

Sec. 62-151. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Distributor means any individual or business entity engaged in the dissemination of any publication utilizing a news rack located in the City of Key West, Florida.

News rack means any type of unmanned device, including any electronic, self-service or coin-operated box, container, storage unit or other dispenser, installed, used or maintained for the display and sale of newspapers or other written periodicals or for the vending or free distribution of newspapers or other periodicals.

Public rights-of-way means any dedicated or undedicated public street, highway, sidewalk, parkway or alley located in the City of Key West, Florida.

Roadway means that portion of a street improved, designed or ordinarily used for vehicular traffic.

Sidewalk means any service area provided for that part of a public right-of-way designed and ordinarily used for pedestrian travel.

Street means all of that area dedicated to public use for public traffic purposes and shall include but not be limited to roadways, parkways, alleys and sidewalks.

Sec. 62-152. - Purpose and criteria.

The purpose of this chapter is to promote the public health, safety and welfare through the regulation of placement, type, appearance, servicing and insuring of news racks on public rights-of-way so as to:

- (1) Provide for pedestrian and driving safety and convenience;
- (2) Restrict unreasonable interference with the flow of pedestrian or vehicular traffic including ingress into or egress from any residence or place of business, or from the street to the sidewalk by persons exiting or entering parked or standing vehicles;
- (3) Provide for public and property safety during severe weather conditions;
- (4) Provide reasonable access for the use and maintenance of poles, posts, traffic signals, hydrants, mailboxes and access to locations used for public transportation purposes;

- (5) Relocate and/or replace news racks which result in a visual blight and/or excessive space allocation on the public rights-of-way, or which unreasonably detract from the aesthetics of store window displays, adjacent landscaping and other improvements, as well as to have abandoned news racks removed;
- (6) Maintain and protect the values of surrounding properties and prevent damage to grass right-of-way areas;
- (7) Reduce unnecessary exposure of the public to personal injury or property damage;
- (8) Treat all newspapers equally regardless of their size, content, circulation, or frequency of publication;
- (9) Maintain and preserve freedom of the press;
- (10) Cooperate and coordinate with newspaper publishers.

Secs. 62-153---62-175. Reserved

Sec. 62-176. - Label required.

No person shall install, affix, erect, construct or maintain a news rack on the public right-of-way without first obtaining a registration label for each news rack.

Sec. 62-177. - Application.

- (a) An applicant shall file with the city manager, or designee, a written application for a news rack registration label which shall contain the following:
 - (1) The name of the newspaper or periodical to be contained in the news rack.
 - (2) The names, addresses, and telephone numbers of the publisher, distributor and the agent of either, if any, responsible for the news rack. If an agent is named, the address and telephone number of the agent shall be supplied.
 - (3) The total number of news racks to be registered and their locations (with street address) and the type or brand of news rack.
 - (4) A photograph of each news rack at its present site, if it is to be re-registered.
 - (5) A photograph that shows the sidewalk/streetscape of each proposed site for a new registration.
- (b) New permits shall be issued, upon application, each year as of October 1.
- (c) Applications for locations will be submitted no later than July 15 each year.

Sec. 62-178. - Indemnification.

Prior to the issuance of a news rack registration label by the city manager, or designee, the applicant shall furnish to the city manager, or designee, a written statement, in form satisfactory to the city attorney, whereby the distributor of the news rack agrees to indemnify and hold harmless the city, its officers, and employees from any loss, liability, or damage, including expenses and costs, for bodily or personal injury and for property damage sustained by any person as a result of the installation, use, maintenance and/or removal of a news rack within the city.

Sec. 62-179. - Fees.

~~A fee of \$5.00 shall be charged for each newsrack registration label issued. This fee shall be used to defray administrative expenses relating to the regulation of newsracks.~~

There shall be a one-time only application fee in the amount of twenty-five dollars (\$25.00) for each applicant plus a nonrefundable registration label fee of ten dollars (\$10.00) for each news rack registration label issued. Failed inspections are subject to a re-inspection fee of fifteen dollars (\$15.00). All of the above fees will be used to defray administrative and compliance expenses related to this ordinance.

