

ORDINANCE NO. 176339

An ordinance amending and adding various Subsections of Section 42.00 (f) of the Los Angeles Municipal Code ("LAMC") setting forth: (1) a permitting and enforcement process for newsracks; (2) a fee structure for newsracks; (3) establishing place, time and manner restrictions on installation of newsracks in the public right-of-way; (4) insurance requirements; and (5) designation of certain types of areas where newsracks will be prohibited.

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. Subsection (f) of Section 42.00 of the Los Angeles Municipal Code, is amended to read:

(1) Definitions: The following words, terms and phrases, when used in the following subsections shall have the meaning ascribed to them in this subsection, except where the context clearly indicates a different meaning:

(A) "Equivalent newsrack" means any newsrack that is of the same size and dimensions of the specified newsrack.

(B) "If demand warrants or warranted demand" means the measured stack height needed to meet the newspaper publisher's or distributor's peak daily distribution at the requested newsrack location, as proven to the Board by the newspaper publisher or distributor, exceeds (14) inches.

(C) "Individual newsrack" means and includes a newsrack designed with a single enclosed compartment to accommodate at any one time the display, sale, or free distribution of like copies of a single newspaper or other publication, or which has more than one (1) compartment and complies with the dimensions of an individual newsrack as provided in Subsection (7)(B).

(D) "Newsrack" or "News Rack" means any unstaffed, self-service, free, or coin-operated box, container, storage unit or other dispenser located in or upon, or projecting onto, or over, any part of the public right-of-way, and which is installed, used or maintained for the display, sale, or free distribution of newspapers and other publications.

(E) "Modular newsrack" means a newsrack which is designed with separate enclosed compartments to accommodate at any one time the display, sale or free distribution of multiple distinct and separate

newspapers or other publications, and which exceeds the dimensions of an individual newsrack as provided in Subsection (7)(B).

(F) "Modular newsrack provider" means the person or other legal entity that is authorized under Subsection (4)(A)(7) to place and maintain modular newsracks upon the public right-of-way.

(G) "Publisher" means the person or other legal entity selling, displaying, or distributing free newspapers or other publications in a newsrack.

(H) "News-Stand/Kiosk" means any stand, shelter, or other structure installed, used, or maintained for the display, sale or storage of newspapers, news periodicals or other news publications.

(I) "Public right-of-way" means any public street, sidewalk, parkway, alley or other location owned or otherwise controlled by the City for the benefit of the general public.

(J) "Block face" means the sidewalk on one side of a street, between one intersection and the immediately adjacent intersection.

(2) Purpose and Criteria: The purpose of the following subsections is to promote the public health, safety, and general welfare of the citizens and visitors to the City through the regulation of placement, type, appearance, and maintenance of newsracks on public rights-of-way so as to:

(A) Provide for pedestrian and driver safety and convenience.

(B) Restrict unreasonable interference with the flow of pedestrian or vehicular traffic, including, but not limited to, ingress into and egress from any residence or place of business, or from the street to the sidewalk, or from the sidewalk to the street by persons exiting or entering parked or standing vehicles.

(C) Provide for the safety of the general public and property during emergency conditions.

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

(E) Allow for the placement and maintenance of modular newsracks in the modular newsrack areas, as determined by the City Council, to be placed in locations throughout the city which afford easy,

convenient service to pedestrians, but do not obstruct or interfere with access to abutting properties, and which do not impede or endanger pedestrian, bicycle, or vehicular traffic.

(F) Relocate and/or replace or remove newsracks which result in visual blight and/or are not installed according to this code on the public rights-of-way or which block or interfere with the aesthetics of store window displays, adjacent businesses, landscaping, street furniture, public or private, and other improvements as well as to allow the removal of abandoned newsracks.

(G) Maintain and protect the values of surrounding properties, and ensure that the aesthetics and historical attributes of adjacent businesses are not compromised by the unregulated placement of newsracks in the public right-of way.

(H) Reduce unnecessary exposure of the public to personal injury or property damage.

(I) Maintain and preserve freedom of the press to distribute periodicals and newspapers.

(J) Reduce visual blight and improve the aesthetic appearance of the City's streets and sidewalks for the merchants, citizens and visitors to the City by coordinating the uniform color of all newsracks with the color of the City's extensive multi-million dollar street furniture program; and in Specific Plan Areas, Streetscape Plan Areas or other Special Planning Districts, which have a standard streetscape color, to allow for a uniform newsrack color from a limited palate of colors in order to coordinate the color of newsracks with their streetscape.

