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**TO: THE HONORABLE, THE CITY COUNCIL**

**FROM: <sup>DMD</sup> D. MARGARET DRURY, CITY CLERK**

**DATE: November 21, 1996**

**RE: BOSTON ORDINANCE RE: NEWSRACKS  
COUNCIL ORDER NUMBER TWENTY-FOUR OF OCTOBER 28,  
1996**

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Attached is a copy of the newsrack ordinance passed by the Boston City Council on October 23, 1996. The ordinance was submitted by Mayor Menino and amended and adopted by the City Council. The Mayor has vetoed the ordinance, and his veto message is included, along with this proposed ordinance, which he is re-submitting to the Boston City Council.



## CITY OF BOSTON · MASSACHUSETTS

OFFICE OF THE MAYOR  
THOMAS M. MENINO

November 12, 1996

## TO THE CITY COUNCIL

Dear Councillors.

I return herewith without my signature and disapproved an Ordinance passed by your Honorable Body on October 23, 1996, Docket No. 0628, regulating the placement and maintenance of newsracks.

This administration favors an *enforceable* ordinance that directly addresses the proliferation of newsracks in Boston. These newsracks often block cross-walks, building ramps, fire hydrants and mailboxes, and obstruct the flow of pedestrian and vehicular traffic in Boston.

Although I filed a Constitutionally sound, enforceable ordinance, changes made by your Honorable Body have now rendered the measure ineffectual because it lacks clear provisions for the registration and location of newsracks, and fails to provide an appropriate fee to cover the expense of administering the program.

I intend to re-file my original proposal, which was the product of a joint effort by a task force co-chaired by City Councillor Thomas Keane and Basic City Services Chief Michael Galvin. Once again, I urge your Honorable Body to approve the measure.

Sincerely,

Thomas M. Menino  
Mayor of Boston

*As presented by the Mayor*

## CITY OF BOSTON - MASSACHUSETTS

OFFICE OF THE MAYOR  
THOMAS M. MENINO

September 10, 1996

TO THE CITY COUNCIL

Dear Councillors:

I transmit herewith for your approval an Ordinance that would establish requirements for the placement and maintenance of newsracks in the City of Boston.

Currently, newsracks are often located in areas which obstruct the flow of pedestrian and vehicular traffic. Further, many fall into a state of disrepair or remain empty and abandoned.

This measure creates a permitting process for the operators of newsracks and specific placement standards, to be enforced by the Director of Code Enforcement, to ensure unrestricted access in public ways and to preserve the aesthetic beauty of the neighborhoods of Boston.

This measure is the result work performed by a task force co-chaired by Councillor Thomas Keane and Basic City Services Chief Michael Galvin that I formed after legal considerations required me to veto an earlier effort by your Honorable Body to regulate newsracks.

I urge your Honorable Body to approve this Ordinance.

Sincerely,

Thomas M. Menino  
Mayor of Boston



# CITY OF BOSTON

IN THE YEAR NINETEEN HUNDRED AND

## AN ORDINANCE

### *Standardizing The Placement And Maintenance Of Newsracks*

Be it ordained by the City Council of Boston, as follows:

1.           Whereas, the proliferation of scattered newsracks in Boston often block
2.           crosswalks and handicap ramps, unreasonably impede access for the use and
3.           maintenance of poles, posts, traffic signs or signals, hydrants and mailboxes.
4.           unreasonably obstruct the flow of pedestrian and vehicular traffic, unreasonably
5.           obstruct access to bus stops, taxi cab stands, valet parking areas, loading zones and
6.           fire lanes, impede emergency snow removal operations, create undue nuisances and
7.           hazards to passers by in bad weather and storms, and otherwise unreasonably reduce
8.           the usable width of sidewalks, streets and alleys, thereby unreasonably restricting
9.           public access and creating undue perils and public safety hazards; and
10.           Whereas, newsracks are often not properly maintained and are allowed to
11.           deteriorate, and fall into states of disrepair in which newsracks collect trash and other
12.           debris, become covered with graffiti, are tipped over, cause damage to curb, sidewalk
13.           and street material, poles traffic signals and signs, and or remain empty and
14.           abandoned; and
15.           Whereas, reasonable standards for the placement and maintenance of
16.           newsracks in the public way will allow for unrestricted access to crosswalks and
17.           handicapped ramps and further provide for pedestrian and driving safety and
18.           convenience by alleviating unreasonable interference with the flow of pedestrian and
19.           vehicular traffic, allow for reasonable access and use of poles, posts, traffic signs and
20.           signals, hydrants and mailboxes, bus stops, taxi stands, valet parking areas, loading

