



Business Improvement District



how² manage publisher box concerns

OVERVIEW

Publisher boxes—also called newspaper boxes, news racks and newspaper vending machines—are used to sell and distribute newspapers, magazines and printed marketing and sales materials. As boxes proliferated, growing to more than an estimated 1,000 within the one-square-mile DowntownDC BID area, some became public safety hazards for pedestrians, eyesores in the public realm or both or homeland security and safety risks.

The First Amendment protects, among other rights, the freedom of the press and, therefore, the right to distribute newspapers. Relying on these privileges, publishers have often contested municipal laws regulating publisher boxes.

Reasonable municipal laws focused on homeland security, public safety and public health, however, have prevailed. Such is the case in the District of Columbia, where the government has passed laws regulating publisher boxes and the District Department of Transportation regulates them.

WHAT IS OUT THERE

The DowntownDC BID estimates there are more than 1,000 publisher boxes, averaging about seven per block within the BID area. Regulations pertaining to these boxes are now in flux, although, for the most part, they have not

WHAT PROPERTY MANAGERS CAN DO

1. Gather the following information if a publisher box violates regulations:
 - The publication's name;
 - The contact phone number as shown on the box;
 - A specific/clear description of the box's location;
 - A clear description of the violation; and
 - A picture of the violation.
2. If a publisher box causes an immediate hazard to homeland security, public safety or public health, call 911 to report the problem or take citizen action to rectify the hazard or both, making note of the action taken.
3. If a publisher box is in violation but does not cause an immediate hazard, call the city's Service Center at 311 and send a copy of the Service Center work order to the BID's Public Space Management department at publicspace@downtowndc.org

IF YOU SEE A PROBLEM:

- Contact the BID via email publicspace@downtowndc.org or phone at (202) 661-7571
- Please provide the location of the problem.



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been enforced. Furthermore, they may be subject to a First Amendment challenge from the publishing industry, which believes many of the regulations involve aesthetics, not merely homeland security, public safety and public health.

Recently, DDOT published an updated rulemaking on the boxes. It proposes that publishers obtain an annual permit to place publisher boxes in public space and pay an annual rental fee for the space. It also requires publisher box owners to carry general liability insurance to cover any potential harm associated with having their boxes in public space, thus adding a level of accountability for maintaining the boxes.

Until the D.C. government changes existing legislation, the BID urges property managers to take responsibility for public space around their properties to enhance the downtown area and create a safe, vibrant, inviting and smart environment.

BE AWARE

1. Box conditions that pose a hazard to homeland security, public safety or public health:
 - Box containing food or drink-related trash
 - Box containing wet, damp, or rotting papers
 - Box with sharp edges capable of causing injury
 - Box that might tip over or has fallen
2. Box locations that pose a hazard to homeland security, public safety or public health:
 - In a pedestrian crosswalk, blocking direct access
 - On or near Americans with Disabilities, or ADA, ramps, thus blocking them
 - In a pedestrian pathway, thereby causing access to be restricted by a width less than 4 feet

HOW THE DOWNTOWNDC BID HELPS

- The Downtown Safety/Hospitality and Maintenance employees (SAMs) regularly monitor publisher boxes.
- The BID's Public Space Management team works with publishers to rectify hazardous situations and the DDOT and D.C. Council to ensure effective promulgation and enforcement of publisher box regulations.
- The BID is investigating placing publisher boxes in corrals to control their numbers and locations and to improve aesthetics. This will require collaborating with DDOT and the publishers, unless it's specifically legislated.

RESOURCES

- See Huan Hsu, "News You Can Abuse," Washington City Paper 2006, available at; <http://www.washingtoncitypaper.com/cover/2006/cover0317.html>
- Bruce Schimmel, "Trashing Free Speech," available at <http://www.archives.citypaper.net/articles/052297/article025.shtml>
- Heidi C. Fletemeyer, The First Amendment and Newspaper Vending Machine Regulation, 69 U. Colo. L. Rev. 223 (Winter, 1998), available at <https://litigation-essentials.lexisnexis.com/webcd/app?action=DocumentDisplay&crawlid=1&srctype=smi&srcid=3B15&doctype=cite&docid=69+U.+Colo.+L.+Rev.+223&key=b1100df62c5183b833b36efe2a731fc1>