(3) Compliance Phase-In:

(A) The provisions of this subdivision shall apply to all newsracks, whether installed and maintained prior to or after the effective date of this ordinance which in whole or in part rests upon, in, or over any dedicated sidewalk, right of way or parkway. Those newsracks installed prior to the effective date of this revised ordinance shall be brought into compliance with the all provisions of this code, except uniform color, as this revised ordinance is implemented by Street Services, area by area, within the City. In no event shall compliance be later than 12 months after the effective date hereof, except that, if the City's implementation schedule takes longer than 12 months, then compliance by the publishers shall follow the City's implementation schedule. If a publisher chooses not to come into compliance with the uniform color requirement of this ordinance

at the time it obtains a valid permit and legally places its newsracks as required by the City's implementation schedule, then compliance with the uniform color requirement must be accomplished no later than 24 months after the effective date of this ordinance. However, Publishers experiencing financial hardship, solely due to compliance with LAMC § 42.00 (f) as it applies to uniform color, may request the Board to approve one 12 month extension allowing them a total of 36 months to come into full compliance with the uniform color requirement of the Newsrack Ordinance, if evidence of financial hardship is proven to the satisfaction of the Board. Any newsrack not brought into compliance within the aforementioned time period shall be deemed to be in violation of LAMC §42.00(f).

(4) Permit Required: No person shall install or maintain any newsrack upon any public right-of-way without first applying for and receiving a permit from the City's Board of Public Works, herein after referred to as "Board". A permit will not be issued unless the application is completed in full, the requested installation meets all the appropriate placement criteria as set forth below, and the application is accompanied by the appropriate permit fee for the type of newsrack, single, pedestal, or modular, for each individual newsrack installation requested. Any permit granted pursuant to the provisions of this code shall only be valid as to the specific location specified in the permit application. Where application is made for the installation of two or more single newsracks, a separate permit shall be required for each individual newsrack. Upon this revised ordinance taking legal effect in the City of Los Angeles, any owner of a newsrack currently existing on any City right of way must apply for a permit pursuant to this ordinance within the time specified by the Board of Public Works in its Rules and Regulations for the implementation of this ordinance. Any newsrack which is not the subject of a valid permit application as required by the City's implementation Rules and Regulations will be deemed to be in violation of 42.00 (f) of this code and subject to removal from the right of way as set forth herein.

(A) Permit Application. Permit applications shall be in writing and on forms as provided by the Board. The permit application shall include the following information:

(1) The name, address, and telephone number of the applicant who is the owner and/or principal responsible for 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 newsrack(s).

(3) The specified number of newsracks and the detailed proposed location for each one, shown on a drawing of the location, or GIS/Address based program provided by applicant which is compatible with the City's GIS program and which indicates all existing buildings, existing newsracks at the location and general vicinity, and all other possible obstructions within 20 feet of the proposed location of the newsrack.

(4) Names of newspaper(s) or periodical(s) to be placed in each newsrack. One or more newspapers or periodicals may be dispensed from a single newsrack if the newsrack is manufactured for this purpose.

(5) Type or brand of newsrack, including an illustration and description of the newsrack and mount, if other than a single pedestal, size of base plate and whether the newsrack will have a coin-box attachment, or equivalent.

(6) A sworn statement under penalty of perjury, executed by an officer, director, or authorized agent of the applicant, agreeing that the applicant shall not sell, assign, or transfer by any method, the permit for the newsrack location to any other publisher, distributor, entity or individual.

(7) The Board, with Council approval, may designate areas of the City where only modular newsracks may be installed and maintained by a City vendor such as the City Hall Historical District, (the east block face on Spring Street between Temple Street and 1st Street, the south block face of Temple Street between Spring Street and Main Street, the west block face of Main Street between Temple Street and 1st Street, and the north block face of 1st Street between Spring Street and Main Street). No application for an individual newsrack permit may be submitted in a modular newsrack area. Upon the effective date of this ordinance, the total number of compartments in modular newsracks in any designated modular newsrack area, shall be substantially equivalent to the highest total number of individual newsracks known to have been legally maintained on the public right-of-way in the modular newsrack areas at any one time during the year preceding the introduction of this amended ordinance but in no event more than the total number of newsracks allowed by subparagraph (F) (4) below.

(8) Such other information as, from time to time, may be required by the Board.