## AN ORDINANCE

1. zones and fire lanes, provide for the safety of the public and protection of property
2. during times of snow emergencies and other bad weather conditions, and reduce the
3. potential for creating perils in the way of passers by, safety hazards and visual blight
4. that are associated with poorly maintained or abandoned newsracks;

5. **Now Therefore, Be It Ordained:**

6. **Section 1. Definitions.**

7. When used in this Ordinance, unless the context otherwise requires, the
8. following terms shall have the following meanings:

9. a. *Commission* shall mean the Public Improvement Commission. The
  10. Commission has jurisdiction over the public ways in the City of Boston.
  11. b. *Commissioner* shall mean the Commissioner of the Public Works Department
  12. of the City of Boston or such person as said Commissioner may from time to
  13. time designate.
  14. c. *Newsrack* shall mean any type of unmanned device for the vending or free
  15. distribution of newspapers, periodicals or printed material of whatever nature.
  16. d. *Certificate of Compliance* shall mean the Certificate of Compliance issued by
  17. the Commissioner to the Certificate Holder in accordance with the provisions
  18. of this Ordinance.
  19. e. *Newsrack Sticker* shall mean a sequentially numbered sticker issued by the
  20. Commissioner for placement on individual newsracks in accordance with the
- provisions of this Ordinance.

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1. be a violation of this Ordinance, subject to appropriate remedy under
2. section seven of this Ordinance; and
3. 5. a certification from the applicant stating that the proposed location for
4. all of the newsracks listed in the application are in compliance with the
5. provisions of this Ordinance.
6. h. *Issuance of a Certificate of Compliance* Upon a finding by the Commissioner
7. that the applicant is in compliance with the provisions of this Ordinance, the
8. Commissioner shall issue a certificate of compliance for installation by the
9. applicant. The Commissioner shall issue a partial certificate of compliance
10. upon a finding that some of the proposed newsrack locations are in compliance
11. with the provisions of this Ordinance. Upon the issuance of a certificate of
12. compliance or a partial certificate of compliance the Commissioner shall issue
13. the appropriate number of newsrack stickers for the locations that have been
14. approved. Issuance of a certificate of compliance or a partial certificate of
15. compliance shall designate the applicant to be the Certificate Holder. The
16. Commissioner shall issue a certificate of compliance within ten days of the
17. Commissioner's receipt of the completed application.
18. i. *Denial of Certificate of Compliance.* If an application for some newsrack
19. location shall be denied, the Commissioner shall notify the applicant within ten
20. days of the Commissioner's receipt of the completed application. The

**AN ORDINANCE**

- 1. f. *Certificate Holder* shall mean the holder of a Certificate of Compliance issued
- 2. by the Commissioner in accordance with the provisions of this Ordinance. A
- 3. certificate holder is responsible for the installation and maintenance of
- 4. newsracks encompassed by any Certificate of Compliance issued pursuant to
- 5. the provisions of this Ordinance and for compliance with all provisions
- 6. contained herein.
- 7. g. *Operator* shall mean any natural person or other legal entity including, but not
- 8. limited to, corporations, partnerships, joint ventures and the like who either
- 9. own, operate or are otherwise in control of a newsrack.
- 10. h. *Public Way* shall mean any public highway, private way laid out under
- 11. authority of statute, way dedicated to public use, or way under the control of
- 12. park commissioners or other body having like power.

**Section 2. Certificate of Compliance.**

- 13. a. *Requirement.* No person shall place, affix, erect, construct or maintain a
- 14. newsrack in or on any part of a public way without first obtaining a one time
- 15. only certificate of compliance from the Commissioner in accordance with the
- 16. provisions of this Ordinance.
- 17. b. *Limit.* Only one (1) certificate of compliance shall be required for each
- 18. operator of a newsrack or series of newsracks notwithstanding the number of
- 19. newsracks or similar devices dispensing such newspapers, periodicals or
- 20.





