



OFFICE OF THE CITY CLERK

CITY OF CAMBRIDGE

(617) 349-4260

FAX (617) 349-4307

tty/TDD (617) 492-0235

D. MARGARET DRURY
CITY CLERK

DONNA P. LOPEZ
DEPUTY CITY CLERK

March 26, 1999

Department of Community Affairs
Room 904
100 Cambridge Street
Boston, MA 02202

To Whom It May Concern:

Enclosed you will find copies of twelve amendments to the Zoning Ordinances of the City of Cambridge which were passed to be ordained at various Cambridge City Council meetings, to amend the text of the Zoning Ordinance in various sections.

These amendments are being sent to you pursuant to the provisions of Chapter 808 of the Acts of 975.

Your kind attention in this matter will be greatly appreciated.

Very truly yours,

A handwritten signature in cursive script that reads "Donna P. Lopez".

Donna P. Lopez
Deputy City Clerk

gwj

Enc. (12) Ordinances
1206, 1207, 1208, 1209
1210, 1211, 1212, 1213
1214, 1215, 1216, 1219

cc: Les Barber
Inspectional Services
Attorney General

TODD PETITION

**LEGAL NOTICE
COMMONWEALTH OF
MASSACHUSETTS
MIDDLESEX, SS
NO. 97E0108P
PROBATE COURT**

TO ALL PERSONS INTERESTED IN THE PETITION OF Gary Owen Todd OF Boston IN THE COUNTY OF Suffolk FOR PARTITION.

THE COMMISSIONER APPOINTED TO MAKE SUCH PARTITION HAS PRESENTED HIS REPORT TO SAID COURT FOR ACCEPTANCE AND CONFIRMATION.

IF YOU DESIRE TO OBJECT THERETO YOU OR YOUR ATTORNEY SHOULD FILE A WRITTEN APPEARANCE IN SAID COURT AT CAMBRIDGE BEFORE TEN O'CLOCK IN THE FORENOON ON THE twelfth DAY OF March, 1999, THE RETURN DAY OF THIS CITATION.

WITNESS, SHEILA E. MCGOVERN, ESQUIRE, FIRST JUDGE OF SAID COURT, THIS third DAY OF February 1999.

Marie A. Gardin
Acting Register

AD #785545
Cambridge Chronicle, 2/25, 3/4, 3/11/99

**WEIGHTS & MEASURES
LEGAL NOTICE
CITY OF CAMBRIDGE
WEIGHTS & MEASURES
DEPARTMENT
NOTICE**

In Compliance with provisions of Section 41, Chapter 98, of the General Laws of Massachusetts, as amended by Chapter 32, of Acts of 1928, I hereby given notice to all inhabitants or persons having usual places of business in Cambridge using weighing and measuring devices for the purpose of buying or selling goods, wares or merchandise for public weighing or for hire or reward, to bring in such weighing and measuring devices to be tested, adjusted and sealed or condemned. Shall be at the office of Weights and Measures, 831 Massachusetts Avenue, every day during regular or business hours to attend to this duty. Office hours are 7:30 AM to 3:30 PM. Monday to Friday.

JAMES P. CASSIDY JR.
ACTING SEALER OF WEIGHTS & MEASURES,
CITY OF CAMBRIDGE

AD #774839
Cambridge Chronicle, 2/11, 2/18, 2/25, 3/4/99

1988 FORD

LEGAL NOTICE

TO ANTONIO BORGES OF SOMERVILLE, MA. PHIL'S TOWING SERVICE HAS HAD IN ITS POSSESSION YOUR 1988 FORD PICKUP TRUCK SINCE MARCH 10, 1998 AND YOU HAVE NOT CLAIMED IT AFTER DUE NOTICE.

IT WILL BE SOLD AT PRIVATE SALE AT THE ABOVE ADDRESS ON MARCH 14, 1999

PHIL'S TOWING SERVICE
OWNER & OFFICER

AD #783333
Cambridge Chronicle, 2/25, 3/4, 3/11/99

#2826

**LEGAL NOTICE
CITY OF CAMBRIDGE
FINAL PUBLICATION #2826
FIRST PUBLICATION NUMBER 2820.
PUBLISHED IN THE CHRONICLE
ON FEBRUARY 4, 1999.
AGENDA ITEM NO. 17B
IN CITY COUNCIL
FEBRUARY 1, 1999**

ORDERED: That \$305,000 is appropriated, in addition to the \$1,200,000 previously appropriated, for the purpose of financing the construction of the following water pollution abatement facilities: the construction and reconstruction of sewers

and sewerage systems, consisting of a floating BMP control project, including without limitation all costs thereof defined in Section 1 of Chapter 29C of the General Laws, that to meet this appropriation the Treasurer with the approval of the City Manager is authorized to borrow \$305,000 and issue bonds or notes unless the general obligations of the City shall be general obligations of the City unless the Treasurer with the approval of the City Manager determines that they should be issued as limited obligations and may be secured by local system revenues as defined in Section 1 of Chapter 29C; that the Treasurer with the approval of the City Manager is authorized to borrow all or a portion of such amount from the Massachusetts Water Pollution Abatement Trust established pursuant to Chapter 29C and in connection therewith to enter into a loan agreement and/or a security agreement with the Trust and otherwise to contract with the Department of Environmental Protection with respect to such loan and for any federal or state aid available for the project or for the financing thereof; and that the City Manager is authorized to enter into a project regulatory agreement with the Department of Environmental Protection, to expand all funds available for the project and to take any other action necessary to carry on the project.

In City Council February 22, 1999.
Adopted by a yea and nay vote:-
Yeas 9; Nays 0; Absent 0

ATTEST:-
D. Margaret Drury
City Clerk

AD #785540
Cambridge Chronicle, 2/25/99

**#2827
LEGAL NOTICE
CITY OF CAMBRIDGE
FINAL PUBLICATION #2827
FIRST PUBLICATION NUMBER 2821.
PUBLISHED IN THE CHRONICLE
ON FEBRUARY 4, 1999.
AGENDA ITEM NO. 17C
IN CITY COUNCIL
FEBRUARY 1, 1999**

ORDERED: That \$5,775,000 is appropriated for the construction or reconstruction of sewers, sewerage systems and sewage treatment and disposal facilities for sewer separation and other sewer system improvements; and that to meet this appropriation the Treasurer with the approval of the City Manager is authorized to borrow \$5,775,000 under Chapter 44 of the General Laws.

In City Council February 22, 1999.
Adopted by a yea and nay vote:-
Yeas 9; Nays 0; Absent 0.

ATTEST:-
D. Margaret Drury
City Clerk

AD #785541
Cambridge Chronicle, 2/25/99

**3/4 HISTORICAL HEARING
LEGAL NOTICE
CAMBRIDGE
HISTORICAL COMMISSION**

Notice is hereby given that a public hearing will be held on **Thursday, March 4, 1999, at 4:00 PM at 831 Massachusetts Ave., basement**, to consider the following matters under M.G.L. Ch. 40C and Ch. 2.78 of the Cambridge City Code:

- Alterations to Designated Properties:**
Case 853: 80 Upland Rd./11 Walnut Ave., by J. Ruge Development. Amend certificate to construct new dormer and change window design.
Case 904: 31 Follen St., by Yung Chang Chen and Ying Yuh Chen. Replace solarium with new solarium.
Case 906: 8 Traill St., by Ann and Richard Beaty. Remove rear stair and construct new porch and stair. Replace door.
Case 907: 8 Garden Street (Byerly Hall), by Radcliffe College. Repairs to roof, masonry, ironwork, and general repairs.
Case 908: Longfellow Park, by City of

Cambridge. Renovate paths, lighting and landscaping.

Demolition Review:

- Case D-739: 85-87 Windsor St., by Patricia Chen (continued).** Raze 2-story house, c. 1845.
- Case D-744: 106 Foster St., by Clark and Nadine Binkley.** Relocate house, c. 1892, on same lot.
- Case D-745: 29 Hampshire St., by Amgen Cambridge Real Estate Holdings.** Raze 3 buildings at One Kendall Sq., built 1913.
- Case D-746: 19 Willard St., by Jacob Farmer.** Substantial demolition of house, c. 1859.

Landmark Designation Studies:

- Case L-45: 50 Quincy St., Corporation of the New Church, owner.** Review draft study report and determine recommendation to City Council.
- Review initiation of designation proceedings for the following properties:
- Case L-51: 86-88 Garden St., Estate of Phyllis Cox, owner (continued).**

William B. King, Chairman

AD #780066
Cambridge Chronicle, 2/18, 2/25/99

**ORDINANCE #1214
LEGAL NOTICE
CITY OF CAMBRIDGE
ORDINANCE #1214
FINAL PUBLICATION #2823
FIRST PUBLICATION IN THE
CHRONICLE ON DECEMBER 10, 1998.
IN THE YEAR ONE THOUSAND,
NINE HUNDRED NINETY NINE
AN ORDINANCE**

In amendment to the ordinance entitled "Municipal Code of the City of Cambridge."

Be it ordained by the City Council of the City of Cambridge as follows:

That Title 5 entitled "Business Licenses and Regulations" be amended by adding a new chapter 5.50 entitled "Standardizing the Placement and Maintenance of Newsracks."

In City Council February 22, 1999.
Passed to be Ordained as amended by a yea and nay vote
Yeas 9; Nays 0; Absent 0.

ATTEST:-
D. Margaret Drury
City Clerk

NOTE: Pursuant to the provisions of General Laws, chapter 40, Section 32A, Tercentenary Edition, the ordinance as aforesaid which exceeds in length eight octavo pages of ordinary book print may be summarized for publication in a newspaper of general circulation in the city with the further provision that said Zoning Ordinance may be examined and obtained at the City Clerk's Office during office hours and that any objection to its invalidity by reason of any defect in the procedure of adoption may only be made within ninety days after the posting or the second publication.

AD #785228
Cambridge Chronicle, 2/25/99

Kindergarten through grade 3 students and their families could win a brand-new book to keep or a door prize by playing Title I's "Books For Bingo" on Tuesday, March 2, from 6:30 to 8 p.m. in the main cafeteria at Cambridge Rindge and Latin School.

This celebration is part of the Dr. Seuss's birthday and "Read Across America" celebrations that will take place throughout the school district. For more information, call the Title I office at 349-6490.

In the center stands the tree of knowledge, representing the school's innovative Core Knowledge Curriculum. Animals scamper along the banks of the Charles River, while children play nearby. Along the border of the mural, Arai symbolically represents the many countries from which current Morse School students have come. The original 1891 Morse School and images which evoke the history of the neighborhood are woven into the design.

mission, to make sets, to make Carl Koch in collaborative of Morse School glass-walled new aesthetic. When the 1957, the S accompany

EDUCATION REFORM: THE COST OF SPECIAL EDUCATION

DISTRICT NAME	Enrollment (FY 98)	Special ed enrollment (FY 98)	% of children in special (FY 98)	% hike in special ed spending (1990-97)	% of school budget spent on special ed (1996/97)	% of new ed reform \$\$\$ spent on special ed (1993-97)
Maynard	1,500	221	14.7%	28.6%	17.0%	15.2%
Medfield	2,545	302	11.9%	96.9%	19.8%	174.7%
Medford	5,154	862	16.7%	78.2%	15.1%	172.9%
Medway	2,393	426	17.8%	34.6%	7.4%	67.0%
Melrose	3,584	594	16.6%	66.8%	16.6%	22.5%
Mendon-Upton Regional	1,730	266	15.4%	52.7%	20.7%	151.9%
Middleborough	3,541	556	15.7%	45.3%	18.9%	83.2%
Middleton	673	123	18.3%	—	—	-104.0%
Milford	3,998	720	18.0%	—	—	—
Mills	1,259	216	17.2%	13.3%	48.4%	309.5%
Milton	3,922	753	19.2%	105.4%	15.7%	170.1%
Minuteman Regional Voc	925	284	30.7%	43.1%	19.1%	124.3%
Nahant	251	86	34.3%	28.0%	22.7%	64.0%
Nashoba Regional	2,896	492	17.0%	39.3%	16.7%	139.0%
Nashoba Valley Regional Voc	551	197	35.8%	—	—	—
Natick	4,137	633	15.3%	—	—	—
Nauset Regional	1,655	192	11.6%	72.5%	21.0%	148.7%
Needham	4,322	643	14.9%	42.8%	18.7%	36.9%
Newburyport	2,511	307	12.2%	—	—	33.6%
Newton	11,037	1,672	15.2%	102.1%	12.0%	29.4%
Norfolk	1,160	165	14.2%	—	—	39.4%
Norfolk County Agr Tech	451	66	14.6%	36.2%	27.6%	50.6%
North Andover	4,100	547	13.3%	49.5%	15.2%	38.7%
North Shore Regional Voc	457	192	42.0%	30.4%	17.9%	93.8%
North Star Academy Charter	109	18	16.5%	125.9%	20.6%	196.2%
Northborough	1,974	291	14.7%	46.8%	17.1%	124.2%
Northbridge	2,353	388	16.5%	64.7%	18.2%	79.9%
Northeast Metro Regional Voc	1,111	258	23.2%	—	—	137.4%
Norton	2,812	477	17.0%	—	—	-7.3%
Norwell	1,873	234	12.5%	78.8%	21.0%	208.0%
Norwood	3,715	629	16.9%	54.5%	13.9%	94.6%
Orleans	370	62	16.8%	48.0%	17.4%	171.2%
Peabody	6,496	1,307	20.1%	18.1%	18.3%	61.0%
Pembroke	1,846	243	13.2%	—	—	70.8%
Pentucket Regional	3,344	370	11.1%	13.9%	138.8%	24.5%
Plymouth	8,926	1,369	15.3%	47.0%	18.7%	83.3%
Provincetown	357	77	21.6%	14.6%	49.7%	16.3%
Randolph	4,204	652	15.5%	5.7%	—	—
Reading	4,146	542	13.1%	8.2%	—	—
Renaissance Charter	1,077	117	10.9%	17.1%	46.2%	15.0%
Rockland	2,840	347	12.2%	—	—	—
Sabis International Charter	750	80	10.7%	—	—	—
Salem	5,085	1,003	19.7%	11.5%	50.9%	17.1%
Sandwich	3,823	451	11.8%	47.1%	11.8%	146.1%
Saugus	3,376	397	11.8%	14.9%	51.0%	19.2%
Scituate	3,023	398	13.2%	16.5%	48.1%	19.8%
Seekonk	2,197	280	12.7%	11.8%	87.5%	13.3%
Seven Hills Charter	660	102	15.5%	17.7%	104.5%	26.2%
Sharon	3,230	465	14.4%	14.6%	108.8%	5.2%
Shawsheen Valley Regional Voc	1,142	356	31.2%	15.1%	50.3%	12.4%
Sherborn	480	39	8.1%	13.7%	67.0%	18.7%
Shrewsbury	4,205	651	15.5%	16.8%	57.1%	19.2%
Silver Lake Regional	2,702	346	12.8%	13.4%	190.2%	20.0%
Somerville	6,474	1,275	19.7%	12.2%	—	5.5%
Somerville Charter	524	—	—	12.5%	63.9%	14.1%
South Middlesex Regional Voc	786	308	39.2%	28.0%	—	—
South Shore Charter	356	56	15.7%	17.7%	71.6%	18.2%
South Shore Regional Voc	550	195	35.5%	16.4%	70.1%	19.6%
Southborough	1,228	190	15.5%	—	—	—
Southeastern Regional Voc	1,288	273	21.2%	13.6%	130.1%	18.6%
Stoneham	2,862	381	13.3%	31.9%	—	40.9%
Stoughton	4,195	719	17.1%	11.1%	67.1%	17.7%
Stow-Bolton	—	—	—	18.2%	30.7%	24.4%
Sudbury	2,599	345	13.3%	12.7%	55.3%	13.2%
Swampscott	2,420	367	15.2%	12.7%	55.3%	13.2%
Tewksbury	4,129	526	12.7%	14.0%	67.2%	18.4%
Topsfield	644	62	9.6%	16.9%	103.8%	14.2%
Tri County Regional Voc	842	266	31.6%	13.8%	74.2%	14.9%
Triton Regional	3,456	461	13.3%	21.2%	76.6%	22.0%
Turo	169	20	11.8%	17.8%	81.6%	19.9%
Upper Cape Cod Regional Voc	547	160	29.3%	15.1%	94.4%	18.5%
Uxbridge	2,271	330	14.5%	21.2%	80.3%	19.8%
Wakefield	3,466	552	15.9%	—	—	23.4%
Wales	222	28	12.6%	7.0%	149.1%	14.9%
Walpole	3,616	543	15.0%	2.5%	10.9%	—
Waltham	5,389	911	16.9%	1.7%	34.4%	—
Wareham	3,542	487	13.8%	1.2%	283.7%	—
Watertown	2,668	681	25.5%	1.1%	122.6%	—
Wayland	2,691	390	14.5%	3.7%	92.2%	—
Wellesley	3,546	583	16.4%	7.4%	129.4%	—
Wellesley Hills	162	18	11.1%	2.4%	24.3%	—
Westborough	3,186	435	13.7%	—	—	74.4%
Westford	3,940	410	10.4%	0.7%	114.3%	—
Weston	1,979	301	15.2%	1.4%	59.8%	—
Westwood	2,380	473	19.9%	0.0%	152.3%	—
Weymouth	6,842	1,244	18.2%	0.8%	77.4%	—
Whitman-Hanson Regional	4,445	697	15.7%	0.7%	150.3%	—
Whittier Regional Voc	1,307	337	25.8%	0.0%	29.9%	—
Wilmington	3,454	492	14.2%	1.0%	75.3%	—
Winchester	3,178	354	11.1%	1.3%	49.4%	—
Woburn	4,715	762	16.2%	—	—	—
Wrentham	1,155	135	11.7%	0.4%	148.8%	—



SCHOOL NOTEBOOK

Attendance policies on agenda

The Cambridge School Committee will meet Tuesday, March 2, at 6 p.m. in the media cafeteria at Cambridge Rindge and Latin School.

Members will be reviewing three proposed CRLS student attendance policies. Superintendent Bobbie D'Alessandro, Mayor Frank Duguay and committee member Joseph Grassi have prepared attendance policies that will be discussed.

Join the fun on Dr. Seuss' birthday

The Cambridge Public Schools will celebrate Dr. Seuss' birthday on Tuesday, March 2. All are welcome. Call the Office of Public Information at 349-6512 if you want to read to Cambridge public school students in kindergarten through grade 2 on March 2 between 9:30 and 11 a.m.

Peabody wins volleyball crown

The Peabody School is celebrating. The boys' and girls' volleyball teams won the city championships. The girls' team had an undefeated record, while the boys' team finished the regular season with a 7-1 record.

"This is the second time that Peabody School has made the clean sweep in volleyball; five years ago, both of our teams won the city championships," said Theodora

Guthrie, Peabody School family liaison. "We are very proud of our volleyball players and their mentors: Vonel Lamour, Tarek Saleh and Samia Salamah."

Members of the girls' team are: Helena Barbieri, Kim Barteluis, Julia Cavallaro, Vela Collins, Casey Gardner, Seba Gebre, Rebecca Groves, Emma Guthrie, Jenny Imrich, Michaela Joseph, Saba Kahassia, Katy Kessler, Lexie Kyrilo, Ashley McCarthy, Erin-Claire Michaels, Kathy Montreuil, Frances Preffer, Shante Rabouni, Nataly Rodriguez, Ariel Rosner and Dawa Tenzin.

The boys' team includes: Gibson Barteluis, Marc Barthelemy, Sam Burke, Peter Dunn, Craig Etheridge, Samson Gebre, Gerardo Hernandez, Ronald Joseph, Jeffrey Keele, Timothy Keefer, Aaron Levitan, Phillip Mazzola, Julian Nakal, Christopher O'Callaghan, Philip Pare, Peter Photopoulos, Jonathan Powell, Joe Salamah, Edward Jean Simon, A. J. Urquhart, Tim Williamson and Zach Yofie.

Play 'Books For Bingo'

Kindergarten through grade 3 students and their families could win a brand-new book to keep or a door prize by playing Title I's "Books For Bingo" on Tuesday, March 2, from 6:30 to 8 p.m. in the main cafeteria at Cambridge Rindge and Latin School.

This celebration is part of Dr. Seuss' birthday and "Read Across America" celebrations that will take place throughout the school district. For more information, call the Title I office at 349-6490.

Morse School celebrates re-opening

BY GRETCHEN ADAMS
Special to the Chronicle

The Morse School invites the Cambridge community to celebrate the school's re-opening Sunday, Feb. 28, from 2 to 6 p.m.

Following formal ceremonies, there will be entertainment, including presentations by Plymouth Plantation costumer, Lynne Wilkinson who not only comes in clothing she has meticulously copied from 17th-century originals, but invites children to try on pudding caps designed to protect toddlers' heads.

Also, there will be dance performances by children from the Deborah Mann School of Dance, games in the gym, and refreshments prepared by Cambridge restaurants.

To commemorate the school's renovation, the Cambridge Arts Council commissioned a major new work of art for the Morse which will be unveiled during the dedication. New York artist Tomie Arai's design for a brilliantly colored, silk screened mural captures the spirit and history of the school.

The center stands the tree of knowledge, representing the school's innovative Core Knowledge Curriculum. Animals scamper along the banks of the Charles River, while children play nearby. Along the border of the mural, Arai symbolically represents the many countries from which current Morse School students have come. The original 1878 Morse School and images which evoke the history of the neighborhood are woven into the design.

Renovations

Since June 1997, the Morse School was completely renovated and dramatically enlarged.

The Design Partnership of Cambridge oversaw the project, blending new construction into the 1957 design. The school now features a state-of-the-art computer network connecting all classrooms, a fully equipped science lab, a spacious library with \$20,000 worth of new books, an ensemble room for music lessons, a versatile theater in which students and visiting artists can perform plays and concerts, spaces for both an after-school club and a preschool, and sun-drenched classrooms.

All furnishings, from desks and chairs to lighting and plumbing fixtures, have been replaced, and the entire building is now wheelchair accessible.

By the 1950s, the original Morse School had fallen into disrepair. The city obtained land between Memorial Drive and Granite Street from the Metropolitan District Commission, clearing tennis courts and swing sets, to make way for the new construction.

Carl Koch and Associates of Worcester, in collaboration with The Architects Collaborative of Cambridge, designed the new Morse School. With its one-story, modular, glass-walled design, the plan embodied the new aesthetic of the Bullitt movement.

When the school was dedicated in June 1957, the School Committee published an accompanying pamphlet. In it, the author de-

scribes the overall concept for the building: "to make the child want to come to school and provide an environment... in which learning can be a happy experience."

