

**ORDINANCE NO. 2026-07
CITY OF ROYAL OAK,
OAKLAND COUNTY, MICHIGAN**

AMENDMENT TO THE CODE OF ORDINANCES

An Ordinance to amend the 2020 Ordinance Adopting the Royal Oak Code of Ordinances, codifying and adopting a new Code of the City of Royal Oak to amend: Part II: General Legislation; Chapter 650 Public Right-of-Way in its entirety, to amend the City's right-of-way regulations to update and modernize the requirements.

THE CITY OF ROYAL OAK ORDAINS: _

SECTION 1. Amendment.

That Chapter 650 Public Right-of-Way, of Part II: General Legislation of the Code of Ordinances, City of Royal Oak, Michigan, is hereby amended in its entirety, to read as follows:

Chapter 650 PUBLIC RIGHT-OF-WAY

ARTICLE I		ARTICLE V	
Short Title; Purpose; Definitions		Drainage and Appurtenances	
§ 650-1.	Short title.	§ 650-13.	Authority of Oakland County
§ 650-2.	Purpose.		Water Resources Commissioner
§ 650-3.	Definitions.		Drainage Board.
ARTICLE II		§ 650-14.	Permission to extend across
Care and Responsibility			highways.
§ 650-4.	Damage.	§ 650-15.	Compensation.
§ 650-5.	Disruption of City rights-of-way.	§ 650-16.	Acceptance of work performed.
ARTICLE III		ARTICLE VI	
Uses: Allowed and Prohibited		Downtown Newsracks	
§ 650-6.	Condition and use.	§ 650-17.	Purpose and intent.
§ 650-7.	Obstructions and encroachments.	§ 650-18.	Definitions.
§ 650-8.	Sale of merchandise on	§ 650-19.	Scope and applicability.
	sidewalks; temporary permit.	§ 650-20.	Director.
	Use for business and storage	§ 650-21.	Prohibitions.
§ 650-9.	purposes.	§ 650-22.	Registration; fees; removal of
§ 650-10.	Bicycles and similar devices on	§ 650-23.	newsrack boxes.
	sidewalks.		Locations.
ARTICLE IV		§ 650-24.	Allocation of space in modular
Permits			newsrack units.
§ 650-11.	Applicability.	§ 650-25.	Maintenance.
§ 650-12.	Disruption of City rights-of-way.	§ 650-26.	Appeals.
		ARTICLE VII	
		Enforcement, violations	
		§ 650-27.	Enforcement; violations

ROYAL OAK CODE

CHARTER REFERENCES

Streets and sidewalks, sewers, drains, and water supply — See Ch.12.

GENERAL REFERENCES

Horse-drawn carriages — See Ch. 388.

Pull-off parking — See Ch. 498.

Skateboards, roller skates and in-line skates — See Ch. 612.

Snow emergencies — See Ch. 625.

Transportation safety — See Ch. 703.

Trees — See Ch. 710.

Abandoned and inoperable vehicles — See Ch. 716.

Vehicles and traffic — See Ch. 720.

Vehicles transporting flammable liquids — See Ch. 733.

PUBLIC RIGHT-OF-WAY

ARTICLE I

Short Title; Purpose; Definitions

§ 650-1. Short title.

This chapter shall be known and may be cited as the City of Royal Oak "Right-of-Way Ordinance."

§ 650-2. Purpose.

- A. Pursuant to Section 29 of Article 7 of the Michigan Constitution, as may be amended, and other applicable state and federal legislation, including but not limited to MCLA § 247.183, as may be amended, and the City Charter, as may be amended, the City of Royal Oak has the authority to exercise reasonable control over its highways, streets, alleys and public places. The City of Royal Oak finds that, in the furtherance of control and to ensure and protect the public health, safety and welfare, it is appropriate for the City to monitor, review and regulate activities and persons that disrupt and/or use a City right-of-way.
- B. This chapter is further intended to minimize disruption, disturbance and damage to the City's rights- of-way, to exercise reasonable control over and monitor the use of the same, and to maintain aesthetic, quality, and property values by requiring those persons who seek to disrupt and/or use a City right- of-way by constructing, installing, locating, operating, using and/or maintaining improvements, including sewer and water service leads, sidewalks, driveways and approaches, landscaping, utilities and telecommunications, gas, and/or electric transmission systems therein, to obtain a permit and pay fair and reasonable permit fees.
- C. The City further finds that requiring insurance coverage, performance guarantees and bonds, warrantees and the payment of the application and permit fees will assist in protecting the City's interests in its rights-of-way, by allowing the City to cover the fixed and variable costs of maintaining, monitoring, and ensuring quality control with regard to its rights-of-way and related records.
- D. This chapter is further intended to regulate access to and ongoing use of public rights-of-way by telecommunications providers for their telecommunications facilities while protecting the public health, safety, and welfare and exercising reasonable control of the public rights-of-way in compliance with the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (Act No. 48 of the Public Acts of 2002) ("Metro Act" or "Act"), as may be amended, and other applicable law, and to ensure that the City qualifies for distributions under the Act by modifying the fees charged to providers and complying with the Act.

§ 650-3. Definitions.

As used in this chapter, the following words shall be defined as follows:

APPROACH or DRIVEWAY APPROACH or APRON — The paved area or area designated for vehicular travel within the right-of-way between the street and the sidewalk, driveway,

alley or adjoining any private property.

AREAWAY – an extended basement of a building within the public right-of-way.

AREAWAY SIDEWALK – sidewalk constructed over an areaway.

BOND — An agreement, also referred to as a performance guarantee, pledging that a permittee or other entity will become legally liable for financial loss caused to the City by the act or default of the permittee or permit requirements. Bonds acceptable to the City shall be in the amount established by code, contract or other agreement, based on the value of the proposed work or as required by the City Engineer. Bond

format shall be currency or irrevocable letter of credit and, in some instances, surety

when allowed. CHARTER or CITY CHARTER — The City of Royal Oak City Charter.

CITY — The City of Royal Oak. References to actions by the City under this chapter shall mean the City acting through its authorized officials, including the City Manager, Director of Public Works, City Engineer, or their respective designees, as applicable.

COMMISSION or CITY COMMISSION — The City of Royal Oak City Commission.

CONSTRUCTION SPECIFICATIONS or SPECIFICATIONS — The City of Royal Oak Standard Specifications for Construction, as amended, which include requirements for utility construction, excavation, backfill and compacting backfill, pavement removal and replacement, sidewalk and driveway approach removal and replacement, restoration of lawn and landscape areas and for trimming, protecting and replacing trees and other vegetation.

DDA — The City of Royal Oak Downtown Development Authority.

DESIGN STANDARDS or STANDARDS — The City of Royal Oak Engineering Site Plan Design Standards, as amended, which include specific requirements for the material, type, layout, positioning, extent and use of the public right-of-way, for public and private utilities, utility service leads, pavements, sidewalks, landscaping, trees, etc.

DIRECTOR or DDA EXECUTIVE DIRECTOR — The Executive Director of the Downtown Development Authority, or their designee.

DISRUPTION — A physical change, modification, alteration, disturbance, injury and/or damage to or within a City right-of-way, including but not limited to, construction, installation, location, maintenance, modification, alteration, replacement or repair of improvements, and the removal or alteration of a right- of-way surface grade or material, tree, sign, marker, utility, hydrant or other material or object.

