

ORDINANCE NO. 2228

AN ORDINANCE OF THE CITY OF REDLANDS  
ADDING CHAPTER 8.70 TO THE REDLANDS  
MUNICIPAL CODE RELATING TO THE  
REGULATION OF NEWSRACKS

THE CITY COUNCIL OF THE CITY OF REDLANDS DOES ORDAIN AS  
FOLLOWS:

Section 1. Chapter 8.70 is hereby added to the Redlands  
Municipal Code to read as follows:

"CHAPTER 8.70

Regulation of Newsracks Within City Limits

NEWSRACKS

8.70.010 PURPOSE  
8.70.020 DEFINITIONS  
8.70.030 PROHIBITION  
8.70.040 REGISTRATION  
8.70.050 STANDARDS  
8.70.060 IDENTIFICATION  
8.70.070 VIOLATIONS  
8.70.080 HARMFUL MATTER  
8.70.090 APPLICABILITY  
8.70.100 INFRACTION  
8.70.110 HOLD HARMLESS  
8.70.120 INSURANCE

8.70.010 PURPOSE

The City Council finds that it is in the interest of public health, safety and welfare of the citizens of Redlands to regulate the location, size and appearance of newsracks within City limits. The City Council further finds that without such regulation, such newsracks may pose a hazard to public safety. The City Council finds that the regulation and registration of location, size and appearance of newsracks will minimize any potential danger to the public safety.

Further, the City Council finds that it is in the interest of public health, safety and welfare of the citizens of Redlands to protect minors from viewing publicly displayed harmful matter, and that pursuant to Penal Code Section 313.1(d), and (e) the City is authorized to adopt ordinances which restrict the display of harmful matter to minors by the use of blinder racks. The City Council also finds that there exists an increasing trend toward the display of harmful matter, within the meaning of Penal

Code Section 313, within newsracks within the City of Redlands, and that restriction of public display of such harmful matter will keep the adverse impacts of such harmful matter upon minors to a minimum. This Chapter is enacted for the purposes of minimizing potential dangers to public safety and reducing the adverse impacts of harmful matter upon minors.

#### 8.70.020 DEFINITIONS

Definitions as used in this section:

(a) "Newsracks" shall mean any self-service or coin-operated box, container, storage unit or other dispenser installed, used, or maintained for the display and sale of newspapers or news periodicals.

(b) "Street" shall mean all that area dedicated to public use for public street purposes and shall include, but not be limited to, roadways, parkways, alleys and sidewalks.

(c) "Roadway" shall mean that portion of a street improved, designed, or ordinarily used for vehicular travel.

(d) "Parkway" shall mean that area between the sidewalks and the curb of any street, and where there is no sidewalk, that area between the edge of the roadway and the property line adjacent thereto. Parkway shall also include any area within a roadway which is not open to vehicular travel.

(e) "Sidewalk" shall mean any surface provided for the primary use of pedestrians.

#### 8.70.030 PROHIBITIONS

(a) No person shall install, use or maintain any newsrack or other structure which projects onto, into or over any part of the roadway of any public street, or which rests, wholly or in part, upon, along or over any portion of the roadway of any public street.

(b) No person shall install, use or maintain any newsrack which in whole or in part rests upon, in or over any public sidewalk or parkway, when such installation, use or maintenance endangers the safety of persons or property, or when such site or location is used for public utility purposes, public transportation purposes or other governmental use, or when such newsrack unreasonably interferes with or impedes the flow of pedestrian or vehicular traffic, including any legally parked or stopped vehicle, the ingress into or egress from any residence or place of business, or the use of poles, posts, traffic signs or signals, hydrants, mailboxes, or other objects permitted at or near said location, or when such newsrack interferes with the cleaning

of any sidewalk by the use of mechanical sidewalk cleaning machinery.

8.70.040 REGISTRATION OF LOCATION/PERMIT

(a) No person shall install or maintain any newsrack which in whole or in part rests upon, in or over any public sidewalk or parkway without first obtaining a permit from the Director of Community Development or his designated representative after providing the following:

(1) A site plan/plot plan, which shows that the design, dimension, materials and location of each newsrack to be installed or maintained in the City under the application meet the standards in this Chapter; and

(2) The name, address and telephone number of the applicant.

