

1 [Regulation of Newsracks; Amendment of Fixed Pedestal Newsrack Program]

2  
3 **Ordinance amending the San Francisco Public Works Code, Article 5.4, by repealing**  
4 **the existing Section 184.12 and enacting a new Section 184.12 regulating the placement**  
5 **and maintenance of newsracks on public streets, sidewalks and rights-of-way to**  
6 **prohibit freestanding newsracks in specified areas of the City, authorizing the creation**  
7 **of fixed pedestal zones in specified areas of the City, and authorizing the Director of**  
8 **Public Works to select and enter into agreements with vendors to provide and maintain**  
9 **fixed pedestal newsracks.**

10 Note: Additions are *single-underline italics Times New Roman*;  
11 deletions are *strikethrough italics Times New Roman*.  
12 Board amendment additions are double underlined.  
Board amendment deletions are ~~strikethrough normal~~.

13 Be it ordained by the People of the City and County of San Francisco:

14 Section 1. The San Francisco Public Works Code is hereby amended by repealing the  
15 current Section 184.12 and enacting a new Section 184.12, to read as follows:

16 **Section 184.12 FIXED PEDESTAL NEWSRACKS**

17 **Sec. 184.12(a). PURPOSE AND INTENT**

18 *The Board of Supervisors hereby finds and declares:*

19 *(1) The City and County of San Francisco has a substantial interest in promoting the public*  
20 *health, safety, welfare and convenience of its citizens and visitors by ensuring that public streets, public*  
21 *sidewalks and public rights-of-way are not unreasonably obstructed by newsracks, and that newsracks*  
22 *are properly maintained.*

23 *(2) In recent years, the proliferation of newsracks on City streets, and particularly poorly*  
24 *maintained or abandoned freestanding newsracks, have contributed to the congestion of public*  
25 *sidewalks, impeded the flow of pedestrian and vehicular traffic, interfered with the use of streets, public*

1 sidewalks and public rights-of-way, presented hazards to persons and property, contributed to the litter  
2 problems of public sidewalks, and resulted in visual blight.

3 (3) The City and County of San Francisco has a substantial interest in preserving and  
4 protecting its unique visual and aesthetic qualities identified in sections I.5.24 through I.5.25, I.5.32  
5 through I.5.33, and II.4.2 of the San Francisco General Plan. To that end, and consistent with the  
6 Downtown Area Plan of the General Plan (§§ II.1.48 through II.1.50), the City must take steps to  
7 reduce the visual blight, the inconvenience and the hazards associated with unlimited numbers and  
8 designs of newsracks, poorly maintained newsracks and the virtually unrestricted placement of  
9 newsracks on public streets, public sidewalks and public rights-of-way.

10 (4) A six month pilot program employing fixed pedestal newsracks at various locations in  
11 the City has shown that an effective way to reduce the visual clutter and hazards associated with  
12 excessive numbers of newsracks is to prohibit freestanding newsracks in congested areas, and to allow  
13 only fixed pedestal newsracks in these areas.

14 (5) The purpose of this section is to promote the public health, safety and welfare and the  
15 aesthetic qualities of the City by controlling the placement, size, construction and appearance of  
16 newsracks and fixed pedestal units, so as to accomplish the following, to the extent reasonably possible  
17 in compliance with this section and the guidelines:

18 (A) Provide for pedestrian and vehicular safety and convenience;

19 (B) Ensure that there is no unreasonable interference with the flow of pedestrian or  
20 vehicular traffic including ingress into, or egress from, any residence, place of business or public  
21 facility, or any legally parked or stopped vehicles;

22 (C) Ensure compliance with the Americans With Disabilities Act and improve passage for  
23 persons with disabilities by reducing impediments to passage caused by poorly-located newsracks;

24 (D) Provide reasonable access for the safe and efficient use and maintenance of sidewalks,  
25 poles, posts, traffic signs or signals, hydrants, mailboxes, police or fire call boxes, sidewalk elevators,

1 delivery areas, loading zones, transit shelters, curb ramps, parking meters, and locations used for  
2 public transportation services;

3 (E) Reduce visual blight and clutter and litter problems associated with poorly maintained,  
4 improperly located or abandoned newsracks;

5 (F) Protect the unique aesthetic and historical attributes of the City;

6 (G) Advance the economic interests of the City's businesses and residents, including the  
7 interests of those involved in the publication or distribution of newspapers and news periodicals  
8 through newsracks;

9 (H) Respect publications' interests in effective distribution, including by (i) allowing  
10 publications currently distributed from freestanding newsracks to receive distribution space in fixed  
11 pedestal units located at, or as close as reasonably possible to, the locations of such freestanding  
12 newsracks; (ii) allowing publications not currently distributed from freestanding newsracks to receive  
13 distribution space in fixed pedestal units; (iii) allowing the number, locations, and usage of fixed  
14 pedestal units to change over time in response to changing market conditions; and (iv) specifying  
15 reasonable conditions under which paid publications shall have the right to repair, maintain, replace  
16 or otherwise engage in self-help as to specific components of newsrack boxes they occupy that relate to  
17 newsrack box functionality;

18 (I) Provide for streetworthy fixed pedestal units and prompt and effective maintenance,  
19 repair, and replacement of such units, including by providing for expeditious maintenance, repair and  
20 replacement of parts of such units which, if not thus maintained, repaired or replaced, could  
21 significantly impede the effective use of such units for the sales or distribution of publications; and

22 (J) Specify reasonable conditions under which paid publications may elect to have the  
23 Vendor assume responsibility for repair, maintenance, or replacement of coin mechanisms and related  
24 parts of newsrack boxes that those paid publications occupy, and may subsequently revoke such an  
25 election.

1           (6) In adopting this section, the Board of Supervisors is mindful that regulation of  
2 newsracks implicates rights protected by the First Amendment of the United States Constitution and by  
3 Article I, Section 2 of the California Constitution. To that end, the Board of Supervisors directs the  
4 Director of the Department of Public Works, the General Manager of the Municipal Railway, and other  
5 appropriate City officials to interpret and apply this section and the guidelines promulgated under this  
6 section, and to exercise their powers and duties, in a manner consistent with the constitutional rights of  
7 citizens and the regulated community.

8           (7) Use of streets, public sidewalks and other public rights-of-way for distribution of  
9 newspapers may be denied where such use presents a danger to persons or property. Use of these  
10 areas for such purposes may be restricted where it unreasonably interferes with the intended use of the  
11 area or with pedestrian or vehicular traffic, or results in unreasonable levels of visual blight.

12           (8) In recent years, City officials have noticed that a number of newsracks in the City are  
13 placed in inappropriate locations, are abandoned, or are poorly maintained. Many of these newsracks  
14 also end up being used as trash receptacles, causing unsightly and unsanitary clutter and litter.