Koch divided the school into four wings, grouping children by age.

"The buildings were kept low to be in scale with the children using them. Bright durable colors were employed to add cheerfulness, both inside and out, but only where they would not distract from the learning process," he stated.

When WGBH-TV began broadcasting "in-school television" less than a year after the Morse School opened, Morse students were ready to tune in.

On March 29, 1958, the Boston Daily Globe reported that WGBH had aired its first 30-minute school program, and illustrated the article with photographs of Morse 6th grader, Philip Heyward, watching the show.

A large gym (70 feet by 94 feet) contained not only a regulation size basketball court, but also an oak backboard for practicing handball and tennis, and markings on the floor for badminton, volleyball, baseball, deck tennis, shuffleboard, and deck tennis.

The school also boasted a fully appointed shop in which boys could learn cabinetmaking and metal working. Equipment included a drill press, jigsaw, two lathes and soldering bench. A homemaker room abutted the courtyard. Sunlight flooded in through floor to ceiling windows, enabling girls to easily

MORSE, page 11

EDUCATION REFORM: THE COST OF SPECIAL EDUCATION

DISTRICT NAME	Enrollment (FY 98)	Special ed enrollment (FY 98)	% of children in special ed (1996-97)	% of school budget spent on special ed (1996-97)	% of new ed cost spent on special ed (1996-97)	DISTRICT NAME	Enrollment (FY 98)	Special ed enrollment (FY 98)	% of children in special ed (1996-97)	% of school budget spent on special ed (1996-97)	% of new ed cost spent on special ed (1996-97)		
Abington	2,300	335	14.6%	28.6%	17.0%	15.2%	Maynard	1,500	221	14.7%	40.7%	22.1%	208.4%
Action	2,289	390	17.4%	26.9%	19.0%	174.7%	Medfield	2,545	302	11.9%	92.8%	13.3%	146.8%
Action-B Roxbury Regional	2,075	361	17.4%	78.2%	15.1%	172.9%	Medford	5,154	862	16.7%	36.8%	25.9%	130.0%
Algonquin Regional	1,361	143	10.5%	34.6%	7.4%	37.0%	Medway	2,293	426	18.6%	153.6%	18.6%	65.9%
Amesbury	2,822	475	16.8%	66.8%	16.3%	22.5%	Melrose	3,584	584	16.3%	11.3%	17.1%	137.9%
Arlington	4,231	864	20.4%	52.7%	20.7%	151.9%	Mendon-Upton Regional	1,730	266	15.4%	69.7%	20.6%	91.5%
Ashland	2,137	296	13.9%	45.3%	18.9%	83.2%	Middleborough	3,541	556	15.7%	50.5%	16.7%	12.5%
Assabet Valley Regional Voc	895	220	24.6%	—	—	-104.0%	Milford	5,978	123	2.0%	47.6%	17.6%	102.5%
Attitash Charter	420	53	12.6%	—	—	—	Milwaukie	3,998	720	18.0%	70.6%	20.2%	61.3%
Avon	798	106	13.3%	48.4%	20.9%	309.5%	Mills	1,299	216	17.4%	32.9%	16.9%	65.5%
Barnstable	7,091	1,064	14.9%	105.4%	18.7%	170.3%	Milton	3,922	753	19.2%	36.8%	16.7%	126.9%
Bedford	2,042	382	18.7%	43.1%	16.1%	128.3%	Millis-Norfolk Regional Voc	2,684	307	11.4%	30.7%	25.8%	150.1%
Bellingham	2,141	548	25.6%	22.0%	27.7%	64.0%	Nantuxet Regional Voc	1,255	187	14.9%	45.0%	16.2%	119.0%
Belmont	3,519	532	15.1%	39.3%	16.7%	139.0%	Nashoba Regional	2,896	492	17.0%	80.2%	16.4%	55.2%
Belmont-Banner Charter	285	30	10.5%	—	—	—	Nashoba Valley Regional Voc	551	197	35.8%	—	—	68.8%
Benjamin Franklin Charter	255	40	15.7%	—	—	—	Natick	4,137	633	15.3%	20.0%	18.7%	24.7%
Beverly	4,880	835	17.3%	72.5%	21.0%	148.7%	Nauset Regional	1,655	192	11.6%	86.7%	6.4%	23.7%
Billerica	6,267	919	14.7%	42.8%	18.7%	36.9%	Needham	4,322	643	14.9%	81.1%	19.6%	175.3%
Blackstone Valley Reg Voc	1,860	199	10.7%	22.6%	18.1%	128.3%	Newburyport	2,511	307	12.2%	47.0%	14.0%	108.2%
Blackstone-Millville Regional	2,349	299	12.7%	102.1%	12.0%	—	Newbury	11,037	1,672	15.1%	56.2%	17.3%	165.1%
Blue Hills Regional Voc	1,112	238	21.4%	—	—	39.4%	Norfolk	1,160	165	14.2%	127.6%	16.3%	45.3%
Boston	64,855	13,707	21.1%	36.2%	27.6%	50.6%	Norfolk County Agr Tech	451	66	14.6%	—	—	18.9%
Braintree	2,488	303	12.2%	49.5%	15.2%	39.7%	North Andover	4,100	547	13.3%	56.4%	20.3%	141.5%
Brockton	580	53	9.1%	30.4%	17.9%	81.2%	North Shore Regional Voc	457	152	33.2%	—	—	116.0%
Boxford	1,050	135	12.9%	125.9%	20.6%	196.2%	North Star Academy Charter	109	18	16.5%	—	—	—
Braintree	4,886	848	17.4%	46.8%	17.1%	124.2%	Norborough	1,974	291	14.7%	86.8%	16.4%	121.0%
Brewster	754	109	14.5%	64.7%	18.2%	79.5%	Northbridge	2,353	388	16.5%	57.0%	19.2%	22.8%
Bristol County Agr Tech	377	65	17.2%	—	—	137.4%	Northwest Metro Regional Voc	2,812	477	17.0%	60.9%	23.0%	15.6%
Bristol-Plymouth Regional Voc	807	198	24.5%	—	—	-7.3%	Norton	1,873	234	12.5%	63.9%	11.5%	84.3%
Brookline	6,112	1,244	20.4%	78.8%	21.0%	208.0%	Norwell	3,745	629	16.8%	29.4%	17.5%	108.5%
Burlington	3,553	544	15.3%	54.5%	13.9%	94.6%	Norwood	1,111	62	5.6%	147.2%	21.3%	163.0%
Cambridge	1,844	193	10.5%	48.0%	17.4%	171.2%	Orleans	6,496	1,307	20.1%	166.3%	13.5%	102.1%
Canton	2,842	514	18.1%	18.1%	18.3%	61.0%	Peabody	1,846	243	13.2%	94.5%	22.8%	45.4%
Cape Cod Lighthouse Charter	163	10	6.1%	—	—	—	Pembroke	3,844	370	9.6%	456.7%	13.5%	51.5%
Cape Cod Regional Voc	617	209	33.9%	—	—	70.8%	Pentucket Regional	8,926	1,369	15.3%	95.5%	33.5%	38.9%
Carlsbad	100	12	12.0%	138.8%	24.5%	416.2%	Plymouth	2,167	367	17.0%	166.3%	14.8%	102.1%
Chatham	644	74	11.5%	47.0%	18.7%	83.3%	Provincetown	1,567	77	4.9%	—	—	—
Chelmsford	5,442	792	14.6%	49.7%	16.3%	54.8%	Randolph	4,204	652	15.5%	45.7%	26.6%	51.7%
Chicopee Alliance/Ed Charter	175	10	5.7%	—	—	—	Reading	4,146	542	13.1%	109.0%	19.5%	115.9%
City On A Hill Charter	146	12	8.2%	—	—	—	Rehoboth	1,077	117	10.9%	—	—	—
Cohasset	1,243	212	17.1%	46.2%	15.0%	127.1%	Rockland	2,840	347	12.2%	68.8%	20.5%	36.5%
Community Day Care Charter	196	—	—	—	—	—	Rosie International Charter	750	80	10.7%	—	—	—
Concord	2,019	233	11.5%	50.9%	17.1%	118.1%	Salem	5,085	1,003	19.7%	61.4%	22.2%	52.1%
Concord-Carlisle Regional	927	110	11.9%	47.1%	16.1%	146.1%	Sandwich	1,823	451	24.8%	118.7%	18.2%	162.1%
Danvers	545	14.9%	51.0%	19.2%	119.1%	Saugus	3,376	392	11.6%	29.2%	18.8%	116.1%	
Dedham	3,100	498	16.1%	48.1%	19.8%	177.0%	Scituate	3,023	398	13.2%	37.3%	14.7%	85.8%
Dennis-Yarmouth Regional	4,625	547	11.8%	87.5%	13.5%	71.2%	Seekonk	2,197	280	12.7%	47.2%	24.1%	202.0%
Dorchester	1,849	97	5.3%	104.5%	19.2%	43.0%	Seventeen Hills Charter	5,450	1,025	18.8%	—	—	—
Dover-Sherborn Regional	856	125	14.6%	108.8%	5.2%	81.4%	Sharon	3,320	165	4.9%	84.7%	21.3%	160.4%
Duxbury	2,967	447	15.1%	50.3%	12.4%	65.9%	Shawshen Valley Regional Voc	1,142	356	31.2%	—	—	105.4%
Easton	3,344	47	1.4%	—	—	—	Shelburne	480	39	8.1%	19.1%	16.8%	214.9%
Easton	3,631	610	16.8%	37.1%	19.2%	46.6%	Shrewsbury	4,265	651	15.5%	27.7%	15.0%	24.3%
Essex	389	52	13.4%	100.2%	20.0%	239.1%	Silver Lake Regional	2,702	346	12.8%	54.7%	4.4%	16.4%
Essex County Agr Tech	951	72	7.6%	—	—	5.5%	Somerville	6,474	1,275	19.7%	46.5%	26.1%	49.5%
Essex	5,045	628	12.5%	63.9%	14.1%	72.5%	Somerville Charter	524	—	—	—	—	—
Everett	2,672	567	21.2%	—	—	—	Southeastern Regional Voc	786	308	39.2%	—	—	22.0%
Ex. Dorchester, Inc. Charter	1,288	169	13.1%	—	—	—	South Shore Charter	356	56	15.7%	—	—	142.8%
Foxborough	2,896	513	17.7%	71.6%	18.2%	54.7%	South Shore Regional Voc	550	195	35.5%	—	—	23.7%
Framingham	7,944	1,305	16.4%	70.1%	19.6%	22.7%	Southborough	1,228	190	15.5%	63.1%	17.3%	129.1%
Francis W Parker Charter	256	—	—	—	—	—	Southwick	2,823	273	9.7%	40.0%	10.7%	21.8%
Franklin County Regional Voc	4,874	447	9.2%	130.1%	18.6%	40.9%	Stoneham	1,882	381	20.2%	67.0%	10.7%	17.7%
Georgetown	1,194	154	11.1%	67.1%	17.7%	68.3%	Stoughton	4,195	719	17.1%	56.6%	16.9%	69.7%
Kingston	1,289	133	10.3%	30.1%	24.4%	35.0%	Sturbridge	2,559	345	13.5%	121.2%	22.0%	74.4%
Hamilton-Wenham Regional	1,255	268	21.3%	—	—	—	Swampscott	2,420	367	15.2%	83.4%	20.3%	154.4%
Hanover	2,908	350	12.0%	67.2%	18.4%	94.5%	Tewksbury	4,129	526	12.7			

Critics call for reform of special education

REFORM, from page 9

Unrealistic funding formula

Adding yet another level of frustration to local school administrators is a rigid state funding formula that reimburses them, not for the actual numbers of students in special education or the real cost of their programs, but at an arbitrary rate. The state assumes that just 15 percent of a school's students receive special education.

In fact, the real proportion of special education students can rise as high as 25 percent, as it does currently in Cambridge and Watertown.

School systems must provide programs to students, under the terms of Chapter 766 of the state's law code. But they only get reimbursed according to a fixed formula, rather than the actual cost of

children they must serve. That means a heavy financial burden falls on the community, and painful choices sometimes have to be made to cover the costs.

Some argue that the formula actually increases the number of children who need special education.

"As children are referred to separate special education programs, fewer resources remain to support general education, causing more students to fall through the cracks, leading to even more special education referrals," said James A. Peyster, a candidate for the job of commissioner of education for the state.

Despite that vicious cycle, the 15 percent figure, which was set by the 1993 Education Reform Act, was not included by misaccident.

"That's by design," said Edward

"As children are referred to separate special education programs, fewer resources remain to support general education, causing more students to fall through the cracks, leading to even more special education referrals."

James A. Peyster, candidate for the job of commissioner of education

Moscovitch, an economist who helped write the formula. "We could have put in the actual number instead of an assumed number, but we deliberately said we don't want districts to have an incentive to enroll more students in special education."

Yet that sparks the fight for resources that pits parent against

parent, and parent against school administrator.

In specific, a new report scheduled for release this week shows that in nearly 100 school districts, the rising cost of special education has erased all the financial benefits received under the Education Reform Act of 1993. Another 74 school districts have spent be-

tween 50 percent and 99 percent of their education reform dollars on special education.

One part of the program that hits home with particular force — although it includes only 3 percent of special needs students — is the extraordinarily high cost of out-of-district residential programs. The state pays half the bill for these services, which can cost as much as \$200,000 a year in tuition for a single child.

That funding formula not only causes painful choices, it is also in violation of the federal Individuals with Disabilities Education Act, which states that students must be placed in the least restrictive learning environment possible.

The state's funding method means, theoretically, that a child whose education will cost \$50,000 a year represents a state reimbursement to a school of \$25,000

in a residential program and only \$8,500 on average if he or she is "mainstreamed" in the local school. That can influence a school's decision to put a child into a residential program who would be best served in the local school.

The U.S. Department of Education is analyzing how the funding formula actually affects special education students. Ruth Ryder, director of the federal agency's monitoring division, said teams will be visiting schools in Boston, Cambridge, Falmouth, Nahant, Sandwich, Worcester and on the North Shore this week.

The results may be expensive. At risk is as much as \$100 million in federal funding, which could be in jeopardy if the state is found out of compliance with the federal law.

At this point we are not considering withholding funds from the state," Ryder said. "We haven't found non-compliance yet. We'll be making decisions after visiting the state."

If the need to comply with the federal government is the most recent news in special education, the bigger story for the state's school systems has been the steady growth of the cost of special education. While the percentage of students labeled special needs has dropped slightly, the cost, on average, for each special needs student has jumped 40 percent between 1990 and 1997 — twice the rate of the cost increase for students in regular classes.

The cause of the problem

No one knows why so many children are requiring more expensive programs, although John Silber, chairman of the State Board of Education, blames the problem in part on abuse of the system by parents who want to put children in programs they don't truly need.

"There are people who have behavioral problems that don't have anything to do with learning disabilities, who are manipulating the school system," Silber said in a recent interview. "I think it's subject to abuse. You know perfectly well that we haven't had a collapse in the gene pool."

But not everyone agrees. Doctors and other experts have attributed the sharp increase in the numbers of special needs students to many factors, including advances in medical technology that has led to the survival of an increasing number of children with severe disabilities. Increased numbers of children in poverty and in foster care have also been suggested as factors in the increase.

In addition, psychologists and therapists have identified more disorders and syndromes that require attention. As a result, superintendents are bracing themselves for a new wave of young children who have been identified as having special needs.

Whatever the reason, at least one expert dismissed Silber's charge that abuse is driving the numbers.

"There's a rigorous test for determining who's eligible for special education services," said Julia Landau, an attorney with the Mass Advocacy center in Boston, which assists parents of children with disabilities.

To address the problems of special education, two key measures have been filed in the State House, each offering a new funding formula.

In the House, state Rep. Harold Lane, D-Holden, and state Rep. Lisa Harkin, D-Needham, have proposed a bill that would change the formula and add about \$20 million to state spending on the program. In the Senate, state Sen. Robert Antonioni, D-Leominster, has filed a measure that would also alter the formula at an estimated cost of \$60 million.

But neither bill is likely to be passed in its current form because legislators are divided over special education standards — whether to provide "a free and appropriate education," which is the current federal standard applied in most states, or the "maximum feasible development," which is the current standard in Massachusetts.

That issue must be resolved before legislators will address the basic funding problems, according to several legislators and their aides. Critics of the program and its funding are growing impatient for a solution.

LEGAL NOTICES

PIERRE GUARDIANSHIP
LEGAL NOTICE
COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT
THE PROBATE AND FAMILY COURT DEPARTMENT
MIDDLESEX, SS DIVISION
DOCKET NO. 99P07176M
GUARDIANSHIP - MINOR - WITHOUT SURETIES

NOTICE

To all persons interested in Nancie Eve Pierris of Cambridge in said Court, a minor.

A petition had been presented in the above-captioned matter praying that James A. Buscemi of Cambridge in the County of Middlesex be appointed guardian of said minor, with custody, without giving surety on his bond.

If you desire to object to the allowance of said petition, you or your attorney must file a written appearance in said Court at Cambridge on or before March 16, 1999.

Witness, Sheila E. McGovern, Esquire, First Justice of said Court at Cambridge, the 12th day of Feb in the year of our Lord one thousand nine hundred and ninety nine.

Marie A. Gardin
Acting Register of Probate Court

AD #782077
Cambridge Chronicle, 2/25/99

PINKUS ESTATE
LEGAL NOTICE
COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT
THE PROBATE AND FAMILY COURT DEPARTMENT
PROBATE OF WILL WITH/WITHOUT SURETIES
MIDDLESEX, SS DIVISION
DOCKET NO. 99P0197EP

ESTATE OF Abraham Pinkus
LATE OF Cambridge
IN THE COUNTY OF MIDDLESEX

NOTICE

A petition has been presented in the above-captioned matter praying that a certain instrument purporting to be the last will of said deceased may be proved and allowed and that Nancy E. Younossi of Cambridge in the County of Middlesex be appointed executrix without giving surety on her bond.

If you desire to object to the allowance of said petition, you or your attorney must file a written appearance in said Court at Cambridge on or before 10:00 a.m. in the forenoon on March 4, 1999.

In addition you must file a written affidavit of objections to the petition, stating the specific facts and grounds upon which the objection is based, within (30) days after the return day (or such other time as the Court, on motion with notice to the petitioner, may allow) in accordance with Probate Rule 16.

Witness, Sheila E. McGovern, Esquire, First Justice of said Court at Cambridge, the twenty eighth day of January in the year of our Lord one thousand nine hundred and ninety nine.

Marie A. Gardin
Acting Register of Probate Court

AD #781560
Cambridge Chronicle, 2/25/99

SPENCER ESTATE
LEGAL NOTICE
COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT
THE PROBATE AND FAMILY COURT DEPARTMENT
MIDDLESEX DIVISION
DOCKET NO. 99P0705AD
ADMINISTRATION WITHOUT SURETIES

Estate of Joan T. Spencer
late of Cambridge
in the County of Middlesex

NOTICE

A petition has been presented in the above-captioned matter praying that Judith Vasselin of Newton in the County of Middlesex and Thomas R. Mylott III in the County of Dallas in the State of Texas be appointed administrators of said estate without giving surety on their bond.

If you desire to object to the allowance of said petition, you or your attorney must file a written appearance in said Court at Cambridge on or before 10:00 in the forenoon on March 19, 1999.

Witness, Sheila E. McGovern, Esquire, First Justice of said Court at Cambridge, the sixteenth day of February in the year of our Lord one thousand nine hundred and ninety nine.

Marie A. Gardin
Acting Register of Probate Court

AD #785544
Cambridge Chronicle, 2/25/99

WITNESS, SHEILA E. MCGOVERN, ESQUIRE, FIRST JUSTICE OF SAID COURT AT CAMBRIDGE, THE SIXTEENTH DAY OF FEBRUARY IN THE YEAR OF OUR LORD ONE THOUSAND NINE HUNDRED AND NINETY NINE.

Marie A. Gardin
Acting Register of Probate Court

AD #785544
Cambridge Chronicle, 2/25/99

LEGAL NOTICE
CITY OF CAMBRIDGE
TRAFFIC, PARKING AND TRANSPORTATION
REGULATION NO. 99-05

By force of the power vested in me by Special Act of the legislature in 1961 (Chapter 455), I hereby amend the Traffic Regulations of the City of Cambridge by adding the following:

REGULATION NO. 99-1
"PARKING PROHIBITED AT ALL TIMES ON CERTAIN SIDES OF CERTAIN

STREET, TOW AWAY (HANDICAPPED PERSONS & DISABLED VETERANS) IS hereby amended by adding the following:

Winter Street, South Side, 43' E of O'Brien Highway to 23' E of O'Brien Highway

Hubbard Avenue, South Side, 30' W of Walden Street to 50' W of Walden Street.

This regulation shall take effect 1 March 1999.

PROMULGATED DATE 3 Feb 1999

Susan E. Clippinger
Director

AD #771566
Cambridge Chronicle, 2/11, 2/18, 2/25/99

REG-99-07

LEGAL NOTICE
CITY OF CAMBRIDGE
TRAFFIC, PARKING AND TRANSPORTATION
REGULATION NO. 99-07

By force of the power vested in me by Special Act of the legislature in 1961 (Chapter 455), I hereby amend the Traffic Regulations of the City of Cambridge by adding the following:

REGULATION NO. 99-1
"PARKING PROHIBITED AT ALL TIMES ON CERTAIN SIDES OF CERTAIN

TODD PETITION
LEGAL NOTICE
COMMONWEALTH OF MASSACHUSETTS
MIDDLESEX, SS
NO. 97E0108P
PROBATE COURT

TO ALL PERSONS INTERESTED IN THE PETITION OF Gary Owen Todd Of Boston IN THE COUNTY OF Suffolk FOR PARTITION.

THE COMMISSIONER APPOINTED TO MAKE SUCH PARTITION HAS PRESENTED HIS REPORT TO SAID COURT FOR ACCEPTANCE AND CONFIRMATION.

IF YOU DESIRE TO OBJECT THERETO YOU OR YOUR ATTORNEY SHOULD FILE A WRITTEN APPEARANCE IN SAID COURT AT CAMBRIDGE BEFORE TEN O'CLOCK IN THE FORENOON ON THE TWELFTH DAY OF March, 1999, THE RETURN DAY OF THIS CITATION.

WITNESS, SHEILA E. MCGOVERN, ESQUIRE, FIRST JUDGE OF SAID COURT, THIS THIRTH DAY OF FEBRUARY 1999.