(B) Expiration – Renewal. Unless earlier revoked, newsrack permits issued pursuant to the provisions of this code shall expire on the 30th day of August following the date upon which each such permit is granted. Such permits may thereafter be renewed annually upon the payment of the fee hereinafter prescribed. Applications for renewal shall be made at least 30 days prior to the expiration of any permit issued, and must be accompanied by a permit renewal fee as set forth in Subsection (4)(C), below. Application for permit renewal and payment must be either presented in person to the Bureau of Street Services, via the Internet (if available), or mailed via certified mail, postmarked no later than 30 days prior to the date of permit expiration. Failure to renew an existing newsrack permit before its expiration will require the payment of a late renewal penalty as set forth in Subsection (4)(C), below, or the loss of the placement of the said rack at the subject location.

(C) Fees. The Board shall establish all fees, in accordance with the level of enforcement deemed appropriate by the Council, and shall only be used to defray the total expenses of operation of the newsrack program including: permitting, inspection, administration, and enforcement, required by this Ordinance as set forth in the preceding and following sections of this code. The Initial Permit Fee, the Renewal Permit Fee, the Site Inspection Fee, the Site Re-Inspection Fee, Late Renewal Penalty Fee, Impound Fees, and the Bar Code Decal Replacement Fee shall be determined and adopted from time to time by the Board.

(D) Insurance.

(1) Requirement -Content.

As a condition of the City granting any person or persons one or more permits to maintain a newsrack or newsracks in the public right-of-way, any such permittee shall be required to maintain a policy of general liability insurance, naming the City of Los Angeles, the Board of Public Works and its employees, agents etc. as "Additional Insureds" for the specific purpose of indemnifying and holding harmless the City of Los Angeles, its officers, boards, employees, etc. from and against any and all losses, costs, damages, expenses, or liability, whatsoever, which may result from or arise out of the granting of a permit, and/or the installation and/or the maintenance of any newsrack or newsracks for which the permittee shall be responsible for paying any and all losses or damages that may be sustained by any person or persons as a result of, or which may be caused by or arise out of the installation and/or maintenance of the permitted newsrack or

newsracks. The policy of insurance shall be maintained in its original amount by the permittee at permittee's expense at all times during the period for which the permittee holds a valid permit or permits. Should said policy be called upon to satisfy any liability for damages covered by said policy, the policy must be of such a nature that the original amount of coverage is restored after any payment of damages by the policy. In the event that two or more permits are issued to one permittee, the permittee shall only be required to maintain a single policy of insurance covering all such permits held by the permittee in the amount set forth below for the number of newsracks maintained by the permittee.

(2) Required Limits of Liability Insurance.

The Board shall be responsible, from time to time, for adopting the limits of liability insurance required to be maintained by newsrack permittees under this code. The Board shall receive a recommendation from the City's Risk Manager prior to setting the limits of liability insurance based on the number of racks that each permittee maintains in the City's right-of-way.

(E) Every person who installs, uses or maintains any newsrack which in whole or in part rests upon, in, or over any dedicated sidewalk or parkway shall have his or her name, address and telephone number affixed thereto at a place where such information may be easily seen, in addition to a bar code decal issued by the Board for that specific newsrack.

(5) Prohibited Where Vehicles Permitted: No person shall install or maintain any newsrack which projects onto, into or over any part of the roadway of any public street, or which rests, wholly or in part, upon, along or over any portion of such roadway.

(6) Unlawful Obstructions: No person shall install, use or maintain any newsrack:

(A) Within 5 feet of any marked crosswalk;

(B) Within 5 feet of the curb return of any unmarked crosswalk;

(C) Within 5 feet of any fire hydrant, fire call box or other emergency facility;

(D) Within 5 feet ahead and 45 feet to the rear of any sign marking a designated bus stop. No newsrack shall be installed within the marked bus zone;

(E) Within 5 feet of any bus bench.

(F) Within 10 feet of any transit shelter.

