



## Kriss Worthington

Councilmember, City of Berkeley District 7  
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### ACTION CALENDAR

September 27, 2005

To: Honorable Mayor and Members of the City Council  
From: Councilmember Kriss Worthington  
Subject: Disappearing Newsracks and the Constitutionality and Practicality of the Interpretation and Implementation of Newsrack Regulations

#### RECOMMENDATION:

That the Berkeley City Council refer to the City Manager to review city ordinances, interpretations, and operations in regards to Newsrack regulation. As one part of this review, to invite persons responsible for distribution of newspapers to identify problem areas, including but not limited to the disappearance of newsracks without notification to the newspapers, possibly eliminating the part of the City ordinance that allows City removal of newsracks with zero notice, and making sure that the City is not creating impediments to fair placement for all publications.

#### BACKGROUND:

Multiple newspaper distributors have raised concerns about how the city is interpreting and implementing rules about newsracks.

**As elected officials we have taken an oath of office to uphold the Constitution, which includes the right of a free press.**

It is of utmost importance that we take these concerns seriously and evaluate what operational or policy changes might be required.

Recently one newspaper (The Daily News) even ran the following box:

**Don't let government take away your news.** It sounds harmless enough. A city government bans or restricts newspaper racks in the interest of "beautification". Newspapers that have published stories critical of city officials lose their rights to distribute, or have their means of distribution sharply reduced. the City says its just a coincidence. The U.S. Supreme Court says that the distribution of news through news racks is protected by the First Amendment (Lakewood v Plain Dealer, 1988)."Liberty of circulating is as essential to freedom of expression as liberty of publishing; indeed without the circulation the publication would be of little value." the Supreme Court said. When candidates run for city council, ask them if they favor limiting the distribution of news. Speak up and protect your right to get the news.

#### FINANCIAL IMPLICATIONS:

Minimal

#### CONTACT PERSON:

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