

Note: New York City businesses must comply with all relevant federal, state, and City laws and rules. All laws and rules of the City of New York, including the Consumer Protection Law and Rules, are available through the Public Access Portal, which businesses can access by visiting www.nyc.gov/consumers. For convenience, sections of the New York City Licensing Law (and Rules, if enacted) are included as a handout in this packet. The Law (and Rules) are current as of January 2009.

Please note that businesses are responsible for knowing and complying with the most current laws, including any City Council amendments. The Department of Consumer Affairs (DCA) is not responsible for errors or omissions in the handout provided in this packet. The information is not legal advice. You can only obtain legal advice from a lawyer.

NEW YORK CITY ADMINISTRATIVE CODE
TITLE 20: CONSUMER AFFAIRS
CHAPTER 2: LICENSES
SUBCHAPTER 7: SIDEWALK STANDS

§ 20-228 Definitions. Whenever used in this subchapter, the following shall mean:

- a. Newsstand. A not readily removable stand or booth operated primarily for the sale of newspapers and periodicals.
- b. Area occupied. The sidewalk space occupied when a newsstand is in operation including any space occupied by the stand itself, including racks, tables, doors or anything which prevents ordinary use of the sidewalks.
- c. Franchise. A franchise granted pursuant to chapter fourteen of the city charter to construct, install and maintain newsstands in the city of New York. For purposes of this subchapter, the date upon which a franchise is granted shall be the date on which such franchise is registered in accordance with chapter fourteen of the city charter.
- d. Franchisee. A person granted a franchise.
- e. Replacement newsstand. Either (i) a newsstand that replaces a newsstand at the same location, provided that the license pursuant to section 20-229 of this code for the newsstand that is being replaced is in full force and effect on the date such franchise is granted, or (ii) a newsstand constructed and installed at any location approved by the department of transportation 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.

§ 20-229 License required. No person shall maintain or operate a newsstand unless licensed pursuant to this subchapter, and unless the operation of the newsstand is his or her principal employment. No license shall be issued to an individual for the operation of a

newsstand that is not a replacement newsstand and that has been constructed and installed by a franchisee pursuant to a franchise unless such operator has reimbursed such franchisee for the costs of construction and installation of such newsstand as determined by the department in accordance with paragraph two of subdivision c of section 20-241.1 of the code.

§ 20-230 Preferences; employment; fee. a. When there are competing applications for a certain location, a preference in granting a license shall be shown as follows:

1. Disabled veterans;
2. Handicapped persons as defined by the department;
3. Veterans who are not disabled;
4. Persons over the age of sixty-two.

All Licensees shall be residents of New York City.

b. The biennial fee for a license to operate a newsstand shall be one thousand seventy-six dollars.

§ 20-231 Restrictions; size. a. No newsstand shall be within three feet of private property without the consent of the owner of that property.

b. Items other than newspapers, magazines, periodicals, and prepaid telecommunication or transit cards may be offered for sale from a newsstand if they are sold for less than five dollars exclusive of taxes; provided, however, that apparel, jewelry, hair ornaments, handbags and video cassettes shall not be offered for sale from a newsstand and that if food items are offered for sale, they must be prepackaged.

c. No new license shall be issued under section 20-229 unless approval for the location has been obtained from the department of transportation.

d. 1. No license issued under section 20-229 shall be renewed if the department of transportation determines that the newsstand so licensed poses an obstruction to the free use of sidewalks by pedestrians at the time of review.

2. On and after the effective date of the local law that adds this paragraph two to this subdivision d of this section, a newsstand shall not be eligible for a renewal if the area of the sidewalk occupied by it exceeds seventy-two square feet or such newsstand exceeds nine feet in height.

(a) On and after such date, such newsstand that was first licensed on or after the first day of August, nineteen hundred ninety-one shall not pose an obstruction to the free use of the sidewalks by pedestrians if the location of such newsstand does not

(i) reduce the area maintained on the sidewalk for pedestrian movement below a width of nine and one-half feet.

(ii) place the proposed newsstand within five feet of a fire hydrant.

(iii) create a level of service at the proposed location for the peak fifteen minutes of the peak hour of a pedestrian flow rate equal to or greater than eleven people per minute per linear foot of clear path, as determined by the department of transportation.

(iv) place the proposed newsstand within fifteen feet of an entrance to or exit from a subway.

(v) extend 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 ten feet on either side of such lines.

(vi) extend into a bus stop.

(vii) otherwise create a hazardous condition. For purposes of this subparagraph, a hazardous condition shall include, but not be limited to, the location of a newsstand less than one foot, six inches from the curb, under a fire escape, within ten feet of a driveway or parking lot or within two feet from underground access points, such as utility access openings, ventilation grills, or cellar doors.

(b) On and after such date, a newsstand that was first licensed prior to the first day of August, nineteen hundred ninety-one shall not pose an obstruction to the free use of the sidewalks by pedestrians if the location of such newsstand does not

(i) reduce the area maintained on the sidewalk for pedestrian movement below a width of nine and one-half feet.

(ii) place the proposed newsstand within five feet of a fire hydrant.

