

Chapter 19

STREETS AND SIDEWALKS*

- Art. I.** **In General, §§ 19-1—19-20**
Art. II. **Street Signs and Building Numbers, §§ 19-21—19-49**
Art. III. **Newsracks, §§ 19-50—19-64**

***Cross references**—Buildings and building regulations, Ch. 6; motor vehicles and traffic, Ch. 12; planning, Ch. 15.

State law references—Power of town to control the excavation of the highways and streets, G.S. § 7-148(c)(6)(C)(iii); to lay out, construct, etc., streets, sidewalks, etc., G.S. § 7-148(c)(6)(C)(i); to provide for lighting the streets, etc., G.S. § 7-148(c)(4)(F); to provide for the planting, etc., of shade and ornamental trees on the streets and public grounds, G.S. § 7-148(c)(6)(A)(v); to keep open, etc., the streets, sidewalks, etc., G.S. § 7-148(c)(6)(C)(ii); to require owners or occupants of land adjacent to any sidewalk to remove snow, etc., G.S. § 7-148(c)(6)(C)(v); to regulate and prohibit the excavation, etc., of sidewalks, etc., G.S. § 7-148(c)(6)(C)(iv); to prohibit and regulate the discharge of drains from roofs of buildings over or upon the sidewalks, streets, etc., G.S. § 7-148(c)(6)(B)(iv); to keep the streets, sidewalks and public places free from undue noises and nuisances, etc., G.S. § 7-148(c)(7)(F)(i); highways and bridges, G.S. § 13a-1 et seq.

ARTICLE I. IN GENERAL

Sec. 19-1. Sidewalk construction and maintenance.

(a) The board of selectmen may call a public hearing from time to time to determine whether public necessity or convenience requires that a sidewalk be constructed in any specific area of the town. If after such hearing the board determines that the public necessity or convenience requires the construction of a sidewalk, the owners of any property abutting the location of the proposed sidewalk shall, subject to the provisions of the General Statutes, be required to construct a sidewalk along their respective property as directed by the board of selectmen. Upon the request of any such property owner, the town shall contribute one-half of the cost of such sidewalk construction; provided, however, that upon the recommendation of the board of selectmen to a special town meeting duly warned, such town meeting may abate all or part of any property owner's cost of construction.

(b) The property owners of the town shall maintain in reasonable repair and shall keep free from snow and ice any sidewalk situated upon or adjoining their property and abutting upon a public highway. A period of twenty-four (24) hours shall be deemed a reasonable time for the removal of snow and ice following the termination of the weather conditions creating the snow and ice.

(c) When any property owner, tenant or occupant who is liable to construct or repair a sidewalk shall neglect or refuse to do so for a period of thirty (30) days following the receipt of written notice of such obligation from the board of selectmen, the board of selectmen may undertake to construct or repair the sidewalk at the expense of the town, and the property owner, tenant or occupant shall indemnify the town for the expense.

(d) When any property owner, tenant or occupant who is liable to keep his sidewalk free from snow and ice shall neglect or refuse to do so, the board of selectmen may after reasonable notice cause the snow or ice to be removed from the sidewalk at the expense of the town and the property owner, tenant or occupant shall indemnify the town for the expense.

(e) When the board of selectmen acts in the manner described above at the expense of the town, the cost of such construction, repair, maintenance or removal of snow and/or ice may in the discretion of the board be secured by the placing of a lien upon the property adjoining the sidewalk.

(f) Any property owner, tenant or occupant who shall fail to construct, repair or keep free from snow and ice any sidewalk situated upon or adjacent to his property and abutting upon any highway shall be subject to a fine of not more than five dollars (\$5.00). Each day that such person shall fail to so construct, repair or remove snow and ice therefrom shall be considered as a separate offense.

(Ord. of 11-16-70)

Sec. 19-2. Placing debris, snow, etc., in roadway.

