

R5 J AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH, BY AMENDING CHAPTER 82, ENTITLED "PUBLIC PROPERTY," ARTICLE IV, ENTITLED "USES IN PUBLIC RIGHTS-OF-WAY," BY AMENDING DIVISION 3, ENTITLED "NEWSRACKS," BY CREATING SECTION 82-259, ENTITLED "NEWSRACKS AND NEWSPAPER STORAGE BOXES PROHIBITED IN THE CITY'S HISTORIC DISTRICTS"; AND PROVIDING FOR REPEALER, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

Applicable Area:

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission
FROM: City Attorney Ricardo J. Dopico
DATE: July 24, 2024 11:00 a.m. Second Reading Public Hearing

TITLE: AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH, BY AMENDING CHAPTER 82, ENTITLED "PUBLIC PROPERTY," ARTICLE IV, ENTITLED "USES IN PUBLIC RIGHTS-OF-WAY," BY AMENDING DIVISION 3, ENTITLED "NEWSRACKS," BY CREATING SECTION 82-259, ENTITLED "NEWSRACKS AND NEWSPAPER STORAGE BOXES PROHIBITED IN THE CITY'S HISTORIC DISTRICTS"; AND PROVIDING FOR REPEALER, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

ANALYSIS

At the request of the sponsor, Commissioner David Suarez, this proposed ordinance is presented to the Mayor and City Commission for your consideration.

The purpose of the proposed ordinance is to regulate the placement of newsracks and newspaper storage boxes on public rights-of-way within locally and nationally designated historic districts within the City of Miami Beach in order to maintain public safety, preserve the aesthetic character of the City, and ensure unobstructed pedestrian and vehicular traffic flow in the historic districts.

There are currently no newsracks or newspaper storage boxes with a valid City permit for placement on the rights-of-way in any historic district in the City of Miami Beach, though many unpermitted newsracks remain on the City's rights-of-way, often in dilapidated condition, which forces the Public Works Department to remove and dispose of the unpermitted and unsightly newsracks, as they deteriorate.

Unpermitted newsracks and newspaper storage boxes currently placed on the City's rights-of-way are, additionally, often left empty by their owners for long periods of time and are used by the homeless to store personal belongings and by drug dealers to facilitate narcotics transactions.

Although these deleterious effects caused by newsracks and newspaper storage boxes impact all of the City generally, the deleterious effects upon the City's historic districts, where the City has a heightened interest in maintaining public safety, preserving the aesthetic character, and ensuring unobstructed pedestrian and vehicular traffic flow, are particularly acute.

The City does not allow any other business, organization, or individual to place or maintain any other box, container, or product dispenser of any kind on any of the public rights-of way of the City. Multiple adequate alternative avenues of communication are available for the distribution of printed newspapers and other publications in the City and in its historic districts.

Therefore, in order to maintain public safety, preserve the aesthetic character of the City's historic districts, and ensure unobstructed pedestrian and vehicular traffic flow in these historic districts, the proposed ordinance prohibits the placement or continued presence of any newsracks or

newspaper storage box on public rights-of-way in any locally or nationally designated historic district within the City of Miami Beach.

A map of the City's historic districts is attached here and is available for online viewing at: <https://www.miamibeachfl.gov/city-hall/planning/maps-and-guidelines/>.

FISCAL IMPACT STATEMENT

N/A

Does this Ordinance require a Business Impact Estimate? No
(FOR ORDINANCES ONLY)

The Business Impact Estimate (BIE) was published on 7/5/2024. See BIE at: <https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notices/>

Applicable Area

Citywide

Is this a "Residents Right to Know" item, pursuant to City Code Section 2-17?

No

Is this item related to a G.O. Bond Project?

No

Was this Agenda Item initially requested by a lobbyist which, as defined in Code Sec. 2-481, includes a principal engaged in lobbying? No

If so, specify the name of lobbyist(s) and principal(s):

Department

City Attorney

Sponsor(s)

Commissioner David Suarez

Co-sponsor(s)

Commissioner Joseph Magazine

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH, BY AMENDING CHAPTER 82, ENTITLED "PUBLIC PROPERTY," ARTICLE IV, ENTITLED "USES IN PUBLIC RIGHTS-OF-WAY," BY AMENDING DIVISION 3, ENTITLED "NEWSRACKS," BY CREATING SECTION 82-259, ENTITLED "NEWSRACKS AND NEWSPAPER STORAGE BOXES PROHIBITED IN THE CITY'S HISTORIC DISTRICTS"; AND PROVIDING FOR REPEALER, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the purpose of this ordinance is to regulate the placement of newsracks and newspaper storage boxes on public rights-of-way within locally and nationally designated historic districts within the City of Miami Beach in order to maintain public safety, preserve the aesthetic character of the City, and ensure unobstructed pedestrian and vehicular traffic flow in the historic districts; and