Marie A. Gardin
Acting Register

AD #785545
Cambridge Chronicle, 2/25, 3/4, 3/11/99

WEIGHTS & MEASURES
LEGAL NOTICE
CITY OF CAMBRIDGE
WEIGHTS & MEASURES
DEPARTMENT

In Compliance with provisions of Section 41, Chapter 98, of the General Laws of Massachusetts, as amended by Chapter 32, of Acts of 1928, I hereby given notice to all inhabitants or persons having usual places of business in Cambridge using weighing and measuring devices for the purpose of buying or selling goods, wares or merchandise for public weighing or for hire or reward, to bring in such weighing and measuring devices to be tested, adjusted and sealed or condemned. Shall be at the office of Weights and Measures, 831 Massachusetts Avenue, every day during regular or business hours to attend to this duty. Office hours are 7:30 AM to 3:30 PM. Monday to Friday.

JAMES P. CASSIDY JR.
ACTING SEALER OF WEIGHTS & MEASURES,
CITY OF CAMBRIDGE

AD #774839
Cambridge Chronicle, 2/11, 2/18, 2/25, 3/4/99

1988 FORD
LEGAL NOTICE
TO ANTONIO DOMINGOS OF SOMERVILLE, MA, PHIL'S TOWING SERVICE HAS FOD IN ITS POSSESSION YOUR 1988 FORD PICKUP TRUCK SINCE MARCH 10, 1998 AND YOU HAVE NOT CLAIMED IT AFTER DUE NOTICE.

IT WILL BE SOLD AT PRIVATE SALE AT THE ABOVE ADDRESS ON MARCH 14, 1999

PHIL'S TOWING SERVICE
OWNER & OFFICER

AD #783333
Cambridge Chronicle, 2/25, 3/4, 3/11/99

LEGAL NOTICE
CITY OF CAMBRIDGE
FIRST PUBLICATION NUMBER 2820.
PUBLISHED IN THE CHRONICLE
ON FEBRUARY 4, 1999.
AGENDA ITEM NO. 17B
IN CITY COUNCIL
FEBRUARY 1, 1999

ORDERED: That \$305,000 is appropriated, in addition to the \$1,200,000 previously appropriated, for the purpose of financing the construction of the following water pollution abatement facilities: the construction and reconstruction of sewers

and sewerage systems, consisting of a floatables and BMP control project, including without limitation all costs thereof as defined in Section 1 of Chapter 29C of the General Laws, that to meet this appropriation the Treasurer with the approval of the City Manager is authorized to borrow \$305,000 and issue bonds or notes shall be general obligations of the City unless the Treasurer with the approval of the City Manager determines that they should be issued as limited obligations and may be secured by local system revenues as defined in Section 1 of Chapter 29C; that the Treasurer with the approval of the City Manager is authorized to borrow all or a portion of such amount from the Massachusetts Water Pollution Abatement Trust established pursuant to Chapter 29C and in connection therewith to enter into a loan agreement and/or a security agreement with the Trust and otherwise to contract with the Department of Environmental Protection with respect to such loan and for any federal or state aid available for the project or for the financing thereof; and that the City Manager is authorized to enter into a project regulatory agreement with the Department of Environmental Protection to expand all funds available for the project and to take any other action necessary to carry on the project.

In City Council February 22, 1999.
Adopted by a yeas and nay vote: Yeas 9; Nays 0; Absent 0

ATTEST:
D. Margaret Drury
City Clerk

AD #785540
Cambridge Chronicle, 2/25/99

LEGAL NOTICE
CITY OF CAMBRIDGE
FIRST PUBLICATION NUMBER 2821.
PUBLISHED IN THE CHRONICLE
ON FEBRUARY 4, 1999.
AGENDA ITEM NO. 17C
IN CITY COUNCIL
FEBRUARY 1, 1999

ORDERED: That \$5,775,000 is appropriated for the construction or reconstruction of sewers, sewerage systems and sewerage treatment and disposal facilities for sewer separation and other sewer system improvements; and that to meet this appropriation the Treasurer with the approval of the City Manager is authorized to borrow \$5,775,000 under Chapter 44 of the General Laws.

In City Council February 22, 1999.
Adopted by a yeas and nay vote: Yeas 9; Nays 0; Absent 0.

ATTEST:
D. Margaret Drury
City Clerk

AD #785541
Cambridge Chronicle, 2/25/99

Cambridge. Renovate paths, lighting and landscaping.

Demolition Review:
Case D-739: 85-87 Windsor St., by Patricia Chen (continued). Raze 2-story house, c. 1845.
Case D-744: 106 Foster St., by Clark and Nadine Binkley. Relocate house, c. 1892, on same lot.
Case D-745: 29 Hampshire St., by Angen Chamberlind Real Estate Holdings. Raze 3 buildings at One Kendall St. c. 1914.
Case D-746: 19 Willard St., by Jacob Farmer. Substantial demolition of house, c. 1859.

Landmark Designation Studies:
Case L-45: 50 Quincy St., Corporation of the New Church, owner. Review draft study report and determine recommendation to City Council.
Review initiation of designation proceedings for the following properties:
Case L-51: 96-98 Garden St., Estate of Phyllis Cox, owner (continued).

William B. King, Chairman
AD #780066
Cambridge Chronicle, 2/18, 2/25/99

ORDINANCE #1214
LEGAL NOTICE
CITY OF CAMBRIDGE
ORDINANCE #1214
FINAL PUBLICATION #8223
FIRST PUBLICATION IN THE CHRONICLE ON DECEMBER 10, 1998.
IN THE YEAR ONE THOUSAND, NINE HUNDRED NINETY NINE
AN ORDINANCE

In amendment to the ordinance entitled "Municipal Code of the City of Cambridge."

Be it ordained by the City Council of the City of Cambridge as follows:

That Title 5 entitled "Business Licenses and Regulations" be amended by adding a new chapter 5.50 entitled "Standardizing the Placement and Maintenance of Newsracks."

In City Council February 22, 1999.
Passed to be Ordained as amended by a yeas and nay vote
Yeas 9; Nays 0; Absent 0.

ATTEST:
D. Margaret Drury
City Clerk

NOTE: Pursuant to the provisions of General Laws, chapter 40, Section 22A, Tercenary Edition, the ordinance as aforesaid which exceeds in length eight octavo pages of ordinary book print may be summarized for publication in a newspaper of general circulation in the city with the further provision that said Summary Ordinance may be examined and obtained at the City Clerk's Office during office hours and that any objection to its invalidity by reason of any defect in the procedure of adoption may only be made within ninety days after the posting of the second publication.

AD #785228
Cambridge Chronicle, 2/25/99

3/4 HISTORICAL HEARING
LEGAL NOTICE
CAMBRIDGE
HISTORICAL COMMISSION

Notice is hereby given that a public hearing will be held on **Thursday, March 4, 1999, at 4:00 PM at 831 Massachusetts Ave., basement**, to consider the following matters under M.G.L. Ch. 40C and Ch. 278 of the Cambridge City Code:

Alterations to Designated Properties:
Case 853: 90 Upland Rd./11 Walnut Ave., by J. Ruge Development. Amend certificate to construct new dormer and change window design.
Case 904: 31 Follen St., by Yung Chang Chen and Ying Yuh Chen. Replace solarium with new solarium.
Case 906: 8 Trill St., by Ann and Richard Baye. Remove rear stair and construct new porch and stair. Replace door.
Case 907: 8 Garden Street (Beryl Hall), by Radcliffe Iwogue, General repairs.
Case 908: Longfellow Park, by City of

TO PLACE YOUR LEGAL NOTICE CALL
1-800-624-7355
OR FAX TO
781-453-6650.

Cambridge. Renovate paths, lighting and landscaping.

Demolition Review:
Case D-739: 85-87 Windsor St., by Patricia Chen (continued). Raze 2-story house, c. 1845.
Case D-744: 106 Foster St., by Clark and Nadine Binkley. Relocate house, c. 1892, on same lot.
Case D-745: 29 Hampshire St., by Angen Chamberlind Real Estate Holdings. Raze 3 buildings at One Kendall St. c. 1914.
Case D-746: 19 Willard St., by Jacob Farmer. Substantial demolition of house, c. 1859.

Cambridge. Renovate paths, lighting and landscaping.

Demolition Review:
Case D-739: 85-87 Windsor St., by Patricia Chen (continued). Raze 2-story house, c. 1845.
Case D-744: 106 Foster St., by Clark and Nadine Binkley. Relocate house, c. 1892, on same lot.
Case D-745: 29 Hampshire St., by Angen Chamberlind Real Estate Holdings. Raze 3 buildings at One Kendall St. c. 1914.
Case D-746: 19 Willard St., by Jacob Farmer. Substantial demolition of house, c. 1859.

Landmark Designation Studies:
Case L-45: 50 Quincy St., Corporation of the New Church, owner. Review draft study report and determine recommendation to City Council.
Review initiation of designation proceedings for the following properties:
Case L-51: 96-98 Garden St., Estate of Phyllis Cox, owner (continued).

William B. King, Chairman
AD #780066
Cambridge Chronicle, 2/18, 2/25/99

ORDINANCE #1214
LEGAL NOTICE
CITY OF CAMBRIDGE
ORDINANCE #1214
FINAL PUBLICATION #8223
FIRST PUBLICATION IN THE CHRONICLE ON DECEMBER 10, 1998.
IN THE YEAR ONE THOUSAND, NINE HUNDRED NINETY NINE
AN ORDINANCE

In amendment to the ordinance entitled "Municipal Code of the City of Cambridge."

Be it ordained by the City Council of the City of Cambridge as follows:

That Title 5 entitled "Business Licenses and Regulations" be amended by adding a new chapter 5.50 entitled "Standardizing the Placement and Maintenance of Newsracks."

In City Council February 22, 1999.
Passed to be Ordained as amended by a yeas and nay vote
Yeas 9; Nays 0; Absent 0.

ATTEST:
D. Margaret Drury
City Clerk

NOTE: Pursuant to the provisions of General Laws, chapter 40, Section 22A, Tercenary Edition, the ordinance as aforesaid which exceeds in length eight octavo pages of ordinary book print may be summarized for publication in a newspaper of general circulation in the city with the further provision that said Summary Ordinance may be examined and obtained at the City Clerk's Office during office hours and that any objection to its invalidity by reason of any defect in the procedure of adoption may only be made within ninety days after the posting of the second publication.

AD #785228
Cambridge Chronicle, 2/25/99

3/4 HISTORICAL HEARING
LEGAL NOTICE
CAMBRIDGE
HISTORICAL COMMISSION

Notice is hereby given that a public hearing will be held on **Thursday, March 4, 1999, at 4:00 PM at 831 Massachusetts Ave., basement**, to consider the following matters under M.G.L. Ch. 40C and Ch. 278 of the Cambridge City Code:

Alterations to Designated Properties:
Case 853: 90 Upland Rd./11 Walnut Ave., by J. Ruge Development. Amend certificate to construct new dormer and change window design.
Case 904: 31 Follen St., by Yung Chang Chen and Ying Yuh Chen. Replace solarium with new solarium.
Case 906: 8 Trill St., by Ann and Richard Baye. Remove rear stair and construct new porch and stair. Replace door.
Case 907: 8 Garden Street (Beryl Hall), by Radcliffe Iwogue, General repairs.
Case 908: Longfellow Park, by City of

TO PLACE YOUR LEGAL NOTICE CALL
1-800-624-7355
OR FAX TO
781-453-6650.

Cambridge. Renovate paths, lighting and landscaping.

Demolition Review:
Case D-739: 85-87 Windsor St., by Patricia Chen (continued). Raze 2-story house, c. 1845.
Case D-744: 106 Foster St., by Clark and Nadine Binkley. Relocate house, c. 1892, on same lot.
Case D-745: 29 Hampshire St., by Angen Chamberlind Real Estate Holdings. Raze 3 buildings at One Kendall St. c. 1914.
Case D-746: 19 Willard St., by Jacob Farmer. Substantial demolition of house, c. 1859.



City of Cambridge

In the Year One Thousand, Nine Hundred Ninety Nine

AN ORDINANCE

In Amendment to the Municipal Code of the City of Cambridge

Be it ordained by the City Council of the City of Cambridge as follows:

Standardizing The Placement And Maintenance Of Newsracks

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

Whereas, the proliferation of scattered newsracks in Cambridge 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 passersby in bad weather and storms and otherwise unreasonably restrict public access and create undue perils and public safety hazards; and

Whereas, newsracks often create a visual blight due to their varying shapes and colors and disarray, and 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, moved, cause damage to curbs, sidewalks, streets, poles, traffic signals and signs, and or remain empty and abandoned; and

Whereas, reasonable standards for the appearance, 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 passersby, safety hazards and visual blight that often are associated with unregulated newsracks.

Now Therefore, Be It Ordained:

Section 1. Definitions.

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

- a. Commissioner shall mean the Commissioner of the Public Works Department of the City of Cambridge or such person as said Commissioner may from time to time designate.
- b. Newsrack shall mean any type of self-service device for the vending or free distribution of newspapers or periodicals.
- c. 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.
- d. 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.
- e. 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.
- f. 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, constitute or maintain a newsrack in or on any part of a public way without first obtaining a certificate of compliance from the Commissioner in accordance with the provisions of this Ordinance.
- b. The certificate of compliance must be renewed annually by application to the Commissioner.
- c. Issuing Authority. The Commissioner shall be the issuing authority and coordinator of the application process and administration of this Ordinance.
- d. Approving Authority. The approving authority shall be the Commissioner. The Commissioner or his/her designee shall review and approve for compliance with Section 2, entitled Certificate of Compliance, Section 4, entitled Standards, and Section 7, entitled 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 Cambridge 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 Cambridge 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

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.

g. 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. 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.

Proposed locations shall be approved on a first come, first serve basis by the Commissioner. No preference shall be given to applicants who might have had newsracks in a particular location prior to the effective date of this ordinance.

h. Denial of Certificate of Compliance. If an application for a newsrack location is 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. 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 within 30 days of such denial by requesting in writing to the Commissioner an appearance before the Commissioner to review said denial. The appeal shall be heard within twenty days of receipt of the appeal.

The decision on the appeal shall be sent to the applicant within five (5) days after the hearing. Any such appeal shall be subject to the Massachusetts Administrative Procedures Act, G.L. c. 30A.

i. The Commissioner reserves the right to order by written notice to the certificate holder that newsracks be removed from an approved location, either temporarily or permanently, in the interests of public safety.

Section 3. Fees.

a. There shall be a certificate of compliance fee in the amount of two hundred (\$200.00) dollars paid to the City. This fee shall be due upon initial application and upon each annual renewal.

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 certificate of compliance fee is waived if previously paid.

c. In addition to the certificate of compliance fee, an annual fee of ten (\$10.00) dollars per newsrack authorized shall be paid to the City to offset the City's cost of monitoring compliance with this ordinance.

d. Where the Commissioner has required newsracks to be set in corrals, or at hitching posts pursuant to Section 4.b below, additional fees shall be imposed by the Commissioner on certificate holders to offset the City's costs for each such corral or hitching post used by such certificate holder.

- e. Upon a showing of significant financial hardship, whereby the payment of the full certificate of compliance fee will impair the ability of the publisher to distribute a publication through newsracks to members of the public, the Commissioner may reduce the fee due upon initial application or upon an annual renewal by an amount s/he determines, in her or his sole discretion, as appropriate.

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 so placed shall face the sidewalk, not the street. 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 in excess of eight (8) feet in width (plus the width of a newsrack) whereby the clear space for the passage of pedestrians is reduced to less than eight (8) feet in width; or, if the sidewalk location is less than eight (8) feet in width (plus the width of a newsrack), then the clear space for the passage of pedestrians shall not be reduced to less than five (5) feet in width; however, a width of four (4) to five (5) feet may be approved by the Commissioner if requested, only after the Commissioner consults with the Pedestrian Committee and the Disabilities Commission as to whether the particular location at issue necessitates the 4-5 foot width, and whether the pedestrian passage there could safely and reasonably be reduced to a width of 4-5 feet; and
2. within five (5) feet of any marked, or unmarked crosswalk or handicapped ramp; 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, or any disabled parking space, 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;

8. which in any way protrudes onto a street; or

9. on any sidewalk immediately abutting a public school.

The Commissioner may require that newsracks at locations in which more than three (3) are adjacent shall be set within an open-ended corral installed by the City; and the Commissioner may require that newsracks at a particular location be chained to each other and/or to a permanent hitching post installed by the City. The Commissioner may choose the locations for corrals and hitching posts based on the history of misaligned or knocked over newsracks at the location, the high volume of pedestrian traffic at the location, or the relatively high concentration of newsracks at the location. However, nothing in this paragraph shall be construed to limit the locations at which corrals and hitching posts may be required.

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.

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 eight (8) 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, Maintenance, and Delivery Time.

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

a. Each newsrack shall prominently display the name, address and phone number of a person or entity responsible for that newsrack.

b. Each newsrack shall be:

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

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; and

5. handicapped accessible, as defined by the state Architectural Access Board at 521 C.M.R.

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

4. the clear glass or plastic parts thereof, if any, through which the printed material is being dispensed 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.

- d. Anyone disturbed by noise from the delivery of papers to any newsrack may complain to the Commissioner. The Commissioner shall forthwith notify the Certificate Holder of the complaint. The Certificate Holder shall contact the complainant and attempt to resolve the complaint. If the complaint is not resolved to the complainant's satisfaction within 10 days, the complainant may request a meeting before the Commissioner, or his/her designee, and the Certificate Holder. After such meeting, the Commissioner shall have authority to impose a reasonable resolution to the complaint, including ordering the relocation of the newsrack/s causing the noise problem.

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 seventy-two (72) hours after the release of the current issue, the Commissioner 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 than 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 Commissioner. Upon a determination that a violation of any provision of this Ordinance exists the Commissioner 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.

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 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 (4) 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 8 of this Ordinance shall be deemed "abandoned property" and become the property of the City of Cambridge.

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 for removal and storage of such newsrack. Unpaid fees accrued pursuant to this Section 9 shall be considered a debt payable to the City.

Section 10. Regulations.

The Commissioner may, with the approval of the City Manager,

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 reason by any court, the 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 February 22, 1999.
Passed to be Ordained as Amended by a
yea and nay vote:-
Yeas 9; Nays 0; Absent 0.

ATTEST:-

D. Margaret Drury
City Clerk

Complete text with Amendments

**CITY OF CAMBRIDGE
IN THE YEAR NINETEEN HUNDRED AND NINETY NINE
AN ORDINANCE**

Standardizing The Placement And Maintenance Of Newsracks

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

Whereas, the proliferation of scattered newsracks in Cambridge 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 passersby in bad weather and storms and otherwise unreasonably restrict public access and create undue perils and public safety hazards; and

Whereas, newsracks often create a visual blight due to their varying shapes and colors and disarray, and 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, moved, cause damage to curbs, sidewalks, streets, poles, traffic signals and signs, and or remain empty and abandoned; and

Whereas, reasonable standards for the appearance, 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 passersby, safety hazards and visual blight that often are associated with unregulated newsracks.

Now Therefore, Be It Ordained:

Section 1. Definitions.

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

a. Commissioner shall mean the Commissioner of the Public Works Department of the City of Cambridge or such person as said

Commissioner may from time to time designate.

b. Newsrack shall mean any type of self-service device for the vending or free distribution of newspapers or periodicals.

c. 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.

d. 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.

e. 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.

f. 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, constitute or maintain a newsrack in or on any part of a public way without first obtaining a certificate of compliance from the Commissioner in accordance with the provisions of this Ordinance.

b. The certificate of compliance must be renewed annually by application to the Commissioner.

c. Issuing Authority. The Commissioner shall be the issuing authority and coordinator of the application process and administration of this Ordinance.

d. Approving Authority. The approving authority shall be the Commissioner. The Commissioner or his/her designee shall review and approve for compliance with Section 2, entitled Certificate of Compliance, Section 4, entitled Standards, and Section 7, entitled 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 Cambridge 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 Cambridge 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

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.

g. 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. 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.

Proposed locations shall be approved on a first come, first serve basis by the Commissioner. No preference shall be given to applicants who might have had newsracks in a particular location prior to the effective date of this ordinance.

h. Denial of Certificate of Compliance. If an application for a newsrack location is 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. 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 within 30 days of such denial by requesting in writing to the Commissioner an appearance before the Commissioner to review said denial. The appeal shall be heard within twenty days of receipt of the appeal. The decision on the appeal shall be sent to the applicant within five (5) days after the hearing. Any such appeal shall be subject to the Massachusetts Administrative Procedures Act, G.L. c. 30A.

i. The Commissioner reserves the right to order by written notice to the certificate holder that newsracks be removed from an approved location, either temporarily or permanently, in the interests of public safety.

Section 3. Fees.

a. There shall be a certificate of compliance fee in the amount of two hundred (\$200.00) dollars paid to the City. This fee shall be due upon initial application and upon each annual renewal.

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 certificate of compliance fee is waived if previously paid.

c. In addition to the certificate of compliance fee, an annual fee of ten (\$10.00) dollars per newsrack authorized shall be paid to the City to offset the City's cost of monitoring compliance with this ordinance.

d. Where the Commissioner has required newsracks to be set in corrals, or at hitching posts pursuant to Section 4.b below, additional fees shall be imposed by the Commissioner on certificate holders to offset the City's costs for each such corral or hitching post used by such certificate holder.

- e. Upon a showing of significant financial hardship, whereby the payment of the full certificate of compliance fee will impair the ability of the publisher to distribute a publication through newsracks to members of the public, the Commissioner may reduce the fee due upon initial application or upon an annual renewal by an amount s/he determines, in her or his sole discretion, as appropriate.

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 so placed shall face the sidewalk, not the street. 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 in excess of eight (8) feet in width (plus the width of a newsrack) whereby the clear space for the passage of pedestrians is reduced to less than eight (8) feet in width; or, if the sidewalk location is less than eight (8) feet in width (plus the width of a newsrack), then the clear space for the passage of pedestrians shall not be reduced to less than five (5) feet in width; however, a width of four (4) to five (5) feet may be approved by the Commissioner if requested, only after the Commissioner consults with the Pedestrian Committee and the Disabilities Commission as to whether the particular location at issue necessitates the 4-5 foot width, and whether the pedestrian passage there could safely and reasonably be reduced to a width of 4-5 feet; and

2. within five (5) feet of any marked, or unmarked crosswalk or handicapped ramp; 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, or any disabled parking space, 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;

8. which in any way protrudes onto a street; or

9. on any sidewalk immediately abutting a public school.

