

38.01.00.00 INTENT

It is the intent of the City Commission through the provisions of this Article to establish comprehensive regulations applicable to newsracks in public and private rights of way and on public and private property in a manner which advances and improves safety and aesthetics by controlling the size, construction and appearance of newsracks. More specifically, to protect against the dangers of: impairing or distracting the vision of motorists and pedestrians; the hazards of unreasonably interfering with the use of public property for its intended purpose; unduly restricting access to the use of poles, posts, traffic signs or signals, hydrants, mailboxes or locations used for transportation purposes; unsightly structures; neglectful servicing of newsracks resulting in visual blight on public property and detracting from the aesthetics of store window displays, adjacent landscaping and other improvements; reduction in value of surrounding property; unnecessary exposure of the City to personal injury or property damage claims or suits; and public display of harmful or offensive matters.

38.02.00.00 DEFINITIONS

Advertising Circular

Any publication that is predominantly advertising and containing minimal or no news reports.

Base

A concrete pad installed or used to support a newsrack.

City

The City of Lakeland, a Florida Municipal Corporation, as geographically described in the City Charter.

Modular Newsrack

A connected grouping of two (2) to fourteen (14) compartments within a single structure, with all coin operated newsracks having a coin mechanism for each compartment, which may be placed on a mount or pedestal bolted to a base surface or be bolted directly to the paved surface, which is installed or used for the display, sale or distribution of newspapers, advertising circulars or similar publications. For purposes of these regulations, the term "newsrack" means "modular newsrack".

Mount

A pedestal or other structure holding a newsrack and attached to a base.

Newspaper

Any publication that is predominantly comprised of news reports or other non-commercial articles or information.

Newsrack Compartment

Each compartment within a newsrack designed to contain the newspapers, advertising circulars or similar publications being sold or distributed from that newsrack.

On Street Parking Area

Those portions of the roadway directly adjacent to a curb or sidewalk where motorized vehicular parking is permitted.

Owner

The particular person or legal entity who is responsible for installing and/or maintaining a newsrack, or the owner or one who distributes newspapers, periodicals advertising circulars or other publications from the newsrack.

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Private Property

All property other than public property, including private rights of way.

Public Property

Parks, rights of way, easements and any and all other real property owned by the public, any governmental agency or the City.

Public Right of Way

Land dedicated or deeded to the public, occupied or intended to be occupied by a street, highway, sidewalk, pedestrian path, parkway, bicycle path or alley.

Roadway

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

Sidewalks

Any surface within a right of way provided for the exclusive or primary use of pedestrians.

Visibility Triangles

- a. At street intersections, an area bounded by the first thirty (30) feet along the intersecting edges of the rights of way, projected where rounded, and a diagonal line extending across the property and connecting the ends of such thirty (30) foot lines.
- b. At intersections of driveways with streets, an area bounded by the first ten (10) feet along the intersecting edges of the right of way and the driveway, projected where rounded and a diagonal line extending across the property and connecting the ends of such ten (10) foot lines.

38.03.00.00 GENERAL PROVISIONS

38.03.01.00 GENERAL LOCATIONS THROUGHOUT THE CITY

Newsracks may be located on publicly and privately maintained rights of way and on publicly and privately owned property in any office, commercial or industrial zoning district or in any Planned Unit Development zoning district which allows office, commercial or industrial land uses. Newsracks may be located on privately owned property in any multiple family zoning district or in any Planned Unit Development zoning district which allows multiple family land uses. Newsracks may not be located in any single family zoning district, unless a variance for a specific location is requested of and granted by the City Commission, after public hearing on an application for same.

38.03.01.01 Placement of Newsracks On Street Rights of Way

Subject to the criteria set forth in Section 38.03.01.03 below and any provision to the contrary therein, in areas where sidewalks abut the curb, newsracks shall be placed on the edge of the sidewalk farthest from the traveled street or parking lane, parallel to the street. In the event a wall of a building is located at the back edge of the sidewalk, the newsrack shall be placed parallel to and not more than six (6) inches from the wall of the building.

38.03.01.02 Placement of Newsracks On Public or Private Property

Subject to the criteria set forth in Section 38.03.01.03 below, newsracks may be placed on publicly or privately owned property with the consent of the property owner, in compliance with the provisions of these regulations.