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1. Commissioner shall state the specific reasons for denial and will suggest  
2. alternative locations. The applicant may reapply for a substitute alternative  
3. location without having to pay an additional application fee. An applicant who  
4. has been denied a Certificate of Compliance pursuant to this Ordinance may  
5. appeal at any time by requesting in writing to the Commissioner to appear  
6. before the Public Improvement Commission to review said denial. The Public  
7. Improvement Commission shall hear the appeal within twenty days of receipt  
8. of the appeal or at the next regularly scheduled meeting, whichever is sooner,  
9. and such appeal shall be subject to the Massachusetts Administrative  
10. Procedures Act, G.L. c.30A.

### 11. Section 3. Fees.

12. a. There shall be a one time only certificate of compliance fee in the amount of  
13. one hundred fifty dollars (\$150.00). In addition, a fee of fifteen dollars  
14. (\$15.00) per newsrack will be assessed annually to defray the cost of expenses  
15. incurred in administering this Ordinance only.
16. b. *Additional Certificate of Compliance.* If at any time after the Commissioner  
17. has issued a certificate of compliance a certificate holder proposes to install  
18. additional newsracks, then the provisions of Section 2 are to be repeated.  
19. Additional certificate of compliance fees shall be in accordance with Section 3  
20. (a), except that the one hundred fifty dollars (\$150.00) one time only certificate

**AN ORDINANCE**

1. of compliance fee is waived if previously paid.

2. **Section 4. Standards.**

3. a. Placement.

4. Subject to the prohibitions contained in this section newsracks shall be placed  
5. parallel to and not less than eighteen inches (18") nor more than twenty four inches  
6. (24") from the edge of the curb. Newsracks placed near the wall of a building or other  
7. structure must be placed parallel to and not more than six inches (6") away from the  
8. wall.

9. No newsrack(s) shall be affixed, erected, installed, placed, used or maintained  
10. 1. at any location whereby the clear space for the passage of pedestrians is  
11. reduced to less than four (4) feet in width; and  
12. 2. within five (5) feet of any marked, or unmarked crosswalk; and  
13. 3. within five (5) feet of any fire hydrant, fire lane, fire call box, police call  
14. box or other emergency facility, mail box, telephone booth or stand;  
15. and  
16. 4. within five (5) feet of any part of a curb return of a curb ramp or  
17. driveway, or in the case of a curb ramp or driveway without a curb  
18. return, within five (5) feet of the point where the curb edgestone or  
19. edging begins a change in grade toward the driveway or ramp on each  
20. side thereof, or in the case of a termination of the curb, edgestone or

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1. edging without a change in grade or a turn, within five (5) feet of the
2. point of the same terminates on each side of the ramp or driveway; and
3. 5. within five (5) feet of any traffic control signal or traffic sign; and
4. 6. within five (5) feet of a bicycle rack; and
5. 7. within five (5) feet ahead or fifteen (15) feet to the rear of any
6. designated bus stop taxi stand, valet parking area, loading zone or fire
7. lane, unless such newsrack is placed parallel against a wall that is within
8. four feet (4') of a designated bus stop, taxi stand, valet parking area,
9. loading zone or fire lane and the newsrack so placed does not project
10. into or otherwise interfere with the unobstructed flow of pedestrian and
11. vehicular traffic; and
12. 8. which in any way protrudes onto a street; and
13. 9. which in any way is chained or otherwise attached to any tree, street
14. light post, traffic signal or sign; and
15. 10. when placed side by side, chained or otherwise attached to one another,
16. extend for a distance of more than ten (10) feet along a curb. Further,
17. a space of not less than five (5) feet shall separate each group of
18. newsracks.

**Section 5. Advertising Prohibited.**

- 19.
20. Newsracks shall not carry card holders or advertising except for words or

**AN ORDINANCE**

1. insignia which serve to identify the newspaper, periodical or printed material being
2. dispensed.

