



# WILTON MANORS, *Island City*

2020 WILTON DRIVE, WILTON MANORS, FLORIDA 33305

## COMMUNITY DEVELOPMENT SERVICES

(954) 390-2180 FAX: (954) 567-6069

**NEWSRACK APPLICATION**

*Life's Just Better Here*

Date: \_\_\_\_\_

Folio #: \_\_\_\_\_

Proposed Address for Placement: \_\_\_\_\_

### Publishing Entity Information

Publishing Entity: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_ Applicant Phone: \_\_\_\_\_

Applicant Name/Title: \_\_\_\_\_

Applicant E-mail: \_\_\_\_\_

Contact Person/Title: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_ Phone: \_\_\_\_\_

### NEWSRACK SPECIFICATIONS

Number of modular newsracks at this location \_\_\_\_\_ (each pedestal with 1 – 4 pockets in “one” newsrack)

Name of Publication(s) to be contained in each newsrack:

Pocket 1: \_\_\_\_\_ Pocket 3: \_\_\_\_\_

Pocket 2: \_\_\_\_\_ Pocket 4: \_\_\_\_\_

Manufacturer: \_\_\_\_\_

Dimensions of newsrack: \_\_\_\_\_

Dimensions of Pedestal Base: \_\_\_\_\_

Material: \_\_\_\_\_ Color: \_\_\_\_\_

**REQUIRED WITH APPLICATION**

- Fifty dollar (\$50.00) one-time only certificate of compliance fee for each modular newsrack plus ten dollars (\$10.00) for each newsrack compartment to be located by the owner.
- 2 COPIES** of Illustration of newsrack and mount showing all dimensions, color, and material.
- 2 COPIES** of Drawing of proposed location showing all existing topographical features within **25** feet of proposed location.
- Newsrack placement checklist (see attached).
- Certificate of Insurance as required by Section 17-111 (3)(a)

**INSURANCE**

FAILURE TO RENEW INSURANCE YEARLY AS REQUIRED BY SECTION 17-111 (3)(a) OF THE CODE OF ORDINANCES OF THE CITY OF WILTON MANORS, FLORIDA, WILL RESULT IN YOUR NEWSRACKS BEING DEEMED ABANDONED AND MAY BE REMOVED BY THE CITY.

**Signature:** \_\_\_\_\_

**INDEMNIFICATION**

\_\_\_\_\_ (Name of publisher/distributor/responsible entity) agrees to indemnify, hold harmless and defend the City, its officers, agents and employees from any loss, liability, or damage sustained by any person as a result of the installation, use or maintenance of the newsrack(s) in this application.

**Signature:** \_\_\_\_\_

**INSTALLATION**

Newsrack shall not be installed until approved newsrack permit is issued. Once permit is issued, installation shall be completed within 90 days.

**Signature:** \_\_\_\_\_

**INSPECTION**

Once installation is complete, the publishing entity **MUST** contact the City at (954) 390-2180 to schedule a site inspection. Upon passing of inspection, a Certificate of Compliance will be issued.

**NOTE:** Publisher acknowledges that the City does not require a sealed survey drawing to install a newsrack. Publisher therefore accepts full responsibility for the accuracy of the drawing submitted to the City pertaining to right-of-way lines and any existing topographical features. Publisher agrees that if at any time the location of the newsrack is found not in compliance with the newsrack article, or not placed wholly within the right-of-way, the Publisher agrees to remove the newsrack at their expense and restore the right-of-way to a safe condition after the City provides sufficient evidence of non-compliance.

**Signature:** \_\_\_\_\_

## ARTICLE VI. – NEWSRACKS

### Sec. 17-102. - Purpose.

The purpose of the following is to promote the public health, safety and welfare through the regulation of placement, type, appearance, servicing, and insuring of newsracks on public rights-of-way. Provide for pedestrian and driving safety and convenience.

Restrict unreasonable interference with the flow of pedestrian or vehicular traffic including ingress into or egress from any residence or place of business, or from the street to the sidewalk by persons exiting or entering parked or standing vehicles.

Provide for public and property safety during hurricane conditions.

Provide reasonable access for the use and maintenance of poles, posts, traffic signs or signals, hydrants, mailboxes and access to locations used for public transportation purposes.

Relocate and/or replace newsracks which result in a visual blight and/or excessive space allocation on the public rights-of-way, as well as to have abandoned newsracks removed.

Maintain and protect the values of surrounding properties and prevent damage to grass right-of-way areas.