EASEMENT or CITY EASEMENT or PUBLIC EASEMENT — Any area of land, typically on another's real property, which has been granted or dedicated to the City or to public use, including but not limited to, road or right-of-way, utility, water main, sewer line, access, drainage, recreation, conservation and other public areas, whether as easements or in fee.

ENGINEER or CITY ENGINEER — The City Engineer of the City of Royal Oak, or their designee.

IMPROVEMENT — Any appliance, conduit, facility, pipe, pole, post, pavement, plant, structure, wire, cable, fiber, building or any other man-made or placed material or object.

MANAGER or CITY MANAGER — The City Manager of the City of Royal Oak, or their

designee.

ORDINANCES — All laws, codes and regulations duly enacted and adopted by the City.

PERMITTEE — A real person or corporate entity who has been issued a disruption or use permit pursuant to the terms and provisions of this chapter and all employees, agents, contractors and other persons that direct or perform any activity covered by the permit.

PERSON — Includes all natural persons, firms, co-partnerships, corporations, and all associations of natural persons, incorporated or unincorporated, whether acting by themselves or by a servant, agent or employee. All persons who violate any of the provisions of this chapter, whether as owner or as agent, servant or employee, shall, except as herein otherwise provided, be equally liable as principals.

PRESCRIPTIVE EASEMENT — An easement upon another's real property acquired by continued public use with or without permission of the owner for a time period provided by state law to establish the easement. Continued public use may include, but is not limited to, a road or right-of-way, sidewalk, utility, access, drainage, recreation, conservation and other public areas.

PRIVATE EASEMENT — Land or real property which by deed, conveyance, agreement, easement, dedication, usage or process of law is reserved and dedicated for a defined use by another person or persons, typically for right-of-way, utility, water main, sewer line, access, drainage, etc.

PUBLIC PLACE or PUBLIC PROPERTY — Any area owned, under the jurisdiction of, or controlled by the City.

RIGHT-OF-WAY or CITY'S RIGHT-OF-WAY — Land which by deed, conveyance, agreement, dedication, usage or process of law is reserved and dedicated to the general public for street, highway, alley, public utility, or pedestrian walkway purposes, whether or not said land has been improved or accepted for maintenance by the City; any and all public rights-of-way, streets, highways, roads, sidewalks, alleys, thoroughfares, and public places located within the City, including within any curbs, shoulders, landscaped areas and/or other areas incidental and/or appurtenant thereto, but not including federal, state or private rights-of-way.

RIGHT-OF-WAY PERMIT or DISRUPTION PERMIT or ENGINEERING PERMIT or USE PERMIT or PERMIT — A nonexclusive limited permit issued by the Engineering Division to a person pursuant to this chapter allowing an activity which will result in a blockage or disruption to the City's right-of-way, public easement, public place or property.

SIDEWALK — Includes any paved pathway, sidewalk or crosswalk, or driveway adjoining any public street or alley and abutting or adjoining any private property for pedestrian and nonmotorized access and movement.

STREET — The paved area or area designated for vehicular travel within the right-of-way or easement. The word "street" shall be synonymous with the words "thoroughfare," "highway" and "road."

TREASURER or CITY TREASURER — The City Treasurer of the City of Royal Oak, or their designee.

UTILITY or PUBLIC UTILITY — A service (such as sewer or water, irrigation, traffic control systems, light, power, communications, etc.) provided by a public agency or equipment or

a piece of equipment to provide such service or a comparable service.

ZONING or ZONING ORDINANCE — The City of Royal Oak Zoning Ordinance, City Code Chapter 770, as may be amended.

ARTICLE II
Care and Responsibility

§ 650-4. Damage.

- A. No person shall remove, break or otherwise damage any part of the sidewalk or crosswalk; street, alley or road pavement or curb; tree, lawn or landscaping; sign, signpost, pole, signal or marker; or public or private utility above or below grade without the written permission of the City.
- B. Driving on streets during excavations. No person shall go upon or drive, or cause to be driven, any vehicle on any street, alley or other public place which is excavated or in the process of being excavated for the purpose of constructing sewers, water mains, pavements, sidewalks or other public improvements, or which is newly paved, or upon which any public improvement of any nature is under construction, if such street, alley or public place is barricaded by authority of the City; provided that, where only a portion of a street is barricaded, any person who resides or keeps a business establishment upon said street, and has no other means of access to their residence or place of business, may go upon or drive a vehicle upon the unbarricaded portion of said street at their own risk, in order to reach said residence or place of business by the shortest practicable route, but only if the same may be done without injury to or interference with the improvement under construction.
- C. Liability. Any person driving upon any street, alley, or other public place under process of improvement in violation of the provisions of this article does so at their own risk and shall be liable to the City for all damage resulting to such improvement, as well as being subject to the penalties provided herein.
- D. Authority to impound. Any vehicle found standing or parked in violation of the provisions of this article may be impounded in accordance with the provisions of Chapter 720, Vehicles and Traffic, as may be amended.
- E. Tampering with signs and barricades. No unauthorized person shall move, remove, alter, deface, injure or destroy any sign or barricade erected or placed to protect, warn or guide the public.

§ 650-5. Maintenance and restoration.

- A. All right-of-way areas shall be kept and maintained in good repair by the owner of the land adjacent to and abutting upon it, subject to the provisions contained herein.
- B. The City shall only be responsible for restoring, replacing and improving public sidewalk, lawn, public trees, and approaches between the edge of the roadway and the right-of-way line when disturbed or damaged as part of a public improvement project or utility repair in accordance with City standards.
- C. All sidewalks, approaches and areaways within the City shall be kept and maintained in good repair by the owner of the land adjacent to and abutting upon it in accordance with City standards. If any owner shall neglect to keep and maintain the sidewalk, approach or areaway along the front, rear, or side of the land owned by them in good repair and safe for the use of the public, the owner shall be liable to the City for any damages recovered against the City sustained by any person by reason of such

sidewalk, approach or areaway being unsafe and out of repair, subject to the provisions contained herein.

- D. Whenever the City Engineer shall determine that a public sidewalk, approach or areaway is unsafe for use, or when a new public sidewalk has been deemed necessary, they shall give notice to the owner of the abutting property. Thereafter, it shall be the duty of said owner to cause said public sidewalk, approach or areaway to be placed in a safe condition or to cause a new public sidewalk to be built, as the case may be, in accordance with City standards. Such notice shall specify a reasonable time, within which such work shall be done. If the owner agrees or requests that the City perform the repair work, or fails to comply with said notice, the City Engineer shall cause said public sidewalk, approach or areaway to be replaced or a new public sidewalk, approach or areaway to be built. If the City Engineer determines that the condition of any existing public sidewalk, approach or areaway is such that immediate replacement is necessary to protect the public, they may dispense with said notice. The cost hereunder shall be assessed against the premises.
- E. If sidewalks are to be built, rebuilt, or repaired under the provisions of this article, and it shall become necessary for the City to perform such improvement, the City Commission may fund the required improvements in the following manner:
 - (1) In lieu of the other methods provided by the terms hereof, charge and collect the expense thereof as an assessment against the abutting property under the provisions of Chapter 12 of the City Charter, as may be amended; or
 - (2) In lieu of the other methods provided by the terms hereof, charge and collect the expense thereof as a tax or general millage under the provisions of Chapter 8 of the City Charter, as may be amended.
 - (3) Assessments for sidewalk construction against a property shall be paid in full no less than 30 calendar days from the date set by the City Treasurer after completion of the work, unless longer periods are approved by the City Commission. Payment later than the specified dates shall result in penalties established by the City and shall be collected in the same manner in all respects as provided by law for the collection of taxes.