(iii) create a level of service at the proposed location for the peak fifteen minutes of the peak hour of a pedestrian flow rate equal to or greater than eleven people per minute per linear foot of clear path, as determined by the department of transportation.

(iv) violate the restrictions on the location of newsstands in subdivision f of this section, if such newsstand is located at the rear or side of a subway entrance or exit kiosk.

(v) extend into the area encompassed by the extension of the property lines from the buildings to the curb at the intersection of two streets.

(vi) otherwise create a hazardous condition. For purposes of this subparagraph, a hazardous condition shall include, but not be limited to, the location of a newsstand less than one foot, six inches from the curb, under a fire escape, within ten feet of a driveway or parking lot or within two feet from underground access points, such as utility access openings, ventilation grills, or cellar doors.

e. No newsstand shall occupy an area of more than seventy-two square feet or have a height of over nine feet. However, any newsstand that occupied an area of more than seventy-two square feet on the first day of August, nineteen hundred seventy-nine may continue to operate within that area until the thirty-first day of July, nineteen hundred eighty.

In no event shall there be less than a width of nine and one-half feet maintained on the sidewalk for pedestrian movement. The provision of this section requiring that no less than nine and one-half feet be maintained on the sidewalk for pedestrian movement shall not apply to any newsstand which was first licensed by the department prior to the first day of August, nineteen hundred seventy-nine where the person who held the license for such newsstand on the first day of August, nineteen hundred ninety-one continues to be the licensee for such newsstand; provided, however, that where a newsstand which was first licensed prior to the first day of August, nineteen hundred seventy-nine is reconstructed in its entirety or in substantial part, which reconstruction was commenced on or after the first day of August, nineteen hundred ninety-one, such newsstand shall be subject to such requirement that no less than nine and one-half feet be maintained on the sidewalk for pedestrian movement.

f. Stands at subway entrance or exit kiosks shall be maintained at the rear or side of such kiosks. Where such stand is located at the rear of such entrance or exit it shall not be located within fifteen feet of the front of any other entrance or exit and shall not be longer than the width of the kiosk nor occupy an area of more than fifty square feet.

g. It shall be unlawful to erect a stand or booth under the stairs of an elevated railway station, or a projection therefrom, which is wider than the width of the stairs or which extends along the sidewalk a greater distance than to a point where the undersurface is not over seven feet from the level of the sidewalk.

h. 1. After November first, nineteen hundred seventy-nine, no newsstand may be operated unless its design has been approved by the art commission. The art commission shall evaluate newsstand designs in conformity with guidelines to be established by the department of consumer affairs. Approval or disapproval of a design submission shall be issued within thirty days of filing an application with the commission.

2. The department of transportation shall develop criteria for the design of the interior of newsstands constructed and installed by a franchisee pursuant to a franchise in consultation with available representatives of newsstand licensees and available representatives of publishers.

i. No advertising shall be placed on any newsstand other than exterior advertising placed by a franchisee. Nothing herein shall be construed to prohibit or limit the ability of the newsstand licensee to display legal merchandise pursuant to rules promulgated by the department.

j. The licensee shall make reasonable efforts to maintain the cleanliness of his or her newsstand. Such requirement shall not include an obligation to maintain the exterior of a structure installed pursuant to a franchise. The licensee shall make no alteration in the design or dimensions of a newsstand constructed or installed by a franchisee.

k. 1. On and after the grant of a franchise, no new license shall be granted except for operation of a newsstand installed and maintained pursuant to such franchise, and approval of the location of a new newsstand shall be made by the department of transportation in accordance with rules of the department.

2. Notwithstanding any other provision of this section or the second undesignated paragraph of section 15-205 of the code, a newsstand, the location or dimensions of which were not in violation of the provisions of this section or any rule promulgated pursuant thereto 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. If such reconstruction results in a change in location or an expansion of the area occupied by such newsstand, such newsstand may be reconstructed at such changed or expanded location if that location complies with the siting criteria applicable to the renewal of the license of such newsstand in subparagraph (a) or (b) of paragraph two of subdivision d of this section. If such reconstruction at such location would not comply with such criteria, such newsstand may be relocated in accordance with the process defined in paragraph five of this subdivision to a location that meets the criteria in subparagraph (a) of such paragraph two.

3. On or after the grant of such franchise, any newsstand applying for renewal of a license issued pursuant to section 20-229 of this subchapter may remain at its then current location if it meets the siting criteria applicable to the renewal of the license of such newsstand in subparagraph (a) or (b) of paragraph two of subdivision d of this section, or, if such location does not meet such criteria, such newsstand may be relocated in accordance with the process defined in paragraph five of this subdivision to a location that meets the criteria in subparagraph (a) of such paragraph two.

4. On or after the grant of such franchise, the department of transportation shall not exercise its authority, by granting revocable consents or other approvals, to authorize the installation of a structure at a location that would render the location of a licensed newsstand in violation of the siting criteria applicable to the renewal of licenses in subparagraph (a) or (b), as applicable to the renewal of the license of such newsstand, of paragraph two of subdivision d of this section unless the commissioner of such department finds that such installation is for the benefit of public health, safety, welfare or convenience. In the event the installation of a structure not prohibited

by this paragraph four causes the location of a newsstand to be in violation of such criteria, such newsstand may be relocated pursuant to the process defined in paragraph five of this subdivision to a location that meets the criteria in subparagraph (a) of such paragraph two.