(a) No person shall place or cause to be placed within any roadway, street or highway any debris, snow or other obstruction to traffic.

(b) This section does not apply to persons who are employed by permit or emergency to conduct road repair or maintain services.

(c) Any person found to be in violation of this section shall be deemed to have committed an infraction and fined in accordance with section 1-11. (Ord. of 10-16-89(2))

Sec. 19-3. Liability for injuries.

(a) Notwithstanding the provisions of section 13a-149 of the General Statutes or any other general statute or special act, the town shall not be liable to any person injured in person or property caused by the presence of ice or snow on a public sidewalk unless the town is the owner or person in possession and control of land abutting such sidewalk, other than land used as a highway or street; provided, the town shall be liable for its affirmative acts with respect to such sidewalk.

(b) The owner or person in possession and control of land abutting a public sidewalk shall have the same duty of care with respect to the presence of ice or snow on such sidewalk toward the portion of the sidewalk abutting his property as the town

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had prior to December 5, 1988 and shall be liable to persons injured in person or property where a breach of such duty is the proximate cause of the injury.

(Ord. of 12-5-88)

Sec. 19-4. Performance bond for work affecting public ways.

Applications for building permits shall be accompanied by a bond to the town in form and amount acceptable to the zoning enforcement officer, but not to exceed one thousand dollars (\$1,000.00), for the proper performance of such work as may affect public highways within the town and for the indemnification of the town for all expense that the town may incur in refilling openings and excavations and in restoring roads, streets and pavements to their former condition.

(Ord. of 7-28-64(3))

Secs. 19-5—19-20. Reserved.

ARTICLE II. STREET SIGNS AND BUILDING NUMBERS*

Sec. 19-21. Purpose.

The purpose of this article is to promote public safety and convenience through proper posting of street signs on public and private roadways, along with a building numbering system ensuring that addresses can be identified with the ease and speed essential to the quick response of emergency services, such as firefighting, police and emergency medical care.

(Ord. of 11-20-89)

Sec. 19-22. Posting requirements.

(a) It shall be the policy of the board of selectmen to have street name signs of public highways posted at each intersection where the street name is likely to be unknown to responding emergency personnel.

*Cross reference—Buildings and building regulations, Ch. 6.

(b) Street signs on private roads shall be erected and maintained by the legally recognized private owner or association. Where no such owner or association exists, residents of private roads may request that the town install a street sign. Such signs shall be erected at the owner's expense.

(c) It shall be the duty of the owners of all residential, commercial, and other buildings to identify such buildings or parts thereof with numbers as herein provided. It shall be unlawful for any person to place, maintain or allow to remain on a building or any unit thereof any number other than the one required by this article.

(Ord. of 11-20-89)

Sec. 19-23. Assignment and numbering of buildings.

(a) The board of selectmen shall assign to each building, or part of a building, an identification number by which such building or part thereof shall be designated. The board of selectmen shall be authorized to change the identification number of any building or part thereof, at any time whenever such change is deemed necessary or appropriate.

(b) It shall be the duty of the owner of every building existing on November 20, 1989, without prior notice, to affix the identification number previously assigned to such building, or, in the absence of such assignment, the identification number which customarily has been used for such building. Such numbers shall be affixed by October 1, 1990.

(c) All new buildings on any street or highway within the town shall have affixed thereto identification numbers assigned hereunder within thirty (30) days of the issuance of a certificate of occupancy.

(Ord. of 11-20-89)

Sec. 19-24. Sign and number specifications.

(a) The identification number of a building shall be located on the exterior front of the building or on a post or mailbox between the building and the public or private street on which it fronts. The numerals shall be at least three (3) inches in height, shall be of a color contrasting with the

color of the background material to which they are affixed, and shall be made of substantial and permanent material. The identification number shall be placed or affixed so as not to be easily effaced or removed, and shall be positioned not less than three and one-half (3½) feet nor more than ten (10) feet from the surface of the ground. The identification number shall be so placed as to assure clear visibility from the public or private street on which the building fronts.