3. **Section 6. Installation and Maintenance.**

4. Newsracks shall be of a sturdy material and installed or otherwise placed in
5. accordance with the following provisions:

6. a. Each newsrack shall display the Newsrack Sticker issued by the Commissioner
7. pursuant to the provisions of this Ordinance in a position that is visible from
8. the public way
9. b. Each newsrack shall be:
  10. 1. installed or placed on the pavement in an upright, sufficiently weighted
  11. and secure position; and
  12. 2. of a type that is completely enclosed, with a self-closing, self-latching
  13. door or other mechanism requiring manual or mechanical release at
  14. each use; and
  15. 3. maintained in a state of good repair and in a neat and clean condition;
  16. and
  17. 4. maintained in a condition that is free of accumulations of out-dated
  18. printed materials trash, rubbish, or debris.
19. c. Each newsrack shall be regularly serviced so that:
  20. 1. it is kept reasonably free of graffiti; and

## AN ORDINANCE

1. In the event that a certificate holder voluntarily abandons a newsrack location.  
2. the certificate holder shall so notify the Commissioner, completely remove the  
3. newsrack and restore the public way to a safe condition.

4. c. Enforcement.

5. 1. Enforcement of the provisions of this Ordinance shall be carried out by  
6. the Director of Code Enforcement and the Commissioner. Upon a  
7. determination that a violation of any provision of this Ordinance exists  
8. the Director of Code Enforcement shall notify the Commissioner who  
9. shall notify the Certificate Holder of the violation in writing by first  
10. class mail. The notice shall include:

11. (a) the newsrack sticker number and location of the newsrack; and  
12. (b) the date of the incident or other cause giving rise to the  
13. violation; and  
14. (c) a brief and concise statement of the facts causing the violation.

15. 2. The notice shall inform the certificate holder that at the expiration of  
16. ten (10) days from the receipt of the violation notice, the newsrack will  
17. be removed by the Commissioner, unless the violation is corrected.

18. 3. Upon removal of a newsrack, the Commissioner shall send, by first  
19. class mail, written notice of such removal to the certificate holder.

20. 4. Notwithstanding the provisions of the foregoing paragraphs (a)-(c) of

**AN ORDINANCE**

1.                   2.    it is kept reasonably free of chipped, faded, peeling and cracked paint in
2.                                   the visible painted areas thereof; and
3.                   3.    it is kept reasonably free of rust and corrosion in the visible
4.                                   unpainted metal areas thereof; and
5.                   4.    the clear glass or plastic parts thereof, if any, through which the printed
6.                                   material being dispensed is are not broken and are kept reasonably free
7.                                   of tears, peeling or fading; and
8.                   5.    the structural parts of the newsrack are not broken or unduly
9.                                   misshapen.

**Section 7.    Enforcement Procedures.****a.    Non Conforming Newsracks.**

11.                   Any newsrack found not to be in compliance with this Ordinance shall be

12.                                   subject to the enforcement provisions contained herein.

**b.    Abandonment.**

13.                   In the event that any newsrack installed pursuant to the provisions of this

14.                                   Ordinance does not contain the printed material being dispensed therein for a period of

15.                                   forty eight (48) hours after the release of the current issue, the Director of Code

16.                                   Enforcement may deem the newsrack abandoned and take appropriate action under

17.                                   this Ordinance. A newsrack shall otherwise be deemed abandoned if no printed

18.                                   material is found in the newsrack for a period of more than seven (7) consecutive days.

19.                                   

20.

**AN ORDINANCE**

1. this section, the Commissioner may order the immediate removal of  
2. any newsrack(s) that the Commissioner determines presents an  
3. imminent threat or peril to public or safety, provided that the certificate  
4. holder, shall be notified of such removal as soon as practicable  
5. thereafter, and further provided that any newsrack so removed shall be  
6. stored a period of thirty (30) days in order to allow the certificate  
7. holder to retrieve the newsrack. If the Commissioner removes a  
8. newsrack under this section (d) which does not have a certificate of  
9. compliance, the Commissioner shall dispose of the newsrack at the end  
10. of the thirty day period.

11. **Section 8. Fees For Removal And Storage.**

12. a. A newsrack removed pursuant to this Ordinance may be retrieved by the  
13. certificate holder at any time within thirty (30) days of its removal upon  
14. payment of a removal fee of twenty-five (\$25.00) dollars plus a storage fee of  
15. five (\$5.00) dollars per day, to a maximum combined removal and storage fee  
16. of one hundred (\$100.00) dollars.
17. b. After thirty (30) days, any newsracks removed by the Commissioner pursuant  
18. to Section 8(d) of this Ordinance shall be deemed "abandoned property" and  
19. become the property of the City of Boston.
20. c. Failure of a certificate holder to retrieve a newsrack within the specified thirty

**AN ORDINANCE**

1. (30) day period shall not operate to dismiss any fees owed to the City of  
 2. Boston for removal and storage of such newsrack. Unpaid fees accrued  
 3. pursuant to this Section 8 (c) shall be considered a debt payable to the City of  
 4. Boston.