WHEREAS, there are currently no newsracks or newspaper storage boxes with a valid City permit for placement on the rights-of-way in any historic district in the City of Miami Beach, though many unpermitted newsracks remain on the City's rights-of-way, often in dilapidated condition, which forces the Public Works Department to remove and dispose of the unpermitted and unsightly newsracks as they deteriorate; and

WHEREAS, unpermitted newsracks and newspaper storage boxes currently placed on the City's rights-of-way are, additionally, often left empty by their owners for long periods of time and are used by the homeless to store personal belongings and by drug dealers to facilitate narcotics transactions; and

WHEREAS, although these deleterious effects caused by newsracks and newspaper storage boxes impact all of the City generally, the deleterious effects upon the City's historic districts, where the City has a heightened interest in maintaining public safety, preserving the aesthetic character, and ensuring unobstructed pedestrian and vehicular traffic flow, are particularly acute; and

WHEREAS, the City does not allow any other business, organization, or individual to place or maintain any other box, container, or product dispenser of any kind on any of the public rights-of-way of the City; and

WHEREAS, multiple adequate alternative avenues of communication are available for the distribution of printed newspapers and other publications in the City and in its historic districts; and

WHEREAS, in order to maintain public safety, preserve the aesthetic character of the City's historic districts, and ensure unobstructed pedestrian and vehicular traffic flow in these historic districts, the Mayor and City Commission prohibit the placement or continued presence of any newsrack or newspaper storage box on public rights-of-way in any locally or nationally designated historic district within the City of Miami Beach.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AS FOLLOWS:

CHAPTER 82

PUBLIC PROPERTY

* * *

ARTICLE IV. - USES IN PUBLIC RIGHTS-OF-WAY

* * *

DIVISION 3. - NEWSRACKS

* * *

Sec. 82-259. – Newsracks and Newspaper storage boxes prohibited in the City’s Historic Districts.

- (a) The placement or continued presence of any Newsrack or Newspaper storage box on any rights-of-way in any locally or nationally designated historic district within the City of Miami Beach is prohibited.
- (b) The Publisher of any Newsrack or Newspaper storage box currently placed on the City’s rights-of-way in any local or national historic district within the City shall be provided notice by the Department of the requirements of this section within ten (10) days of the effective date of this section and shall remove any prohibited Newsrack or Newspaper storage box within thirty (30) days of the effective date of this section
- (b) Any Newsrack or Newspaper storage box placed or remaining on the City’s rights-of-way in any local or national historic district within the City shall be removed by the Department, with the cost of removal and storage to be billed to the Publisher. If the Publisher does not pay the Department and retrieve the Newsrack or Newspaper storage box within ten (10) days, the Department may discard the Newsrack or Newspaper storage box and proceed with collection for the outstanding billed amount.
- (c) All other provisions of this division otherwise applicable to Newsracks and Newspaper storage boxes shall be inapplicable to any Newsracks and Newspaper storage boxes placed, maintained, or remaining in any historic district.

Secs. 82-259 82-260—82-280. - Reserved.

SECTION 3. REPEALER.

All ordinances or parts of ordinances and all section and parts of sections in conflict herewith be and the same are hereby repealed.

SECTION 4. CODIFICATION.

It is the intention of the City Commission, and it is hereby ordained that the provisions of

this ordinance shall become and be made part of the Code of the City of Miami Beach as amended; that the sections of this ordinance may be renumbered or relettered to accomplish such intention; and that the word "ordinance" may be changed to "section" or other appropriate word.

SECTION 5. SEVERABILITY.

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

SECTION 6. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

PASSED AND ADOPTED this ____ day of _____, 2024.

ATTEST:

Steven Meiner, Mayor

Rafael E. Granado, City Clerk

(Sponsored by Commissioner David Suarez)

Underline denotes additions

~~Strike through~~ denotes deletions.

