

ORDINANCE NUMBER 1169

SECOND READING AND ADOPTION

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SEBASTOPOL ADDING CHAPTER 5.66, "NEWSRACK REGULATIONS", TO THE SEBASTOPOL MUNICIPAL CODE

WHEREAS, the City of Sebastopol has the authority to regulate the use of public streets, sidewalks, and rights-of-way pursuant to its police powers to protect the public health, safety, and welfare of its citizens; and

WHEREAS, sidewalks and other public rights-of-way must provide safe and accessible passage for pedestrians, bicyclists, and motorists; and

WHEREAS, improperly located or maintained newsracks may obstruct pedestrian, bicyclist, and motorist travel, reduce accessibility, impede emergency access, and create hazards; and

WHEREAS, excessive concentrations of newsracks, and abandoned, damaged, and poorly maintained newsracks, create blight throughout the City, are unsightly, and diminish the functionality and appearance of sidewalks and public rights-of-way; and

WHEREAS, these concerns are most significant in downtown Sebastopol, where sidewalks and the public right-of-way is most used by the public, and where highest concentration of businesses are located; and

WHEREAS, the City Council has an interest in ensuring that sidewalks and public rights-of-way are accessible and free from potential hazards; and

WHEREAS, the proposed ordinance regulates the time, place, and manner of the placement, installation, maintenance, and operation of newsracks, and does not regulate the content, viewpoint, or subject matter of any material held by newsracks; and

WHEREAS, the City Council finds that the following objective standards regulating newsracks further significant governmental interests while leaving open ample alternative channels for the distribution of newspapers and other publications; and

WHEREAS, the City Council further finds that the permitting procedures established by this ordinance are based upon objective criteria, provide reasonable timeframes for City action, include administrative appeal procedures, and do not vest City officials with unbridled discretion over protected expressive activity; and

WHEREAS, the City Council finds that immediate removal authority is necessary only in limited circumstances where a newsrack creates an imminent threat to public health or safety or otherwise obstructs emergency access, and that such authority is narrowly tailored to address those circumstances; and

WHEREAS, the City Council finds that the regulations adopted herein are narrowly tailored to serve significant governmental interests while preserving constitutional protections afforded to publishers, distributors, and members of the public; and

WHEREAS, existing newsracks will have six months to comply with the new location requirements established by this Ordinance, which provides adequate time for owners to find a new location and recoup the investments made in the existing newsrack; and

WHEREAS, the California Constitution, Article XI, Section 7, provides cities with authority to enact ordinances to protect the health, safety, welfare and morals of their citizens, and the proposed ordinance is a permissible exercise of this authority.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SEBASTOPOL DOES ORDAIN AS FOLLOWS:

1. Recitals. The above Recitals are true and correct and are made a part of this Ordinance.
2. Municipal Code Enactment. Chapter 5.66, "Newsrack Regulation", is hereby added to the Sebastopol Municipal Code to read as shown in Exhibit A, attached hereto and incorporated herein.
3. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed the Ordinance, and each and every section, subsection, sentence, clause, phrase or portion not declared invalid or unconstitutional without regard to whether any portion of this Ordinance would be subsequently declared invalid or unconstitutional.
4. CEQA. The Sebastopol City Council finds that this Ordinance is exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to Section 15061(b)(3) of the CEQA Guidelines. It can be seen with certainty that the ordinance has no potential for causing a significant effect on the environment.
5. Effective Date and Publication. This Ordinance shall be and the same is hereby declared to be in full force and effect from and after thirty (30) days after the date of its adoption. Before the expiration of fifteen (15) days after said passage, this ordinance or a summary therefore as provided in California Government Code Section 36933, shall be published at least once in a newspaper of general circulation published and circulated in the City of Sebastopol, along with the names of the Council Members voting for or against its passage.

APPROVED FOR FIRST READING AND INTRODUCTION OF ORDINANCE at a regular meeting of the City Council of the City of Sebastopol held on the 4th day of August, 2026.

APPROVED FOR SECOND READING AND ADOPTION OF ORDINANCE at a regular meeting of the City Council of the City of Sebastopol scheduled to be held on the 1st day of September, 2026.

VOTE:

AYES: Councilmembers Carter, Hinton, Zollman, Vice Mayor Maurer, & Mayor McLewis

NOES: None

ABSENT: None

ABSTAIN: None

APPROVED: _____
Mayor, Jill McLewis

Signed by:

Jill McLewis

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Signed by:
Mary Gourley
ATTEST: _____
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Mary Gourley, City Manager

Signed by:
Alex Mog
APPROVED AS TO FORM: _____
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Alex Mog, City Attorney

Exhibit A

CHAPTER 5.66 NEWRACK REGULATIONS

- 5.66.010 Definitions.**
- 5.66.020 Location, placement and number of newsracks.**
- 5.66.030 Amortization**
- 5.66.040 Newsrack maintenance standards.**
- 5.66.050 Permit requirements and standards.**
- 5.66.060 Standards for proper removal of newsracks.**
- 5.66.070 Abandonment.**
- 5.66.080 Abatement of violation.**

5.66.010 Definitions.

“Director” means the Director of Planning, or his or her designee.