Reduce unnecessary exposure of the public to personal injury or property damage.

Treat all newspapers equally regardless of their size, content, circulation, or frequency of publication.

Maintain and preserve freedom of the press.

Cooperate to the maximum with newspaper distributors.

(Ord. No. 929, § 2, 11-27-2007)

### Sec. 17-103. - Intent.

It is the intent of the city commission through the provisions of this article to establish comprehensive regulations applicable to newsracks in public rights-of-way and on public property in a manner which advances and improves safety and aesthetics by controlling the size, construction and appearance of newsracks. More specifically, the city commission's intent is to protect against the following dangers, hazards, and adverse impacts on the city's appearance: impairing or distracting the vision of motorists and pedestrians; 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 that results in visual blight on public property and detracts from the aesthetics of store window displays, adjacent landscaping and other improvements; reduction in property values; unnecessary exposure of the city to personal injury or property damage claims or suits; and public display of harmful or offensive matters.

(Ord. No. 929, § 2, 11-27-2007)

### Sec. 17-104. - Definitions.

For purposes of this article, the following terms shall have the following meaning:

Advertising circular. Any publication that is predominantly advertising and contains minimal or no news reports.

Base. A concrete pad installed or used to support a newsrack.

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

Modular newsrack. A connected grouping of two (2) to six (6) compartments within a single structure, with all coin operated newsracks having a coin mechanism for each compartment, which may be placed on a mound 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 publication. 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 predominately comprised of news reports or other non-commercial articles or information.

Newsrack compartment. Each compartment within a modular newsrack designated 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 of or one who distributes newspapers, periodicals, advertising circulars or other publications from the newsrack.

Pathway. Shall mean any surface provided for the use of pedestrians and bicycle riders.

Parkway. Shall mean any area within a right-of-way which is not a pathway or roadway.

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, designated or ordinarily used for vehicular travel.

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

Visibility/sight triangle.

(a) At street intersections, an area bounded by the first thirty (30) feet moving away from the intersection, 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.

(Ord. No. 929, § 2, 11-27-2007)

### Sec. 17-105. - Notification to the city.

The publisher, or distributor of any newspaper or written periodical distributed from any newsrack location within a city right-of-way shall notify the city manager or his/her designee, in writing, of the location of all of its newsracks in the city on a yearly basis with a written listing or a location map. In addition, the owner of any newsrack located within the city must provide the city manager or his/her designee, in writing, of the location of all of its newsracks in the city on a yearly basis with a written listing or a location map. The list must be updated by August 1st of each year or change of location of any such newsracks within seven (7) days of its placement or relocation. In addition, the publisher or distributor shall update the city manager or his/her designee in writing of new newsracks. That list must be updated in August of each year or change of location of any such newsracks within seven (7) days of its placement or relocation.

The list provided pursuant to this section shall include: the name, address and telephone number of the person who is responsible for the newsrack in order that the city may contact the individual regarding a newsrack. The list shall also contain the location of the newsrack, specifying the street address or closest street.

(Ord. No. 929, § 2, 11-27-2007)

### Sec. 17-106. - General locations throughout the city.

Subject to the provisions of this article, newsracks may be located on publicly and privately maintained rights-of-way and on publicly owned property in any office, commercial or industrial zoning district in any district that allows office, commercial or industrial land uses. The city does not warrant or represent that it has the authority to grant permission for the placement of newsracks on any property other than property owned by the city. Newsracks may be located on privately owned property in any multiple family zoning district or in any 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, and granted by the planning and zoning board, after public hearing on an application for a variance.

(Ord. No. 929, § 2, 11-27-2007)

### Sec. 17-107. - Standards for design, maintenance and installation.

Any newsrack, which, in whole or in part rests upon, in or over any public property, sidewalk, parkway, swale, or right-of-way, shall comply with the following standards:

(1) The exterior dimensions for newsracks must provide for the ability to hold no less than two (2) and no more than six (6) publications, and shall be designed and installed as follows: Each newsrack shall utilize rectangular pedestal(s) with dimensions eight (8) inches by six and one-half 6½ inches with a height of nineteen (19) inches. The newsrack's height shall not exceed fifty-five (55) inches measured from the base, and a depth (measured from front to back) of sixteen (16) inches. Each separate newsrack compartment in a newsrack shall have a width of twenty-four and one-eighth 24 1/8 inches, as measured across the front of the newsrack compartment. Each newsrack shall contain no more than six (6) compartments. The width of each modular newsrack shall not exceed seventy-two and one-half 72½ inches, as measured across the front of the newsracks. The newsrack shall be of a "K" style or "TK" style for paid publications.