The Commissioner may require that newsracks at locations in which more than three (3) are adjacent shall be set within an open-ended corral installed by the City; and the Commissioner may require that newsracks at a particular location be chained to each other and/or to a permanent hitching post installed by the City. The Commissioner may choose the locations for corrals and hitching posts based on the history of misaligned or knocked over newsracks at the location, the high volume of pedestrian traffic at the location, or the relatively high concentration of newsracks at the location. However, nothing in this paragraph shall be construed to limit the locations at which corrals and hitching posts may be required.

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.

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 eight (8) 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, Maintenance, and Delivery Time.

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

a. Each newsrack shall prominently display the name, address and phone number of a person or entity responsible for that newsrack.

b. Each newsrack shall be:

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

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; and

5. handicapped accessible, as defined by the state Architectural Access Board at 521 C.M.R.

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

4. the clear glass or plastic parts thereof, if any, through which the printed material is being dispensed 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.

- d. Anyone disturbed by noise from the delivery of papers to any newsrack may complain to the Commissioner. The Commissioner shall forthwith notify the Certificate Holder of the complaint. The Certificate Holder shall contact the complainant and attempt to resolve the complaint. If the complaint is not resolved to the complainant's satisfaction within 10 days, the complainant may request a meeting before the Commissioner, or his/her designee, and the Certificate Holder. After such meeting, the Commissioner shall have authority to impose a reasonable resolution to the complaint, including ordering the relocation of the newsrack/s causing the noise problem.

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 seventy-two (72) hours after the release of the current issue, the Commissioner 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 than 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 Commissioner. Upon a determination that a violation of any provision of this Ordinance exists the Commissioner 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.

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 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 (4) 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 8 of this Ordinance shall be deemed "abandoned property" and become the property of the City of Cambridge.

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 for removal and storage of such newsrack. Unpaid fees accrued pursuant to this Section 9 shall be considered a debt payable to the City.

Section 10. Regulations.

The Commissioner may, with the approval of the City Manager,

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 reason by any court, the 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.



City of Cambridge

Consent Agenda #13

IN CITY COUNCIL

December 7, 1998

COUNCILLOR DAVIS

- ORDERED: That the amendments contained in Agenda Item #13 be referred to the Law Department by the City Manager with the request that the proposed be prepared in appropriate ordinance form and language prior to the December 21, 1998 City Council meeting; and be it further
- ORDERED: That in addition, an amendment on restricting boxes in school zones be drafted in the interest of safety; and be it further
- ORDERED: That distances preserved for pedestrian passage be increased to eight feet be drafted and that a plan for installation of corrals be referred to the City Council by the meeting of 12/21/98.

In City Council December 7, 1998.
Adopted by the affirmative vote of eight members.
Attest:- D. Margaret Drury, City Clerk.
A true copy;

ATTEST:-


D. Margaret Drury
City Clerk

COUNCILLOR TRIANTAFILLOU RECORDED IN THE NEGATIVE.



City of Cambridge

Consent Agenda #13

IN CITY COUNCIL

December 7, 1998

COUNCILLOR DAVIS

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- ORDERED: That in addition, an amendment on restricting boxes in school zones be drafted in the interest of safety; and be it further
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In City Council December 7, 1998.

Adopted by the affirmative vote of eight members.

Attest:- D. Margaret Drury, City Clerk.

A true copy;

ATTEST:-


D. Margaret Drury
City Clerk

COUNCILLOR TRIANTAFILLOU RECORDED IN THE NEGATIVE.

Russell B. Higley
City Solicitor

Donald A. Drisdell
Deputy City Solicitor

Nancy E. Glowa
First Assistant
City Solicitor

Arthur J. Goldberg
Supervising
Legal Counsel



CITY OF CAMBRIDGE

Office of the City Solicitor
795 Massachusetts Avenue
Cambridge, Massachusetts 02139
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Legal Counsel

Birge Albright
Gail S. Gabriel
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Deborah R. Cautela
Vali Buland

Michael C. Costello
Assistant City Solicitor

November 30, 1998

Robert W. Healy
City Manager
City Hall
Cambridge, MA 02139

Re: Proposed newsrack ordinance

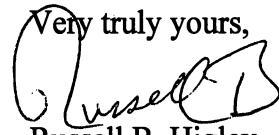
Dear Mr. Healy:

Since the Ordinance Committee meeting on November 10, 1998, City staff has met again with interested publishers to resolve disagreements over provisions of the proposed newsrack ordinance. A copy of the proposed ordinance that was before the Ordinance Committee on November 10 is attached. As a result of that meeting, the following alterations to the November 10 draft ordinance are proposed.

- a. City-created sequentially-numbered newsrack stickers will not be used. This alteration would require deletion of section 1(d) in its entirety, and deletion of references to the stickers in sections 2(g) and 8(c). Instead, each permitted newsrack will display the name, address and phone number of a person or entity responsible for that newsrack.
- b. The City will not mandate the use of uniform modular clustered newsracks at this time. The objection to such newsracks was the most significant made by the publishers. The reference in section 3(d) to "clustered boxes" would be deleted; and in section 4(b) the first sentence and first clause of the second sentence up to the semicolon would be deleted. Corrals and hitching posts could still be required pursuant to regulation at appropriate locations. Also, the voluntary use by free publications of modular clustered newsracks can be explored, as there was some indication at the meeting that many free publications might be interested in committing to using such boxes upon certain conditions.
- c. The handicapped accessibility requirement in section 7(b)(5) will be amended to specifically reference the regulations used by the state Architectural Access Board at 521 CMR 5.00, et seq.

- d. Section 7(d) restricting the hours of delivery of papers to newsracks would be deleted. Instead, language would be inserted that would provide for a complaint procedure to the Commissioner. Anyone disturbed by noise arising from the loading or unloading of individual newsracks would have the right to complain to the Commissioner, who would notify the publisher of the complaint. The Commissioner would have authority to enforce a resolution of the complaint.

Not every issue was resolved for everyone at the meeting, even with the above changes. For instance, there were unresolved complaints that the proposed fees are too high. However, it seems that the most significant objections to the ordinance would be resolved if the above changes are made.

Very truly yours,

Russell B. Higley



CITY OF CAMBRIDGE
IN THE YEAR NINETEEN HUNDRED AND NINETY EIGHT
AN ORDINANCE

Standardizing The Placement And Maintenance Of Newsracks

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

Whereas, the proliferation of scattered newsracks in Cambridge 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 passersby in bad weather and storms and otherwise unreasonably restrict public access and create undue perils and public safety hazards; and

Whereas, newsracks often create a visual blight due to their varying shapes and colors and disarray, and 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, moved, cause damage to curbs, sidewalks, streets, poles, traffic signals and signs, and or remain empty and abandoned; and

Whereas, reasonable standards for the appearance, 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 passersby, safety hazards and visual blight that often are associated with unregulated, poorly maintained or abandoned newsracks.

Now Therefore, Be It Ordained:

Section 1. Definitions.

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

- a. Commissioner shall mean the Commissioner of the Public Works Department of the City of Cambridge or such person as said Commissioner may from time to time designate.
- b. Newsrack shall mean any type of self-service device for the

vending or free distribution of newspapers, periodicals or printed material of whatever nature.

c. 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.

d. Newsrack Sticker shall mean a sequentially numbered sticker issued by the Commissioner for placement on individual newsracks 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, constitute or maintain a newsrack in or on any part of a public way without first obtaining a certificate of compliance from the Commissioner in accordance with the provisions of this Ordinance.

b. The certificate of compliance must be renewed annually by application to the Commissioner.

c. Issuing Authority. The Commissioner shall be the issuing authority and coordinator of the application process and administration of this Ordinance.

d. Approving Authority. The approving authority shall be the Commissioner. The Commissioner or his/her designee shall review and approve for compliance with Section 2, entitled Certificate of Compliance, Section 4, entitled Standards, and Section 7, entitled 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 Cambridge 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 Cambridge 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

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.

g. 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. New newsrack stickers shall be issued annually for each approved

newsrack, which shall forthwith be affixed by the applicant to each newsrack on top of the prior year's sticker, if any. 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. Proposed locations shall be approved on a first come, first serve basis by the Commissioner. No preference shall be given to applicants who might have had newsracks in a particular location prior to the effective date of this ordinance.

h. Denial of Certificate of Compliance. If an application for a newsrack location is 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. 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 within 30 days of such denial by requesting in writing to the Commissioner an appearance before the Commissioner to review said denial. The appeal shall be heard within twenty days of receipt of the appeal. The decision on the appeal shall be sent to the applicant within five (5) days after the hearing. Any such appeal shall be subject to the Massachusetts Administrative Procedures Act, G.L. c. 30A.

i. The Commissioner reserves the right to order by written notice to the certificate holder that newsracks be removed from an approved location, either temporarily or permanently, in the interests of public safety.

Section 3. Fees.

a. There shall be a certificate of compliance fee in the amount of two hundred (\$200.00) dollars paid to the City. This fee shall be due upon initial application and upon each annual renewal.

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 certificate of compliance fee is waived if previously paid.

c. In addition to the certificate of compliance fee, an annual fee of ten (\$10.00) dollars per newsrack authorized shall be paid to the City to offset the City's cost of monitoring compliance with this ordinance.

d. Where the Commissioner has required newsracks to be set in clustered boxes, corrals, or at hitching posts pursuant to Section

4 b below, additional fees may be imposed by the Commissioner on certificate holders to offset the City's costs for each such cluster box, corral or hitching post used by such certificate holder.

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 so placed shall face the sidewalk, not the street. 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 or handicapped ramp; 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, or any disabled parking space, 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.

b. The Commissioner may designate areas in the City in which newsracks may only be located if they meet specific requirements as to size, shape and color, such requirements to be set by the Commissioner by regulation. For example, the Commissioner may require that newsracks at a particular location be the same size, shape and color and set in immovable clustered boxes; the Commissioner may require that newsracks at a particular location be set within an open-ended corral installed by the City; and the Commissioner may require that newsracks at a particular location be chained to each other and to a permanent hitching post installed by the City.

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.

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 eight (8) 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, Maintenance, and Delivery Time.

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

a. Each newsrack shall prominently display the Newsrack Sticker issued by the Commissioner pursuant to the provisions of this Ordinance.

b. Each newsrack shall be:

1. installed or placed on the pavement in an upright,

sufficiently weighted and secure position;

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; and

5. handicapped accessible.

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

4. the clear glass or plastic parts thereof, if any, through which the printed material is being dispensed 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.

d. Delivery of papers to newsracks shall not be made:

1. in commercial areas, between the hours of 9:00 p.m. and 4:30 a.m.;

2. in residential areas, between the hours of 9:00 p.m. and 6:00 a.m. on weekdays, and between 9:00 p.m. and 8:00 a.m. on weekends and holidays.

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 seventy-two (72) hours after the release of the current issue, the Commissioner 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 than 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 Commissioner. Upon a determination that a violation of any provision of this Ordinance exists the Commissioner shall notify the Certificate Holder of the violation in writing by first class mail. The notice shall include:

- (a) the Newsrack Sticker and 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.

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 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 (4) 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 8 of this Ordinance shall be deemed "abandoned property" and become the property of the City of Cambridge.

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 for removal and storage of such newsrack. Unpaid fees accrued pursuant to this Section 9 shall be considered a debt payable to the City.

Section 10. Regulations.

The Commissioner may, with the approval of the City Manager, 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 reason by any court, the 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.



CITY OF CAMBRIDGE
CAMBRIDGE, MASSACHUSETTS 02139



13.

TEL. 349-4300
FAX. 349-4307

EXECUTIVE DEPARTMENT
ROBERT W. HEALY
City Manager

RICHARD C. ROSSI
Deputy City Manager

December 7, 1998

To The Honorable, The City Council:

Please find attached for your consideration, proposed amendments to the draft newsrack ordinance.

Very truly yours,

Robert W. Healy
City Manager

RWH/mec
Attachment

Consent Agenda #13

Relative to proposed amendments to
the draft newsrack ordinance.

In City Council December 7, 1998

Referred to

petition

ORDER ADOPTED

8-1-0.

Councillor Davis

Agenda # 13

Ordered: That the amendments contained in
~~and amendments~~
Agenda Item # 13, be referred to the
Law Department by the City Manager
~~and instruct~~ with the request
that the ^{proposal be prepared} ~~amendments be incorporated~~
into ~~the~~ appropriate ordinance
form and language ~~before~~ prior

to the 12/21/98 City Council meeting.

In addition that ^{an amendment on restricting boxes} School zones be in
drafted in the interest of safety ~~was submitted~~

Also that distances preserved for
pedestrian passage be increased to 8 feet
~~be drafted~~. And that a plan for installation
of corrals be referred to the Council
by that meeting of 12/21/98

KTNO.

VV/8



City of Cambridge

In the Year One Thousand, Nine Hundred Ninety Eight.

AN ORDINANCE

In amendment to the ordinance entitled "Municipal Code of the City of Cambridge."

Be it ordained by the City Council of the City of Cambridge as follows:

That Title 5 entitled "Business Licenses and Regulations be amended by adding a new chapter 5.50 entitled "Standardizing the Placement and Maintenance of Newsracks."

Passed to a second reading at the City Council meeting held on December 7, 1998 and on or after December 21, 1998 the question comes on passing to be ordained.

ATTEST:-

D. Margaret Drury
D. Margaret Drury
City Clerk

NOTE: Pursuant to the provisions of General Laws, chapter 40, Section 32A, Tercentenary Edition, the ordinance as aforesaid which exceeds in length eight octavo pages of ordinary book print may be summarized for publication in a newspaper of general circulation in the city with the further provision that said Zoning ordinance may be examined and obtained at the City Clerk's Office during office hours and that any objection to its invalidity by reason of any defect in the procedure of adoption may only be made within ninety days after the posting or the second publication.

**CITY OF CAMBRIDGE
IN THE YEAR NINETEEN HUNDRED AND NINETY EIGHT
AN ORDINANCE**

Standardizing The Placement And Maintenance Of Newsracks

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

Whereas, the proliferation of scattered newsracks in Cambridge 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 passersby in bad weather and storms and otherwise unreasonably restrict public access and create undue perils and public safety hazards; and

Whereas, newsracks often create a visual blight due to their varying shapes and colors and disarray, and 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, moved, cause damage to curbs, sidewalks, streets, poles, traffic signals and signs, and or remain empty and abandoned; and

Whereas, reasonable standards for the appearance, 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 passersby, safety hazards and visual blight that often are associated with unregulated newsracks.

Now Therefore, Be It Ordained:

Section 1. Definitions.

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

a. Commissioner shall mean the Commissioner of the Public Works Department of the City of Cambridge or such person as said Commissioner may from time to time designate.

b. Newsrack shall mean any type of self-service device for the

vending or free distribution of newspapers, periodicals or printed material of whatever nature.

c. 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.

d. Newsrack Sticker shall mean a sequentially numbered sticker issued by the Commissioner for placement on individual newsracks 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, constitute or maintain a newsrack in or on any part of a public way without first obtaining a certificate of compliance from the Commissioner in accordance with the provisions of this Ordinance.

b. The certificate of compliance must be renewed annually by application to the Commissioner.

c. Issuing Authority. The Commissioner shall be the issuing authority and coordinator of the application process and administration of this Ordinance.

d. Approving Authority. The approving authority shall be the Commissioner. The Commissioner or his/her designee shall review and approve for compliance with Section 2, entitled Certificate of Compliance, Section 4, entitled Standards, and Section 7, entitled 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 Cambridge 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 Cambridge 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

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.

g. 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.

New newsrack stickers shall be issued annually for each approved newsrack, which shall forthwith be affixed by the applicant to each newsrack on top of the prior year's sticker, if any. 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.

Proposed locations shall be approved on a first come, first serve basis by the Commissioner. No preference shall be given to applicants who might have had newsracks in a particular location prior to the effective date of this ordinance.

h. Denial of Certificate of Compliance. If an application for a newsrack location is 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. 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 within 30 days of such denial by requesting in writing to the Commissioner an appearance before the Commissioner to review said denial. The appeal shall be heard within twenty days of receipt of the appeal.

The decision on the appeal shall be sent to the applicant within five (5) days after the hearing. Any such appeal shall be subject to the Massachusetts Administrative Procedures Act, G.L. c. 30A.

i. The Commissioner reserves the right to order by written notice to the certificate holder that newsracks be removed from an approved location, either temporarily or permanently, in the interests of public safety.

Section 3. Fees.

a. There shall be a certificate of compliance fee in the amount of two hundred (\$200.00) dollars paid to the City. This fee shall be due upon initial application and upon each annual renewal.

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 certificate of compliance fee is waived if previously paid.

c. In addition to the certificate of compliance fee, an annual fee of ten (\$10.00) dollars per newsrack authorized shall be paid to the City to offset the City's cost of monitoring compliance with this ordinance.

d. Where the Commissioner has required newsracks to be set in clustered boxes, corrals, or at hitching posts pursuant to Section 4.b below, additional fees may be imposed by the Commissioner on certificate holders to offset the City's costs for each such cluster box, corral or hitching post used by such certificate holder.

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 so placed shall face the sidewalk, not the street. 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 or handicapped ramp; 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, or any disabled parking space, 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.

b. The Commissioner may designate areas in the City in which newsracks may only be located if they meet specific requirements as to size, shape and color, such requirements to be set by the Commissioner by regulation. For example, the Commissioner may require that newsracks at a particular location be the same size, shape and color and set in immovable clustered boxes; the Commissioner may require that newsracks at a particular location be set within an open-ended corral installed by the City; and the Commissioner may require that newsracks at a particular location be chained to each other and to a permanent hitching post installed by the City.

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.

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 eight (8) 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, Maintenance, and Delivery Time.

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

a. Each newsrack shall prominently display the Newsrack Sticker issued by the Commissioner pursuant to the provisions of this Ordinance.

b. Each newsrack shall be:

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

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
4. the clear glass or plastic parts thereof, if any, through which the printed material is being dispensed 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.

d. Delivery of papers to newsracks shall not be made:

1. in commercial areas, between the hours of 9:00 p.m. and 4:30 a.m.;
2. in residential areas, between the hours of 9:00 p.m. and 6:00 a.m. on weekdays, and between 9:00 p.m. and 8:00 a.m. on weekends and holidays.

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 seventy-two (72) hours after the release of the current issue, the Commissioner 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 than 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 Commissioner. Upon a determination that a violation of any provision of this Ordinance exists the Commissioner shall notify the Certificate Holder of the violation in writing by first class mail. The notice shall include:

- (a) the Newsrack Sticker and 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.

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 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 (4) 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 8 of this Ordinance shall be deemed "abandoned property" and become the property of the City of Cambridge.

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 for removal and storage of such newsrack. Unpaid fees accrued pursuant to this Section 9 shall be considered a debt payable to the City.

Section 10. Regulations.

The Commissioner may, with the approval of the City Manager, 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 reason by any court, the 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.

BY HAND DELIVERY

December 4, 1998

Ms. Margaret Drury
Cambridge City Clerk
Cambridge City Hall
795 Massachusetts Avenue
Cambridge, MA 02139

1998 DEC -4 P 12:30
OFFICE OF THE CITY CLERK
CAMBRIDGE, MASSACHUSETTS

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cc: Richard Rossi, Deputy City Manager
Russell B. Higley, City Solicitor
Arthur Goldberg, Esq., City Law Department
James Heigham, Esq.

BY HAND DELIVERY

December 4, 1998

Ms. Margaret Drury
Cambridge City Clerk
Cambridge City Hall
795 Massachusetts Avenue
Cambridge, MA 02139

Re: Proposed Newsrack Ordinance

Dear Ms. Drury:

The undersigned on behalf of their respective newspapers, *The Boston Globe*, the *Boston Herald*, *The New York Times*, and USA TODAY would appreciate your delivering this letter to all members of the Cambridge City Council in connection with the meeting scheduled for Monday, December 7, at which we understand the Council will consider enacting a newsrack ordinance.

We have all had an opportunity to review the letter dated November 30, 1998, addressed to Robert W. Healy, the Cambridge City Manager, from Russell B. Higley, the Cambridge City Solicitor. The changes to the proposed ordinance that was before the Ordinance Committee on November 10, 1998, which Mr. Higley proposes would make the ordinance more workable and one which each of the undersigned publishers supports.

We appreciate the opportunity that the City of Cambridge has given us to explain our concerns and to understand the city's. An ordinance incorporating Mr. Higley's proposals accommodates both.

Sincerely yours,

BOSTON HERALD

By: John Hoarty
Name: John Hoarty
Title: Vice President, Circulation

THE NEW YORK TIMES

By: Kevin J. Cappallo
Name: Kevin J. Cappallo
Title: Northeastern Sales Manager

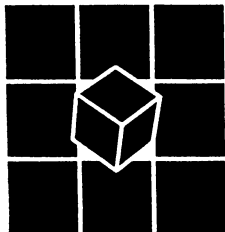
THE BOSTON GLOBE

By: Godfrey W. Kauffmann
Name: Godfrey W. Kauffmann
Title: Vice President/Circulation

USA TODAY

By: William B. Windsor
Name: William B. Windsor
Title: General Manager

cc: Richard Rossi, Deputy City Manager
Russell B. Higley, City Solicitor
Arthur Goldberg, Esq., City Law Department
James Heigham, Esq.



CENTRAL SQUARE BUSINESS ASSOCIATION

Carl F Barron, *President*

Putnam Furniture Leasing Co., Inc.
617-354-3358 Fax 617-547-6636

November 16, 1998

The Honorable Members of
the Cambridge City Council
City Hall
795 Mass. Avenue
Cambridge, MA 02139

RE: PROPOSED ORDINANCE REGULATING NEWSPAPER BOXES
ON CITY STREETS

Please be advised that our Board of Directors overwhelmingly supports the above-noted proposed ordinance.

Freedom of speech and the press should not be considered as being impaired by a neat standardization and maintenance of the newspaper boxes. In no way does a requirement that the distribution means be kept neat and not dominate the sidewalks restrict freedom of speech or the subject matter of newspapers. We do not believe that the newspapers have the right to enforce the First Amendment without also realizing that there are certain obligations on the part of said newspapers to protect the rights of others, which include peaceful enjoyment of a clean and orderly place in which we work, shop, and live.

Furthermore, I do not believe that our forefathers had any thought in mind that distribution of newspapers, for profit, should be at the expense of the general public and that it is the obligation of any community to provide free space to do so. Since the newspapers and other publications are there in order to make a profit, and not out of the goodness of their hearts, then they should share the costs of distribution of their goods and services, exactly like any other merchant must do. We feel that, if the newspapers and other publications feel entitled to distribute their "goods" (newspapers), distribution costs do not impair their freedom of speech and the press and that cost should be borne by the distributors and that said distributors should be perfectly willing to be regulated in such a manner that would not interfere with the distribution of the newspapers, but would help us to maintain a clean and orderly place for other businesses and residents to enjoy.