“Downtown” shall have the same meaning as in Section 17.08.060 of this Code.

“Newsrack” means any self-service or coin-operated box, container, or other dispenser installed, used, or maintained for the display and sale of newspapers or other news periodicals or publication, that rests or projects, in whole or in part, in or upon any portion of the public right-of-way.

“Newsrack permit” means authorization granted by the Director to use and maintain a newsrack.

“Permittee” means the person or entity designated on the permit as responsible for the newsrack.

5.66.020 Location, placement and number of newsracks.

- (a) No newsrack shall be installed, used or maintained which projects onto, into, or over any part of any public street.
- (b) No newsrack shall be installed, used or maintained in a manner that endangers the safety of persons or property, or when such newsrack unreasonably interferes with or impedes the flow of pedestrian, wheelchair, or vehicular traffic.
- (c) No newsrack shall exceed fifty-two inches in height, thirty inches in width, or twenty-four inches in depth.
- (d) No newsrack shall be chained, bolted, or otherwise attached to any fixture located in the public right-of-way, including any tree, sign, or other object.
- (e) No newsracks may be placed within one hundred feet of any other newsrack on the same side of the street on the same block;
- (f) In downtown, a maximum of three newsracks are permitted on each side of the street on the same block;

- (g) No newsrack shall be placed, installed, used or maintained:
 - (1) Within ten feet of any fire hydrant or other emergency facility;
 - (2) Within ten feet of any crosswalk;
 - (3) Within ten feet of any curb ramp;
 - (4) Within ten feet of a bus stop bench or transit shelter;
 - (5) Within ten feet of any driveway;
 - (6) In a manner that obstructs a passageway for pedestrians, obstructs traffic control devices, or visibility for motorists and pedestrians;
 - (7) On any access ramp for disabled persons.

5.66.030 Amortization requirements.

- (a) Every newsrack installed prior to the effective date of this Ordinance that does not comply with Section 5.66.020 shall be removed or otherwise brought into conformance with this chapter within six months of the effective date of the ordinance codified in this chapter.
- (b) In the event that multiple newsracks violate the requirements of this Ordinance due to their proximity to each other, whichever newsrack was installed later will be required to be removed or otherwise brought into conformance.
- (c) Nothing contained herein shall prevent or inhibit the City from taking all legal and appropriate steps to ensure that existing newsracks do not present an immediate hazard to public health and safety.

5.66.040 Newsrack maintenance standards.

Any newsrack shall comply with the following standards:

- (a) Each newsrack shall have affixed to it the name, address, and permit number of the owner or permittee (if applicable), and a telephone number to call to report a malfunction, or to give the notices provided for in this chapter;
- (b) Each coin-operated newsrack shall be equipped with a functional coin-return mechanism;
- (c) Each newsrack shall have a door or covering;
- (d) Each newsrack shall be maintained in a neat and clean condition and in good repair at all times, and 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 thereon;
 - (3) It is reasonably free of rust and corrosion in the visible unpainted metal areas thereon;
 - (4) It is reasonably free of graffiti. The permittee shall be required to remove graffiti on any newsrack within twenty-four hours of oral or written notification by the City to the permittee.

of the existence of the graffiti. If the graffiti is not removed within that time, the permittee is deemed to have given the City authority to remove the graffiti at the permittee's expense;

- (5) 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;
- (6) The paper or cardboard parts or inserts thereof are reasonably free of tears, peeling or fading; and
- (7) The structural parts thereof are not broken or unduly misshapen.

5.66.050 Permit requirements and standards.

Beginning on the effective date of this Ordinance, it is unlawful to install, use or maintain any newsrack without first obtaining a permit from the Director or his or her designee. An application form for a newsrack permit shall be established and approved by the Director.