(2) Newsracks shall be coated with a city approved color, and coated per manufacturer's specifications.

(3) Newsracks shall carry no advertising except the name of the newspaper being dispensed in lettering not to exceed three (3) inches in height. Lettering may appear on the front under the viewing window, on the sides and back of each newsrack in the distributor's logo style. All lettering is to be duplicated in style, character and white in color.

(4) Only newspapers may be displayed in the front window area. Rack cards are allowed to be inserted in front of the newspaper or in the front window area.

(5) Each coin-operated newsrack shall be equipped with a coin-return mechanism to permit a person using the machine to secure an immediate refund in the event the person is unable to receive the publication paid for. The coin return mechanisms shall be maintained in good working order. Newsracks for free publications may omit the coin box and may have a pull bar welded to the door.

(6) Each newsrack shall have affixed to it, in a readily visible place so as to be seen by anyone using the newsrack, a notice setting forth the name and address of the owner, publisher or distributor and the telephone number of a working telephone service to report a malfunction, or to secure a refund in the event of a malfunction of the coin-return mechanism, or to give the notices provided for in this article.

(7) Each newsrack shall be maintained in a neat and clean condition and in good repair at all times. Specifically, but without limiting the generality of the foregoing each newsrack shall be served and maintained so that:

a. It is reasonably free of dirt and grease.

b. It is reasonably free of chipped, faded, peeling and cracked paint.

c. It is reasonable free of rust and corrosion or broken parts.

d. The clear plastic or glass parts, if any, through which the publications are viewed, are unbroken and reasonably free of cracks, dents, blemishes and discoloration.

e. It is free of graffiti. All graffiti shall be removed or offensive markings blotted out within seven (7) working days after notice by the city that graffiti exists.

f. It is securely mounted on the concrete foundation, as originally installed.

g. The immediate area surrounding the newsrack shall be maintained in a neat and orderly condition, free of trash and debris.

(Ord. No. 929, § 2, 11-27-2007)

### Sec. 17-108. - Location and placement of newsracks.

Any newsracks located in whole or in part upon, in or over any portion of a public right-of-way shall be located in accordance with the following requirements:

(1) Newsracks shall not be located within:

a. Visibility/sight triangles.

b. Within twenty (20) feet of a pedestrian entrance or vehicular driveway of a single family home, public or private school or a house of worship, as measured from the intersection of a public roadway and within fifteen (15) feet from the edge of a commercial property driveway.

c. Within twenty (20) feet of any crosswalk.

(2) No newsracks shall be placed, installed, used or maintained

a. On any disability access ramp.

b. Within a clear width of at least thirty-six (36) inches of the sidewalk or such portion of the sidewalk that is prohibited by the Americans with Disabilities Act's standards for sidewalk clearance.

c. Within the paved portion of any public right-of-way designated for vehicular, pedestrian or bike traffic.

d. On any median within the public right-of-way.

e. Within fifteen (15) feet of any fire hydrant, fire call box, police call box or any other emergency facility.

f. Within three (3) feet of the outer end of any bus bench or bus shelter or five (5) feet from a bus stop sign.

g. Attached to or within three (3) feet of any traffic sign, traffic control devise, mailbox streetlight, or utility pole.

h. Within the front or side swale or driveway of any single-family, duplex, triplex or quadruples residence.

i. Within two hundred fifty (250) feet of another newsrack containing the same newspaper or news periodical except where separated by a street corner. Where warranted for street sales, the city manager or his/her designee may allow a double newsrack, otherwise complying with the requirement of this article, based on a demonstration of public need, as defined in this article. However, there shall be no more than two (2) double newsracks per location.

(3) Every newsrack shall be installed level and plumb.

(4) In instances where no sidewalks exist, newsracks shall be located on a properly constructed base no less than six (6) feet away from the edge of the roadway pavement.

(5) Any construction of concrete pad shall be made pursuant to this article and only after the necessary building permit(s) from the building department and certificate of compliance(s) have been obtained from the community services department and all applicable fees paid.

(6) Any damage to public property or to the public right-of-way occurring as a result of, or as a consequence of the placement of a newsrack shall be the responsibility of the holder of the certificate of compliance for the newsrack.