5. (a) On or after the grant of such a franchise, a newsstand, the location of which fails to meet the siting criteria applicable to the renewal of the license of such newsstand in subparagraph (a) or (b) of paragraph two of subdivision d of this section 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 a radius of five hundred feet from such licensed location, referred to in this section as the "catchment area", provided such site is identified by the licensee and meets the siting criteria applicable to the renewal of licenses in subparagraph (a) of paragraph two of subdivision d of this section. Notwithstanding the preceding provisions of this subparagraph (a) of this paragraph five, a newsstand, the license for which is in full force and effect, shall not be required to be replaced before September thirtieth, two thousand six, if the replacement of such newsstand is required to occupy an expanded area solely because of the provisions of the Americans with Disabilities Act, and the installation of such newsstand at such expanded location would not meet the siting criteria applicable to the renewal of the license of such newsstand in subparagraph (a) or (b) of such paragraph two.

(b) If the department of transportation determines that there is no site within such catchment area to which a newsstand may be relocated in accordance with subparagraph (a) of this paragraph five, the licensee of such newsstand may apply for a license for a new newsstand in accordance with the applicable provisions of this subchapter.

6. The department of transportation shall conduct an inspection at the time of the reconstruction and installation of a newsstand by a franchisee in accordance with paragraph two of this subdivision. In addition, such department shall conduct inspections of all newsstands in the year two thousand eight and every six years thereafter to determine whether the location for which each newsstand is licensed violates any laws, rules or regulations applicable to the review by such department of applications for the renewal of licenses, notwithstanding that the term of such licenses is two years, and, except for determinations made pursuant to inspections made in accordance with such paragraph two of this subdivision at the time of the reconstruction and installation of a newsstand by a franchisee, the determination by such department that there is no such violation shall not be revised, except for a mistake of fact, by such department until such six year period has elapsed.

§ 20-232 Revocation. In addition to any other basis for revoking, a

newsstand license may be revoked upon a finding by the commissioner that the location listed in the license was not utilized for a period of two consecutive months or more or that the licensee is not using the stand primarily for the sale of newspapers and periodicals.

§ 20-233 Stoopline stands; license required; permitted use. a. It shall be unlawful to maintain a stand or booth within stooplins without a license therefor.

b. Such stands or booths shall be used for the sale or display of fruits, vegetables, soft drinks, cigars, cigarettes, tobacco, confectionary, ice cream, flowers or any of the foregoing.

§ 20-234 Stoop line stands on market streets. All such licenses shall be issued by the commissioner, in his or her discretion, with the consent of the owner of the abutting premises, provided however, that where any such stand is to be located in front of any premises facing on a market street, the license shall be issued by the commissioner of small business services, in his or her discretion.

§ 20-235 Stoop line stands; requirements. No such stand at a location not licensed on the twenty-fourth day of July, nineteen hundred thirty-five, shall be licensed if the proposed location of the stand is within two hundred feet of any store in which any of such articles are sold, or any of such services are rendered, except that the occupant of a store may be licensed to maintain a stand in front of such store for the sale of such articles or services as are provided within the store.

§ 20-236 Stoop line stands; fees. The fee for such license shall be based on the article or articles permitted to be sold or displayed as follows:

1. For fruits, vegetables, soft drinks or combinations thereof eighty dollars
2. For cigars, cigarettes, tobacco or combinations thereof forty dollars
3. For confectionery forty dollars
4. For ice cream forty dollars

5. For any combination of the foregoing the fee shall be the total of the prescribed fees, except that such fee shall not exceed one hundred dollars.

§ 20-237 Stoop line stands; restrictions. a. Displays shall not extend farther than three feet from the front of any premises and in no case shall such stand or display exceed seven feet in height. Every licensed stand shall be maintained wholly within the stoop line and shall not obstruct the free use of the sidewalk by pedestrians. It shall not exceed ten feet in length nor four feet in width, provided, however that where the sidewalk in front of the premises is at least sixteen feet wide, such stand shall not exceed ten feet in length nor five feet in width as long as a straight, unobstructed pathway of at least nine and one-half feet is maintained at all times on the sidewalk in front of the entire length of the premises where such stand or stands are located.

b. Any stand licensed for the sale of any combination of the articles enumerated in subdivision b of section 20-233 of this subchapter, shall not exceed ten feet by four feet, provided, however that where the sidewalk in front of the premises is at least sixteen feet wide, such stand shall not exceed ten feet in length nor five feet in width as long as a straight, unobstructed pathway of at least nine and one-half feet is maintained at all times on the sidewalk in front of the entire length of the premises where such stand or stands are located.

c. It shall be unlawful for any person to lease or permit any other person to use any space on the sidewalk located adjacent to such store for the purpose of selling or displaying any merchandise. Violations of this section shall be punishable by a fine of one hundred dollars per day for each day said space is leased.

d. The commissioner shall promulgate any rules and regulations necessary for the proper implementation of this section.

