

**Amendments to**  
**Newsrack Ordinance**

**(Approved by Town Council November 19, 2008; effective December 5, 2008)**

Chapter 36 of the Code of the Town of New Canaan is hereby amended. A new § 36-2 has been inserted, and subsequent sections have been re-numbered.

**§ 36-1. Purpose; definitions.**

- A. The purpose of this chapter is to protect the safety and welfare of the public and to safeguard the right to make orderly distribution of newspapers and other publications within the Town of New Canaan.
- B. For the purposes of this chapter, the following words and expressions shall have the meanings assigned to them:

DISTRIBUTOR — Any person responsible for the installation or maintenance of a newsrack in the Town of New Canaan.

ENFORCEMENT AUTHORITY — Such official, agency or department of the Town of New Canaan as may be designated by the Board of Selectmen.

NEWSRACK — Any self-service or money-operated box, container, storage unit or other dispenser installed, operated or maintained for the display and sale or distribution of newspapers, periodicals or other printed matter.

**§ 36-2. Permit required.**

- A. No person shall install or maintain any newsrack on any public sidewalk or pedestrian way, or within any public street right-of-way, without first obtaining a permit for each such newsrack from the Department of Public Works. Any person desiring a permit shall submit an application on forms provided by the Department of Public Works, together with the permit fee. The application shall include the following information and documentation:
  - (1) The applicant's name, address, telephone number, and email address.
  - (2) The distributor's name, address, telephone number, and email address, if different from the applicant.
  - (3) The name of the publication.
  - (4) The requested location of the newsrack.
  - (5) A depiction or description of the proposed newsrack showing its dimensions, coloring, and lettering.
  - (6) An indemnification agreement in a form satisfactory to the Town's attorney, whereby the applicant agrees to indemnify and hold harmless the Town, its officers, agents and

- employees for, from and against any claim, loss, liability, cost or expense, including reasonable attorney's fees, court costs and expert witness fees, for personal injury or property damage sustained by any person directly or indirectly relating to or resulting from the use, maintenance or operation of the newsrack. The agreement shall also release the Town from any claims for damage to the newsrack.
- (7) A liability insurance policy issued by an insurance company licensed to do business in the State of Connecticut, insuring the applicant and naming the Town as an additional insured, against all claims of personal injury or property damage which could arise in connection with the applicant's newsrack. The policy, by its terms, shall include a provision giving the Town a right to 30 days advance written notice prior to any cancellation of the policy.
- B. The Board of Selectmen shall establish the permit fees, minimum liability insurance coverage amounts, fines for violations, and other charges required by this chapter. Fees, fines, and charges established under this chapter shall be sufficient to defray the Town's costs and expenses. All fees, fines, and charges paid under this chapter are non-refundable.
- C. Upon issuance of a newsrack permit, the Department of Public Works shall assign the location for the newsrack, and that location shall be set forth in the permit. Failure to install a newsrack at the location set forth in the permit shall be a violation of this chapter. A permit shall be valid only for the newsrack location specified in the permit.
- D. A newsrack permit shall be valid for one year from the date of issuance, and shall be renewable in accordance with the permit requirements set forth in this chapter, provided that the newsrack remains in compliance with the standards set forth in Section 36-3 for the entire term of the permit.
- E. On any coin operated newsrack, the applicant shall provide the means to report malfunctions of the dispenser or secure refunds, in the event that the coin-return mechanism malfunctions, by displaying a working toll free number.
- F. If a successor distributor or applicant assumes responsibility for a newsrack, or there is a change in the publication dispensed from a newsrack while a permit for such newsrack is valid, the new distributor or applicant must fulfill the permit application requirements set forth in this chapter, with the exception of paying the fee for the duration of the permit.

**§ 36-3. Standards for location, installation and maintenance.**

- A. No person shall install or maintain any newsrack which rests wholly or in part upon, or which projects onto, into or over any roadway.
- B. No newsrack which rests wholly or in part upon, or which projects onto, into or over any sidewalk or pedestrian way shall be installed or maintained:

- (1) Within five feet of any roadway intersection, crosswalk, public bench or access ramp for disabled persons;
- (2) Within 10 feet of any fire hydrant, fire or police callbox or other emergency facility;
- (3) Within 10 feet of any driveway;
- (4) Within 15 feet of any school bus pick-up or drop-off location, or parking space for the handicapped;
- (5) In any location so as to reduce clear passage for pedestrians to less than five feet;
- (6) Within 100 feet of another newsrack on the same street containing the same publication; or
- (7) Upon any public area improved with lawn, flowers, shrubs, trees or other landscaping.

