

1 **CITY COUNCIL OF THE CITY OF ANNAPOLIS**

2 **ORDINANCE NO. O-20-09 Revised Amended**

3 **Introduced by Mayor Moyer**

LEGISLATIVE HISTORY			
First Reading:	Public Hearing:	Fiscal Impact Note:	180 Day Rule:
04/13/09	11/23/09	11/20/09	10/13/09
Referred To:	Meeting Date:	Action Taken:	
HPC Planning Comm. Rules & City Gov't	05/28/09	Favorable review by Chair Travels with R-31-09	

7 **AN ORDINANCE concerning**

8 **Newsracks in the Historic District**

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12 **FOR** the purpose of regulating the appearance, placement, servicing, and type
13 of newsracks in the Historic District.

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17 **BY** creating new the following portion of the Code of the City of Annapolis,
18 2009 Edition:
19 Chapter 21.56, Article III

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23 **SECTION I: BE IT ESTABLISHED AND ORDAINED BY THE**
24 **ANNAPOLIS CITY COUNCIL** that the Code of the City of Annapolis shall read
25 as follows:

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27 **Chapter 21.56 HISTORIC DISTRICT**

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29 **Article III Newsracks on Public Rights-of-Way**

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31 **21.56.230 Purpose and criteria.**

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33 The purpose of this article is to promote the public health, safety and welfare,
34 and safeguard the historical and cultural heritage of Annapolis through the
35 regulation of placement, type, appearance, servicing, and insuring of newsracks
36 on public rights-of-way in the Historic District so as to:

37 A. Provide for pedestrian and driving safety and convenience.

1 B. Restrict unreasonable interference with the flow of pedestrian or vehicular
2 traffic including ingress into or egress from any residence or place of business, or
3 from the street to the sidewalk by persons exiting or entering parked or standing
4 vehicles.

5 C. Provide for public and property safety during severe weather conditions.

6 D. Provide reasonable access for the use and maintenance of poles, posts, traffic
7 signs or signals, hydrants, mailboxes and access to locations used for public
8 transportation purposes.

9 E. Preserve and enhance a district which reflects the City's archaeological,
10 architectural, cultural, and social history.

11 E. Relocate and/or replace newsracks which result in a visual blight and/or
12 excessive space allocation on the public rights-of-way or which unreasonably
13 detract from the aesthetics of store window displays, adjacent landscaping and
14 other improvements, as well as to have abandoned newsracks removed.

15 F. Maintain and protect the values of surrounding properties.

16 G. Reduce unnecessary exposure of the public to personal injury or property
17 damage.

18 H. Treat all newsracks equally regardless of their size, content, circulation, or
19 frequency of publication.

20 I. Maintain and preserve freedom of the press.

21 J. Cooperate to the maximum extent possible with newspaper distributors.

22 23 **21.56.240 Definitions.**

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25 For the purposes of this article, the following words and phrases shall have the
26 meaning respectively ascribed to them:

27 "Chief" means the Chief of Historic Preservation for the City of Annapolis.

28 "Equivalent newsrack" means any newsrack of the same size, dimensions and
29 style of the specified newsrack.

30 "Historic District" means the area of Annapolis as described in Sec. 21.56.030 of
31 this Code, as amended from time to time.

32 "If demand warrants" or "warranted demand" means that the measured
33 newspaper stack height needed to meet the newspapers publisher's or
34 distributor's peak annual distribution at the requested newsrack location, as
35 proven by the newspaper publisher or distributor, exceeds 14 inches.

36 "Newsracks" means any type of unmanned device for the vending or free
37 distribution of newspapers or news periodicals.

38 "Public right-of-way" means any public street, highway, sidewalk, parkway or
39 alley.

40 41 **21.56.250 Certificate of Approval required.**

42
43 No person shall place, affix, erect, construct or maintain a newsrack in the
44 Historic District without first obtaining a one-time only Certificate of Approval for
45 each newsrack in accordance with the provisions of this article.
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21.56.260 Application and issuance of certificate of approval.

A. Issuing authority. The issuing authority and coordinator shall be the Chief of Historic Preservation. The Chief is responsible for fairly coordinating and administering the physical placement of newsracks of the type and location herein specified, and upon compliance with provisions of this article, is responsible for issuing the certificates of approval.

