Article 2: Public Rights–of–Way and Land Development

Division 10: Newsracks on Public Rights of Way — Locations

("Newsracks on Public Rights of Way — Locations" added 12–6–1974 by O–11457 N.S.)
(Amended 2-26-2007 by O-19578 N.S.; effective 3-28-2007.)

§62.1001 Statement of Findings and Intent

(a) The Council finds the uncontrolled proliferation and placement of *newsracks* in the *public right-of-way* constitutes a threat to public health, safety, and general welfare including impeding pedestrian, wheelchair, and vehicular traffic; interfering with ingress and egress to and from buildings, vehicles, and public transportation; obstructing views of traffic signs and street-crossing pedestrians; and impeding performance of essential utility, traffic control, and emergency services. *Newsracks* that unreasonably interfere with these activities constitute a public nuisance.

(b) The Council further finds unreasonably deteriorated or inadequately maintained *newsracks* threaten the public health and safety, and constitute a public nuisance.

(c) The Council further finds *newsracks* not reasonably maintained in a neat and clean condition threaten the general welfare including the aesthetic appearance of the *public right-of-way*, and constitute a public nuisance.

(d) The Council further finds regulations specific to the Gaslamp Quarter Planned District are necessary to protect public health, safety, and general welfare including the character of this nationally designated historic district where pedestrian and vehicular traffic is intensified due to the vast numbers of sidewalk cafes, restaurants, businesses, working citizens, and visitors within this compact area located between San Diego's major landmarks including the Convention Center, PETCO Park, and the Marina Planned District.

(e) The Council further finds regulations specific to the San Diego Metropolitan Transit System are necessary to protect the public health, safety, and general welfare including the safe operation of the public transit system and security of its employees and patrons.

(f) The intent of these provisions is to ensure the public health, safety, and general welfare is protected without unreasonably restricting the dissemination of constitutionally protected information.

(g) It is not the intent of these provisions to regulate the placement of *newsracks* on private property. It shall remain the responsibility of the *permittee* to determine the property lines and ensure *newsracks* are placed within the *public right-of-way* in compliance with this division.

(Amended 9–30–1996 by O–18345 N.S.)
(Retitled to "Statement of Findings and Intent" and Amended 2-26-2007 by O-19578 N.S.; effective 3-28-2007.)

§62.1002 Definitions

Each italicized word or phrase in this division is defined in accordance with San Diego Municipal Code [Code] sections 11.0210 and 113.0103, and as defined in this section. The definitions below shall prevail in their application to this division over conflicting definitions in the Code.

(a) *Bus stop* means any location designated for passenger loading of buses owned, operated, or controlled by the San Diego Metropolitan Transit System.

(b) *Combination dispenser* means a common structure housing two or more *newsracks*, and is subject to the same standards and regulations as a *newsrack* unless otherwise stated in this division.

(c) *Corral* means a physically detectable boundary or structure designated by the *director* within which all *newsracks* in the Gaslamp Quarter Planned District shall be located. No *newsracks* other than those permitted to be located in *corrals* are allowed within the Gaslamp Quarter Planned District.

(d) *Director* means the representative of the City's Neighborhood Code Compliance designated as the enforcement official for this division.

(e) *Newsrack* means any self–service container, storage unit, or other dispenser that rests or projects, in whole or in part, in or upon any portion of the *public right-of-way*, and is installed, used, or maintained for the display, sale, or distribution of any publication listed in the permit granted under this division. Unless otherwise stated in this division, the term *newsrack* includes *shared newsrack* and *combination dispenser* and the same standards and regulations apply to all three.

(f) *Operable element* means any component of a *newsrack* requiring handling or manipulation to obtain the publication therein including the door or coin mechanism.

(g) *Permittee* means the person or entity designated on the permit as responsible for the *newsrack*.

(h) *Roadway* means that part of a *public right-of-way* that is designated and used primarily for vehicular travel.

