

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 62 ENTITLED "STREETS AND SIDEWALKS", ARTICLE V OF THE CODE OF ORDINANCES, ENTITLED "NEWS RACKS" BY AMENDING SECTION 62-152 TO ADJUST CRITERIA; AMENDING SECTION 62-178 TO ADJUST INDEMNIFICATION AND LIABILITY INSURANCE REQUIREMENTS; AMENDING SECTION 62-183 TO PRIORITIZE NEWS RACK REGISTRATION APPLICATIONS BASED ON THE FREQUENCY OF PUBLICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City of Key West finds that it is necessary to amend Chapter 62, Article V of the Code of ordinances to update liability and indemnification provisions for news racks permitted on the right-of-way, and to prioritize news rack permit applications based on the frequency of publication; and

WHEREAS, amendments to the news rack ordinance provisions contained in Chapter 62, Article V of the Code of Ordinances will promote the health, safety and welfare of the citizens and visitors of the City of Key West.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF KEY WEST, FLORIDA:

Section 1: That Section 62-152 of the Code of Ordinances is hereby amended as follows\*:

**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, and servicing 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;

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\*(Coding: Added language is underlined; deleted language is ~~struck through~~ at first reading. Added language is double underlined and ~~double struck through~~ at second reading.)

(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 right-of-way areas, greenery and landscaping;

(7) Reduce unnecessary exposure of the public to personal injury or property damage;

(8) Treat all newspapers equally regardless of their size, content, or circulation, or frequency of publication;

(9) Maintain and preserve freedom of the press;

(10) Cooperate and coordinate with newspaper publishers.

Section 2: That Section 62-178 of the Code of Ordinances is hereby amended as follows:

**Sec. 62-178. - Indemnification, Insurance Requirements.**

(1) 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.

(2) Insurance. Every Distributor who places or maintains a news rack on public property or in a Public right-of way in the city shall furnish to the City Manager or his designee a certificate of insurance, which shall be kept current and renewed as long as such Distributor maintains a news rack on public property within the city. Such insurance shall be comprehensive general liability

insurance on an occurrence basis with limits of liability not less than \$1,000,000.00 per occurrence and/or aggregate combined single-limit, personal injury, bodily injury and property damage.

(a) Coverage extensions. Coverage shall include the following extensions:

1. Contractual liability;
2. Products and completed operations;
3. Independent contractor's coverage;
4. Broad form general liability extensions

or equivalent.

(b) Additional insured. The following shall be additional insured: the City of Key West, including all elected and appointed officials, all employees and volunteers, all boards, commissions, and/or authorities and their board members, employees, and volunteers. This coverage should be primary to the additional insurers and not contributing with any other insurance or similar protection available to the additional insurers, whether available coverage is primary, contributing or excess.

(c) Cancellation notice. Comprehensive general liability insurance shall include an endorsement stating the following:

"Sixty days' advance written notice of cancellation or nonrenewal shall be sent to the City of Key West, Parking Division, 1300 White Street, Key West, FL 33040."

Reasonable evidence of equivalent self-insurance coverage may be substituted by the applicant for the certificate of insurance required of this section, subject to the approval of the Risk Manager for the City of Key West after consultation and approval of the City Attorney's office. Insurance under this section shall run continuously with the presence of the applicant's news rack in city rights-of-way, and any termination or lapse of such insurance shall be violation of this article, subject to appropriate remedy under the applicable sections of this Code.

Section 3: That Section 62-183 of the Code of Ordinances is hereby amended as follows:

**Sec. 62-183. - Location requirements.**

(a) No news rack shall be placed, installed, used or

maintained in the right-of-way:

(1) Within eighteen (18) inches of the back of curb with parking. For purposes of this subsection, "back of the curb" shall mean that vertical plane of a curb that abuts the sidewalk, pedestrian right-of-way or private property.

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

(4) Within thirty (30) feet from any intersection.

(5) Within ten (10) feet of an active driveway.

(6) Within ten (10) feet of any fire hydrant or other emergency facility.

(7) 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.

(8) Within five (5) feet of any handicap

ramp/landing.

(9) Within a planter with or without vegetation.

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

(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. No more than one news rack may be placed on the sidewalks adjacent to Duval Street in any given location and shall not be placed within seventy (70) feet of each other. All other restrictions of this section shall also be applicable.

(c) News racks in groups of four (4) shall not be placed within seventy (70) feet of another grouping of news racks.

(d) News racks found in violation of above requirements shall be assessed a fifteen dollar (\$15.00) re-inspection fee to ensure compliance. This fee shall be paid to the City of Key West within ten (10) business days of reinspection to ensure compliance.

(e) Failure to achieve compliance of the provisions of this chapter shall result in the violation being forwarded to the code compliance magistrate in accordance with chapter 2, article VI of the Code of Ordinances.



(f) The City Manager shall be conduct a random drawing  
guided by the following criteria of priorities in issuing  
permits whenever more than four news racks are proposed for  
any one news rack location.

~~===== (1) First priority shall be daily publications~~  
~~(published five or more days per week).~~

~~===== (2) Second priority shall be publications~~  
~~published two to four days per week.~~

~~===== (3) Third priority shall be publications~~  
~~published one day per week.~~

~~===== (4) Fourth priority shall be publications~~  
~~published less than one day per week.~~

**Sec. 62-187. - Enforcement procedures for non-conforming**  
**newsracks.**

Within 180 days after the ordinance from which this article  
is derived becomes effective and at the time thereafter,  
any newsracks in violation of any provision of this article  
shall be subject to the remedies afforded and due process  
under the provisions of special magistrate procedures.

Section 4: If any section, provision, clause, phrase, or application of this Ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, the remaining provisions of this Ordinance shall be deemed severable therefrom and shall be construed as reasonable and necessary to achieve the lawful purposes of this Ordinance.

Section 5: All Ordinances or parts of Ordinances of said City in conflict with the provisions of this Ordinance are hereby superseded to the extent of such conflict.

Section 6: This Ordinance shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission.

Read and passed on first reading at a regular meeting held this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

Read and passed on final reading at a regular meeting held this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

Authenticated by the presiding officer and Clerk of the Commission on \_\_\_\_\_ day of \_\_\_\_\_, 2023.

Filed with the Clerk \_\_\_\_\_, 2023.

Mayor Teri Johnston \_\_\_\_\_

Vice Mayor Sam Kaufman \_\_\_\_\_

Commissioner Lissette Carey \_\_\_\_\_

Commissioner Mary Lou Hoover \_\_\_\_\_

Commissioner Clayton Lopez \_\_\_\_\_

Commissioner Billy Wardlow \_\_\_\_\_

Commissioner Jimmy Weekley \_\_\_\_\_

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TERI JOHNSTON, MAYOR

ATTEST:

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CHERYL SMITH, CITY CLERK