B. Approving authority. The approving authority shall be the Chief of Historic Preservation. The Chief shall provide review and administrative approval; the Chief shall circulate the application for consideration and comment by the Public Works Administration, the Police Department, and the Planning and Zoning Department.

C. Enforcing authority. The enforcing authority shall be the director of the Department of Neighborhood and Environmental Programs.

D. Applications. The applicant shall file with the Chief of Historic Preservation a Historic Preservation Commission Administrative Approval Application for an installation Certificate of Approval that shall contain the following information:

1. The name, address and telephone number of the applicant who is the owner and/or principal in responsible charge of the newsrack.

2. The name, address and telephone number of a responsible person whom the City may notify or contact at any time concerning the applicant's newsracks

3. The number of newsracks and the proposed location of each shown on a drawing provided by the Public Works Administration as in subsection D of this section.

4. Names of newspapers or periodicals to be contained in each newsrack.

5. Type or brand of newsracks, including an illustration and description of the newsrack and mount if other than a single pedestal, TK-80PM, or K-80PM SHORACK, or TK-80 or K-80 SHORACK with special pedestal and 14-inch square base plate (allowed only if demand warrants at the installation location) or equivalent, as per Sec. 21.56.310 of this Code.

E. Procedure. In consultation with the Public Works Department and the Department of Neighborhood and Environmental Programs, and with the approval of the Historic Preservation Commission, the Chief shall:

1. Develop a map of a large enough scale to show permitted locations of newsracks in the Historic District.

2. Request a list of proposed newsrack locations, marked on the above map, from each distributor.

3. Prepare a scale drawing or aerial photograph of each newsrack location showing the position and name of each newsrack at that location.

4. Review for approval newsrack drawings.

5. Obtain confirmation approvals of the above approved newsrack drawings from each distributor.

6. Have the public works survey crew, following Certificate of Approval issuance, then mark placement locations with a template so that installation crews will have no problem.

1 F. Issuance of certificate of approval. Upon a finding by the Chief that the
2 applicant is in compliance with the provisions of this article, the Chief shall cause
3 to be issued a certificate of approval for installation by the newspaper publishing
4 and or distribution company. Such issuance shall be made within ten working
5 days of the City's receipt of the completed application.

6 G. Denial of certificate of approval. If a Certificate of Approval for some
7 newsrack location applied for shall be denied, the applicant shall be notified
8 within ten working days of the City's receipt of the completed application. The
9 applicant shall be advised of the specific cause of such denial by the Chief, who
10 may suggest alternative locations. The applicant may reapply for substitute
11 alternative location at no additional certificate of approval fee.

12 H. Additional certificate of approval. If at any time initial application for an
13 installation certificate of approval a publisher wishes to install additional
14 newsracks, then subsections D and E of this section are to be repeated in
15 accordance with the provisions of this article. Additional certificate of approval
16 fees shall be in accordance with Sec. 21.56.270 of this Code.

17 18 **21.56.270 Fees.**

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20 There shall be a one-time only certificate of approval fee in an amount
21 established by resolution of the City Council for each newspaper publisher and or
22 distributor. Failed inspections are subject to a reinspection fee. All of the above
23 fees will be used to defray administrative expenses relating to this article only,
24 and any revenues over expenses remaining after the implementation of this
25 article will be returned to the newspaper publishers in proportion to their
26 respective contributions.

27 28 **21.56.280 Appeals.**

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30 Any applicant who has been denied a certificate of approval pursuant to the
31 provisions of this article may file an appeal by requesting a review and
32 determination, in writing, to the Historic Preservation Commission. A further
33 appeal may be made to the Circuit Court for Anne Arundel County, in accordance
34 with Section 21.56.110 of this Code.

35 36 **21.56.290 Placement generally.**

37
38 Subject to the prohibitions set forth in Sec. 21.56.320 of this Code, newsracks
39 shall be placed parallel to and not less than five inches nor more than 20 inches
40 from the edge of the curb. Newsracks placed near the wall of a building must be
41 placed parallel to and not more than six inches from the wall.

