



City of Palo Alto

Public Works Engineering

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Palo Alto Municipal Code Sections Regarding Newsrack Placement

Below is the full text of the Palo Alto Municipal Code, Chapter 9.79, establishing comprehensive time, place and manner regulations for the placement and maintenance of newsracks in the public right-of-way. Providing this full text of the ordinance is in an effort to help understand the process and streamline the application process.

CHAPTER 9.79 NEWSRACKS

9.79.010 Purpose; Scope.

The purpose and scope of the regulations in this chapter are as follows:

(a) The provisions of this chapter shall apply to all newsracks located in public places within the City of Palo Alto; provided, that certain provisions, as specified, shall apply only to newsracks located on public property.

(b) It is in the public interest to establish regulations that balance the right to distribute information through newsracks with the right of persons to reasonably access and use public property.

(c) The public health, safety, welfare and convenience require that: interference with vehicular, bicycle, wheelchair or pedestrian traffic be avoided; obstruction of sight distance and views of traffic signs and street-crossing pedestrians be eliminated; damage done to sidewalks or streets be minimized and repaired; the good appearance of public property be maintained; trees and other landscaping be allowed to grow without disturbance; access to emergency and other public facilities be maintained; and ingress and egress from, and the enjoyment of store window displays on, properties adjoining public property be protected.

(d) Newsracks placed and maintained on public property, absent some reasonable regulation, may unreasonably interfere with the use of such property, and may present hazards to persons or property.

(e) The regulations on the time, place and manner of the placement, location and maintenance of newsracks set forth in this chapter are carefully tailored to ensure that the purposes stated in this section are implemented while still providing ample opportunities for the distribution of news to the public.

9.79.020 Definitions.

For the purposes of this chapter, the following words and phrases are defined and shall be given the meaning set out in this section unless it is apparent from the context that a different meaning is intended.

(a) "Abandoned newsrack" means any newsrack which remains empty for ten (10) business days; provided, that a newsrack remaining empty due to labor strike or any temporary and extraordinary interruption of distribution or publication by the newspaper or other publication sold or distributed from that newsrack shall not be deemed abandoned.

(b) "City Engineer" means the Director of Public Works or his or her designee.

(c) "Harmful matter" means and is defined as in California Penal Code section 313, as may from time to time be amended.

(d) "Minor" means any natural person under 18 years of age.

(e) "Newsrack" means any self-service or coin-operated box, container, storage unit, or other dispenser installed, used or maintained for the display and sale or distribution of newspapers, periodicals or other publications.

(f) "Person" means any individual, partnership, firm, association, corporation, limited liability company, or other legal entity.

(g) "Public place(s)" means and includes any public property owned or controlled by the City of Palo Alto or any other public agency, or any outdoor private property which is open to the public.

(h) "Public property" means any public right-of-way or any property owned or controlled by the City of Palo Alto, including, without limitation, streets, sidewalks, alleys, and rights-of-way.

(i) "Special Newsrack Area" means any area of the City of Palo Alto so designated by the City Council upon findings that the special circumstances of the area require special design, placement and other standards for newsracks.

(j) "Special Newsrack Container" means a specially designed permanently affixed container provided by or on behalf of the City, within which shall be the exclusive location for the placement of newsracks in a special newsrack area.

9.79.030 Permit Required.

It is unlawful to install, place, maintain or cause to be placed, installed or maintained a newsrack on, or projecting on, any public property without first receiving a permit therefor from the City Engineer and unless such newsrack is in compliance with the provisions of this chapter; provided, that, except for newsracks proposed to be located within a special newsrack area, a newsrack located on public property as of April 5, 1999 may continue to remain in such location, under the following conditions:

(a) The newsrack is in compliance with the requirements for the installation and maintenance of newsracks contained in this chapter; and

(b) A permit application for such newsrack has been filed as of that date with the City Engineer by the duly authorized representative of both the publisher and, if applicable, any independent distributor authorized to service the publisher's newsrack; and

(c) A permit pursuant to such application has not been denied with respect to any such newsrack.