§ 20-238 Stoop line stands; revocation of consent. The commissioner who granted the license for any such stand or display shall revoke or suspend it if the abutting owner files a written revocation of the consent previously granted therefor in the office of such commissioner.

§ 20-239 Approval. Any stand required to be licensed under section 20-233 shall not be licensed unless the location thereof has been approved by the department of transportation. No license issued under section 20-233 shall be renewed if the department of transportation determines that the stoop line stand so licensed poses an obstruction to the free use of sidewalks by pedestrians. Notwithstanding anything in this subchapter to the contrary, if the department of transportation determines that a stoop line stand which is permitted to be five feet in width pursuant to section 20-237 poses an obstruction to the free use of sidewalks by pedestrians solely because the width of such stand is five feet rather than four feet, the department of transportation shall approve the renewal of such license at a width of four feet.

§ 20-240 Sleeping in stands prohibited. It shall be unlawful for any person to sleep in any portion of any stand licensed under this subchapter.

§ 20-240.1 Enforcement. a. Where exigent circumstances exist and a police officer or other authorized officer or employee of any city agency gives notice to the owner or operator of a stand licensed pursuant to section 20-233 of this subchapter to temporarily remove or otherwise disassemble such stand, such owner or operator shall comply with such notice and shall not continue to sell or display from such stand. For the purposes of this subdivision, exigent circumstances shall include, but not be limited to, unusually heavy pedestrian or vehicular traffic, the existence of obstructions in the public space, and accident, fire or other emergency situation, a parade, demonstration or other such event at or near the location of such stand.

b. If an owner or operator of a stand licensed pursuant to section 20-233 does not remove or otherwise disassemble such stand when directed to do so by a police officer or other authorized officer or employee of the city in accordance with the provisions of subdivision a of this section, such officer or employee is authorized to provide for the removal of such owner's or operator's goods and stand to any garage, automobile pound or other place of safety, and the owner or other person lawfully entitled to the possession of such goods and such stand may be charged with reasonable costs for removal and storage payable prior to the release of such goods and such stand.

c. In the event that any seizure made pursuant to this section shall include any perishable items or food products which cannot be retained in custody without such items or food products becoming unwholesome, putrid, decomposed or unfit in any way, they may be delivered to the commissioner of health for disposition pursuant to the provisions of section 17-323 of this code.

d. Any person who violates the provisions of this section or section 20-237 shall be considered to be an unlicensed general vendor or an unlicensed food vendor and shall be subject to the penalty and enforcement provisions of either subchapter twenty-five of chapter two of this title or subchapter two of chapter three of title seventeen of the code, whichever is applicable.

§ 20-241 Licenses. Number of licenses. No person may hold more than two licenses required under section 20-228 and/or section 20-234 of this subchapter.

§ 20-241.1 a. Newsstands installed and maintained pursuant to a franchise. a. Construction. Upon the grant of a franchise, no person shall construct or install a newsstand other than a franchisee granted such a franchise. Newsstands installed and maintained pursuant to such a franchise shall comply with all applicable law, rules and regulations.

b. Transition. Upon the grant of a franchise, each licensee operating or maintaining a newsstand licensed pursuant to this subchapter shall be provided with reasonable notice when such newsstand structure is to be replaced by a newsstand installed and maintained pursuant to such franchise at a location approved by the department of transportation and instructions for applying for a replacement newsstand within the catchment area of such newsstand. Such replacement shall be subject to contractual incentives and/or penalties, if any, to ensure timely replacement of the newsstand pursuant to such franchise. The licensee shall have the option of removing the existing structure or such structure shall be removed by the franchisee granted such franchise. Operation of the newsstand licensed pursuant to this subchapter shall cease during such time as the newsstand is replaced. Upon being notified of the completion of the replacement of the newsstand, the licensee may resume operation pursuant to the terms of his or her license and the provisions of this subchapter.

c. Costs. 1. The cost of constructing and installing a replacement newsstand by the franchisee pursuant to such franchise shall be borne by the franchisee in accordance with such franchise. The cost of constructing and installing a newsstand by the franchisee pursuant to such franchise, which newsstand is not a replacement newsstand, shall be borne by the licensee of such newsstand in accordance with paragraph two of this subdivision.

2. A licensee who maintains or operates a newsstand that is not a replacement newsstand and that has been constructed and installed by the franchisee pursuant to such franchise shall reimburse the franchisee for the cost of such construction and installation, which cost shall include costs associated with any interior electric and/or telephone hook-ups to the newsstand structure. The department shall determine the applicable construction and installation costs for purposes of this paragraph, which costs shall be limited to the costs incurred by the franchisee and certified by the franchisee to the department.

d. Fees. A licensee licensed to maintain or operate a newsstand constructed and installed by the franchisee pursuant to such franchise shall be liable for the payment to the department of the biennial fee for a license to operate a newsstand payable in accordance with subdivision b of section 20-230 of the code.

