



Legislation Details (With Text)

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Title: ORDINANCE REGULATING THE PLACEMENT, MAINTENANCE AND MISUSE OF NEWS RACKS
IN THE CITY OF NEWARK.
SPONSOR: RAMOS

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2/16/2012	1	Municipal Council	Adopt on First Reading	Pass
2/1/2012	1	Municipal Council	Advance to First Reading	Pass

**ORDINANCE REGULATING THE PLACEMENT, MAINTENANCE AND MISUSE OF NEWS RACKS
IN THE CITY OF NEWARK.
SPONSOR: RAMOS**

WHEREAS, existing Municipal Ordinances currently control the size; location, placement and maintenance of news racks throughout the City of Newark; provides for penalties and fines to be borne by the distributor of the news racks for failure to maintain the news racks in proper condition and in good working order; and

WHEREAS, evidence provided to the elected representatives by tax payers and business owners and the Newark Police Department, demonstrates that some of the news racks are utilized in criminal enterprises, are vandalized by users and others and are otherwise not properly maintained; and

WHEREAS, as a consequence, it is necessary to amend the ordinance to provide for fines and penalties for persons other than just distributors which will provide a more effective solution to address the neglect, misuse and abuse of news racks in the right-or-way; and

WHEREAS, the amendment will provide a uniform set of procedures for administering the issuance and revocation of all permits issued by the Department of Neighborhood and Recreational Services (DNRS) for the placement of news racks; and further ensure the safety and well-being of the community and improve the aesthetic environment, by increasing accountability for maintenance, misuse, abuse and vandalism.

**NOW, BE IT ORDAINED, BY THE CITY OF NEWARK, COUNTY OF ESSEX, NEW JERSEY,
AS FOLLOWS:**

Note: Additions Are Noted As Bold and Underlined And Deletions As Strikethroughs.

Section 1. Title 8, Chapter 12, Title and Section 1, DEFINITIONS, of the Revised Ordinances of the City of Newark, County of Essex, New Jersey, shall be amended as follows:

CHAPTER 27 REGULATING NEWSRACKS IN PUBLIC RIGHTS-OF-WAY 29:27-1.
POLICY STATEMENT.

The unregulated placement of news racks in public rights-of-way presents an inconvenience and danger to the safety and welfare of persons using such rights-of-way, including pedestrians, bicyclists, persons entering and leaving vehicles, whether automobiles, taxi cabs, private livery or omnibuses, and buildings, and persons performing essential utility, traffic control and emergency services. These unregulated news racks are so located as to cause an inconvenience or danger to persons using public rights-of-way, are unsightly, and constitute a public nuisance. **This ordinance requires the issuance of permits for news racks in the public right-of-way and provides a uniform set of procedures for administering the issuance and revocation of permits.** The provisions contained in this local law are in pursuance of and for the purpose of securing and promoting the public health, morals and general welfare of persons in the City of Newark in their use of public rights-of-way; **ensure the safety and well-being of the community and improve the aesthetic environment through the City by increasing accountability for maintenance, misuse, abuse and vandalism of news racks.**

29:27-2. DEFINITIONS.

As used in this chapter:

Distributor shall mean the person responsible for placing and maintaining a newsrack in a public right-of-way.

News rack shall mean any self-service or coin-operated box, container, storage unit or other dispenser installed, used or maintained for the display and sale of newspapers or other news periodicals and commonly known as "honor boxes." The use of the singular herein shall include the plural.

Right -of-way shall refer to a public sidewalk , the right-of-way for a street or highway, a public park, playground, trail, path or other recreational area owned or maintained by the City of Newark or its subdivisions.

Roadway shall mean that area between the sidewalks and the curb or any street, and where there is no sidewalk that area between the property lines adjacent thereto, whether open to vehicular travel or not, but improved, designed or ordinarily used for traffic.

Sidewalk shall mean any surface provided and intended for the exclusive use of pedestrians.

Street shall mean all that area dedicated to public use for street purposes and shall include, but not be limited to, roadways, parkways, alleys, stairs and sidewalks. (Ord. 6 S+FK, 5-6-87 § 2)

29:27-3. Permit Required.

