



CITY OF LONG BEACH

DEPARTMENT OF COMMUNITY DEVELOPMENT

6.

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BELMONT SHORE PARKING AND BUSINESS IMPROVEMENT AREA ADVISORY COMMISSION MEMBERS
City of Long Beach
California

SUBJECT: Receive and File Report on Newsrack Violations

DISCUSSION

Regulations pertaining to newsracks are contained in Municipal Code Chapter 14.20 ("Newsracks"). This section details provisions regarding the physical parameters of the newsracks, their placement, and standards for maintenance, requiring that "newsracks be maintained in a clean, neat and attractive condition and in good repair at all times." In addition, the Municipal Code details mechanisms for correcting or removing newsracks in violation of the Code, and the appeal process for newsrack operators.

Section 14.20.200 contains additional provisions for newsracks in Belmont Shore, detailing physical parameters and a specific manufacturer or an approved equal as determined by the city engineer. These Belmont Shore specific provisions will expire on July 1, 2009, unless extended.

The Department of Public Works administers and enforces the regulations related to newsracks. On May 22, 2009, 52 violation notices were posted on newsracks in Belmont Shore, with follow-up notices mailed approximately June 5. Representatives from the Public Works Department will be available discuss this issue at the June 18 meeting.

RECOMMENDATION

Receive and File Report on Newsrack Violations.

Attachment: Municipal Code Chapter 14.20 ("Newsracks")

Chapter 14.20 NEWSRACKS

Sections:

- 14.20.010 Definitions.
- 14.20.020 Roadway obstruction prohibited.
- 14.20.030 Obstruction of sidewalk use prohibited.
- 14.20.040 Placement regulations.
- 14.20.050 Identification required.
- 14.20.060 Violation--Removal.
- 14.20.070 Violation--Restoration to compliance.
- 14.20.080 Appeal--Director of public works.
- 14.20.090 Appeal--City council.
- 14.20.100 Violation--Summary removal.
- 14.20.200 Belmont Shore pilot program area--Additional requirements.
- 14.20.210 Downtown pilot program area.
- 14.20.220 Naples Island pilot program area--Additional requirements.
- 14.20.300 Queens Way Bay newsrack program area--Additional requirements.

14.20.010 Definitions.

- A. For the purposes of this chapter, the terms "exhibit", "harmful matter", "knowingly", "matter", "minor", and "person" shall each have that definition ascribed to it in California Penal Code section 313, as it may be amended from time to time.
- B. "Newsrack" means any self-service box or container installed or located in the public right-of-way and intended to be used for the distribution of printed material, with or without charge. A newsrack may be a single unit or a publication container which rests on or is affixed to the uppermost surface of a newsrack base.
- C. "Newsrack base" means a pedestal or other device on which a publication container rests or is affixed.
- D. "Parkway" means that area between the sidewalks and the curb of any street, and where there is no sidewalk, that area between the edge of the roadway and the property line adjacent thereto. Parkway also includes any area within a roadway which is not open to vehicular travel.
- E. "Pilot program", for the purposes of this chapter, means a temporary program in a defined area which is subject to periodic review by the city council.
- F. "Roadway" means that portion of a street improved, designed or ordinarily used for vehicular travel.
- G. "Sidewalk" means any surface provided for the exclusive use of pedestrians.
- H. "Street" means all that area dedicated to public use purposes and includes, but is not limited to, roadways, parkways, alleys and sidewalks.
- I. "Standard pilot program newsrack" means a newsrack which meets the standards set for a pilot program.

(Ord. C-7929 § 1, 2004).

14.20.020 Roadway obstruction prohibited.

No person shall install, use or maintain any newsrack or other structure which projects onto, into or over any part of the roadway of any public street, or which rests, wholly or in part, upon, along or over any portion of the roadway of any public street.

(Ord. C-7929 § 1, 2004).

14.20.030 Obstruction of sidewalk use prohibited.

No person shall install, use or maintain any newsrack which in whole or in part rests upon, in or over any public sidewalk or parkway, when such installation, use or maintenance endangers the safety of persons or property, or when the site or location is used for public utility purposes, public transportation purposes or other governmental use, or when the newsrack interferes with or impedes the flow of pedestrian or vehicular traffic, including any legally parked or stopped vehicles, the ingress into or egress from any residence or place of business, or the use of poles, posts, traffic signs or signals, hydrants, mailboxes, or other objects permitted at or near the location, or when the newsrack interferes with the cleaning of any sidewalk by the use of mechanical sidewalk cleaning machinery.