(i) *Shared newsrack* means a single *newsrack* housing more than one publication, and is subject to the same standards and regulations as a *newsrack*, unless otherwise stated in this division.

(j) *Trolley stop* means any location designated for passenger loading of trolleys or light rail vehicles owned, operated, or controlled by the San Diego Metropolitan Transit System.

(Amended 9–30–1996 by O–18345 N.S.)
(Amended 2-26-2007 by O-19578 N.S.; effective 3-28-2007.)

§62.1003 General Prohibition

The placement, installation, use, or maintenance of any *newsrack* in violation of this division is prohibited, including all *newsracks* that endanger the safety of persons or property, or fail to comply with all permit conditions.
("Prohibition" added 12–6–1974 by O–11457 N.S.)
(Retitled to "General Prohibition" and Amended 2-26-07 by O-19578 N.S.; effective 3-28-07.)

§62.1004 Physical Standards for Newsracks

Newsracks shall comply with the standards set forth in this section:

(a) Any *operable element* of a *newsrack* shall not exceed 48 inches in height or be less than 15 inches above the *public right-of-way* on which it is located.

(b) No *newsrack or shared newsrack* shall exceed 52 inches in height, 30 inches in width, or 24 inches in depth. No *combination dispenser* shall exceed 60 inches in height, 120 inches in width, or 30 inches in depth.

(c) No exterior or interior component of any *newsrack* shall advertise, publicize, or promote anything other than the display, sale, or purchase of the publication(s) therein.

(d) *Newsracks* shall only contain current editions of the publication(s) for which the permit was issued.

(e) Coin-operated *newsracks* shall be equipped with a functional coin–return mechanism.

(f) Each *newsrack* shall have permanently affixed in a readily visible place the current name, address, and telephone number of the *permittee*.

(g) Each *newsrack* shall have a door, covering, and/or other appropriate device(s) preventing the publications therein from getting wet or falling out due to rain, wind, or similar environmental conditions.

(h) Each *newsrack* shall be continuously maintained in a reasonably neat and clean condition and in good repair including: (1) reasonably free of dirt, trash, debris, foreign objects, graffiti, stickers, dents, and grease; (2) reasonably free of chipped, faded, peeling, and cracked paint in any visible painted areas; (3) reasonably free of rust and corrosion in any visible unpainted metal areas; (4) any clear parts through which publications are visible shall be unbroken and reasonably free of cracks, scratches, dents, blemishes, and discoloration; (5) any paper or cardboard parts or inserts shall be reasonably free of tears, peeling, or fading; and (6) no structural components shall be broken or unduly misshapen. A maintenance log documenting the *permittee's* inspection of each *newsrack* shall be maintained by the *permittee* and available for inspection upon request of the City.

(i) Only drop-in type anchor bolts may be used to secure *newsracks* to the *public right-of-way*.

(j) *Newsracks* shall not be chained, bolted, or otherwise attached to the private property of another, any street furniture, tree, sign, or other fixed object.

(k) *Newsracks* shall comply with the Americans with Disabilities Act of 1990, as amended, and all regulations adopted thereunder.

(Amended 9–30–1996 by O–18345 N.S.)
(Retitled to "Physical Standards for Newsracks" and Amended 2-26-07 by O-19578 N.S.; effective 3-28-07.)

§62.1005 Standards for Proper Removal of Newsracks

Upon removal of any *newsrack*, the *permittee* shall eliminate any potential hazards to the public, such as bolts, brackets, or holes, and shall restore any disturbed area of the *public right-of-way* to the same or reasonably similar condition as any adjoining *public right-of-way* by removing any protrusions, cleaning the cavity of debris, filling the cavity with high strength epoxy or grout to meet the elevation of the adjoining *public right-of-way*, and avoiding potential depressions by taking into account shrinkage and settlement of the new material. The *public right-of-way* shall be level and free of protrusions or depressions. The *permittee* shall match as closely as

reasonably possible the color, texture, and material of any adjoining *public right-of-way* surface.
(Amended 9–30–1996 by O–18345 N.S.)
(Retitled to "Standards for Proper Removal of Newsracks" 2-26-2007 by O-19578 N.S.; effective 3-28-2007.)