15           (9) Given the limited space available and the increasing congestion on certain public  
16 sidewalks, streets and public rights-of-way, the City has a substantial interest in devising an approach  
17 to placement of newsracks and fixed pedestal units in those areas that promotes public health, safety  
18 and welfare and the aesthetic quality of the City. This objective may be achieved by creating "fixed  
19 pedestal zones" in highly congested areas or areas that have particular public safety, aesthetic,  
20 historical, or economic concerns. Allowing fixed pedestal units and prohibiting freestanding  
21 newsracks and unauthorized fixed pedestal units in these zones will promote the City's interest in  
22 promoting public safety, reducing visual blight and clutter, protecting the unique aesthetic and  
23 historical attributes of the City, and advancing the economic interests of the City's businesses and  
24 residents by improving the appearance of the area and resulting in better use of space and reduced  
25 congestion, while respecting publication's interests in effective distribution. A reasonable

1 accommodation of these competing interests can be achieved by adoption of this section, which  
2 regulates the placement, size, construction, design, maintenance, and appearance of newsracks and  
3 fixed pedestal units in specified areas.

4 (10) This section is not intended to and does not ban freestanding newsracks on public  
5 sidewalks, streets and public rights-of-way throughout the City. Subject to Section 184.12(c) and the  
6 guidelines, freestanding newsracks may continue to be placed on public sidewalks, streets and public  
7 rights-of-way in areas of the City that are not within fixed pedestal zones created pursuant to this  
8 section, in accordance with Article 5.4, Sections 184 through 184.11, of the San Francisco Public  
9 Works Code and the guidelines promulgated thereunder. Publications also may continue to be  
10 distributed within fixed pedestal zones created pursuant to this section by all authorized means other  
11 than freestanding newsracks.

12 **SEC. 184.12(b). DEFINITIONS.**

13 The definitions contained in section 184.1 shall apply to this section except to the extent such  
14 definitions are inconsistent with the following:

15 (1) “Abandoned newsrack box” means any newsrack box that either remains empty for  
16 more than fifteen (15) business days or contains only outdated issues in violation of the guidelines  
17 promulgated under this section, after the expiration of applicable notice, grace and cure periods. In  
18 case of a labor strike or a temporary and extraordinary interruption of distribution or publication of  
19 the newspaper or other periodical sold or dispensed from that newsrack box, the publication shall  
20 notify the Director in writing in order to avoid having the newsrack box deemed abandoned.

21 (2) A “block face” means the sidewalk between, and including, two contiguous curb corners  
22 without an intervening street or other roadway, excluding driveways.

23 (3) A “curb corner” means the common area formed at the intersection of, and consisting of  
24 the overlap of, two adjacent sidewalks.

1           (4) A "cluster of fixed pedestal units" means two or more fixed pedestal units located such  
2 that each unit is within twenty-five feet (25') of another unit on the same block face.

3           (5) "Director" means the Director of the Department of Public Works or his or her  
4 designated agent or representative.

5           (6) "Fixed pedestal zone" means any area designated by the Director, in accordance with  
6 this section and the guidelines, in which distribution of newspapers through newsracks is restricted to  
7 fixed pedestal units installed in a style and manner approved by the Director.

8           (7) "Fixed pedestal permit" means a permit issued to a publication authorizing the  
9 placement of the publication in one or more newsrack boxes in a fixed pedestal unit in a Fixed Pedestal  
10 Zone.

11           (8) "Fixed pedestal unit" means an assembly which is of a type, design or model approved  
12 by the Director and which contains one or more self-service or coin-operated boxes, containers,  
13 storage units or other dispensers installed, used or maintained for the display and sale or free  
14 distribution of publications, and which is attached to the public sidewalk, street or public right-of-way  
15 in accordance with this section, guidelines promulgated under this section, and any vendor contract.

16           (9) "Freestanding newsrack" means any self-service or coin-operated box, container,  
17 storage unit or other dispenser installed, used or maintained for the display and sale or the distribution  
18 without charge of publications, and which is not a fixed pedestal unit authorized under this section.

19           (10) A "historically present" publication means a publication that, according to the survey  
20 completed most recently before initial implementation of this section in any fixed pedestal zone, was  
21 distributed from at least one freestanding newsrack situated at the area in question. For purposes of  
22 the preceding sentence:

23           (A) "Area" means either a corner area or a midblock area. A "corner area" is that general  
24 portion of a block face that, as reasonably estimated by the Director in the compilation of the survey  
25 without undertaking actual measurement, is no more than thirty-five feet (35') from the edge of the

1 nearest curb corner on that blockface, or, if there is one or more item of street furniture, utilities, or  
2 other fixed obstructions (except freestanding newsracks) within those thirty-five feet (35'), no more  
3 than fifty feet (50') from the edge of the nearest curb corner. A midblock area is that general portion of  
4 a block face that is not a corner area under this subsection.

5 (B) Because freestanding newsracks are often inadvertently moved into locations that are  
6 illegal under City laws or regulations, a freestanding newsrack is "situated" in the area in question  
7 even if it is placed in a location that violates one or more City laws or regulations concerning  
8 freestanding newsrack placement. Notwithstanding the foregoing sentence, no freestanding newsrack  
9 shall support a claim of historical presence, or be counted in any survey of historically present  
10 freestanding newsracks, if it is secured to a tree, tree grate, or tree guard; is secured to or interfering  
11 with a fire hydrant, police or fire call box, or parking meter; or is located in a crosswalk, in any part of  
12 a bus zone save the last fifteen feet (15') thereof, in a blue zone, in any location where it interferes with  
13 a handicapped access ramp, or in any other location where it poses a similar significant threat to  
14 public safety or property.

15 (11) "Initial implementation" means the first stage of implementation of this section  
16 throughout a fixed pedestal zone, and shall include the selection of locations for initial fixed pedestal  
17 units in that zone which are as close as possible to the former locations of freestanding newsracks, in  
18 compliance with this section and the guidelines; the allocation of space within those units to  
19 historically present publications and, if possible, to other interested publications; and the installation  
20 of those units.

21 (12) "Newsrack" means a freestanding newsrack or an unauthorized fixed pedestal unit.

22 (13) "Newsrack box" shall mean the individual space within a fixed pedestal unit that  
23 dispenses one publication, including the door, coin return mechanism and associated hardware.  
24 Except as stated otherwise in this section or the guidelines, if the vendor has split a newsrack box into

1 two separate distribution areas, each such area shall constitute a separate newsrack box. "Newsrack  
2 box" does not include any freestanding newsrack.

3 (14) "Permit holder" means a publication that has been issued one or more fixed pedestal  
4 permits by the Director, or that is otherwise authorized to occupy one or more newsrack boxes.