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

JD 5/7/2024
City Attorney Date
RR

Unsightly Newsracks: A Blight on our City



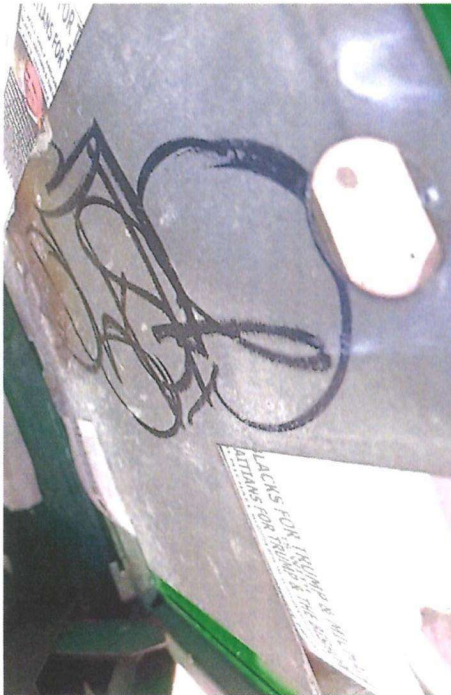
DAVID SUAREZ
COMMISSIONER



Common Uses of Newsstand Boxes



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COMMISSIONER



- Used as trash cans
- Used to store personal belongings
- Used for drug transactions
- Used for pet waste
- Used for tagging Graffiti



Safety Concerns



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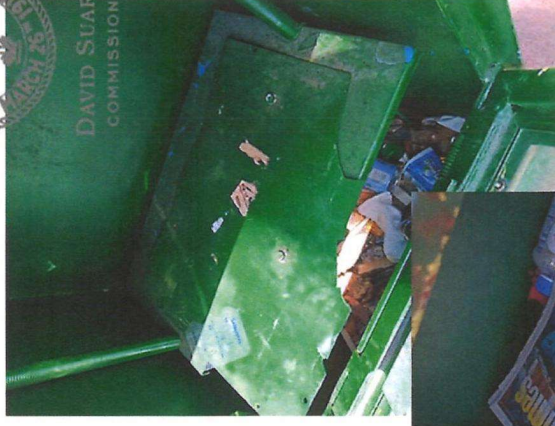
- Cut and trip hazards
- Unnecessary sidewalk obstructions
- Health hazards
- *Broken Windows*
Theory: Vandalism encourages more crime and disorder



Miami Times Newsracks



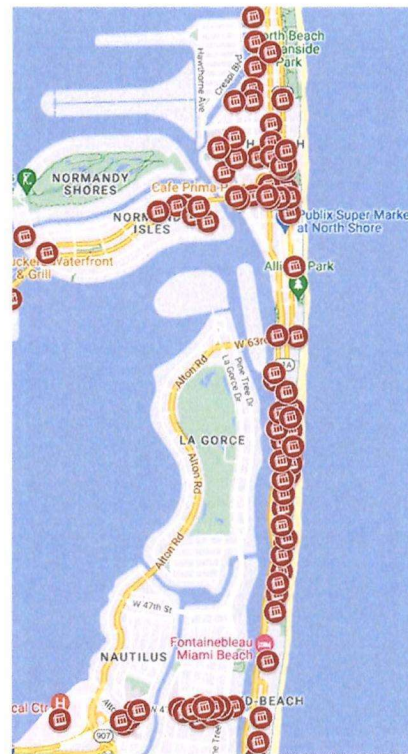
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Miami New Times Newsrack Locations



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	On Public Property	On Private Property
North Beach	35	10
Mid Beach	19	36
South Beach	111	84
Total	165	130