(b) If a building is set back more than one hundred (100) feet from the centerline of the street on which it fronts, or if the building's identification number is not clearly visible from such street, the identification number shall also be affixed to a post or mailbox located at the driveway entrance which provides the closest vehicular access to the building or part of the building to which the identification number has been assigned.

(c) For buildings containing two (2) or more residential, business or commercial units which have entrances from interior passageways, identification numbers shall be affixed on or adjacent to every exterior door of the building as well as on or next to the entrance door of each individual unit.

(d) For building complexes consisting of two (2) or more residential, business, or commercial building units served by separate driveways, signs shall be posted at the entrance to each such driveway listing the identification number of the unit served by that driveway; in addition, identification numbers shall be affixed on or next to every entrance door of each unit.

(e) Street name signs shall be placed near enough to the intersection of the street, roadway, etc., to be visible to emergency service personnel, but not so close to the roadway so as to pose a traffic hazard and to be consistent throughout the town, in accordance with the town engineer's specifications. Any sign identifying a private road shall have two-inch letters "PVT" on the right side of the sign.

(Ord. of 11-20-89)

Sec. 19-25. Penalty.

Any person who violates any provision of this article shall be fined no more than fifty dollars (\$50.00).

(Ord. of 11-20-89)

Secs. 19-26—19-49. Reserved.

ARTICLE III. NEWSRACKS

Sec. 19-50. Intent and purpose.

It is not the intent of this article to discriminate against, regulate, or interfere with the publication, circulation, distribution, or dissemination of any printed material which is constitutionally protected. To that end, the content of any material distributed through a newsrack shall not be used to form the basis for any action taken to enforce the provisions of this article. The provisions set forth in this article shall be construed strictly in accord with this intent.

(Ord. of 11-20-09(4), § 1)

Sec. 19-51. Word usage; definitions.

(a) For the purposes of this article, the following words and phrases shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular and words in the singular include the plural.

(b) As used in this article, the following terms shall have the meanings indicated:

Block—One side of a street between two consecutive intersecting streets.

Distributor—Any person responsible for the installation, operation or maintenance of a newsrack in a public right-of-way.

Newsrack—Any self-service or coin-operated box, container, storage unit or other dispenser installed, operated, or maintained for the display and distribution or sale of newspapers, periodicals or other printed matter.

First selectman—The First Selectman of Madison or his or her duly designated representative.

Person—An individual person, firm, corporation or other entity as defined in G.S. § 1.1(k).

Public right-of-way—Any area owned and/or maintained by the town or any other governmental entity, open for use by the public for vehicular or pedestrian travel, including but not limited to roadways, sidewalks, streets, alleys, public grounds or other rights-of-way.

Roadway—That portion of any street improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder.

Sidewalk—Any portion of a street between the curbline and the adjacent property line intended for the use of pedestrians.

Street—The entire area encompassed by a roadway and a sidewalk.
(Ord. of 11-20-09(4), § 2)

Sec. 19-52. Newsracks prohibited.

(a) No person shall install, use, or maintain any newsrack which projects onto, into, or which rests, wholly or in part, upon the roadway of any public street.

(b) No person shall install, use, or maintain any newsrack which in whole or in part rests upon, in, or over any public right-of-way:

- (1) When such installation, use, or maintenance endangers the safety of persons or property;
- (2) When such site or location is used for public utility purposes, public transportation purposes, or other governmental use;
- (3) When such newsrack unreasonably interferes with or impedes the flow of pedestrian or vehicular traffic, including, but not limited to, parked or stopped vehicles; the ingress in or egress from any residence or place of business; the use of poles, posts, traffic signs or signals, hydrants, mailboxes, or other objects permitted at or near said location;
- (4) When such newsrack interferes with the cleaning of any sidewalk by the use of mechanical sidewalk cleaning machinery; or

- (5) In any other manner inconsistent with or in violation of the provisions of this article.