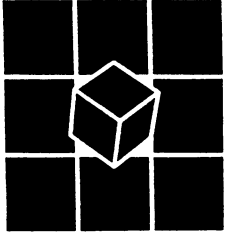
We sincerely hope that the City Council will proceed to pass a proposed ordinance that would still permit the newspapers to sell their products, but would also protect the citizenry.

Sincerely,

Carl F. Barron

cc: CSBA Board of Directors
Mr. Richard Rossi, Deputy City Manager
Mr. Ralph Dunphy, Commissioner, Public
Works Department

614 Massachusetts Avenue • Cambridge, MA 02139-4088



CENTRAL SQUARE BUSINESS ASSOCIATION

Carl F Barron, *President*
Putnam Furniture Leasing Co., Inc.
617-354-3358 Fax 617-547-6636

1998 NOV 18 A 10:54

OFFICE OF THE CITY CLERK
CAMBRIDGE, MASSACHUSETTS

November 16, 1998

Miss D. Margaret Drury, City Clerk
Office of the City Clerk
Cambridge City Hall
795 Mass. Avenue
Cambridge, MA 02139

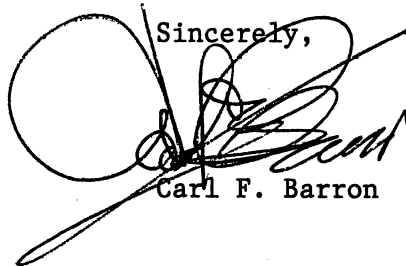
RE: PROPOSED ORDINANCE RETULATING NEWSPAPER BOXES
ON CITY STREETS

Dear Miss Drury:

Would you please forward a copy of the enclosed letter concerning
the above to each member of the Cambridge City Council.

Thank you very much for your cooperation.

Sincerely,



Carl F. Barron

CFB98/Drury14

Enc.

Consent Communication #8

A communication was received from Carl F. Barron, transmitting support for the proposed ordinance regulating newspaper boxes on city streets.

In City Council November 23, 1998

Referred to petition



OFFICE OF THE CITY CLERK

CITY OF CAMBRIDGE

(617) 349-4260

FAX (617) 349-4307

tty/TDD (617) 492-0235

D. MARGARET DRURY
CITY CLERK

DONNA P. LOPEZ
DEPUTY CITY CLERK

TO: THE HONORABLE, THE CITY COUNCIL

FROM: D. MARGARET DRURY, CITY CLERK

DATE: NOVEMBER 4, 1998

RE: ORDINANCE COMMITTEE MEETING

Please be advised that Councillor Henrietta Davis, Chair of the Ordinance Committee, has scheduled a public hearing in the Sullivan Chamber on Tuesday, November 10, 1998 at 6:00 P.M. to receive an update on staff work toward the regulation of newsboxes.

Your kind attention in this matter will be greatly appreciated.

cc: Councillor Davis



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D. MARGARET DRURY
CITY CLERK

DONNA P. LOPEZ
DEPUTY CITY CLERK

TO: ROBERT W. HEALY, CITY MANAGER

FROM: D. MARGARET DRURY, CITY CLERK

DATE: NOVEMBER 4, 1998

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You or your designee is requested to be present at this time.

cc: Councillor Davis



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D. MARGARET DRURY
CITY CLERK

DONNA P. LOPEZ
DEPUTY CITY CLERK

TO: RUSSELL HIGLEY, CITY SOLICITOR

FROM: D. MARGARET DRURY, CITY CLERK

DATE: NOVEMBER 4, 1998

RE: ORDINANCE COMMITTEE MEETING

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Your kind attention in this matter will be greatly appreciated.

cc: Councillor Davis

HD SR

Ordinance
COMMITTEE MINUTES
COVER SHEET

Ralph D, Lene
RR, Nancy Glava, Ark

April 14, 1998

The Ordinance Committee

held a public meeting/hearing on ~~the~~ ~~of regulatory~~ ~~ordinance~~, beginning at 5:30 ~~am~~
pm in the Sullivan Chamber/~~Ackermann~~ Room for the purpose of ^{receiving} an update
on ~~new~~ ~~work~~ ~~toward~~ a method of
regulating the appearance and location of newsboxes.

Present at the hearing were Councillor Henrietta
Davis, Chair of the Committee, ~~Mayor Francis H. Duchay, Vice Mayor~~
~~Anthony D. Galluccio, Councillor Kathleen Leahy Born, Councillor Henrietta Davis, Councillor~~
~~Kenneth E. Reeves~~ Councillor Sheila T. Russell, ~~Councillor Michael A. Sullivan, Councillor~~
~~Timothy J. Toomey, Jr., Councillor Katherine Triantafillou,~~ and City Clerk D. Margaret Drury.

Also present were Deputy City Manager Richard Rossi,
Public Works Commission Ralph Dunphy, First Assistant
City Solicitor Nancy Glava, Supervising Legal Counsel
Andrew Goldberg and Lene Laurene, Public
Department of Public Works.

Councillor Davis convened the hearing and explained the purpose.

RR introduced the discussion w/ a review of the history of the issue. It started w/ C-C requests for an ordinance to regulate newsboxes. The ^{both} glaze made to C. Dwyer to express dismay at not being looked. C. Dwyer ~~so~~ expressed his concern and requested that the staff involve newspaper representatives in the discussion. The staff met w/ various newspaper publishers and started looking into ways to make the appearance ^{of newsboxes} uniform and to control the location. A ^{revised} draft of ordinance was prepared + the staff began meeting w/ newspaper publishers.

RR reported that at ^{first} 1st newspapers were not included. There are 477 boxes throughout the city. It would be prohibitively expensive for the city to

buy them all. ^{Staff} They began looking at
the major corridors. They started w/

Mass Ave, and went to look first at the main
pedestrian areas, like Central Square.

Mr. Rossi stated that ~~a survey~~ for
the free publications, there could be a news-
box module mounted in the street.

In places where there are just a couple
of boxes, there can be a "hitching post" like in

Bush. In places where there are more boxes, there
could be a unit that holds several different

~~SR asked what they do in other~~
newspapers. He distributed an advertisement that

~~SR~~
includes an example of a stacked modular unit to hold
several different newspapers. Attachment A.

RR stated that the staff is looking for
the Committee to say whether it wants the staff to
continue in this direction.

TD said as much as possible she
would prefer the clusters, so-called "gang boxes"

RK ~~and~~ cautioned that these are the boxes the

newspapers dislike the most. He emphasized that he believes it is both possible and preferable to get the newspapers support and to work cooperatively on this issue.

RK asked A G to describe ~~what is~~ ^{the current} status of ~~a~~ ^{the} draft ordinance. ~~happening~~ ^{Altony Goldsey} A G stated that the

financing mechanism ^{has} is not yet ~~worked out~~ ^{been determined} settled.

~~RK said that if the staff can work out the newspaper people~~

1

ITD stated that one would like ~~to~~ to know that urban designers have been consulted. ~~urban design input.~~ RK stated that Gray

Uelversen and Roger ^{Boome} Birk are both involved in this process.

~~ITD stated that the new scheme~~
when

~~ITD suggested phasing in the new scheme~~

HD suggested phasing in control of the
licensing for all boxes soon. She suggested
bringing back the licensing regulation portion of
~~Roeper-Dunphy~~
the ordinance soon.

RR said he has some concerns about
separating issues that may be useful for
leverage and negotiation of the newspapers.
HD asked about the ^{timeline} ~~transfer~~. RR said staff
should be able to come back to the committee in about 2 months.
SR moved that the issue remain
in committee. It was ^{so} agreed w/o objection.

HD said she would like to see an
ordinance
ord in place by September of next year. She
thanked those present for their attendance. The
meeting was adj ^{at} 6:05 p.m.

F m e

e HD, Chair

A



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D. MARGARET DRURY
CITY CLERK

DONNA P. LOPEZ
DEPUTY CITY CLERK

TO: THE HONORABLE, THE CITY COUNCIL

FROM: ^{DMJ} D. MARGARET DRURY, CITY CLERK

DATE: APRIL 9, 1998

RE: ORDINANCE COMMITTEE MEETING

Please be advised that Councillor Henrietta Davis, Chair of the Ordinance Committee, has scheduled three public meetings for Tuesday, April 14, 1998 in the Sullivan Chamber as follows:

- 5:30 P.M. Update on staff work on a proposal for regulating newsboxes.
- 6:00 P.M. Proposed amendment to the Municipal Code on the enforcement provisions as they relate to the placement of public pay telephones.
- 6:30 P.M. Proposed amendment to the Municipal Code providing for the expense of the connection of the building sewer or storm drain to the City's main.

Your kind attention in this matter will be greatly appreciated.

cc: Councillor Davis



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D. MARGARET DRURY
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DONNA P. LOPEZ
DEPUTY CITY CLERK

**TO: RUSSELL B. HIGLEY
CITY SOLICITOR**

FROM: ^{DMD} D. MARGARET DRURY, CITY CLERK

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DONNA P. LOPEZ
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TO: ROBERT W. HEALY, CITY MANAGER

FROM: D. MARGARET DRURY, CITY CLERK

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D. MARGARET DRURY
CITY CLERK

DONNA P. LOPEZ
DEPUTY CITY CLERK

**TO: PAUL SCHLAVER
CONSUMER COUNCIL**

FROM: ^{JMD} D. MARGARET DRURY, CITY CLERK

DATE: APRIL 9, 1998

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D. MARGARET DRURY
CITY CLERK

DONNA P. LOPEZ
DEPUTY CITY CLERK

**TO: RICHARD ROSSI
DEPUTY CITY MANAGER**

FROM: D. MARGARET DRURY, CITY CLERK

DATE: APRIL 9, 1998

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D. MARGARET DRURY
CITY CLERK

DONNA P. LOPEZ
DEPUTY CITY CLERK

**TO: SUSAN SCHLESINGER
ASSISTANT CITY MANAGER FOR COMMUNITY DEVELOPMENT**
DMD
FROM: D. MARGARET DRURY, CITY CLERK
DATE: APRIL 9, 1998
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D. MARGARET DRURY
CITY CLERK

DONNA P. LOPEZ
DEPUTY CITY CLERK

**TO: RALPH DUNPHY, COMMISSIONER
PUBLIC WORKS DEPARTMENT**

FROM: ^{DM}D. MARGARET DRURY, CITY CLERK

DATE: APRIL 9, 1998

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D. MARGARET DRURY
CITY CLERK

DONNA P. LOPEZ
DEPUTY CITY CLERK

**TO: STEVE WHITE, DEPUTY COMMISSIONER
PUBLIC WORKS DEPARTMENT**

FROM: ^{DMD} D. MARGARET DRURY, CITY CLERK

DATE: APRIL 9, 1998

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D. MARGARET DRURY
CITY CLERK

DONNA P. LOPEZ
DEPUTY CITY CLERK

**TO: RICHARD SCALI, EXECUTIVE OFFICER
POLE AND CONDUIT COMMISSION**

FROM: ^{DM}D. MARGARET DRURY, CITY CLERK

DATE: APRIL 9, 1998

RE: ORDINANCE COMMITTEE MEETING

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Your kind attention in this matter will be greatly appreciated.

cc: Councillor Davis

George Fernandez



OFFICE OF THE CITY CLERK

CITY OF CAMBRIDGE

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D. MARGARET DRURY
CITY CLERK

DONNA P. LOPEZ
DEPUTY CITY CLERK

TO: ALL INTERESTED PERSONS
FROM: ^{bmd} D. MARGARET DRURY, CITY CLERK
DATE: APRIL 9, 1998
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cc: Councillor Davis

Ordinance Committee ~~to~~
4/14/98

5:30

Newsboxes - meeting

Sullivan } check
Chamber

newspapers - ask Pamela Ha

- ✓ Law Dept
- ✓ Public Works
- ✓ RWIT
- ✓ RR

CD

Pay Phones - hearing

- Pole + Conduit ^{Commission} Committee, Richard Scali
- Bell Atlantic Exec Office

Law Dept

RWIT

Consumer Council

Sewer + Storm Drain - hearing

→ DPW - Ralph Dunphy, Comm'n
Steve White, Deputy Comm'n

Law

RWIT

All

Committee
- Ordinance, mailing list to neighborhood associations

- All members of C-C-

- RWIT

- Law Dept - Russell Hyley w/ blind c/c to Nancy Glem



Russell B. Higley
City Solicitor

Donald A. Drisdell
Deputy City Solicitor

Nancy E. Glowa
First Assistant
City Solicitor

Arthur J. Goldberg
Supervising
Legal Counsel

CITY OF CAMBRIDGE

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Legal Counsel

Birge Albright
Gail S. Gabriel
Linda A. Stamper
Deborah R. Cautela
Vali Buland

Michael C. Costello
Assistant City Solicitor

March 6, 1998

Brian Hanify
Vice President of Circulation
Community Newspaper Company
P.O. Box 9113
Needham, MA 02192-9113

Re: Proposed Cambridge Newsbox Regulation

Dear Mr. Hanify:

You are invited to a meeting on Wednesday, March 25, 1998, at 10:00 a.m. in the second floor Ackerman Room at Cambridge City Hall. At the meeting, City officials would like to further discuss with you newsbox regulation in Cambridge. We now anticipate proposing a requirement for standard size and color newsboxes, with many boxes to be located on or within permanent stationary apparatuses.

There is at present no hearing date before the City Council or its Ordinance Committee on this matter.

Please inform me whether you are able to attend on March 25. A similar invitation is being made to Godfrey Kauffman and Catherine Henn of the Globe, John Hoarty and John Palmer of the Herald, Kevin Capallo of the NY Times, Tony Catatao of USA Today, and Jim Heigham, Esq. of Choate, Hall & Stewart who represents the Massachusetts Publishers Association.

Very truly yours,

Arthur J. Goldberg
Arthur J. Goldberg

cc. Richard Rossi



Russell B. Higley
City Solicitor

Donald A. Drisdell
Deputy City Solicitor

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Gail S. Gabriel
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Deborah R. Cautela
Vali Buland

Michael C. Costello
Assistant City Solicitor

March 6, 1998

Kevin Cappallo
The New York Times
c/o Community Newsdealers, Inc.
60 First Avenue
Waltham, MA 02254

Re: Proposed Cambridge Newsbox Regulation

Dear Mr. Cappallo:

You are invited to a meeting on Wednesday, March 25, 1998, at 10:00 a.m. in the second floor Ackerman Room at Cambridge City Hall. At the meeting, City officials would like to further discuss with you newsbox regulation in Cambridge. We now anticipate proposing a requirement for standard size and color newsboxes, with many boxes to be located on or within permanent stationary apparatuses.

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Very truly yours,


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cc. Richard Rossi



Russell B. Higley
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Vali Buland

Michael C. Costello
Assistant City Solicitor

March 6, 1998

Antonio Catatao
Circulation Director
USA Today
100 Unicorn Park Drive
Woburn, MA 01801

Re: Proposed Cambridge Newsbox Regulation

Dear Mr. Catatao:

You are invited to a meeting on Wednesday, March 25, 1998, at 10:00 a.m. in the second floor Ackerman Room at Cambridge City Hall. At the meeting, City officials would like to further discuss with you newsbox regulation in Cambridge. We now anticipate proposing a requirement for standard size and color newsboxes, with many boxes to be located on or within permanent stationary apparatuses.

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Very truly yours,

Arthur J. Goldberg
Arthur J. Goldberg

cc. Richard Rossi



Russell B. Higley
City Solicitor

Donald A. Drisdell
Deputy City Solicitor

Nancy E. Glowa
First Assistant
City Solicitor

Arthur J. Goldberg
Supervising
Legal Counsel

CITY OF CAMBRIDGE

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Legal Counsel

Birge Albright
Gail S. Gabriel
Linda A. Stamper
Deborah R. Cautela
Vali Buland

Michael C. Costello
Assistant City Solicitor

March 6, 1998

James C. Heigham, Esq.
Choate, Hall & Stewart
Exchange Place
53 State Street
Boston, MA 02109

Re: Proposed Cambridge Newsbox Regulation

Dear Mr. Heigham:

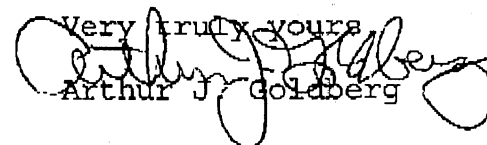
You are invited to a meeting on Wednesday, March 25, 1998, at 10:00 a.m. in the second floor Ackerman Room at Cambridge City Hall. At the meeting, City officials would like to discuss with you newsbox regulation in Cambridge. Your name was given to me by Godfrey Kauffman of the Globe.

We now anticipate proposing a requirement for standard size and color newsboxes, with many boxes to be located on or within permanent stationary apparatuses.

There is at present no hearing date before the City Council or its Ordinance Committee on this matter.

Please inform me whether you are able to attend on March 25. A similar invitation is being made to Godfrey Kauffman and Catherine Henn of the Globe, John Hoarty and John Palmer of the Herald, Brian Hanify of Community Newspapers, Kevin Cappallo of the New York Times and Tony Catatao of USA Today.

Very truly yours,


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Michael C. Costello
Assistant City Solicitor

March 6, 1998

John J. Hoarty
Vice President, Circulation
The Boston Herald
One Herald Square
Boston, MA 02106

John A. Palmer
Circulation Manager
The Boston Herald
One Herald Square
Boston, MA 02106

Re: Proposed Cambridge Newsbox Regulation

Dear Mr. Hoarty and Mr. Palmer:

You are invited to a meeting on Wednesday, March 25, 1998, at 10:00 a.m. in the second floor Ackerman Room at Cambridge City Hall. At the meeting, City officials would like to further discuss with you newsbox regulation in Cambridge. We now anticipate proposing a requirement for standard size and color newsboxes, with many boxes to be located on or within permanent stationary apparatuses.

There is at present no hearing date before the City Council or its Ordinance Committee on this matter.

Please inform me whether you are able to attend on March 25. A similar invitation is being made to Godfrey Kauffman and Catherine Henn of the Globe, Kevin Capallo of the NY Times, Tony Catatao of USA Today, Brian Hanify of Community Newspaper, and Jim Heigham, Esq. of Choate, Hall & Stewart who represents the Massachusetts Publishers Association.

Very truly yours,

Arthur J. Goldberg

cc. Richard Rossi



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Michael C. Costello
Assistant City Solicitor

March 6, 1998

Catherine E.C. Henn
Vice President
Corporate and Legal Affairs
The Boston Globe
P.O. Box 2378
Boston, MA 02107-2378

Godfrey W. Kauffman
Vice President, Circulation
The Boston Globe
P.O. Box 2378
Boston, MA 02107-2378

Re: Proposed Cambridge Newsbox Regulation

Dear Ms. Henn and Mr. Kauffman:

You are invited to a meeting on Wednesday, March 25, 1998, at 10:00 a.m. in the second floor Ackerman Room at Cambridge City Hall. At the meeting, City officials would like to further discuss with you newsbox regulation in Cambridge. We now anticipate proposing a requirement for standard size and color newsboxes, with many boxes to be located on or within permanent stationary apparatuses.

There is at present no hearing date before the City Council or its Ordinance Committee on this matter.

Please inform me whether you are able to attend on March 25. A similar invitation is being made to John Palmer and John Hoarty of the Herald, Kevin Capallo of the NY Times, Tony Catatao of USA Today, Brian Hanify of Community Newspaper, and Jim Heigham, Esq. of Choate, Hall & Stewart who represents the Massachusetts Publishers Association.

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Michael C. Costello
Assistant City Solicitor

February 22, 1999

Robert W. Healy
City Manager
City Hall
Cambridge, MA 02139

Re: Proposed newsrack ordinance—sidewalk width provisions

Dear Mr. Healy:

Councillor Davis has requested actual ordinance language to accomplish the sidewalk width change proposed in my letter to you dated February 19 (copy attached).

Section 4(a)1 would be changed to read as follows:

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

1. at any location in excess of eight (8) feet in width plus the width of a newsrack whereby the clear space for the passage of pedestrians is reduced to less than eight (8) feet in width; or if the sidewalk location is less than eight (8) in width plus the width of a newsrack, then the clear space for the passage of pedestrians shall not be reduced to less than five (5) feet; however, a width of four (4) to five(5) feet may be approved by the Commissioner if requested, only after the Commissioner consults with the Pedestrian Committee and the Disabilities Commission as to whether the particular location at issue necessitates the 4-5 foot width, and whether the pedestrian passage there could safely and reasonably be reduced to a width of 4-5 feet; and,”

1+D
m. covered
4/9

Very truly yours,

Russell B. Higley

Russell B. Higley
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Michael C. Costello
Assistant City Solicitor

Robert W. Healy
City Manager
City Hall
Cambridge, MA 02139

February 19, 1999

Re: Proposed newsrack ordinance—sidewalk width provisions

Dear Mr. Healy:

Councillor Davis has raised a concern that Section 4(a)1 of the proposed newsrack ordinance does not provide enough space clear of newsracks for pedestrian passage on sidewalks. The current draft of the ordinance provides that on sidewalks more than 8 feet wide, a clear pedestrian passage of 8 feet should be maintained; and on sidewalks less than 8 feet wide, at least 4 feet should be maintained for clear pedestrian passage.

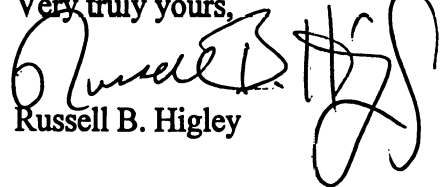
In response to Councillor Davis's concern, a meeting was called by the Deputy City Manager with representatives of the Law Department, the Department of Public Works, the Pedestrian Committee and the Disabilities Commission. A consensus proposal emerged from that meeting. The proposal is that it should be the City's goal, on sidewalks less than 8 feet wide, to maintain a clear sidewalk width of at least 5 feet in most circumstances. In no case would a clear sidewalk width of less than 4 feet be allowed. However, in cases where a width of between 4 and 5 feet is requested, the Commissioner of Public Works would consult with the Pedestrian Committee and the Disabilities Commission as to whether the particular location at issue necessitates the 4-5 foot width, and whether the pedestrian passage there could safely and reasonably be reduced to a width of 4-5 feet.

This would take away any implication in the ordinance that a vendor would have a presumptive right to place a newsrack so as to reduce the clear pedestrian passage to less than 5 feet.