e. Enforcement. Notwithstanding any other provision of law to the contrary, the commissioner shall be authorized, after notice and an opportunity to be heard, to order any person who is unlawfully operating

a newsstand that has been constructed or installed by a person other than the franchisee in violation of subdivision a of this section to remove such newsstand within seven days of the issuance of such order. Such order shall be posted at the premises of such newsstand. If such person does not remove such newsstand within seven days of the issuance of such order, an authorized officer or employee of any city agency or a police officer is authorized to provide for the removal of such person's newsstand and the contents thereof to a place of safety. If such newsstand or the contents thereof are not claimed within thirty days after their removal, they shall be deemed to be abandoned and may be either sold at a public auction after having been advertised in the City Record, the proceeds thereof being paid into the general fund, used or converted for use by the department or another city agency, or otherwise disposed of. Newsstands and the contents thereof that are removed pursuant to this subdivision shall be released to the owner or other person lawfully entitled to possession upon payment of the costs for removal and storage and any civil penalty imposed for the violation or, if an action or proceeding for the violation is pending, upon the posting of a bond or other form of security acceptable to the department in an amount which will secure the payment of such costs and any penalty which may be imposed for the violation. In the event that any removal made pursuant to this subdivision shall include any perishable items, goods, or food products which cannot be retained in custody without such items, goods, or food products becoming unwholesome, putrid, decomposed or unfit in any way, they may be delivered to the commissioner of health and mental hygiene for disposition pursuant to the provisions of section 17-323 of this code.

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RULES OF THE CITY OF NEW YORK
TITLE 6: DEPARTMENT OF CONSUMER AFFAIRS
CHAPTER 2: LICENSES
SUBCHAPTER G: SIDEWALK STANDS
PART 1: NEWSSTANDS

§2-61 Definitions.

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

- (a) *AC*. "AC" shall mean the Art Commission of the City of New York.
- (b) *Area occupied*. "Area occupied" shall mean the sidewalk space 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.
- (c) *Catchment area*. "Catchment area" shall mean the area within a radius of 500 feet of the location at which a newsstand is licensed to operate.
- (d) *Change in location or expansion of the area occupied*. "Change in location or expansion of the area occupied", as used particularly in paragraph 2 of subdivision k of section 20-231 of the Code and subdivision (c) of section 2-68 of these rules, shall mean 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.
- (e) *Code*. "Code" shall mean the Administrative Code of the City of New York.
- (f) *Disabled person*. "Disabled person" shall mean 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.
- (g) *Disabled veteran*. "Disabled veteran" shall mean any veteran who has sustained one or more of the following impairments while performing military service to 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.
- (h) *DCA*. "DCA" shall mean the Department of Consumer Affairs of the City of New York.

(i) *DOT*. "DOT" shall mean the Department of Transportation of the City of New York.

(j) *Franchise*. "Franchise" shall mean 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 shall be 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.

(k) *Franchisee*. "Franchisee" shall mean a person granted a Franchise.

(l) *LPC*. "LPC" shall mean the Landmarks Preservation Commission of the City of New York.

(m) *Major life activities*. "Major life activities" shall mean functions such as walking, seeing, hearing, and speaking.

(n) *Newsstand*. "Newsstand" shall mean a not readily removable stand or booth operated primarily for the sale of newspapers and periodicals.

(o) *Physical impairment*. "Physical impairment" shall mean 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.

(p) *Replacement newsstand*. "Replacement newsstand" shall mean 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.

§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, DOT, Art Commission or LPC and Community Board review*. The application for a license to maintain and operate a newsstand shall include the following documents:

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

(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 §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 shall be clearly labeled and drawn to scale, and such plans shall 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 cafes, stoopline 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 §2-65 of this Part of Title 6. 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 the Art Commission or LPC shall be accurately drawn to scale, with elevations and cross-sections, as detailed in this subdivision (a).

(3) Two sets of photographs (5" x 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.

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

§2-64 Application Procedures.

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

(1) DCA will process no more than two applications from a single applicant at any given time.

(2) Within 30 calendar days before the application is filed, the applicant shall 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. Such notice shall 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. 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 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 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 shall forward the Board's comments within 5 business days of receipt to DOT, and, should DOT approve the application, to the Art Commission or LPC.

(4) DOT shall review the location of the proposed newsstand for its compliance with the requirements of §2-65(a) of this Part and conduct pedestrian level of service counts in accordance with §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 within 5 business days of such determination.

(5) DOT determination.

(A) DCA 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 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 shall, within 30 calendar days of the date of DCA's notification to the applicant of DOT's approval, submit to DCA the materials required for Art Commission or LPC review in accordance with paragraph (7) of this subdivision (a).

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

(7) Notification of Art Commission or LPC determination. The Art Commission or the LPC, as appropriate, shall notify DCA of its determination. Within 5 business days of

receipt of Art Commission or LPC determination, DCA shall transmit the results of such determination to the applicant and send a copy of the notice to the Community Board.

(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 §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 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 shall obtain necessary construction, electrical, street opening, and other permits and approvals before commencing construction. Construction shall be completed within 150 calendar days from the date of AC or LPC approval. 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 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 §2-65 of this Part, 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 AC or LPC.