§62.1006 Location Standards for Newsracks

Newsracks shall be located in accordance with this section:

(a) No portion of any *newsrack* shall project into or be located in any *roadway*.

(b) *Newsracks* shall be placed no closer than 6 inches of the *roadway* edge of any curb painted red.

(c) *Newsracks* shall be located only adjacent to the curb (if there is no curb, then to the edge of the *roadway*), or the wall of a building.

(d) Except as stated above in paragraph (b), *newsracks* located adjacent to the curb (or edge of the *roadway*) shall be located no less than 18 inches or more than 24 inches from the *roadway* edge and shall not open toward the *roadway*.

(e) *Newsracks* located adjacent to a building shall be located parallel to and not more than 6 inches from the wall. The *director* may approve a distance of more than 6 inches if required for proper maintenance of surface behind the *newsrack*, and the safe flow of pedestrian or wheelchair traffic is not impaired.

(f) No portion of a *newsrack* shall be located directly in front of any display window except near the curb.

(g) No *newsrack* shall be located directly opposite another *newsrack* on the same *public right-of-way*.

(h) *Newsracks* may be placed next to each other, provided no group of *newsracks* extends more than 10 feet along a curb and a clear paved space of at least 4 feet separates each group of *newsracks*. If the *director* determines a violation exists, priority to remain shall be given first to *newsracks* evidencing the earliest date of installation, followed by *newsracks* with the highest frequency of publication, followed by a lottery.

(i) No *newsrack* shall be placed, installed, used, or maintained:

(1) Within 3 feet of a marked crosswalk.

(2) Within 25 feet of an intersection measured perpendicular to the curb of the cross street, as shown in Figure 1 below.

(3) Within 3 feet of fire hydrant, fire call box, fire lane, police call box or emergency facility.

(4) Within 10 feet of a driveway or *alley*, as shown in Figure 1 below.

Visibility Standards for Newsracks

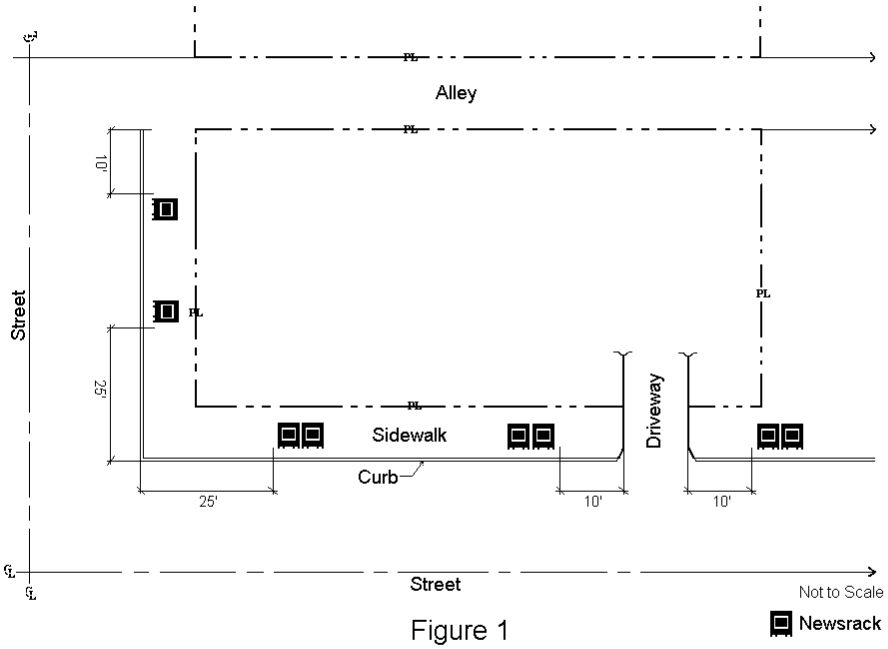

Figure 1

(5) At any location reducing the clear space for the passageway of pedestrians to less than 4 feet. When feasible, *newsracks* should be placed to allow the widest path of travel.