It should be noted that, in any event, Section 2(i) of the proposed ordinance reserves the Commissioner's right to order any newsrack removed from an approved location, temporarily or permanently, in the interest of public safety.

If the Council adopts the above proposal, proposed Section 4(a)1 would be amended to incorporate the new provisions.

Very truly yours,

A handwritten signature in black ink, appearing to read "Russell B. Higley", written in a cursive style. The signature is positioned to the right of the typed name.

Russell B. Higley

**CITY OF CAMBRIDGE
IN THE YEAR NINETEEN HUNDRED AND NINETY EIGHT
AN ORDINANCE**

Standardizing The Placement And Maintenance Of Newsracks

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

Whereas, the proliferation of scattered newsracks in Cambridge 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 passersby in bad weather and storms and otherwise unreasonably restrict public access and create undue perils and public safety hazards; and

Whereas, newsracks often create a visual blight due to their varying shapes and colors and disarray, and 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, moved, cause damage to curbs, sidewalks, streets, poles, traffic signals and signs, and or remain empty and abandoned; and

Whereas, reasonable standards for the appearance, 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 passersby, safety hazards and visual blight that often are associated with unregulated newsracks.

Now Therefore, Be It Ordained:

Section 1. Definitions.

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

a. Commissioner shall mean the Commissioner of the Public Works Department of the City of Cambridge or such person as said Commissioner may from time to time designate.

b. Newsrack shall mean any type of self-service device for the

vending or free distribution of newspapers [,] or periodicals [or printed material of whatever nature].

c. 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.

d. [Newsrack Sticker shall mean a sequentially numbered sticker issued by the Commissioner for placement on individual newsracks 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] e. 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] f. 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, constitute or maintain a newsrack in or on any part of a public way without first obtaining a certificate of compliance from the Commissioner in accordance with the provisions of this Ordinance.

b. The certificate of compliance must be renewed annually by application to the Commissioner.

c. Issuing Authority. The Commissioner shall be the issuing authority and coordinator of the application process and administration of this Ordinance.

d. Approving Authority. The approving authority shall be the Commissioner. The Commissioner or his/her designee shall review and approve for compliance with Section 2, entitled Certificate of Compliance, Section 4, entitled Standards, and Section 7, entitled 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 Cambridge 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 Cambridge 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
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.

g. 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.

New newsrack stickers shall be issued annually for each approved newsrack, which shall forthwith be affixed by the applicant to each newsrack on top of the prior year's sticker, if any.] 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.

Proposed locations shall be approved on a first come, first serve basis by the Commissioner. No preference shall be given to applicants who might have had newsracks in a particular location prior to the effective date of this ordinance.

h. Denial of Certificate of Compliance. If an application for a newsrack location is 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. 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 within 30 days of such denial by requesting in writing to the Commissioner an appearance before the Commissioner to review said denial. The appeal shall be heard within twenty days of receipt of the appeal.

The decision on the appeal shall be sent to the applicant within five (5) days after the hearing. Any such appeal shall be subject to the Massachusetts Administrative Procedures Act, G.L. c. 30A.

i. The Commissioner reserves the right to order by written notice to the certificate holder that newsracks be removed from an approved location, either temporarily or permanently, in the interests of public safety.

Section 3. Fees.

a. There shall be a certificate of compliance fee in the amount of two hundred (\$200.00) dollars paid to the City. This fee shall be due upon initial application and upon each annual renewal. *insert*

new wording here.

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 certificate of compliance fee is waived if previously paid.

c. In addition to the certificate of compliance fee, an annual fee of ten (\$10.00) dollars per newsrack authorized shall be paid to the City to offset the City's cost of monitoring compliance with this ordinance.

d. Where the Commissioner has required newsracks to be set in [clustered boxes,] corrals, or at hitching posts pursuant to Section 4.b below, additional fees [may] shall be imposed by the Commissioner on certificate holders to offset the City's costs for each such [cluster box,] corral or hitching post used by such certificate holder.

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 so placed shall face the sidewalk, not the street. 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 eight (8) feet in width; or, if the location is less than eight (8) feet wide, then the clear space for the passage of pedestrians shall not be reduced to less than four (4) feet in width; and~~
2. within five (5) feet of any marked, or unmarked crosswalk or handicapped ramp; 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

*delete
&
insert
new #1*

area, loading zone or fire lane, or any disabled parking space, 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]

which in any way protrudes onto a street; or

9. on any sidewalk immediately abutting a public school.

[The Commissioner may designate areas in the City in which newsracks may only be located if they meet specific requirements as to size, shape and color, such requirements to be set by the Commissioner by regulation. For example, the Commissioner may require that newsracks at a particular location be the same size, shape and color and set in immovable clustered boxes;]

[t]The Commissioner may require that newsracks at locations in which more than three (3) are adjacent shall [a particular location] be set within an open-ended corral installed by the City; and the Commissioner may require that newsracks at a particular location be chained to each other and/or to a permanent hitching post installed by the City. The Commissioner may choose the locations for corrals and hitching posts based on the history of misaligned or knocked over newsracks at the location, the high volume of pedestrian traffic at the location, or the relatively high concentration of newsracks at the location. However, nothing in this paragraph shall be construed to limit the locations at which corrals and hitching posts may be required.

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.

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 eight (8) 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, Maintenance, and Delivery Time.

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

a. Each newsrack shall prominently display the [Newsrack Sticker issued by the Commissioner pursuant to the provisions of this Ordinance] name, address and phone number of a person or entity responsible for that newsrack.

b. Each newsrack shall be:

1. installed or placed on the pavement in an upright, sufficiently weighted and secure position;
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; and
5. handicapped accessible, as defined by the state Architectural Access Board at 521 C.M.R.

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
4. the clear glass or plastic parts thereof, if any, through which the printed material is being dispensed 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.

d. [Delivery of papers to newsracks shall not be made:

1. in commercial areas, between the hours of 9:00 p.m. and 4:30 a.m.;

in residential areas, between the hours of 9:00 p.m. and 6:00 a.m. on weekdays, and between 9:00 p.m. and 8:00 a.m. on weekends and holidays.]

Anyone disturbed by noise from the delivery of papers to any newsrack may complain to the Commissioner. The Commissioner shall forthwith notify the Certificate Holder of the complaint. The Certificate Holder shall contact the complainant and attempt to resolve the complaint. If the complaint is not resolved to the complainant's satisfaction within 10 days, the complainant may request a meeting before the Commissioner, or his/her designee, and the Certificate Holder. After such meeting, the Commissioner shall have authority to impose a reasonable resolution to the complaint, including ordering the relocation of the newsrack/s causing the noise problem.

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 seventy-two (72) hours after the release of the current issue, the Commissioner 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 than 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 Commissioner. Upon a determination that a violation of any provision of this Ordinance exists the Commissioner shall notify the Certificate Holder of the violation in writing by first class mail. The notice shall include:

(a) the [Newsrack Sticker and] 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.

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 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 (4) 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 8 of this Ordinance shall be deemed "abandoned property" and become the property of the City of Cambridge.

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 for removal and storage of such newsrack. Unpaid fees accrued pursuant to this Section 9 shall be considered a debt payable to the City.

Section 10. Regulations.

The Commissioner may, with the approval of the City Manager, 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 reason by any court, the 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.

MRS
amend

Newsbox Act
Sec 3 a. at end

~~Notwithstanding the provisions of subsections~~

Upon a showing of significant financial hardship, whereby the payment of the ~~full~~ full certificate of compliance fee will impair the ability of the publisher to distribute a publication through newsracks to members of the public, the ~~publishing~~ Commission may ~~with this~~ reduce the ~~certificate of~~ fee ^{due} upon initial application or upon ~~renewal~~ ^{an} annual renewal by an amount he ^{or she} determines, in her or his sole discretion, to be appropriate.

w/q



Russell B. Higley
City Solicitor

Donald A. Drisdell
Deputy City Solicitor

Nancy E. Glowa
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February 22, 1999

Robert W. Healy
City Manager
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Cambridge, MA 02139

Re: Proposed newsrack ordinance—sidewalk width provisions

Dear Mr. Healy:

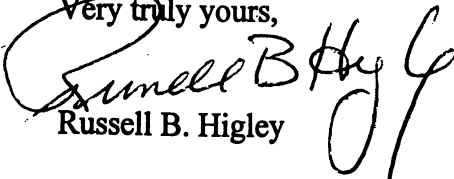
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Section 4(a)1 would be changed to read as follows:

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

1. at any location in excess of eight (8) feet in width plus the width of a newsrack whereby the clear space for the passage of pedestrians is reduced to less than eight (8) feet in width; or if the sidewalk location is less than eight (8) in width plus the width of a newsrack, then the clear space for the passage of pedestrians shall not be reduced to less than five (5) feet; however, a width of four (4) to five(5) feet may be approved by the Commissioner if requested, only after the Commissioner consults with the Pedestrian Committee and the Disabilities Commission as to whether the particular location at issue necessitates the 4-5 foot width, and whether the pedestrian passage there could safely and reasonably be reduced to a width of 4-5 feet; and,”

Very truly yours,


Russell B. Higley

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City Solicitor

Donald A. Drisdell
Deputy City Solicitor

Nancy E. Glowa
First Assistant
City Solicitor

Arthur J. Goldberg
Supervising
Legal Counsel



CITY OF CAMBRIDGE

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Assistant City Solicitor

February 19, 1999

Robert W. Healy
City Manager
City Hall
Cambridge, MA 02139

Re: Proposed newsrack ordinance—sidewalk width provisions

Dear Mr. Healy:

Councillor Davis has raised a concern that Section 4(a)1 of the proposed newsrack ordinance does not provide enough space clear of newsracks for pedestrian passage on sidewalks. The current draft of the ordinance provides that on sidewalks more than 8 feet wide, a clear pedestrian passage of 8 feet should be maintained; and on sidewalks less than 8 feet wide, at least 4 feet should be maintained for clear pedestrian passage.

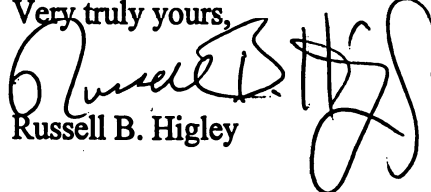
In response to Councillor Davis's concern, a meeting was called by the Deputy City Manager with representatives of the Law Department, the Department of Public Works, the Pedestrian Committee and the Disabilities Commission. A consensus proposal emerged from that meeting. The proposal is that it should be the City's goal, on sidewalks less than 8 feet wide, to maintain a clear sidewalk width of at least 5 feet in most circumstances. In no case would a clear sidewalk width of less than 4 feet be allowed. However, in cases where a width of between 4 and 5 feet is requested, the Commissioner of Public Works would consult with the Pedestrian Committee and the Disabilities Commission as to whether the particular location at issue necessitates the 4-5 foot width, and whether the pedestrian passage there could safely and reasonably be reduced to a width of 4-5 feet.

This would take away any implication in the ordinance that a vendor would have a presumptive right to place a newsrack so as to reduce the clear pedestrian passage to less than 5 feet.

It should be noted that, in any event, Section 2(i) of the proposed ordinance reserves the Commissioner's right to order any newsrack removed from an approved location, temporarily or permanently, in the interest of public safety.

If the Council adopts the above proposal, proposed Section 4(a)1 would be amended to incorporate the new provisions.

Very truly yours,


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*text with
proposed
amendments*



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February 22, 1999

Robert W. Healy
City Manager
City Hall
Cambridge, MA 02139

Re: Proposed newsrack ordinance—sidewalk width provisions

Dear Mr. Healy:

Councillor Davis has requested actual ordinance language to accomplish the sidewalk width change proposed in my letter to you dated February 19 (copy attached).

Section 4(a)1 would be changed to read as follows:

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

1. at any location in excess of eight (8) feet in width plus the width of a newsrack whereby the clear space for the passage of pedestrians is reduced to less than eight (8) feet in width; or if the sidewalk location is less than eight (8) in width plus the width of a newsrack, then the clear space for the passage of pedestrians shall not be reduced to less than five (5) feet; however, a width of four (4) to five(5) feet may be approved by the Commissioner if requested, only after the Commissioner consults with the Pedestrian Committee and the Disabilities Commission as to whether the particular location at issue necessitates the 4-5 foot width, and whether the pedestrian passage there could safely and reasonably be reduced to a width of 4-5 feet; and,"

*#1
Amendment*

Very truly yours,

Russell B. Higley
Russell B. Higley

MRS
amend

Newsbox Act
Sec 3 a. at end

~~Notwithstanding the provisions of subsections~~

Upon a showing of significant financial hardship, whereby the payment of the ~~the~~ full certificate of compliance fee will impair the ability of the publisher to distribute a publication through newsracks to members of the public, the ~~publishing~~ Commissioner may ~~with this~~ ~~section~~ reduce the ~~certificate of~~ fee ^{due} upon ^{an} initial application or upon ~~each~~ annual renewal by an amount he determines, in her or his sole discretion, to be appropriate.

w/q

#2
Amendment.

**CITY OF CAMBRIDGE
IN THE YEAR NINETEEN HUNDRED AND NINETY EIGHT
AN ORDINANCE**

Standardizing The Placement And Maintenance Of Newsracks

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

Whereas, the proliferation of scattered newsracks in Cambridge 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 passersby in bad weather and storms and otherwise unreasonably restrict public access and create undue perils and public safety hazards; and

Whereas, newsracks often create a visual blight due to their varying shapes and colors and disarray, and 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, moved, cause damage to curbs, sidewalks, streets, poles, traffic signals and signs, and or remain empty and abandoned; and

Whereas, reasonable standards for the appearance, 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 passersby, safety hazards and visual blight that often are associated with unregulated newsracks.

Now Therefore, Be It Ordained:

Section 1. Definitions.

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

- a. Commissioner shall mean the Commissioner of the Public Works Department of the City of Cambridge or such person as said Commissioner may from time to time designate.
- b. Newsrack shall mean any type of self-service device for the

vending or free distribution of newspapers [,] or periodicals [or printed material of whatever nature].

c. 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.

d. [Newsrack Sticker shall mean a sequentially numbered sticker issued by the Commissioner for placement on individual newsracks 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] e. 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] f. 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, constitute or maintain a newsrack in or on any part of a public way without first obtaining a certificate of compliance from the Commissioner in accordance with the provisions of this Ordinance.

b. The certificate of compliance must be renewed annually by application to the Commissioner.

c. Issuing Authority. The Commissioner shall be the issuing authority and coordinator of the application process and administration of this Ordinance.

d. Approving Authority. The approving authority shall be the Commissioner. The Commissioner or his/her designee shall review and approve for compliance with Section 2, entitled Certificate of Compliance, Section 4, entitled Standards, and Section 7, entitled 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 Cambridge 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 Cambridge 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

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.

g. 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.

New newsrack stickers shall be issued annually for each approved newsrack, which shall forthwith be affixed by the applicant to each newsrack on top of the prior year's sticker, if any.] 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.

Proposed locations shall be approved on a first come, first serve basis by the Commissioner. No preference shall be given to applicants who might have had newsracks in a particular location prior to the effective date of this ordinance.

h. Denial of Certificate of Compliance. If an application for a newsrack location is 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. 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 within 30 days of such denial by requesting in writing to the Commissioner an appearance before the Commissioner to review said denial. The appeal shall be heard within twenty days of receipt of the appeal.

The decision on the appeal shall be sent to the applicant within five (5) days after the hearing. Any such appeal shall be subject to the Massachusetts Administrative Procedures Act, G.L. c. 30A.

i. The Commissioner reserves the right to order by written notice to the certificate holder that newsracks be removed from an approved location, either temporarily or permanently, in the interests of public safety.

Section 3. Fees.

a. There shall be a certificate of compliance fee in the amount of two hundred (\$200.00) dollars paid to the City. This fee shall be due upon initial application and upon each annual renewal. *insert*

new wording here
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 certificate of compliance fee is waived if previously paid.

c. In addition to the certificate of compliance fee, an annual fee of ten (\$10.00) dollars per newsrack authorized shall be paid to the City to offset the City's cost of monitoring compliance with this ordinance.

d. Where the Commissioner has required newsracks to be set in [clustered boxes,] corrals, or at hitching posts pursuant to Section 4.b below, additional fees [may] shall be imposed by the Commissioner on certificate holders to offset the City's costs for each such [cluster box,] corral or hitching post used by such certificate holder.

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 so placed shall face the sidewalk, not the street. 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 eight (8) feet in width; or, if the location is less than eight (8) feet wide, then the clear space for the passage of pedestrians shall not be reduced to less than four (4) feet in width; and~~

2. within five (5) feet of any marked, or unmarked crosswalk or handicapped ramp; 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

*Delete
&
insert
news#1*

area, loading zone or fire lane, or any disabled parking space, 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]

which in any way protrudes onto a street; or

9. on any sidewalk immediately abutting a public school.

[The Commissioner may designate areas in the City in which newsracks may only be located if they meet specific requirements as to size, shape and color, such requirements to be set by the Commissioner by regulation. For example, the Commissioner may require that newsracks at a particular location be the same size, shape and color and set in immovable clustered boxes;]

[t]The Commissioner may require that newsracks at locations in which more than three (3) are adjacent shall [a particular location] be set within an open-ended corral installed by the City; and the Commissioner may require that newsracks at a particular location be chained to each other and/or to a permanent hitching post installed by the City. The Commissioner may choose the locations for corrals and hitching posts based on the history of misaligned or knocked over newsracks at the location, the high volume of pedestrian traffic at the location, or the relatively high concentration of newsracks at the location. However, nothing in this paragraph shall be construed to limit the locations at which corrals and hitching posts may be required.

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.

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 eight (8) 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, Maintenance, and Delivery Time.

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

a. Each newsrack shall prominently display the [Newsrack Sticker issued by the Commissioner pursuant to the provisions of this Ordinance] name, address and phone number of a person or entity responsible for that newsrack.

b. Each newsrack shall be:

1. installed or placed on the pavement in an upright, sufficiently weighted and secure position;
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; and
5. handicapped accessible, as defined by the state Architectural Access Board at 521 C.M.R.

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
4. the clear glass or plastic parts thereof, if any, through which the printed material is being dispensed 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.

d. [Delivery of papers to newsracks shall not be made:

1. in commercial areas, between the hours of 9:00 p.m. and 4:30 a.m.;

in residential areas, between the hours of 9:00 p.m. and 6:00 a.m. on weekdays, and between 9:00 p.m. and 8:00 a.m. on weekends and holidays.]

Anyone disturbed by noise from the delivery of papers to any newsrack may complain to the Commissioner. The Commissioner shall forthwith notify the Certificate Holder of the complaint. The Certificate Holder shall contact the complainant and attempt to resolve the complaint. If the complaint is not resolved to the complainant's satisfaction within 10 days, the complainant may request a meeting before the Commissioner, or his/her designee, and the Certificate Holder. After such meeting, the Commissioner shall have authority to impose a reasonable resolution to the complaint, including ordering the relocation of the newsrack/s causing the noise problem.

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 seventy-two (72) hours after the release of the current issue, the Commissioner 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 than 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 Commissioner. Upon a determination that a violation of any provision of this Ordinance exists the Commissioner shall notify the Certificate Holder of the violation in writing by first class mail. The notice shall include:

(a) the [Newsrack Sticker and] 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.

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 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 (4) 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 8 of this Ordinance shall be deemed "abandoned property" and become the property of the City of Cambridge.

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 for removal and storage of such newsrack. Unpaid fees accrued pursuant to this Section 9 shall be considered a debt payable to the City.

Section 10. Regulations.

The Commissioner may, with the approval of the City Manager, 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 reason by any court, the 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.

**CITY OF CAMBRIDGE
IN THE YEAR NINETEEN HUNDRED AND NINETY EIGHT
AN ORDINANCE**

Standardizing The Placement And Maintenance Of Newsracks

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

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Whereas, newsracks often create a visual blight due to their varying shapes and colors and disarray, and 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, moved, cause damage to curbs, sidewalks, streets, poles, traffic signals and signs, and or remain empty and abandoned; and

Whereas, reasonable standards for the appearance, 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 passersby, safety hazards and visual blight that often are associated with unregulated newsracks.

Now Therefore, Be It Ordained:

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vending or free distribution of newspapers [,] or periodicals [or printed material of whatever nature].

c. 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.

d. [Newsrack Sticker shall mean a sequentially numbered sticker issued by the Commissioner for placement on individual newsracks 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] e. 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.

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Section 2. Certificate of Compliance.

a. Requirement. No person shall place, affix, erect, constitute or maintain a newsrack in or on any part of a public way without first obtaining a certificate of compliance from the Commissioner in accordance with the provisions of this Ordinance.

b. The certificate of compliance must be renewed annually by application to the Commissioner.

c. Issuing Authority. The Commissioner shall be the issuing authority and coordinator of the application process and administration of this Ordinance.

d. Approving Authority. The approving authority shall be the Commissioner. The Commissioner or his/her designee shall review and approve for compliance with Section 2, entitled Certificate of Compliance, Section 4, entitled Standards, and Section 7, entitled 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 Cambridge 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 Cambridge 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

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.

g. 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.

New newsrack stickers shall be issued annually for each approved newsrack, which shall forthwith be affixed by the applicant to each newsrack on top of the prior year's sticker, if any.] 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.

Proposed locations shall be approved on a first come, first serve basis by the Commissioner. No preference shall be given to applicants who might have had newsracks in a particular location prior to the effective date of this ordinance.

h. Denial of Certificate of Compliance. If an application for a newsrack location is 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. 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 within 30 days of such denial by requesting in writing to the Commissioner an appearance before the Commissioner to review said denial. The appeal shall be heard within twenty days of receipt of the appeal. The decision on the appeal shall be sent to the applicant within five (5) days after the hearing. Any such appeal shall be subject to the Massachusetts Administrative Procedures Act, G.L. c. 30A.

i. The Commissioner reserves the right to order by written notice to the certificate holder that newsracks be removed from an approved location, either temporarily or permanently, in the interests of public safety.

Section 3. Fees.

a. There shall be a certificate of compliance fee in the amount of two hundred (\$200.00) dollars paid to the City. This fee shall be due upon initial application and upon each annual renewal.

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 certificate of compliance fee is waived if previously paid.

c. In addition to the certificate of compliance fee, an annual fee of ten (\$10.00) dollars per newsrack authorized shall be paid to the City to offset the City's cost of monitoring compliance with this ordinance.

d. Where the Commissioner has required newsracks to be set in [clustered boxes,] corrals, or at hitching posts pursuant to Section 4.b below, additional fees [may] shall be imposed by the Commissioner on certificate holders to offset the City's costs for each such [cluster box,] corral or hitching post used by such certificate holder.