If no permit application has been filed by that date by the duly authorized representative of both the publisher and, if applicable, any independent distributor authorized to service the publisher's newsrack, or such permit is denied, such newsrack shall be deemed to be in violation of the provisions of this chapter.

9.79.040 Obtaining a Permit.

(a) Exclusive Requirements. The provisions of this chapter shall be the exclusive requirements for newsrack encroachments onto public property in the city.

(b) Application. Applications for a newsrack permit for one or more newsracks shall be made to the city engineer on a form prescribed by the city engineer, which shall include, without limitation:

- (1) The name, street and mailing address, and telephone number of the applicant, which shall be the duly authorized representative of both the publisher and, if applicable, any independent distributor authorized to service the publisher's newsrack for which the permit is sought;
- (2) The name, street and mailing address and telephone number of the distributor or other responsible person whom the city may notify or contact at any time concerning the applicant's newsrack(s);
- (3) The number of proposed newsracks and a description of the exact proposed location (including a map or site plan, drawn to scale, with adequate locational information to verify conformance with this chapter) and the proposed means of affixing each proposed newsrack;
- (4) A description of each proposed newsrack, including its dimensions, the number of publication spaces it will contain, and whether it contains a coin-operated mechanism;
- (5) The name and frequency of publication of each publication proposed to be contained in each newsrack;
- (6) A statement signed by the applicant that the applicant agrees to indemnify, defend and hold harmless, the city and its representatives from all claims, demands, loss, fines or liability to the extent arising out of or in connection with the installation, use or maintenance of any newsrack on public property by or on behalf of any such person, except such injury or harm as may be caused solely and exclusively by the negligence of the city or its authorized representatives; and
- (7) A statement signed by the applicant that the applicant agrees, upon removal of a newsrack, to repair any damage to the public property caused by the newsrack or its removal.

(c) Issuance of Permit. A permit shall be issued within ten working days from the date of filing the application with the city engineer if the application is properly completed and the type of newsrack and location proposed for each newsrack meet the standards set forth in this chapter. A single permit shall be issued for all newsracks applied for by an applicant which meet the standards of this chapter. A permit shall not be transferable.

(d) Period of Permit Validity. All permits issued within three years from the effective date of this section shall expire on the date three years from the effective date of this section, regardless of the date of issuance. All permits issued within the second and succeeding three year periods shall, likewise, expire at the end of such three-year period.

(e) Issuance of Permit Sticker. Each permittee shall be issued a pre-printed sticker for each permitted newsrack, which shall be affixed to the lower right corner of the front of each newsrack.

(f) Denial of Permit. If a newsrack permit is disapproved, in whole or in part, the city engineer shall notify the applicant within ten working days from the date of filing a complete application with the city engineer, explaining the reasons for the denial of the permit. The applicant shall have ten calendar days within which to appeal the decision to the city manager in accordance with the appeal provisions set forth in subsection (g) of this section.

(g) Appeal of Permit Denial. After receiving a notice of appeal, the city manager or the designee of the city manager shall conduct a hearing within thirty days of the receipt of the applicant's appeal, unless otherwise agreed to by the applicant. Written notice of the time and place of the hearing shall be given to the applicant, and shall be posted in the official posting locations of the city. The hearing shall be informal, but oral and written evidence may be given by both sides. The city manager or designee shall render a written decision within fifteen days after the date of the hearing. The decision of the city manager shall be final.

(h) Amendment to Permit. In the event of a change in any of the information contained in the application, the permittee shall submit such change in writing to the city engineer. A permittee may install and maintain additional newsracks by an amendment to the permit. The rules and procedures of this section shall also apply to the review and approval of any such amendment.

9.79.050 Standards for Maintenance and Display of Newsracks.

(a) Every person placing or maintaining a newsrack on public property shall comply with the following requirements:

- (1) Every newsrack shall be maintained in a neat and clean condition, and in good repair at all times. For example, without limitation, every newsrack shall be reasonably free of dirt and grease, be reasonably free of chipped, faded, peeling or cracked paint, be reasonably free of rust and corrosion, have no broken or cracked plastic or glass parts, and have no broken structural parts.
- (2) Every newsrack shall be constructed, installed and maintained in a safe and secure condition.
- (3) Every newsrack shall be made of solid material on all sides, so as to contain the material inside the newsrack in a manner as to prevent it from blowing away or otherwise becoming litter. No wire or other open form of newsrack shall be permitted.
- (4) Every newsrack shall be kept free of graffiti.