(Ord. C-7929 § 1, 2004).

14.20.040 Placement regulations.

Any newsrack which in whole or in part rests upon, in or over any public street, shall comply with following standards:

A. No newsrack shall exceed five feet (5") in height, thirty inches (30') in width, or two feet (2") in thickness.

B. Newsracks shall only be placed near a curb or adjacent to the wall of a building. Newsracks placed near the curb shall be placed no less than eighteen inches (18") nor more than twenty four inches (24") from the edge of the curb. Newsracks placed adjacent to the wall of a building shall be placed parallel to the wall and not more than six inches (6") from the wall. No newsracks shall be placed or maintained on the sidewalk or parkway opposite a newsstand or another newsrack.

C. No newsrack shall be chained, bolted or otherwise attached to any property not owned by the owner of the newsrack or to any permanently fixed object, except with the written permission of the owner of such property or permanently fixed object.

D. Newsracks may be chained or otherwise attached to one another; however, no more than three (3) newsracks may be joined together in this manner, and a space of no less than eighteen inches (18") shall separate each group of three (3) newsracks so attached. For the purposes of determining how many newsracks may be attached to one another or placed adjacent to one another, the following shall apply:

1. Each unit consisting of one publication container and one newsrack base, or incorporating both functions in one unit, shall be considered one newsrack.

2. Two (2) publication containers stacked vertically and sharing one (1) newsrack base shall be considered one (1) newsrack.

3. If two (2) or more publication containers are joined horizontally, each publication container shall be considered to be one (1) newsrack.

E. No newsrack or group of attached newsracks allowed under subsection 14.20.040.D shall weigh, in the aggregate, in excess of one hundred twenty-five (125) pounds when empty.

F. Notwithstanding the provisions of section 14.20.020, no newsrack shall be placed, installed, used or maintained:

1. Within three feet (3") of any marked crosswalk;

2. Within fifteen feet (15") of the curb return of any unmarked crosswalk;

3. Within three feet (3") of any fire hydrant, fire call box, police call box or other emergency facility;

4. Within three feet (3") ahead of, and fifteen feet (15") to the rear of any sign marking a designated bus stop;
 5. Within three feet (3") of any bus bench;
 6. At any location whereby the clear space for the passageway of pedestrians is reduced to less than six feet (6");
 7. Within one foot (1") of any area improved with lawn, flowers, shrubs or trees or within one foot (1") of any display window of any building abutting the sidewalk or parkway or in such manner as to impede or interfere with the reasonable use of such window for display purposes.
- G. No newsrack shall be used for advertising signs or publicity purposes other than that dealing with the display, sale or purchase of the newspaper or news periodical sold therein.
- H. Each newsrack shall be maintained in a clean, neat and attractive condition and in good repair at all times. Cleaning and maintenance shall be performed in a manner which complies with all applicable laws and regulations.
- I. No person shall knowingly cause any publication offered for sale from a newsrack placed or maintained on a public street to be displayed or exhibited in a manner which exposes to public view by minors any harmful matter, as defined in Penal Code section 313, as it may be amended from time to time.

(Ord. C-7929 § 1, 2004).

14.20.050 Identification required.

Every person or other entity which places or maintains a newsrack on the streets of the city shall have his or its name, address and telephone number affixed thereto in a place where such information may be easily seen.

(Ord. C-7929 § 1, 2004).

14.20.060 Violation--Removal.

Any newsrack installed, used or maintained in violation of the provisions of this chapter may be removed and stored in any convenient place by the city manager or a city officer or employee designated by him, but only upon notice first served on the owner by attaching to the newsrack a written citation reciting the violation. Notice of the violation shall also be mailed to the owner at the address affixed to the newsrack in compliance with section 14.20.050. If the owner fails to cure the violation within seventy-two (72) hours of service of violation, or if the owner fails to request a hearing as provided in section 14.20.080, as to whether the newsrack is in violation of this chapter, the city manager or his designee shall remove and store the newsrack in a convenient place and notify the owner thereof. Upon failure of the owner to claim the newsrack and pay the expenses of removal and storage within thirty (30) days after such removal, the newsrack shall be deemed to be unclaimed property in possession of the police department and may be disposed of pursuant to the provisions of section 2.78.020.

(Ord. C-7929 § 1, 2004).

14.20.070 Violation--Restoration to compliance.

In the case of violations of the section relative to restrictions upon attachments of newsracks to property other than that owned by the owner of the newsrack, to fixed objects or each other, and upon location of newsracks, any public body or officer may, as an alternative to removal under section 14.20.060, remove the attachment and/or move the rack or racks in order to restore them to a legal condition.