(9) Notice of completion of construction. DOT shall notify DCA of the completion of the newsstand. The applicant must submit, for DCA and Art Commission records, 8" x 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 verification. Within 15 business days of receipt of the notice that construction has been completed, DCA 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 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 a New York State certification of authority to collect sales tax. No license shall be granted by DCA absent receipt of such certification.

(C) If DCA or DOT finds that the newsstand has not been constructed in accordance with the approved plans or at the correct location, DCA 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).

(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 who was licensed to operate a newsstand at a location, DCA may accept an application for a license to operate such existing newsstand where:

(A) 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 that the operation of such newsstand will be his or her principal employment; 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.

(b) *License renewal.*

(1) The licensee shall obtain from DCA 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 §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 §2-65(b)(2) of this Part. If the location of such newsstand does not meet the siting requirements of §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 §2-65(b)(1) of this Part within the catchment area of such newsstand in accordance with the process described in §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 §2-65(b)(1) of this Part. If the location of such newsstand does not meet the siting requirements of §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 §2-68(e).

(5) Prior to issuing a license renewal, DCA shall 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.

(c) *Changes in license status.* In addition to any other basis for revoking a license, the Commissioner of DCA 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 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 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 §2-68 of this Part.

(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. 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 §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.

(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 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. Newsstands shall not be installed within 3 feet of the property line without the property owner's written permission. (See 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.

(2) Clearances in general.

(A) Newsstands may not be located within 1 foot, 6 inches of any curb line of a street or within 10 feet of the property line extended at the intersection of any two streets. (See 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, 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 and truck service areas. 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 Illustration 4), fire hydrants (in any direction), standpipes (in any direction), siamese connections (in any direction).

(E) A 5 foot clearance is required from the tree pit, in any direction, or a canopy.

(F) A 3 foot clearance is required from street lights and traffic signal poles, in any direction.

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

(H) A 1 1/2 foot clearance is required from curbs, measured perpendicular to the curb-line.

(I) If DOT determines that a proposed location for a newsstand would place it directly above or adjacent to an underground vault, and that the proximity of the stand to such a vault could reasonably pose a hazard, 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.

(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 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 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.

(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 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 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.

(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.

(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 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 §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 section 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), a hazardous condition shall include, but not be limited to, the location of a newsstand less than one foot, six inches from the curb, under a fire escape, within ten feet of a driveway or parking lot or within two feet from underground access points, such as utility access openings, ventilation grills, or cellar doors.

(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 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 §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), a hazardous condition shall include, but not be limited to, the location of a newsstand less than one foot, six inches from the curb, under a fire escape, within ten feet of a driveway or parking lot or within two feet from underground access points, such as utility access openings, ventilation grills, or cellar doors.

(c) *Inspections by DOT.* Except as otherwise provided in §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 Art Commission 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 Art Commission 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 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 §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 for a temporary relocation of the newsstand pursuant to the procedures specified in subdivision (d) of §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 §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 §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 §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 §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 §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 §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 §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 §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 §2-65 of this Part, or which must be relocated for any other reason, 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 §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 §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 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 §2-63 of this Part or to comply with the requirements of §2-64 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 §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 §2-65 of this Part.

(4) DCA 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 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 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 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 §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 §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 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.

§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, 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 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 §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 §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
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.

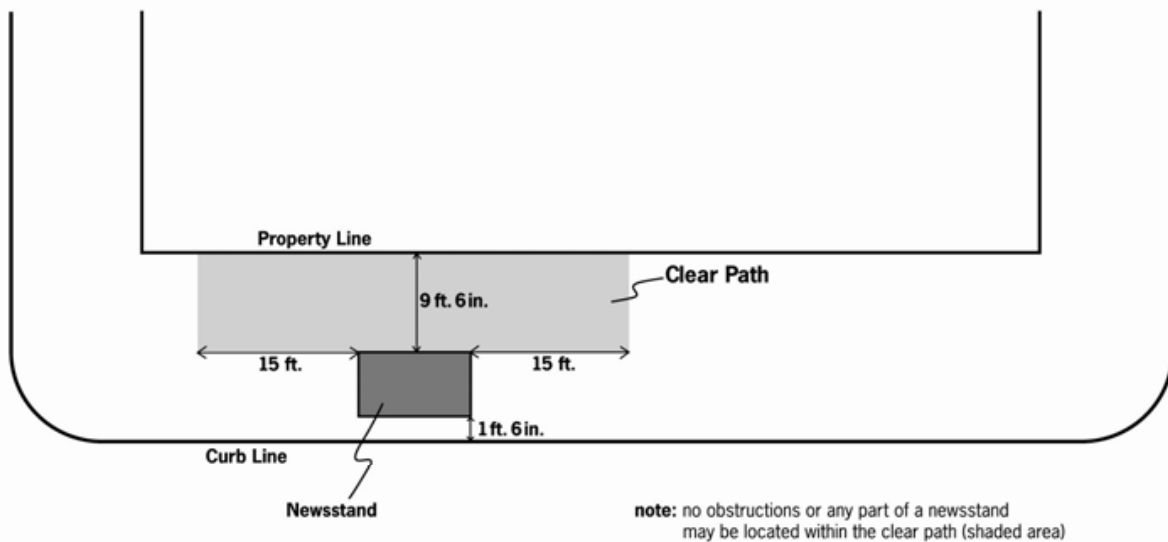


Illustration 1: Typical blockfront plan showing clear path for curb-line stand

Illustration 2. Illustrative example showing clear path.

