

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 2011**

No. 11

By Council Members Brewer, the Speaker (Council Member Quinn), Arroyo, Mark-Viverito, Recchia, Cabrera, Chin, Dromm, Foster, Gennaro, Rivera, Rodriguez, Reyna, Barron, Koppell and Koo (in conjunction with the Mayor)

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to prohibiting smoking in pedestrian plazas and public parks and to repeal subdivision b of section 17-513 of the administrative code of the city of New York, in relation to requiring a study regarding the prevention of second-hand smoke circulation in restaurants.

Be it enacted by the Council as follows:

Section 1. Section 17-502 of the administrative code of the city of New York is amended by adding new subdivisions oo and pp to read as follows:

oo. "Park or other property under the jurisdiction of the department of parks and recreation" means public parks, beaches, waters and land under water, pools, boardwalks, marinas, playgrounds, recreation centers and all other property, equipment, buildings and facilities now or hereafter under the jurisdiction, charge or control of the department of parks and recreation.

pp. "Pedestrian plaza" means an area designated by the department of transportation for use as a plaza located within the bed of a roadway, which may contain benches, tables or other facilities for pedestrian use.

§2. Subdivision c of section 17-503 of the administrative code of the city of New York is amended by adding a new paragraph 7 to read as follows:

7. Pedestrian plazas.

§3. Subdivision d of section 17-503 of the administrative code of the city of New York is amended by adding a new paragraph 3 to read as follows:

3. Any park or other property under the jurisdiction of the department of parks and recreation; provided, however, that this paragraph shall not apply to: (a) the sidewalks immediately adjoining parks, squares and public places; (b) any pedestrian route through any park strip, median or mall that is adjacent to vehicular traffic; (c) parking lots; and (d) theatrical productions.

§4. Section 17-507 of the administrative code of the city of New York is amended by adding a new subdivision g to read as follows:

g. The department of parks and recreation shall have the power to enforce section 17-503 as it relates to property under its jurisdiction.

§5. Subdivisions e, f, h and i of section 17-508 of the administrative code of the city of New York, subdivision e as amended by local law number 47 for the year 2002 and subdivisions f, h and i as added by local law number 2 for the year 1988, are amended to read as follows:

e. Every person who violates subdivisions a or b of this section shall, for a first violation thereof, be liable for a civil penalty of not less than two hundred dollars nor more than four hundred dollars; for a second violation, both of which were committed within a period of twelve months, be liable for a civil penalty of not less than five hundred dollars nor more than one thousand dollars; and for a third or subsequent violation, all of which were committed within a period of twelve months, be liable for a civil penalty of not less than one thousand dollars nor more than two thousand dollars. Every person who violates subdivision d of this section shall be liable for a civil penalty of one hundred dollars for each violation, *except that every person who violates*

subdivision d of this section by smoking in a pedestrian plaza as prohibited by paragraph seven of subdivision c of section 17-503 or in a park or other property under the jurisdiction of the department of parks and recreation as prohibited by paragraph three of subdivision d of section 17-503 shall be liable for a civil penalty of fifty dollars for each violation.

f. A proceeding to recover any civil penalty authorized pursuant to the provisions of subdivision e of this section shall be commenced by the service of a notice of violation which shall be returnable to the administrative tribunal established by the board of health, *except that a proceeding to recover a civil penalty authorized pursuant to subdivision e for violation of subdivision d by smoking in a pedestrian plaza or in a park or other property under the jurisdiction of the department of parks and recreation, as prohibited by paragraph seven of subdivision c and by paragraph three of subdivision d of section 17-503 respectively, shall be commenced by the service of a notice of violation which shall be returnable to the environmental control board.* The board of health's administrative tribunal *and the environmental control board* shall have the power to impose the civil penalties prescribed by subdivision e of this section.

h. If the administrative tribunal established by the board of health *or the environmental control board* finds, upon good cause shown, that the respondent cannot correct the violation specified in subdivision g of this section, it may postpone the period for compliance with such order upon such terms and conditions and for such period of time as shall be appropriate under the circumstances.

i. In any proceeding before the administrative tribunal established by the board of health *or the environmental control board*, if the tribunal finds that the department or other agency issuing the notice of violation has failed to prove the violation charged, it shall notify the department or other agency issuing the notice of violation, and the order requiring the respondent to correct the

condition constituting the violation shall be deemed to be revoked.

§6. The title of section 17-513 of the administrative code of the city of New York, as amended by local law number 5 for the year 1995, is amended to read as follows:

§ 17-513 Rules [and report].

§7. Subdivision b of section 17-513 of the administrative code of the city of New York is REPEALED and a new subdivision b is added to read as follows:

b. The department of parks and recreation and the department of transportation may promulgate rules as may be necessary for the purpose of implementing and carrying out the provisions of this chapter.

§8. This local law shall take effect ninety days after its enactment.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council onFebruary 2, 2011..... and approved by the Mayor onFebruary 22, 2011.....

MICHAEL M. McSWEENEY, City Clerk, Clerk of the Council.

CERTIFICATION PURSUANT TO MUNICIPAL HOME RULE §27

Pursuant to the provisions of Municipal Home Rule Law §27, I hereby certify that the enclosed Local Law (Local Law 11 of 2011, Council Int. No. 332A) contains the correct text and was passed by the New York City Council on February 2, 2011, approved by the Mayor on February 22, 2011 and returned to the City Clerk on February 22, 2011.

JEFFREY D. FRIEDLANDER, Acting Corporation Counsel.