Source: Miami New Times website

Miami Beach Historic Districts



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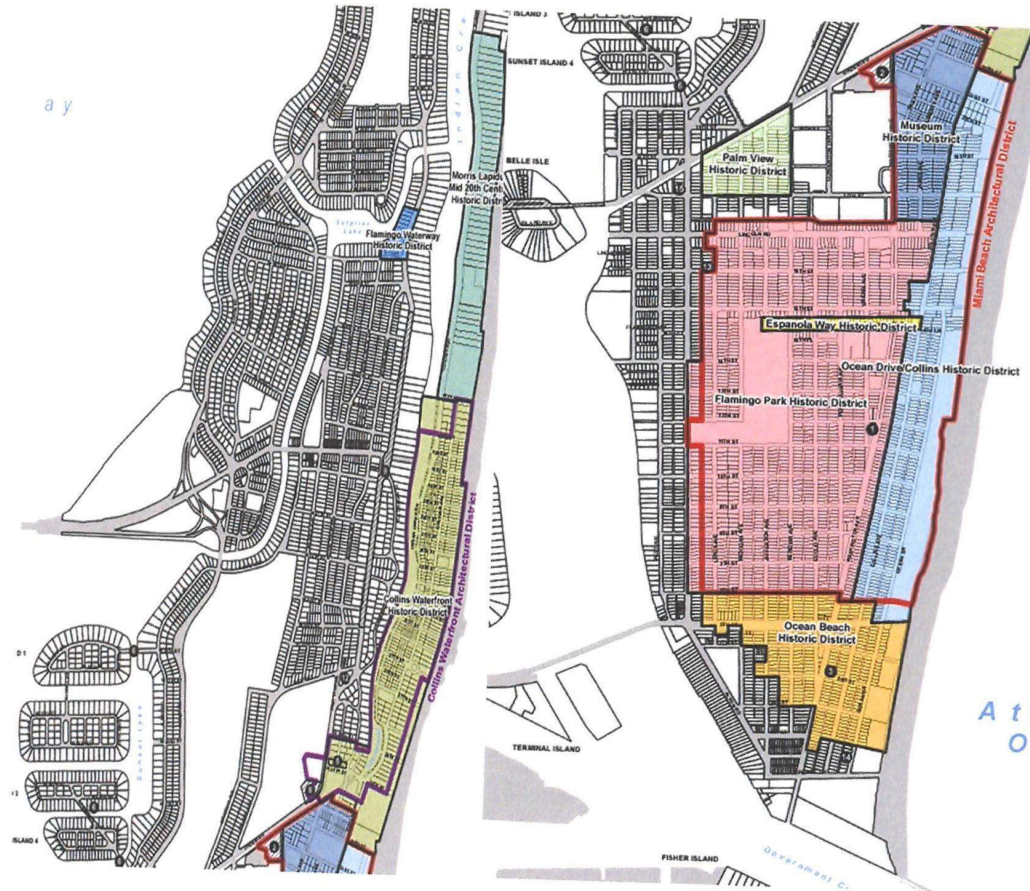
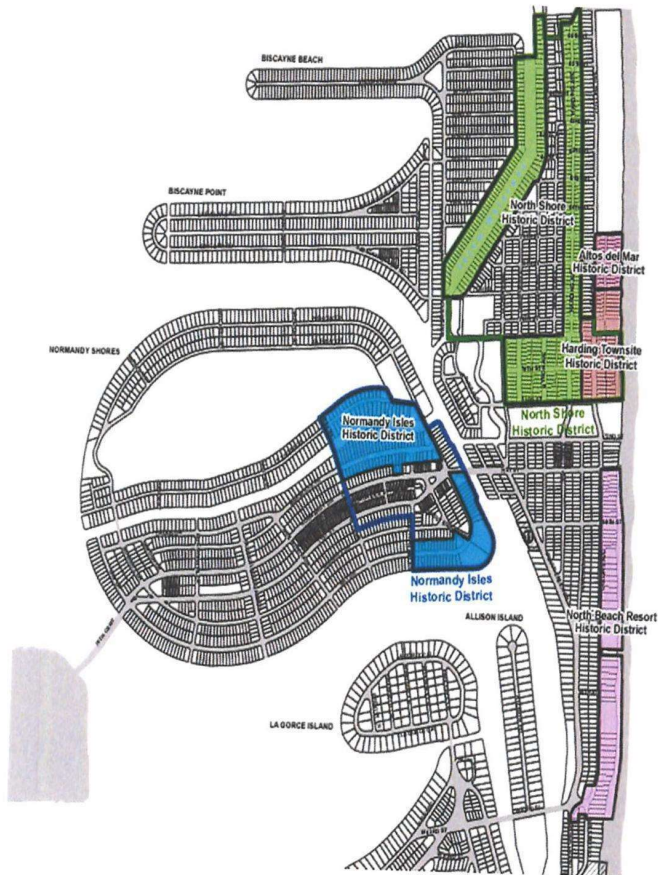


- ★ About half the *New Times* newsracks within historic districts are located on private property, and will remain unaffected.
- ★ Neglected & abandoned newsracks on the public right-of-way don't fit it with the overall aesthetic and design of historic districts.
- ★ Approximately $\frac{3}{4}$ of newsracks on the public right-of-way are located within historic districts.

Miami Beach Historic Districts



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Atlantic
Ocean

Financial Impact of Newsstand Boxes



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- Very little income is generated for the city (\$25 per box per year)
- Total of \$4,125 per year based on current estimates
- Boxes are neglected by the owners
- City currently pays for all removal and disposal costs of destroyed newsstand boxes (labor and fees to unbolt, remove, and properly dispose of the boxes)

Environmental Impacts



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- Waste of paper – Content is available online
- Print readership is low
- Most newspapers are not recycled

Conclusion



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COMMISSIONER

Due to the neglect and dilapidated condition of many of the *Miami New Times* newsracks, the City has a compelling interest to remove the affected newsracks from the public right-of-way and further regulate the existing newsracks.