- (5) Every newsrack that sits on legs shall be kept free of dirt and litter under the newsrack.
- (6) Every newsrack shall be painted or covered with a protective coating, so as to keep it free from rust, and shall be cleaned and repainted on a regular basis.
- (7) Every coin-operated newsrack shall be equipped with a coin-return device that is maintained in good repair and working order.
- (8) Every coin-operated newsrack shall display information on how to secure a refund in the event of coin return malfunction. Such information shall be placed in a visible location on the front or top of the newsrack, and shall be legible.
- (9) Other than the display of the publication contained therein, no newsrack shall display or be affixed with any words or pictures except for the identifying information, and the coin return information, if applicable, required by subsection (e) of section 9.79.040 and subsections(a)(8)and(b), respectfully, of this section; provided, that, except as provided in section 9.79 080 (Special Newsrack areas), each side of a newsrack may display, in characters no more than four inches (4") high, the name and/or logo of the publication contained in the newsrack, and the front of each newsrack may be affixed with a single sign or decal, no larger than eight inches by ten inches (8"x10"), containing only information relating to the display, sale or distribution of the publication contained in the newsrack. If the newsrack is a Sho-Rack K-100 or K-Jack KJ55 style, or equivalent (i.e., double-high), which contains a built-in sign holder, the newsrack may be affixed with a sign that fits within that holder, not to exceed eleven inches by seventeen inches (11"x17"). If a newsrack has no sign or decal, the name and/or logo display may be up to eleven inches (11") high.
- (10) Old or out-of-date material removed from any newsrack by any person who owns, maintains, or stocks the newsrack shall be recycled or disposed of in a lawful manner. Such material shall not be disposed of in any trash receptacle owned or rented by others, without the express written consent of the owner or renter of such receptacle. Such material shall be disposed of in a manner that does not cause the material to become litter.

(b) Every newsrack located in a public place shall be affixed with identifying information, which shall contain the name, address and telephone number of the newsrack owner and of the distributor of the publication(s) contained therein. Such information shall be placed in a visible location on the front or top of the newsrack, and shall be legible. The size of the identifying information shall be no larger than three inches by five inches (3" x 5").

9.79.060 Size and Design Standards.

Except as provided in section 9.79.080 (Special Newsrack Areas), no newsrack shall be placed, installed or maintained on any public property except in compliance with the following standards:

(a) No newsrack shall be more than fifty (50) inches high (including the pedestal in the case of modular newsracks) measured from the ground to the top surface of the newsrack, nor more than two (2) feet deep, nor more than twenty-four (24) inches wide.

(b) The highest operable part of the coin slot, if provided, and all controls, dispensers and other operable components of a newsrack shall be no higher than forty-eight (48) inches above the ground, and no lower than fifteen (15) inches above the ground.

(c) The design of a newsrack shall not create a danger to the persons using the newsrack in a reasonably foreseeable manner. All newsracks shall comply with all applicable federal, state and local laws and regulations including, without limitation, the Americans with Disabilities Act and other laws and regulations relating to barrier-free design.

9.79.070 Standards for Placement and Location of Newsracks.

(a) Except as otherwise set forth in Section 9.79.080 (Special Newsrack Areas), no newsrack shall be placed, installed or maintained on any public property when such installation, use or maintenance endangers the safety of persons or property. No newsrack shall be placed, installed or maintained on any public property except in compliance with the following standards:

