

CHAPTER 5

NEWSRACKS

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8-5-1: **INTENT AND PURPOSE:**

The Mayor and Board of Trustees of the Village find and declare that:

- A. The uncontrolled placement of newsracks in public rights of way presents an inconvenience and danger to the safety and welfare of persons using such rights of way, including pedestrians, persons entering and leaving vehicles and buildings, and persons performing essential utility, traffic control and emergency services.
- B. Newsracks so located as to cause an inconvenience or danger to persons using public rights of way, and unsightly newsracks located therein, constitute public nuisances.
- C. It is a matter of public necessity that the Village protects children and unconsenting adults in and on its public streets, sidewalks, transportation

facilities and other public rights of way from viewing such public displays of offensive sexual material. Such displays are thrust indiscriminately upon unwilling audiences of adults and children and constitute assaults upon individual privacy.

- D. The provisions and prohibitions hereinafter contained and enacted are in pursuance of and for the purpose of securing and promoting the public health, morals, and general welfare of persons in the Village in their use of public rights of way.

8-5-2: DEFINITIONS:

DISTRIBUTOR The person responsible for placing and maintaining a newsrack in a public right of way.

NEWSRACK Any self-service or coin-operated box, container, storage unit or other dispenser installed, used, or maintained for the display and sale of newspapers or other news periodicals.

PARKWAY That area between the sidewalks and the curb of any street, and where there is no sidewalk, that area between the edge of the roadway and property line adjacent thereto. Parkway shall also include any area within a roadway that is not open to vehicular travel.

PICTORIAL MATERIAL Any material suggesting or conveying a visual image, and includes, but is not limited to, a photograph, painting or drawing.

Any pictorial material is "obscene" if it satisfies or meets the definition of "obscene" as set forth in section 11-20(b) of chapter 38 of the Illinois Revised Statutes, 1989, as amended from time to time. (Ill. Rev. Stat. ch. 38 par. 11-20(b), 1989.)

ROADWAY That portion of a street improved, designed, or ordinarily used for vehicular travel.

SIDEWALK All that area dedicated to public use for public street purposes and shall include, but not be limited to, roadways, parkways, alleys and sidewalks.

8-5-3: PERMIT REQUIRED:

It shall be unlawful for any person to erect, place, maintain or operate, on any public street or sidewalk, or in any other public way or place, in the Village any newsrack without first having obtained a permit from the Village Manager specifying the exact location of such newsrack(s). One permit may be issued to include any number of newsracks, and shall be signed by the applicant.

8-5-4: APPLICATION FOR PERMIT:

Application for such permit shall be made, in writing, to the Village Clerk upon such form as shall be provided by the Village, and shall contain the name and address of the applicant, the proposed specific location of said newsrack, and shall be signed by the applicant.

8-5-5: CONDITIONS FOR PERMIT:

- A. As an express condition of the acceptance of such permit, the permittee thereby agrees to indemnify and save harmless the Village, its officers, agents, trustees, mayor, and employees against any loss or liability or damage, including expenses and costs for bodily or personal injury, and for property damage sustained by any person as the result of the installation, use or maintenance of a newsrack within the Village.
- B. Permits shall be issued for the installation of a newsrack or newsracks without prior inspection of the location but such newsrack or newsracks and the installation, use or maintenance thereof shall be conditioned upon observance of the provisions of this Chapter. Permits shall be issued within twenty four (24) hours (excluding Saturday and Sunday and legal holidays) after the application has been filed as established in the Comprehensive Fee Schedule set forth in Chapter 15 of Title 1 of this Code. (amd. Ord. 95-1385-15, eff.5/8/95)
- C. Such permits shall be valid for three (3) years and shall be renewable pursuant to the procedure for original applications referred to in Section 8-5-4 as established in the Comprehensive Fee Schedule set forth in Chapter 15 of Title 1 of this Code. (Amd. Ord. 95-1385-15, eff.5/8/95)
- D. Stickers showing the permit number shall be issued with the permit and must

be displayed on the front of each newsrack at all times.

