

ORDINANCE NO. C-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LONG BEACH AMENDING THE LONG BEACH MUNICIPAL CODE BY AMENDING CHAPTER 14.20 IN ITS ENTIRETY, RELATING TO NEWSRACKS

WHEREAS, the regulation of the placement and maintenance of newsracks is a matter of concern for the City Council of the City of Long Beach, and

WHEREAS, the City Council finds that the Downtown, Belmont Shore and Queensway Bay areas are each unique parts of Long Beach, containing features which attract visitors from all over Long Beach and surrounding cities; and

WHEREAS, residents, visitors and commercial activity contribute to both pedestrian and vehicular traffic in those areas; and

WHEREAS, a prior pilot program initiated in 1997 to regulate the appearance and location of newsracks, and a similar program in Queensway Bay have improved the appearance of those areas and have improved pedestrian and traffic safety by maintaining clearer sight lines for both pedestrians and drivers, and should be continued; and

WHEREAS, after receiving comments from the Downtown Long Beach Associates, City staff, and publication distributors, the City Council desires to enact a pilot program in the Downtown area, with requirements that create the same benefits for the Downtown area;

NOW, THEREFORE, the City Council of the City of Long Beach ordains as follows;

Section 1. Chapter 14.20 of the Long Beach Municipal Code is

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amended in its entirety to read as follows:

4.20.010 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.

1 I. "Standard pilot program newsrack" means a newsrack which
2 meets the standards set for a pilot program.

3
4 14.20.020 Roadway obstruction prohibited.

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

9
10 14.20.030 Obstruction of sidewalk use prohibited.

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

23
24 14.20.040 Placement regulations.

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

27 A. No newsrack shall exceed five feet (5') in height, thirty inches
28 (30") in width, or two feet (2') in thickness.

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

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

12 D. Newsracks may be chained or otherwise attached to one
13 another; however, no more than three newsracks may be joined
14 together in this manner, and a space of no less than eighteen inches
15 (18") shall separate each group of three newsracks so attached. For the
16 purposes of determining how many newsracks may be attached to one
17 another or placed adjacent to one another, the following shall apply:

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

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

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

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

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

- 3 1. Within three feet (3') of any marked crosswalk;
- 4 2. Within fifteen feet (15") of the curb return of any
5 unmarked crosswalk;
- 6 3. Within three feet (3") of any fire hydrant, fire call box,
7 police call box or other emergency facility;
- 8 4. Within three feet (3') ahead of, and fifteen feet (15') to
9 the rear of any sign marking a designated bus stop;
- 10 5. Within three feet (3') of any bus bench;
- 11 6. At any location whereby the clear space for the
12 passageway of pedestrians is reduced to less than six feet (6');
- 13 7. Within one foot (1') of any area improved with lawn,
14 flowers, shrubs or trees or within one foot (1') of any display window of
15 any building abutting the sidewalk or parkway or in such manner as to
16 impede or interfere with the reasonable use of such window for display
17 purposes.

18 G. No newsrack shall be used for advertising signs or publicity
19 purposes other than that dealing with the display, sale or purchase of
20 the newspaper or news periodical contained therein.

21 H. Each newsrack shall be maintained in a clean, neat and
22 attractive condition and in good repair at all times. Cleaning and
23 maintenance shall be performed in a manner which complies with all
24 applicable laws and regulations.

25 I. No person shall knowingly cause any publication offered for
26 sale from a newsrack placed or maintained on a public street to be
27 displayed or exhibited in a manner which exposes to public view by
28 minors any harmful matter, as defined in Penal Code Section 313, as it

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may be amended from time to time.

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.

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 designate 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.

14.20.070 Violation-Restoration to compliance.

In the case of violations of the section relative to restrictions upon

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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.

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 designate 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 nor more than ten days following the date of filing the request for hearing. The Director of public works or his designate 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 designate 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 designate shall notify the owner of his 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.

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

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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 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 designated agent.

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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. 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.

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 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-

1 Jack Engineering Company's "valley blue" (stock color number 3312).
2 Nonconforming colors shall be limited to the display areas provided on
3 the front and back of the standard pilot program newsrack.

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

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

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

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

19 C. This section shall cease to be of any effect on July 1, 2005,
20 unless extended.

21
22 14.20.210 Downtown pilot program area.

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

26 B. In addition to the requirements set forth in Sections 14.20.010
27 through 14.20.100 above, the following additional requirements shall
28 apply in the Downtown pilot program area:

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

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

14 3. Newsracks within the pilot program area which do not
15 conform to the requirements of this section shall be subject to the
16 enforcement provisions of this Chapter.

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

25 5. In the event of a conflict between the requirements of
26 this section and the general requirements for newsracks contained
27 elsewhere in this Chapter, this section shall control in the Downtown pilot
28 program area.

1 C. This section shall cease to be of any effect on July 1, 2005,
2 unless extended.

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4 14.20.300 Queensway Bay newsrack program area-Additional requirements.

5 A. The Queensway Bay newsrack program area consists of that
6 area lying south of the south curb face of Shoreline Drive, east of the
7 east curb face of Queens Way, west of the westerly boundary of the
8 Shoreline Village lease area, and north of the water's edge, as shown on
9 a map on file in the office of the city engineer.

10 B. The following requirements shall apply in the Queensway Bay
11 newsrack program area:

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

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

26 3. Notwithstanding other references in this municipal code
27 to the prohibition of the fastening of equipment or structures to the public
28 right-of-way, newsracks within the Queensway Bay newsrack program

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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 Queensway Bay newsrack program area.

5. In addition to complying with the placement regulations of section 14.20.040, newsracks within the Queensway 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 no. 25804, and southerly of the nearest streetlight standard to the north, no less than two feet nor more than four feet from the edge of that curb.

d. On the public sidewalk at the southwesterly intersection of Shoreline Drive and Pine Circle, easterly of the north-west edge of paving and northerly of the east-west edge of paving, at that intersection.

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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 fountain circle), and north of floating dock No. 2, lying between the two 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 said 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, said 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, said wall segment bearing approximately S 45o W of the terminus center, no more than three feet (3') from said northwesterly surface.

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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, said wall segment bearing approximately south forty five (45) degrees east of the terminus center, no more than three feet (3') from said northeasterly surface.

Sec. 2. The City Clerk shall certify to the passage of this ordinance by the City Council of the City of Long Beach and cause it to be posted in three conspicuous places in the City of Long Beach, and it shall take effect on the thirty-first day after it is approved by the Mayor.

I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Long Beach at its meeting of _____, 2004, by

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the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

City Clerk

Approved: _____
(Date)

Mayor

LPM:et
03/08/04; 06/04/04
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