ARTICLE III
Uses: Allowed and Prohibited

§ 650-6. Condition and use.

Where not specifically addressed herein, the City Engineer shall establish reasonable policies and standards for the above- and below-grade condition and use/uses of the right-of-way which are dictated by the City of Royal Oak Standard Specifications for Construction and City of Royal Oak Engineering Site Plan Design Standards, and which may be updated from time to time by the City Engineer.

§ 650-7. Obstructions and encroachments.

A. Obstructions. Unless otherwise approved in writing, licensed or permitted by the City, it shall be unlawful for any person, directly or indirectly, themselves or by their agent, clerk, or employee, to disrupt the normal and intended use of, obstruct, overhang or encumber any highway, alley, public place, sidewalk or crosswalk, or install, bury or put, place, deposit, abandon, or allow to grow therein any of the following:

- (1) Animals, boxes, barrels, posts, fences, buildings, building materials, dirt, mud, boulders, rocks, stones, signs, coal, bricks, building material, rubbish, portable restroom facilities, portable storage containers, roll-off trash containers, crane, lift or scaffold, planters, pots, timbers, walls, or any other material or thing whatsoever.
- (2) Construction activities such as sawing, cutting, welding, building, assembling and any other activity that impedes traffic or safe pedestrian use.
- (3) Private utility systems installed within City right-of-way, including irrigation systems, electrical systems, invisible fencing, etc. Irrigation systems shall not discharge water onto or across any sidewalk, street, or other pedestrian travel path. Any irrigation or similar system installed within the right-of-way is permitted only at the owner's sole risk, and the City shall have no obligation to protect, repair, or replace such systems if disturbed or removed as part of City activities.
- (4) Snow that has been shoveled, plowed or physically removed from private property and placed or deposited onto the right-of-way.
- (5) Excessive plant growth or plant debris, including grass, shrubs, trees or leaves or branches or overhang and overgrowth.
- (6) Vehicles of any kind.
- (7) New areaways shall not be constructed.
- (8) When an areaway is to be abandoned or the adjacent building demolished, the sidewalk shall be removed, the areaway backfilled and a new sidewalk constructed according to City standards.

B. Private Drains and Sewer Leads.

- (1) Maintenance of sewer service lines, which run from the sewer main to the private property, including the connection to the sewer main, will be the responsibility of

the individual property owner.

- (2) If a property installs a new sewer lead within the right-of-way or public easement, any existing abandoned sewer lead(s) for that property shall be cut and capped within one foot of the city sewer main.
 - (3) In all cases where private drains and/or private sewer leads shall be obstructed or damaged or shall cause the obstruction or damage to any lateral or public sewer or shall cause disruption to other utilities or ground surface in the public right-of-way so as to produce, in the opinion of the City Engineer, a necessity for repair, the City shall give notice to the owners or parties in interest of the disrepair, and proceed as follows:
 - If the owners or parties in interest of the private drains or sewers fail to provide the necessary repairs to the private drains or sewers within twenty (20) days of receipt of notice of disrepair, the City shall have the right to cause the necessary repairs to be made. Such expenses incurred for repairs shall be charged to the owners or parties in interest of the properties connected with and serviced by such private drains or sewers in a ratable proportion, and, if not paid, shall be a lien on the property and may be placed on the tax roll and collected in the same manner as taxes pursuant to the City Charter.
 - If, in the opinion of the City Engineer or Director of Public Works, a situation is deemed to be a public safety emergency, the City shall make the necessary emergency repairs to the public or lateral sewers, or public property damaged incidentally thereto, and shall be reimbursed by the owners or parties in interest of the sewer drain or lead causing the emergency for the actual cost of such repairs. If not paid, the cost shall be a lien on the property and may be placed on the tax roll and collected in the same manner as taxes pursuant to the City Charter.
- C. Encroachments. The City of Royal Oak may allow under agreement, license or permit, certain above- and below-grade obstructions and other improvements that deviate from City standards to be installed within or encroach upon the right-of-way or in any public place. This includes, but is not limited to, the use of the right-of-way for parking, valet operations, or other temporary or ongoing occupancy uses authorized by the City.
- (1) The Engineering Division may establish standards and regulations for reviewing, allowing and permitting the installation of outdoor dining areas or sidewalk cafes.
 - (2) The Engineering Division may establish standards for reviewing, allowing and permitting the installation of sidewalk or sandwich board signage.
- D. In all cases where this article is violated, the responsible person, owner, occupant, builder or contractor shall remove the obstruction or encumbrance either immediately if a hazardous or unsafe condition is created, or within 24 hours after receiving notice to do so from the City. Where personal service of such notice cannot be made, such notice shall be securely posted in a conspicuous place on said premises or abutting building. If the obstruction or encumbrance identified is not removed in compliance with the aforesaid notice, the City shall cause the same to be removed to a suitable place in the City or disposed of. Said obstruction or encumbrance shall not be returned to the owner, occupant, builder or contractor until the cost of such removal and any

fine, fee or related penalty has first been paid. Notice under this subsection may be issued by the City Engineer, Director of Public Works, Code Enforcement, Police Department, or their designees.

§ 650-8. Sale of merchandise on sidewalks; temporary permit.

No person shall use any part of the sidewalk facing their premises for the purpose of exhibiting goods, wares, or merchandise for sale without a special event permit issued by the City.

§ 650-9. Use for business and storage purposes.

No person shall lease, sublease, use or permit to be used for business or storage purposes any part of the right-of-way unless allowed under agreement, license or permit described herein.

§ 650-10. Bicycles and similar devices on sidewalks.

A. Definitions. As used in this section, the following words shall be defined as follows:

BICYCLE — A device propelled by human power upon which a person may ride, having either two or three wheels in a tandem or tricycle arrangement, all of which are over 14 inches in diameter.

DOWNTOWN AREA — The area bounded by and including Main Street north from Seventh Street to Pingree Boulevard, south to Eleven Mile Road, west to Lafayette Avenue, south to Lincoln Avenue, east to Washington Avenue, north to Seventh Street and east to Main Street.

ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICE — Power-assisted devices for mobility, such as motorized wheelchairs, that make everyday life easier for someone who is partially or completely immobile. Electric personal assistive mobility devices are not vehicles as defined in this section.

ELECTRIC-ASSISTED BICYCLE — A bicycle equipped with an electric power device that is only engaged by human power.

MOTORIZED SCOOTER — Any vehicle not having a seat or saddle for the use of the rider, designed to travel on not more than three wheels, and not capable of propelling the vehicle at a speed greater than 30 miles per hour on level ground. This includes hoverboards, skateboards, single- wheeled skateboards and any other similar device.

SEGWAY® — A self-balancing, non-tandem, two-wheeled device, designed to transport only one person at a time, having an electrical propulsion system with average power of 750 watts or one horsepower and a maximum speed on a paved level surface of not more than 15 miles per hour.

