

**NOTICE OF ENACTMENT
OF AMENDMENT TO DARIEN'S
CODE OF ORDINANCES**

NEWSRACKS ON PUBLIC RIGHT OF WAYS

(1) DEFINITIONS. The following words and phrases shall have the following meanings, unless the context requires otherwise:

- a. **“Newsrack:”** any self-service or coin-operated box, container, storage unit or other dispenser installed, used or maintained for the display, sale or distribution of newspapers, periodicals or other printed matter, including advertisements (“publications”).
- b. **“Distributor:”** any person responsible for the installation, operation, or maintenance of a newsrack in a public right-of-way.
- c. **“Person:”** an individual, firm, corporation or other entity as defined in Section 1-1(k), Connecticut General Statutes.
- d. **“Public right-of-way:”** any area owned and/or operated by the Town or any other governmental entity that is open for use by the public for vehicular or pedestrian travel, including, but not limited to, roadways, sidewalks, streets or other rights-of-way.
- e. **“Roadway:”** that portion of a street that is improved, designed, or ordinarily used for vehicular traffic, exclusive of the berm or shoulder.
- f. **“Sidewalk:”** that portion of a street between the curb line and the adjacent property line.
- g. **“Street:”** the entire area encompassed by a roadway and a sidewalk.

(2) PERMIT REQUIRED –

- a. No person shall install, maintain, or operate any newsrack on any public right-of-way without first obtaining a permit for each such newsrack from the Department of Public Works. To issue a permit the Department of Public Works must receive the applicable fee and an application which includes the following:
 - i. The applicant’s name, address and telephone number, and the distributor’s name, address and telephone number, if different and the title of the publication.
 - ii. The requested location of each newsrack.

(3) INSTALLATION & PLACEMENT OF NEWSRACKS –

- a.** No newsrack may project onto, into or over any part of a roadway, and no newsrack shall rest, wholly or in part, upon, along or over any part of a roadway.
- b.** No newsrack shall be chained, bolted, or otherwise attached to any permanently fixed object located or to any property not owned by the distributor within a public right-of-way. Distributor may attach newsracks to a fixture owned by distributor or by a person who has consented to such attachment in a writing filed with the application for a permit. Any attached newsrack shall be rigid and secure and prevent the newsrack from swiveling, turning or otherwise moving while so attached.
- c.** No newsrack shall be placed, installed, used or maintained within fifteen (15) feet of any:
 - i.** Marked crosswalk.
 - ii.** Fire hydrant, fire call box, police call box or other emergency facility.
 - iii.** Curb cut or a curb return.
 - iv.** Marked bus stop or school bus stop, parking space for the handicapped or on any access ramp for disable persons.
- d.** No newsrack shall be placed, installed, used or maintained:
 - i.** At any location where the clear space for the passageway for pedestrians is reduced to less than four (4) feet.
 - ii.** At any location whereby such newsrack interferes with the cleaning of any sidewalk by the use of mechanical sidewalk cleaning equipment.
 - iii.** Within five hundred (500) feet and on the same side of the street of any other newsrack on a public right-of-way that contains the same publication.
 - iv.** In such a manner as to restrict the safe exit from and entry to properly parked vehicles.

(4) APPEARANCE AND MAINTENANCE OF NEWSRACKS –

- a.** No newsrack shall be used for advertising or publicity, other than that dealing with the publication to be dispensed therefrom.
- b.** Each newsrack shall be maintained in a clean and neat condition and in good working order at all times. Newsracks shall be kept free of graffiti; decals; extraneous markings; rust; and faded, chipping or peeling paint.

Newsrack viewing windows shall be kept free of cracks, blemishes or scratches.

- c. Any newsrack that remains empty for thirty (30) continuous days, or unserviced for thirty (30) continuous days after the newsstand release of a later issue or edition of the displayed publication shall be deemed abandoned and in violation of this chapter.

(5) EXISTING NEWSRACKS –

Newsracks installed prior to this chapter's effective date shall be brought into compliance within ninety (90) days of such effective date, or be deemed to be in violation of this chapter.

(6) VIOLATIONS –

- a. When it has been determined by the Department of Public Works that there has been a violation of this chapter, or that a newsrack has been installed, used or maintained in violation of this chapter, the Department may issue a fine in an amount set by the Board of Selectmen. The Department may issue an order to correct the violation which shall be sent to the distributor's address by certified mail. The order shall state the violation, inform the distributor of the Town's intention to remove the newsrack if the violation is not corrected within thirty (30) days from the date of the certified mailing, and set forth the procedure to appeal the order.
- b. Failure either to correct a violation or to appeal the determination within thirty (30) days from the date of the certified mailing of the order described in Section 6(a) may result in the newsrack's removal. The Town's cost and expense to remove and store the newsrack shall be assessed against the distributor. If the distributor fails to claim a removed newsrack and pay the accumulated charges within ninety (90) days of removal, the newsrack shall be deemed to be unclaimed property and may be disposed of by the Department of Public Works.
- c. When an distributor corrects a violation the Department of Public Works shall inspect the newsrack to determine that it has been brought into compliance with this chapter. A reasonable, additional charge for this inspection shall be assessed against the distributor.

(7) APPEALS –

- a. For the hearing of an appeal under this chapter, the First Selectman shall appoint one or more newsrack violation hearing officers to hear appeals.
- b. A distributor may appeal any finding, determination, notice, order or action taken under this chapter within thirty (30) days of the certified

mailing of the notice described in Section 6(a). Such appeal must be made in writing and filed with the Office of First Selectman.

- c. All hearings under this chapter shall be held on a date not more than ten (10) business days after receipt of the letter of appeal.

(8) EMERGENCY REMOVAL-

Nothing contained in this chapter shall be interpreted to limit or impair the Town's authority to remove any newsrack which presents a clear and present danger of imminent personal injury or property damage to users of the public rights-of-way.

(9) SEVERABILITY --

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

(10) EFFECTIVE DATE-

This ordinance is effective April 1, 2007.

By direction of the Representative Town Meeting held November 13, 2006.

Dated at Darien, Connecticut this 14th day of November 2006.

Donna E. Rajczewski
Town Clerk