- a. It shall be unlawful for any entity, whether for profit or not for nonprofit, to place or cause to be placed a news rack withing the City of Newark right-of-way, without having first obtained a permit from the Department of Neighborhood and Recreational Services (hereinafter, "DNRS") within five (5) business days of the placement of the news racks. This section shall apply to all existing news racks in the right-of-way as of the effective date of this amended ordinance. An application for a permit for each such existing news rack shall be made within twenty (20) days of the effective date of this amended ordinance. Any existing news rack, for which an application for a permit has not been made withing the time provided in this subparagraph (a), shall be subject to removal pursuant to this ordinance.
- b. Application for Permit. Applicants for permits shall complete an application form furnished by the City of Newark, which shall set forth the following information:
 - i. The applicant's name, address and telephone number (must be local or toll-free);

- ii. Whether the applicant is an individual, partnership, corporation, for profit or not for nonprofit organization, or such other business enterprise;
 - iii. Business name, address, telephone number and name and address of a person authorized by law to accept service of process and other correspondence on behalf of the business entity.
 - iv. Description of the news rack, including dimensions, color scheme , text and graphics that will appear on the news rack, along with a photograph of all sides of the news rack;
 - v. The number of news racks for which the applicant is seeking a permit;
 - vi. The street address or the location where each news rack is to be located.
- c. The fee for issuance of a permit to place a news rack, shall be \$10.00 for 1 to 10 news racks; \$20.00 for 11 to 20 news rack; \$50 for 22 to 30 news racks; and \$100 for 31 or more news racks.
- d. Permits shall only be denied if a permit application is incomplete, the news rack does not comply with the requirements of section 4 of this Chapter, or the applicant fails to pay the requisite fee.
- e. Revocation of Permit. Permits may be revoked upon notice, following an opportunity for a hearing, by the Director for one or more of the following reasons:
- i. Whenever the application submitted to obtain the permit is found to be false or intentionally misleading.
 - ii. Whenever any of the provisions of this Chapter are violated.
 - iii. Whenever the Permittee maintains a news rack at a location other than that specified in the application.
 - iv. Whenever the news rack has not been utilized by the permittee for a period of twenty (20) consecutive days.

No permit shall be revoked without the Director first providing the owner or Permittee with written notification of the intent to revoke the permit on a date certain, which notification shall state the specific violation and, if for the reason provided in paragraphs (e) (ii) or (iii), the notification shall also state that the owner has five (5) business days in which to correct the violation or, in the case of paragraph (e)(iv), to resume the use of the news rack. The written notification shall be served either personally or by certified mail, return receipt request. Any person shall be entitled to a hearing, if he so requests one in writing within five (5) business days of the mailing of the notification of intent to revoke the permit. A request for a hearing shall stay the revocation of the permit, pending the outcome of the hearing.

29:27-43. REGULATIONS.

Any news rack which in whole or in part rests upon, in or over any public sidewalk or roadway shall be bound by the following regulations:

- a. No news rack shall exceed five (5) feet in height, thirty (30) inches in width, or two (2) feet in

depth.

b. No news rack shall be used for advertising signs or publicity purposes other than that dealing with the display, sale, or purchase of the newspaper or news periodical offered for sale therein.

c. Each news rack shall be equipped with a coin return mechanism in good working order so as to permit a person inserting a coin to secure an immediate refund in the event the newspaper or news periodical offered for sale therein is not received by that person for any reason.

d. Each news rack shall have affixed to it in a permanent manner a visible, legible notice in substantially the following form:

IN CASE OF A MALFUNCTION OF THIS NEWSRACK OR AN ACCIDENT INVOLVING IT OR TO SECURE A REFUND THE DISTRIBUTOR WHO HAS PLACED AND MAINTAINS IT IS:

Name of Distributor and Owner

Number, Street or P.O. Box

Post Office, Zip Code

Telephone Number, including area code.

The telephone number must be either local or toll free.

e. Each news rack shall be maintained in a neat and clean condition and in good repair at all times.

f. No news racks shall be placed or allowed to remain in any location so that it interferes with the removal of snow or ice or the removal of leaves or debris, whether the removal is a public or private duty.

(Ord. 6 S+FK, 5-6-87 § 3)

29:27-54. FURTHER REGULATIONS.

Each and every news rack which in whole or in part rests upon, in or over any public sidewalk or roadway shall be further regulated, as follows:

a. No news rack shall be placed or maintained projecting onto, into or over, or resting wholly or partly upon, any portion of the roadway of a public street.

b. No news rack shall be placed or maintained in such a manner as to endanger the safety of persons or property, or in a place used for public utility purposes, public transportation, or other public or governmental purposes, or when it interferes with or impedes the flow of pedestrian or vehicle traffic, the ingress or egress from any structure or building, whether residential, business or governmental, or the use of public fixtures, including, but not limited to, utility poles, mail boxes, fire alarms, traffic signals or control signs, hydrants or parking meters.

c. No news rack shall be chained, bolted or otherwise affixed or attached to any fixture upon, in or over any public sidewalk or roadway unless that fixture is owned by the distributor.

d. No news rack shall be placed, installed, used or maintained:

1. Within three (3) feet of any marked crosswalk;
2. Within twelve (12) feet of the curb return of any marked crosswalk;
3. Within fifteen (15) feet of any fire hydrant;
4. Within five (5) feet of any Fire or Police call box, fire alarm or other emergency communication device, including, but not limited to, public telephones;

5. Within five (5) feet of any driveway crossing a City right-of-way;

6. Within fifty (50) feet of any Fire or Police station;

7. Within three (3) feet ahead or fifteen (15) feet to the rear of any designated bus stop, taxi stand or place marked for handicapped parking;

8. Within three (3) feet of any bus bench or shelter.

(Ord. 6 S+FK, 5-6-87 § 4)

29:27-6. Vandalism; Improper Use of News Racks.