- (1) Newsracks shall be placed only on a sidewalk, in one of the following locations:
 - (i) Near a curb, in which case, the back of the newsrack shall be placed no less than eighteen (18) inches (twelve (12) inches along El Camino Real) nor more than twenty-four (24) inches from the face of the curb; or
 - (ii) Adjacent to the wall of a building, in which case, the back of the newsrack shall be placed parallel to such wall and not more than six (6) inches from the wall.
- (2) Every newsrack shall be placed so as to open toward the sidewalk.
- (3) Every newsrack shall be affixed to the sidewalk or to another newsrack, in a manner approved by the permit therefor; provided, no newsrack shall be chained to another newsrack. Newsracks shall not be chained or otherwise attached to any bus shelter, bench, street light, utility pole or device or sign pole, or to any tree, shrub or other plant, nor situated upon any landscaped area.
- (4) No newsrack shall be placed, installed or maintained:
 - (i) Within ten (10) feet of any marked or unmarked crosswalk as measured from the curb return;

- (ii) Within five (5) feet of any fire hydrant, call box, or other emergency facility; bus bench; or utility pole or box;
- (iii) At any location where the clear space for the passage of pedestrians is reduced to less than six (6) feet (five (5) feet along El Camino Real);
- (iv) Within five (5) feet of any driveway;
- (v) Within five (5) feet of any red curb of a bus stop zone;
- (vi) Within five (5) feet of the curb return of any wheelchair curb ramp not in a marked crosswalk;
- (vii) In such a manner as to impede or interfere with the reasonable use of any commercial window display or access to or from any building;
- (viii) In such a manner as to impede or interfere with the reasonable use of any bicycle rack;
- (ix) In such a manner as to block or cover any portion of an underground utility vault, manhole, or other sidewalk underground access location.

(b) Newsracks may be placed or joined together; however, no group of newsracks placed along a curb shall extend for a distance of more than ten (10) feet (i.e., the combined width of five (5) newsracks); and no group of newsracks shall be closer than four (4) feet to another group of newsracks along a curb.

(c) The City Engineer may allow a permittee to place a newsrack in a location in variance of the standards otherwise required by this section if the City Engineer finds that such variance will not be detrimental to the public safety and that, due to the existing physical constraints at that location, imposition of the standards would make placement impossible and would cause a hardship to the permittee and its patrons. The written findings and the variance shall be made part of the permit. Prior to considering whether or not to grant a variance, the City Engineer shall provide written notice of the requested variance to the owner(s) of the real property adjacent to or abutting the proposed newsrack location.

(d) If sufficient space does not exist to accommodate all newsracks sought to be placed at one location without violating the standards set forth in this chapter, the City Engineer shall give priority as to that location to publications on a historical "first come first served" basis to permit applicants as follows:

- (1) First priority shall be publications that are published two or more times a week;
- (2) Second priority shall be given to publications that are published once per week;
- (3) Third priority shall be given to publications that are published less than once per week but more than once per month;

- (4) Fourth priority shall be given to publications that are published monthly or less frequently than monthly.

In the event the City Engineer is required to utilize the priority system described in subparagraphs (1) through (4), above, he or she shall permit only one rack per publication in a single location, provided that the Sunday edition of a daily publication shall be considered as a separate publication and shall be in the second category.

9.79.080 Special Newsrack Areas.

(a) The City Council hereby finds that special circumstances require special design, placement and other standards for newsracks located in following areas of the city; and such areas are hereby designated as Special Newsrack Areas:

- (1) The Downtown Commercial Area.

- (i) The City Council hereby designates the "Downtown Commercial Area", bounded by and including both sides of the following streets: Middlefield, Hamilton, Alma, and Lytton, as a Special Newsrack Area.

- (ii) The Council finds that the Downtown Commercial Area has become very congested, with street furniture and other sidewalk encroachments, automobiles and other means of travel competing with pedestrians for the public space; and that special standards for the design and location of newsracks, in conjunction with a program for the furnishing and installation of street furniture, and the enforcement of existing regulations for other encroachments in the Downtown Commercial Area, will help to create a sense of order out of chaos and provide a friendly environment for those who come to the area.