**Section 9. Regulations.**

5. The Commissioner may, after public hearing, promulgate such rules and  
 6. regulations consistent with the provisions of this Ordinance and the laws of the  
 7. Commonwealth of Massachusetts as shall carry out the purposes of this Ordinance.  
 8.

**Section 10. Effect On Other Laws.**

9. Nothing in this chapter shall affect the adoption of regulations affecting  
 10. newsracks by other government bodies, such as historic district commissions, to the  
 11. extent such bodies are authorized to adopt such regulations.  
 12.

**Section 11. Severability.**

13. The provisions of this ordinance shall be severable and if any section, part, or  
 14. portion hereof shall be held invalid for any purpose by any court of competent  
 15. jurisdiction, the decision of such court shall not affect or impair any remaining section,  
 16. part or portion thereof.  
 17.

**Section 12. Effective Date.**

18. This ordinance shall take effect one hundred fifty (150) days from the date of  
 19. approval.  
 20.

I HEREBY CERTIFY THAT  
 THE FOREGOING, IF PASSED IN  
 THE ABOVE FORM, WILL BE IN  
 ACCORDANCE WITH LAW.

*Merita A. Hopkins*  
 \_\_\_\_\_  
 MERITA A. HOPKINS  
 CORPORATION COUNSEL

*As amended and passed  
by the City Council -  
The Mayor has sent 11/12/96  
to approve or disapprove it*

**CITY OF BOSTON  
IN THE YEAR NINETEEN HUNDRED AND NINETY SIX  
AN ORDINANCE**

**Standardizing The Placement And Maintenance Of Newsracks**

**Be it ordained by the City Council of Boston, as follows:**

**Whereas, the proliferation of scattered newsracks in Boston often block crosswalks and handicap ramps, unreasonably impede access for the use and maintenance of poles, posts, traffic signs or signals, hydrants and mailboxes, unreasonably obstruct the flow of pedestrian and vehicular traffic, unreasonably obstruct access to bus stops, taxi cab stands, valet parking areas, loading zones and fire lanes, impede emergency snow removal operations, create undue nuisances and hazards to passers by in bad weather and storms and otherwise unreasonably reduce the usable width of sidewalks, streets and alleys, thereby unreasonably restricting public access and creating undue perils and public safety hazards; and**

**Whereas, newsracks are often not properly maintained and are allowed to deteriorate, and fall into states of disrepair in which newsracks collect trash and other debris, become covered with graffiti, are tipped over, cause damage to curb, sidewalk and street material, poles traffic signals and signs, and or remain empty and abandoned; and**

**Whereas, reasonable standards for the placement and maintenance of newsracks in the public way will allow for unrestricted access to crosswalks and handicapped ramps and further provide for pedestrian and driving safety and convenience by alleviating unreasonable interference with the flow of pedestrian and vehicular traffic, allow for reasonable access and use of poles, posts, traffic signs and signals, hydrants and mailboxes, bus stops, taxi stands, valet parking areas, loading zones and fire lanes, provide for the safety of the public and protection of property during times of snow emergencies and other bad weather conditions, and reduce the potential for creating perils in the way of passers by, safety hazards and visual blight that are associated with poorly maintained or abandoned newsracks;**

**Now Therefore, Be It Ordained:**

**Section I. Definitions.**

When used in this Ordinance, unless the context otherwise requires, the following terms shall have the following meanings:

**Newsrack Ordinance****Page 2**

- a. *Commission* shall mean the Public Improvement Commission. The Commission has jurisdiction over the public ways in the City of Boston.
- b. *Commissioner* shall mean the Commissioner of the Public Works Department of the City of Boston or such person as said Commissioner may from time to time designate.
- c. *Newsrack* shall mean any type of unmanned device for the vending or free distribution of newspapers, periodicals or printed material of whatever nature.
- d. *Certificate of Compliance* shall mean the Certificate of Compliance issued by the Commissioner to the Certificate Holder in accordance with the provisions of this Ordinance.
- e. *Certificate Holder* shall mean the holder of a Certificate of Compliance issued by the Commissioner in accordance with the provisions of this Ordinance. A certificate holder is responsible for the installation and maintenance of newsracks encompassed by any Certificate of Compliance issued pursuant to the provisions of this Ordinance and for compliance with all provisions contained herein.
- f. *Operator* shall mean any natural person or other legal entity including, but not limited to, corporations, partnerships, joint ventures and the like who either own, operate or are otherwise in control of a newsrack.
- g. *Public Way* shall mean any public highway, private way laid out under authority of statute, way dedicated to public use, or way under the control of park commissioners or other body having like power.