- a. Any person who vandalizes, defaces, damages or otherwise interferes with the use of the news rack, or uses it to store contraband or engage in any illegal activity, shall be subject to penalty in accordance with this Chapter.

29:27-75. PENALTIES; DISTRIBUTOR, PATRONS.

a. Distributors, Permittees or Other Person or Business Entity. Distributors.

- 1. 1. The Director of the DNRS and duly authorized designees, all other City Directors, all municipal elected officials and all law enforcement officers of the Department of Police and sworn members of the Newark Fire Department and such other City employees, are hereby authorized and empowered to perform as law enforcement officers solely with respect to the enforcement of the provisions of this Chapter by being empowered to issue summons for any violations thereof in accordance with the Rules Governing the Courts of the State of New Jersey.

- 1. The Director of the DNRS is also authorized to provide a courtesy notification of an existing violation to the Permittee or such other person deemed by him or her to be in violation of this Chapter, and allow an opportunity any distributor violates any provision of this chapter, it shall be the duty of the Corporation Counsel's Office to determine that such violation has occurred and thereafter notify the distributor to correct the violation within ~~three (3)~~ five (5) days. Such notification shall be in writing and served upon the distributor violator in the same manner as a summons. Such a courtesy notice is not an administrative prerequisite to the issuance of a summons or violation notice.

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2. If the violation is not corrected within three (3) business days and not hearing is requested, the Department of Engineering DNRS shall remove such newsrack news rack and place it in storage in a secure place. The cost of the removal and storage shall be billed to the distributor Permittee or the person in violation of this Chapter. and in the event of nonpayment a civil suit for money damages may be brought by the Corporation Counsel's Office.

3. If such newsrack news rack is not claimed as provided in the Abandoned Property Law it shall be disposed of as provided by law.

42. **A fine or penalty of not more than five hundred dollars and not less than one hundred dollars for each offense for each and every day a violation of any provision of this Chapter shall continue may be levied by the Municipal Court.** . If any distributor person violates this chapter more than three (3) times in any twelve (12) month period regardless of the number of newsracks involved, he/she shall be deemed guilty of a violation as that term is defined in the Penal Law and subject to punishment provided therein.

If a person or business entity is convicted of violating this ordinance within one year of the date of a previous violation of the same ordinance and which person or business entity was fined for the previous violation, such person or business entity shall be sentenced by the Municipal Court to an additional fine as a repeat offender. The additional fine imposed by the Municipal Court for a repeated offense shall not be less than the minimum or exceed the maximum fine fixed for a violation of the ordinance, but shall be calculated separately from the fine imposed for the violation of the ordinance, in accordance with N.J.S.A. 40:49-5.

b. Patrons.

1. Any patron, purchaser or user of a newsrack news rack who uses slugs or anything other than a coin of the proper denomination and valid in the United States, or who removes more

newspapers or news periodicals than paid for, shall be deemed guilty of petty larceny.

2. 2. Any person who vandalizes or otherwise interferes with a newsrack **news rack** shall be charged accordingly.

3. Any person who or uses it to store contraband or engage in any illegal activity, shall be charged accordingly.

c. Penalty. A fine of not more than one thousand (\$1,000.00) dollars and not less than one hundred (\$100.00) dollars for each offense for each and every day a violation of any provision of this chapter shall continue may be assessed by the City.

(Ord. 6 S+FK, 5-6-87 § 5; Ord. 6 S+FE, 10-7-87)

Section 3. All ordinances and parts of ordinances inconsistent herewith are hereby repealed.

Section 4. This Ordinance shall take effect upon final passage and publication and in accordance with the laws of the State of New Jersey.

Section 5. The provisions of this Ordinance are severable. To the extent any clause, phrase, sentence, paragraph or provision of this Ordinance shall be declared invalid, illegal or unconstitutional, the remaining provisions shall continue in full force and effect.

STATEMENT

ORDINANCE TO AMEND- TITLE 26, STREETS AND SIDEWALKS, CHAPTER 27 - REGULATING NEWS RACKS IN PUBLIC RIGHTS-OF-WAY.

Ordinance to Amend- Title 8, Chapter 12 - Restaurants, Title and Definitions (8:12-1) and Hours of Operation (8:12-6a) of the Revised Ordinances of the City of Newark, County of Essex, New Jersey to further regulate the hours of operation of restaurants and retail sales and retail service establishments.