8-5-6: STANDARDS FOR MAINTENANCE AND INSTALLATION:

Any newsrack which in whole or in part rests upon, in or over any public sidewalk or parkway, shall comply with the following standards:

- A. No newsrack shall exceed five feet (5') in height, thirty inches (30") in width, or two feet (2') in thickness.
- B. 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.
- C. Each newsrack shall be equipped with a coin-return mechanism to permit a person using the machine to secure an immediate refund in the event he is unable to receive the publication paid for. The coin-return mechanisms shall be maintained in good working order.
- D. Each newsrack shall have affixed to it in a 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.
- E. 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 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 fading.

6. The structural parts thereof are not broken or unduly misshapen.

8-5-7: DISPLAY OF OBSCENE MATERIAL:

It shall be unlawful for any person to knowingly place or maintain any publication or material in newsracks which exposes to public view any pictorial material that is obscene.

8-5-8: LOCATION AND PLACEMENT OF NEWSRACK:

Any newsrack which rests in whole or in part upon, or on any portion of a public right of way or which projects onto, 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 used or maintained 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 the roadway of any public street.
- B. No newsrack shall be chained, bolted, or otherwise attached to any fixture located in the public right of way, except to other newsracks.
- C. Newsracks may be placed next to each other, provided that no group of newsracks shall extend for a distance of more than eight feet (8') along a curb, and a space of not less than three feet (3') shall separate each group of newsracks.
- D. No newsrack shall be placed, installed, used or maintained:
 1. Within three feet (3') of any marked crosswalk.
 2. Within twelve feet (12') of the curb return of any unmarked crosswalk.
 3. Within five feet (5') of any fire hydrant, fire call box, police call box or other emergency facility.
 4. Within five feet (5') of any driveway.
 5. Within three feet (3') ahead or fifteen feet (15') to the rear of any sign marking a designated bus stop.

6. Within three feet (3') of the outer end of any bus bench.
7. At any location whereby the clear space for the passageway of pedestrians is reduced to less than six feet (6').
8. Within three feet (3') of or on any public area improved with lawn, flowers, shrubs, trees or other landscaping.
9. Within one hundred feet (100') of any other newsrack on the same side of the street in the same block containing the same issue or edition of the same publication.
10. On any handicap access ramp.

The provisions contained in subsection D5 of this Section shall not apply if compliance with the provisions would prohibit the placement of a newsrack for a distance of one hundred fifty feet (150') on the same side of the street in the same block.

8-5-9: VIOLATIONS OF CHAPTER:

Upon determination by the Village Manager that a newsrack has been installed, used or maintained in violation of the provisions of this Chapter, an order to correct the offending condition will 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 appeal. Failure to properly correct the offending condition within five (5) days (excluding Saturdays, Sundays, and legal holidays) after the mailing date of the order or to appeal the order within three (3) 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 subsection 8-5-6D hereof, it shall be removed immediately and processed as unclaimed property. An impound fee, which shall be measured by the Village's cost and expense of impounding, shall be assessed against each newsrack summarily removed. The Village Manager 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 for each newsrack so inspected as established in the Comprehensive Fee Schedule set forth in Chapter 15 of

Title 1 of this Code. This charge shall be in addition to all other fees and charges required under this Chapter. (amd. Ord. 95-1385-15, eff.5/8/95).

8-4-10: APPEALS:

Any person or entity aggrieved by a finding, determination, notice, order or action taken under the provisions of this Chapter may appeal and shall be appraised of his right to appeal to the Board of Trustees. An appeal must be perfected within three (3) days after receipt of notice of any protested decision or action by filing with the office of the Village Clerk a letter of appeal briefly stating therein the basis for such appeal. A hearing shall be held on a date no more than ten (10) days after receipt of the letter of appeal. Appellant shall be given at least five (5) days notice of the time and place of the hearing. The Board of Trustees shall give the appellant, and any other interested party, a reasonable opportunity to be heard, in order to show cause why the determination of the Village Manager should not be upheld. At the conclusion of the hearing, the Board of Trustees shall make a final and conclusive decision.

8-5-11: VILLAGE MANAGER'S DESIGNATED REPRESENTATIVE:

Village Manager as used in this Chapter shall include his designated representative.

8-5-12: ABANDONMENT:

In the event a newsrack remains empty for a period of thirty (30) continuous days, the same shall be deemed abandoned, and may be treated in the manner as provided in Section 8-5-9 for newsracks in violation of the provisions of this Chapter.

8-5-13: SEPARABILITY:

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. (Ord. 90-1177-61)