

SUBSTITUTE

Introduced by: EDDIE A. PEREZ, MAYOR

**Hearing
And
Purpose**

AN ORDINANCE AMENDING CHAPTER 31 OF THE
HARTFORD MUNICIPAL CODE

Court of Common Council,
City of Hartford
November 27, 2006

Be It Ordained by the Court of Common Council of the City of Hartford;

That Chapter 31 of the Hartford Municipal Code be amended by adding the following Article:

ARTICLE IX. NEWSRACKS

Sec. 31-268. Purpose

It is not the intent of this Article to discriminate against, hinder, regulate or interfere with the publication, circulation or distribution of any printed material which is protected by the United States Constitution. However, uncontrolled placement and lack of maintenance of newsracks in the public right-of-way can present a hazard to the safety and welfare of pedestrians, persons entering and leaving vehicles and buildings, and persons performing essential utility, traffic control and emergency services and also contributes to litter. Newsracks located as to interfere with or to cause a hazard to persons using the public right-of-way, including handicapped parking and access areas, and unsightly newsracks constitute public nuisances and interfere with the comfortable enjoyment of life and property by the community.

The City of Hartford recognizes, however, that the use of such public right-of-way is so historically associated with the sale and distribution of newspapers and publications that reasonable access to those areas for such purposes should not be overly restricted. The City of Hartford further recognizes that these strong and competing interests require a reasonable accommodation, which can only be satisfactorily achieved through the means of this Article, which is designed to accommodate such interests by regulating the place and manner of using such newsracks.

The purpose of this Article is to establish uniform guidelines to regulate the installation, operation and maintenance of newsracks within the public right-of-way in the City of Hartford so that such newsracks shall not unduly obstruct sidewalks; interfere with the public's right to unhampered passage therein; create vehicular traffic congestion caused by illegal parking or stopping by motorists in order to purchase or obtain newspapers; damage municipal property because of the chaining

of newsracks to poles, traffic standards, trees or other fixtures; interfere with the performance of municipal services or otherwise endanger the safety and welfare of the inhabitants of the City of Hartford.

Sec. 31-269. Definitions.

For the purpose of this chapter, the following words and phrases shall have the meanings given herein.

- (a) Block – Two sides of a street between two consecutive intersecting streets.
- (b) Curb Return – The point at which the curve of the curb on intersecting streets becomes the straight curb of either one of those streets.
- (c) Director of Public Works – The head of the Hartford Public Works Department or his/her duly designated representative.
- (d) Distributor – Any person who owns or is responsible for the installation, operation or maintenance of a newsrack in a public right-of-way.
- (e) Newsrack – Any self or coin-operated box container, storage unit or other dispenser, installed, operated or maintained for the display and sale or free distribution of newspapers, periodicals or other printed matter.
- (f) Person – An individual person, firm, corporation or other entity.
- (g) Public right-of-way – Any area owned and/or maintained by the City of Hartford or any other governmental entity, open to the public for vehicular or pedestrian travel, including but not limited to sidewalks, roadways, streets, alleys, public grounds or other public spaces.
- (h) Roadway – That portion of any highway improved, designated, or ordinarily used for vehicular travel, exclusive of the berm or shoulder.
- (i) Sidewalk – That portion of the street between the curb lines or lateral lines of a roadway and the adjacent property lines and any surface provided for exclusive use by pedestrians.
- (j) Unimproved Tree Belt – The area of the public right of way between the curb and sidewalk containing only grass, pavers, concrete, or bituminous concrete.

Sec. 31-270. Newsrack Permit required.

It shall be unlawful for any person to erect, place, maintain or operate, on any public right of way, within the City of Hartford any newsrack without first having obtained a newsrack permit to do so from the Director of Public Works.

- (a) Application for such permit shall be made, in writing, to the Director of Public Works upon such form as shall be provided by him and shall contain the name and address of the applicant, telephone number or numbers at which the applicant may be reached during normal business hours, the proposed specific location of said newsrack(s) and shall be signed by the applicant. One permit may be issued to include more than one newsrack.
- (b) The application form shall include a statement, to be signed by the applicant, whereby the applicant agrees to indemnify and hold harmless the City of Hartford, its officers, elected officials, agents and employees from any loss,

liability, or damage, including expenses and costs, for bodily or personal injury, and for property damage sustained by any person as a result or consequence of the installation, existence, use and/or maintenance of such newsrack(s) within the City of Hartford.

