

To: Mayor Mark D. Boughton and Members of the Common Council

Re: Minutes of the Common Council Committee Meeting held on April 23, 2007.

The meeting was called to order upon the close of the Public Hearings. The members were recorded as:

**Present-** McMahon, Nagarsheth, Johnson, Trombetta, Calandrino, Perkins, Visconti, Esposito, Chianese, Saadi, Cavo, Basso, Rotello, Diggs, Riley, Saracino, Seabury, Stanley and Taborsak

**Absent:** Teicholz (Undergoing medical treatment).

**19 PRESENT - 1 ABSENT – 1 VACANT SEAT**

**Newsracks/Vending Displays – Section 11B-01 to 11B-15**

Attorney Pinter said there is no existing ordinance that addresses this issue so this is being proposed to improve the community. There was a 1925 ordinance that said you could not leave things in the public way that obstruct traffic. This establishes standards to try to regulate these "honor boxes" and gives the City tools it did not previously have. This language is based on health, safety and welfare, not on content. There is substantial support for adoption of this based on the City being able to control where they will go. It also will encourage maintenance of the existing boxes, so they are not falling down and causing traffic problems.

Mr. Rotello asked if they should include private property owners. Attorney Pinter said not a good idea because we are trying to address the City's interests with this ordinance.

Mr. Saadi suggested the use of a sticker system so boxes are registered and identifiable. Attorney Pinter said that can be done by application of this ordinance.

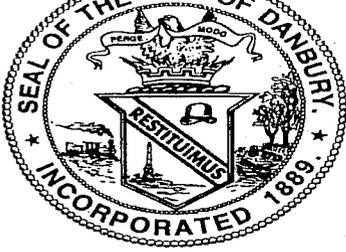
Mrs. Basso made a motion to adopt this ordinance. Mr. Trombetta seconded the motion. Mrs. Saracino called a Point of Order about the language of this motion. Mrs. Basso then restated the motion as "to recommend adoption of this ordinance at the next regular meeting of the Council". Mr. Trombetta reiterated his second on the revised motion.

Mr. Cavo then called the vote on the motion and it was passed unanimously with the exception of Mrs. Taborsak, who abstained from the vote.

Respectfully submitted,



JoAnne V. Read  
Secretary



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**ORDINANCE**  
**CITY OF DANBURY, STATE OF CONNECTICUT**  
**COMMON COUNCIL**

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Be it ordained by the Common Council of the City of Danbury:

**THAT Chapter 11B of the Code of Ordinances of Danbury, Connecticut is hereby established by the enactment of Sections 11B-01 through 11B-15 which sections shall read as follows:**

**CHAPTER 11B. Newsracks / Vending Displays**

**Sec. 11B-01. Intent and purpose**

It is not the intent of this chapter to discriminate against, regulate, or interfere with the publication, circulation, distribution or dissemination of any printed material which is constitutionally protected. To that end, the content of any material distributed through a newsrack shall not be used to form the basis for any action taken to enforce the provisions of this chapter. The provisions set forth in this chapter shall be construed strictly in accord with this intent.

**Sec. 11B-02. Word usage; definitions**

- A. For the purposes of this chapter, the following words and phrases shall have the meanings given herein. When not consistent with the context, words used in the present tense include the future, words in the plural include the singular and words in the singular include the plural.
- B. As used in this chapter, the following terms shall have the meanings indicated:

**BLOCK** – one side of a street between two consecutive intersecting streets.

**DIRECTOR OF PUBLIC WORKS** – The head of the Danbury Department of Public Works or his duly designated representative, in the UNIT.

**DISTRIBUTOR** – any person responsible for the installation, operation or maintenance of a newsrack in a public right-of-way.

**MAYOR** – the Mayor of Danbury or his duly designated representative, in the UNIT.

**NEWSRACK** – any self-service or coin-operated box, container, storage unit or other dispenser installed, operated or maintained for the display and distribution or sale of newspapers, periodicals or other printer matter.

**PERSON** – An individual person, firm, corporation or other entity.

**PUBLIC RIGHT-OF-WAY** – Any area owned, maintained or within the control of the City of Danbury, open for use of the public for vehicular or pedestrian travel, including but not limited to roadways, sidewalks, streets, alleys or public grounds.

**ROADWAY** – That portion of any street improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder.

**SIDEWALK** – Any portion of a street between the curblin and the adjacent property line intended for the use of pedestrians.

**STREET** – The entire area encompassed by a roadway and a sidewalk,

**UNIT** – “Unified Neighborhood Inspection Team” comprised of permit enforcement officials as designated by the Mayor or Director of Public Works.

**Sec. 11B-03. Newsracks restricted.**

- A. No person shall install, use or maintain any newsrack which projects onto, into or which rest, wholly or in part, upon the roadway of any public street.

B. No person shall install, use, or maintain any newsrack which in whole or in part rests upon, in, or over any public right-of-way:

- (1) When such installation, use, or maintenance endangers the safety of persons or property;
- (2) When such site or location is used for public utility purpose, public transportation purposes, or other governmental use;
- (3) When such newsrack unreasonably interferes with or impedes the flow of pedestrian or vehicular traffic, including, not but limited to, parked or stopped vehicles; the ingress to or egress from any residence or place of business; the use of poles, posts, traffic signs or signals, hydrants, mailboxes or other objects permitted at or near said location;
- (4) When such newsrack interferes with the cleaning of any sidewalk by the use of mechanical sidewalk cleaning machinery; or
- (5) In any other manner inconsistent with or in violation of the provisions of this chapter.

**Sec. 11B-04. Permit required.**

It shall be unlawful for any person, firm or corporation to erect, place, maintain or operate, on any public right-of-way, in the City of Danbury any newsrack without first having obtained a permit from the Director of Public Works. One permit may be issued to include any number of newsracks, and shall be signed by the applicant.

**Sec. 11B-05. Application for permit.**

- A. Application for such permit shall be made, in writing, to the Director of Public Works upon such form as shall be provided to the applicant and shall contain the name and business address of the applicant, a telephone number or numbers at which the applicant may be reached during normal business hours, and the proposed location of said newsrack(s) and shall be signed by the applicant.
- B. A permittee may place additional newsracks at any location on any public right-of-way in Danbury which complies with the provisions of his chapter by amending its application to include the location of each such newsrack on a form to be prescribed by the Director of Public Works and by paying the fee set forth in Sec. 11B-06.

**Sec. 11B-06. Conditions for permit; fee; term.**

- A. Such newsrack or newsracks and the installation, use or maintenance thereof shall be conditioned upon observance of the provisions of this chapter including the time, place and manner provision of Sec. 11B-03 hereof. Permits shall be issued or denied within 72 hours (excluding Saturday, Sundays and legal holidays) after the application has been filed. A permit fee of \$15.00 shall be required for each proposed location.
- B. Such permits shall be valid for three years and shall be renewable pursuant to the procedure for original applications referred to in Sec. 11B-05 and upon payment of the permit fee.

**Sec. 11B-07. Hold Harmless**

Every applicant for a permit to place a newsrack on a public right-of-way in the City of Danbury shall file a written statement with the Director of Public Works in a form satisfactory to the Corporation Counsel, whereby such owner 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 result of his/her installation, use and/or maintenance of a newsrack within the City of Danbury.

**Sec. 11B-08. Newsrack identification required.**

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Every person who places or maintains a newsrack on a public right-of-way within the City of Danbury shall have his permit number, name, address and telephone number affixed to the newsrack in place where such information may be easily seen before placing said newsrack on the right-of-way.

**Sec. 11B-09. Location, placement of and number of newsracks.**

Any newsrack which rests in whole or in part upon, or on any portion of a public right-of-way or which projects into, into or over any part of a public right-of-way shall be located in accordance with the provisions of this section:

- A. No newsrack shall be chained, bolted, or otherwise attached to any fixture located in the public right-of-way, except to other newsracks.
- B. Newsracks may be placed next to each other, provided that no group of newsracks shall extend for a distance of more than 5 feet along a curb, and a space of not less than 3 feet shall separate each group of newsracks.
- C. No newsrack shall be placed, installed, used or maintained:
  - (1) Within 5 feet of any marked crosswalk;
  - (2) Within 15 feet of the curb return of any unmarked crosswalk;
  - (3) Within 5 feet of any fire hydrant, fire call box, police call box or other emergency facility;
  - (4) Within 5 feet of any driveway;
  - (5) Within 5 feet past, or 25 feet prior to, any sign marking a designated bus stop, according to the direction of travel on the roadway adjacent to the bus stop sign, except that a newsrack may be placed immediately adjacent to the end of a bus shelter if such placement shall not otherwise violate the requirements of this chapter;
  - (6) Within 5 feet of the end of any bus bench;
  - (7) At any location whereby the clear sidewalk space for the passageway of pedestrians is reduced to less than 6 feet in width;
  - (8) Upon or within 5 feet of any public area improved with flowers, shrubs, trees or other landscaping, or within 5 feet 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;
  - (9) Within 500 feet of any other newsrack on the same side of the street containing the same issue or edition of the same publication, within a business or industrial district;
  - (10) Within any single-family residential zone except with the written permission of the abutting property owner, and except on a street designated as major arterial street, minor arterial street or collector street in the City of Danbury Plan of Development as that document may be adopted or amended from time to time;
  - (11) Within 1,500 feet of any other newsrack containing the same issue or edition of the same publication, within any residential district;
  - (12) On any access ramp for disabled person.

