

**File of the
Council of the City of Easton, Pa.**

Ordinance No. 5242

SESSION 2010

Bill No. 82

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Introduced by: Pamela Panto – October 28, 2009

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Enacted by Council: January 4, 2010
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AN ORDINANCE: An Ordinance to amend the Code of the City of Easton by adding a new Chapter 372 to be entitled "Newsrack"

THE CITY OF EASTON HEREBY ORDAINS:

SECTION 1. The Code of the City of Easton be and it is hereby amended by adding thereto a new Chapter, to be Chapter 372, Newsrack to read as per Exhibit "A".

SECTION 2. All Ordinances or parts of ordinances inconsistent herewith be, and the same are hereby repealed.

SECTION 3. This ordinance shall take effect 30 days following adoption by Council.

Signed the day of January, 2010

ATTEST:


City Clerk

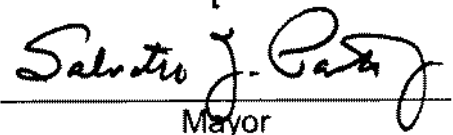
This ordinance approved this

5th

day of

JANUARY

2010


Mayor

CODIFIED ORDINANCES OF EASTON

PART X - NEWSRACK CODE

- Art. XX01. Title and Severability**
 - Art. XX02. Purpose and Objectives**
 - Art. XX03. Amendments**
 - Art. XX04. Definitions**
 - Art. XX05. Registration**
 - Art. XX06. Prohibitions**
 - Art. XX07. Installation Standards**
 - Art. XX08. Maintenance Standards**
 - Art. XX09. Multiple Newsrack Zone**
 - Art. XX10. Notice of Violations and Penalty**
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ARTICLE XX01
Title and Severability

- XX01.01 Newsrack Code Title
- XX01.02 Short Title
- XX01.03 Newsrack Zone and Multiple Newsrack Zone Maps Incorporated;
Citation
- XX01.04 Newsrack Zone and Multiple Newsrack Zone Established and
Defined
- XX01.05 Severability and Validity
- XX01.06 Council, Intention Upon Declaration of Invalidity

CROSS REFERENCES

Official Map – see Planning Act 247 § 401 et seq. (53 P.S. §10401 et seq.)
Part Thirteen – Planning and Zoning Code, Codified Ordinances of the City of Easton
§595-4, Chapter 595 Article XI, Zoning Map

XX01.01 NEWSRACK CODE TITLE

This Newsrack Code is for regulating and restricting the establishment, placement, location, size, type, attachment, condition, repair, maintenance, replacement or removal, and number and density of newspaper boxes in the Downtown District; for creating single and multiple newsrack zones within the Downtown District for such purposes and establishing boundaries thereof; for establishing classes of newsracks for such purposes; for defining certain terms used herein; and for providing for administration for such purposes; and for the imposition of penalties and violations thereof. Provisions of this ordinance are specific to the designated zones set forth herein and have no application outside the newsrack zones.

XX01.02 SHORT TITLE

This Newsracks Code shall be known as and may be cited as the Easton Newsrack Code of 2009.

XX01.03 NEWSRACK ZONE AND MULTIPLE NEWSRACK ZONE MAPS INCORPORATED; CITATION

1. The Newsrack Zone is hereby declared to be part of this Newsrack Code.
2. The Multiple Newsrack Zone is hereby declared to be part of this Newsrack Code.
3. The accompanying Multiple Newsrack Zone Map is hereby declared to be part of this Newsrack Code and shall be known as and may be cited as the Official Multiple Newsrack Zone Map.

XX01.04 NEWSRACK ZONE AND MULTIPLE NEWSRACK ZONE ESTABLISHED AND DEFINED

1. The Newsrack Zone is established and defined as the Downtown District as presented, described and codified in the Easton Zoning Code of 2007 as adopted and amended.
2. The Multiple Newsrack Zone is established and defined as the area bounded by the street centerlines of:
 - a) Sitgreaves Street, to its intersections with Church and Pine Streets
 - b) Church Street, to its intersections with Sitgreaves and Bank Streets
 - c) Bank Street, to its intersections with Church and Pine Streets
 - d) Pine Street, to its intersections with Bank and Sitgreaves Streets
 - e) Sitgreaves Street, to its intersections with Pine and Ferry Streets
 - f) Ferry Street, to its intersections with Sitgreaves and S. 2nd Streets
 - g) S. 2nd Street, to its intersections with Ferry and Pine Streets
 - h) Pine Street, to its intersections with S. 2nd and Sitgreaves Streets
3. Within the Downtown District and in accordance with regulations outlined in this ordinance, newsracks shall only be permitted on the following streets in the Downtown District as referenced in this subsection:
 - a) Union Street
 - b) 6th Street
 - c) 5th Street
 - d) 4th Street
 - e) 3rd Street
 - f) 2nd Street
 - g) Larry Holmes Drive
 - h) Spring Garden Street
 - i) Northampton Street
 - j) Center Square
 - j) Ferry Street
 - k) Washington Street
 - l) Riverside Drive
 - m) Lehigh Street

4. Within the Downtown District and in accordance with regulations outlined in the ordinance, newsracks are expressly prohibited on the following streets in the Downtown District as referenced in this subsection:
 - a) Lerch Street
 - b) Rosewood Street
 - c) Sebring Street
 - d) Maple Street
 - e) West Street
 - f) Bank Street
 - g) Sitgreaves Street
 - h) Green Street
 - i) Pearl Street
 - j) Bushkill Street
 - k) Bennett Court
 - l) Church Street
 - m) Lehns Court
 - n) Pine Street
 - o) Spruce Street
 - p) Michael J. Koury Street

XX01.05 SEVERABILITY AND VALIDITY

If any article, section, subsection, provision, regulation, sentence, clause, phrase or word in this Newsrack Code, the boundaries or visual delineation of the Newsrack Zone and/or Multiple Newsrack Zone shall be for any reason, declared to be illegal, unconstitutional or invalid, by any court of competent jurisdiction, such decision shall not affect or impair the validity of the remaining provisions of this Newsrack Code or maps referenced herein.

XX01.06 COUNCIL, INTENTION UPON DECLARATION OF INVALIDITY

Council hereby declares that it would have adopted this Newsrack Code and each article, section, subsection, provision, regulation, sentence, clause, phrase or word thereof and each boundary or visual delineation of the Newsrack Zone or Multiple Newsrack Zone, irrespective of the fact that any one or more of the sections, subsections, provisions, regulations, sentences, clauses, phrases words or boundaries may be declared illegal, unconstitutional or invalid.

ARTICLE XX02
Purpose and Objectives

- XX02.01 Purpose of Newsrack Code Adoption
- XX02.02 Newsrack Zone and Multiple Newsrack Zone Purposes
- XX02.03 Interpretation of Code Provisions

CROSS REFERENCES

- Official Map – see Planning Act 247 § 603 et seq. (53 P.S. §10603 et seq.)
 - Part Thirteen – Planning and Zoning Code, Codified Ordinances of the City of Easton
Chapter 595, Article II
 - Uniform Federal Accessibility Standards §903.13 (g) (7) Site Requirements and (8) Site Distances
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XX02.01 PURPOSE OF NEWSRACK CODE ADOPTION

This Newsrack Code is adopted pursuant to the provisions of the City of Easton Codified Ordinances; is made in accordance with the Official Comprehensive Development Plan of the City, hereinafter referred to as the Comprehensive Plan; and is intended to be consistent with the City's Building, Emergency Management and Public Works Codes. It is adopted for the following purposes:

1. The promotion and protection of the public health, safety, morals, comfort, convenience and the general welfare of the people.
2. The establishment and subdivision of boundaries into specific single and multiple Newsrack Zones in the Downtown District.
3. The restriction and regulation of newsracks specifically, the establishment, placement, location, size, type, attachment, condition, repair, maintenance, replacement or removal, and number and density of newspaper boxes in the Downtown District.
4. The establishment of classes of newsracks for such purposes; for defining certain terms used herein; and for providing for administration for such purposes; and for the imposition of penalties and violations thereof.
5. The protection of the City's public realm, including streetscape and rights-of-way for reasons of public safety, walkability, access, and connectivity.
6. The prevention of overcrowding of the City's public realm and undue concentration of newsracks, by regulation of size, design, height, bulk, location, and use in relation to the surrounding land.
7. The preservation of the Downtown District's natural, historic and scenic values in the interest of the public health, safety, comfort and general welfare.
8. The protection against undue rights-of-way obstruction in the interest of public health, safety, comfort and general welfare.
9. The promotion in the public interest of the utilization of land for the purpose for which it is most appropriate.
10. The conservation of taxable value of land and buildings in the Downtown District.
11. The definition of and limitation on the powers and duties of the administrative offices and bodies provided in this Newsrack Code.
12. The protection of the established character and maintenance of the stability of commercial, industrial, recreational, heritage, cultural, tourism and residential areas within the Downtown District and the promotion of orderly and beneficial use of such areas.

XX02.02 NEWSRACK ZONE AND MULTIPLE NEWSRACK ZONES PURPOSES

1. The purpose of the designated Newsrack Zone is to:
 - a. Protect and enhance the public realm of the unique urban, historic, and naturally sensitive Downtown District neighborhood
 - b. Protect and enhance the streetscape in the Downtown District to continue and improve residential, commercial and industrial use of lands
 - c. Provide safe and convenient public access to lands and the uses contained therein in the Downtown District

2. The purpose of the designated Multiple Newsrack Zone is to:
 - a. Protect and enhance the public realm of the unique urban, historic, and naturally sensitive Downtown District neighborhood, specifically Centre Square, the City's historic, cultural, commercial, residential and tourism core.
 - b. Protect and enhance the streetscape in the Downtown District to continue and improve residential, commercial and industrial use of lands, specifically the core of the City, Centre Square.
 - c. Provide safe and convenient access to lands and the uses contained therein in the Downtown District, specifically the core of the City, Centre Square.

XX02.03 INTERPRETATION OF CODE PROVISIONS

In interpreting and applying the provisions of this Article, they shall be held to be the minimum requirements for the promotion of the health, safety, morals and the general welfare of the City of Easton. The provisions of any statute, other articles of this Ordinance, law, rule, or regulation which impose greater restrictions than this Ordinance shall be controlling. Conversely, the provisions of this Ordinance shall be controlling when such provisions impose greater restrictions than those of any other statute, other articles of this Ordinance, law, rule, or regulations.

**ARTICLE XX03
Amendments**

XX03.01 Amendments Authorized

XX03.01 AMENDMENTS AUTHORIZED

Whenever justified or deemed desirable and to meet the public needs, promote the public health and safety, morals or the general welfare of the City and the intent and purposes of this Newsrack Code, Council may, from time to time and after public notice and hearing, amend, supplement, change or repeal the regulations, restrictions or boundaries set forth in this Newsrack Code in accordance with the provisions of the City's Charter.

ARTICLE XX04 Definitions

XX04.01 Meanings of Words Defined

XX04.02 Definitions

XX04.01 MEANING OF WORDS DEFINED

1. Words used in the present tense include the future; words in the masculine gender include the feminine and the neuter; the singular number includes the plural, and the plural the singular.
2. The word “shall” or “must” is always mandatory; the word “may” is permissive, the words “used for” includes “designed for”, “arranged for”, “intended for”, “maintained for”, or “occupied for”. The word “building” includes “structure” and shall be construed as if followed by the phrase “or part thereof”. The word “person” includes “individual”, “profit or “nonprofit organization”, “partnership”, “company”, “unincorporated association”, “corporation”, or other similar entities.
3. When terms, phrases, or words are not defined, they shall have their ordinarily accepted meanings or such as the context may imply.
4. As used in this Newsrack Code, except where the context clearly indicates otherwise, the following words or phrases have the meanings indicated as described in **XX04.02** – Definitions.

XX04.02 DEFINITIONS

APPLICANT: The person responsible for placing, installing or maintaining a newsrack on the public right-of-way.

APPLICATION: An application to register a location to install newsracks on the public right-of-way upon forms for such purpose prescribed by the City of Easton.

MULTIPLE NEWSRACK: A newsrack designed to dispense two or more different publications.

MULTIPLE NEWSRACK ZONE: Area designated where the placement, installation and maintenance of newsracks shall be prohibited, except as authorized by the City of Easton under this section for the placement, installation and maintenance of multiple newsracks.

NEWSRACK: Any unmanned box, container, or other dispenser installed, used or maintained that is self service or coin operated for the vending or free distribution of newspapers, periodicals or publications located in or on a public way.

NEWSRACK IDENTIFICATION NUMBER: Unique code issued by the City of Easton to an applicant upon granting an application for a newsrack.

PUBLIC RIGHT-OF-WAY: Any place of any nature which is dedicated to use by the general public for pedestrian and vehicular travel, and includes, but is not limited to, a street, sidewalk, curb, gutter, crossing, intersection, highway, alley, lane, court, way, avenue, boulevard, road, roadway, bridge, park, square, and any similar public way.

ARTICLE XX05
Registration

XX05.01 Registration Required

XX05.01 REGISTRATION REQUIRED

1. No person or entity shall install, vend from, operate or maintain any newsrack which in whole or in part rests upon, in or over any public rights-of-way without first been granted approval of its application by the City of Easton and complying with the terms of this article. Separate registration and separate applications therefore shall be required for each newsrack operated, vended from, maintained or installed.
2. Initial applications will be received for 30 days from the date of enactment of this ordinance so allocation of designated newsrack locations may be distributed to the maximum. Applications for newsracks located in areas outside the multiple newsrack zone, prior to enactment of this ordinance, will be given priority for the location it occupies for a period of 30 days the after enactment of this ordinance.
3. Based on the information provided in the application, the city shall, within thirty days from the date of the submission therefore, grant or deny the application based on the availability of the requested newsrack location, and the standards and criteria set forth in this ordinance. When more than one application is filed simultaneously than may be accommodated at a specific designated newsrack location, priority shall be determined by lottery. Publications containing legal notices and local (Lehigh Valley) news content, and are distributed at least weekly in frequency, shall receive preferential status in the lottery process. When denial of an application is based solely upon the unavailability of the requested location, the applicant may amend such application to request a different location. Any application not acted upon during the period prescribed herein shall be deemed denied.
4. Upon granting an application for a newsrack at a designated location, the city shall issue to the applicant a Newsrack Identification Number decal which shall be affixed to the top of the newsrack's right hand corner closest to the front of the newsrack prior to the newsrack's installation or use at the designated location. The identification decal shall be affixed in such a manner that it is visible to a user of the newsrack.
5. The applicant shall have 30 days from the time their license was issued to install a newsrack at its designated location. If the applicant fails to install a newsrack at the designated location within 30 days of the issuance of the license, the license shall be void, and new applications will be accepted for that designated location.
6. An applicant for a designated newsrack location shall notify the city in writing within ten days of any change of address of such applicant or any sale or transfer of ownership of any newsrack registered to that applicant located in the City of Easton. Any transferee of such newsrack shall comply with the

provisions of this ordinance relating to registration and identification of newsracks as of the date of transfer.

7. An applicant may replace any registered newsrack with another conforming newsrack at the same designated location without relinquishing the location or submitting a new application; provided, however, any replacement newsrack shall be of a type approved by the city and shall comply with all of the provisions and standards set forth in this article.

ARTICLE XX06
Prohibitions

XX06.01 Prohibitions

XX06.01 PROHIBITIONS

1. No person or entity shall install, operate, vend from or maintain, or cause to be installed, vended from, used or maintained, any newsrack which projects onto, into or over any part of the roadway of any street, or which rests, wholly or in part, or over any portion of the roadway of any street.
2. No person or entity shall install, vend from, operate or maintain or cause to be installed, vended from, used or maintained, any non-anchored or buoyant newsrack which rests or is situated in whole or in part, in a Federal Emergency Management Agency defined 100-Year Floodplain. Within two (2) hours of notification of flood event by the Federal Emergency Management Agency (FEMA) or other authorized agency or their representatives, any newsrack within the designated 100-Year Floodplain must be removed by its owner, or will be found in violation of this ordinance.
3. No person or entity shall install, vend from, operate or maintain or cause to be installed, vended from, used or maintained, any newsrack which rests or is situated in whole or in part, in or over any public rights-of-way, or sidewalk, when such installation, vending, operation or maintenance is in violation of any of the provisions, requirements or standards set forth in this article.
4. No person or entity shall install, vend from, operate or maintain or cause to be installed, vended from, used or maintained, any newsrack without a registered license issued by the city.
5. No person or entity shall install, vend from, operate or maintain or cause to be installed, vended from, used or maintained, any licensed newsrack in any location except for the designated location the license was issued for.

ARTICLE XX07
Installation Standards

XX07.01 Installation Standards

XX07.01 INSTALLATION STANDARDS

1. In addition to the requirements set forth in **Section XX05** of this article, no newsrack in the Downtown District shall be placed, installed or maintained on a public right-of-way:
 - (a) Within ten feet of any marked or unmarked crosswalk.
 - (b) Within ten feet of a fire hydrant.
 - (c) Within ten feet of any driveway, alley, loading zone, handicapped ramp, curb cut or intersection.
 - (d) On any grating or manhole cover.
 - (e) On any surface where the newsrack will cause damage to or interfere with the use of any pipes, vault areas or telephone or electrical cables and wires, and other utilities.
 - (f) In the case of a multiple newsrack, within two feet of a curb face.
 - (g) Within five feet ahead or fifteen feet to the rear of any designated bus stop, loading zone, or fire lane, unless such newsrack is placed parallel against a wall that is within four feet of a designated bus stop, loading zone, or fire lane and the newsrack so placed does not project into or otherwise interfere with the unobstructed flow of pedestrians and vehicular traffic.
 - (h) Within a multiple newsrack area except as permitted by this article.
 - (i) On any area of lawn, flowers, shrubs, or trees or other similar landscaping, or in such a manner where ordinary use of the newsrack will cause damage to such landscaping.
 - (j) Within five feet of any display window of any building abutting the sidewalk or in such a manner as to impede or interfere with the reasonable use of such window for display purposes except with the written permission of the store and property owner.
 - (k) No newsrack shall be used for displaying advertising or other commercial signs other than displays dealing with the advertisement, sale or purchase of the publication sold therein.

2. Any newsrack in the Downtown District which is situated or rests, in whole or in part, in or over any public rights-of-way shall comply with the following standards:
- (a) Each newsrack shall be sufficiently weighted to provide stability and safety. Newsracks shall be maintained in orderly rows. No newsrack shall be chained, tied or otherwise fastened to a tree, signpost, streetlight, telephone pole, or other fixture on the public rights-of-way.
 - (b) Each multiple newsrack shall be securely bolted to the sidewalk and shall be constructed, installed and maintained by the City of Easton.
 - (c) No newsrack unit shall exceed forty-eight inches in height, exclusive of the coin mechanism, thirty inches in width or twenty-four inches in depth. This prohibition does not apply to multiple newsracks that are placed, installed or maintained within a multiple newsrack area in accordance with this article.
 - (d) Not more than three newsrack units shall be grouped or otherwise placed immediately adjacent to each other at any designated newsrack location regardless of whether such newsracks are installed, operated and maintained by the same person(s) or entity. If two or more newsrack units are placed adjacent or contiguous to each other at any designated newsrack location; each newsrack unit shall be separated by a space of not less than eight inches or more than thirty-six inches from adjacent newsrack units.
 - (e) Not more than three newsracks shall be located on any public rights-of-way within the same block of the same street and not more than three newsracks shall be allowed on any one block.
 - (f) Newsracks shall only be placed adjacent to a curb or the wall of a building. Newsracks placed adjacent to the curb shall be placed no less than eighteen inches nor more than twenty-four inches from the front edge of the curb. Newsracks placed adjacent to a building wall shall be placed parallel to and not more than six inches from such wall.
 - (g) Within a block where a publisher of a paid newspaper is located, priority will be given to that publisher on where their newsrack is to be located on that block. If the publisher provides for multiple paid newspaper editions, priority will be given to that publisher for the number of newsracks that they would require for each paid newspaper edition on that block where the publisher is located.
 - (h) Each newsrack shall be plainly marked with the name, address and business telephone number of the applicant. Identification label must be placed in an easily accessible location on the newsrack.
 - (i) Each newsrack shall be of a type that is completely enclosed; with a self-closing door that is either self-latching or otherwise requires manual or mechanical release to each use.

ARTICLE XX08
Maintenance Standards

XX08.01 Maintenance Standards

XX08.01 MAINTENANCE STANDARDS

1. Any person or entity that installs, vends from, operates or maintains, or causes to be installed, vended from, operated or maintained, any newsrack which rests, in whole or in part, upon, in or over and public right-of-way, or sidewalk within the City of Easton shall regularly maintain and service each such newsrack to ensure the following:
 - (a) Each newsrack shall be maintained undamaged and in good operating order at all times, and shall be kept free of graffiti, dirt, grease, expired publications and of litter and other debris. Newsracks shall be kept reasonably free of chipped, faded, peeling and cracked paint and rust or corrosion on any visible part of the newsrack unit.
 - (b) A newsrack that remains severely damaged and beyond repair, containing expired publications or empty for a period of 30 days or more all be considered abandoned and in violation of this article.
 - (c) No newsrack shall have cracked, dented, blemished and/or discolored parts, including, but not limited to the clear plastic or glass window through which the publication therein is viewed.
 - (d) Any newsrack, including the coin-return mechanism, shall remain mechanically operable.
2. Any unused or abandoned newsrack, or newsrack containing expired publications dating 30 days or more past the regular cycle of said publication, shall be removed by the applicant whose name appears on the newsrack, and the sidewalk shall be restored to its condition prior to installation of the newsrack within fifteen days from the actual removal of the unused or abandoned newsrack or within fifteen days of service of written notification from the City of Easton to remove such newsrack.