38.03.01.03 Installation and Maintenance

1. No person shall install, use or maintain any newsrack which projects onto, into, or over any part of the roadway of any public or private street, or which rests, wholly or in part, upon, along or over any portion of a roadway, including medians.
2. No person shall install, use or maintain any newsrack which projects onto, into, or over any part of any public or private right of way or other public or private property, when such installation, use or maintenance endangers the safety of persons or property, or when such newsrack unreasonably interferes with or impedes the flow of pedestrian or vehicular traffic including any legally parked or stopped vehicle, the ingress into or egress from any residence, place of business, or the use of poles, posts, public utilities, public transportation, traffic signs or signals, hydrants, mailboxes, or other objects permitted at or near said location.
3. Newsracks shall be placed and maintained in accordance with the following criteria:
 - a. Modular newsracks constructed of metal shall be the only type of newsracks allowed to be installed and maintained in the City of Lakeland, except that newsracks installed inside of an enclosed building or over fifty (50) feet from the nearest public or private right of way may be any type allowed by the owner of the property. Additionally, newsracks of any type allowed by the owner of property may be placed on private property within the fifty (50) foot setback, provided they are all of a uniform color and are placed parallel to and not more than six (6) inches from the wall of the principle permanent structure located thereon. Subject to the separation requirements set forth herein, no more than two (2) single-compartment metal newsracks of the required color may be installed and maintained in any properly zoned location in which there is not a need or demand for three (3) or more compartments; however, in the event that a need or demand arises which cannot be accommodated because of the separation requirement, the single-compartment newsrack(s) must be removed to accommodate the placement of a multiple-compartment newsrack.
 - b.
 - (1) Except within the boundaries of the Lakeland Downtown Development Authority, a one-hundred (100) foot radius separation shall be maintained between all newsracks located on public property or within public or private right of way.
 - (2) Within the boundaries of the Lakeland Downtown Development Authority ("LDDA"), a four-hundred (400) foot radius separation shall be maintained and no more than two newsracks shall be installed upon public property or right of way within the perimeter of a city block. Newsracks installed upon public property or right of way within the LDDA boundaries shall be limited to a maximum of eight (8) compartments and, when installed on a public sidewalk, shall be located so that the front of the newsrack shall face away from the street and the back of the newsrack shall be a distance of two and one-half (2½) feet from the curb line.
 - c. Newsrack compartments shall be arranged so as to provide an overall square or rectangular shape to the entire modular newsrack.

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- d. For locations on public and private rights of way, the color of the newsrack mounts, pedestals, frames and boxes shall be hunter green. A color sample is available in the Building Inspection Division, City Hall. For locations which are more than fifty (50) feet from a public or private right of way, on publicly and privately owned property, other than rights of way, the color of newsrack mounts, pedestals, frames and boxes shall be at the discretion of the owner of the property. The City Manager may, at his/her discretion, specify another color for newsracks located at The Lakeland Center, Lakeland Electric Administration Building, Lakeland Linder Regional Airport, Lakeland Regional Medical Center, Cleveland Heights Golf & Country Club, City Hall, Tigertown, the City Libraries, Train Station or the Citrus Connection transfer station.
- e. Newsracks shall not exceed fifty four (54) inches in height and twenty four (24) inches in depth.
- f. Newsracks shall not be chained, attached or otherwise secured to utility poles, signs, benches or other fixtures within public right-of-way or property.
- g. Newsracks shall contain no advertising except:
 - (1) The name of the publication being distributed; and
 - (2) Cardholders visible through the compartment window, provided they are kept in neat and untorn condition describing the publication being distributed.
- h. Newsracks shall be maintained in a neat and clean condition, and in good repair at all times. Each newsrack shall be serviced and maintained so that:
 - (1) It is free of graffiti;
 - (2) It is reasonably free of dirt and grease;
 - (3) It is reasonably free of chipped, faded, peeling and cracked paint in the visible painted areas thereof;
 - (4) It is reasonably free of rust and corrosion in the visible metal areas thereon;
 - (5) The clean plastic or glass parts thereon, if any, through which the publications are viewed, are unbroken and reasonably free of cracks, dirt, blemishes and discoloration;
 - (6) The paper or cardboard parts or inserts thereof are reasonably free of tears, peeling or fading; and
 - (7) The structured parts are not broken or unduly misshapen.
 - (8) The surrounding area upon which the newsrack is placed will also be maintained in a neat and orderly condition.
 - (9) The Advertising Circular or Newspaper publication content shall be current and not out-of-date, so that it will have timely value to its intended consumer or user.
- i. Each coin-operated newsrack shall be equipped with a coin return mechanism to provide an immediate refund if unable to receive the publication paid for. The coin return mechanism shall be maintained in good working order.
- j. The name, address and telephone number of a responsible person who may be contacted at any time concerning the newsrack shall be

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displayed in a conspicuous place on the newsrack in such a manner as to be readily visible and readable to a prospective customer.