(6) Within 3 feet of or on any public area improved with lawn, flowers, shrubs, trees, or other landscaping approved by the City.

(7) Within 150 feet of another *newsrack* containing the same publication and located on the same side of the *public right-of-way* in the same block.

(8) Within 5 feet of a curb painted blue, or within 3 feet of a curb painted yellow or white.

(9) So as to unreasonably obstruct or interfere with: the flow of pedestrian, wheelchair or vehicular traffic; sites used for public utility purposes or other government use; the ingress or egress to or from any residence or building; or the use of poles, posts, traffic signs and signals, mailboxes, or other objects permitted by the City at that site.

("Location Standards for Newsracks" Added 2-26-2007 by O-19578 N.S.; effective 3-28-2007.)

§62.1007 Additional Location Standards for the Metropolitan Transit System

The following additional location standards apply to *bus* and *trolley stops*. No *newsrack* shall be placed, installed, used, or maintained:

(a) Within the area 6 feet past of or 30 feet prior to any sign marking a designated *bus stop*, and no closer than 10 feet to the curb within this distance.

(b) Along Broadway Street, between Harbor Drive and Park Boulevard, within the area 6 feet past of or 100 feet prior to any sign marking a designated *bus stop*, and no closer than 10 feet to the curb within this distance.

(c) Within 6 feet in any direction of any transit shelter, bench, information kiosk, pole, or sign.

(d) Within 10 feet of any edge of a *trolley stop*.

(Amended 9–30–1996 by O–18345 N.S.)
(Retitled to "Additional Location Standards for the Metropolitan Transit System" and Amended 2-26-2007 by O-19578 N.S.; effective 3-28-2007.)

§62.1008 Additional Standards for the Gaslamp Quarter Planned District

The following additional standards apply to the Gaslamp Quarter Planned District [District] with boundaries defined in San Diego Municipal Code section 103.0401:

(a) Only *newsracks* with permits to be located within *corrals* are allowed in the District. All *corrals* shall comply with the Americans with Disabilities Act of 1990, as amended, and all regulations adopted thereunder. The size, number, composition, and locations of these *corrals* shall be reasonably established and modified as necessary by the *director* after considering input from interested parties, which for

purposes of this section includes holders of *newsrack* permits specific to the District and the Gaslamp Quarter Association. The most current size, number, composition, and location standards shall be posted on the City's Website and available in the Office of the City Clerk.

(b) *Newsracks* installed or maintained in the District without a permit specific to the District may be summarily removed in accordance with San Diego Municipal Code section 62.1013.

(c) Construction and maintenance of *corrals* shall be the sole and joint responsibility of the *permittees* of *newsracks* within the *corral*. Any injury to persons or property, including all claims or liability, resulting from or relating to any *corral* shall be the joint and several responsibility of the *permittees* within that *corral* at the time of the alleged incident.

(d) Space within *corrals* shall be allocated in accordance with this section as follows:

(1) An interested publication, or distributor of multiple publications to be dispensed within a *shared newsrack*, can apply for only one *newsrack* in each *corral*.

(2) Limited space within the *corrals* shall be allocated by frequency of publication and each *corral* will be partitioned by the *director* as follows: five spaces will be allocated to daily publications, two to weekly publications, and one to less frequent publications. For purposes of this division, "daily" frequency means a publication of approximately five new editions per week. "Weekly" means approximately four new editions per month. "Monthly" means approximately one new edition per month. "Quarterly" means approximately four new editions per year. "Semi-annual" means approximately two new editions per year. "Annual" means approximately one new edition per year. *Shared newsracks* shall be categorized by the lowest frequency of any publication therein.

(3) If the number of applications for a particular frequency is less than the spaces available, the *director* will allow the next highest frequency to apply for that space. If space still remains, an interested party may apply for more than one space within a specified *corral*, not to include the same publication.

(4) If the number of applications exceeds the number of spaces available, the following will apply:

(A) The *director* will request the interested parties meet to determine if a signed agreement for allocation of the spaces can be reached. If an agreement is reached, the *director* will assign the permits based on the agreement so long as it conforms with the requirements of this division.

(B) If an agreement cannot be reached, the *director* will hold a lottery to allocate the available spaces within each frequency category.

("Additional Standards for the Gaslamp Quarter Planned District" Added 2-26-2007 by O-19578 N.S.; effective 3-28-2007.)

§62.1009 Permit Requirements and Standards

It is unlawful to install or maintain any *newsrack* without first obtaining a permit from the *director*. Notwithstanding the above, an existing *permittee* may install 5 percent additional *newsracks* than approved in the permit without prior amendment of the permit or prior payment of applicable fees, which will be due at the next permit application or permit payment period.

(a) **General Provisions.** Except for the provisions set forth in San Diego Municipal Code section 62.1009(d) specific to the Gaslamp Quarter Planned District, one permit will be issued per applicant covering all *newsracks* in each application. Each permit may be amended quarterly by submitting an Amendment of Permit Application to the *director*, provided fees are paid for additional *newsracks*. A condition of any permit issued under this division is that the *permittee* shall keep an accurate record readily identifying the locations of its *newsracks* to be made available to the *director* upon request within two *business days*. This information may be used to check the accuracy of information provided in the permit application or compliance with conditions of any existing permit or this division.

(b) **Initial Permit Applications.** Applicants interested in installing *newsracks* shall first submit to the *director* a Newsrack Permit Application available from the City. Applicant's interested in maintaining existing *newsracks* shall submit a Newsrack Permit Application no later than June 9, 2007. All applicants shall provide all information and/or documents requested in the Newsrack Permit Application. Applications that do not include all of the requested information and/or documents shall be deemed incomplete.

Incomplete applications shall not be processed and shall not automatically be deemed approved under the circumstances specified in San Diego Municipal Code section 62.1009(e).

(c) **Permit Renewal Applications.** Existing *permittees* interested in renewing their permits shall submit to the *director* annually by January 15 a Newsrack Permit Renewal Application available from the City providing all information and/or documents requested therein. Applications that do not include all of the requested information or documents shall be deemed incomplete, shall not be processed, and shall not automatically be deemed approved under the circumstances specified in San Diego Municipal Code section 62.1009(e).

(d) **Gaslamp Quarter Planned District Permits.** *Newsracks* within the Gaslamp Quarter Planned District [District] with boundaries defined in San Diego Municipal Code [Code] section 103.0401 require a permit specific to the District, and the requirements of Code section 62.1008 apply to this permit process. The timeframe for issuance of *newsrack* permits outside the District does not apply, and the *director* shall process applications for permits within the District within a reasonable timeframe. Permits in the District shall be in effect for three years from the date of issuance, provided the *permittee* is in compliance with this division and all conditions of the permit. Permit fees shall be paid annually.

(e) **Review of Permits.** Once submitted, a complete permit application will be reviewed and acted upon within fifteen *business days*. If the applicant is not notified in writing within fifteen *business days* of approval, denial, or extension of the permit review period, the permit application shall be deemed approved.

(f) **Issuance of Permits.** Upon a finding by the *director* that the application is complete, accurate, and in compliance with this division, a permit shall be issued.

(g) **Denial of Permit.** Permits may be denied for noncompliance with this division or failure to provide accurate and complete information. If a permit is denied, the *director* shall promptly notify the applicant in writing of the specific cause of such denial.

(h) **Permit Revocation.** A permit may be revoked if more than 5 percent of the *newsracks* designated therein are documented to be in violation of this division or if the information in the permit application or related supporting documents is inconsistent with the number or locations of the *newsracks* by more than five percent. If a permit is revoked for any reason set forth above, the offending publication, or distributor if applicable, shall not be approved

for a permit under this division for one year from and after the date of revocation. Any permit issued in error may be revoked without liability to the City.

(i) **Sale or Transfer of Permits.** Permits shall not be sold or transferred except as a part of the sale of a majority of the related business assets of the *permittee*. The proposed new *permittee* shall notify the *director* in writing within ten *business days* that the permit has been sold or transferred. The notification shall include the name and contact information for the proposed new *permittee*. No transfer or sale shall be effective until the proposed new *permittee* executes an Indemnification and Hold Harmless Agreement in favor of the City as required in San Diego Municipal Code [Code] section 62.1010 and obtains the requisite insurance coverage pursuant to Code section 62.1011. Until such time, the existing *permittee* shall maintain the required insurance coverage and shall remain liable for any personal injury or property damage caused by or related to the *permittee's newsrack(s).*

("Other Violations" added 12–6–1974 by O–11457 N.S.)
(Retitled to "Permit Requirements and Standards" and Amended 2-26-2007 by O-19578 N.S.; effective 3-28-2007.)

§62.1010 Indemnification Requirement

The Newsrack Permit Application and any Newsrack Permit Renewal Application shall include an Indemnification and Hold Harmless Agreement in favor of the City in substantial compliance with this section, which must be executed by the *permittee* prior to the issuance of any permit under this division. Pursuant to the Indemnification and Hold Harmless Agreement, the *permittee* shall agree to defend, indemnify, protect and hold the City, and its elected officials, officers, representatives, agents, and employees harmless from and against all claims asserted or liability established for damages or injuries to any person or property, including its own employees, agents, or officers which arise from or are connected with or are caused or claimed to be caused by any *corral* for which the *permitee i*s responsible or by any *newsrack* owned by or attributable to the *permittee*; provided however, that the *permittee's* duty to indemnify and hold harmless shall not include any claims or liability arising from the established sole negligence or sole willful misconduct of the City.

("Public Nuisance" added 12–6–1974 by O–11457 N.S.)
(Retitled to "Indemnification Requirement" and Amended 2-26-2007 by O-19578 N.S.; effective 3-28-2007.)

§62.1011 Insurance Requirement

As a condition of any permit under this division, the *permittee* shall within ten *business days* of the approval of the permit, but prior to the installation, use, or maintenance of any *newsrack*, obtain and maintain at all times during the term of any permit approved under this division, and at all times *permittee's newsrack(s)* remain(s) on any portion of the *public right-of-way*, the following: Commercial Liability Insurance subject to the reasonable requirements of the City's Risk Management Department and approval by the City Attorney and in substantial conformance with this section covering any liability arising from or connected with, or caused or claimed to be caused by, any *corral* for which the *permittee* is responsible and any *newsrack* owned by or attributable to *permittee* in a reasonable and sufficient amount as determined by the City's Risk Management Department to cover the risks associated with the *newsrack(s)*, including any *corrals*. No *newsrack* or, if applicable, *corral*, may be installed, used, or maintained until *permittee* provides the *director* with proof of the requisite insurance, including any endorsements.
("Abandonment" added 12–6–1974 by O–11457 N.S.)
(Retitled to "Insurance Requirement" and Amended 2-26-2007 by O-19578 N.S.; effective 3-28-2007.)

§62.1012 Enforcement

Notwithstanding any condition upon which summary removal is available, enforcement action may be initiated upon determination by the *director* that a *newsrack* has been abandoned as set forth in San Diego Municipal Code [Code] section 62.1018 or installed, used, maintained, or removed in violation of this division or any condition of the permit. The *permittee* will be notified in writing of the alleged violation and requested to voluntarily rectify the offending condition within five *business days* of the date of the notification. Failure to achieve timely compliance may result in the issuance of a *Notice of Violation* with a compliance date of five *business days* from the date of the notice. The *Notice of Violation* shall comply with Code section 12.0103. Failure to comply with the *Notice of Violation* may result in the use of any applicable remedy in the Code, including removal of the offending *newsrack.* All administrative and judicial remedies set forth in San Diego Municipal Code Chapter 1, Article 2, Divisions
3-10 are available to the *director* for any violation of this division.
("City Manager's Designated Representative" added 12–6–1974 by O–11457 N.S.)
(Retitled to "Enforcement" and Amended 2-26-2007 by O-19578 N.S.; effective 3-28-2007.)

§62.1013 Summary Removal of Newsracks

(a) **Conditions for Summary Removal.** If the *director* determines: (1) the condition or placement of a *newsrack* poses a threat to the safety of pedestrians or wheelchair users, or the safe flow of vehicles; (2) a *newsrack* is located within the *public right-of-way* without a permit; or (3) the *director* is unable to readily contact the *permittee* or otherwise responsible party for a *newsrack* based exclusively on information provided in a current permit, related permit application, or affixed to the offending *newsrack*, the *director* may cause the *newsrack* to be summarily removed without prior notice.

(b) **Procedure Upon Summary Removal.** Upon summary removal of a *newsrack*, the following post-removal procedures shall apply:

(1) **Newsracks with Readily Identifiable Responsible Party:** The following post-removal procedure applies to any summarily removed *newsrack* with a readily identifiable *permittee* or otherwise responsible party based exclusively on information provided in a current permit, related permit application, or affixed to the offending *newsrack*. If a current telephone number is provided, the *director* shall promptly call the responsible party to advise of the removal. Unless the offending *newsrack* is reclaimed beforehand and all reasonably incurred removal and storage fees are paid in full, a Notice of Summary Removal & Hearing shall be served in accordance with San Diego Municipal Code section 62.1013(c), except when such notice and hearing is waived by the responsible party.

(2) **Newsracks Without Readily Identifiable Responsible Party:** If the *permittee* or otherwise responsible party can not be readily contacted based exclusively on information provided in a current permit, related permit application, or information affixed to the *newsrack*, no further action on behalf of the City is required. If the responsible party thereafter notifies the *director* to reclaim the offending *newsrack*, and the *newsrack* has not been deemed abandoned and disposed of in accordance with San Diego Municipal Code [Code] section 62.1018, a Notice of Summary Removal & Hearing shall be served in accordance with Code section 62.1013(c), unless waived by the responsible party.

(c) **Post Summary Removal Hearing and Notice Procedures**. If the *permittee* or otherwise responsible party does not dispute the merits of the removal, they may waive their rights to a post-removal notice and hearing and may reclaim the offending *newsrack* upon payment of all reasonably incurred removal and storage fees. In all other cases, the following procedure shall apply:

(1) Within ten business days of summary removal or notification by a previously identifiable responsible party, the director shall serve by certified mail, postage prepaid, return receipt requested a Notice of Summary Removal & Hearing providing the following information: a reasonable identification of the offending newsrack and its proximate location upon removal; a specific description of the alleged violation(s); and including a notice of a post-removal hearing in compliance with San Diego Municipal Code section 62.1013(c)(2).

(2) Any post-removal hearing and notice thereof shall comply with San Diego Municipal Code, Chapter 1, Article 2, Division 4, and shall be heard as soon as reasonably feasible upon at least ten calendar days notice.

("Constitutionality" added 12–6–1974 by O–11457 N.S.)
(Retitled to "Summary Removal of Newsracks" and Amended 2-26-2007 by O-19578 N.S.; effective 3-28-2007.)

§62.1014 Permit Fees

All *newsracks* require timely payment of an annual permit fee established by the *director* and on file in the Office of the City Clerk. No refunds are provided for *newsracks* taken out of service. Permit fees are due and payable annually on January 15, and shall be prorated for any partial year. Annual permit fees shall be delinquent after fifteen days past due. A late payment fee of 10 percent shall be assessed on all delinquent amounts.

(a) **Citywide Permit Fee Excluding the Gaslamp Quarter Planned District.** Except for the Gaslamp Quarter Planned District, the citywide fee is based on the total number of *newsracks* in service in the *public right- of-way*. This fee shall be sufficient to recover the costs of processing the permit application and enforcing permit requirements.

(b) **Permit Fee in the Gaslamp Quarter Planned District.** A separate permit fee applies to *newsracks* located in the Gaslamp Quarter Planned District with boundaries defined in San Diego Municipal Code [Code] section 103.0401. This fee shall be sufficient to recover costs associated with processing the

permit application, enforcing permit requirements, and administering the lottery described in Code section 62.1008(d)(4).

("Permit Fees" Added 2-26-2007 by O-19578 N.S.; effective 3-28-2007.)

§62.1015 Recovery of Costs, Fees and Penalties

Recovery of costs, fees, and penalties shall be in accordance with San Diego Municipal Code, Chapter 1, Article 3. The *director* may set fees on an annual basis to recover all reasonable costs of reinspection and removal of *newsracks*. Any time a *newsrack* is caused to be removed, summarily or otherwise, due to violations of this division, the City may recover all reasonable costs to include:

(a) Cost of the investigative and administrative staff to process the case.

(b) Cost of newsrack removal including the costs of any necessary sidewalk repair or storage of the newsrack.

("Recovery of Costs, Fees and Penalties" Added 2-26-2007 by O-19578 N.S.; effective 3-28-2007.)

§62.1016 Correction of Minor Violations

Unless expressly denied by the *permittee* in the permit application, the City is authorized at its sole discretion to correct minor *newsrack* violations it deems to be easily curable on the spot without the use of any tools or moving the *newsrack*.

("Correction of Minor Violations" Added 2-26-2007 by O-19578 N.S.; effective 3-28-2007.)

§62.1017 Public Nuisance

Any *newsrack* in violation of this division shall constitute a public nuisance, as defined in San Diego Municipal Code section 11.0210, and may be abated in accordance with applicable provisions of law. No minor violation that is easily curable on the spot without the use of any tools or moving the *newsrack* shall alone constitute a public nuisance under this division or in itself be grounds for permit revocation.

("Public Nuisance" Added 2-26-2007 by O-19578 N.S.; effective 3-28-2007.)

§62.1018 Abandonment

A *newsrack* shall be deemed abandoned if it: (1) is summarily removed pursuant to San Diego Municipal Code section 62.1013 and unclaimed for thirty continuous calendar days from the date of removal, or (2) remains empty or without a permitted publication for thirty continuous calendar days. Newsracks deemed abandoned may be treated in the manner provided in San Diego Municipal Code section 62.1012 for

newsracks in violation of this division. The City may dispose of and shall not be responsible for any *newsrack*, including its contents, deemed abandoned for sixty continuous calendar days.
("Abandonment" Added 2-26-2007 by O-19578 N.S.; effective 3-28-2007.)

§62.1019 Appeal

Any person or entity aggrieved by a finding, determination, notice, or action taken by the *director* under this division may appeal the same by filing an appeal in accordance with San Diego Municipal Code section 12.0501. San Diego Municipal Code, Chapter 1, Article 2, Division 5 shall apply to any appeal under this division.
("Appeal" Added 2-26-2007 by O-19578 N.S.; effective 3-28-2007.)

§62.1020 Conflict

In the event of conflict between this division and any other provision in the San Diego Municipal Code applicable to *newsracks*, the more restrictive provision shall apply.
("Conflict" Added 2-26-2007 by O-19578 N.S.; effective 3-28-2007.)

§62.1021 Constitutionality

If any section, subsection, sentence, clause, phrase or part of this division is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining parts of this division. The City Council hereby declares that it would have adopted this division and each section, subsection, sentence, clause, phrase or part thereof irrespective of the fact that any one or more sections, subsections, clauses, phrases, or parts be declared invalid or unconstitutional.
("Constitutionality" Added 2-26-2007 by O-19578 N.S.; effective 3-28-2007.)