B. Bicycles, electric-assisted bicycles, electric personal assistive mobility devices, and motorized scooters on sidewalks.

(1) The operation of electric-assisted bicycles, Segway®, or motorized scooters is prohibited on all sidewalks and pedestrian crosswalks in the downtown area, and in any other area designated by the City Manager, as indicated by a traffic control device.

- (2) A person operating a bicycle, electric-assisted bicycle, Segway® or motorized scooter on a sidewalk or in a pedestrian crosswalk shall yield the right-of-way to pedestrians and slower-moving vehicles, and shall give an audible signal before overtaking and passing a pedestrian or slower-moving vehicle.
- (3) A person operating a bicycle, electric-assisted bicycle, Segway®, or motorized scooter on a sidewalk or in a pedestrian crosswalk shall have all the rights and duties applicable to a pedestrian under the same circumstances.
- (4) This section does not apply to a police officer or any other City employee in the performance of their official duties.

ARTICLE IV
Permits

§ 650-11. Applicability.

This article applies to all disruption or use of City rights-of-way, regardless of whether persons are excepted or exempted from the disruption permit requirements, and is controlling in the event of any conflict or inconsistency with the provisions in Articles II, III, V or VI.

§ 650-12. Disruption of City rights-of-way.

A. Right-of-way permit required.

- (1) Except as otherwise provided in this article, no person, including persons who have a use permit or may be exempt from the permit requirements in § 650-12(F) shall direct or perform any activity which causes or results in any disruption or blockage to any City right-of-way without prior approval from the City Engineer, as evidenced by a right-of-way permit issued by the City Engineer pursuant to this article. Activity shall be performed in accordance with the disruption permit and in the manner provided for in this article.
- (2) Work within an areaway that could affect the stability of public infrastructure at the ground surface shall require a right-of-way permit.
- (3) Exceptions. A right-of-way permit is not required for temporary obstructions which are incidental to the expeditious movement of articles and things to and from abutting premises; the lawful operation and standing of vehicles within the part of the City's right-of-way; or for the lawful and customary use of property by adjoining property owners for such things as landscaping and lawful repair activities, maintenance and other activities of, for or on a sidewalk, driveway or other similar improvement in the City's right-of-way, provided that all other City-required permits or approvals are first obtained and that such use does not negatively impact the City's infrastructure. In the event of a disruption emergency, including but not limited to, natural disaster, civil disorder, flood, war and/or severe weather condition, a person and/or a permittee may disrupt the City's right-of-way without first receiving a disruption permit from the City, provided that the City is notified of the emergency disruption as soon as practicable.
- (4) The City Engineer shall establish reasonable guidelines and requirements pursuant to the permit requirements, governing the location, timing, extent of work, method of construction and any other allowable use, feature or intent in the best interest of the City.

B. Violations and penalties.

- (1) The following constitutes a violation of this article:
 - (a) Failure to obtain a right-of-way permit prior to instigating any permissible activity under this section.
 - (b) Failure to abide by the conditions, allowances and prohibitions set forth in the

right-of-way permit.

- (c) Allowing a permit or required insurances to expire prior to the completion of all permitted work as set forth in the right-of-way permit.
- (d) Creating conditions that constitute an imminent threat to the public health, safety or welfare.

(2) A permittee who violates this section may be subject to the following penalties:

- (a) A civil infraction as outlined in Article VII.
- (b) Immediate issuance of a stop-work order requiring ceasing and desisting all construction activities in the right-of-way and on the abutting parcel.
- (c) Immediate cancellation of all right-of-way permits and suspension any other City-issued permit issued contingent upon obtaining and maintaining a valid right-of-way permit pursuant to this article.
- (d) Payment of the required permit fees, as well as any additional charge established by resolution of the City Commission for that period of time that the person did not have a valid right-of-way permit pursuant to this article, within a reasonable time established by the City Engineer.

C. Right-of-way permit application, procedures and fees.

- (1) A person that wants to direct or perform any activity which will or may result in any disruption to the City's rights-of-way shall apply to the City for a right-of-way permit pursuant to this article. Every applicant must complete and file an application with the City Engineer's office in a form designated or provided by the City.
- (2) At the time of filing an application, the applicant must pay to the City Engineer a nonrefundable application fee in an amount established by resolution of the City Commission. In addition, after the application has been reviewed by the City, the applicant shall pay an application review and processing fee in an amount necessary to reimburse the City for the costs of reviewing, processing, investigating, granting or denying, issuing, and inspecting the disruption permit, as estimated by the City Engineer based on rates and factors established by resolution of the City Commission. If review and processing costs exceed the City Engineer's estimate, those costs shall be paid by the applicant prior to permit issuance.

D. Right-of-way permit fee. In addition to the nonrefundable application fee, application review and processing fees, and any other applicable fees for permits or approvals required by other City ordinances and applicable laws, the permittee shall pay permit fees in an amount which will cover all of the City's administrative, inspection, consulting, plan review, monitoring and other costs in conjunction with the permittee's activities upon a City easement, property or right-of-way.

E. Right-of-way permit bond. A bond shall be provided for right-of-way permits as stipulated by the City Engineer. A permit's respective bond will be considered for forfeiture after one or more of the following have occurred:

- (1) the permit has expired;
- (2) the permit owner, or a designated entity, has not formally submitted material to request a permit's renewal and/or extension;
- (3) an Engineering Division designee has denied any pending renewal and/or extension requests due to the entity's account eligibility; and/or
- (4) the permit owner, or a designated entity, has not completed the work detailed in the corresponding permit as deemed sufficient by the City Engineer or their designee. The City Engineer or their designee will notify the permit owner and respective bond holder(s) of the permits' status. Upon such notification, the permit owner and/or bond holder(s) will have thirty (30) business days to provide the City with necessary documentation or correspondence to forego forfeitures. After thirty (30) business days, the City will record the bond(s) as forfeited and any corresponding permits will be closed. Where applicable, a modified scope of work request, inspection request, permit closure request, or extension request may be examples of actions within this thirty (30) business days that can maintain account eligibility.

F. At or prior to the time the City issues the permit, the permittee shall pay to the City a permit fee in an amount that the City Engineer has estimated that the City's costs in conjunction with the disruption are likely to be. Additional right-of-way permit fees may be required by the City Engineer during construction to cover unanticipated inspection costs and shall be paid by the permittee within three calendar days of the City Engineer's notice. If those additional fees are not paid, the permittee shall immediately restore the work site to a safe condition and suspend activities authorized under the permit until the additional fees are paid. Upon completion of the disruption activities, the permittee shall pay to the City any costs incurred in conjunction with the disruption activities that are over and above the amount paid to the City by the permittee as estimated or additional right-of-way permit fees.

G. Permit terms and conditions.

General terms and conditions. The following terms and conditions shall apply to all persons directing or performing disruption or use of City right-of-way, as applicable, and be considered a part of every disruption and use permit issued under this article. The provisions of this subsection apply to all persons performing work within the City right-of-way, whether or not acting pursuant to a permit.