**Section 2. Certificate of Compliance.**

- a. *Requirement.* No person shall place, affix, erect, construct or maintain a newsrack in or on any part of a public way without first obtaining a one-time only certificate of compliance from the Commissioner in accordance with the provisions of this Ordinance.
- b. *Limit.* Only one (1) certificate of compliance shall be required for each operator of a newsrack or series of newsracks notwithstanding the number of newsracks or similar devices dispensing such newspapers, periodicals or newsracks or similar devices dispensing such newspapers, periodicals or printed material.
- c. *Issuing Authority.* The Commissioner shall be the issuing authority and coordinator of the application process and administration of this Ordinance.

**Newsrack Ordinance****Page 3**

d. *Approving Authorities.* The approving authorities shall be the head of the Boston Transportation Department and the Boston Fire Department. The head of the Boston Transportation Department and the head of the Boston Fire Department shall provide review and approval only as to compliance with Section 4, Standards. The Commissioner shall provide review and approval coordination with the head of the Boston Transportation Department and the head of the Boston Fire Department, as well as review and approval only as to compliance with Section 2, Certificate of Compliance, Section 4, Standards, and Section 7, Installation & Maintenance.

e. *Application Process.* Applicants must complete a written application on a form provided by the Commissioner.

f. *Application.* The application shall describe in sufficient detail, the number, location and type of newsracks for which the Certificate of Compliance is sought and shall contain the following information:

1. the name, address and telephone number of the applicant who is the owner/operator or other person who is the principal responsible person in charge of the newsrack(s); and

2. the name, address and telephone number of a natural person (if different from the applicant) whom the City may notify and/or contact at any time concerning the applicant's newsracks. This person would be responsible for receiving complaints and notices of violations when a certificate of compliance is issued and for providing information relating to the application during the application process; and

3. the number of newsracks and a written description specifying the proposed approximate location of each; and

4. a certificate of insurance naming the City of Boston as an additional insured in an amount sufficient to indemnify the City and hold it harmless from any and all claims or judgments for personal and bodily injury, including death, or property damage and from costs and expenses to which the City may be subjected or which it may suffer or incur by reason of the design, placement, installation, operation or maintenance of any of the applicant's newsracks. Reasonable evidence of self insurance coverage may be substituted by the applicant for the certificate of insurance. Insurance under this section shall run continuously with the presence of the applicant's newsrack in City of Boston public ways and any termination or lapse of such insurance shall be a violation of this Ordinance, subject to appropriate remedy under section 8 of this Ordinance; and

**Newsrack Ordinance****Page 4**

5. a certification from the applicant stating that the proposed location for all of the newsracks listed in the application are in compliance with the provisions of this Ordinance.

h. *Issuance of a Certificate of Compliance.* Upon a finding by the Commissioner that the applicant is in compliance with the provisions of this Ordinance, the Commissioner shall issue a certificate of compliance for installation by the applicant. The Commissioner shall issue a partial certificate of compliance upon a finding that some of the proposed newsrack locations are in compliance with the provisions of this Ordinance. Upon the issuance of a certificate of compliance or a partial certificate of compliance the Commissioner shall issue the appropriate number of newsrack stickers for the locations that have been approved. Issuance of a certificate of compliance or a partial certificate of compliance shall designate the applicant to be the Certificate Holder. The Commissioner shall issue a certificate of compliance within ten days of the Commissioner's receipt of the completed application.

i. *Denial of Certificate of Compliance.* If an application for some newsrack location shall be denied, the Commissioner shall notify the applicant within ten days of the Commissioner's receipt of the completed application. The Commissioner shall state the specific reasons for denial and will suggest alternative locations. The applicant may reapply for a substitute alternative location without having to pay an additional application fee. An applicant who has been denied a Certificate of Compliance pursuant to this Ordinance may appeal at any time by requesting in writing to the Commissioner to appear before the Public Improvement Commission to review said denial. The Public Improvement Commission shall hear the appeal within twenty days of receipt of the appeal or at the next regularly scheduled meeting, whichever is sooner. The Commission shall send its decision to the publisher within five (5) days after the hearing. Any such appeal shall be subject to the Massachusetts Administrative Procedures Act, G.L. c.30A.