(b) Notwithstanding any contrary provisions in this chapter, the following special standards shall apply to newsracks and the placement of publications in newsracks within any Special Newsrack Area so designated pursuant to subdivision (a) of this section:

- (1) No newsrack shall be located in a Special Newsrack Area except within a Special Newsrack Container. All newsracks in a Special Newsrack Container shall meet the following specifications:

- (i) Every newsrack shall be a modular design, 49-16 or K-100 style (as Manufactured by "Sho-Rack") or KJ50/KJ55F (as manufactured by "K-Jack") or M-30/M-33 (as manufactured by National Newsvend) or the equivalent, as determined by the City Engineer.

- (ii) Each publication shall use the same color for all of its newsracks located within a Special Newsrack Area.
 - (iii) The name and/or logo otherwise permitted pursuant to subparagraph (a)(9) of Section 9.79.050 may be placed only on the front face of the box.
 - (iv) Permittees of double high racks may be required to provide devices commonly known as "spacers" for the newsracks adjacent to each double high rack, to ensure that all newsracks in a single location group of racks are the same height. Permittees who use newsracks of a brand other than Sho-Rack may be required to furnish spacers to achieve height uniformity.
- (2) Original placement of newsracks within a Special Newsrack Area.
- (i) No newsrack shall be located in a Special Newsrack Area unless a permit has been obtained in accordance with this subsection (2) or subsection (3).
 - (ii) Within thirty days after the effective date of the ordinance designating a Special Newsrack Area, or as soon as practicable thereafter, the City Engineer shall establish a date (the "cut-off date") by which application shall be made to the City Engineer for every newsrack proposed to be located within a Special Newsrack Area. No application shall be considered that is filed later than the cut-off date established for that area. The City Engineer shall give notice of the cut-off date by publication once in a newspaper of general circulation in the City. The City Engineer shall also endeavor to mail notice of the cut-off date to the owners and/or distributors of newsracks existing as of the effective date of the ordinance designating a Special Newsrack Area; provided, however, that failure to provide mailed notice to any person shall not invalidate any action taken pursuant to this section or this chapter.

The process for obtaining a permit shall be in accordance with Section 9.79.040, provided, that where the number of newsracks for which application has been made exceed the number of Special Newsrack Containers available in a Special Newsrack Area, or in a particular location within a Special Newsrack Area, the City Engineer shall issue newsrack permits in the manner described in regulations established by the City Engineer and approved by the City Council.

- (3) After the original placement of newsracks within a Special Newsrack Area, as described in subparagraph (2) of this subsection (b), application may be made for placement of a newsrack in a location within a Special Newsrack Area for which no empty Special Newsrack Container is available. Such applications shall be placed on a waiting list. In the event a Special Newsrack Container becomes available, the City Engineer shall issue a permit for that location to the applicant for the location, if there is only one applicant. In the case of multiple applicants for a single location, the City Engineer shall determine which applicant shall receive the permit in the manner described in regulations established by the City Engineer and approved by the City Council.

9.79.090 Blinder Racks Required.

(a) Newsracks located in public places, other than public places from which minors are excluded, and which display to the public view harmful matter, shall be equipped with devices commonly known as blinder racks in front of the material so that the lower two-thirds of the material is not exposed to public view.

(b) Newsracks located in public places, other than public places from which minors are excluded, and which display to the public view material depicting or describing specified sexual activities, as defined in subdivision (1) of this subsection, or which contain material depicting or describing specified anatomical areas, as defined in subdivision (2) of this subsection, where such picture, or illustration, or statement has as its purpose or effect sexual arousal, gratification or affront, shall be equipped with blinder racks in front of the material so that the lower two-thirds of the material is not exposed to public view.

- (1) "Specified sexual activities" means:
 - (i) Human genitals in a state of sexual stimulation or arousal;
 - (ii) Acts of human masturbation, sexual intercourse or sodomy; or
 - (iii) Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

(2) "Specified anatomical areas" means:

- (i) Less than completely and opaquely covered human genitals, pubic hair, buttocks, perineum, anal region, or female breast at or below the areola thereof; or
- (ii) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

9.79.100 Violation; Enforcement.

(a) It shall be illegal to place, install, or maintain any newsrack or any material in a newsrack in a manner contrary to any provision of this chapter.

