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SUMMARY OF ACTIVITIES IN OTHER CITIES

Source:

Newspaper Association of America

<http://www.naa.org/Government-and-Legal/Newsrack-Update-2005.aspx>

Newsrack Update

January 2005

California

Effective January 19, 2005, Los Angeles implemented a newsrack ordinance to limit newsracks by location, number and appearance. The ordinance was developed by the City Public Works Committee, a coalition of business and community organizations, and newspaper publishers.

On January 14, 2005, the City Council considered a proposal to restrict newsracks in front of Los Angeles historic and cultural monuments and found the proposal might put undue burden on owners of monuments to petition the removal of newsracks installed in front of their property.

In May 2005, the Inglewood Public Works Department Newsrack and Payphone Permitting Task Force commenced the Newsrack and Payphone Permitting Project. The Task Force asked vendors operating newsracks in the city to make certain their newsracks were freshly painted, well-maintained, and observed installation and location guidelines. The Task Force provided a phone number to report violations such as newsracks not bolted into the ground, poorly maintained, broken, constantly empty/abandoned newsracks, or excessively large quantities of newsracks at specific locations.

The City of Palo Alto Public Works Department offered 2005 Summer Engineering Internships to assist in creation and implementation of a plan "for permitting Palo Alto's newsracks so they meet safety and maintenance standards specified in the City's newsrack ordinance." Interns would conduct fieldwork to document existing newsracks and office to establish a database and permitting process.

On June 28, 2005, the San Jose City Council passed for publication Ordinance No. 27509 to amend the municipal code to prohibit the allowance of graffiti on certain vehicles parked on the street or public way. The Council directed the Office of the City Attorney to review whether it was appropriate to include additional language to extend the prohibition to other items in the public right of way, such as newsracks. On August 4, 2005, the City Attorney of San Jose recommended adoption of the Ordinance as written without the additional language on newsracks. The attorney found that San Jose Municipal Code section 13.18.045, which requires

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that all newsracks in the public right of way be kept in a “neat and clean condition and in good repair,” generally results in compliance.

In February 2005, the city of Santa Clarita held public hearings on an ordinance to revise Chapter 13.24 on newsracks of the municipal code. The new code sections would address newsrack priority, permits, maintenance and display standards, special standards districts, abatement, impoundment and appeals.

San Francisco’s long-running newsrack litigation and negotiations resulted in the installation of 300 new kiosks in the downtown area in May 2004. The kiosks replaced freestanding newsracks, which had been deemed sidewalk clutter and targeted for removal by city officials. The city announced plans to install more than a thousand new kiosks all together. A number of publishers sued the city of San Francisco to block implementation of the plan. The litigation led to a settlement that included uniform kiosk installation and content-neutral slot assignments for the city’s publications.

Colorado

On May 17, 2005, the Manitou Springs City Council held a second reading of Ordinance No. 0705 to regulate the use, placement and maintenance of newsracks.

Georgia

In 2003, the City of Savannah began working with publishers and distributors to reduce the number and improve the appearance of newsracks in the downtown historic district. In 2005, the City launched a nine-month pilot program to install newsrack modular units where five or more individual newsracks exist along the Bull Street Corridor. The City announced that at the end of the trial period the units would be examined for effectiveness in the downtown area.

Maryland

All newsracks inside the State House were removed by the order of the Governor of Maryland in June 2004. The racks had been on the ground floor of the State House for years before the governor’s order. Although the governor has been quoted as saying that he doesn’t read newspapers and is convinced that local editors are “out to get him,” he stated that the reason for removal of the racks was security in light of the general threat of terrorism.

Massachusetts

Three newspapers, the Weekly Dig, Editorial Humor and The Improper Bostonian, filed a lawsuit in 2001 when the Boston Back Bay Architectural Commission adopted a guideline prohibiting street furniture. The newspapers argued the ordinance violated the First Amendment by not narrowly tailoring the ban and by failing to provide an economically feasible distribution alternative. In August 2004, a federal district court ruled that the ordinance did not violate the publishers’ First Amendment rights because it did allow “reasonable alternative

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means of distribution” even if these were not the most appealing means to the publishers. The court found the publishers failed to produce evidence on the costs of alternatives such as street vendors, store placement, and mail and home delivery, as compared to installation and maintenance of newsracks. *HOP Publications v. City of Boston*, U.S. District Court, Civ. No. 01-11536-DPW.

On September 21, 2005, the Cambridge City Council Ordinance Committee conducted a hearing on proposed amendments to the municipal code provision governing the placement and maintenance of newsracks.

New York

On July 12, effective September 13, 2004, the City of New York amended its Administrative Code to specify registration and insurance requirements for newsrack owners, and how and where a newsrack may be placed. The New York Department of Transportation accordingly amended its regulations, effective November 19, 2004. The new law requires newsrack owners to register with DOT’s Newsrack Program, submit evidence of proper insurance, and certify to DOT once every four months that its newsracks have been repainted or best efforts made to remove graffiti, during the preceding four month period. Newsrack owners are also required to keep a maintenance log to document this work for a three year period. The law does not limit the number of newsracks on a sidewalk, but imposes restrictions on proximity to items such as fire hydrants, driveways, curb cuts, bus stops, rail or subway entrances or exits, and sidewalk newsstands. Failure to demonstrate compliance may result in fines.

North Carolina

In September 2004, four newspapers sued the Raleigh-Durham Airport Authority, asserting that its prohibition on newsrack sales violated the papers’ First Amendment right to free speech. The suit was brought in U.S. District Court for the Eastern District of North Carolina by The News & Observer in Raleigh-Durham, The Durham Herald Co., Gannett Company Inc., and The New York Times Co. The newspapers sought the ability to place newsracks in passenger terminals, but the airport authority restricted terminal sales to private gift shops. In an April 22 memorandum, the airport authority argued that the proposed number and placement of the racks would create a security risk, divert revenue from airport shops and kiosks, and reduce advertising wall space. In July 2005, U.S. District Court Judge Terrence W. Boyle heard oral arguments in the case.

Tennessee

On April 5, 2005, a proposal was introduced and deferred indefinitely to amend Title 13 of the Nashville Metropolitan Code of Laws regarding the placement, size and condition of newsracks in the public right-of-way.

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Utah

As of October 2005, the City Council of the City of Provo was still considering a newsrack ordinance to require yearly permits, allow racks only in specified areas, impose color and maximum size limitations, and prohibit advertising other than the newspaper logo on the front of the rack. The ordinance would require newsrack owners to indemnify the city from loss or damage arising out of placement or use of newsracks, and to maintain liability insurance related to installation, placement, care, use, operation and existence of the racks, in an amount of no less than \$500,000 for each occurrence.

Published Jan 11, 2006