- k. No newsrack shall be placed, installed, used or maintained:
- (1) Within a visibility triangle.
 - (2) Within five (5) feet of any fire hydrant, fire call-box or other emergency facility, traffic sign or signal, bus bench, bus shelter or building entrance.
 - (3) Within ten (10) feet of any marked crosswalk.
 - (4) Within ten (10) feet of the point where any driveway intersects with a public or private street.
 - (5) Within five (5) feet ahead of, and fifteen (15) feet of the rear of, any sign marking a designated bus stop, measured along the edge of pavement.
 - (6) At any location that does not provide a clear width of continuous passage of at least thirty six (36) inches for pedestrians and wheelchairs.
 - (7) In a designated parking space or driveway.
 - (8) At any location in such a manner as to block any display window of any building abutting the sidewalk or in such a manner as to impede or interfere with the reasonable use of such window for display purposes.

38.04.00.00 ADMINISTRATION AND ENFORCEMENT

1. Chief Building Official

The Chief Building Official or his/her designee shall be responsible for administering the regulations or the placement of newsracks of the type and location herein specified, and upon compliance with the criteria set forth herein.

2. Nonconforming Newsracks

All newsracks located on private property within the City of Lakeland, on public or private rights of way, or on public property within the boundaries of the Lakeland Downtown Development Authority must be in compliance with the terms of these regulations within six (6) months after October 1, 2001. All newsracks located on public or private rights of way, or on public property outside of the boundaries of the Lakeland Downtown Development Authority must be in compliance with the terms of these regulations within twenty-four (24) months after October 1, 2001,

except those located at The Lakeland Center, Lakeland Electric Administration Building, Lakeland Linder Regional Airport, Lakeland Regional Medical Center, Cleveland Heights Golf and Country Club, City Hall, Tigertown, the City Libraries, Train Station and the Citrus Connection transfer station, which must be in compliance within twelve (12) months after October 1, 2001. Any newsrack found to be in violation at the end of the applicable period or at any time thereafter, shall be brought into compliance or removed by the owner within fifteen (15) days after written notification from the Chief Building Official. Upon failure to comply with such notice within the time specified by such order, the Chief Building Official shall notify the Code Enforcement Board and request a hearing.

3. Abandonment

In the event fifty one (51) percent of the total newsrack compartments in a modular newsrack remain empty for fourteen (14) continuous days, it shall be deemed abandoned and the City shall notify the owner to remove the newsrack or replace it with a smaller newsrack. For purposes of enforcing this provision, a

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compartment shall be considered abandoned if the content of the publication therein is not current and is out-of-date, so that it is of little or no value to its intended user or consumer.

4. Grandfathered Newsracks

For purposes of the enforcement of these regulations, those modular metal newsracks located at the Lakeland Yacht Club, the Cleveland Heights Golf & Country Club, the Chamber of Commerce Building and U.S. Post Office facilities on Lakeland Hills Boulevard and North Missouri Avenue as of October 1, 2001 shall be permitted to remain with the number of existing compartments; however, such racks shall be subject to reduction or removal in the event of abandonment and shall otherwise comply with the provisions of these regulations.

38.04.01.00 NEWSRACK MOUNTING STANDARDS

1. Every newsrack located on public and private rights-of-way, publicly owned property, or within the fifty (50) foot setback on private property shall be installed level and plumb on a hard surface. Every newsrack on a single pedestal or a multiple post shall be securely bolted to a level, concrete base set in the ground. Each newsrack shall be constructed, installed and maintained in a safe and secure condition.
2. Any damage to public property or public right of way at the time of installation or removal of a newsrack shall be the responsibility of the owner. Upon removal of the newsrack, the owner shall be responsible for restoring the property surface to its pre-installation condition, subject to reasonable wear and tear.

38.04.02.00 INSURANCE AND INDEMNIFICATION

1. Each person or entity who places or maintains a newsrack on public right of way or public property shall furnish, prior to installation, a Certificate of Insurance, which shall be kept current and renewed as long as the person or entity maintains a newsrack on public right of way or public property. Such insurance shall be Comprehensive General Liability Insurance on an occurrence basis with limits of liability not less than \$500,000 per occurrence and/or aggregate combined single limit, personal injury, bodily injury and property damage. Coverage shall include the following extensions:
 - a. contractual liability;
 - b. products and completed operations;
 - c. independent contractor's coverage; and
 - d. broad form general liability extensions or equivalent. The City of Lakeland shall be named an additional insured.
2. As a condition precedent, each person or entity who places or maintains a newsrack on a public right of way or public property shall execute a Hold Harmless/Indemnification, as set forth below. This shall not be construed to affect in any way the City's rights, privileges and immunities set forth in Section 768.28 of Florida Statutes.