(Ord. C-7929 § 1, 2004).

14.20.080 Appeal--Director of public works.

Any owner of a newsrack alleged to be in violation of this chapter may, within seventy-two (72) hours of service of notice of violation as provided in section 14.20.060, request in writing a hearing before the director of public works of the city or his designee for the purpose of determining whether the newsrack of the owner is in fact in violation of this chapter. The written request for hearing shall be filed with the director of public works within the time provided and the hearing thereon shall be conducted not less than five (5), nor more than ten (10) days following the date of filing the request for hearing. The director of public works or his designee shall notify the owner by mail of the time and place of the hearing. At the conclusion of the hearing, or within five (5) days thereafter, the director of public works or his designee shall find and determine from the facts established at the hearing whether or not the newsrack is in fact in violation of this chapter and is to be impounded. The director of public works or his designee shall notify the owner of his or her decision and order by mail if the decision is not made at the conclusion of the hearing and in the presence of the participants to the hearing.

(Ord. C-7929 § 1, 2004).

14.20.090 Appeal--City council.

Any owner may, within ten (10) days after the mailing of the notice of decision and order of the director of public works, appeal the decision and order to the city council in the manner provided in this section.

A. The appeal shall be in writing, shall state the legal and factual basis upon which the appeal is to be based and shall be filed with the director of public works. The director of public works shall forward the appeal, together with a copy of the decision and order, to the city clerk.

B. Upon receipt of the appeal and decision and order, the city clerk shall place the matter upon the agenda for the next meeting of the city council. Upon the filing of the appeal before the city council, the city council shall fix a time and place for the hearing on appeal. Such time shall be fixed for a day not later than thirty (30) days after the date of filing the appeal. A notice of the time and place of the hearing on appeal shall be sent to the owner or his or her designated agent.

C. At the hearing on appeal, the owner shall be given an opportunity to present competent, relevant and material evidence relating to the question as to whether or not the decision and order of the director of public works should be affirmed or reversed. The hearing on appeal shall be conducted in accordance with the provisions of chapter 2.93.

D. The decision of the city council may be rendered orally or in writing at the conclusion of the hearing or at any time thereafter, and the decision shall be final. In the event the decision is rendered at the hearing, no further notice thereof needs to be given to the owner or any other person. If the decision is not rendered at the hearing, written notice of the decision shall be mailed to the owner or his or her designated agent.

(Ord. C-7929 § 1, 2004).

14.20.100 Violation--Summary removal.

Any newsrack installed, used or maintained in violation of the provisions of sections 14.20.080 and 14.20.090 shall be summarily removed and stored in any convenient place by the city manager or a city officer or employee designated by him or her. Upon failure of the owner to claim the newsrack and pay the expenses of removal and storage within thirty (30) days after removal, the newsrack shall be deemed to be unclaimed property in possession of the police department and may be disposed of pursuant to provisions of section 2.78.020.

(Ord. C-7929 § 1, 2004).

14.20.200 Belmont Shore pilot program area--Additional requirements.

A. The Belmont Shore pilot program area consists of Second Street between the centerline of Livingston Avenue and the easterly line of Bay Shore Avenue, including the intersecting cross streets between those westerly and easterly limits, from Second Street to the nearest intersecting alley or street line, both northerly and southerly of Second Street.

B. In addition to the requirements set forth in sections 14.20.010 through 14.20.100 above, the following additional requirements shall apply in the Belmont Shore pilot program area:

1. The standard pilot program newsrack shall have a flat top surface and shall not exceed forty-eight inches (48') in height, twenty-five inches (25') in depth (perpendicular to the curbline) or twenty-five inches (25') in width (parallel to the curbline), either the publication container and newsrack base manufactured by the K-Jack Engineering Company, model series 50, or an approved equal publication container and newsrack base, as determined by the city engineer. The standard pilot program project newsrack shall be painted a color equivalent to K-Jack Engineering Company's "valley blue" (stock color number 3312). Nonconforming colors shall be limited to the display areas provided on the front and back of the standard pilot program newsrack.

2. The city engineer shall maintain and make available for inspection a list of newsracks determined to be approved equal products of the standard pilot program newsrack.

3. Newsracks within the pilot program area which do not conform to the requirements of this section at any time shall be subject to the enforcement provisions of this chapter.