C. Newsracks subject to this chapter shall conform to the following standards:

- (1) The dimensions of the newsrack shall not exceed five feet in height, 30 inches in width and two feet in depth.
- (2) No newsrack shall be chained, bolted, locked or otherwise attached to any property owned or maintained by the Town of New Canaan, including without limitation, sidewalks, ramps, fences, posts, railings, poles, trees, sewers, grates, and traffic and parking signs.
- (3) No newsrack shall be chained, bolted, locked or otherwise attached to any property owned by any other person, including without limitation, hydrants, telephone booths, billboards, advertising displays, and lighting and utility poles, unless with the written consent of such other person.
- (4) Each newsrack shall be constructed freestanding on its own base so as not to be susceptible to rocking, swiveling, tipping, toppling, falling or being dislodged from its specific site in the ordinary course of use.
- (5) No newsrack shall display advertising signs or devices, promotional announcements or other publicity material of any kind, except for rack cards and except for a display of the publication itself, and, on no more than two faces of the newsrack, the publication contained therein may be identified in letters no more than three inches high.
- (6) Each newsrack shall be maintained in a clean and neat condition and shall be in good repair at all times.
- (7) The exterior finish of each newsrack shall be of not more than a single color, provided that the lettering permitted under Subsection C(5) may differ from the color of the newsrack to the extent reasonably required to afford legibility. No such finish shall incorporate reflectorized paint or any other device or material designed to reflect light in an unusual manner.
- (8) The exterior of the newsrack shall display a notice setting forth the name, address and telephone number of the distributor.

**§ 36-4. Existing newsracks.**

This chapter shall apply to newsracks installed prior to the enactment hereof, except that distributors responsible for such newsracks shall have 30 days from its effective date within which to comply with the provisions of this chapter.

### **§ 36-5. Violations; hearings.**

- A. It shall be the responsibility of the Enforcement Authority to determine whether or not a violation of this chapter has occurred, and if so, to notify the distributor to correct such violation. Such notice of violation shall be in writing, shall specify the nature of the violation, shall direct correction within five business days and shall inform the distributors of the right to a hearing. The notice of violation shall be served on the distributor by certified mail, return receipt requested. During such period of five business days the distributor may apply for a hearing before a hearing officer designated by the Enforcement Authority to review whether such violation has occurred. At such hearing, the distributor shall have the right to examine and challenge the evidence upon which the Enforcement Authority based the notice of violation, to cross-examine witnesses and to present evidence tending to show that no violation has occurred. The hearing officer shall promptly review such evidence, notify the distributor of his decision with respect thereto and, if required under the circumstances, afford the distributor a reasonable period within which to comply with such decisions.
- B. If the violation has not been corrected within five business days specified in the notice of violation or, in the event of a hearing, within such further period as may be specified by the hearing officer, the Enforcement Authority shall request the New Canaan Director of Public Works (who may be appointed the Enforcement Authority) to remove the newsrack and place it in secure storage. The costs of removal and storage shall be charged to the distributor. In the event of nonpayment, the Town of New Canaan may bring a civil action for money damages against the distributor in any court of competent jurisdiction.
- C. Any newsrack removed under Subsection B and not claimed within 90 days of its removal shall be deemed to have been abandoned.

### **§ 36-6. Appeals.**

- A. Any distributor aggrieved by a finding, determination, notice, decision or other action which has become final under the provisions of § 36-5 may appeal to the Board of Selectmen. Notice of such appeal shall be in writing, signed by the distributor and filed with the Town Clerk within five business days of receipt by the distributor of notice of such action. The notice of appeal shall identify the newsrack in question and shall contain a brief statement of the grounds for appeal. A hearing before the Board of Selectmen shall be set to take place within 10 business days of the filing of the notice of appeal. The distributor shall be given at least five business days' notice of the time and place of the hearing. The Board of Selectmen shall afford the appellant or any other interested person a reasonable opportunity to be heard in order to show cause why the action appealed from should not be upheld. The Board of Selectmen shall make a final determination at the conclusion of the hearing or as soon as practicable thereafter. In the event that the Board of Selectmen reverses a determination resulting in the removal and storage of the newsrack which was the subject of the appeal, no costs shall be charged to

the distributor under § 36-5B. The distributor may bring a civil action to review the determination of the Board of Selectmen.

- B. Nothing in this chapter shall be constructed so as to limit, impair or delay the exercise by the Town of New Canaan of its authority to remove immediately any newsrack which presents a clear and present danger of imminent personal injury or property damage to the users of the public way.

**§ 36-7. Abandonment.**

Any newsrack which remains empty, or which remains unidentified as to distributor pursuant to § 36-3C(8) for a period of 30 consecutive days shall be deemed to have been abandoned.

**§ 36-8. Severability.**

If any portion of this chapter is held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect the validity of any other portion thereof.