(G) In front of an entrance to a business, including the curb area directly across from such entrance where the distance between the entry door and the newsrack is less than 10 feet;

(H) In any location used, marked or posted for public utility purpose, public transportation purpose or government use;

(I) Where placement unreasonably interferes with the use of poles, posts, traffic signs or signals, mail boxes or other objects legally permitted, but in no event shall the newsrack be closer than one foot from such objects;

(J) Where placement interferes with the reasonable use or utility for display purposes of any display window of any building abutting the sidewalk or parkway, but in no event within 4 feet of such window;

(K) Within 5 feet of any area improved with lawn, flowers shrubs, trees or street tree well;

(L) Within 5 feet of any driveway or driveway apron;

(M) Within 4 feet of any outdoor dining areas or patio dining areas;

(N) Within 20 feet of both sides of buildings officially designated Los Angeles Historical or Cultural Monuments. If there is a block in which all buildings have been so officially designated, then the Board, in consultation with the Cultural Heritage Commission, shall determine siting on such block face for up to four (4) newsracks. An owner of a building which has been designated as a Historical or Cultural Monument may petition the Board of Public Works to allow newsracks on the sidewalks in front of their building if the placement of such newsracks will not interfere with Historic or Cultural nature of the building. The Board shall listen to evidence from all interested parties and make its determination based on the totality of the evidence.

(O) Within 20 feet of both sides of visual public art work created, funded or managed through the City's Municipal Art Program including, but not limited to, murals, sculptures and fountains.

(P) Where placement impedes the flow of pedestrian traffic by reducing the clear space to less than 6 feet or, impedes access to or the use of abutting property, including, but not limited to, residences and places of business.

(Q) Notwithstanding any other paragraph of this subdivision, no person shall install, use or maintain any newsrack where placement endangers the safety of persons or property.

(R) No newsrack shall be installed within 4 feet from any permanently installed structure in the public Right-of-Way, which is not otherwise specifically identified in this subdivision.

(S) Within one foot of any utility cover, vent screen or other object that is flush mounted with the sidewalk, except that if the owner or person in control of the below grade sidewalk installation needs additional space for emergency or non-routine maintenance of the installation, any newsrack(s) which interferes with such maintenance may be requested to be temporarily removed to accommodate the required maintenance and then be reinstalled.

(T) Within 4 feet to the front and 10 feet to the rear of any parking meter and where there are no parking meters on the curb, 10 feet from the front of any marked parallel parking place.

(7) Size, Appearance, Placement, Installation and Construction of Newsracks:

(A) Every newsrack shall be maintained in a neat and clean condition and be in good repair at all times.

(B) All newsracks shall be permanently mounted, except as provided in Subsection (7)(C), in accordance with specifications established by the Board as provided in Subsection (9) and adopted from time to time as revisions become necessary, including but not limited to: style, construction, coating, material and fabrication. Specifications for a newsrack shall be:

(1) Street tube pedestal, at least four inches by three inches in height;

(2) Overall height shall not be less than 46 inches and shall not exceed 52 inches; the overall width shall not be less than 20 inches and shall not exceed 30 inches; and the overall depth shall not be less than 12 inches and shall not exceed 20 inches.

(3) All newsracks shall be primarily constructed of metal and shall be "Ivy Green" in color (Tiger RAL 607 SM, Glossy, Code 28-50081), except as provided in §42.00 (f)17 "Specific Plan/Street Scape Plan Areas".

(C) Special Purpose Sidewalks; No Permanent Attachments.

Each individual newsrack which is permitted to be placed on a special purpose sidewalk, such as terrazzo, brick, glass prism implanted, or where basements are located under the sidewalk, shall be on legs and shall be mobile and not affixed to the sidewalk in any way.

(D) Pedestals

No pedestals shall be maintained on a public right-of-way unless there is attached thereto a newsrack case as provided herein.

(E) Removal of Newsracks; Repair of Sidewalks.

Upon the removal of any newsrack, the person so removing shall be responsible for the repair of any resulting condition, including filling in of any holes left in the sidewalk and/or the removal of any bolts or other devices used to affix the newsrack to the sidewalk such that there are no obstructions sticking above the grade of the sidewalk. Such work is to be done to the satisfaction of the Department of Public Works.

(F) Newsrack Location

(1) Newsracks shall only be situated near a curb with the back of said newsrack situated not less than 18 inches nor more than 24 inches from the edge of the curb. If it is physically impossible to situate a newsrack near a curb, then the Board may authorize the placement of up to four (4) newsracks adjacent to the wall of a building on that block. If the newsrack is placed adjacent to the wall of a building, the back of said newsrack shall be situated parallel to and not more than 6 inches from such wall. No newsrack shall be installed, used or maintained on any sidewalk or parkway opposite a newsstand or other newsrack.

(2) Except as otherwise provided by this code, no newsrack placed on the public right-of-way shall be chained, bolted or otherwise attached to any property or to any permanently fixed object.