- (1) Nonexclusive. A permit shall be nonexclusive and does not restrict the City from issuing additional permits at any time to other persons to disrupt and/or use the same City right-of-way. The issuance of a permit does not establish any priority for the disruption and/or use of a City right-of-way, and permittees shall coordinate their work to avoid conflicts with the City and all other persons lawfully working in the right-of-way.
- (2) Compliance with permit and laws. A permittee shall strictly comply with all of the terms and conditions of a permit and with all applicable laws, codes, restrictions and ordinances, including the public utility notification provisions of Act 53 of the Public Acts of 1974, as amended, and the soil erosion and sedimentation control requirements of Act 347 of the Public Acts of 1972, as amended.
- (3) Other permits and approvals. A permittee shall not disrupt and/or use any City

right-of-way without first obtaining all other required City or other governmental permits and approvals and paying all other applicable fees.

- (4) Transfer/assignment. A disruption permit is not assignable or transferable. A use permittee shall not transfer, convey and/or assign any of the rights/privileges granted to it by the City in its permit in whole or in part, voluntarily, involuntarily, or by operation of law, merger, consolidation, substantial change in the ownership or control or other means, without prior written consent of the City Engineer, which shall not be unreasonably withheld based on the ability and/or willingness of the proposed transferee/assignee to comply with the permit and all of its terms and conditions. If a permit is assigned in whole or in part with the approval of the City, the terms and conditions of the permit shall be binding upon the successors or assigns of the permittee.
- (5) As-built plans. When required by the City, a permittee shall deliver to the City as-built plans in a form and at a scale acceptable to the City Engineer for the permitted improvements which are in the City right-of-way within 30 days after completion of installation or commencement of use, whichever first occurs.
- (6) Additional and/or future use. The issuance of a permit does not confer rights to any additional disruption and/or use of the City's right-of-way, except as specifically granted and described in the permit.
- (7) City modifications and future use. The issuance of a permit does not prohibit the City from requiring modifications to a permittee's construction activities or from using the City's right-of-way in a manner which may interfere with, disrupt or prevent the permittee's disruption and/or use of the same. Permittees acknowledge and accept this risk and shall not be entitled to receive any compensation from the City in the event that the City uses the City right-of-way in that manner. The expense of making any necessary modifications of its improvements in order to accommodate a conflict shall be borne by the permittee.
- (8) No interference in City rights-of-way. A permittee shall not disrupt a right-of-way or construct, install, locate, maintain, use or operate its improvements in the City's rights-of-way in a manner that interferes with City or other lawful use, existing utilities or other improvements that are existing in the City's right-of-way. Any portion of the permittee's improvements that so interfere or that will interfere with a proposed public utility or street improvement project shall, at the request of the City, be removed or modified by the permittee at its cost, with the permittee not entitled to receive any compensation from the City. Such removal or modification shall be made within a reasonable time of request, as stated in a written notice from the City. If the removal or modification is not made within such time, the City may remove or modify the interfering improvement(s) to the extent required and bill the permittee for the expenses incurred in doing so. If such a bill is not paid in full within 30 days of the date of billing, the City may recover its expenses from the permittee's bond. With regard to interferences with the use of the right-of-way for pedestrian, vehicular or other related purposes, all activities of a permittee shall be undertaken in a manner to minimize interference, and all due precautions shall be taken to maximize public safety.

- (9) Plan, schedule and permit compliance; costs. The installation of improvements in and the permittee's disruption and/or use of the City's rights-of-way shall be in compliance with the plans submitted to and approved and all permits issued by the City. All costs of the permittee's improvements in use of the right-of-way shall be the sole responsibility of the permittee. All construction and installation of improvements in the City's rights-of-way shall be performed by the permittee in compliance with the schedule submitted to and approved by the City Engineer, shall be done and maintained with all necessary precautions to prevent injury or damage to persons and property and in a good and workmanlike fashion in accordance with recognized construction industry and other applicable standards and shall be subject to inspection and final approval of the City.
- (10) Restoration of property. The permittee shall restore any portion of the City's right-of-way that is disrupted by the construction, installation, location, maintenance, use or operation of its improvements. The disrupted right-of-way shall be restored and returned to a condition that is as good or better than that which existed at the time the disruption occurred. The time period and the manner in which the restoration is to take place shall be established by the City, and, in the event the permittee does not complete the restoration in that time and/or does not undertake the restoration in the manner approved by the City, the City may, upon written notice to the permittee, complete the repair and restoration and recover its costs from any bond posted by the permittee. If the bond does not cover all the costs incurred by the City, the permittee shall immediately pay the outstanding balance of the costs to the City and reinstate the required bond.
- (11) Maintenance and repair. During the term of a permit, the permittee shall maintain and repair its improvements in a good and workmanlike condition. If the permittee fails to do so, the City may send a written notice to the permittee to correct the defective condition within a specified time. If the defective condition is not corrected within the time allowed, the City shall be entitled, at its sole discretion, to perform said maintenance and repair, correct the defect and/or remove the improvement, and bill the cost of the same to the permittee. If such a bill is not paid in full within 30 days of the date of billing, the City may recover its costs from any bond posted by the permittee. In the event the bond does not cover all the costs incurred by the City, the permittee shall immediately pay the outstanding balance of the costs to the City and reinstate the required bond.
- (12) Removal and/or relocation for or by City. A permittee shall remove, relocate and/or disconnect any portion of its improvements located in the City's rights-of-way when the permittee is advised in writing by the City that the same is necessary for the City to do any construction, excavation, maintenance, repair or other work in furtherance of the public health, safety and welfare. The City may remove, relocate, damage, disrupt and/or disconnect a permittee's improvements in the event of an emergency, including but not limited to, civil disorder, war, disaster, accident, fire, flood or severe weather occurrence, if the same is determined to be necessary to protect the public health, safety and welfare, with the City not being liable to the permittee or any persons receiving the permittee's services for any damages or injuries caused by the City's actions.
- (13) Vacation/abandonment. If a right-of-way is vacated, discontinued, abandoned, terminated and/ or released, the permittee's right to use that area of land shall

immediately terminate, and the permittee shall remove its improvements therefrom.

- (14) Removal upon expiration or termination of use permit. Upon the expiration or termination of a permit, or if the permittee abandons or ceases operating or using its improvements in the City's rights-of-way, within three months or a longer time period established by the City Commission, the permittee shall remove all of its improvements from the City's right-of-way and restore the area to a condition that is as good as or better than that which existed prior to the installation and use of its improvements in the City right-of-way. If the permittee and City agree that it would not be in the best interest of the public health, safety and welfare for the permittee to remove its improvements and the City agrees to accept ownership of same, at no cost to the City, the permittee shall convey the improvements to the City, who may thereafter use the improvements. The decisions as to whether a permittee shall remove its improvements from the City's right-of-way and whether the City will accept ownership, and if so, any conditions, is in the sole discretion of the City Commission.
- (15) Notice of commencement and completion of permitted activities. At least 48 hours prior to commencing or performing activities allowed by a permit, the permittee shall notify the City Engineer to arrange for inspection of the activities by the City. Within five days of completing permitted activities, the permittee shall notify the City Engineer so that final inspection may be made.
- (16) Personnel and equipment identification. Personnel, including contractors, of the permittee conducting permitted activities shall at all times wear or have clearly visible identification as a representative of the permittee, and all vehicles and equipment used in the activities shall be clearly identified with the permittee's name.
- (17) Prohibited workdays. Except for emergencies, no disruption activities shall be performed on Sundays or City-recognized holidays without the written authorization of the City.
- (18) Traffic control. The permittee shall furnish, install and maintain all necessary traffic controls and protection during disruption activities in accordance with the current edition of the Michigan Manual of Uniform Traffic Control Devices and any special instructions set forth in the permit.
- (19) Private property. A permit does not authorize entry upon private property or the use of private water supplies.