(b) No more than one notification shall be required per applicant, regardless of the number of newsracks the applicant maintains in the City.

(c) From the above information the Director of Community Development or his designated representative shall designate locations and shall be guided therein solely by the standards and criteria set forth in Section 8.70.050 hereof. Such application may be granted either in whole or in part when more than one location is proposed by the applicant, and in any event, when denial is solely as to location, it shall be without prejudice to amend such application to state a different location or locations.

(d) A registrant for a location or locations shall report immediately to the Director of Community Development or his designated representative, any change of address of such registrant or any sale or transfer of ownership of newsracks located in the City of Redlands. Any transference of such newsracks shall comply with the provisions of this Section and the provisions of Section 8.70.060.

(e) A permit shall be issued pursuant to this Section without charge to the applicant.

(f) Any permit issued pursuant to this Section is subject to revocation if the newsrack installed does not comply with the site plan/plot plan and other description in the application for the same.

8.70.050 STANDARDS FOR INSTALLATION, MAINTENANCE AND OPERATION

(a) Any newsrack which in whole or in part rests upon, in or over any public sidewalk or parkway shall comply with the following standards:

(1) No newsrack shall exceed forty-eight inches in height, thirty inches in width, or two feet in thickness.

(2) All newsracks will be bolted to the sidewalk per City approval.

(3) Newsracks shall only be placed pursuant to approval by the Director of Community Development or his designated representative near a curb or adjacent to the wall of a building. Newsracks placed near the curb shall be placed no less than eighteen inches nor more than twenty-four inches from the edge of the curb. Newsracks placed adjacent to the wall of a building shall be placed parallel to such wall and not more than six inches from the wall. No newsrack shall be placed or maintained on the sidewalk or parkway opposite a newsstand or another newsrack.

(4) No newsrack shall be chained, or otherwise attached to any property not owned by the owner of the newsrack or to any permanently fixed object without the express permission of the owner of said property.

(5) Newsracks may be chained or otherwise attached to one another; however, no more than three newsracks may be joined together in this manner, and a space of no less than thirty-six inches shall separate each group of three newsracks so attached.

(6) Notwithstanding the provisions of subsection (b) of Section 8.70.050, no newsrack shall be placed, installed, used or maintained:

- (a) Within five feet of any marked crosswalk;
- (b) Within fifteen feet of the curb return of any unmarked crosswalk;
- (c) Within five feet of any fire hydrant, fire call box, police call box or other emergency facility;
- (d) Within ten feet of any driveway;
- (e) Within five feet to the front, and twenty-five feet to the rear of any sign marking a designated bus stop;
- (f) Within six feet of any bus bench;
- (g) At any location where placement of a newsrack would impede the passageway of pedestrians or where the clear space for the passageway of pedestrians is reduced to less than four feet;

- (h) Within fifty feet of any other newsrack containing the same publication;
- (i) Within three feet of any display window of any building abutting the sidewalk or parking or in such a manner as to impede or interfere with the reasonable use of such window for display purposes;
- (j) At any location which would interfere with the sight distance standards for traffic as set in Chapter 200 and Section 405.1 of the CalTrans Highway Design Manual, January 1987 version.

(7) No newsrack shall be used for advertising signs or publicity purposes other than that dealing with the display, sale or purchase of the newspaper or news periodical sold therein.

(8) Each newsrack shall be maintained in a clean, neat and attractive condition and in good repair at all times.

(9) No more than eight newsracks shall be located on any public right-of-way within a space of two hundred feet in any direction within the same block of the same street; provided, however, that no more than sixteen newsracks shall be allowed on any one block. As used herein, "block" shall mean both sides of a street between two consecutive intersecting streets.

(b) In determining which newsracks shall be permitted to remain, the Director of Community Development, or his designated representative, shall be guided solely by the following criteria:

- (1) First priority shall be given to newsracks used for the sale of publications which have been adjudicated to be newspapers of general circulation for San Bernardino County, pursuant to the procedures set forth in Sections 6000, et seq. of the California Government Code.
- (2) Second priority shall be given to newsracks used for the sale of daily publications (those published on five or more days in a calendar week) which have not been adjudicated to be newspapers of general circulation for San Bernardino County.
- (3) Third priority shall be given to newsracks used for the sale of weekly publications (those published on at least

one but less than five days in a calendar week) which have not been adjudicated to be newspapers of general circulation for San Bernardino County.