(Ord. of 11-20-09(4), § 3)

Sec. 19-53. Permit required.

It shall be unlawful for any person to erect, place, maintain or operate, on any public right-of-way in the town, any newsrack without first having obtained a permit from the first selectman. One permit may be issued to include any number of newsracks, and shall be signed by the applicant.

(Ord. of 11-20-09(4), § 4)

Sec. 19-54. Application for permit.

(a) Application for such permit shall be made, in writing, to the first selectman upon such form as shall be provided to the applicant, and shall contain the name and business address of the applicant, a telephone number or numbers at which the applicant may be reached during normal business hours, and the proposed location of said newsrack(s) and shall be signed by the applicant.

(b) A permittee may place additional newsracks at any location on any public right-of-way in Madison which complies with the provisions of this article by amending its permit to include the location of each such newsrack on a form to be prescribed by the first selectman and by paying the fee set forth below.

(Ord. of 11-20-09(4), § 5)

Sec. 19-55. Conditions for permit.

(a) Such newsrack or newsracks and the installation, use or maintenance thereof shall be conditioned upon observance of the provisions of this article. Permits shall be issued or denied within five (5) days (excluding Saturdays, Sundays and legal holidays) after the application has been filed. A permit fee, sufficient to defray the town's costs and expenses hereunder, as determined by the board of selectmen shall be required for each proposed location.

(b) Such permits shall be valid for three (3) years and shall be renewable pursuant to the procedure for original applications and upon payment of the permit fee. A permit issued pursuant to this section shall expire automatically in the event that the insurance coverage required below lapses.

(Ord. of 11-20-09(4), § 6)

Sec. 19-56. Hold harmless.

Every applicant for a permit to place a newsrack on a public right-of-way in the town shall file a written statement with the first selectman in a form satisfactory to the town counsel, whereby such owner agrees to indemnify and hold harmless the town, its officers, and employees from any loss, liability or damage, including expenses, costs, and reasonable attorneys' fees, for bodily or personal injury, and for property damage sustained by any person as a result of the installation, use and/or maintenance of a newsrack within the town. Such statement shall also certify the newsrack owner's agreement that the town is not liable for any damage to such newsracks.

(Ord. of 11-20-09(4), § 7)

Sec. 19-57. Insurance.

Every owner of a newsrack who places or maintains a newsrack on a public right-of-way shall provide the town with a certificate of liability insurance coverage issued by an insurance company licensed to do business in the state insuring the applicant and the operator, if different, and the town against all claims for damages to bodily injury, including death, and property which could arise in connection with the installation, operation or maintenance of a newsrack in the town. The certificate of insurance shall state that the coverage afforded thereunder shall be primary coverage for any claims within its scope. Minimum coverage (aggregate and per occurrence) of such policy for personal injury claims and for property damage shall be as determined by the board of selectmen. The policy, by its terms, shall not be cancelable prior to the expiration date of the permit without thirty (30) days' written notice to the town.

(Ord. of 11-20-09(4), § 8)

Sec. 19-58. Newsrack identification required.

Every person who places or maintains a newsrack on a public right-of-way within the town shall have his or her permit number, name, address and telephone number affixed to the newsrack in a place where such information may be easily seen before placing said newsrack on the right-of-way.

(Ord. of 11-20-09(4), § 9)

Sec. 19-59. Location, placement and number of newsracks.