H. Right-of-way permit term and extension.

- (1) The right-of-way permit granted to the permittee by the City shall be for a specified time period established by the City Engineer based upon the information contained in the permit application.
- (2) Prior to the expiration of the term of the right-of-way permit, a permittee may apply in writing to the City Engineer for an extension of the permit, which shall be considered by the City Engineer if the permittee demonstrates a good cause and provides an explanation for why the disruption activities could not be completed

during the term initially established. For purposes of seeking an extension of its right-of-way permit, the applicant shall pay an extension application fee to the City Engineer in an amount established by resolution of the City Commission. The City Engineer shall have the right to impose additional conditions on right-of-way permit extensions.

- I. Revocation of permit and stop-work orders. All right-of-way permits shall be subject to stop-work orders and/or revocation under the standards and procedures contained in this article.

ARTICLE V
Drainage and Appurtenances

§ 650-13. Authority of Oakland County Water Resources Commissioner Drainage Board.

The City of Royal Oak does hereby grant to the County of Oakland in the State of Michigan, acting through the Oakland County Water Resources Commissioner (OCWRC), or their duly authorized agents, contractors and subcontractors, under the provisions of Chapter 20 of Act No. 40 of the Public Acts of 1956, as amended, and as may be further amended, irrevocable permission to construct, use, maintain, replace and/ or repair drains and appurtenances in the following highways and property in said City, to wit:

Thirteen Mile Road	Campbell Road to Durham Road
Starr Road	Durham Road to a point approximately 200 feet west of Mandalay Avenue
Mandalay Avenue	Starr Road to Massoit Road
Normandy Road	Mandalay Avenue (to south) to Mandalay Avenue (to north)
Massoit Road	Mandalay Avenue to Olivia Avenue
Olivia Avenue	Massoit Road to Nakota Road
Woodward Avenue	Ravena Avenue to Normandy Road
Normandy Road	Woodward Avenue to Greenfield Road
Marais Avenue	Thirteen Mile Road to north City limit
Crooks Road	Fourteen Mile Road to Parmenter Boulevard
Parmenter Boulevard	Crooks Road to Fernlee Avenue
Fernlee Avenue	Parmenter Boulevard to 130 feet northwesterly from Casper Boulevard
Coolidge Highway	From approximately 1,100 feet north of Fourteen Mile Road to north City limit
Stephenson Highway	Dallas Avenue to Twelve Mile Road
Dallas Avenue	Stephenson Highway to Lenox Avenue
Lenox Avenue	Dallas Avenue to Ten Mile Road
W. Fourth Street	Stephenson Highway to Campbell Road
Ten Mile Road	Lenox Avenue to Campbell Road
Forest Avenue	Stephenson Highway to Main Street
Main Street	Forest Avenue to Austin Avenue
Austin Avenue	Main Street to Marywood Drive
Maple Avenue	Farnum Avenue to West Fourth Street
W. Fourth Street	Maple Avenue to Woodward Avenue

Farnum Avenue	Maple Avenue to the northwesterly line of Lot 276, Maple Grove Subdivision
North Sherman Drive	Oakridge Avenue to the southeasterly line of Lot 279, Maple Grove Subdivision
Oakridge Avenue	North Sherman Drive to Woodward Avenue
Woodward Avenue	Oakridge Avenue to Oxford Road (in the City of Berkley)
Fourteen Mile Road	Campbell Road to Vermont Street
Cooper Avenue	Samoset Road to Fourteen Mile Road
Judson Avenue	Prairie Avenue to Harvard Avenue
Memorial Park	Woodward Avenue to Starr Road
Memorial Park	Starr Road to Coolidge Highway
Woodland Avenue	Nakota Road to Massoit Avenue
Elks Park	Massoit Avenue to Normandy Road
Woodland Avenue	Normandy Road to Chester Avenue
Chester Avenue	Woodland Avenue to Durham Road
Durham Road	Chester Avenue to Thirteen Mile Road
Custer Avenue	Lexington Boulevard to Thirteen Mile Road
Worden Park	Approximately 35 feet east of and parallel to Crooks Road, from approximately 80 feet north of West Windemere Avenue to 550 feet north of West Windemere Avenue
Worden Park	Approximately 80 feet north and parallel to West Windemere Avenue from approximately 35 feet east of Crooks Road to Marais Avenue
Whitcomb Avenue	North Blair Avenue to Campbell Road

upon the following terms and conditions:

- A. Before constructing the drains, the Oakland County Water Resources Commissioner shall file plans showing the size and location of said drains and appurtenances with the City Engineer.
- B. The Oakland County Water Resources Commissioner shall not perform any excavating and other work in connection with the construction, maintenance and repair of said drains without first obtaining a permit issued by or other written consent of such owner, and in event of such changes the same shall be made in the manner directed and required by such owner, and the entire cost and expense thereof shall be borne by the Oakland County Water Resources Commissioner. All work shall be conducted in a careful and workmanlike manner to cause as little inconvenience as possible to the City and the users of said highways and other City property.
- C. The Oakland County Water Resources Commissioner, after making any excavation in

the City, shall restore the surface of all highways and also all sidewalks, pavements and other improvements, and all property, both public and private, so that they will be in as good condition as they were previous to such excavation.

- D. The Oakland County Water Resources Commissioner shall not disturb any underground work now existing, such as water mains, sewers, and other such improvements, which are owned by the City or other public corporation without first obtaining a permit issued by or other written consent of such owner, and in event of such changes the same shall be made in the manner directed and required by such owner, and the entire cost and expense thereof shall be borne by the Oakland County Water Resources Commissioner; provided that, as to changes in such improvements belonging to the City, the City Engineer may act for the City.
- E. The Oakland County Water Resources Commissioner shall hold the City harmless against all damages resulting from the construction, use, maintenance and repair of said drains and appurtenances.
- F. The Oakland County Water Resources Commissioner shall indemnify the City for any damage to its pavements, sidewalks or underground structures caused directly by the settlement of the backfill earth in any excavation made by said Oakland County Water Resources Commissioner or its contractors under the permission herein granted; provided that indemnification shall not be made in respect to any such public improvement hereafter constructed if the same shall be constructed within one year from the time of the completion of the backfilling and the acceptance thereof by the Oakland County Water Resources Commissioner.
- G. The City will endeavor to keep other underground utility facilities at least five feet distant from the said drains.

§ 650-14. Permission to extend across highways.

Where a public highway is named above as the terminus for any drain, the permission herein granted shall be deemed to extend across such part of the highway as the Oakland County Water Resources Commissioner Drainage Board may deem necessary.

§ 650-15. Compensation.

The advantages accruing to this City from the construction and operation of said Twelve Towns Relief Drains are hereby declared fair compensation for the permission herein granted.

§ 650-16. Acceptance of work performed.

The performance of any work under the authority of this permit shall be deemed an acceptance of the terms hereof.

ARTICLE VI
Downtown Newsracks

§ 650-17. Purpose and intent.