(7) Newsracks may be mounted to an existing concrete sidewalk subject to the public services director, or his/her designee's approval, compliance with this Code, and in compliance with the Americans with Disabilities Act. Upon removal of said newsrack, the sidewalk shall be restored to its pre-installation condition by the certificate of compliance holder.

(8) The city retains the right to make improvements to the public right-of-ways and remove an approved newsrack to effect such improvements without the requirement to reinstall the newsrack. Re-installation shall be the responsibility of that newsrack's certificate of compliance holder.

(9) Any newsrack foundation may be installed on either a pre-fabricated concrete slab or a cast-in-place concrete slab, and meet the wind load requirements of the Florida Building Code.

a. A pre-fabricated foundation shall be made of a pre-fabricated reinforced concrete slab with a minimum three and one-half (3½) inch thickness, a minimum twenty-eight (28) day compressive strength of two thousand five hundred (2,500) pounds per square inch (psi).

(Ord. No. 929, § 2, 11-27-2007)

### Sec. 17-109. - Abandonment.

(a) In the event a newsrack owner, a newspaper publishing company, or its distributors desires to voluntarily abandon a newsrack location, the distributor shall notify the community services department in writing, and within thirty (30) days of such notification, completely remove the newsrack and mount and restore the public right-of-way to a condition which meets the current engineering standards, is safe, leaving no holes or projections in the mounting surface.

(b) In the event any newsrack installed pursuant to this section does not contain the publication specified within a period of seven (7) days after release of the current issue, the code compliance division may deem the newsrack abandoned and take appropriate action, including but not limited to removal of the newsrack.

(Ord. No. 929, § 2, 11-27-2007)

### Sec. 17-110. - Location of conflict.

In case of a conflict over location of newsracks, the first owner, publisher or distributor to receive a certificate of compliance pursuant to section 17-111, Certificate of compliance procedure, at any particular location shall have priority as to that location.

(Ord. No. 929, § 2, 11-27-2007)

### Sec. 17-111. - Certificate of compliance procedure.

Certificate of compliance required. No person shall place a newsrack without first obtaining a one-time certificate of compliance for each newsrack in accordance with the provisions of this article.

(1) Issuing authority. The director of community services, or his/her designee, is responsible for fairly coordinating and administering the physical placement of newsracks of the type and location herein specified. Upon compliance with all regulations, the director of community services or his/her designee is responsible for issuing the certificate of compliance within thirty (30) days.

(2) Applications for certificate of compliance. The owner of the newsrack shall file with the director of community services, a written application for an installation certificate of compliance, which shall contain the following information:

- a. The name, address and telephone number of the applicant, who is the owner of the newsrack.
- b. The name, address and telephone number of a responsible person whom the city may notify or contact at any time concerning the applicant's newsrack.
- c. The number of newsracks and the proposed location(s) of each shown on a drawing drawn on a legible scale indicating any adjacent features.
- d. Names of newspapers, periodicals or advertising circulars to be contained in each newsrack.
- e. Type or brand of newsrack, including an illustration and description of the newsrack and mount.

(3) Insurance and indemnification.

a. Insurance. Every publisher or distributor who places or maintains a newsrack on city property in the city shall maintain general liability insurance coverage and shall furnish to the city a current certificate of insurance, naming the city as an additional insured, prior to the issuance of the newsrack certificate of compliance and must keep on file with the city at all times a current certificate of insurance. Minimum limits of coverage shall be three hundred thousand dollars (\$300,000.00) per occurrence combined single limit for bodily injury and property damage. The proposed insurance shall be submitted by the applicant for approval by the city's risk management division. Insurance under this section shall run continuously with the presence of the applicant's newsrack in public rights-of-way, and any termination or lapse of such insurance shall be a violation of this article, subject to appropriate remedy by the code compliance division. Enforcement may include, but is not limited to, removal of the newsrack.

b. Indemnification/hold harmless. Every publisher or distributor that maintains a newsrack within a public right-of-way in the city shall execute and deliver a written agreement under which it agrees to indemnify, hold harmless and defend the city, its officers, agents and employees from any loss, liability or damage sustained by any person as a result of that publisher's or distributor's installation, use or maintenance of a newsrack within the city. A copy of the indemnification agreement shall be provided with the application. This shall not be construed to affect in any way the city's rights, privileges, and immunities as set forth in F.S. § 768.28.

(4) Fees. There shall be a one-time only certificate of compliance fee in the amount of fifty dollars (\$50.00) for each modular newsrack plus ten dollars (\$10.00) for each newsrack compartment to be located by the owner.