42 43 **21.26.300 Installation and maintenance.**

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45 A. Newsracks shall be single pedestal, TK-80PM or K-80PM SHORACK, or TK-
46 80 or K-80 SHORACK with special pedestal and 14-inch square base plate

1 (allowed only if demand warrants at the installation location) or equivalent.

2 B. Newsracks shall have beige, brown, blue, white or black, or combinations of
3 these colors, ~~or other colors or color combinations for fixtures within the Historic~~
4 ~~District~~ for the pedestals, sides, door and coinbox. The height of the cabinet top
5 of all newsracks shall be ~~39~~ 49 inches above the finished grade level.

6 C. Newsracks shall carry no cardholders or advertising, but may display the
7 name, with lettering and background of any colors, of the newspaper being
8 dispensed, in spaces in the locations and sizes set forth below:

9 1. On the front of the newsrack, the lettering size shall not exceed 1 3/4 inches
10 height. The lettering shall be placed within a colored-band space not exceeding 2
11 1/2 inches in height above the door hinge.

12 2. On the sides and back of the newsrack, the lettering size shall not exceed 2
13 1/2 inches in height. The lettering shall be placed within a colored-band space
14 not exceeding 4 1/2 inches in height and beginning one inch from the top of the
15 newsrack.

16 D. Newsracks for free newspapers may omit the coinbox and may have the pull
17 bar welded to the door to produce a "hono rack."

18 E. Newsracks shall be maintained in good working order at all times, neatly
19 painted and with unbroken hoods.

20 F. Mounts, if applicable, shall be bolted in place through four standard holes in
21 the base plate in accordance with standards provided in section 9 (mounting
22 standards). Newsrack cabinet tops shall be installed and checked for level; a
23 water-soluble, paintable, ten-year calk of comparable color shall be applied and
24 wiped to seal around the base plate and the mounting surface.

25 26 **21.56.310 Specific prohibitions.**

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28 Within the Historic District, no newsrack shall be placed, installed, used or
29 maintained:

30 A. Within five feet of any marked crosswalk.

31 B. Within ten feet of any unmarked crosswalk.

32 C. Within ten feet of any fire hydrant, fire callbox, or other emergency facility.

33 D. Within five feet of any driveway.

34 E. Within five feet ahead of, and 15 feet to the rear of any sign marking a
35 designated bus stop, measured along the edge of pavement.

36 F. Within two feet of any bus bench, or plaza bench.

37 G. At any location whereby the clear space for passageway of pedestrians is
38 reduced to less than six feet.

39 H. Where a vertically protruding member of the newsracks is on or within 12
40 inches of any area improved with lawn or hedges or within three feet of flowers or
41 trees.

42 I. Within three feet of any display window of any building abutting the sidewalk or
43 parkway or in such a manner as to impede or interfere with the reasonable use of
44 such window display purpose, or within five feet of a building entrance.

45 J. On or within two feet of signs, parking meters, street lights or utility poles.

46 K. In areas designated as parks or plazas.

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21.56.320 Enforcement procedures – Nonconforming newsracks.

Within 120 days of the effective date of the ordinance from which this article is derived and at any time thereafter, any newsrack in violation of any provision of this article shall be subject to remedy and due process under the Department of Neighborhood and Environmental Programs.

21.56.330 Same – Abandoned newsracks.

A. If any newsrack installed pursuant to this article does not contain the publication specified therefor within a period of 48 hours after release of the current issue, the Department of Neighborhood and Environmental Programs may deem the newsrack abandoned and take appropriate action for an ordinance violation. In addition, a newsrack shall be deemed abandoned when no publication is in the newsrack for a period of more than seven consecutive days.

B. In the event a newspaper publishing company or its distributor desires to voluntarily abandon a newsrack location, the distributor shall notify the director, completely remove the newsrack and mount, and restore the public right-of-way to a safe condition, leaving no holes or projections in the mounting surface.

SECTION II: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL that this Ordinance shall take effect upon date of final passage.

ADOPTED this 23rd day of November, 2009.

ATTEST: **THE ANNAPOLIS CITY COUNCIL**

Regina C. Watkins-Eldrige, MMC
CITY CLERK

BY: _____
ELLEN O. MOYER, MAYOR

EXPLANATION:

Highlighting indicates matter added to exiting law.
~~Strikeout indicates matter deleted from existing law.~~
Underlining indicates amendments.