The City of Royal Oak hereby finds and declares:

- A. The City of Royal Oak has a substantial interest in promoting the public health, safety, and welfare of its citizens and visitors by ensuring that public streets, sidewalks and rights-of-way are not unreasonably obstructed by newsracks, that newsracks are properly maintained, and that newsracks do not create a visual blight in the City, especially within downtown Royal Oak.
- B. The City of Royal Oak is mindful that regulation of newsracks implicates rights protected by the Constitutions of both the United States and the State of Michigan. To that end, this article was drafted and shall be applied and enforced in a manner consistent with these constitutional rights. The content or viewpoint of the material to be distributed through modular newsrack units shall not be considered in administering or enforcing this article.

§ 650-18. Definitions.

As used in this article, the following words shall be defined as follows:

ABANDONED NEWSRACK BOX — Any newsrack box which either remains empty for more than 30 business days or contains only outdated issues based on frequency of publication as set forth in the registration application. In case of a labor strike or a temporary and extraordinary interruption of distribution of publications of the newspaper or other periodical sold or dispensed from that newsrack box, the publication shall notify the Director in writing in order to avoid having the newsrack box deemed abandoned.

CLUSTER OF MODULAR NEWSRACK UNITS — Two or more modular newsrack units located such that each unit is within a twenty-five-foot radius of another unit.

FREESTANDING NEWSRACK — Any self-service or coin-operated box, container, storage unit or other dispenser installed, used for, or maintained for the display and sale or the distribution without charge of newspapers, news periodicals or other publications, and which is not a modular newsrack unit authorized under this article.

MODULAR NEWSRACK UNIT — A newsrack which is provided by the City for the placement of publications to be sold or distributed in the City on public streets, sidewalks and rights-of-way.

NEWSRACK — A newsrack box, a freestanding newsrack, or a modular newsrack unit.

NEWSRACK BOX — The individual space within a modular newsrack unit that dispenses one newspaper or other periodical, including the door, coin return mechanism and associated hardware, not including any freestanding newsrack.

PUBLICATION — Any morning, evening, special or other editions of a publication, as well as any editions published jointly with another publisher.

REGISTERED PUBLICATION — A publication which has registered with the City to locate its publications in one or more modular newsrack units.

WAYFINDING or WAYFINDING RECOMMENDATIONS PROGRAM DOCUMENT — The final

document prepared and published by the DDA containing the goals, objectives, maps, plans, implementation strategies, and proposed location plan of the DDA's Signage and Wayfinding Study.

§ 650-19. Scope and applicability.

The requirements of this article shall apply to all newsracks located on public property or public streets, sidewalks or rights-of-way within the downtown development area as defined in the DDA's Downtown Development and Tax Increment Financing Plan. The Director is authorized to establish guidelines for implementation of this article in certain areas or locations within the downtown development area and to establish dates by which modular newsrack units will be in place and all freestanding newsracks must be removed and in compliance with this article, in each area or location. The deadlines for compliance with this article and the Director's guidelines shall be mailed by first-class mail to each affected publication at least 30 days prior to the implementation date in each location. These deadlines shall also be published in a newspaper of general circulation in the City at least 30 days prior to the implementation date in each location.

§ 650-20. Director.

- A. The Director shall be responsible for carrying out the provisions of this article and for performing the duties described herein.
- B. It is the intent of the City Commission that the duties imposed upon the Director by this article be directory in nature, and that as a result, the Director's failure to comply with a particular procedural step shall not invalidate any subsequent action by the Director to which the procedural requirement relates.

§ 650-21. Prohibitions.

- A. Except as otherwise provided in this article, no newsracks other than modular newsrack units provided by the City may be placed, operated or maintained on any public street, sidewalk or public right-of-way or portion thereof.
- B. No newsrack box or modular newsrack unit shall be used for purposes of advertising or publicity. However, each publication may attach a decal, no larger than four inches high and 16 inches wide, to a specified area on the front of its newsrack boxes for the purpose of displaying the name of the publication contained in the newsrack box. The publication shall be responsible for ensuring that any such decals are maintained in a clean and good condition.
- C. No person or entity shall violate any other section, subsection, guideline or provision of this article.

§ 650-22. Registration; fees; removal of newsrack boxes.

- A. Requirement. Registration with the City is necessary to facilitate the regulation and inspection of newsrack boxes and to allocate space for the purposes set forth in this article. No person may place any publication in any modular newsrack unit on a public sidewalk, street, public right-of-way or portion thereof for the purpose of sale or distribution without having first registered with the City.
- B. Duty to register. Each publication seeking access to a modular newsrack unit shall

register with the City for each location and for each unit at which the publication seeks access. The registered publication shall be responsible for the payment of all fees or penalties due or imposed under this article with respect to that registered publication's modular newsrack unit(s) or newsrack box.

- C. Registration. Registration for placement in a modular newsrack unit shall be made in writing and filed with the Planning Division. The application package shall inform the applicant of the requirements of this article and the guidelines provided herein.
- D. Approval. Upon receipt of a properly completed application from a publication, or from the agent for a publication, accompanied by written authorization from the publication along with the required fee, the Director shall register the publication for placement in a modular newsrack unit within 15 working days of receipt of the application, unless, based on the requirements of this article or the guidelines provided herein, there are grounds requiring denial of the application. If an application is disapproved in whole or in part, the Director shall notify the applicant promptly in writing within 15 working days of receipt of application, explaining the reasons for the denial.
- E. Effect of registration. The City Commission specifically determines that the approval of an application and registration of a publication by the City pursuant to this section confers a nontransferable, revocable privilege on the registered publication. In addition, the City Commission may at any time in its exclusive legislative discretion elect to repeal or amend this article and thereby render null and void any approval and/or registration issued pursuant this section.
- F. Fees. There shall be an annual registration fee to be paid by all publications to the Planning Division for each newsrack box utilized by the publication for the sale or distribution of its publications. The amount of this registration fee shall be determined by resolution of the City Commission. The fee is not for the purpose of generating revenues or to reimburse the City for its costs in purchasing the modular newsrack units. The purpose of the fee is to cover the cost incurred in maintaining the exterior of the modular newsrack units and repairing or replacing damaged units. The fee shall be reviewed annually by the Director, who shall propose to the City Commission, if necessary, any recommended adjustments, along with written justification for the adjustment and any necessary amendment. If a publication fails to pay the required fee within 30 days after it becomes due, the Director shall provide written notice that registration will be revoked and the newsrack box removed if the fee is not paid within 10 days of this notice. If the fee is not paid within 10 days, registration shall be revoked and the newsrack box removed.

§ 650-23. Locations.