**Sec. 11B-10. Standards for maintenance and installation.**

Any newsrack which in whole or in part rests upon, in or over any public right-of-way shall comply with the following standards:

- A. No newsracks shall exceed 4 feet in height, 2 feet in width, or 2 feet in thickness.
- B. The name of the publication being dispensed therein shall have:
  1. On the front of the newsrack, lettering size not exceeding 1¾ inches in height.
  2. On the sides and back of the newsrack, lettering size that shall not exceed 2½ inches in height.
- C. 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.
- D. Each newsrack shall be made of metal and shall be painted in a color scheme consisting of a dark background with white lettering. Shades of red, yellow or green similar to those used in traffic control signs or devices shall not be used on any newsrack.
- E. Each newsrack shall have affixed to it, in readily visible place so as to be seen by anyone using the newsrack, a notice setting forth the name and address of the distributor and the telephone number of a working telephone service to call to report a malfunction, or to secure a refund in the event of a malfunction of the coin return mechanism, or to give the notices provided for in this chapter.
- F. Each newsrack shall be so weighted and balanced as to prevent it from being tipped by the opening of its door, or by the impact of snow cast by a passing snowplow.
- G. Each newsrack shall be maintained in a neat and clean condition and in good repair at all times. Specifically, but without limiting the generality of the foregoing, each newsrack shall be serviced and maintained so that:
  1. It is reasonably free of dirt and grease.
  2. It is reasonably free of chipped, faded, peeling and cracked paint and graffiti in the visible painted areas thereof;
  3. It is reasonably free of rust and corrosion in the visible unpainted metal areas thereon;
  4. The clear plastic or glass parts thereof, if any, through which the publications therein are viewed are unbroken and reasonably free of cracks, dents, blemishes and discoloration;
  5. The paper or cardboard parts or inserts thereof are reasonably free of tears, peeling or facing;
  6. The structural parts thereof are not broken or unduly misshapen;
  7. It shall not contain any materials which pre-date the current issue of the publication. Such material shall not be deposited in any public trash receptacle owned by the City of Danbury and shall not be deposited in any privately owned trash receptacle without the permission of the owner or renter thereof. In the event that the publication is manufactured from recyclable material, it shall be discarded in an appropriate manner for that type of recyclable material.
- I. No newsrack shall contain or utilize any electronically powered illumination or sound.

**Sec. 11B-11. Penalties for offenses.**

Upon determination by the Director of Public Works or by a duly designated official with the UNIT that a newsrack has been installed, used or maintained in violation of the provisions of this chapter, an order to correct the offending condition shall be issued to the distributor of the newsrack. Such order shall be telephoned to the distributor and confirmed by mailing a copy of the order by certified mail, return receipt requested. The order shall specifically describe the offending condition, suggest actions necessary to correct the condition, and inform the newsrack distributor of the right to an appeal. Failure to correct the offending condition within 5 days (excluding Saturdays, Sundays and legal holidays) of the order or to appeal the order within 5 days after its receipt shall result in the offending newsrack being summarily removed and processed as unclaimed property. If the offending newsrack is not properly identified as to owner under provisions of Sec. 11B-08 hereof, it shall be removed immediately and processed pursuant to the provisions of the Section. An impound fee, which shall be measured by the City's cost and expense of impounding, shall be assessed against each newsrack summarily removed. The Director of Public Works shall cause inspection to be made of the corrected condition or of a newsrack reinstalled after removal under this section. The distributor of said newsrack shall be charged an inspection fee of \$25.00 for each newsrack so inspected. This charge shall be in addition to any other fees and charges required under this chapter.

**Sec. 11B-12. Remedies not exclusive/citations.**

- A. The remedies for enforcement set forth in the chapter are not exclusive and may be utilized consistently with the citations procedure set forth in Sec. 12-34 hereof.
- B. Nothing contained in this chapter shall be interpreted to limit or impair the exercise by the City of Danbury of its police powers to remove any newsrack which presents a clear and present danger of imminent personal injury or property damage to users of the public right-of way.

**Sec. 11B-13. Existing newsracks.**

This article shall apply to existing newsracks within the City of Danbury, except that the distributors thereof shall have 60 days within which to comply with its provisions or such additional time as may be allowed in the discretion of the Director of Public Works of UNIT official. Newsracks existing within single family residential districts as of December 1, 2006, shall be permitted to remain in place, provided that their location shall be registered with the Director of Public Works in the manner prescribed by Sec. 11B-05 within 60 days following the effective date of this chapter.

**Sec. 11B-14. Abandonment.**

In the event that a newsrack remains empty for a period of 90 continuous days it shall be deemed abandoned, and may be treated in the manner as provided in Sec. 11B-11 for newsracks in violation of the provisions of this chapter.

**Sec. 11B-15. Severability.**

If any section, subsection, sentence, clause, or phrase of this chapter is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter.