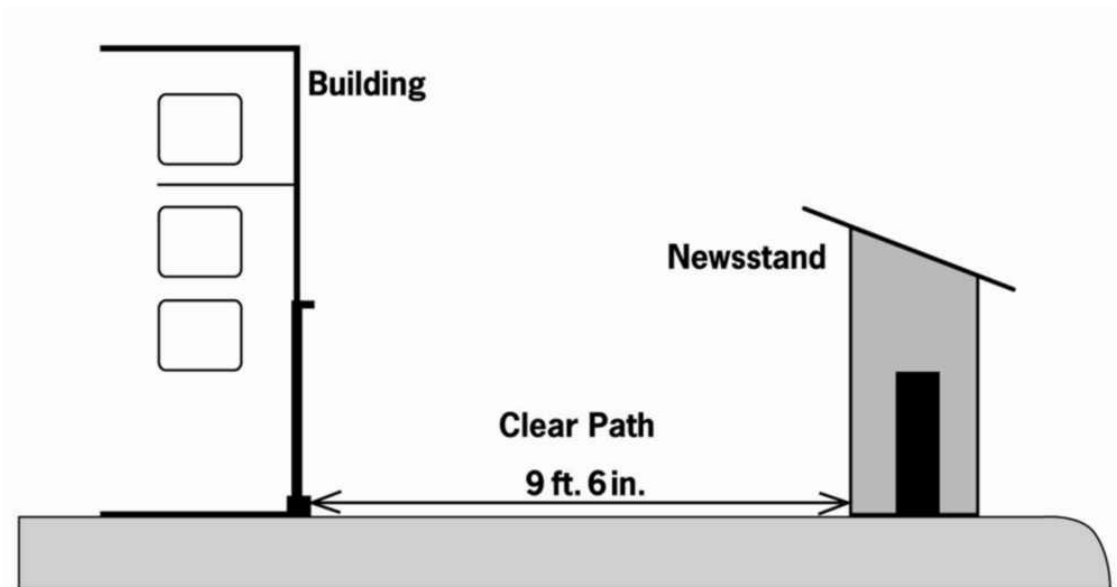


Illustration 3: Typical full block front plan showing clear path for property – line newsstand.

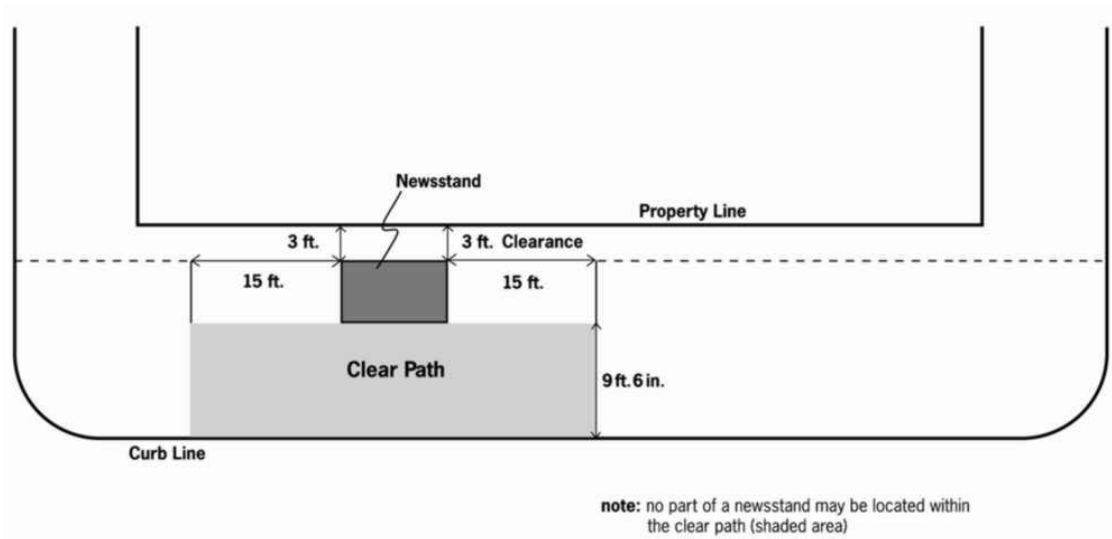


Illustration 4: Typical full block front plan showing clearance from corners and curb of streets.