(3) Not more than four newsracks shall be placed immediately adjacent to each other. Any such group of up to four newsracks shall be separated by a space of not less than 48 inches from any other individual newsrack or group of newsracks.

(4) Not more than 16 newsracks shall be placed within 200 ft. of the same block face. However, the Board may establish a number greater or less than 16 in any specific block face by conducting an engineering study. In cases where a block face is longer than 200 ft., for every additional 50 ft. of block face greater than 200 ft., an additional four (4) newsracks may be installed.

(5) Not more than one permit for installation of a newsrack shall be issued for each publication on one side of a block or within 200 ft. of the same block face, whichever is less. One publication includes: differing geographic editions of the same publication (Orange County edition; Valley edition, etc.); and daily and Sunday editions of the same publication. In cases where a block face is longer than 200 ft., and there is space to legally install additional newsracks, then a permit for one publication to install a second newsrack on the same block face may be issued by the Board.

(6) Newsracks shall not be permitted on the public right-of-way adjacent to any property that is zoned exclusively for single-family residential use (R-1).

(G) Priorities Related to Placement of Newsracks.

(1) In determining in what order newsrack permittees may select their location on a particular block face during implementation of this revised newsrack ordinance, and in particular where there are more requests for newsrack spaces on any one block face than there are legal spaces available, the Board of Public Works shall, pursuant to its authority under paragraph (9) below, develop a content neutral criteria for determining the placement of newsracks applicable to each block face.

(2) Once this revised newsrack ordinance has been fully implemented citywide, all subsequent newsrack permits shall be issued on a first come first served basis.

(8) Unlawful Use:

No newsrack shall be used for advertising signs or publicity purposes. External lettering is restricted to the following:

(A) If the newsrack is situated next to the curb, the side parallel to the curb, next to the lanes of traffic, may have external lettering replicating the publication masthead style and color, for the permitted publication in the subject newsrack, in a total area not to exceed 144 square inches.

If an individual newsrack is used to distribute more than one publication, each publication distributed in that newsrack shall be entitled to have external lettering replicating the publication masthead style and color for the permitted publications in the subject newsrack. However, the total area for all such publication mastheads on that newsrack shall not exceed 144 square inches.

(B) The side of the newsrack facing pedestrian traffic, except in Specific Plan/Streetscape Plan Areas, as identified in Section (17), may have a "Rack Card", with a total area not to exceed 238 square inches, which exclusively advertises the newspaper or periodical being dispensed, and shall not include any third-party advertising. This "Rack Card" shall be located in the area immediately below the hood on the front access side of the newsrack.

(C) Other than as permitted in this section, no other lettering or advertising of any kind shall be permitted anywhere else on the newsrack, including the mount.

(9) Authority of the Board of Public Works to Promulgate Rules and Regulations for the Permitting, Installation and Maintenance of the Newsracks in the Public Right of Way:

Consistent with the intent and requirements of LAMC §42.00(f), et seq., the Board may adopt rules and regulations to administer the installation, placement, maintenance, size and material used for construction of newsracks. The Board may adopt any other rule and/or regulation for the protection of public safety, welfare, or property relative to permitting, installation, and maintenance of newsracks. Prior to adoption of any rules and/or regulations, the Board shall hold a public hearing. Once any rules and/or regulations are adopted, they shall be kept posted in the Board office and a copy thereof shall be furnished to any applicant for a newsrack permit.

(10) Noncompliance With LAMC §42.00(f), et seq.; Tagging of Newsracks:

Except as provided in subsection (12) hereof, whenever any newsrack is found to be in violation of any Subsection of LAMC §42.00(f), the Board shall cause a notice tag to be attached to said newsrack specifying the date and nature of the violation, and shall E-mail or fax to the permittee a copy of the violation. Permittee shall within ten (10) calendar days from the date on which the tag was attached, either cause the violation to be corrected or request a hearing pursuant to Subsection (13) hereof. If a hearing is requested, staff will not remove the non-compliant newsrack until a final determination by the Board. However, if a newsrack installed within the City right-of-way has no visible evidence that it has been properly permitted (no City issued bar code decal, no visible contact information for the owner or no other evidence that would indicate that a valid permit for the newsrack had been issued) staff may confiscate the offending newsrack and follow the procedures in subparagraph (11) (B) below. There is hereby created a presumption that any newsrack within the City's right-of-way that does not have a city bar code decal, or visible identification and contact information for the owner of the newsrack, has been installed without a valid permit.

(A) A newsrack may be tagged for any violation of any requirement of LAMC §42.00(f) including, but not limited to, the following:

(1) Where its installation, use or maintenance unreasonably interferes with or impedes the flow of vehicular or pedestrian traffic;

(2) Where its installation, use or maintenance interferes with the use of poles, posts, traffic signs or signals, hydrants, mailboxes or other objects legally permitted;

(3) Where its installation, use or maintenance unreasonably obstructs, interferes with or impedes access to or the use of abutting property, including, but not limited to, residences, places of business, or legally parked or stopped vehicles;

(4) When such newsrack does not have a name, address and telephone number affixed in a place where such information may be easily seen and the designee of such newsrack cannot be otherwise identified;

(5) When a newsrack is found in the public right-of-way which does not have a visible, city issued, bar code decal present indicating the correct permit number of the newsrack or the newsrack has no valid permit at all; and

(6) When a newsrack is found in the public right-of-way which is not maintained in a neat and clean condition and in good repair, in accordance with the following Maintenance Specifications:

(a) The newsrack permittee shall maintain all newsracks and the sidewalk surface immediately under and adjacent (within 2 feet) to the newsracks in a safe, clean, attractive and sanitary condition and in good order and repair, as determined by the Department of Public Works, Bureau of Street Services (BOSS). The permittee shall make routine inspection and maintenance calls on each newsrack once a week. Such inspection and maintenance calls may be incorporated with delivery of newspapers or other publications. The permittee shall make more frequent calls if conditions warrant. At each maintenance call, the permittee shall clean, wash and remove all graffiti, stickers, posters, litter, dust, dirt and weeds at each newsrack. The newsrack shall be maintained in a continual good and working condition.

(b) Maintenance -- Permittee shall respond to a request to secure a site or to perform maintenance within 24 hours of notification, but in no event more than 72 hours. The permittee shall use cleaning methods and procedures that have been demonstrated and approved and are environmentally safe, utilizing acceptable industry practices.

(c) Repair and Replacement -- The Permittee shall commence necessary repairs within one week when any damage or vandalism is found by BOSS. If the newsrack damage or vandalism is of an emergency or hazardous nature, the permittee will repair, replace, remove or secure the site within 24 hours of notification. If the newsrack is totally destroyed because of an accident, the Permittee will remove the newsrack and appurtenant structures within 24 hours, including repair of any damage to the public right-of-way, returning the site to its former condition prior to the newsrack installation.

(d) Graffiti Removal -- Permittee will upon notification by BOSS, or upon inspection, remove graffiti within 24 hours from any newsrack.

(11) Impounding of Newsracks:

(A) Notwithstanding the Department's right to tag newsracks in violation of any Subsection on LAMC §42.00(f), the Department may cause any newsrack to be impounded:

(1) When the newsrack poses an immediate danger to persons or vehicles;

(2) Where its installation, use or maintenance endangers the safety of persons or property;

(3) When pursuant to Subsection (10), a tag has been attached to a newsrack and a written notice, such as fax, letter or E-mail has been sent to the owner, operator, or responsible person for the newsrack and the designee has neither caused the violation specified on said tag to be corrected nor requested a hearing pursuant to Subsection (14), hereof within the time permitted;

(4) When a hearing and appeal, if filed, have resulted in a final determination that the violation(s) specified on the tag attached to such newsrack has in fact occurred, and the designee has failed to correct such violation(s) within ten (10) calendar days from the date of said determination;

(5) When a request for a hearing or appeal has been withdrawn, such request shall be deemed withdrawn, either by actual withdrawal or by the failure of the designee to fully comply with Subsection (14) of this code;

(6) When such newsrack has been abandoned; and

(7) When such newsrack has been installed on the City's right-of way without first applying for and receiving a permit as required by this code.

Pursuant to this Subsection, a newsrack shall be deemed abandoned when it does not contain the newspaper or other publication specified therefor for more than four (4) consecutive days for a daily publication, eight (8) consecutive days for a weekly publication, sixteen (16) consecutive days for a biweekly publication, or thirty-four (34) days for a monthly publication. A newsstand shall be deemed abandoned if it is not open for a period of more than seven (7) consecutive days.