ARTICLE XX09
Multiple Newsrack Zone

XX09.01 Multiple Newsrack Zone

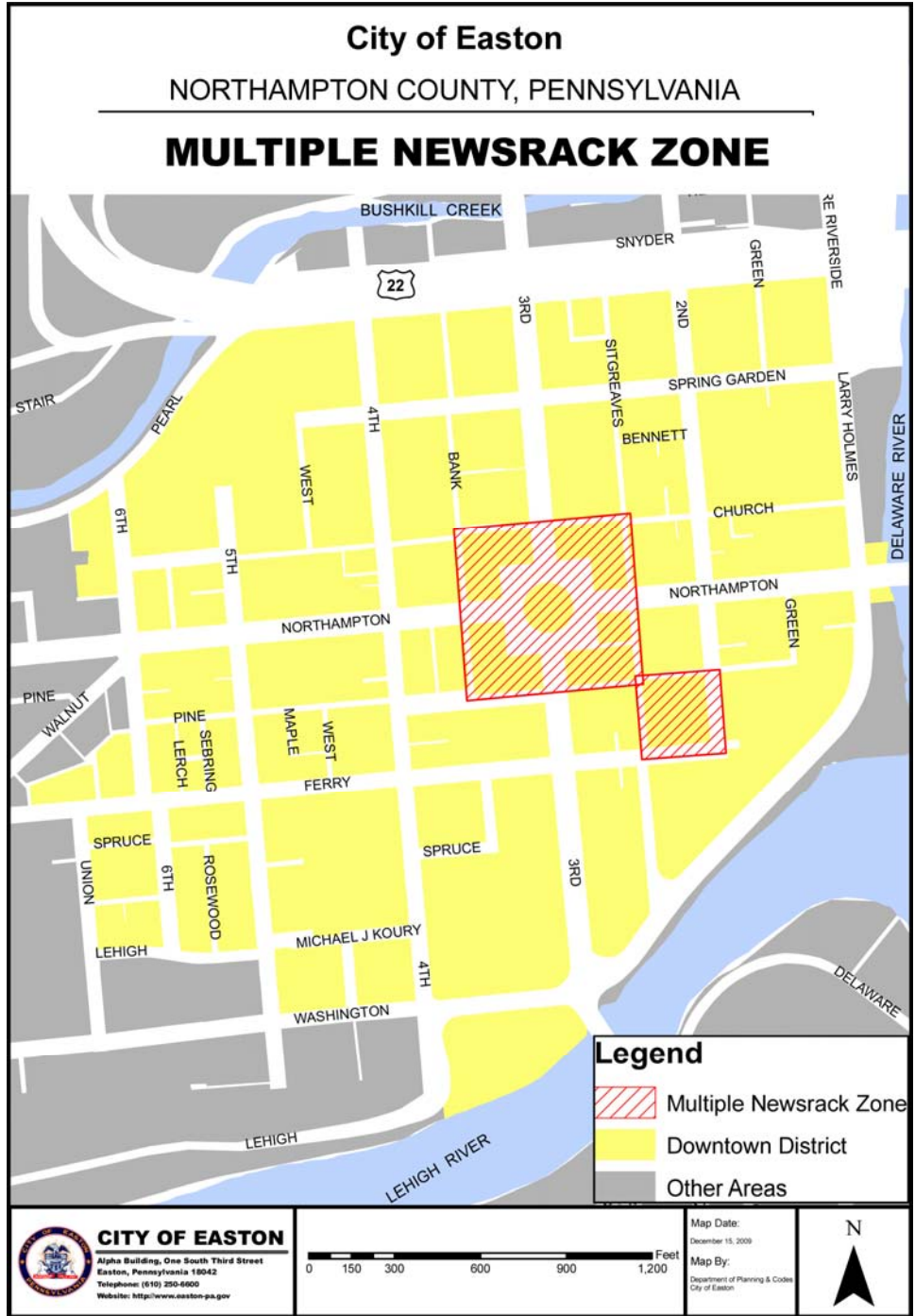
XX09.02 Multiple Newsrack Zone Map

XX09.01 MULTIPLE NEWSRACK ZONE

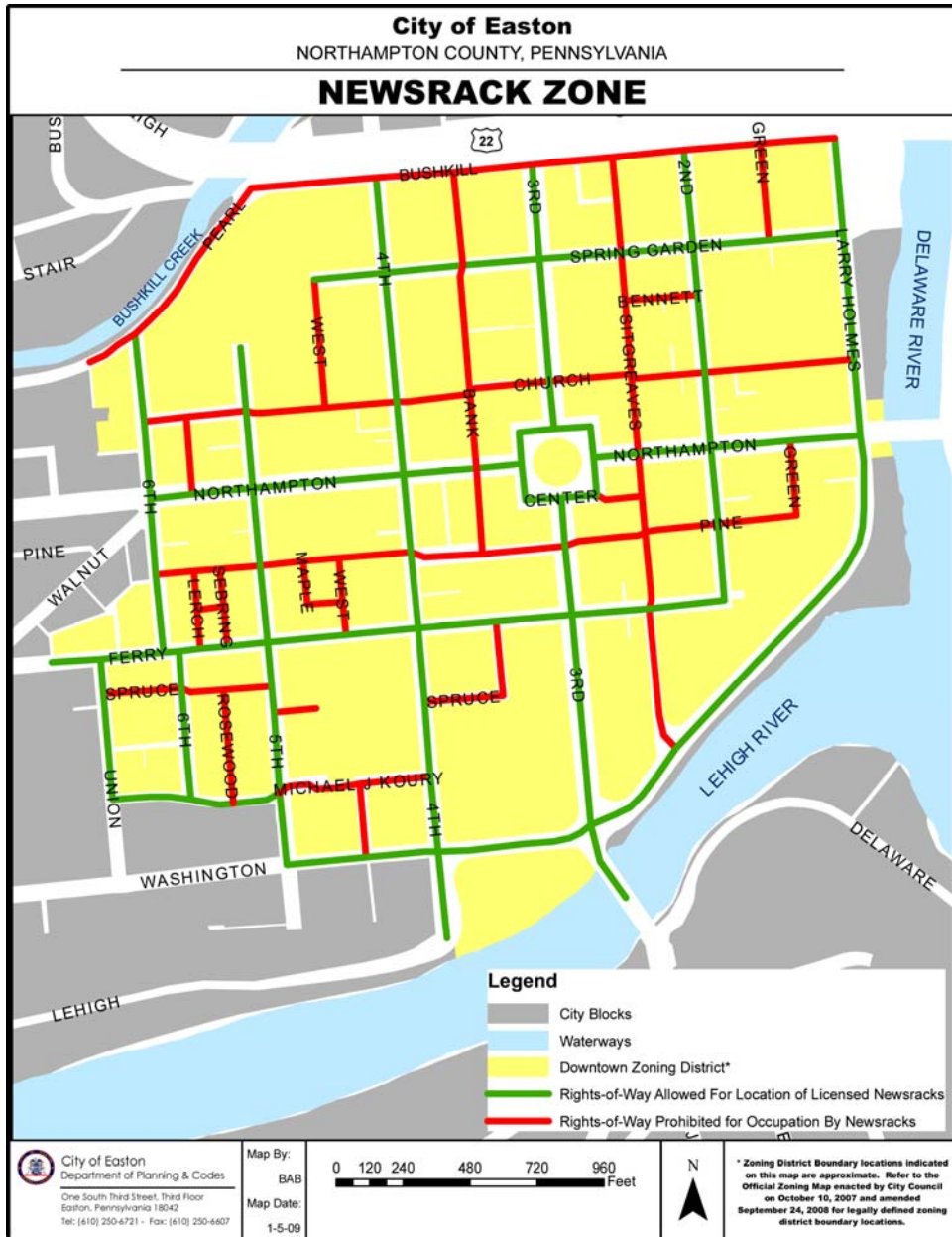
1. The zone need not be contiguous. Within the multiple newsrack area, the placement, installation and maintenance of newsracks shall be prohibited, except as authorized by the City of Easton for the placement, installation and maintenance of multiple newsracks. The City of Easton shall determine the areas that require such designation based upon the following considerations:
 - (a) The current number of newsracks within or near the proposed area so as to avoid undue concentration of newsracks.
 - (b) The impact on pedestrian, bicycle and vehicular traffic and accessibility to Public transportation.
 - (c) The inconsistency of individual newsracks with the character of the surrounding streetscape.
 - (d) The impact on and proximity to buildings used for residential purposes.
 - (e) At a particular area, give priority to Lehigh Valley publications.
2. The City of Easton will have the authority on where the placements of multiple newsracks within the multiple newsrack area are to be located.
3. The City of Easton will have the authority to determine the number of compartments for publications in the multiple newsrack zone.
4. In determining which publications shall be permitted at a given multiple newsrack location, the City shall utilize the following criteria:
 - (a) Limit access of each publication to one compartment at each designated area whenever the number of publications sought to be distributed exceeds the number of compartments available. Publications containing legal notices and local (Lehigh Valley) news content, and published at least weekly may maintain up to two (2) compartments, provided each newsrack is individually licensed by the City.
 - (b) At a particular area preference shall be given to publications containing legal notices and local (Lehigh Valley) news content, and published at least weekly.
 - (c) At a particular area, preference shall be given to publications that had been contained in single newsracks that were replaced with multiple newsracks at that area.