**Section 3. Fees.**

a. There shall be a one time only certificate of compliance fee in the amount of one hundred fifty dollars (\$150.00)

b. *Additional Certificate of Compliance.* If at any time after the Commissioner has issued a certificate of compliance a certificate holder proposes to install additional newsracks, then the provisions of Section 2 are to be repeated. Additional certificate of compliance fees shall be in accordance with Section (a), except that the one hundred fifty dollars (\$150.00) one time only certificate of compliance fee is waived if previously paid.

**Newsrack Ordinance****Page 5****Section 4. Standards.**

a. *Placement.* Subject to the prohibitions contained in this section newsracks shall be placed parallel to and not less than eighteen inches (18") nor more than twenty four inches (24") from the edge of the curb. Newsracks placed near the wall of a building or other structure must be placed parallel to and not more than six inches (6") away from the wall.

No newsrack(s) shall be affixed, erected, installed, placed, used or maintained:

- 1 at any location whereby the clear space for the passage of pedestrians is reduced to less than four (4) feet in width; and
2. within five (5) feet of any marked, or unmarked crosswalk; and
3. within five (5) feet of any fire hydrant, fire lane, fire call box, police call box or other emergency facility, mail box, telephone booth or stand; and
4. within five (5) feet of any part of a curb return of a curb ramp or driveway, or in the case of a curb ramp or driveway without a curb return, within five (5) feet of the point where the curb edgestone or edging begins a change in grade toward the driveway or ramp on each side thereof, or in the case of a termination of the curb, edgestone or edging without a change in grade or a turn, within five (5) feet of the point of the same terminates on each side of the ramp or driveway; and
5. within five (5) feet of any traffic control signal or traffic sign; and
6. within five (5) feet of a bicycle rack; and
7. within five (5) feet ahead or fifteen (15) feet to the rear of any designated bus stop taxi stand, valet parking area, loading zone or fire lane, unless such newsrack is placed parallel against a wall that is within four feet (4') of a designated bus stop, taxi stand, valet parking area, loading zone or fire lane and the newsrack so placed does not project into or otherwise interfere with the unobstructed flow of pedestrian and vehicular traffic; and
8. which in any way protrudes onto a street.

**Section 5. Attachment to Property**

a. *Attachment to Trees and Other Objects Prohibited.* Except to the extent permitted by regulations promulgated by the Commissioner, no Operator shall place or cause to be placed and no Operator shall suffer to remain any Newsrack chained or otherwise attached to any tree, street light post, traffic signal or sign.

**Newsrack Ordinance**  
**Page 6**

b. *Attachment to Other Newsracks.* Newsracks, when placed side by side, may be chained or otherwise attached to one another, 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 five (5) feet shall separate each group of Newsracks.

**Section 6. Advertising Prohibited.**

It shall be unlawful for any Operator to use a Newsrack for advertising or publicity purposes other than that dealing with the display, sale or purchase of the publications dispensed therein.

**Section 7. Installation and Maintenance.**

Newsracks shall be of a sturdy material and installed or otherwise placed in accordance with the following provisions:

a. Each Newsrack shall prominently display the Certificate of Compliance number and the name, address, and telephone number of the person identified in Section 2(b)(2) who would be responsible for receiving complaints and notices of violations.

b. Each newsrack shall be:

1. installed or placed on the pavement in an upright, sufficiently weighted and secure position; and

2. of a type that is completely enclosed, with a self-closing door that is either self-latching or otherwise requires manual or mechanical release at each use; and

3. maintained in a state of good repair and in a neat and clean condition; and

4. maintained in a condition that is free of accumulations of outdated printed materials trash, rubbish, or debris.

c. Each newsrack shall be regularly serviced so that:

1. it is kept reasonably free of graffiti; and

2. it is kept reasonably free of chipped, faded, peeling and cracked paint in the visible painted areas thereof; and

3. it is kept reasonably free of rust and corrosion in the visible unpainted metal areas thereof; and

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4. the clear glass or plastic parts thereof, if any, through which the printed material being dispensed is are not broken and are kept reasonably free of tears, peeling or fading; and
5. the structural parts of the newsrack are not broken or unduly misshapen.