- (a) General Provisions. The Director shall charge a newsrack permit fee as set forth by resolution of the City Council to cover the administrative costs of processing permits. An applicant must pay a permit fee for each newsrack it occupies. Any permit issued shall be valid for one year. A permit must be renewed annually.
- (b) Issuance of Permits, Denials, Revocations and Appeals. Applicants interested in installing newsracks or in maintaining existing newsracks shall submit to the Director an application pursuant to this chapter. If approved, the Director shall issue a newsrack permit covering each location approved by the Director within fifteen (15) business days. If a newsrack permit is disapproved or revoked, in whole or in part, the Director or his or her designee shall notify the applicant in writing, explaining the reasons for denial or revocation of a newsrack permit. The applicant may appeal the decision by filing a written appeal with the City Manager within five (5) business days following the date such notice is mailed or personally served. Upon receipt of an appeal, the City Manager's office shall, notify the applicant of the date, time and place of the hearing. Notice of the hearing must be provided at least five (5) business days before the hearing. The City Manager or designee shall issue his or her decision in writing no later than five (5) business days after the hearing. The decision of the City Manager or designee shall be final.
- (c) Revocations. The City may revoke a permit if a newsrack is used or maintained in a manner that violates any law, this chapter, or permit conditions.

5.66.060 Standards for proper removal of newsracks.

Upon removal of any newsrack, the permittee or responsible person shall eliminate any potential hazards to the public, such as bolts, brackets, or holes, and shall restore any disturbed area of the public right-of-way to the same or reasonably similar condition as any adjoining public right-of-way by leaving the public right-of-way level and free of protrusions or depressions, and shall be liable for all costs and expenses associated with restoring the right-of-way to the condition that would have existed had the newsrack not been installed.

5.66.070 Abandonment.

Newsracks remaining empty for sixty days shall be deemed abandoned. An abandoned newsrack may be removed by the Director or designee and may be disposed of if it is not claimed by the responsible party within thirty days. If a permit has been issued for the Nnewsrack, the Director shall notify the responsible party in writing at least ten business days prior to both removal. If a permit has not been issued, the Director shall use best efforts to contact the owner of the newsrack based on information available on the newsrack itself. If no identification is shown on the newsrack and no newsrack permit has been obtained, posting of the notice on the newsrack alone shall be sufficient.

5.66.080 Abatement of violation.

- (a) **Immediate Removal.** If the City determines that the condition or placement of a newsrack poses an immediate danger to public health, safety, or welfare, interferes with emergency operations, obstructs emergency access, or presents an immediate hazard, the City may cause the newsrack to be immediately removed and impounded. The City shall provide notice to the owner or permittee as soon as reasonably practicable following removal. If no identification is shown on the newsrack or no newsrack permit has been obtained, posting of the notice on the newsrack alone shall be sufficient.
- (b) **Post-Removal.** If the owner or permittee or otherwise responsible party does not dispute the merits of the removal, they may waive their rights to a post-removal notice and hearing and may reclaim the newsrack upon the payment of reasonable charges of removal and storage. In all other cases, the Director shall inform the owner or permittee of the date the newsrack was removed, the reasons therefor, the location and procedure for claiming the newsrack, and the procedure for obtaining a post-removal hearing within ten days of removal. The hearing procedures set forth in subsection (d) of this section shall apply.
- (c) **Abatement.** For newsrack violations that do not warrant immediate removal, the owner or permittee shall be notified by posting and mailing prior to removal or rehabilitation of any newsrack. The notice shall specify the manner in which this chapter is violated, shall give the owner or permittee ten (10) business days to remedy the violation and/or request a hearing. Failure to either remedy the violation or contest removal within ten days after the mailing date of the notice shall result in removal and impoundment of the newsrack by the Director or his or her designee, at any time after expiration of the ten day period. If no identification is shown on the newsrack or no newsrack permit has been obtained, posting of the notice on the newsrack alone shall be sufficient.
- (d) **Hearing.** If a hearing is requested, it shall be provided within ten (10) business days of the request and shall be conducted by the City Manager or his or her designee. The owner or permittee shall be given at least five (5) business days notice of the time and place of the hearing and shall be entitled to present evidence showing that the newsrack was not installed, used or maintained in violation of this chapter. The City Manager or his or her designee shall issue a written decision within five (5) business days of the conclusion of the hearing. The decision of the City Manager or designee shall be final. If the City Manager determines that the newsrack was installed, used, or maintained in violation of this chapter, the owner or permittee shall comply within ten business days of issuance of the written decision. Failure of the owner or permittee to comply shall result in removal and impoundment.

- (e) Cost Recovery. No newsrack which has been removed and impounded by the City shall be released to the owner or permittee unless the costs of removal, impoundment, and any necessary repair to the premises on which the newsrack was placed have been paid. If a newsrack which has been removed and impounded remains unclaimed for a period of thirty days, it shall be deemed to be abandoned and disposed of in accordance with law.
- (f) The City Manager or his or her designee may, after a hearing in accordance with this chapter, order the newsrack returned upon payment of costs of storage and/or removal; or, without cost to the newsrack owner/permittee if no violation of this chapter is found.