(B) Standard impound procedures:

Within forty-eight (48) hours after removal of any newsrack, the Board shall notify the owner in writing, fax or E-mail of the removal and the reason for removal where ownership information is posted on the newsrack either through the City bar code decal or the required owner contact information. If ownership information is not readily available because there is no City bar code decal, or ownership identification information posted on the newsrack, or no newspaper or periodical in the newsrack with contact information, the City shall make every reasonable effort to comply with the notification procedure of this subsection. When notification is possible, the notice shall also inform the owner of the right to request, either in writing or in person, within five (5) business days of the date of the postmark of such written notice, a hearing by the Board or its designee pursuant to Subsection (14), to determine whether such removal was proper.

(12) Return of Impounded Newsracks:

(A) Any newsrack, together with its contents, which has been impounded pursuant to Subdivision (11) hereof, shall be returned to the permittee:

(1) Upon receipt of an impound fee as determined herein; or

(2) Upon a determination after hearing by the Board or its designee, pursuant to Subsection (14) hereof, that the newsrack should not have been impounded and should be returned to the permittee;

(B) In the event a hearing has not been requested pursuant to Subsection (14) within the time permitted following the impoundment of any newsrack, an impound fee as set forth herein shall be imposed upon the permittee and shall be paid before the impounded newsrack is returned.

(C) The fees herein shall be determined and adopted by the Board in order to collect sufficient money to defer the complete cost of the City's newsrack permitting and enforcement program as set forth in this code. The fees shall be adjusted from time to time by the Board to reflect any change in the cost of permitting and enforcement. At no time shall the fees adopted by the Board recover more than the actual cost of the program.

(13) Sale or Disposal After Impoundment:

The Department may sell or otherwise dispose of any newsrack, together with its contents, and retain the proceeds, pursuant to California Government Code Section 50050 et seq., from any such sale or other disposition, and any monies contained in said newsrack at the time of its impoundment, provided that either:

(A) No hearing has been requested pursuant to Subsection (14) within the time permitted;

(B) A hearing and an appeal, if filed, have resulted in a final determination that said newsrack was properly impounded, and fees assessed pursuant to Subsection (12) have not been received within thirty (30) days from the date of the final determination.

(14) Hearings:

(A) Request for Hearing -- Any newsrack permittee may file a written request with the Department for a hearing, in person or by certified mail, for the purpose of demonstrating that a newsrack should not have been impounded, or that a violation as specified on the tag attached to a newsrack pursuant to Subsection (10) hereof has not in fact occurred.

(B) Notice of Hearing -- Within two (2) working days from the date on which the request for hearing is received, the Department shall set a hearing date and shall notify the designee by certified mail of the date, time and place of said hearing. Said hearing shall occur within ten (10) working days of the date of mailing the notice unless the person requesting the hearing wishes to have the hearing at a later date, and both parties agree on the date.

(C) Conduct of Hearing -- At the time set for such hearing, or at the date to which such hearing is continued, the Board or its designee shall receive all evidence relevant to the occurrence or non-occurrence of the specified violation(s), the compliance or noncompliance with any of the provisions of this Subsection, and any other relevant information. Such hearing need not be conducted according to technical rules relating to evidence and witnesses. Oral evidence shall be taken only on oath or affirmation.

(D) Decision after Hearing -- Within ten (10) working days after the conclusion of the hearing, the Board or its designee shall find and determine, from the facts adduced at said hearing, whether the newsrack should have been tagged and/or impounded, and whether said newsrack

shall be returned except upon receipt of fees as specified in Subsection (12). The decision of the Board or its designee shall be in writing and shall contain findings of fact, a determination of the issues presented, and the amount of the fee, if any, to be imposed.

(E) Notice of Decision -- The Department shall send to the designee, by certified mail, a copy of its decision and order.

(15) No Criminal Sanctions:

Notwithstanding any provision of Subsection 11.00(m) of this Code, no person shall be subject to the imposition of criminal liability for any violation of LAMC §42.00(f).

(16) No Newsrack Areas -- Regional Historic or Cultural Significance:

(A) No newsrack shall be installed in an area deemed by the City Cultural Heritage Commission and the City Council to be of municipal or regional historic significance or regional cultural significance, including any of the following locations:

(1) On the Hollywood Walk of Fame (both sides of Hollywood Boulevard between La Brea Avenue and Gower Street, and both sides of Vine Street between Yucca Street and Sunset Boulevard);

(2) On the sidewalks immediately contiguous to the restored City Hall (the east block face on Spring Street between Temple Street and 1st Street, the south block face of Temple Street between Spring Street and Main Street, the west block face of Main Street between Temple Street and 1st Street, and the north block face of 1st Street between Spring Street and Main Street);

