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ORDINANCE NO. 11312 MAY 2 1974
(New Series)

AN ORDINANCE AMENDING CHAPTER VI, ARTICLE 2,
OF THE SAN DIEGO MUNICIPAL CODE BY ADDING
DIVISION 9 THERETO, RELATING TO NEWSRACKS ON
PUBLIC RIGHTS-OF-WAY.

BE IT ORDAINED, by the Council of The City of San Diego,
as follows:

Section 1. That Chapter VI, Article 2, of the San Diego
Municipal Code be and the same is hereby amended by adding
Division 9 to read as follows:

DIVISION 9

NEWSRACKS ON PUBLIC RIGHTS-OF-WAY

SEC. 62.0901 PURPOSE AND INTENT

The Council of The City of San Diego finds and
declares that:

(a) The public display of pictorial material
depicting nudity and sexual conduct in publications
contained in newsracks located on public rights-of-
way is patently offensive and harmful to passersby
when readily visible to them, and is detrimental
to a healthy moral environment to which persons
of the City of San Diego are entitled.

(b) Such public displays are thrust indis-
criminately on children and unwilling adults and
constitute assaults upon individual privacy.

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(c) Every person is entitled to use the public rights-of-way in the City of San Diego without being subjected to such public displays.

(d) Such public displays constitute a public nuisance.

(e) The provisions and prohibitions hereinafter contained and enacted are in pursuance of and for the purpose of securing and promoting the public health, morals and general welfare of persons in the City of San Diego in their use of public rights-of-way.

SEC. 62.0902 DEFINITIONS

Whenever the following words and phrases are used in this division, they shall have the meaning ascribed to them in this section:

(a) "Newsrack" shall mean any self-service or coin-operated box, container, storage unit, or other dispenser installed, used or maintained for the display, sale or distribution of publications.

(b) "Nudity" shall mean the showing with less than a fully opaque covering of the genitals, pubic hair, buttocks, natal cleft, perineum, anus or anal region of any person, other than a child under the age of puberty, or any portion of the breast at or below the areola thereof of any female person, other than a child under the age of puberty.

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(c) "Sexual Conduct" shall mean an act of sexual intercourse, masturbation, homosexuality, sodomy, bestiality, anal intercourse, oral copulation, flagellation, or other act of sexual arousal involving any physical contact with a person's clothed or unclothed genitals, pubic region, pubic hair, buttocks, natal cleft, perineum, anus or anal region, or, if such person be a female, breast.

(d) "Pictorial Material" shall mean any material suggesting or conveying a visual image, and includes, but is not limited to, a photograph, painting or drawing.

(e) "Public Right-of-Way" shall mean any place of any nature which is dedicated to use by the public for pedestrian and vehicular travel, and includes, but is not limited to, a street, sidewalk, curb, gutter, crossing, intersection, parkway, highway, alley, lane, mall, court, way, avenue, boulevard, road, roadway, viaduct, subway, tunnel, bridge, thoroughfare, park, square, and any other similar public way.

SEC. 62.0903 PROHIBITION

No person shall knowingly place or maintain in any newsrack which rests in whole or in part, upon, in, or on any portion of a public right-of-way, or which

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projects onto, into, or over any part of a public right-of-way, any publication or material which while in said newsrack exposes to public view any pictorial material which depicts or appears to depict nudity or actual or simulated sexual conduct.

Section 2. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: JOHN W. WITT, City Attorney

By Eugene P. Gordon
Eugene P. Gordon
Deputy City Attorney

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MAY 2 1974

Passed and adopted by the Council of The City of San Diego on _____, by the following vote:

Councilmen	Yeas	Nays	Excused	Absent
Gil Johnson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Maureen F. O'Connor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lee Hubbard	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Leon L. Williams	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Floyd L. Morrow	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bob Martinet	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jim Ellis	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jim Bates	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Pete Wilson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

PETE WILSON
Mayor of The City of San Diego, California.

EDWARD NIELSEN
City Clerk of The City of San Diego, California.

(Seal)

By *Eplanda Linoir*, Deputy.

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

APR 18 1974

MAY 2 1974

I FURTHER CERTIFY that the reading of said ordinance in full was dispensed with by a vote of not less than a majority of the members elected to the Council, and that there was available for the consideration of each member of the Council and the public prior to the day of its passage a written or printed copy of said ordinance.

EDWARD NIELSEN
City Clerk of The City of San Diego, California.

By *Eplanda Linoir*, Deputy.

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CITY CLERK'S OFFICE

1974 APR 19 AM 8:49

SAN DIEGO, CALIF.

(Seal)

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Office of the City Clerk, San Diego, California

Ordinance Number 11312 Adopted MAY 2 1974

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1974 MAY 29 AM 11:55

SAN DIEGO, CALIF.

ATTORNEY (S)

• City of San Diego
12th Floor 202 C St.
San Diego, Ca 92101

CERTIFICATE OF PUBLICATION

No. _____

IN THE MATTER OF

NEWSRACKS ON PUBLIC RIGHTS-OF-WAY

MAY 29 1974

I, **Patricia M. Applestill** hereby certify that San Diego Daily Transcript is a daily newspaper of general circulation within the provisions of the Government Code of the State of California, printed and published in the City of San Diego, County of San Diego, State of California; that I am the principal clerk of said newspaper; that the

ORDINANCE NO. 11312

is a true and correct copy of which this certificate is annexed and was published in said newspaper on

May 10, 1974

I certify under penalty of perjury that the foregoing is true and correct, at San Diego, California, on

May 24, 1974

Patricia M. Applestill

(Signature)

14" @ 4.42 61.88 00969

ORDINANCE NO. 1111
(New Series)

AN ORDINANCE AMENDING CHAPTER VI, ARTICLE 2 OF THE SAN DIEGO MUNICIPAL CODE BY ADDING DIVISION 9 THERETO, RELATING TO NEWSRACKS ON PUBLIC RIGHTS-OF-WAY, TO BE IT ORDAINED, by the Council of The City of San Diego, as follows:

Section 1. That Chapter VI, Article 2, of the San Diego Municipal Code be and the same is hereby amended by adding Division 9 to read as follows:

**DIVISION 9
NEWSRACKS ON PUBLIC RIGHTS-OF-WAY**

SEC. 62.001 PURPOSE AND INTENT

The Council of The City of San Diego finds and declares that the public display of pictorial material depicting nudity and sexual conduct in publications contained in newsracks located on public rights-of-way is patently offensive and harmful to passersby when readily visible to them, and is detrimental to a healthy moral environment to which persons of the City of San Diego are entitled.

(b) Such public displays are thrust indiscriminately on children and unwilling adults and constitute assaults upon individual privacy.

(c) Every person is entitled to use the public rights-of-way in the City of San Diego without being subjected to such public displays.

(d) Such public displays constitute a public nuisance.

(e) The provisions and prohibitions hereinafter contained and enacted are in pursuance of and for the purpose of securing and promoting the public health, morals and general welfare of persons in the City of San Diego in their use of public rights-of-way.

SEC. 62.002 DEFINITIONS

Whenever the following words and phrases are used in this Division, they shall have the meaning ascribed to them in this section:

(a) "Newsrack" shall mean any self-service or coin-operated box, container, storage unit, or other dispenser installed, used, or maintained for the display, sale or distribution of publications.

(b) "Nudity" shall mean the showing with less than a full opaque covering of the genitals, pubic hair, buttocks, anal region, penis or anal region of any person, other than a child under the age of puberty, or any portion of the breast of or below the areola thereof of any female person, other than a child under the age of puberty.

(c) "Sexual Conduct" shall mean an act of sexual intercourse, masturbation, homosexuality, sodomy, bestiality, anal intercourse, oral copulation, flagellation, or any other act of sexual arousal involving any physical contact with a person's clothes or unclothed genitals, pubic region, pubic hair, buttocks, anal cleft, penis, anus or anal region, or if such person be a female, breast.

(d) "Pictorial Material" shall mean any material suggesting or conveying a visual image, and includes, but is not limited to, a photograph, painting or drawing.

(e) "Public Right-of-Way" shall mean any place of any nature which is dedicated to use by the public for pedestrian and vehicular travel, and includes, but is not limited to, a street, sidewalk, curb, gutter, crossing, intersection, parkway, highway, alley, lane, mall, court, way, avenue, boulevard, road, roadway, viaduct, subway, tunnel, bridge, thoroughfare, park, square, and any other similar public way.

SEC. 62.003 PROHIBITION

No person shall knowingly place or maintain in any newsrack which rests in, whole or in part, upon, in, 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, any publication or material which while in said newsrack exposes to public view any pictorial material which depicts or appears to depict nudity or actual or simulated sexual conduct.

Section 2. This ordinance shall take effect and be in force on the fourth day from and after its passage.

Introduced on April 18, 1974.

Passed and adopted by the Council of The City of San Diego on May 2, 1974.

AUTHENTICATED BY:

PETE WILSON
Mayor of The City of San Diego, California.

EDWARD NIELSEN
City Clerk of The City of San Diego, California.

BARBARA LIPSON, Deputy

(SEAL)

Published May 10, 1974

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