



TO: Mayor and City Council
FROM: Angela Carmon, City Attorney
John Lawson, Assistant City Attorney
DATE: May 22, 2017
SUBJECT: Newsrack Ordinance
CC: Lee Garrity, City Manager

City Attorney's Office

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Chapter 74, new Article XIII, entitled, "Newsracks," will regulate newsracks that are on the City's right-of-way to improve and maintain the aesthetic and safety conditions of the City of Winston-Salem.

The ordinance will regulate the placement and maintenance of newsracks, but only within Business Improvement District in order to reduce any compliance burden for publishers. Newsracks will not be permitted to be placed in locations or in a manner that interferes with public safety (such as near fire hydrants or handicapped ramps), and the publishers will be required to maintain their newsracks in a clean and safe manner. The ordinance is drafted to be content-neutral with regard to publishers' material, but the ordinance does prohibit, within the limits of the First Amendment and related caselaw, the display of material or information that is objectionable.

In order to promote the ability of the City to regulate the newsracks, publishers are required to register their contact information and the desired placement of the newsrack, as well as indemnify and hold harmless the City from any personal injury or property damages that may occur by the publishers' negligent placement or maintenance of their newsracks.

The ordinance will be administered and enforced by the Assistant City Manager responsible for Public Works. Violations of the ordinance will result in the removal of the offending newsracks, and the publisher will be assessed the fees for the removal and storage of the newsrack. An appeal process is available, however, for publishers to seek relief in the event a publisher wants to contest the removal of a newsrack and the related fees.

This ordinance has been a multiyear process. The impetus for this ordinance was citizen complaints about the walkability of certain areas downtown and the overall appearance and safety of the newsracks. This ordinance was based off of the International Municipal Lawyers Association model ordinance and other similar ordinances in Charlotte, Raleigh, Wilmington, and Philadelphia. This ordinance was drafted and first presented to the CD/H/GG Committee in June 2015.

The City received feedback from that Committee and consequently met with several area publishers several times over the past two years to discuss this proposed ordinance and solicit their feedback. Deron Henry and John Lawson met with representatives of the *Winston-Salem Journal*, *Yes Weekly*, *Triad City Beat* and the Downtown Winston-Salem Partnership on 7/5/15, 9/1/16, 10/6/16, and 12/1/16. There have been numerous email exchanges and telephone calls between the parties (including the *Chronicle*) as our office sought feedback in an effort to refine the ordinance to make it as palatable and feasible for all interested parties.



Call 311 or 336-727-8000
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City Council: Mayor Allen Joines; Vivian H. Burke, Mayor Pro Tempore, Northeast Ward; Denise D. Adams, North Ward; Dan Besse, Southwest Ward; Robert C. Clark, West Ward; John C. Larson, South Ward; Jeff MacIntosh, Northwest Ward; Derwin L. Montgomery, East Ward; James Taylor, Jr., Southeast Ward; City Manager: Lee D. Garrity

The ordinance requires all publishers to use metal newsracks within the BID; no plastic newsracks will be allowed after the 90-day compliance period following the approval of the ordinance by Council. Additionally, the ordinance requires all the newsracks located in the BID to be placed within a box corral. The Downtown Winston-Salem Partnership has provided a map of proposed locations for the corrals, based on the present location of newsracks and what the DWSP feels is the best location for the corrals to go to maximize the exposure of the publishers' material and minimize pedestrian and safety issues.

Requiring the use of box corrals will have the effect of reducing the total number of newsracks on sidewalks. As a result, the ordinance directs the City to develop an equitable system that determines which publishers can place their newsracks in which box corrals to ensure that smaller publishers are not squeezed out of the downtown market.