5 (15) A "petition unit" means a fixed pedestal unit installed pursuant to a petition under  
6 subsection 184.12(g)(3)(B) after initial implementation has occurred throughout the fixed pedestal zone  
7 in question.

8 (16) "Publication" includes all editions of that publication, including but not limited to  
9 morning, evening, or special editions, as well as any editions of that publication published jointly with  
10 another publisher.

11 (17) "Public right-of-way" means land which by deed, conveyance, agreement, easement,  
12 dedication, usage or process of law is reserved and dedicated to the general public for street, highway,  
13 alley, public utility, or pedestrian walkway purposes, whether or not said land has been improved or  
14 accepted for maintenance by the City.

15 (18) "Roadway" means that portion of a public street that is improved or customarily used  
16 for vehicular traffic.

17 (19) "Section" or "this section," or any subsection thereof, means Article 5.4, Section  
18 184.12 of the San Francisco Public Works Code.

19 (20) "Sidewalk" means any public surface or public walkway provided for the exclusive or  
20 primary use of pedestrians.

21 (21) "Street" means all that area dedicated to the public use, including but not limited to  
22 roadways, sidewalks and planter strips.

23 (22) A "survey" means a written enumeration of the freestanding newsracks situated on  
24 public sidewalks and public rights-of-way in one or more portions of the City that (A) states the name  
25 of the publication distributed from each such freestanding newsrack, with such names listed according



1 to survey order; (B) states whether each such freestanding newsrack is situated at a corner area or  
2 midblock area, as reasonably estimated by the Director without undertaking actual measurement; (C)  
3 is conducted after the effective date of this Section; and (D) is accompanied by a contemporaneous  
4 videotape or comparable photographic depiction of such freestanding newsracks that the Director  
5 retains for at least twelve (12) months after initial implementation in that zone is completed. For  
6 purposes of the preceding sentence, "area" and "situated" shall have the meanings set forth in Section  
7 184.12(b)(10).

8 (23) "Survey order" means that the Director, in conducting a survey of freestanding  
9 newsracks situated in a particular area, as defined in Section 184.12(b)(10), shall proceed in the  
10 following order:

11 (A) In surveying a corner area, the Director shall:

12 (i) first survey that group of freestanding newsracks in that area that is located on the  
13 curb side of the sidewalk (as opposed to the property line side of the sidewalk) and is located closest to  
14 the corner. Within that group, the Director shall first survey those freestanding newsracks that face  
15 toward the property line, starting with those closest to the corner, and shall then survey those  
16 freestanding newsracks that do not face toward the property line, starting with those closest to the  
17 corner;

18 (ii) then repeat the process described in subsection (i) immediately above for each other  
19 group of freestanding newsracks in that area that also is located on the curb side of the sidewalk,  
20 proceeding from group to group in order of increasing distance from the corner, until all groups of  
21 freestanding newsracks in that area that are located on the curb side of the sidewalk have been  
22 surveyed;

23 (iii) then repeat the process described in subsection (i) for each remaining group of  
24 freestanding newsracks located in that area (i.e. freestanding newsracks not on the curb side of the  
25

1 sidewalk), proceeding from group to group in order of increasing distance from the corner, until all  
2 groups of freestanding newsracks in that area have been surveyed.

3 (B) In surveying a midblock area, the Director shall:

4 (i) first survey that group of freestanding newsracks in that area that is located on the  
5 curb side of the sidewalk and that a vehicle moving on that side of the street would first encounter.  
6 Within that group, the Director shall first survey those freestanding newsracks that face toward the  
7 property line, proceeding from newsrack to newsrack in the direction in which vehicular traffic on that  
8 side of the street moves, and shall then survey those freestanding newsracks that do not face toward the  
9 property line, again proceeding from newsrack to newsrack in the direction in which vehicular traffic  
10 on that side of the street moves;

11 (ii) then repeat the process described in subsection (i) immediately above for each other  
12 group of freestanding newsracks in that area that also is located on the curb side of the sidewalk,  
13 proceeding from group to group in the direction in which vehicular traffic on that side of the street  
14 moves, until all groups of freestanding newsracks in that area that are located on the curb side of the  
15 sidewalk have been surveyed;

16 (iii) then repeat the process described in subsection (i) for each remaining group of  
17 freestanding newsracks located in that area, proceeding from group to group in the direction in which  
18 vehicular traffic on that side of the street moves, until all groups of freestanding newsracks in that area  
19 have been surveyed.

20 (24) "Unauthorized fixed pedestal unit" means an assembly containing one or more self-  
21 service or coin-operated boxes, containers, storage units or other dispensers installed, used or  
22 maintained for the display and sale or free distribution of publications, and which is attached to the  
23 public sidewalk, street or public right-of-way in a fixed pedestal zone, which is not authorized pursuant  
24 to a vendor contract.

1           (25) "Vendor" means any individual or entity that has entered into an agreement with the  
2 Director, or any agent thereof, to provide, install and maintain fixed pedestal units pursuant to this  
3 section.

4           (26) "Vendor contract" means any agreement between the Director and a vendor pursuant  
5 subsection 184.12(d)(3).

6           **SEC. 184.12(c). SCOPE.**

7           The requirements of this section shall apply to all fixed pedestal units, unauthorized fixed  
8 pedestal units, newsrack boxes and freestanding newsracks located within fixed pedestal zones  
9 designated by the Director in accordance with subsection 184.12(f) or within fifteen feet (15') of any  
10 fixed pedestal unit that is located in such a zone. To the extent any provision in sections 184 through  
11 184.11 is in conflict or inconsistent with this section, it is the Board of Supervisors' intention that this  
12 section shall control in any fixed pedestal zone or within fifteen feet (15') of any fixed pedestal unit that  
13 is located in such a zone.

14           **SEC. 184.12(d). GUIDELINES, FEES, AND AUTHORITY OF DIRECTOR.**

15           (1) Promulgation of Guidelines.

16           (A) The Director is hereby authorized and directed to promptly promulgate guidelines  
17 consistent with the provisions of this section controlling the selection of locations for, as well as the  
18 placement, size, construction, design, methods of attachment, appearance, and maintenance and repair  
19 of, fixed pedestal units and newsrack boxes in fixed pedestal zones. The guidelines shall also contain  
20 procedures for establishing or amending fixed pedestal zones, for determining access by publications to  
21 fixed pedestal units, and for obtaining fixed pedestal permits. The guidelines may also set maximum  
22 density levels for fixed pedestal units in fixed pedestal zones, including different levels for commercial  
23 and residential areas of the City.

24           (B) In promulgating guidelines, the Director's decisions shall be consistent with the purpose of  
25 this section, as set forth in subsection 184.12(a)(5)(A)-(J).