(3) El Pueblo de Los Angeles (Olvera Street, the east block face of Main Street between Cesar Chavez Avenue and Aliso Street, the south block of Cesar Chavez between Main Street and Alameda Street, the west block face of Alameda Street between Cesar Chavez Avenue and Aliso Street, and the north block face of Aliso Street between Main Street and Alameda Street);

(4) On the sidewalks immediately contiguous to Disney Hall (the east block face of Hope Street between 1st Street and Upper 2nd Street; the west south block face of 1st Street between Hope Avenue and Grand Avenue; the west block face of Grand Avenue

between 1st Street and Upper 2nd Street; and the north block face of Upper 2nd Street between Hope Avenue and Grand Avenue); or

(5) On the sidewalks on the block faces immediately to the west and east of the Music Center and Dorothy Chandler Pavilion (the west block face of Grand Avenue between 1st Street and Temple Street; and the east block face of Hope Street between 1st Street and Temple Street).

(6) On the Venice Boardwalk (both sides of Ocean Front Walk between Navy Street on the north and Venice Pier/Washington Boulevard on the south).

(7) On the sidewalks of the Westwood Village Broxton Avenue Promenade (both sides of Broxton Avenue between Le Conte Avenue and Kinross Avenue).

(B) In the event an area of the City which is deemed by the City Cultural Heritage Commission and the City Council to be of municipal regional historic significance, such an area may apply to the Board for designation as an area where no newsracks shall be installed, subject to the approval of the City Council.

(17) Specific Plan/Streetscape Plan Areas:

Specific Plan Areas, Streetscape Plan Areas, or other Special Planning Districts approved by the Planning Department, which include a standard streetscape color, may request a uniform newsrack color other than Ivy Green, from the Board, with Council input, and if granted, the color shall be one of the following three colors: black (*RAL 9017 "Grotto Black"*), blue (Benjamin Moore No. 805 "Westwood Blue") or gray (Marine Silver 38/90010).

(18) Severability

If any section or subsection of this ordinance is deemed to be void or unenforceable, such shall be severed from the whole and the remaining portions of the ordinance shall remain in full force and effect.

Sec. 2. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located in the Main Street lobby to the City Hall; one copy on the bulletin board located at the ground level at the Los Angeles Street entrance to the Los Angeles Police Department; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that the foregoing ordinance was introduced at the meeting of the Council of the City of Los Angeles NOV 17 2004 and was passed at its meeting of NOV 24 2004.

FRANK T. MARTINEZ, City Clerk

By *Maia Klemm*
Deputy

Approved _____

Mayor

Approved as to Form and Legality

ROCKARD J. DELGADILLO, City Attorney

By *[Signature]* for
CHRISTOPHER M. WESTHOFF
Assistant City Attorney

Date: 11-9-04

Said ordinance was presented to the Mayor on November 24, 2004; the Mayor returned said ordinance to the City Clerk on December 7, 2004 without his approval or his objections in writing, being more than ten days after the same was presented to the Mayor.

Said ordinance shall become effective and be as valid as if the Mayor had approved and signed it. (Section 250(b), City Charter)

C.F. 00-1073-S2

DECLARATION OF POSTING ORDINANCE


I, MARIA C. RICO, state as follows: I am, and was at all times hereinafter mentioned, a resident of the State of California, over the age of eighteen years, and a Deputy City Clerk of the City of Los Angeles, California.

Ordinance No. 176339 - Amending and adding various Subsections of Section 42.00(f) of the L.A.M.C. to regulating the permitting, aesthetics and placement of newsracks in the public right of way - a copy of which is hereto attached, was finally adopted by the Los Angeles City Council on November 24, 2004, and under the direction of said City Council and the City Clerk, pursuant to Section 251 of the Charter of the City of Los Angeles and Ordinance No. 172959, on December 10, 2004, I posted a true copy of said ordinance at each of three public places located in the City of Los Angeles, California, as follows: 1) One copy on the bulletin board at the Main Street entrance to Los Angeles City Hall; 2) 568 copy on the bulletin board at the ground level Los Angeles Street entrance to the Los Angeles Police Department; and 3) one copy on the bulletin board at the Temple Street entrance to the Hall of Records of the County of Los Angeles.

Copies of said ordinance were posted conspicuously beginning on December 10, 2004 and will be continuously posted for ten or more days.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 10th day of December 2004 at Los Angeles, California.


Maria C. Rico, Deputy City Clerk

Ordinance Effective Date: Jan. 19, 2005

Council File No. 00-1073-S2