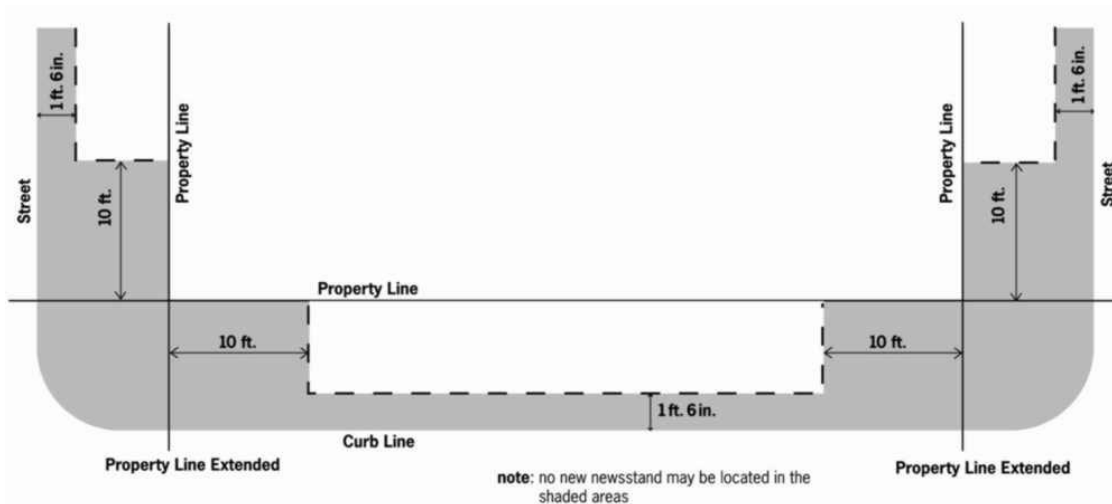
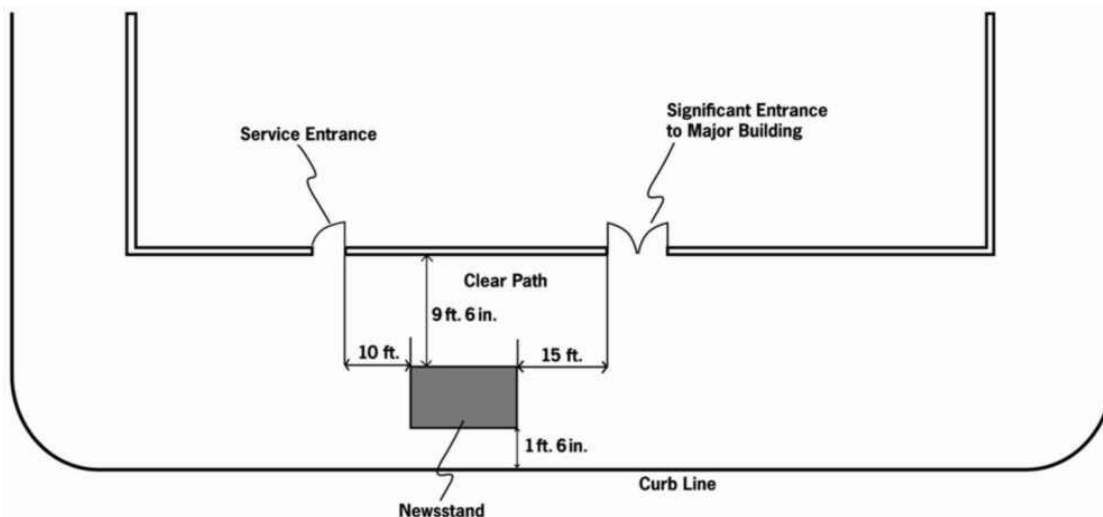


Illustration 5: Typical block front showing clearance from building entrances.



**NEW YORK CITY LAW DEPARTMENT
DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
NEW YORK, NY 10007
212-356-4028**

**CERTIFICATION PURSUANT TO
CHARTER §1043(d)**

RULE TITLE: Amendment of Rules Relating to Relating to Newsstand Licenses

REFERENCE NUMBER: 2023 RG 093

RULEMAKING AGENCY: Department of Consumer and Worker Protection

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN
Acting Corporation Counsel

Date: March 19, 2024

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1400**

**CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)**

RULE TITLE: Amendment of Rules Relating to Relating to Newsstand Licenses

REFERENCE NUMBER: DCWP 43

RULEMAKING AGENCY: Department of Consumer and Worker Protection

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Grace Francese
Mayor's Office of Operations

March 20, 2024 Date