4. Notwithstanding other references in this code to the prohibition of the fastening of equipment or structures to the public right-of-way, newsracks within the Belmont Shore pilot program area must be bolted to the sidewalk pursuant to the requirements and under the direction of the city engineer.

5. In the event of a conflict between the requirements of this section and the general requirements for newsracks contained elsewhere in this chapter, this section shall control in the Belmont Shore pilot program area.

C. This section shall cease to be of any effect on July 1, 2009 unless extended.

(ORD-08-0009 § 1, 2008; ORD-07-0028 § 1, 2007; ORD-06-0023 § 1, 2006; ORD-05-0017 § 1, 2005; Ord. C-7929 § 1, 2004).

14.20.210 Downtown pilot program area.

A. The downtown pilot program area consists of both sides of Pine Avenue between Ocean Boulevard and Seventh Street, and both sides of Ocean Boulevard between Golden Avenue and Shoreline Drive.

B. In addition to the requirements set forth in sections 14.20.010 through 14.20.100 of this chapter, the following additional requirements shall apply in the downtown pilot program area:

1. All newsracks within the downtown pilot program area shall be either the K-Jack 100 flat top model or an approved equal, and shall be mounted on a single, double or triple box tray. The box tray shall be mounted on a square column style base fixed to a flat platform with a maximum size of twenty-four inches by thirty inches (24' × 30') and shall be either K-Jack part number KJ-806 (known as the "Handi-Mount") or an approved equivalent. The total height of the assembly shall not exceed forty-eight inches (48'). The city engineer in his or her sole authority shall determine what constitutes an approved equal of the items specified in this section.

2. The city engineer shall maintain and make available for inspection a list of newsracks determined

to be approved equal products of the standard pilot program newsrack.

3. Notwithstanding other provisions in this section to the minimum spacing required between newsracks, in the downtown pilot program area, the minimum spacing between two (2) single newsracks, between a single newsrack and a group of newsracks, or between two (2) groups of newsracks shall be five feet (5').

4. Newsracks within the pilot program area which do not conform to the requirements of this section shall be subject to the enforcement provisions of this chapter.

5. Notwithstanding other references in this code to the prohibition of the fastening of equipment or structures to the public right-of-way, newsracks within the downtown pilot program area must be bolted to the sidewalk pursuant to the requirements and under the direction of the city engineer. Where the sidewalk is composed of shallow pavers on a sand base, newsracks shall not be bolted, but shall be placed on a self-supporting platform, all to the satisfaction of the city engineer.

6. In the event of a conflict between the requirements of this section and the general requirements for newsracks contained elsewhere in this chapter, this section shall control the downtown pilot program area.

C. This section shall cease to be of any effect on July 1, 2007, unless extended.

(ORD-06-0047 § 1, 2006: ORD-05-0016 § 1, 2005: Ord. C-7929 § 1, 2004).

14.20.220 Naples Island pilot program area--Additional requirements.

A. The Naples Island pilot program area consists of both sides of Second Street from the Toledo to Appian Way.

B. In addition to the requirements set forth in sections 14.20.010 through 14.20.100 of this chapter, the following additional requirements shall apply in the Naples Island pilot program area:

1. All newsracks within the Naples Island pilot program area:

a. Shall be K-Jack flat top model or an approved equal, and shall be mounted on a single pedestal;

b. Shall be limited to no more than two (2) groups of three (3), within forty-five (45) linear feet of the sidewalk; and

c. Each group of newsracks shall be separated by at least five feet (5').

2. The city engineer shall maintain and make available for inspection a list of newsracks determined to be approved equal products of the standard pilot program newsrack.

3. Newsracks within the pilot program area which do not conform to the requirements of this section at any time shall be subject to the enforcement provisions of this chapter.

4. Notwithstanding other references in this Code to the prohibition of the fastening of equipment or structures to the public right-of-way, newsracks within the Naples Island pilot program area must be bolted to the sidewalk pursuant to the requirements and under the direction of the city engineer. Where the sidewalk is composed of shallow pavers on a sand base, newsracks shall not be bolted, but shall be placed on a self-supporting platform, all to the satisfaction of the city engineer.

5. In the event of a conflict between the requirements of this section and the general requirements for newsracks contained elsewhere in this chapter, this section shall control the Naples Island pilot program area.