1           (C) The guidelines shall be adopted by way of a Department of Public Works order signed  
2 by the Director after giving due consideration to the recommendations of the Newsrack Advisory  
3 Committee. The provisions of this section governing fixed pedestal units, access to fixed pedestal units  
4 by publications, and prohibiting freestanding newsracks and unauthorized fixed pedestal units in fixed  
5 pedestal zones shall not be implemented or enforced until the guidelines specified in this paragraph are  
6 in effect and notice of the effective date has been published in the City's official newspaper.

7           (2) Procedures for Adopting or Amending Guidelines.

8           Prior to adopting or amending the guidelines the Director shall publish notice in the City's  
9 official newspaper of the Director's intent to adopt or amend the guidelines. Copies of the proposed or  
10 amended guidelines shall be made available to the public upon request.

11           (3) Authority to Contract for Services.

12           The Director is hereby authorized to select and enter into an agreement with a vendor or  
13 vendors to provide for the installation and maintenance of fixed pedestal units in accordance with this  
14 section. Any such agreement shall include, in addition to any other provisions required by applicable  
15 City laws or by guidelines adopted by the Director pursuant to subparagraph (1), the following  
16 requirements:

17           (A) the vendor shall provide for streetworthy fixed pedestal units, and shall be responsible  
18 for installing and promptly and effectively maintaining the condition and appearance of, and repairing  
19 and replacing, all fixed pedestal units and newsrack boxes subject to the agreement (except for  
20 responsibilities which are the obligation of the permit holder pursuant to subsection 184.12(i)) in  
21 accordance with the terms of the agreement and the requirements of this section;

22           (B) the vendor shall provide a way to disable and render inoperative any newsrack box that  
23 is found by the Director to be in violation of this section by means such as a locking plate over the  
24 offending newsrack box. The vendor(s) shall agree to disable any such newsrack boxes within 24 hours  
25 of receiving notice to do so from the Director;

1           (C) a statement in accordance with section 6.63-1 of the San Francisco Administrative Code  
2 that the vendor has a clear and unequivocal understanding that a possessory interest subject to  
3 taxation may be created by the agreement and the vendor shall pay any and all possessory interest  
4 taxes levied upon the vendor's interest therein pursuant to an assessment lawfully made by the  
5 Assessor;

6           (D) the vendor shall furnish evidence of insurance that is satisfactory to the City Risk  
7 Manager, and that names the City as an additional insured;

8           (E) the vendor shall have no authority to make determinations concerning where fixed  
9 pedestal units will be located, or concerning which publications shall have access to a fixed pedestal  
10 unit;

11           (F) where the Director intends to allow the vendor to place advertising on the back of one  
12 or more fixed pedestal units authorized under this section, the agreement shall set forth the  
13 requirements applicable to such advertising, including the requirements set forth in subsection  
14 184.12(i)(1)(F);

15           (G) the vendor shall provide a reasonable opportunity for paid publications to elect to have  
16 the vendor assume responsibility for repair, maintenance, or replacement of coin mechanisms and  
17 related parts of newsrack boxes that those paid publications occupy, and to subsequently revoke such  
18 an election;

19           (H) the vendor shall specify reasonable conditions under which publications shall have the  
20 right to repair, maintain, replace or otherwise engage in self-help as to specific components of  
21 newsrack boxes they occupy, and to obtain reimbursement for certain repair, maintenance, or  
22 replacement;

23           (I) the vendor shall provide for installation of reasonable security features to protect the  
24 integrity of the fixed pedestal units, including any coin mechanisms and associated hardware;

1           (J) the vendor shall allow paid publications, at their own cost, to change the coin  
2 mechanism in newsrack boxes they occupy, subject to reasonable notice and procedures, to adapt to  
3 changing technology and advances;

4           (K) the vendor shall maintain and display a "hotline" telephone number on the fixed  
5 pedestal units authorized by the vendor contract;

6           (L) the vendor shall reasonably retain information as to complaints concerning and repairs  
7 to each newsrack box in each fixed pedestal unit authorized by the vendor contract and make such  
8 information available, reasonably promptly, to the publication occupying each such newsrack box and  
9 to the Director;

10           (M) the vendor shall provide a way to split newsrack boxes into two separate distribution  
11 areas for the distribution of publications that are distributed free of charge; and

12           (N) the vendor shall be responsible for the installation, repair and replacement of price  
13 plates, if any, including installation, repair and replacement necessitated by a change in the price of a  
14 publication.

15           (O) The current provisions of the "First Amended and Restated Pedestal-Mounted Newsrack  
16 Agreement By and Between the City and County of San Francisco and Clear Channel Adshel, Inc."  
17 satisfy the current requirements of this section concerning Vendor contracts, as of the date of the City's  
18 approval and authorization of said agreement, including the requirements listed at Section  
19 184.12(d)(3)(A)-(N), above. In the event of any disagreement, interpretive issue, ambiguity, or silence  
20 in respect to the terms of this section and said agreement, said agreement, except as to any amendment,  
21 modification or supplement to either or both the agreement or this section, shall control the rights and  
22 obligations of the Vendor under said agreement, whose fulfillment of the current provisions of said  
23 agreement shall constitute compliance with this section.

24           (4) Content-Based Discrimination Prohibited.  
25

1           The Director shall not consider the content or viewpoint of the material to be distributed  
2 through fixed pedestal units in administering or enforcing this section, or in adopting or implementing  
3 guidelines pursuant to this section. Nothing in this paragraph shall be construed as limiting the  
4 authority of the Director to require blinder racks for adult-oriented publications in accordance with  
5 subsection 184.12(i).

6           (5) Newsrack Advisory Committee.

7           The Director is hereby authorized and directed to establish a Newsrack Advisory Committee  
8 consisting of 11 members. The Newsrack Program Manager of the Department of Public Works shall  
9 be a voting member, and shall chair the Committee. The Director shall appoint to the Committee  
10 persons drawn from, or having expertise in, the newspaper, news and/or commercial periodical, and  
11 distributing industries in the City, and/or drawn from neighborhood and merchant groups, and other  
12 interested members of the public. The number of Committee members who are representatives of  
13 publishers and/or distributors shall equal the number of Committee members who are representatives  
14 of neighborhood and/or merchant groups. The Director shall endeavor to include on the Committee  
15 representatives of paid and unpaid publications and of more and less frequently published publications.  
16 The Committee shall advise the Director in the implementation and administration of this section;  
17 resolve disputes concerning the locations of fixed pedestal units, to the extent consistent with this  
18 section and the guidelines; and minimize the cost to the City of the implementation and administration  
19 of this section. No vendor or agent or employee of a vendor may serve on the Committee. Committee  
20 members shall serve at the pleasure of the Director for a term of one year, and may be reappointed to  
21 additional terms. The Committee shall hold regularly-scheduled meetings, with notice posted in the  
22 City's official newspaper.