(b) Any person who violates any provision of this chapter shall be guilty of an infraction and upon conviction thereof shall be punished as provided in subsection (b) of Section 1.08.010 of this Code.

(c) Employees in the positions designated in this section are authorized to exercise the authority provided in Penal Code section 836.5 and are authorized to issue citations for violations of this chapter. The designated employee positions are: (1) Code Enforcement Officer; (2) Supervisor, Building Inspection. Employees exercising the authority provided for in this subsection c are generically referred to in this chapter as "Code Enforcement Officer," notwithstanding their official employee position.

9.79.110 Nuisance.

Any newsrack or any material in a newsrack placed, installed or maintained in violation of this chapter shall constitute a public nuisance and may be abated in accordance with applicable provisions of law.

9.79.120 Removal and Hearing.

In addition to the enforcement remedies available to the City, which are set forth in Chapter 1.12 and in Sections 9.79.100 and 9.79.110 of this chapter, any newsrack placed, installed or maintained in violation of this chapter may be removed by the City, subject to the notice and hearing procedures set forth in this section.

(a) Notice of violation. Before removal of any newsrack, the Code Enforcement Officer shall notify the owner or distributor of the violation. Written notification by first class mail to the address or addresses shown on the offending newsrack shall constitute adequate notice. The Code Enforcement Officer may, but need not, affix an additional notice tag onto the offending newsrack. If no identification is shown on the newsrack, posting of the notice on the newsrack alone shall be sufficient. The notice shall state the nature of the violation, shall specify actions necessary to correct the violation, and shall give the owner or distributor ten (10) business days from the date appearing on the notice to either remedy the violation or to request a meeting before the Chief Building Official or designee of the Chief Building Official, who shall not be the Code Enforcement Officer. The date on the notice shall be no earlier than the date on which the notice is mailed or affixed to the newsrack, as the case may be.

(b) Meeting and decision. Any owner or distributor notified under subsection (a) may request a meeting with the Chief Building Official or designee by making a written request therefor within ten (10) business days from the date appearing on the notice. The meeting shall be informal, but oral and written evidence may be given by both sides. The Chief Building Official or designee shall give his or her decision within ten (10) business days after the date of the meeting. Any action by the City to remove the newsrack shall be stayed pending the written decision of the Chief Building Official or designee following the meeting.

(c) Removal and impoundment. The City may remove and impound a newsrack or newsracks in accordance with this section following the written decision of the Chief Building Official or designee upholding the determination of a violation, or if the owner or distributor has neither requested a meeting nor remedied the violation within ten (10) business days from the date on the notice. An impounded newsrack shall be retained by the City for a period of at least thirty (30) calendar days following the removal, and may be recovered by the permittee upon payment of a fee as set forth in the Municipal Fee Schedule. An impounded newsrack and its contents may be disposed of by the City after thirty (30) calendar days.

(d) Summary abatement. Notwithstanding the provisions of subsections (a) and (b), prior notice and an opportunity to be heard shall not be required prior to removal of any newsrack that is installed or maintained in such a place or manner as to pose an immediate or clear and present danger to persons, vehicles or property or any newsrack that is placed in any location without a permit. In such case, the City shall proceed in the following manner:

- (1) Within the next working day following removal, the Chief Building Official or designee shall notify by telephone the permittee or, in the case of an unpermitted newsrack, the owner of the newsrack or a person whose name is shown on the required identification. Within three (3) business days, the Chief Building Official or designee shall send written confirmation of the telephoned notice. The written confirmation shall contain the reasons for the removal and information supporting the removal, and shall inform the recipient of the right to request, in writing or in person, a post-removal meeting within four (4) business days of the date of such written notice.
- (2) Upon timely request, the Chief Building Official or designee shall provide a meeting within forty-eight (48) hours of the request, unless the requesting party agrees to a later date. The proceeding shall be informal, but oral and written evidence may be given by both sides. The Chief Building Official or designee shall give his or her decision in writing to the requesting party within forty-eight (48) hours after such meeting. If the Chief Building Official or designee finds that the removal was proper, he or she shall notify the requesting party to pay any applicable penalties and costs and recover the newsrack. If the Chief Building Official or designee finds that the removal was improper and that placement of the newsrack was lawful, the Chief Building Official or

designee shall order that the newsrack be released and reinstalled without charge.