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 so placed shall face the sidewalk, not the street. 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 eight (8) feet in width; or, if the location is less than eight (8) feet wide, then the clear space for the passage of pedestrians shall not be reduced to less than four (4) feet in width; and
2. within five (5) feet of any marked, or unmarked crosswalk or handicapped ramp; 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, or any disabled parking space, 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]

which in any way protrudes onto a street; or

9. on any sidewalk immediately abutting a public school.

[The Commissioner may designate areas in the City in which newsracks may only be located if they meet specific requirements as to size, shape and color, such requirements to be set by the Commissioner by regulation. For example, the Commissioner may require that newsracks at a particular location be the same size, shape and color and set in immovable clustered boxes;]

[t]The Commissioner may require that newsracks at locations in which more than three (3) are adjacent shall [a particular location] be set within an open-ended corral installed by the City; and the Commissioner may require that newsracks at a particular location be chained to each other and/or to a permanent hitching post installed by the City. The Commissioner may choose the locations for corrals and hitching posts based on the history of misaligned or knocked over newsracks at the location, the high volume of pedestrian traffic at the location, or the relatively high concentration of newsracks at the location. However, nothing in this paragraph shall be construed to limit the locations at which corrals and hitching posts may be required.

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.

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 eight (8) 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, Maintenance, and Delivery Time.

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

a. Each newsrack shall prominently display the [Newsrack Sticker issued by the Commissioner pursuant to the provisions of this Ordinance] name, address and phone number of a person or entity responsible for that newsrack.

b. Each newsrack shall be:

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

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; and

5. handicapped accessible, as defined by the state Architectural Access Board at 521 C.M.R.

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

4. the clear glass or plastic parts thereof, if any, through which the printed material is being dispensed 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.

d. [Delivery of papers to newsracks shall not be made:

1. in commercial areas, between the hours of 9:00 p.m. and 4:30 a.m.;

in residential areas, between the hours of 9:00 p.m. and 6:00 a.m. on weekdays, and between 9:00 p.m. and 8:00 a.m. on weekends and holidays.]

Anyone disturbed by noise from the delivery of papers to any newsrack may complain to the Commissioner. The Commissioner shall forthwith notify the Certificate Holder of the complaint. The Certificate Holder shall contact the complainant and attempt to resolve the complaint. If the complaint is not resolved to the complainant's satisfaction within 10 days, the complainant may request a meeting before the Commissioner, or his/her designee, and the Certificate Holder. After such meeting, the Commissioner shall have authority to impose a reasonable resolution to the complaint, including ordering the relocation of the newsrack/s causing the noise problem.

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 seventy-two (72) hours after the release of the current issue, the Commissioner 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 than 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 Commissioner. Upon a determination that a violation of any provision of this Ordinance exists the Commissioner shall notify the Certificate Holder of the violation in writing by first class mail. The notice shall include:

(a) the [Newsrack Sticker and] 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.

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 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 (4) 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 8 of this Ordinance shall be deemed "abandoned property" and become the property of the City of Cambridge.

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 for removal and storage of such newsrack. Unpaid fees accrued pursuant to this Section 9 shall be considered a debt payable to the City.

Section 10. Regulations.

The Commissioner may, with the approval of the City Manager, 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 reason by any court, the 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.



Russell B. Higley
City Solicitor

Donald A. Drisdell
Deputy City Solicitor

Nancy E. Glowa
First Assistant
City Solicitor

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December 18, 1998

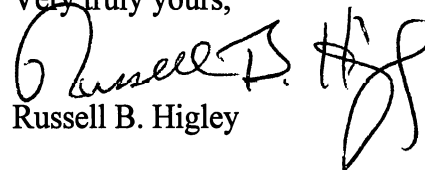
Robert W. Healy
City Manager
City Hall
Cambridge, MA 02139

Re: Proposed Newsrack Ordinance

Dear Mr. Healy:

Enclosed for submission to the City Council is the proposed Newsrack Ordinance with the revisions requested by the City Council at their meeting of December 7. The language that would be deleted from the draft ordinance that was before the Council on December 7 is in brackets []. The language that would be added is underlined.

Very truly yours,


Russell B. Higley



CITY OF CAMBRIDGE
CAMBRIDGE, MASSACHUSETTS 02139

TEL 349-4300
FAX 349-4307



39.

EXECUTIVE DEPARTMENT
ROBERT W. HEALY
City Manager

RICHARD C. ROSSI
Deputy City Manager

January 11, 1999

To The Honorable, The City Council:

Please find attached for your consideration, the proposed Newsrack Ordinance with revisions as requested by the City Council at the December 7, 1998 meeting.

Very truly yours,

Robert W. Healy
City Manager

RWH/mec
Attachment

Consent Agenda #39

Relative to the proposed Newsrack
Ordinance with requested revisions.

In City Council January 11, 1999

*Referred to the
Petition*

Re: Newsboxes
Henry tomorrow 6 PM 11/10/08

CITY OF CAMBRIDGE
IN THE YEAR NINETEEN HUNDRED AND NINETY EIGHT
AN ORDINANCE

A

Standardizing The Placement And Maintenance Of Newsracks

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

Whereas, the proliferation of scattered newsracks in Cambridge 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 passersby in bad weather and storms and otherwise unreasonably restrict public access and create undue perils and public safety hazards; and

Whereas, newsracks often create a visual blight due to their varying shapes and colors and disarray, and 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, moved, cause damage to curbs, sidewalks, streets, poles, traffic signals and signs, and or remain empty and abandoned; and

Whereas, reasonable standards for the appearance, 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 passersby, safety hazards and visual blight that often are associated with unrecipitated, poorly maintained or abandoned newsracks.

Now Therefore, Be It Ordained:

Section 1. Definitions.

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

a. Commissioner shall mean the Commissioner of the Public Works Department of the City of Cambridge or such person as said Commissioner may from time to time designate.

b. Newsrack shall mean any type of self-service device for the

vending or free distribution of newspapers, periodicals or printed material of whatever nature.

c. 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.

d. Newsrack Sticker shall mean a sequentially numbered sticker issued by the Commissioner for placement on individual newsracks 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, constitute or maintain a newsrack in or on any part of a public way without first obtaining a certificate of compliance from the Commissioner in accordance with the provisions of this Ordinance.

b. The certificate of compliance must be renewed annually by application to the Commissioner.

c. Issuing Authority. The Commissioner shall be the issuing authority and coordinator of the application process and administration of this Ordinance.

d. Approving Authority. The approving authority shall be the Commissioner. The Commissioner or his/her designee shall review and approve for compliance with Section 2, entitled Certificate of Compliance, Section 4, entitled Standards, and Section 7, entitled 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 Cambridge 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 Cambridge 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

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.

g. 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. New newsrack stickers shall be issued annually for each approved

newsrack, which shall forthwith be affixed by the applicant to each newsrack on top of the prior year's sticker, if any. 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. Proposed locations shall be approved on a first come, first serve basis by the Commissioner. No preference shall be given to applicants who might have had newsracks in a particular location prior to the effective date of this ordinance.

h. Denial of Certificate of Compliance. If an application for a newsrack location is 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. 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 within 30 days of such denial by requesting in writing to the Commissioner an appearance before the Commissioner to review said denial. The appeal shall be heard within twenty days of receipt of the appeal. The decision on the appeal shall be sent to the applicant within five (5) days after the hearing. Any such appeal shall be subject to the Massachusetts Administrative Procedures Act, G.L. c. 30A.

i. The Commissioner reserves the right to order by written notice to the certificate holder that newsracks be removed from an approved location, either temporarily or permanently, in the interests of public safety.

Section 3. Fees.

a. There shall be a certificate of compliance fee in the amount of two hundred (\$200.00) dollars paid to the City. This fee shall be due upon initial application and upon each annual renewal.

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 certificate of compliance fee is waived if previously paid.

c. In addition to the certificate of compliance fee, an annual fee of ten (\$10.00) dollars per newsrack authorized shall be paid to the City to offset the City's cost of monitoring compliance with this ordinance.

d. Where the Commissioner has required newsracks to be set in clustered boxes, corners, or at hitching posts pursuant to Section

4 b below, additional fees may be imposed by the Commissioner on certificate holders to offset the City's costs for each such cluster box, corral or hitching post used by such certificate holder.

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 so placed shall face the sidewalk, not the street. 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 or handicapped ramp; 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, or any disabled parking space, 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.

b. The Commissioner may designate areas in the City in which newsracks may only be located if they meet specific requirements as to size, shape and color, such requirements to be set by the Commissioner by regulation. For example, the Commissioner may require that newsracks at a particular location be the same size, shape and color and set in immovable clustered boxes; the Commissioner may require that newsracks at a particular location be set within an open-ended corral installed by the City; and the Commissioner may require that newsracks at a particular location be chained to each other and to a permanent hitching post installed by the City.

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.

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 eight (8) 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, Maintenance, and Delivery Time.

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

a. Each newsrack shall prominently display the Newsrack Sticker issued by the Commissioner pursuant to the provisions of this Ordinance.

b. Each newsrack shall be:

1. installed or placed on the pavement in an upright,

sufficiently weighted and secure position;

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; and

5. handicapped accessible.

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

4. the clear glass or plastic parts thereof, if any, through which the printed material is being dispensed 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.

d. Delivery of papers to newsracks shall not be made:

1. in commercial areas, between the hours of 9:00 p.m. and 4:30 a.m.;

2. in residential areas, between the hours of 9:00 p.m. and 6:00 a.m. on weekdays, and between 9:00 p.m. and 8:00 a.m. on weekends and holidays.

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 seventy-two (72) hours after the release of the current issue, the Commissioner 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 than 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 Commissioner. Upon a determination that a violation of any provision of this Ordinance exists the Commissioner shall notify the Certificate Holder of the violation in writing by first class mail. The notice shall include:

- (a) the Newsrack Sticker and 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.

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 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 (4) 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 8 of this Ordinance shall be deemed "abandoned property" and become the property of the City of Cambridge.

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 for removal and storage of such newsrack. Unpaid fees accrued pursuant to this Section 9 shall be considered a debt payable to the City.

Section 10. Regulations.

The Commissioner may, with the approval of the City Manager, 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 reason by any court, the 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.

**CITY OF CAMBRIDGE
IN THE YEAR NINETEEN HUNDRED AND NINETY EIGHT
AN ORDINANCE**

Standardizing The Placement And Maintenance Of Newsracks

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

Whereas, the proliferation of scattered newsracks in Cambridge 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 passersby in bad weather and storms and otherwise unreasonably restrict public access and create undue perils and public safety hazards; and

Whereas, newsracks often create a visual blight due to their varying shapes and colors and disarray, and 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, moved, cause damage to curbs, sidewalks, streets, poles, traffic signals and signs, and or remain empty and abandoned; and

Whereas, reasonable standards for the appearance, 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 passersby, safety hazards and visual blight that often are associated with unregulated newsracks.

Now Therefore, Be It Ordained:

Section 1. Definitions.

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

- a. Commissioner shall mean the Commissioner of the Public Works Department of the City of Cambridge or such person as said Commissioner may from time to time designate.
- b. Newsrack shall mean any type of self-service device for the

vending or free distribution of newspapers, periodicals or printed material of whatever nature.

c. 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.

d. Newsrack Sticker shall mean a sequentially numbered sticker issued by the Commissioner for placement on individual newsracks 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, constitute or maintain a newsrack in or on any part of a public way without first obtaining a certificate of compliance from the Commissioner in accordance with the provisions of this Ordinance.

b. The certificate of compliance must be renewed annually by application to the Commissioner.

c. Issuing Authority. The Commissioner shall be the issuing authority and coordinator of the application process and administration of this Ordinance.

d. Approving Authority. The approving authority shall be the Commissioner. The Commissioner or his/her designee shall review and approve for compliance with Section 2, entitled Certificate of Compliance, Section 4, entitled Standards, and Section 7, entitled 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 Cambridge 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 Cambridge 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

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.

g. 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.

New newsrack stickers shall be issued annually for each approved newsrack, which shall forthwith be affixed by the applicant to each newsrack on top of the prior year's sticker, if any. 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.

Proposed locations shall be approved on a first come, first serve basis by the Commissioner. No preference shall be given to applicants who might have had newsracks in a particular location prior to the effective date of this ordinance.

h. Denial of Certificate of Compliance. If an application for a newsrack location is 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. 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 within 30 days of such denial by requesting in writing to the Commissioner an appearance before the Commissioner to review said denial. The appeal shall be heard within twenty days of receipt of the appeal.

The decision on the appeal shall be sent to the applicant within five (5) days after the hearing. Any such appeal shall be subject to the Massachusetts Administrative Procedures Act, G.L. c. 30A.

i. The Commissioner reserves the right to order by written notice to the certificate holder that newsracks be removed from an approved location, either temporarily or permanently, in the interests of public safety.

Section 3. Fees.

a. There shall be a certificate of compliance fee in the amount of two hundred (\$200.00) dollars paid to the City. This fee shall be due upon initial application and upon each annual renewal.

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 certificate of compliance fee is waived if previously paid.

c. In addition to the certificate of compliance fee, an annual fee of ten (\$10.00) dollars per newsrack authorized shall be paid to the City to offset the City's cost of monitoring compliance with this ordinance.

d. Where the Commissioner has required newsracks to be set in clustered boxes, corrals, or at hitching posts pursuant to Section 4.b below, additional fees may be imposed by the Commissioner on certificate holders to offset the City's costs for each such cluster box, corral or hitching post used by such certificate holder.

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 so placed shall face the sidewalk, not the street. 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 or handicapped ramp; 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, or any disabled parking space, 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.

b. The Commissioner may designate areas in the City in which newsracks may only be located if they meet specific requirements as to size, shape and color, such requirements to be set by the Commissioner by regulation. For example, the Commissioner may require that newsracks at a particular location be the same size, shape and color and set in immovable clustered boxes; the Commissioner may require that newsracks at a particular location be set within an open-ended corral installed by the City; and the Commissioner may require that newsracks at a particular location be chained to each other and to a permanent hitching post installed by the City.

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.

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 eight (8) 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, Maintenance, and Delivery Time.

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

a. Each newsrack shall prominently display the Newsrack Sticker issued by the Commissioner pursuant to the provisions of this Ordinance.

b. Each newsrack shall be:

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

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
4. the clear glass or plastic parts thereof, if any, through which the printed material is being dispensed 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.

d. Delivery of papers to newsracks shall not be made:

1. in commercial areas, between the hours of 9:00 p.m. and 4:30 a.m.;
2. in residential areas, between the hours of 9:00 p.m. and 6:00 a.m. on weekdays, and between 9:00 p.m. and 8:00 a.m. on weekends and holidays.

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 seventy-two (72) hours after the release of the current issue, the Commissioner 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 than 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 Commissioner. Upon a determination that a violation of any provision of this Ordinance exists the Commissioner shall notify the Certificate Holder of the violation in writing by first class mail. The notice shall include:

- (a) the Newsrack Sticker and 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.

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 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 (4) 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 8 of this Ordinance shall be deemed "abandoned property" and become the property of the City of Cambridge.

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 for removal and storage of such newsrack. Unpaid fees accrued pursuant to this Section 9 shall be considered a debt payable to the City.

Section 10. Regulations.

The Commissioner may, with the approval of the City Manager, 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 reason by any court, the 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.



City of Cambridge

In the Year One Thousand, Nine Hundred Ninety Eight.

AN ORDINANCE

In amendment to the ordinance entitled "Municipal Code of the City of Cambridge."

Be it ordained by the City Council of the City of Cambridge as follows:

That Title 5 entitled "Business Licenses and Regulations be amended by adding a new chapter 5.50 entitled "Standardizing the Placement and Maintenance of Newsracks."

Passed to a second reading at the City Council meeting held on December 7, 1998 and on or after December 21, 1998 the question comes on passing to be ordained.

ATTEST:-

D. Margaret Drury
D. Margaret Drury
City Clerk

NOTE: Pursuant to the provisions of General Laws, chapter 40, Section 32A, Tercentenary Edition, the ordinance as aforesaid which exceeds in length eight octavo pages of ordinary book print may be summarized for publication in a newspaper of general circulation in the city with the further provision that said Zoning ordinance may be examined and obtained at the City Clerk's Office during office hours and that any objection to its invalidity by reason of any defect in the procedure of adoption may only be made within ninety days after the posting or the second publication.

Mr. Cahon state that with respect to the modular units the Globe has First Amendment objections because there are certain "premiere spots" on the module that everyone will want. This is a First Amendment problem.

Bill Windsor, USA Today, resident of 50 Porter Road, Boxford, spoke in support of corrals, which are used in Philadelphia. He submitted pictures of the corrals. (Attachment C)

Councillor Russell asked whether the corrals resulted in improvement in appearance. Mr. Windsor stated that they do.

Councillor Sullivan asked about the cost. Mr. Windsor said that it costs \$300 - \$400 for a four-unit corral. Councillor Sullivan asked who pays for them. Mr. Windsor stated that in New York City the neighborhood group bought them. In San Francisco, the vendors pay for them.

Councillor Sullivan asked if other cities are contemplating corrals. Mr. Windsor stated that there are several cities with corrals.

Councillor Sullivan asked if USA Today pays a fee anywhere in the country. Mr. Windsor answered in the negative. In response to a question from Councillor Sullivan, Mr. Windsor stated that USA Today has twenty boxes in Cambridge. Mr. Rossi stated that the city staff have had a series of meetings with representatives of various newspapers. There was no indication of willingness by the newspapers to pay for these corrals. The corrals work in several areas of the city, but in places like MIT, the city couldn't use a corral; it would need a ranch!

Mr. Rossi added that staff would like to reach a compromise that would improve appearance in some areas of the city without overly restricting newspapers.

Chuck Silverston, Just Publications, Brookline, stated his organization publishes and distributes free magazines. He said that newsboxes are sometime unfairly blamed for all of the trash. He also recommended modifying the proposed permitted delivery times because it is safer to deliver at night. He stated that the fees are unfair to small business. He spoke in support of corrals.

Dean Wallace, 17 Pearl Street, Norwalk, Connecticut, stated that he publishes Editorial Humor. Although there are twenty-seven newsboxes in front of MIT, they are not in anybody's way and are not doing any harm. They represent democracy in action and capitalism at its best. He is willing to work with the city on voluntary solutions. He showed pictures of Coolidge Corner and Downtown Crossing in Boston. The Boston law cost him \$160,000 in signed contracts for advertising on the side of his boxes.

Councillor Russell asked Mr. Wallace how many boxes he has in Cambridge. Mr. Wallace said that he has about sixty boxes. The papers cost fifty cents each. He requested that the proposal be withdrawn. He has heard nothing about the proposal until just recently.

Councillor Sullivan stated that the Globe's letter makes light of the Americans for Disabilities Act. He pointed to the following paragraph in Catherine Henn's letter:

"Section 6(b)(5) requires that newsracks be 'handicapped accessible'. That term is not defined. Presumably this wording does not require a newsrack be made accessible to a person with little or no use of his arms."

Councillor Sullivan stated that there are many places, like the corner of Mount Auburn Street and Putnam Avenue where there is a danger to pedestrians, especially children.

Mr. Rossi stated that the city staff have had a good ongoing dialogue with the newspapers. Councillor Davis stated that she is very concerned that the requirement of space back from crosswalks is only five feet. She emphasized that her biggest concern is safety on the sidewalks. She stated that she likes the idea of corrals.

Councillor Davis stated that the complaint about a \$150 fee over the lifetime of the box is outrageous. There is no possibility that \$150 covers the costs to the City of having that box.

Councillor Born stated that she does not believe that this is what Thomas Jefferson had in mind when he drafted the First Amendment. In a city with Historic Districts that regulate minute details about the appearance of the owners' homes, it is hard to believe that anyone can seriously argue that the City should not be concerned with the visual blight of twenty-seven newsboxes in a row.

Councillor Sullivan moved that the proposed ordinance to the full City Council for adoption. The motion passed without objection.

Councillor Davis thanked those present for their attendance. The hearing adjourned at 7:15 PM.

For the Committee,

A handwritten signature in black ink, appearing to read "Henrietta Davis", written in a cursive style.

Councillor Henrietta Davis, Chair

The Boston Globe

PO Box 2378, Boston, MA 02107-2378

B

Catherine E.C. Henn
Vice President
Corporate and Legal Affairs
Tel: 617-929-2896
Fax: 617-929-7050
henn@globe.com

November 10, 1998

Councillor Henrietta Davis
Chairperson, City Council Ordinance Committee
City of Cambridge
City Hall
795 Massachusetts Avenue
Cambridge, MA 02139

Re: Draft of Proposed Newsrack Ordinance

Dear Ms. Davis:

This letter, being delivered to you and the members of the Ordinance Committee by Stephen Cahow, Circulation Director, of Globe Newspaper Company, publisher of *The Boston Globe* (the "Globe"), sets forth the Globe's comments concerning the draft of a proposed newsrack ordinance (the "Proposal") which the Committee will be considering tonight.

With changes which I will address below, the Proposal is virtually identical to the ordinance that the City of Boston adopted on December 4, 1996, with which the Globe had minimal quibble in the form it was adopted. In the about two years since, the Globe has found the Boston ordinance workable and nonburdensome.

Consequently, the following provisions of the Proposal are perfectly acceptable to the Globe: (1) the certification of compliance procedures set forth in Section 2, (2) the placement standards set forth in Section 4 (with one exception), (3) attachment to property prohibitions set forth in Section 5, (4) the advertising prohibitions set forth in Section 6, (5) the installation and maintenance requirements set forth in Section 7(b) and (c), and (6) the enforcement provisions set forth in Section 8 (with one minor exception). Indeed, these provisions are quite similar to provisions in ordinances adopted by other cities, including Boston.

There are several provisions of the Proposal, however, which James Heigham, counsel to the Massachusetts Newspaper Publishers Association, and I believe raise the following legal issues:

1. The annual fees of \$200 plus \$10 for each newsrack established in Section 3 may well be unconstitutional if they exceed the cost to the city for administering the program and in effect are licensing fees. See Chicago Newspaper Pub. Assoc. v. Wheaton, 697 F. Supp. 1464, 1471-2 (ND III 1988). You should know that Boston originally proposed a fee structure consisting of a one-time only fee of \$150 plus an annual fee of \$15 per newsrack, but when this concern was raised, adopted a one-time only fee of \$150 per publisher.