Any newsrack which rests in whole or in part upon, or on any portion of a public right-of-way or which projects onto, into, or over any part of a public right-of-way shall be located in accordance with the provisions of this section:

- (a) No newsrack shall be chained, bolted, or otherwise attached to any fixture located in the public right-of-way, except to other newsracks.
- (b) Newsracks may be placed next to each other, provided that no group of newsracks shall extend for a distance of more than five (5) feet along a curb, and a space of not less than three (3) feet shall separate each group of newsracks.
- (c) No newsrack shall be placed, installed, used or maintained:
 - (1) Within five (5) feet of any marked crosswalk;
 - (2) Within fifteen (15) feet of the curb return of any unmarked crosswalk;
 - (3) Within five (5) feet of any fire hydrant, fire call box, police call box or other emergency facility;
 - (4) Within five (5) feet of any driveway;
 - (5) At any location whereby the clear sidewalk space for the passageway of pedestrians is reduced to less than six (6) feet in width;
 - (6) Upon or within five (5) feet of any public area improved with flowers, shrubs, trees or other landscaping, or within five (5) feet of any display window of any building abutting the

sidewalk or parkway or in such a manner as to impede or interfere with the reasonable use of such window for display purposes;

- (7) Within five hundred (500) feet of any other newsrack containing the same issue or edition of the same publication, within any nonresidential district;
 - (8) Within any single-family residential zone except with the written permission of the abutting property owner, and except on a street designated as a major arterial street, minor arterial street or collector street in the town plan of conservation and development as that document may be adopted or amended from time to time;
 - (9) Within one thousand five hundred (1,500) feet of any other newsrack containing the same issue or edition of the same publication, within any residential district;
 - (10) On any access ramp for disabled persons.
- (d) No more than eight (8) newsracks shall be located on any public right-of-way within a space of two hundred (200) feet in any direction within the same block; provided, however, that no more than sixteen (16) newsracks shall be allowed on any one (1) block. In determining which newsracks shall be permitted to be located or to remain if already in place, the first selectman shall be guided solely by the following criteria:
- (1) First priority shall be daily publications (published more than five (5) days per week);
 - (2) Second priority shall be publications published one (1) to five (5) days per week;
 - (3) Third priority shall be publications published intermittently or less frequently than once per week.

(Ord. of 11-20-09(4), § 10)

Sec. 19-60. Standards for maintenance and installation.

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

- (a) No newsrack shall exceed four (4) feet in height, two (2) feet in width, or two (2) feet in thickness.
- (b) The name of the publication being dispensed therein may be identified in letters no more than:
 - (1) One and three-fourths ($1\frac{3}{4}$) inches in height on the front of the newsrack;
 - (2) Two and one-half ($2\frac{1}{2}$) inches in height on the sides and back of the newsrack.
- (c) No newsrack shall be used for advertising signs or publicity purposes other than that dealing with the display, sale, or purchase of the newspaper or news periodical sold therein.
- (d) Unless otherwise approved, each newsrack shall be made of metal and shall be painted in a color scheme consisting of a dark background with white lettering. Shades of red, yellow, or green similar to those used in traffic control signs or devices shall not be used on any newsrack. A distributor seeking approval of a material other than metal shall submit the proposed material and design to the advisory committee on community appearance (ACCA) for review. Approval from ACCA shall be required prior to issuance of a permit.
- (e) Each 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 paid-for publication. The coin-return mechanism shall be maintained in good working order. This subsection shall not apply to newsracks for publications offered free of charge.
- (f) 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 distributor and the telephone number of a working telephone service to call 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.

- (g) Each newsrack shall be so weighted and balanced as to prevent it from being tipped by the opening of its door, or by the impact of snow cast by a passing snowplow.
- (h) 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 serviced and maintained so that:
 - (1) It is reasonably free of dirt and grease;
 - (2) It is reasonably free of chipped, faded, peeling and cracked paint and graffiti in the visible painted areas thereof;
 - (3) It is reasonably free of rust and corrosion in the visible unpainted metal areas thereon;
 - (4) The clear plastic or glass parts thereof, if any, through which the publications therein are viewed are unbroken and reasonably free of cracks, dents, blemishes and discoloration;
 - (5) The paper or cardboard parts or inserts thereof are reasonably free of tears, peeling or fading; and
 - (6) The structural parts thereof are not broken or unduly misshapen.
 - (7) It shall not contain any materials which pre-date the current issue of the publication. Such materials shall not be deposited in any public trash receptacle owned by the town and shall not be deposited in any privately owned trash receptacle without the permission of the owner or renter thereof. In the event that the publication is manufactured from re-

cyclable material, it shall be discarded in an appropriate manner for that type of recyclable material.