- (d) When more than one application is filed simultaneously than may be accommodated at a specific multiple newsrack location, priority shall be determined by as outlined in XX05.3.

XX09.02 MULTIPLE NEWSRACK ZONE MAP



XX09.03 NEWSRACK ZONE MAP



ARTICLE XX10
Notice of Violations

XX10.01 Notice of Violations
XX10.02 Penalty For Violation
XX10.03 Appeal

XX10.01 NOTICE OF VIOLATIONS

1. If the City of Easton has reason to believe that a newsrack has been placed, installed or maintained on a public way in violation of this article, the City shall cause to be placed a notice of violation upon the newsrack specifying the date and nature of the deficiency and the date by which deficiencies must be corrected. A duplicate of the deficiency notice shall, within three working days thereafter, be mailed by the City to the applicant whose name and address that is identified on the newsrack. If ownership of the deficiency newsrack cannot be determined, the notice of violation attached to the newsrack shall serve as written notification of noncompliance. The notice of violation shall state that the newsrack will be removed and destroyed unless the newsrack is brought into compliance with this article within fifteen days of the date of the notice. If the newsrack is not removed or brought into compliance within the fifteen day period, the City may remove and destroy the newsrack at the expense of the applicant. The notice given under this section shall also state that the applicant can also request to appeal the determination, at which time the applicant will be given an opportunity to contest the allegations of the complaint or to demonstrate that the conditions constituting a violation of this article has been remedied. If, after the appeal, the City determines that a violation of this article continues to occur, the City shall order the applicant to remove the newsrack from the public way.
2. Any newsrack that remains on the public way for more than fifteen days after it has been ordered removed pursuant to this section shall be removed and destroyed by the City at the expense of the applicant.
3. Notwithstanding any other provisions of this section, the City may require an applicant to remove or relocate a newsrack when such removal or relocation is necessary to accommodate a public or private construction or repair project or similar activity. In cases where immediate removal of the newsrack is necessary to protect the health or safety of the public, the City may remove or relocate the newsrack at the applicant's expense and promptly give written notice to the applicant at the address identified on the newsrack of such removal or relocation thereafter. In all other cases, the City shall cause a notice to be placed upon the newsrack, or shall give written notice to the applicant at the address identified on the newsrack, stating that the newsrack must be removed or relocated within fifteen days of the date of the notice and the reason for the removal or relocation. If the newsrack is not removed or relocated within the time specified by the City, the City shall remove and destroy or relocate the newsrack at the applicant's expense. The City may return a newsrack that has not yet been destroyed if the applicant reimburses the City for its costs.

4. Any newsrack that is subject to removal and destruction may, at the discretion of the City of Easton, instead be moved to a nearby location when practicable.

XX10.02 PENALTY FOR VIOLATION

Any person adjudicated to be in violation of this ordinance, including any rules or regulations shall be subject to a fine of not less than \$200.00 and not more than \$1,000.00. Each day that a violation occurs shall constitute a separate and distinct offense.

XX10.03 APPEAL

An owner of the newsrack to whom a notice of violation was mailed shall be entitled to appeal the notice of violation. An appeal shall be in writing, stating the reasons how the newsrack has been remedied or is no longer in violation of this ordinance, and shall be made within fifteen days of the date receipt of the notice on the newsrack. The City shall review the facts and circumstances and shall determine whether the owner of the newsrack has shown good cause why the violation should be withdrawn. In the event the City affirms the violation, the owner of the newsrack shall have five days following mailing receipt of the written rescission of the City which to comply with the notice of violation. The appeal of a notice of violation shall suspend the effective date of the notice until the appeal has been acted upon.