- (3) If the owner of an unpermitted rack cannot be determined and the rack does not contain the required identification, no notice of the removal shall be required.

9.79.130 Abandoned Newsracks.

An abandoned newsrack may be removed by the City and impounded, pursuant to the notice and hearing procedures set forth in Section 9.79.120. The City may dispose of the newsrack if the permittee does not claim the newsrack and pay any required fees within thirty (30) days of its removal.

SECTION 3. Section 9.48.020 of the Palo Alto Municipal Code is hereby amended to read as follows:

9.48.020 Unlawful acts--Exceptions.

(a) No person shall place or cause to be placed anywhere upon any street or sidewalk, and no person owning, occupying or having control of any premises, shall suffer to remain in front thereof upon the sidewalk of the street next to such premises, anything which shall restrict the public use thereof.

(b) This section shall not apply to:

- (1) Goods or merchandise in actual course of receipt, delivery or removal.
- (2) Lamp posts or hydrants erected by permission of the city engineer.
- (3) Ornamental trees planted along outer line of the sidewalk and within the curb, and barriers for the protection of the same.
- (4) Materials used in the construction or repair of any building during the existence of a written permit issued by the city engineer.
- (5) Parking and directional signs erected by authority of the council.
- (6) Newsracks for which a required permit has been obtained in accordance with Chapter 9.79.
- (7) Chairs, benches, or tables placed pursuant to, and in compliance with the terms and conditions of, a valid encroachment permit.
- (8) A special sales event involving the display, exhibition, advertisement, or sale of merchandise, goods, or wares upon a portion of the public sidewalk in such a fashion as to not prevent or render hazardous the passage of pedestrians, and not exceeding fifty percent of the width of each sidewalk and held in an area of the city in which not less than one-half of the frontage thereof is in a commercial or industrial zone and to which a

majority of proprietors of the businesses thereof within each particular area affected nearby have consented, and which is sponsored solely by such proprietors or an organization to which they belong. Such special sales events must be authorized pursuant to a valid encroachment permit, and shall not exceed three consecutive days nor occur in the same block more than twice in any one calendar year. Exhibition, display, advertising, or sale of merchandise, wares and goods is prohibited except by those persons occupying business premises immediately adjacent to the area in which such exhibition, display, advertisement, or sale is to occur.

SECTION 4. Ordinance No. 4329 is hereby repealed.

SECTION 5. Severability. If any section, subsection, sentence, clause, phrase, word, or portion of the chapter enacted by Section 2 of this ordinance is, for any reason, held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the chapter. The City Council declares that it would have adopted the chapter and each section, subsection, sentence, clause, phrase, word, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, words or portions, be declared invalid or unconstitutional.

SECTION 6. The City Council finds that this project (newsrack ordinance) is exempt from the provisions of the Environmental Quality Act ("CEQA") pursuant to Section 15061 (b)(3) of the CEQA Guidelines, because it can be seen with certainty that there is no possibility that this project will have a significant effect on the environment. The ordinance establishes regulations that will be followed in the issuance of ministerial permits and in code enforcement activities. The Council has approved a Negative Declaration for a companion project, referred to as "Downtown Urban Design Improvements Master Plan," pursuant to which certain public improvements, including containers for newsracks, will be constructed in the Downtown Commercial Area, as said area is designated by this ordinance.

SECTION 7. This ordinance shall become effective upon the commencement of the thirty-first day after the date of its adoption; provided, that the regulations enacted by Sections 9.79.030, 9.79.040, 9.79.060, 9.79.070, and subsection (a) of Section 9.79.050, shall be effective on April 5, 1999; and provided further, that the provisions of subsection (b)(1) of Section 9.70.080 shall not be enforced in the Downtown Commercial Area until the Special Newsrack Containers to be furnished by the City.