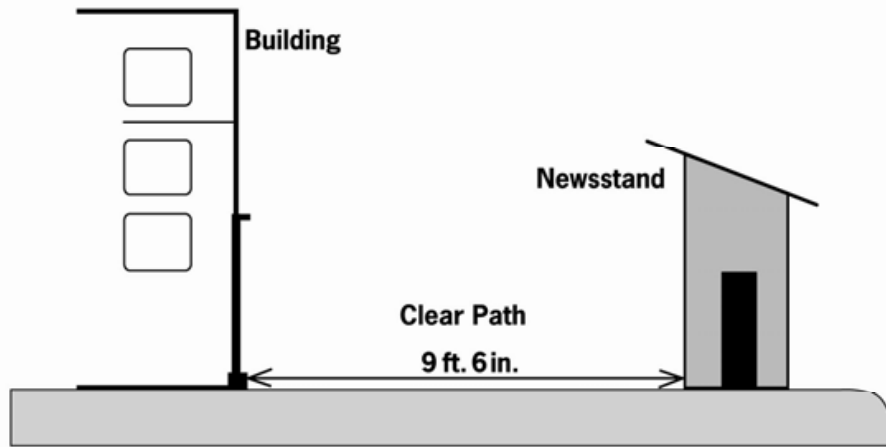
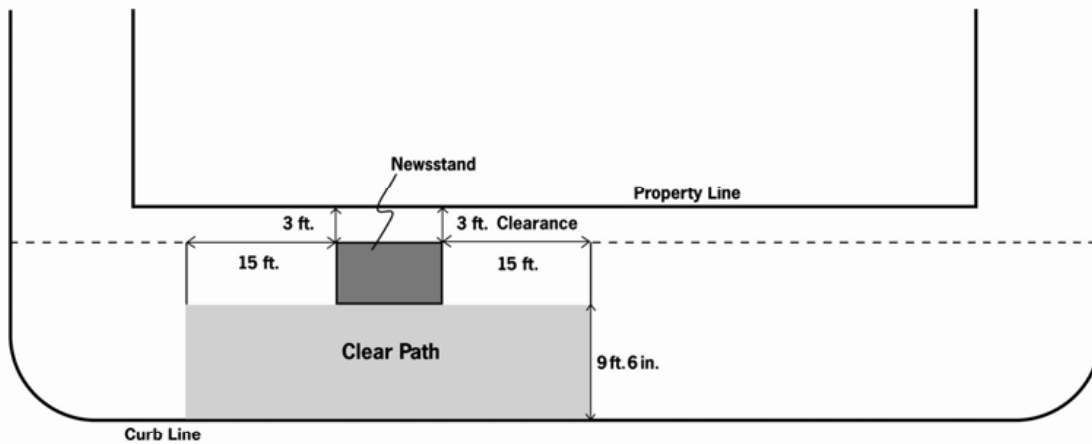


Illustration 2: Illustrative example showing clear path

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



note: no part of a newsstand may be located within the clear path (shaded area)

Illustration 3: Typical full blockfront plan showing clear path for property line stand

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

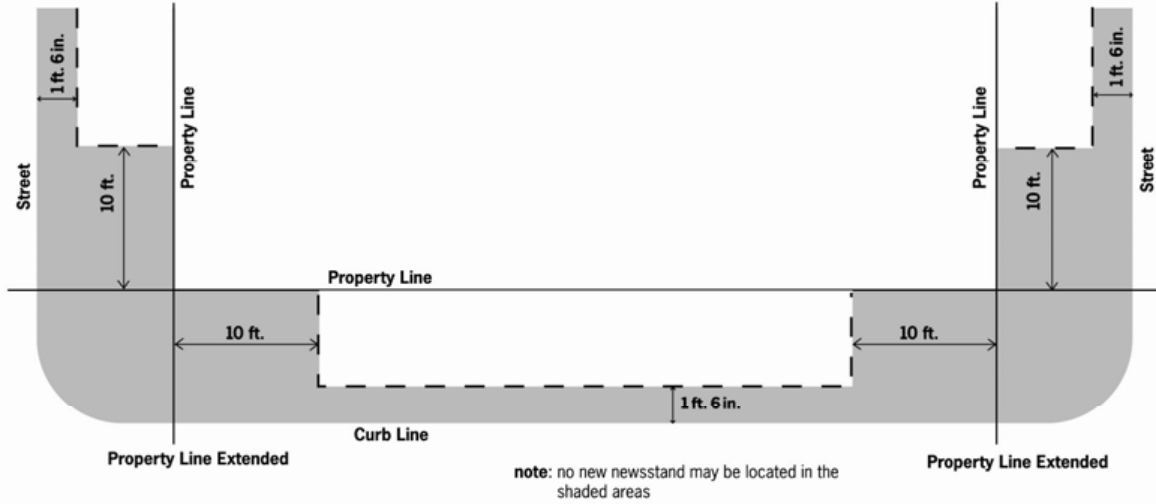


Illustration 4: Typical full blockfront plan showing clearance from corners and curb of street