- (i) No newsrack shall contain or utilize any electrically powered illumination or sound. (Ord. of 11-20-09(4), § 11)

Sec. 19-61. Penalties for offenses.

Upon determination by the first selectman that a newsrack has been installed, used or maintained in violation of the provisions of this article, an order to correct the offending condition shall be issued to the distributor of the newsrack. Such order shall be telephoned to the distributor and confirmed by mailing a copy of the order by certified mail, return receipt requested. The order shall specifically describe the offending condition, suggest actions necessary to correct the condition, and inform the newsrack distributor of the right to appeal. Failure to correct the offending condition within fifteen (15) days (excluding Saturdays, Sundays, and legal holidays) after the mailing date of the order or to appeal the order within ten days after its receipt shall result in the offending newsrack being summarily removed and processed as unclaimed property. If the offending newsrack is not properly identified as to owner under the provisions of this article, it shall be removed immediately and processed as unclaimed property. An impound fee, which shall be measured by the town's cost and expense of impounding, shall be assessed against each newsrack summarily removed. The first selectman shall cause inspection to be made of the corrected condition or of a newsrack reinstalled after removal under this section. The distributor of said newsrack shall be charged an inspection fee, sufficient to defray the town's costs and expenses hereunder, as determined by the board of selectmen, for each newsrack so inspected. This charge shall be in addition to any other fees and charges required under this article. (Ord. of 11-20-09(4), § 12)

Sec. 19-62. Appeals.

(a) Any person or entity aggrieved by a finding, determination, notice, order or action taken under the provisions of this article may appeal and shall be apprised of his or her right to appeal

to the board of selectmen. An appeal must be perfected within three (3) days after receipt of notice of any protested decision or action by filing with the board of selectmen a letter of appeal briefly stating therein the basis for such appeal. Any elector of the town wishing to appeal the decision of the first selectman to grant a permit for a newsrack placement, if he or she did not receive written notice of said decision, shall be authorized to submit such a letter of appeal within three (3) days after the placement of the newsrack in question. A hearing shall be held on a date not more than thirty (30) days after receipt of the letter of appeal. The appellant shall be given at least five days' notice of the time and place of the hearing. The board of selectmen shall give the appellant, and any other interested party, a reasonable opportunity to be heard, in order to show cause why the determination of the first selectman should not be upheld. At the conclusion of the hearing, the board of selectmen shall make a final and conclusive decision. This decision shall be immediately appealable to a court of competent jurisdiction.

(b) Nothing contained in this article shall be interpreted to limit or impair the exercise by the town of its police powers to remove any newsrack which presents a clear and present danger of imminent personal injury or property damage to users of the public rights-of-way.
(Ord. of 11-20-09(4), § 13)

Sec. 19-63. Existing newsracks.

This article shall apply to existing newsracks within the town, except that the distributors thereof shall have sixty (60) days within which to comply with its provisions or such additional time as may be allowed in the discretion of the first selectman. Newsracks existing within single-family residential districts as of the effective date of this article, shall be permitted to remain in place, provided that their location shall be registered with the first selectman in the manner prescribed herein within sixty (60) days following the effective date of this article.
(Ord. of 11-20-09(4), § 14)

Sec. 19-64. Abandonment.

In the event that a newsrack remains empty for a period of thirty (30) continuous days, it shall

be deemed abandoned, and may be treated in the manner as provided for newsracks in violation of the provisions of this article.
(Ord. of 11-20-09(4), § 15)