Sec. 62-180. - Affixing label after issuance.

Upon issuance of a news rack registration label, the applicant shall permanently affix it to the news rack in a location that is readily visible either on the door or on the rear of the news rack, ensuring that the label number corresponds to the label number assigned to the news rack location on the application list.

Sec. 62-181. - Denial.

If an application for a news rack registration label shall be denied because of a defect in the application or the location, the applicant shall be notified thereof by the city manager, or designee, and shall be given the opportunity to correct the application or the location. No new or replacement news rack location shall be approved if four news racks exist already in that location, ~~or within 100 feet thereof.~~

Sec. 62-182. - Replacement procedure.

(1) If it becomes necessary to replace an existing labeled news rack, the distributor shall comply with the application procedure contained in this division. No news rack will be able to be put back, once removed, in a location that already has four news racks. In the event of more than four owners/publishers reapplying for the same location at the time of renewal, a lottery shall be held on the first Friday of September for the available locations. The city manager or designee shall devise a lottery system that ensures that all applicants have an equal opportunity to obtain a permit.

(2) If a distributor submits multiple publication applications for the lottery, the publication that is awarded the location in the lottery shall be placed at the location in a publications specific news rack.

~~(3) A distributor will not submit multiple applications for locations unless he/she has the inventory of news racks to place at a location.~~

~~(3) The lottery shall be conducted on _____, or at such date selected by the City Manager or designee that is as soon as practicable after that date. Should a news rack location awarded to a distributor through the lottery become available because the news rack at that location was abandoned, surrendered or was removed by the City pursuant to this ordinance, then a lottery shall be conducted for that location should more than one distributor apply to place a news rack at that location. Otherwise, the location shall be awarded to any distributor who complies with this ordinance.~~

Sec. 62-183. - Location requirements.

(a) No news rack shall be placed, installed, used or maintained in the right-of-way:

(1) Within ~~twelve (12) inches of the back of curb without parking, or~~ eighteen (18) inches of the back of curb with parking.

(2) At any location where the clear space for passageway of pedestrians would be reduced by the installation to an area of less than 36 inches.

~~(3) Within a triangle bounded by the curblines adjacent to the corner lot lines and a straight line drawn between points on each curbline 20 feet from the intersection of the curblines or extension thereof.~~

~~(3) Within the thirty-foot site visibility triangle of a public or private roadway as measured from the intersection from a public or private roadway.~~

(3) On or within two (2) feet of any bike rack, ~~or tree,~~ traffic related signs, street lights or utility poles located on the public right-of-way.

~~(5) In violation of any section of this Code or existing city ordinance.~~

(4) Within thirty (30) feet from the intersection of public or private streets.

~~(6) Within twenty (20) feet from any marked crosswalk not in an intersection.~~

(6) Within the ~~ten, (10) feet of an active driveway.~~

(7) Within ~~ten, (10) feet of any fire hydrant or other emergency facility.~~

(8) Within a median, ~~except if a sidewalk is installed~~, which is defined as a landscaped or paved island in the center of the public right-of-way.

~~(9) Within five (5) feet ahead of and fifteen (15) feet to the rear of any sign marking a designated bus stop, measured along the edge of pavement.~~

~~(9) Within two (2) feet of any bus bench or shelter.~~

(9) Within five, (5), feet of any handicap ramp/landing.

(10) Within a planter with or without vegetation.

(11) In violation of any section of this Code or existing city ordinance.

~~(b) No news rack shall be chained, bolted or anchored in any manner to any object in the right-of-way.~~

(b) No more than four news racks may be placed at any location; the news racks shall be placed immediately adjacent to each other in a horizontal line.

(c) News racks shall not be placed within seventy feet (70) of each other.

(d) News racks found in violation of above requirements shall be assessed a fifteen dollar (\$15.00) re-inspection fee to ensure compliance.

Sec. 62-184. - Relocation.

Once a news rack is registered to a location, the news rack shall not be relocated on the public right-of-way without the publisher, distributor or their agent(s) submitting in writing to the written consent of the city manager, or designee, the new location of the news rack on the public right-of-way. in which event the news rack must be re-registered in accordance with Sec. 62-177 of this division.

Sec. 62-185. - Installation, maintenance or use of news racks in violation of division.

(a) Upon determination by the city manager, or designee, that a news rack has been installed, used or maintained in violation of this division, an order to correct the offending condition shall be issued to the publisher, distributor or agent of the news rack. The order shall state the grounds for the violation. Such order shall be sent certified mail or by e-mail to the publisher, distributor or agent (confirmed by a read receipt if the order is emailed). Failure to correct the offending condition or to appeal the order within five days, excluding Saturday, Sunday, and a legal holiday, after its receipt shall result in the city removing the news rack and processing it as surplus as provided in section 62-212. If an appeal is made, the city manager shall conduct a hearing at which the appellant shall

have an opportunity to be heard. Additionally or alternatively, the city may cite the owner or distributor or agent for violation of this article pursuant to article VI of chapter 2

(b) If the location or condition of a news rack constitutes an imminent and serious danger to the public health, safety or welfare, the city manager, or designee, may immediately remove the news rack from its location. The city shall provide immediate written notice of such action to the distributor or its agent and deem the news rack as surplus as provided in section 62-212

~~(c) In the event that a hurricane warning is issued by the National Weather Service, the publisher, distributor, or agent shall remove immediately all news racks from the rights-of-way within five (5) hours. If a responsible agent fails to pick up a news rack, the city manager or designee may remove the news rack from its location. The city need not provide notice of such action to the distributor or its agent. The distributor must contact the city as soon as possible, but not later than 30 days after the hurricane warning is lifted, in order to retrieve a news rack(s). The city may impose a fee of Fifty Dollars (\$50.00) for each news rack picked up by the city pursuant to this subsection. After 45 days, any unclaimed news racks shall be deemed abandoned as provided in section 62-211. News racks picked up by the city and then released to the publisher, distributor, or agent may be placed only in locations permitted and permit numbers must correspond with existing permit locations on file with the city of Key West.~~

(c) The city is not responsible for any loss or damage to any news rack.

Sec. 62-211. News rack mounting standards.

A news rack shall be attached to a concrete base or concrete base and pedestal, with a net weight of not less than 95 pounds, and the concrete base shall be 23 inches measured from front to back and no more than 1½ inches beyond each side of the bottom of the news rack, with a height of three inches, and shall not be decorated or colored.

Sec. 62-212. - Determination of abandonment.

If a news rack remains empty or has been picked up and stored by the city of Key West for a period of 45 days, it shall be deemed abandoned. The city manager, or designee, shall determine whether a news rack is abandoned and shall maintain a public record thereof.

Sec. 62-212. - Notice to publisher or owner; removal by city.

If a news rack is deemed abandoned as provided in section 62-211, the city shall notify the publisher in writing by certified mail, providing five days from receipt of the notice to remove the identified news rack. If the publisher or owner is unknown, the city shall place an adhesive notice on the news rack providing notice of its abandonment. If the publisher or owner does not remove the news rack within the prescribed time, the city may remove and temporarily store the news rack, including all materials used to tether or

anchor the news rack. The publisher or owner of the news rack shall be responsible to pay the city its costs associated with removal and storage. If the publisher or owner does not take possession of the news rack within 90 days of the original notice of abandonment, the city shall consider the news rack as surplus property and sell or otherwise dispose of it, and no other permits will be issued for new news racks so long as existing news racks of the same publisher or distributor remain in city storage.

Secs. 62-214—62-240. - Reserved.