(c) In the event that there is a conflict between newspapers within the same priority seeking the same location, and there are insufficient newsrack spaces remaining to accommodate the conflicting newspapers after first filling as many spaces as possible by utilizing the criteria set forth above, then the Director of Community Development or his designated representative shall assign the space or spaces at random by placing the names of all applicants for the remaining spaces at a location into a container from which the names shall be drawn, one at a time until the remaining number of unfilled newsracks at that particular location has been filled. Such drawing shall be open to the public at a time and date designated by the Director of Community Development or his designated representative.

#### 8.70.060 NEWSRACKS IDENTIFICATION REQUIRED

Every person or other entity which places or maintains a newsrack on the streets of the City of Redlands shall have his or its name, address and telephone number affixed thereto in a place where such information may be easily seen. Prior to the designation of a location by the Director of Community Development or his designated representative, the applicant shall present evidence of compliance with this section.

#### 8.70.070 NEWSRACK VIOLATIONS

(a) Any newsrack installed, used or maintained in violation of the provisions of this article shall be tagged with a "notice of violation" stating the violation, date of tagging, notice of intention to remove the newsrack if the violation is not corrected within ten days, and procedure for obtaining a hearing before the Director of Community Development or his designated representative, if desired. Such notice of violation shall also be mailed by first class postage to the name and address of the newsrack's registered owner on file with the City.

(b) Notwithstanding subsection (a), in the case of violations of this article relative to restrictions upon attachments of newsracks to property other than that owned by the owner of the newsrack, to fixed objects, or to each other, and upon location of newsracks, the Director of Community Development or his designated representative may, as an alternative to tagging such newsrack, move, align, remove such attachment, or otherwise move such rack or racks in order to restore them to a legal condition.

(c) Any newsrack which has been tagged, and which notice of violation has been mailed to the registered owner on file with the City, which remains in violation of the provisions stated on

the tag after the ten-day correction period has expired, provided no hearing has been requested by the registered owner, said newsrack shall be removed by the Director of Community Development or his designated representative and stored in any convenient place. The Director of Community Development or his designated representative shall notify the owner thereof by mailing a "notice of removal" to the last known address of the owner on file with the City. Such notice shall state the date the newsrack was removed, the reasons therefor, the location and procedure for claiming the newsrack, and the procedure for obtaining a post-removal hearing before the Director of Community Development or his designated representative, if desired. Any such newsrack removed and stored pursuant to these provisions shall be released to the owner thereof if claimed within forty-five days after such removal and upon the payment of reasonable charges of removal and storage therefor. Upon failure of the owner to claim such newsrack and pay the reasonable charges within forty-five days after the mailing of written notice of removal, such newsracks shall be deemed to be unclaimed property in possession of the Department of Public Works and may be disposed of pursuant to the provisions of this code.

(d) Any newsrack in violation of the provisions of this article, and which by such violation creates an immediate danger to the health, safety or welfare of the public, provided such violation cannot be corrected by moving or otherwise repositioning the newsrack, may be summarily removed and stored in a convenient location so as to eliminate the danger to the health, safety and welfare of the public. The Director of Community Development or his designated representative shall notify the owner thereof by mailing a "notice of removal" to the last known address of the owner. Such notice shall state the date the newsrack was removed, the reasons therefor, the location and procedure for claiming the newsrack, and the procedure for obtaining a post-removal hearing before the Director of Community Development or his designated representative, if desired. Any such newsrack removed and stored pursuant to this subsection shall be released to the owner thereof if claimed within forty-five days after the mailing of written notice of removal and upon the payment of reasonable charges of removal and storage.