- A. The precise locations of modular newsrack units in the City shall be recommended by the Director and presented on a detailed map of the City for approval by the DDA. The following factors shall be taken into account:
 - (1) The "Proposed Sign Location Map" and other goals, objectives, and implementation strategies of the Wayfinding Recommendations Program Document;
 - (2) The locations being utilized prior to the adoption of this article, including the publications' desire to maintain these locations and the number of publications present at each location;

- (3) Pedestrian and vehicular congestion, traffic and safety considerations at certain locations, including impediments to access by individuals with disabilities, and interference with public services;
 - (4) Demand for and access to publications at the locations, including the availability of alternative channels of distribution other than through newsracks;
 - (5) Urban blight, litter, aesthetic and historical concerns;
 - (6) Access to and use of street furniture and public transit facilities, including such access and use by individuals with disabilities; and
 - (7) Sight lines and access to buildings with first-floor retail space.
- B. Any interested person may petition the Director to request the addition of one or more additional modular newsrack unit locations. Such petition shall be in writing and shall include written statements from publications that are willing to register for each proposed location. Upon receiving such a petition, the Director will present the request to the DDA within 45 days of receipt thereof to determine whether the placement of one or more additional modular newsrack units in the proposed new location would be authorized under the requirements of this article and its guidelines. The DDA shall consider a request for the creation of a new location(s) for the installation of one or more modular newsrack units if the following conditions are met:
- (1) All other requirements of this article have been met with regard to the location;
 - (2) There are no other modular newsrack units within 50 feet of the proposed location;
 - (3) The location will not unreasonably impede pedestrian traffic, prevent the performance of essential public services such as sidewalk sweeping, and will not create a traffic hazard;
 - (4) The location is one at which an unsatisfied demand for publications is not met by existing modular newsrack units;
 - (5) A minimum of four publications, all published at least once per week, are seeking to sell or distribute their publications at this location; and
 - (6) Newsracks will be oriented for pedestrian use and will face the interior of the sidewalk.
- C. The DDA shall also have the option of requiring the Director to place a modular newsrack unit at the proposed location on a trial basis for up to 60 days in order to determine the viability of the location. If the location is determined not to be in contravention of this article and the DDA feels its addition would be proper, it shall recommend to the Director that this new location be created. Otherwise, the petition should be denied.

§ 650-24. Allocation of space in modular newsrack units.

- A. With respect to publications' access to specific modular newsrack units, space shall be allocated based upon frequency of publication as follows:
- (1) First priority shall be given to publications which are distributed at least five days per week, inclusive of their Saturday, Sunday or weekend editions, whether or

not published jointly with another newspaper;

- (2) Second priority shall be given to publications published between one and four times per week;
 - (3) Third priority shall be given to publications published between two and four times per month;
 - (4) Fourth priority shall be given to publications published one time per month or less.
- B. No publication that has selected a space in a modular newsrack unit or cluster of modular newsrack units may receive a second space in a unit or cluster of units.
 - C. In implementing this allocation scheme as to each modular newsrack unit or cluster of modular newsrack units, the Director shall conduct a meeting, at which time each category beginning with Category 1, daily and weekly publications, will be allowed to select a position in a given location. When each publication in that category that so desires has chosen a position in that location, each publication in Category 2 shall select a position and so forth through Category 4. The publications in each category may agree among themselves as to the order they will follow in selecting positions. If they are unable to agree, the Director shall determine the order within each category by drawing lots.
 - D. If all available modular newsrack units are filled and a publication decides to vacate a space in a modular newsrack unit, the Director shall maintain a list of publications that are interested in additional spaces as they become available and shall provide notice to these publications when spaces become available. The Director shall assign a publication to the available space in accordance with the procedures set forth in this section.
 - E. Where a publication not previously distributed seeks access to a modular newsrack unit in a location, such publication shall first endeavor to locate in any vacant spaces of an existing modular newsrack unit before requesting that the Director provide an additional modular newsrack unit.
 - F. In any circumstances where a publication decides to vacate a location or a newsrack box, the publication shall promptly notify the Director of the intention to vacate the location.

§ 650-25. Maintenance.

- A. The DDA shall be responsible for maintenance of the exterior of all modular newsrack units, excluding any decal or sign indicating the name of the publication. A replacement unit shall be provided by the DDA while it repairs or refurbishes a modular newsrack unit. The DDA shall provide a replacement unit within a reasonable period of time after being notified that a unit is damaged and the DDA determines that the unit needs immediate repair.
- B. The publications shall be responsible for maintenance of the doors and door mechanisms as well as the interior of the modular newsrack units or newsrack box, including all mechanical equipment. All coin-operated newsrack boxes shall be equipped with a coin-return device that is maintained in good repair and working order to enable persons to secure full refunds if they are unable to receive the publication paid for. In the case of coin-operated newsrack boxes, the publication shall be

responsible for maintenance of the coin-operated mechanism, including the coin return. Any damage to the modular newsrack unit resulting from maintenance, theft or vandalism to the coin mechanism shall be repaired by the publication.

§ 650-26. Appeals.

- A. Unless otherwise provided herein, any person who is aggrieved by a determination made by the Director or an applicant whose registration is denied may file a request for review of the decision by the DDA. Such a request must be filed at the Planning Division not more than 10 business days following the Director's decision or the denial. The DDA shall consider the request at its next regularly scheduled meeting, consistent with public meeting law requirements, and shall vote either to affirm or reverse the Director's decision or the denial. The DDA's decision shall be provided to the Director within two business days, who shall immediately notify the person of the decision. The Director shall act in accordance with the decision of the DDA.
- B. If a person is aggrieved by a decision of the DDA with regard to the denial of a new modular newspaper rack location, the person may file an appeal to the City Commission.
- C. In the event that a person remains aggrieved after an appeal to the DDA or the City Commission, the person may provide to the Planning Director, within 10 days of the decision of the DDA or City Commission, a notice of intent to institute legal proceedings against the City. Once the Director has received this notice, the Director shall reasonably accommodate the person's request until the earlier of the time that a lawsuit is filed against the City or 60 days from the receipt of the notice of intent by the Director.

ARTICLE VII
Enforcement, violations

§ 650-27. Enforcement; violations.

- A. Enforcement of this chapter may be carried out by the City Manager or designee, including the City Engineer, Code Enforcement, Police, and Public Works. Technical administration of permits, construction standards, inspections, and engineering determinations under this chapter shall be performed by the City Engineer or designee.
- B. A person violating this chapter for the first time is responsible for a municipal civil infraction and is subject to payment of a civil fine of not less than \$50, plus costs.
- C. A person violating this chapter for the second time is responsible for a municipal civil infraction and is subject to payment of a civil fine of not less than \$100, plus costs.
- D. A person violating this chapter for the third time is responsible for a municipal civil infraction and is subject to payment of a civil fine of not less than \$250, plus costs.
- E. A person violating this chapter for the fourth or subsequent time is guilty of a misdemeanor, punishable by a fine of not more than \$500 or imprisonment for not more than 90 days, or to both such fine and imprisonment in the discretion of the court. For purposes of this section, repeated violations shall be calculated based on prior violations by the same person or entity.

SECTION 2. Repealer.

All ordinances, or parts of ordinances, in conflict with this ordinance are repealed only to the extent necessary to give this ordinance full force and effect.

SECTION 3. Severability.

Should any section, subdivision, clause, or phrase of this ordinance be declared by the courts to be invalid, the validity of the ordinance as a whole, or in part, shall not be affected other than the part invalidated.

SECTION 4. Savings.

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this ordinance takes effect, are saved and may be consummated according to the law in force when they were commenced.

SECTION 5. Effective Date.

This ordinance as ordered shall take effect ten (10) days after its adoption after having been published within 7 days after passage.

SECTION 6. Inspection.

A copy of this ordinance may be inspected or purchased at the City clerk's office between the hours of 8:00 a.m. and 4:30 p.m. on regular business days and between the hours of 8:00 a.m. and 12:00 p.m. on Fridays.

Michael Fournier, Mayor

Melanie Halas, City Clerk

Date Adopted:
Date Published:
Effective Date: