

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

Division 9: Newsracks on Public Right-of-Way

*(“Newsracks on Public Right-of-Way”
added 5-2-1974 by O-11312 N.S.)*

§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 right-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 right-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.

(“Purpose and Intent” added 5-2-1974 by O-11312 N.S.)

§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.

(6-2000)

- (b) “Nudity” shall mean the showing with less than a fully opaque covering of the genitals, pubic hair, 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.
- (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, 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.

*(Amended 3-20-1989 by O-17266 N.S.)***§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 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.

- (a) Any statements or words describing explicit sexual acts, sexual organs, or excrement where such statements or words have as their purpose or effect sexual arousal, gratification, or affront.
- (b) Any pictorial material depicting nudity where such material has as its purpose or effect sexual arousal, gratification or affront.
- (c) Any pictorial material depicting explicit sexual conduct where such picture or illustration has as its purpose or effect sexual arousal, gratification, or affront.

(Amended 3-20-1989 by O-17266 N.S.)