#### 8.70.080 DISPLAY OF HARMFUL MATERIAL

Any newsrack which contains or offers for sale harmful matter shall place a blinder rack in front of such harmful matter so as to obscure the lower two-thirds of any material displaying harmful matter. For purposes of this section, a wrapper which obscures the lower two-thirds of the material and which is fastened securely to the material may be used in lieu of a blinder rack.

#### 8.70.090 APPLICABILITY TO ALL NEWSRACKS

The provisions of this article shall apply to all newsracks whether installed and maintained prior to or after the

effective date of any of the provisions herein. Those newsracks installed prior to the effective date of any provision enacted hereunder shall be brought into compliance with said provisions within ninety days of the effective date thereof.

Any newsrack not brought into compliance within the aforementioned time period shall be deemed to be in violation of this Chapter.

#### 8.70.100 NEWSRACK VIOLATIONS; INFRACTION

Any act which is prohibited or declared unlawful or the doing of any act which is required, or the failure to do any act which is declared to be unlawful, shall be an infraction, and any person convicted of such infraction is punishable.

#### 8.70.110 HOLD HARMLESS

Every person or other entity which places or maintains a newsrack on a public sidewalk or parkway in the City of Redlands shall file a written indemnification statement with the Director of Community Development or his designated representative which contains the following language or words to that effect:

"Permittee shall indemnify, defend and hold harmless City, its elected officials, officers, employees and agents against and will hold and save them, and each of them, harmless from any and all actions, claims, penalties, obligations, liabilities or damages to persons or property that may be asserted or claimed by any person, firm, entity, corporation, political subdivision or other organization arising out of or in connection with the installation, use or maintenance of a newsrack or newsracks within the City of Redlands.

(a) The permittee will defend any action or actions filed in connection with any of said claims, damages, penalties, obligations or liabilities and will pay all costs and expenses, including attorney fees with an attorney of City's own choosing, incurred in connection therewith.

(b) The permittee will promptly pay any judgment rendered against the permittee and/or the City covering such claims, damages, penalties, obligations and liabilities arising

out of or in connection with the installation, use or maintenance of a newsrack or newsracks within the City of Redlands; and the permittee agrees to save and hold the City harmless therefrom.

(c) In the event City is made a party to any action or proceeding filed or persecuted against the permittee for such damages or other claims arising out of or in connection with the installation, use, or maintenance of a newsrack or newsracks within the City of Redlands, the permittee agrees to pay to the City any and all costs and expenses incurred by City in such actions or proceedings, together with reasonable attorney fees for an attorney of City's own choosing."

#### 8.70.120 INSURANCE

The City requires every person or other entity which places or maintains a newsrack on a public sidewalk or parkway in the City of Redlands to provide proof of insurance as required by current City policy, rule and/or regulations.

#### Section 2. SEVERABILITY

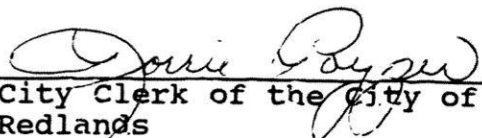
If any provision in this Ordinance, or the application of this Ordinance to any person or circumstance is held to be invalid or void by a court of competent jurisdiction, such invalidity or voidance shall not affect the other provisions or applications which can be given effect without the invalid provision or application; and to this end, the provisions of this Ordinance are required to be severable. This Ordinance shall be liberally construed to achieve the purposes of this Ordinance and to preserve its validity.

Section 3. The Mayor shall sign this Ordinance and the City Clerk shall certify to the adoption of this Ordinance and shall cause it, or a summary of it, to be published once in the Redlands Daily Facts, a newspaper of general circulation within the

City, and thereafter, this Ordinance shall take effect in accordance with law.

  
\_\_\_\_\_  
Mayor, City of Redlands

ATTEST:

  
\_\_\_\_\_  
City Clerk of the City of  
Redlands

I, Lorrie Poyzer, City Clerk of the City of Redlands, hereby certify that the foregoing ordinance was duly adopted by the City Council at a regular meeting thereof held on the 7th day of Sept., 1993, by the following vote:

AYES: Councilmembers Larson, Cunningham, Milson, Foster; Mayor DeMirjyn

NOES: None

ABSTAIN: None

ABSENT: None

  
\_\_\_\_\_  
City Clerk, City of  
Redlands