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

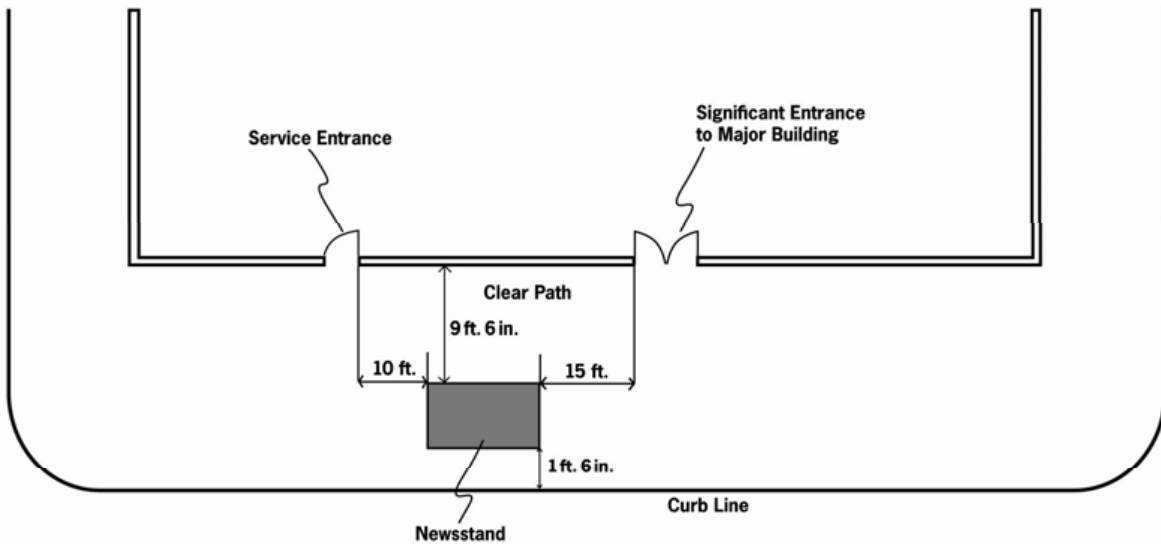


Illustration 5: Typical blockfront showing clearance from building entrances.

Note: New York City businesses must comply with all relevant federal, state, and City laws and rules. All laws and rules of the City of New York, including the Consumer Protection Law and Rules, are available through the Public Access Portal, which businesses can access by visiting www.nyc.gov/consumers. For convenience, sections of the New York City Licensing Law (and Rules, if enacted) are included as a handout in this packet. The Law (and Rules) are current as of January 2009.

Please note that businesses are responsible for knowing and complying with the most current laws, including any City Council amendments. The Department of Consumer Affairs (DCA) is not responsible for errors or omissions in the handout provided in this packet. The information is not legal advice. You can only obtain legal advice from a lawyer.

RULES OF THE CITY OF NEW YORK
TITLE 6: DEPARTMENT OF CONSUMER AFFAIRS
CHAPTER 2: LICENSES
SUBCHAPTER G: SIDEWALK STANDS
PART 2: STOOP LINE STANDS

§2-70.2 Physical Characteristics, Requirements and Prohibitions.

(a) Every licensed stoop line stand shall be enclosed at both ends and in front by a fence or partition constructed of wood or some other rigid material, and no box, barrel or any other obstruction shall at any time be maintained outside such enclosure. The outside surface of such enclosure shall at all times be kept smooth and free and clear of all projections which might tend to damage the clothing of passing pedestrians or which might cause bodily injury to such pedestrians.

(b) On all streets where a distance of four (4) feet outward from the building line exceeds more than one-third the entire width of the sidewalk, no sidewalk stand licensed by the Department of Consumer Affairs shall extend outward from the building line to a point beyond one-third the width of the sidewalk.

(c) A sidewalk stand license application may be denied where a showing is made that pedestrian traffic movement or public safety or convenience would be significantly impeded by the presence of the stand or that the area is not zoned for retail commercial uses.

(d) A sidewalk stand which uses ice or water in its display of food or flowers shall be constructed and maintained in a fashion such that ice or water does not escape from the stand to the sidewalk. The sidewalk adjacent to the stand shall at all times be kept free of such ice or water.

(e) Occupants of stores who are licensed to maintain stoop line stands in front of such stores and their employees or agents shall only accept payment inside of such stores for merchandise sold or displayed at such stoop line stands.

(f) A stoop line stand licensee and his or her employees or agents shall not use such stoop line stand or the sidewalk adjacent thereto to wash, trim, bunch or otherwise prepare any fruit, vegetables, flowers or other articles sold or displayed at such stoop line stand.

(g) A licensee shall not display or offer for sale on its stoop line stand any item that is not specifically enumerated as an item that may be sold or displayed on a stoop line

stand in §20-233(b) of Chapter 2 of Title 20 of the Administrative Code of the City of New York.