2. Section 7d setting forth specific delivery times for delivery of newspapers simply does not work as a business matter. Moreover such restrictions may well be unconstitutional, particularly, in commercial areas. See Mass Fair Share v. Town of Rockland, 610 F. Supp. 682, 690 (D. Mass 1985). Certainly such time limitations would be unconstitutional unless Cambridge prohibits all other non-emergency truck deliveries during the same hours.

3. Section 6(b)5) requires that newsracks be "handicapped accessible." That term is not defined. Presumably this wording does not require a newsrack be made accessible to a person with little or no use of his arms.

4. The Proposal contains two sections, Sections 3(d) and 4(b), which have been added to the version of the Proposal which was considered by the Ordinance Committee at its meeting on November 19, 1997, when it last addressed this issue. These sections read as follows:

Section 3(d)

"Where the Commissioner has required newsracks to be set in clustered boxes, carrels or at hitching posts pursuant to Section 4(b) below additional fees may be imposed by the Commissioner on certificate holders to offset the City's costs for each such cluster box, carrel or hitching post used by such certificate holder."

Section 4(b)

"The Commissioner may designate areas in the City in which newsracks may only be located if they meet specific requirements as to size, shape and color, such requirements to be set by the Commissioner by regulation. For example, the Commissioner may require that newsrack at a particular location be the same size, shape and color and set in movable clustered boxes; the Commissioner may require that newspaper at a particular location be set within an open-ended carrel installed by the City; and the Commissioner may require that the newsracks at a particular location be chained to each other and to a permanent hitching post installed by the City."

Cambridge city officials appear not have given much attention to numerous legal and operational issues which "clustered boxes" or modular newsracks present.

The Ordinance Committee should be aware of the difficulties which modular units have created in other cities. Although the city may have heard that projects using modular newsracks are "underway" in New York, Chicago, San Francisco and Boston, progress on these projects has been limited.

In New York, the Grand Central Partnership ("GCP"), a business improvement district, has paid the costs of the modular unit program in Manhattan; the program is not supported by legislation but is the result of a limited voluntary agreement and

includes no advertising on the backs of the modular units. The Globe understands according to figures obtained from a reliable source, the annual operating cost is several hundred thousand dollars, excluding the costs of purchasing, maintaining and servicing the individual publishers' cabinets.

In Chicago, the Mayor's Office began to put the modular program together somewhat hastily after a trip to the U.S. Conference of Mayors in San Francisco. Mayor Daley's actions resulted in a lawsuit brought by the Chicago dailies and several local weekly newspapers. A federal district court judge granted the publishers' motion for a temporary restraining order, and that lawsuit is now in abeyance. Eight modular units are installed at the lower end of Michigan Avenue on an experimental basis. The case was dismissed without prejudice, with leave to return to the same judge in the event the disagreements cannot be settled by the parties after this experiment.

San Francisco's plan is supported by an ordinance and a bid has been awarded to a New York City-based company that has never built or operated newspaper racks, according to a recently published report in the *Editor & Publisher* magazine. The same article reports that the plan is "ensnared in bickering between the Department of Public Works and newspapers over the makeup of the committee overseeing the changeover and the enabling ordinance itself." Based on the information the Globe has, it is not yet clear that this plan will move forward.

Boston is in the process of issuing a request for proposals to supply street furniture, i.e., toilets, bus shelters, news kiosks and newspaper modular units, but has not yet addressed the issues raised by modular units.

Turning to the legal issues raised by Cambridge's Proposal, it is settled law that local ordinances that require publishers to obtain licenses or permits for their newsracks are unconstitutional when the ordinances vest too much discretion to local officials. Plain Dealer Publishing Co. v. City of Lakewood, 486 U.S. 750 (1988). Miami Herald Publishing Co. v. City of Hallandale, 734 F.2d 666 (Eleventh Circuit 1984). Sentinel Communications Co. v. Watts, 936 F.2d 1189 (Eleventh Circuit 1991). Compare Graff v. Chicago, 9 F.3d 1309 (Seventh Circuit 1993) (newsstand licensing guidelines sufficient). The quoted sections of the Proposal contemplate that there be delegated to the Commissioner of Public Works authority to devise regulations pertaining to the placement, design and color and rental costs of modular units, corrals or hitching posts. Even if such delegation does not run afoul of this principle, the Globe urges the Ordinance Committee to consider whether it is wise to delegate decision making where constitutional issues are at stake. Under the constraints imposed by First Amendment any municipality is given the limited power to impose reasonable time, place and manner regulations on distribution of newspapers, so long as the regulation directly and narrowly advances significant government interests, does so on content-neutral basis and leaves open ample alternative means of distribution. See, e.g., Lovell v. City of Griffin, 303 U.S. 444 (1938); Perry Education Ass'n v. Perry Local Educators' Ass'n, 460 U.S. 37, 45 (1983); City of Lakewood v. The Plain Dealer Publishing Co., 486 U.S. 750 (1988). The most

difficult regulatory issue modular units present is how the limited spots in the modular units will be allocated without running afoul of the content neutrality requirement imposed on government by the First Amendment. See City of Cincinnati v. Discovery Network, Inc. 507 U.S. 410 (1992).

Clearly modular units present an unattractive set of legal problems. Moreover, although they have a facial appeal to some people, they create serious operational disadvantages to publishers, the city, readers and pedestrians. For example:

- Modular units can be expensive, ranging from \$3,500 to \$13,000 apiece. It is not clear how the City would finance such units. The Globe would object to bearing the costs and would point out that modular units in New York were purchased by the quasi - governmental entity.
- The City will have to address by whom the modular units will be maintained and how the maintenance costs will be allocated.
- Modular units are very large installations which create tall, heavy barricades on the street that can't easily and quickly be moved, as individual newsracks can be.
- Newspaper distribution requires flexibility; publishers literally follow their readers to many different places in the public forum. Modular units assume, incorrectly, that publishers should all distribute from the same location all the time.
- It is very hard to let readers know, from any distance, which newspapers are offered from a modular unit. As a result, readers may not use modular units as much as they would use individual newsracks.

In light of the above, the Globe suggests that the Ordinance Committee consider recommending to the City Council approval of the Proposal (a) without Sections 3(d) and 4(b) and (b) modified to fix the legal issues raised by its fee structure, delivery time limitations, etc. discussed above. Then the City and the newspapers can work together to effectively implement the Proposal as so changed. The City may find that effective administration of the Proposal may alleviate the problems of too many newsracks, many of which are not properly maintained, clustered together.

In addition the Globe would be willing to experiment with the City in utilizing carrels or corrals in a limited number of locations.

Corrals have flexibility, smaller size, a lower price tag, and an orderly appearance to their advantage. They are in use the Globe understands, in Center City, Philadelphia and Indianapolis, where many newspapers have participated in their use. A corral is a three-sided post and rail arrangement, designed to fit multiple industry standard newsracks, hence the name "corral." When necessary, newsracks can be further secured by unobtrusive attachment to the back rail.

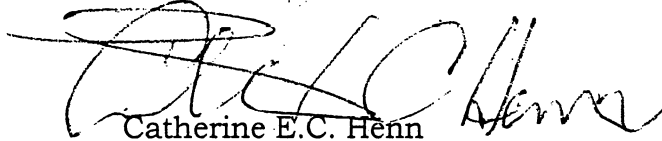
Corrals are flexible. They can be manufactured to accommodate a varying number of newsracks, and be changed in size to respond to the demand at any particular location. The demand for newspapers can change and frequently does, depending on pedestrian traffic patterns and the presence or absence of certain businesses. Placed at sensible distances apart, the corral eliminates long barriers and tall "walls" of newsracks which would be created by modular units.

The style of the post and rail can be designed to fit Cambridge's aesthetic scheme and can be manufactured by any competent local iron work company. However, any style corral will always create a neater, more contained appearance. And, the use of the corral will highlight the "outlaw" placement of any newsrack not in compliance with an ordinance, making enforcement easier.

The corral will allow the use of many industry-standard newsracks (50" x 24"), allowing most publishers to continue using the same sturdy, well-built, easily-cleaned metal newsracks now in use. Not only will this drastically reduce the cost for publishers, it will allow publishers to continue to display their trademarks on their own newsracks. Trademark logos and colors used on the newsrack identify the newspaper to its readers. It should go without saying that trademarks are as important to publishers as trademarks are to any business.

If you or other city officials have further questions, please feel free to contact me.

Sincerely yours,



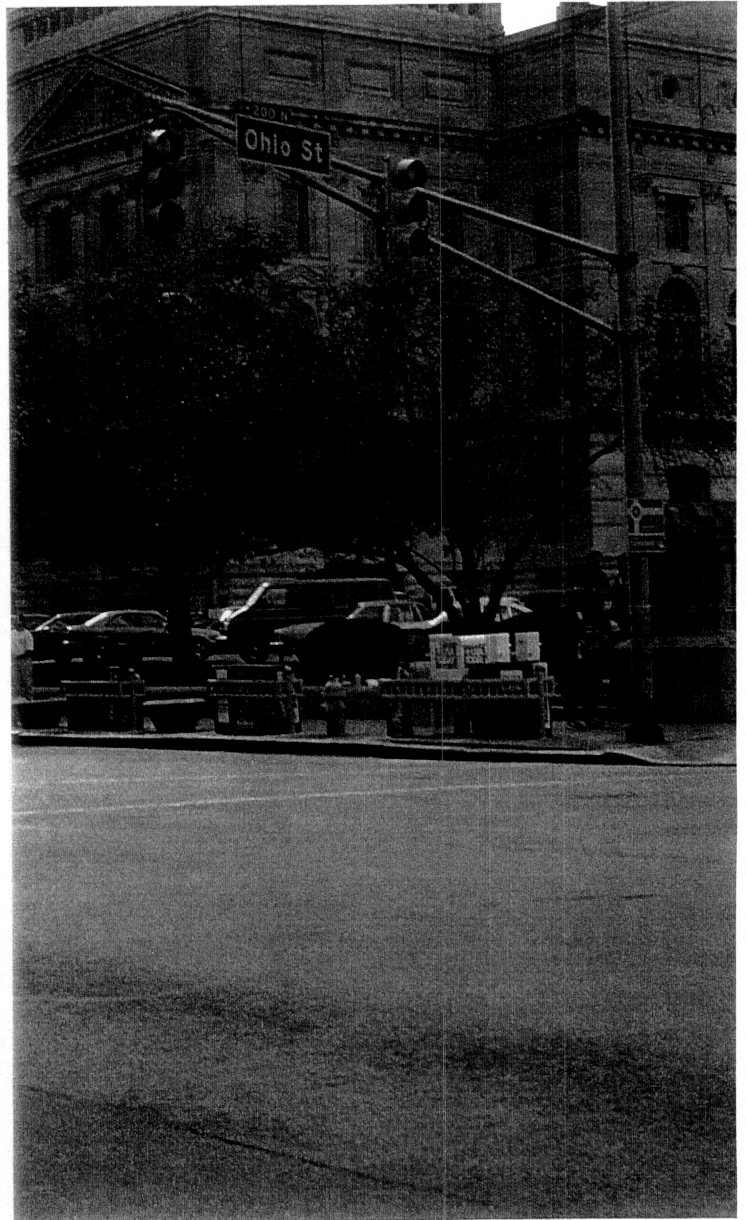
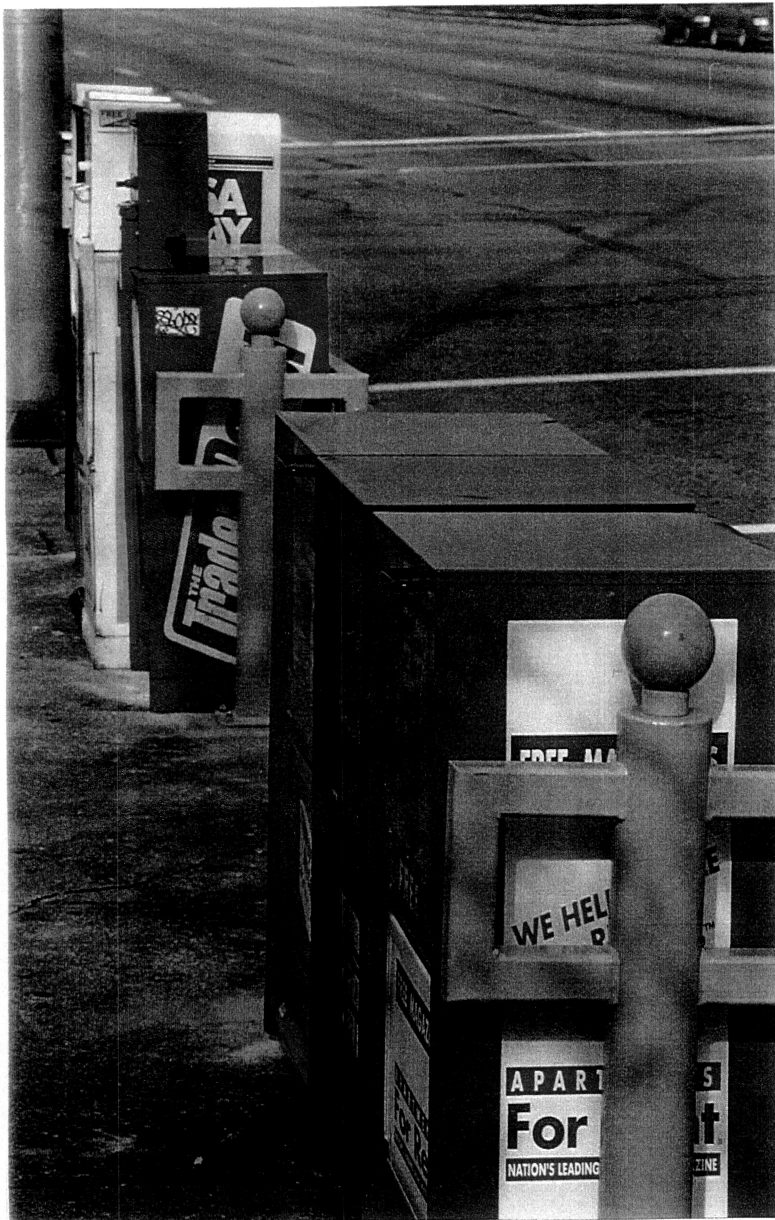
Catherine E.C. Henn

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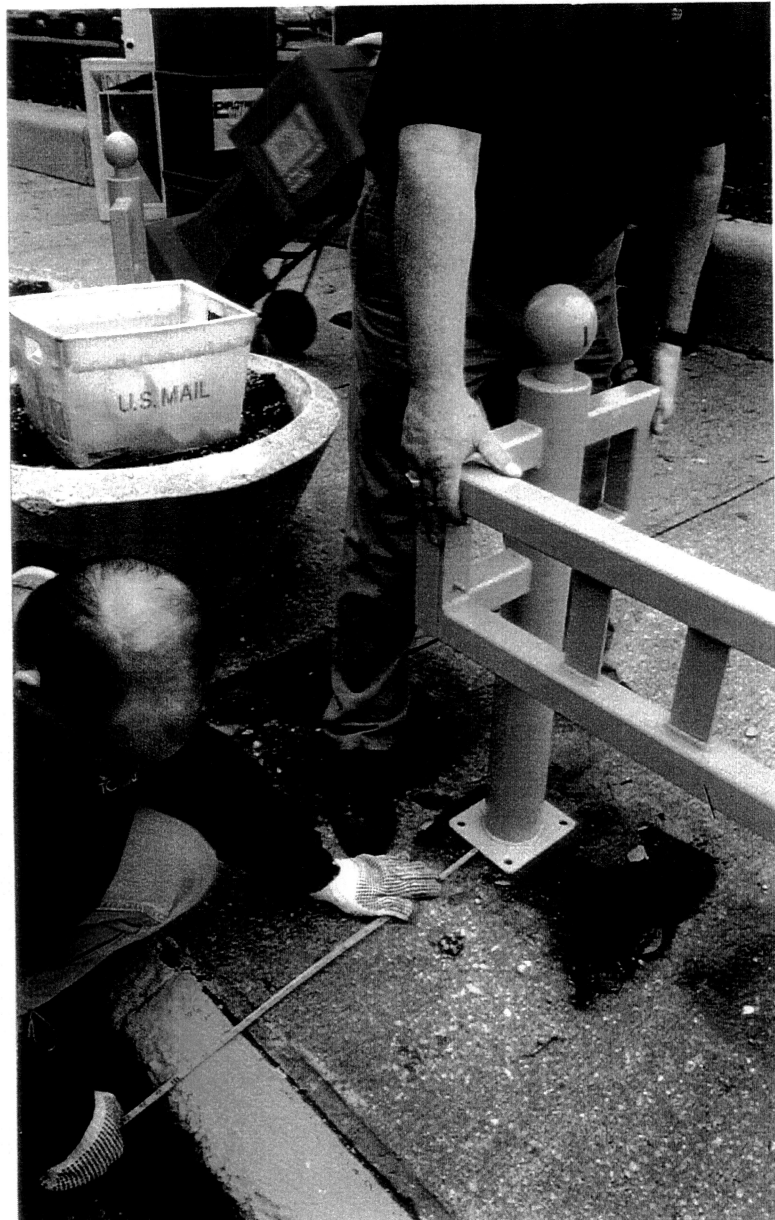
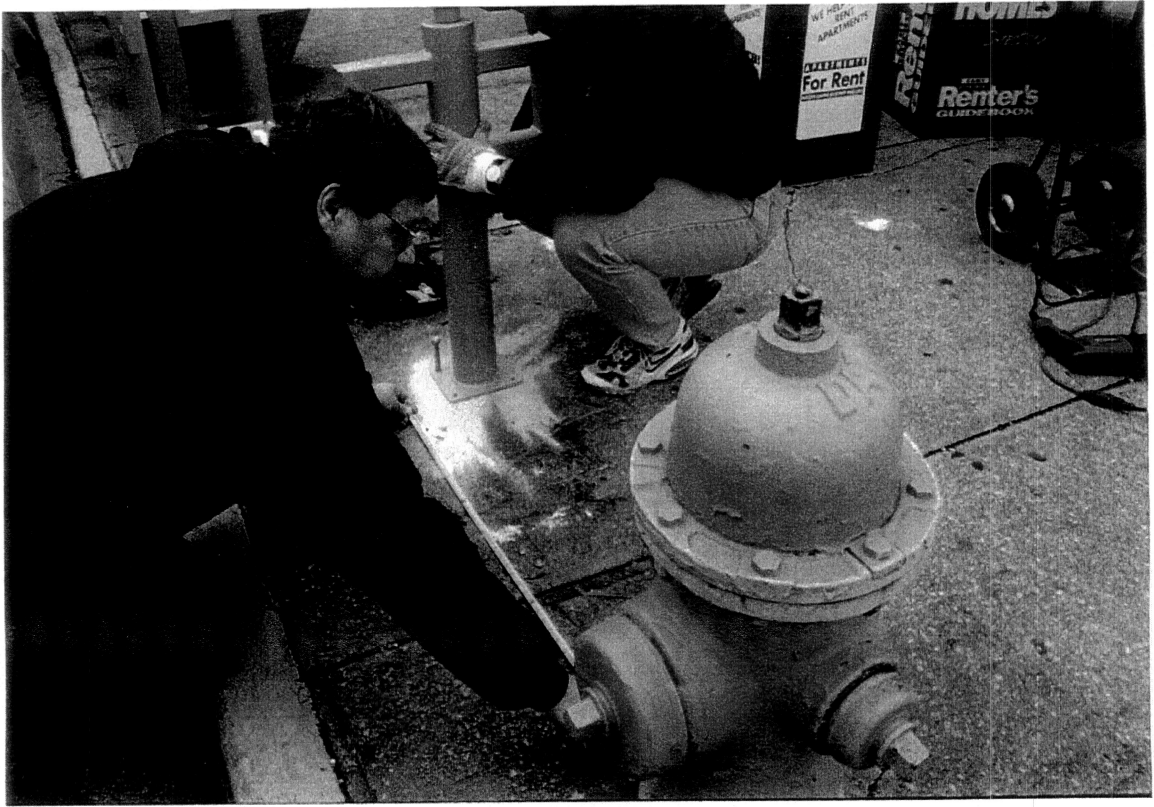
cc: James Heigham, Esq.













City of Cambridge

In City Council December 7, 1998

The Ordinance Committee held a public meeting on November 10, 1998, beginning at 6:05 PM in the Sullivan Chamber for the purpose of receiving an update on staff work toward the regulation of newsboxes.

Present at the meeting were Councillor Henrietta Davis, Chair of the Committee, Councillor Kathleen Leahy Born, Councillor Sheila T. Russell, Councillor Michael A. Sullivan, and City Clerk D. Margaret Drury. Also present were Richard Rossi, Deputy City Manager, Attorney Arthur Goldberg, City Solicitor's Office; Ralph Dunphy, Commissioner of Public Works and other city staff.

Councillor Davis convened the hearing and explained the purpose. She invited Arthur Goldberg, Legal Counsel, City Solicitor's Office to make a presentation on the new version of the proposed ordinance to regulate newsboxes. (Attachment A) Mr. Goldberg stated that the ordinance is similar to the ordinance adopted by the City of Boston. He explained that after the last Ordinance Committee meeting, city staff met several times with several publishers to try to reach an agreement. They do not yet have agreement on all of the issues.

Councillor Born asked why the boxes cannot be banned. Attorney Goldberg stated that courts have ruled that they are protected by the First Amendment. Sidewalks are considered quintessential public forums. Newsboxes can be regulated for safety, aesthetics etc., but not banned.

Attorney Goldberg then reviewed the provisions of the ordinance. The ordinance provides for a certificate of compliance to be renewed annually. A newsbox cannot be located within the city without a certificate of compliance. The certificates are issued by the Commissioner of Public Works. The fee is a one-time \$200 fee for the certificate, with an additional annual \$10 fee for each newsbox. The Commissioner may designate areas in the city where the news racks must meet certain requirements as to size, shape and color. Councillor Davis then invited public testimony.

Steven Cahon, Boston Globe, resident of 7 Wagon Wheel Road, Amherst, submitted a letter (Attachment B) and summarized it. He stated that the Globe has no objection to several of the provisions, which are similar to the Boston Ordinance. The Globe objects to the fees. It finds them to be too high. The Globe also objects to Section 7d., which limits delivery hours.

Committee Report #3

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120

A report from Councillor Davis,
Chair of the Ordinance Committee,
for a meeting held on November 10, 1998
for the purpose of receiving an
update on staff work toward the
regulation of newsboxes.

2/22/99

Passed to be Ordained
as amended
9-0-0.

In City Council December 7, 1998

Substituted text passed to
a 2nd Reading on motion
of C. Davis.

12/14/98

No Action Taken