(5) Issuance of a certificate of compliance. Upon finding by the community services department that the application is in compliance with the provisions of this Code, the department shall cause a certificate of compliance to be issued for the installation of the newsrack(s).

(6) Denial of certificate of compliance application. Should a certificate of compliance application be denied by the department, the applicant shall be advised of the specific cause for denial and may include suggested alternative sites, if they exist. The applicant may re-apply for a substitute alternative location at no additional certificate of compliance fee.

(7) Appeals. Any person aggrieved by any order, finding or determination taken under the provisions of this article other than a code enforcement action (herein "appellant") may file an appeal with the special magistrate for the city. The appellant must affect the appeal within fifteen (15) days after receipt of the order mailed to the appellant pursuant to this article. In order to affect the appeal, the appellant must deliver a letter of appeal, briefly stating the basis of the appeal, to the special magistrate. A hearing before the special magistrate shall be scheduled on the appeal no later than thirty (30) days following the receipt of the letter of appeal, unless the parties mutually agree on an extension. The appellant shall be given at least ten (10) days written notice of the time and place of the hearing. The special magistrate shall give the appellant a reasonable opportunity to be heard in order to show cause why the order, finding or determination is inconsistent with the requirements of this article. At the conclusion of the hearing, the special magistrate shall make a final and conclusive determination. The determination shall be reduced to writing and signed by the special magistrate, and filed in the office of the city clerk within fifteen (15) days of the hearing and a copy shall be sent to the appellant. The decision of the special magistrate shall be effective when rendered. The decision of the special magistrate may be appealed as provided by law.

(Ord. No. 929, § 2, 11-27-2007)

### Sec. 17-112. - Demonstration of public need.

(a) Public need for locating additional newsracks in specific locations may be established by the following method, which is not exclusive. If another method to establish public need is desired by a publishing entity, the city and the publishing entity shall jointly determine whether the alternate method is a legitimate and accurate means to determine public usage of newsracks in question. An owner, distributor, or publisher desiring to establish a public need may place an extra newsrack at a proposed location, after notice to the city, for a test period of one (1) month. No certificate of compliance will be required; however, an application must first be completed on a form provided by the community services department.

(b) If during one (1) month test period, the average circulation from the newsracks equals or exceeds seventy-five (75) per cent of the capacity of the newsrack for publications published other than daily or for daily publications, the average Sunday circulation from newsracks equals or exceeds seventy-five (75) per cent of the capacity of the newsrack, then a public need will be deemed to have been established. Assuming the extra newsrack does not comply with all other appropriate sections of this article, the deficiencies must be corrected before a certificate of compliance will be issued.

(Ord. No. 929, § 2, 11-27-2007)

### Sec. 17-113. - Removal procedures.

Notwithstanding the provisions of the above sections, one hundred eighty (180) days after this article becomes effective, and at any time thereafter, any newsrack without a certificate of compliance will have a notice of violation attached to the newsrack by the code compliance division. If the newsrack is not removed or a certificate of compliance obtained within fifteen (15) days after such notice is attached, the code compliance division may have the newsrack impounded and shall bill the certificate of compliance holder or owner for expenses of such removal and storage. Within fifteen (15) days after removal, the newsrack shall be deemed unclaimed property in possession of the city and may be disposed of pursuant to F.S. § 705.103.

(Ord. No. 929, § 2, 11-27-2007)

### Sec. 17-114. - Emergency removal.

(a) The city manager or his/her designee may summarily remove any newsrack where its installation, use or maintenance poses an imminent or immediate danger to the public.

(b) Following removal of the newsrack by the city, the distributor shall be notified of same by certified mail, return receipt requested. If the newsrack is not claimed within ninety (90) days of receipt of certified letter, disposal shall be made pursuant to section 17-109 of this article.

(Ord. No. 929, § 2, 11-27-2007)

### Sec. 17-115. - Enforcement.

Within sixty (60) days of the effective date of this article and at any time thereafter, any newsrack in violation of any provision of this section shall be subject to remedy and due process under the provisions of sections 2-66, et seq. of the City of Wilton Manors Code of Ordinances pertaining to the special magistrate.

(Ord. No. 929, § 2, 11-27-2007)

### Sec. 17-116. - Penalty.

In addition to any fine imposed by the special magistrate, the city reserves the right to charge the offending vendor for any and all costs incurred in enforcing this article.

(Ord. No. 929, § 2, 11-27-2007)