**Section 8. Enforcement Procedures.**

a. *Non Conforming Newsracks.* Any newsrack found not to be in compliance with this Ordinance shall be subject to the enforcement provisions contained herein.

b. *Abandonment.* In the event that any newsrack installed pursuant to the provisions of this Ordinance does not contain the printed material being dispensed therein for a period of forty eight (48) hours after the release of the current issue, the Director of Code Enforcement may deem the newsrack abandoned and take appropriate action under this Ordinance. A newsrack shall otherwise be deemed abandoned if no printed material is found in the newsrack for a period of more that fifteen (15) consecutive days. In the event that a certificate holder voluntarily abandons a newsrack location, the certificate holder shall so notify the Commissioner, completely remove the newsrack and restore the public way to a safe condition.

c. *Enforcement.*

1. Enforcement of the provisions of this Ordinance shall be carried out by the Director of Code Enforcement and the Commissioner. Upon a determination that a violation of any provision of this Ordinance exists the Director of Code Enforcement shall notify the Commissioner who shall notify the Certificate Holder of the violation in writing by first class mail. The notice shall include:

- (a) the location of the newsrack; and
- (b) the date of the incident or other cause giving rise to the violation; and
- (c) a brief and concise statement of the facts causing the violation.

2. The notice shall inform the certificate holder that at the expiration of ten (10) days from the receipt of the violation notice, the newsrack will be removed by the Commissioner, unless the violation is corrected.

3. Upon removal of a newsrack, the Commissioner shall send, by first-class mail, written notice of such removal to the certificate holder.

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4. Notwithstanding the provisions of the foregoing paragraphs 1(a)-1(c) of this section, the Commissioner may order the immediate removal of any newsrack(s) that the Commissioner determines presents an imminent threat or peril to public or safety, provided that the certificate holder, shall be notified of such removal as soon as practicable thereafter, and further provided that any newsrack so removed shall be stored a period of thirty (30) days in order to allow the certificate holder to retrieve the newsrack. If the Commissioner removes a newsrack under this section (d) which does not have a certificate of compliance, the Commissioner shall dispose of the newsrack at the end of the thirty day period.

**Section 9. Fees For Removal And Storage.**

a. A newsrack removed pursuant to this Ordinance may be retrieved by the certificate holder at any time within thirty (30) days of its removal upon payment of a removal fee of twenty-five (\$25.00) dollars plus a storage fee of five (\$5.00) dollars per day, to a maximum combined removal and storage fee of one hundred (\$100.00) dollars.

b. After thirty (30) days, any newsracks removed by the Commissioner pursuant to Section 9(d) of this Ordinance shall be deemed "abandoned property" and become the property of the City of Boston.

c. Failure of a certificate holder to retrieve a newsrack within the specified thirty (30) day period shall not operate to dismiss any fees owed to the City of Boston for removal and storage of such newsrack. Unpaid fees accrued pursuant to this Section 9 (c) shall be considered a debt payable to the City of Boston.

**Section 10. Regulations.**

The Commissioner may, after public hearing, promulgate such rules and regulations consistent with the provisions of this Ordinance and the laws of the Commonwealth of Massachusetts as shall carry out the purposes of this Ordinance.

**Section 11. Effect On Other Laws.**

Nothing in this chapter shall affect the adoption of regulations affecting newsracks by other government bodies, such as historic district commissions, to the extent such bodies are authorized to adopt such regulations.

**Section 12. Severability.**

The provisions of this ordinance shall be severable and if any section, part, or portion hereof shall be held invalid for any purpose by any court of competent jurisdiction, the

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decision of such court shall not affect or impair any remaining section, part or portion thereof.

**Section 13. Effective Date.**

This ordinance shall take effect one hundred fifty (150) days from the date of approval.

In City Council OCT 23 1996  
Passed after 11:30 pm, no vote  
Rosario Salerno City Clerk  
Approved

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Communication and Reports from City  
Officers #3

S-605

A communication transmitting a copy of the  
Boston Ordinance regarding newsracks.

In City Council November 25, 1996

Referred to  
Law Department  
and Ordinance  
Committee,

Copies sent 11-27-96

mc