- (c) Prior to the issuance of a newsrack permit and during the term of the permit a distributor shall obtain, maintain and provide proof of liability insurance coverage, in a form acceptable to the Director of Public Works, issued by an insurance company licensed to do business in the State of Connecticut. Said insurance shall name the City of Hartford, its officers, elected officials, agents and employees as additional insureds. The minimum coverage of said insurance shall be one million dollars (\$1,000,000.00) aggregate personal injury claim; five hundred thousand dollars (\$500,000.00) aggregate property damage claim; and two hundred fifty thousand dollars (\$250,000.00) per each occurrence.
- (d) A fee of twelve dollars (\$12.00) shall be charged for each proposed newsrack location in addition to a fee of twenty-five dollars (\$25.00) per application.
- (e) The Director of Public Works shall approve or reject the proposed locations and shall be guided therein solely by the standards and criteria set forth or referenced in this Article.
- (f) The Director of Public Works shall assign a number to each newsrack permit approved and issued. Permits shall be issued or denied within ten (10) business days after the application was filed.
- (g) Such newsrack permits shall be conditioned upon the observance of the provisions of this Article.
- (h) Such permits shall be valid for three (3) years and shall be renewable pursuant to the procedures and regulations in place at the time of renewal and upon payment of a renewal fee of twelve dollars (\$12.00) per location.

Sec. 31-271. Newsrack Identification Required.

Every distributor who places or maintains a newsrack within a public right-of-way in the City of Hartford shall have his/her permit number, name, address and telephone number affixed to an area of each newsrack where such information may be easily seen.

Sec. 31-272. Location, Placement of and number of newsracks.

Any newsrack, which rests in whole or in part upon or over any part of a public right-of-way shall be located in accordance with the provisions of this section:

- (a) No newsrack shall be used or maintained which projects onto, into, or over any part of the roadway of any public street or which rests, wholly or in part upon, or over any portion of the roadway of any public street.
- (b) No newsrack shall be bolted or otherwise attached to the sidewalk or to any fixture located in the public right-of-way, except to other newsracks, without the prior written approval of the Director of Public Works. However, newsracks may be chained by means of a rubber or plastic coated chain except it may not be chained to a decorative fixture, a tree, or utility fixture that requires access for maintenance or service or any other fixture that would cause material public health or safety issues.

- (c) Newsracks may be placed next to each other, provided that no group of newsracks shall extend for a distance of more than ten (10) feet along a curb, and a space of not less than three (3) feet shall separate each group of newsracks.
- (d) No newsrack shall be placed, installed, used or maintained:
1. So as to violate any relevant provision of the federal Americans with Disabilities Act (ADA) legislation, in existence or as amended from time to time;
 2. Within five (5) feet of any marked crosswalk;
 3. Within five (5) feet of the curb return of any unmarked crosswalk;
 4. Within five (5) feet of any fire hydrant, fire call box, police call box, or other emergency facility;
 5. Within five (5) feet of any driveway;
 6. In such a location as to cause a material public safety issue;
 7. Within such distance from a designated bus stop, bus bench or bus shelter so as to impede the entry or exit from a bus;
 8. At any location where the clear sidewalk space for the passageway of pedestrians is restricted to impede pedestrian traffic as determined by the Director of Public Works;
 9. Within three (3) feet of any public area permanently improved with lawn, flowers, shrubs, trees or other landscaping, excluding unimproved tree belt less than four (4) feet wide, or within three (3) feet of any display window of any building abutting the sidewalk or in such a manner as to impede or interfere with the reasonable use of such window for display purposes;
 10. Within two hundred fifty (250) feet, on the same side of the block, of any other newsrack containing the same issue or edition of the same publication, within a commercial or business district;
 11. Within five hundred (500) feet of any other newsrack containing the same issue or edition of the same publication, within a residential district;
 12. On any access ramp for disabled persons;
 13. Within the limits of any designated loading zone; or
 14. So as to interfere with access to or egress from a handicapped parking space.
- (e) In determining which newsracks shall be permitted to remain if already in place, the Director of Public Works shall be guided by the following criteria:
1. First priority shall be daily newspapers published five or more days per week;

2. Second priority shall be newspapers published weekly; and
 3. Third priority shall be all other publications.
 4. Fourth priority shall be newsracks in place for at least five (5) years, provided they comply with the requirements of Sec. 31-270 and Sec. 31-272(a)-(d) hereof.
- (f) To the extent that this ordinance operates to nearly or totally eliminate existing newsracks within a block in the Downtown Business District and along the major arteries, a News Organization or Distributor may appeal to the Director of Public works for an exception. The Director of Public Works, may designate specific sidewalk locations for the placement of newsracks that would otherwise be prohibited by this ordinance as long as they do not affect the safety of the public. These locations may be required to have modular newsracks or other such devices that would permanently identify and affix the newsrack location. This exception may be rescinded by the Director of Public Works for good cause.

Sec. 31-273. Standards for Maintenance and Installation.

Any newsrack, which in whole or in part rests upon any public right-of-way, shall comply with the following standards:

- (a) No newsrack shall exceed four (4) feet in height, two (2) feet in width, or two (2) feet in depth.
- (b) Each newsrack that offers newspapers or other publications for a charge shall be equipped with a coin-return mechanism to permit a person using the machine to secure an immediate refund in the event the person is unable to receive the paid-for publication. The coin-return mechanism shall be maintained in good working order. This subsection shall not apply to newsracks for publications offered free of charge.
- (c) Each newsrack shall have affixed to it in a readily visible place so as to be seen by anyone using it, a notice setting forth the name, address, and permit number of the distributor and the telephone number(s) to call to report a malfunction, or to secure a refund in the event of a malfunction, or to give notices provided for in this Article. Such notices shall be maintained in good, legible order.
- (d) Each newsrack shall be maintained in a neat and clean condition and in good repair at all times.
- (e) Each newsrack shall be so weighted and balanced as to prevent it from being tipped by the opening of its door, or the impact of snow cast by a passing snowplow. Plastic newsracks shall be weighted internally to prevent their tipping or blowing over.
- (f) Each newsrack shall be made of metal or hard plastic and shall be painted in a color scheme consisting of a dark background color such as navy blue, royal blue, black or brown with white lettering.
- (g) No advertising shall be allowed on a newsrack other than that of the distributor/owner with respect to the contents thereof.

Sec. 31-274. Violations.

Upon determination by the Director of Public Works that a newsrack has been installed, used or maintained in violation of the provisions of this Article, an order to correct the offending condition shall be issued and sent via regular mail and certified mail with return receipt requested to the distributor of the newsrack. The order shall specifically describe the offending condition and suggest actions necessary to correct the condition, and shall apprise the distributor of its appeal rights pursuant to this Article. Failure to properly correct the offending condition within Ten (10) business days after the mailing date of the order or to appeal the order pursuant to Sec. 31-275 of this Article shall result in the offending newsrack being summarily removed and processed as unclaimed property. If the offending newsrack is not properly identified as to the distributor or is not a properly permitted newsrack, it shall be removed immediately by the Director of Public Works and processed as unclaimed property. An impound fee of one hundred dollars (\$100.00), shall be levied against each newsrack summarily removed for which the distributor shall be liable for payment.

The Director of Public Works shall cause inspection to be made of a newsrack reinstalled after removal under this section. The distributor of the said newsrack shall be charged an inspection fee of \$25 for each newsrack so inspected.

Nothing contained in this chapter shall be interpreted to limit or impair the exercise by the City of Hartford of its police powers to remove any newsrack, which presents a clear and present danger of imminent personal injury or property damage to users of the public right-of-way.

Sec. 31-275. Appeals.

A person aggrieved by a finding, determination, notice, order or action taken under the provisions of this Article may appeal and shall be apprised of his/her right to appeal to a Hearing Officer appointed by the Mayor. An appeal must be filed within seven (7) business days after receipt of notice of any protested finding, determination, notice, order or action by filing with the Hearing Officer a letter of appeal stating therein the basis for the appeal. A hearing shall be held on a date not more than twenty (20) business days after receipt of the letter of appeal. The appellant shall be given at least five (5) business days notice of the time and place of the hearing. The Hearing Officer shall give the appellant, and any other interested party, a reasonable opportunity to be heard, in order to show cause why the finding, determination, notice, order or action should not be upheld. At the conclusion of the hearing, the Hearing Officer shall make a final and conclusive decision. This decision shall be immediately appealable to a court of competent jurisdiction.

Sec. 31-276. Existing newsracks.

This article shall apply to existing newsracks within the City of Hartford except that the distributors thereof shall have 60 days within which to comply with its provisions or such additional time as may be allowed in the discretion of the Director of Public Works.

Sec. 31-277. Abandonment.

In the event a newsrack remains empty of current issues for a period of thirty (30)

continuous days, the same shall be deemed abandoned, and may be removed by the Director of Public Works.

Sec. 31-278. Severability.

If any section, subsection, sentence, clause or phrase of this Article is for any reason held to be invalid or unconstitutional by any decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Article.

Sec. 31-279. Scope.

This ordinance is not intended, and should not be construed, to affect the rights of any private property owner.

This ordinance shall take effect upon adoption.