C. This section shall cease to be of any effect on December 31, 2009, unless extended.

(ORD-08-0037, § 1, 2008)

14.20.300 Queens Way Bay newsrack program area--Additional requirements.

- A. The Queens Way Bay newsrack program area consists of that area lying south of the south curb face of Shoreline Drive, east of the east curb face of Queens Way, west of the westerly boundary of the Shoreline Village lease area, and north of the water's edge, as shown on a map on file in the office of the city engineer.
- B. The following requirements shall apply in the Queens Way Bay newsrack program area:
1. The standard pilot program newsrack shall have a flat top surface and shall not exceed forty-eight inches (48') in height, twenty-five inches (25') in depth (perpendicular to the curb line) or twenty-five inches (25') in width (parallel to the curb line), either the publication container and newsrack base manufactured by the K-Jack Engineering Company, model series 50, or an approved equal publication container and newsrack base, as determined by the city engineer. The standard pilot program project newsrack shall be painted a color equivalent to K-Jack Engineering Company's "valley blue" (stock color number 3312). Nonconforming colors shall be limited to the display areas provided on the front and back of the standard pilot program newsrack.
 2. The city engineer shall maintain and make available for inspection a list of newsracks determined to be approved equal products of the standard pilot program newsrack.
 3. Notwithstanding other references in this Code to the prohibition of the fastening of equipment or structures to the public right-of-way, newsracks within the Queens Way Bay newsrack program area must be bolted to the sidewalk pursuant to the requirements and under the direction of the city engineer.
 4. In the event of a conflict between the requirements of this section and the general requirements for newsracks contained elsewhere in this chapter, this section shall control in the Queens Way Bay newsrack program area.
 5. In addition to complying with the placement regulations of section 14.20.040, newsracks within the Queens Way Bay newsrack program area shall be limited to the following locations:
 - a. On the sidewalk along the south side of Shoreline Drive, east of its intersection with Pine Avenue Circle, no less than sixty-five feet (65'), nor more than eighty-three feet (83') east of the easterly curb of Pine Avenue and its prolongation northerly, measured parallel to the Shoreline Drive curb, and no less than three feet (3'), nor more than five feet (5') from the edge of that curb.
 - b. On the sidewalk of the Pine Avenue Circle, easterly of the northerly prolongation of the east side of the boardwalk, and southwesterly of the nearest streetlight standard, no less than two feet (2'), nor more than four feet (4') from the edge of that curb.
 - c. On the westerly sidewalk of the Pine Avenue Circle, northerly of the easterly prolongation of the most southerly line of parcel 3 of parcel map 25804, and southerly of the nearest streetlight standard to the north, no less than two feet (2'), nor more than four feet (4') from the edge of that curb.
 - d. On the public sidewalk at the southwesterly intersection of Shoreline Drive and Pine Circle, easterly of the northwest edge of paving and northerly of the east-west edge of paving, at that intersection.
 - e. East of the edge of paving of that brick paved area south of the west end of the east branch of Aquarium Way (east of the circle fountain), and north of floating dock 2, lying between the two (2), two-walled utility enclosures, no more than eighteen feet (18') distant from, nor less than eight feet (8') distant from, the most westerly point of the east utility enclosure, and no more than four feet (4') distant from the edge of paving.
 - f. On the sidewalk along the north side of the west branch of Aquarium Way (west of the

circle fountain), westerly of the crosswalk leading from the southeast or main entrance to the Aquarium Circle parking garage, no more than fifteen feet (15') distant from the westerly line of that crosswalk, and no less than two feet (2'), nor more than four feet (4') from the edge of the curb.

g. On the sidewalk along the south side of the west branch of Aquarium Way (west of the circle fountain), westerly of the crosswalk leading from the southeast or main entrance to the Aquarium Circle parking garage, no more than twelve feet (12') distant from the westerly line of that crosswalk, and no less than two feet (2'), nor more than four feet (4') from the edge of the curb.

h. Northerly of the northeasterly wall of the Long Beach Anglers Building at Pierpoint Landing, such wall being concave northeasterly, and easterly of the main entrance, no more than three feet (3') from the surface of that northeasterly wall adjacent to the entrance.

i. At the circular stair terminus of the Promenade Bridge south of Shoreline Drive, adjacent to the northwesterly surface of the most southwesterly outer radial wall segment of the terminus, such wall segment bearing approximately south forty-five degrees (45%) west of the terminus center, no more than three feet (3') from the northwesterly surface.

j. At the circular stair terminus of the Promenade Bridge south of Shoreline Drive, adjacent to the northeasterly surface of the most southeasterly outer radial wall segment of the terminus, such wall segment bearing approximately south forty-five degrees (45%) east of the terminus center, no more than three feet (3') from the northeasterly surface.

(Ord. C-7929 § 1, 2004).