23           (6) Fees.

24           (A) The Director is hereby authorized and directed to establish and collect an annual permit  
25 fee to be paid by each permit holder. This fee is initially established at \$30 for each newsrack box.

1 including each split newsrack box. The Director has determined that this fee is not expected to  
2 generate proceeds in excess of the costs anticipated to be incurred in implementing this section during  
3 the first year that this section is in effect. In future years, the anticipated annual revenue from this fee  
4 shall not exceed the actual costs incurred by the Director for implementation, administration and  
5 enforcement of the program during the preceding twelve (12) months. The fee shall only be used to  
6 cover such costs, and not as a revenue-generating source for the City. The fee adopted pursuant to this  
7 provision shall be uniformly imposed upon all permit holders based upon the number of newsrack  
8 boxes authorized for each permit holder. The fee shall not exceed the pro-rata share allocated to each  
9 newsrack box of the actual costs incurred in implementing, administering, and enforcing the program  
10 established under this section.

11 (B) The fee shall be reviewed annually by the Director, who shall propose to the Board of  
12 Supervisors any recommended adjustments, along with written justification for the adjustment and any  
13 necessary legislation. In any year where the Director anticipates that the revenue from fees will exceed  
14 the estimated administrative costs, less penalties, during that year, the Director shall recommend an  
15 adjustment reducing the fee. Where the proceeds from the fee are less than the estimated costs of  
16 program administration, less penalties, the Director may recommend an adjustment. In proposing  
17 adjustments, the Director shall take into account the anticipated penalties and other charges to be  
18 collected from violators during the forthcoming year. These proceeds shall be used to offset program  
19 administration and enforcement costs that would otherwise be defrayed by fees imposed during the  
20 forthcoming year so that the fees, including any surplus from the prior year, do not exceed the  
21 projected actual costs of administering the program. For any year in which the fee proceeds exceed  
22 actual administration, inspection and abatement expenses, such surplus shall be taken into account in  
23 fixing the fee for the subsequent year.

24 **SEC. 184.12(e). PERMIT REQUIREMENT.**

25 (1) Fixed Pedestal Permit.



1 Permits are necessary to facilitate the regulation and inspection of newsrack boxes for the  
2 purposes set forth in this section. Except where this section or the guidelines expressly provide  
3 otherwise, no person may place any publication in any newsrack box in a fixed pedestal unit on a  
4 public sidewalk, street or public right-of-way in a fixed pedestal zone for the purpose of sale or  
5 distribution without having first obtained from the Director a fixed pedestal permit authorizing  
6 placement of the publication in that newsrack box.

7 (2) Duty to Obtain Permit.

8 Except where this section or the guidelines expressly provide otherwise, each publication  
9 seeking access to a newsrack box or boxes in a fixed pedestal unit or cluster of fixed pedestal units  
10 shall apply to the City for a fixed pedestal permit for each newsrack box in each fixed pedestal unit to  
11 which the publication seeks access. The permit holder shall be responsible for the payment of all fees  
12 or penalties due or imposed under this section with respect to that permit holder's newsrack box(es).  
13 Once a permit has been granted pursuant to this section and the requirements of the guidelines, and if  
14 the permit has not subsequently been revoked, the permit holder shall not be required to renew or  
15 reapply for another fixed pedestal permit for the same newsrack box.

16 (3) Application.

17 Application for a fixed pedestal permit shall be made in writing on a form and in a manner  
18 provided by the City and filed with the Director or by other medium approved by the Director. The  
19 application package shall inform the applicant of the requirements of this section and the guidelines  
20 promulgated under this section.

21 (4) Permit Issuance.

22 (A) The Director shall grant or deny a properly completed and timely application for a fixed  
23 pedestal permit from a publication, or from the agent for a publication, accompanied by written  
24 authorization from the publication, along with the required fee, as specified in the guidelines, within  
25 fifteen (15) business days of the Director's receipt of the application. However, if the Director has not

1 completed the application of the space allocation procedures set forth in subsection 184.12(h) and the  
2 guidelines, the Director shall have an additional five (5) business days to grant or deny the application.

3 (B) The Director shall issue the fixed pedestal permit unless the Director finds one or more of  
4 the following grounds for denial to exist, in which case the Director shall deny the application for a  
5 permit. The grounds for denial of an application for a fixed pedestal permit are: (i) the application is  
6 incomplete; (ii) the application was not submitted on time; (iii) the required fee was not submitted on  
7 time; (iv) space in the newsrack box that is the subject of the application is not available after  
8 application of the space allocation procedures set forth in subsection 184.12(h) and the guidelines; or  
9 (v) the publication that applied for the permit has failed to pay any outstanding administrative penalties  
10 levied against it pursuant to subsection 184.12(k)(1)(A).. If an application is denied, the Director shall  
11 notify the applicant promptly in writing, explaining the reasons for the denial, and citing the relevant  
12 portions of this subsection and the guidelines.

13 (5) Violations.

14 Failure to comply with any requirement of this section, or any requirement of the guidelines  
15 authorized by this section, shall constitute a violation of this section. Any such violation may be cause  
16 for removal of the offending freestanding newsrack or unauthorized fixed pedestal unit, or disabling of  
17 the offending newsrack box pursuant to subsection 184.12(j), and for the imposition of administrative  
18 penalties pursuant to subsection 184.12(k).

19 (6) Permit Revocation.

20 (A) The Board of Supervisors specifically determines that any fixed pedestal permit issued  
21 pursuant to this section confers a non-transferable, revocable privilege upon the permit holder. Where  
22 one or more of the grounds for revocation specified in subparagraph (B) exist, the Director shall  
23 promptly initiate such revocation in order to ensure that space in the fixed pedestal unit is made  
24 available to another publication that will lawfully use it, including publications that did not receive  
25 such space during initial implementation in the fixed pedestal zone in which the fixed pedestal unit in

1 question is located. Any such permit may be revoked by the Director fifteen (15) business days after the  
2 Director provides written notice to the permit holder that one or more of the grounds for revocation  
3 specified in subparagraph (B) exist, if the permit holder does not correct all of the violations on or  
4 before the close of the fifteenth (15th) business day. If the permit is revoked, the Director shall notify  
5 the permit holder promptly in writing, explaining the reasons for the revocation, and citing the relevant  
6 portions of this subsection and the guidelines.

7 (B) The grounds for revocation of a fixed pedestal permit are: (i) the permit holder did not  
8 submit the required annual fee on time; (ii) the newsrack box that is the subject of the permit has been  
9 vacated pursuant to subsection 184.12(j)(3)(D); (iii) the newsrack box that is the subject of the permit  
10 has been abandoned pursuant to subsection 184.12(b)(1); or (iv) the Director's decision to grant the  
11 permit was successfully challenged by a person aggrieved by the determination pursuant to  
12 subsection 184.12(m) and the guidelines. In addition, the Board of Supervisors may at any time in its  
13 exclusive legislative discretion elect to repeal or amend this section and thereby render null and void  
14 any permits issued pursuant this section.

15 **184.12(f). ESTABLISHMENT OF FIXED PEDESTAL ZONES.**

16 **(1) Fixed Pedestal Units Restricted.**

17 No person shall place, operate or maintain a fixed pedestal unit on any public street, public  
18 sidewalk or public right-of-way located in a fixed pedestal zone except in accordance with a vendor  
19 contract.. Any unauthorized fixed pedestal unit which in whole or in part is attached to or rests upon a  
20 public street, public sidewalk or public right-of-way located in a fixed pedestal zone shall be subject to  
21 impoundment pursuant to subsection 184.12(j). The owner of any unauthorized fixed pedestal unit  
22 properly impounded by the Director under subsection 184.12(j) shall be responsible for restoring the  
23 sidewalk to its original condition by replacing the concrete or other material in accordance with  
24 Section 703.2 of the Public Works Code.

25 **(2) Freestanding Newsracks Prohibited.**

1           No person shall place, operate or maintain a freestanding newsrack on any public street, public  
2 sidewalk or public right-of-way located in a fixed pedestal zone, or located within fifteen feet (15') of  
3 any fixed pedestal unit that is located in a fixed pedestal zone. Any freestanding newsrack which in  
4 whole or in part or rests upon a public street, sidewalk or right-of-way located in a fixed pedestal zone,  
5 or located within fifteen feet (15') of any fixed pedestal unit that is located in a fixed pedestal zone,  
6 shall be subject to impoundment pursuant to subsection 184.12(j).

7           (3) Fixed Pedestal Zones.

8           (A) The Director is authorized to establish one or more fixed pedestal zones within the City  
9 subject to the following requirements:

10           (i) The Director shall determine the location of fixed pedestal zones in compliance  
11 with, and consistent with the purpose and intent of, this section and the guidelines. Subject to  
12 subsection 184.12(f)(3)(A)(iii), such zones generally shall be established only in areas of the City which  
13 have one or more of the following: extensive public transit service, usage, and/or facilities; large  
14 concentrations of freestanding newsracks; or large numbers of pedestrians.

15           (ii) The Director shall not establish a fixed pedestal zone in any area of the City  
16 unless, within the immediately preceding twenty-four (24) months, the Director has completed a survey  
17 of that area and made that survey publicly available reasonably promptly upon its completion, and no  
18 later than the establishment of the fixed pedestal zone. Each such survey shall be completed  
19 reasonably promptly after it is begun.

20           (iii) Where a fixed pedestal zone would not otherwise contain sufficient space to  
21 install fixed pedestal units sufficient to accommodate those publications which the survey shows to be  
22 historically present in that zone, in accordance with this section and the guidelines, the Director shall  
23 establish or amend the zone to include adjoining portions of intersecting side streets, or adjacent  
24 portions of the street on which the zone was established (including, where the zone was established  
25

1 only on one side of a street, portions of the other side of that street), as necessary to increase the space  
2 available in the zone for fixed pedestal units to accommodate such publications, if reasonably possible.

3 (iv) Except as this section or the guidelines provide otherwise, the Director shall  
4 establish fixed pedestal zones following consultation with the Newsrack Advisory Committee. Each  
5 zone shall be deemed established as of the date the Director publishes notice of the zone's location in  
6 the City's official newspaper following such consultation.

7 (B) Subject to the requirements of this section, the guidelines, and any vendor contract,  
8 initial implementation of this section within each fixed pedestal zone shall begin promptly after the  
9 Director establishes that zone. All aspects of initial implementation that require information contained  
10 in a survey, including the selection of fixed pedestal unit locations or the initial allocation of space in  
11 fixed pedestal units to historically present publications, shall only occur on the basis of a survey that  
12 was completed no more than twenty four (24) months earlier.

13 (C) Not later than twelve (12) months after the Director first implements this section  
14 pursuant to subsection 184.12(l), and at least once every two (2) years thereafter, the Director shall  
15 issue a report in writing to the Board of Supervisors. This report shall address the implementation of  
16 this section, inform the Board of the effectiveness of the existing Fixed Pedestal Zones, and make any  
17 recommendations and include proposed legislation regarding changes that the Director believes are  
18 necessary, including, without limitation, any changes believed necessary to ensure that publications  
19 that did not receive space in fixed pedestal units in initial implementation are subsequently able to  
20 receive such space.

21 **184.12(g). LOCATIONS AND PLACEMENT OF FIXED PEDESTAL UNITS.**

22 **(1) General.**

23 (A) All fixed pedestal units within a designated fixed pedestal zone shall be of a design  
24 designated by the Director and approved by the Art Commission pursuant to its authority under City  
25

1 Charter Section 5.103. The Director shall consider the factors set forth in subsection 184.12(a)(5) in  
2 selecting designs for fixed pedestal units.

3 (B) The Director shall monitor the installation and maintenance of fixed pedestal units and  
4 newsrack boxes in fixed pedestal zones.

5 (2) Selection of Fixed Pedestal Unit Locations.

6 (A) Initial Units. During initial implementation in each fixed pedestal zone, the locations of  
7 fixed pedestal units in that zone shall be selected so that, to the extent reasonably possible and in  
8 compliance with this section and the guidelines, (i) publications that are historically present at corner  
9 areas (as defined in Section 184.12(b)(10)) may receive space in fixed pedestal units located in that  
10 zone as close as reasonably possible to, and no more than seven feet (7') from, the curb corner,  
11 excluding space taken up by intervening street furniture; (ii) publications that are historically present  
12 at midblock areas (as defined in Section 184.12(b)(10)) may receive space in fixed pedestal units in that  
13 zone located as close as possible to the midblock locations of their former freestanding newsracks; and  
14 (iii) the number of newsrack boxes at each fixed pedestal unit location equals the number of  
15 freestanding newsracks historically present at each such location. Notwithstanding the foregoing  
16 sentence, initial implementation, including the selection of fixed pedestal unit locations, in a fixed  
17 pedestal zone may occur even if the objectives stated subsections (i), (ii), and/or (iii) of the foregoing  
18 sentence cannot be wholly achieved, in which case those objectives will be achieved to the extent  
19 reasonably possible consistent with this section and the guidelines. Fixed pedestal unit locations shall  
20 be selected in accordance with the requirements of the guidelines and with the following requirements:

21 (i) Each publication shall have a reasonable opportunity to submit a proposal (a  
22 "plan") to the Director proposing fixed pedestal units at locations situated pursuant to Section  
23 184.12(g)(2)(A), at which the publication is historically present within the fixed pedestal zone,  
24 according to the survey. If at least three-quarters (3/4) of the publications that are historically present  
25 at a location in the survey do not collectively submit a single plan concerning that location, the

1 Director may select a location or locations for fixed pedestal units to replace the freestanding  
2 newsracks at that location in accordance with Section 184.12(g)(2)(A). Any plan submitted by any  
3 publication(s) may include one or more proposed locations.

4 (ii) The Director may amend or reject all or part of a plan submitted by at least  
5 three-quarters (3/4) of the publications that are historically present at a particular survey location only  
6 if the plan fails to comply with this Section and the guidelines. If the Director amends or rejects all or  
7 part of such a plan, he shall explain the basis for the amendment or rejection in writing, citing the  
8 portions of this Section and/or the guidelines upon which he relies, and shall afford those publications  
9 a reasonable opportunity to revise their plan to address the grounds for such amendment or rejection.  
10 If those publications do not do so, the Director may determine the locations of fixed pedestal units as to  
11 which he amended or rejected the publishers' plan provided such determination is in compliance with  
12 this Section and the guidelines.

13 (iii) If at least three-quarters (3/4) of the publications that are historically present at  
14 a particular survey location revise their plan to address the grounds for the Director's amendment or  
15 rejection thereof within a reasonable time, and those publications and the Director cannot agree on  
16 locations for fixed pedestal units in the zone following such revisions, the locations in dispute may be  
17 resolved by the Newsrack Advisory Committee in accordance with all requirements of this section, the  
18 guidelines, and the vendor contract, if and only if the Director receives a request for such Newsrack  
19 Advisory Committee review submitted by at least three-quarters (3/4) of the publications that are  
20 historically present at the survey location in dispute. The Committee's determination (or, if the  
21 Committee fails to promptly decide, the Director's most recent determination) shall constitute the  
22 City's final administrative determination. Any party may bring a court reporter to any such Committee  
23 meeting and record a transcript of the meeting.

24 (B) Petition Units. After initial implementation within a fixed pedestal zone has been  
25 completed, any publication may submit a petition to the Director requesting the installation of an

1 additional fixed pedestal unit be installed at a location specified in the petition. Other interested  
2 publications may submit a proposal for the location of the petition unit to the Director. If the Director  
3 receives a proposal for the location of the petition unit from at least three-quarters (3/4) of the  
4 interested publication (including the petitioner) that complies with this section and the guidelines, the  
5 location set forth in such proposal shall be the proposed location for purposes of locating the petition  
6 unit. If the Director does not receive such a proposal, the location proposed in the petition shall be the  
7 proposed location for purposes of locating the petition unit. The location of each petition unit shall be  
8 determined in accordance with procedures contained in the guidelines. If the location as thereby  
9 determined is consistent with the requirements of this section and the guidelines, the Director shall  
10 authorize the installation of the fixed pedestal unit at the specified location. The Director shall deny  
11 any petition under this paragraph that would violate the maximum density levels set forth in the  
12 guidelines, or that would cause the total number of fixed pedestal units to exceed the number of fixed  
13 pedestal units available under any vendor contract. However, the Director shall not deny any petition  
14 that complies with Section 184.12 and the guidelines on the ground that one or more fixed pedestal  
15 units are being held in reserve.

16 (C) Relocated Units. In the event that the vendor initiates relocation of any fixed pedestal  
17 unit due to excessive repair costs pursuant to the vendor contract, the Director shall promptly select the  
18 location to which the unit shall be relocated and reconfigure the fixed pedestal zone to exclude the area  
19 from which the fixed pedestal unit is being relocated, as set forth in the guidelines. The Director shall  
20 maintain a list of potential locations for such purpose.

21 (D) Reserve Units. To accommodate the installation of additional fixed pedestal units after  
22 initial implementation, and to respond to changing conditions and publications that may seek  
23 distribution space in fixed pedestal units in the future, the Director shall implement this section in a  
24 manner that maintains some of the fixed pedestal units authorized under a vendor contract in reserve.  
25 Such reserve shall be numerous enough to allow the maximum number of fixed pedestal units that can



1 be installed in existing fixed pedestal zones, in compliance with this section and the guidelines, to be  
2 installed in those zones. No request, petition, or plan for a fixed pedestal unit that complies with this  
3 Section and the guidelines shall be denied on the ground that one or more fixed pedestal units are  
4 being held in reserve.

5 **184.12(h). ALLOCATION OF SPACE WITHIN FIXED PEDESTAL UNITS.**

6 (1) General.

7 (A) Except as this section or the guidelines expressly provide otherwise, no publication that  
8 has obtained a space in a fixed pedestal unit or cluster of fixed pedestal units may receive a second  
9 space in that unit or cluster until all other publications that have applied for space in that unit or  
10 cluster of units have had the opportunity to select a space.

11 (B) Notwithstanding any other provision in this Section, (i) no publication may receive more  
12 than one newsrack box per fixed pedestal unit or cluster of fixed pedestal units on the basis of historical  
13 presence, and (ii) a publication's use of more than one freestanding newsrack at a particular area  
14 prior to initial implementation shall not be a ground for that publication to receive more than one  
15 newsrack box on the basis of historical presence.

16 (2) Initial Implementation.

17 During initial implementation throughout a fixed pedestal zone, space in each fixed pedestal  
18 unit or cluster of fixed pedestal units in that zone shall be allocated as follows:

19 (A) If possible, publications that have applied for space in such a unit or cluster shall agree  
20 unanimously among themselves with respect to allocation of space in the fixed pedestal unit(s).

21 (B) Absent such agreement, the Director shall allocate space in the unit or cluster among  
22 publications that have applied for such space as follows:

23 (i) First priority shall be given to publications that were historically present in the  
24 area (as defined in Section 184.12(b)(10)) in which were located the freestanding newsracks that the  
25 fixed pedestal unit or cluster of fixed pedestal units is intended to replace.

1           (ii). Second priority, in the case of fixed pedestal unit(s) that are located at a corner  
2 area (as defined in Section 184.12(b)(10)), shall be given to those publications that were historically  
3 present in the immediately adjacent midblock area. Second priority, in the case of fixed pedestal  
4 unit(s) that are located at a midblock area (as defined in Section 184.12(b)(10)), shall be given to those  
5 publications that were historically present in the immediately adjacent corner area.

6           (iii) Third priority shall be given to all other publications that have applied for space  
7 in the fixed pedestal unit or cluster of fixed pedestal unit, including, subject to Section 184.12(h)(1)(a),  
8 publications that were historically present at that area or an immediately adjacent midblock area but  
9 have already received one newsrack box in that unit or cluster on the basis of such historical presence.

10           (iv) The Director shall implement this allocation scheme as to fixed pedestal units  
11 located at corner areas before doing so at immediately adjacent midblock areas. In implementing this  
12 allocation scheme as to each fixed pedestal unit or cluster of fixed pedestal units, the Director shall  
13 conduct a meeting at which each publication in each category, beginning with category (i), historically  
14 present publications, may select a newsrack box in a given fixed pedestal unit or cluster until all  
15 newsrack boxes have been selected. If any newsrack boxes remain unselected after each publication in  
16 category (i) that so desires has chosen a newsrack box in that fixed pedestal unit or cluster, each  
17 publication in category (ii) shall select a newsrack box until all newsrack boxes have been selected or  
18 each publication in category (ii) that so desires has chosen a newsrack box in that fixed pedestal unit  
19 or cluster, and so forth through category (iii).. The publications in each category may agree among  
20 themselves as to the order they will follow in selecting newsrack boxes; if they are unable to agree,  
21 publications in categories (i) and (ii) shall select according to survey order, and publications in  
22 category (iii) shall select according to such order as the Director determines by lots.

23           (3) Petition Units.

24           Space in each petition unit shall be allocated as follows:  
25

1           (A) If possible, publications seeking space in a petition unit shall agree unanimously among  
2 themselves with respect to the allocation of space in the unit.

3           (B) Absent such agreement, the Director shall allocate space in the unit as follows:

4               (i) First priority shall be given to each publication that was historically present in  
5 the zone, according to the most recently completed survey of that zone, and that, during initial  
6 implementation in that zone, sought but did not receive the maximum number of newsrack boxes that  
7 could be allocated to it on the basis of historical presence, in accordance with this section and the  
8 guidelines.

9                       (a) To receive first priority, each such publication, within twelve (12) months  
10 before the Director received the petition, must have been distributed from a freestanding newsrack that,  
11 according to the most recently completed survey of that zone, was located on the same block face as, or  
12 a block face that immediately adjoins and is on the same street and same side of the street as, the block  
13 face on which the petition unit will be located, and that has not previously been used successfully as a  
14 basis for first priority in space allocation in any petition unit.

15                       (b) Within the group of publications described in subsection  
16 184.12(h)(3)(B)(i), publications shall select space in the petition unit based on frequency of  
17 publication, with all publications published at least once per week choosing first, followed by all  
18 publications published less often than once per week but more often than once per month, followed by  
19 all publications published once per month or less frequently. Within each such frequency category,  
20 publications shall select space in the petition unit in any mutually agreed-upon order, or, absent such  
21 agreement, in an order determined by lots.

22                       (ii) Second priority shall be given to all other publications that have applied for  
23 space in the petition unit.

24                       (a) The order in which such publications shall select space in the petition  
25 unit shall be determined according to Section 184.12(h)(3)(B)(i)(b).

1                    (b) Notwithstanding subsection (a), above, if any such publication already  
2 occupies at least one newsrack box in a fixed pedestal unit located either on the same block face as the  
3 petition unit (“the petition block face”), the block face(s) immediately across the street from the  
4 petition block face, or either of the two block faces that immediately adjoin and are on the same street  
5 and same side of the street as the petition block face, that publication shall not select space in the  
6 petition unit until all other publications that have applied for space in the petition unit have received at  
7 least one such space.

8                    (4) Abandoned Newsrack Boxes.

9                    When a newsrack box in an already installed fixed pedestal unit has been abandoned or  
10 otherwise becomes available for re-allocation, space in that newsrack box shall be allocated in the  
11 same manner as space in a petition unit, provided that:

12                    (A) Such a newsrack box may not be re-allocated to the publication that occupied it  
13 immediately before such re-allocation, unless no other publication seeks space in that newsrack box;  
14 and

15                    (B) The twelve (12) month period within which a historically present publication must have  
16 used a freestanding newsrack in order to obtain first priority in such allocation shall consist of the  
17 twelve (12) months before the newsrack box became available for re-allocation.

18                    (5) Relocated Fixed Pedestal Units

19                    Space in a fixed pedestal unit that has been relocated due to excessive repair costs pursuant to a  
20 vendor contract shall be allocated in the same manner as space in a petition unit, provided that the  
21 twelve (12) month period within which a historically present publication must have used a freestanding  
22 newsrack in order to obtain first priority in such allocation shall consist of the twelve (12) months  
23 before the Director selects the location at which the fixed pedestal unit shall be installed.

24                    (6) Split Door Newsrack Boxes

1           (A) Newsrack boxes may be split into two separate distribution areas to distribute free  
2 publications, including those historically present free publications that sought but did not receive the  
3 maximum number of newsrack boxes that could be allocated to them on the basis of historical presence,  
4 in accordance with this section and the guidelines.

5           (B) Space within split newsrack boxes shall be allocated consistent with the guidelines,  
6 provided that:

7           (i) Any free publication may elect to designate a newsrack box in which space has  
8 been assigned to it as a split door newsrack box, so long as one-half of the split door newsrack box is  
9 continuously used to distribute that publication (“the primary publication”).

10           (ii) The other half of the split door newsrack box may be used to distribute the  
11 primary publication, or to distribute any other free publication published by publisher of the primary  
12 publication (“a secondary publication”), regardless of the secondary publication’s frequency of  
13 publication or when the secondary publication was first published or distributed.

14           (iii) The publisher of the primary publication may substitute any one of its free  
15 publications (including the primary publication) for another as the secondary publication, consistent  
16 with this section and the guidelines, so long as one-half of the split box is continuously used to  
17 distribute the primary publication.

18           **184.12(i). STANDARDS FOR DESIGN, MAINTENANCE AND DISPLAY.**

19           The vendor and permit holders shall comply with the following requirements. Failure to comply  
20 with any of these requirements shall constitute a violation of this section, and shall be grounds for  
21 imposition of penalties in accordance with subsections 184.12(j) and 184.12(k).

22           (1) Except as this subsection or the guidelines provide otherwise, and subject to Section  
23 184.12(d)(3)(O) with respect to the current provisions of the “First Amended and Restated Pedestal-  
24 Mounted Newsrack Agreement By and Between the City and County of San Francisco and Clear

1 Channel Adshel, Inc.", the vendor shall be responsible for ensuring that all fixed pedestal units and  
2 newsrack boxes under its control are in compliance with the following requirements:

3 (A) Every fixed pedestal unit and newsrack box shall be maintained in a neat and clean  
4 condition, and in good repair at all times. The vendor shall be responsible for inspecting fixed pedestal  
5 units and newsrack boxes under its control to ensure compliance with this section no less than once per  
6 day Monday through Friday;

7 (B) Every fixed pedestal unit and newsrack box shall be constructed, installed and  
8 maintained in a safe and secure condition;

9 (C) Every fixed pedestal unit and newsrack box shall be kept free of graffiti and rust, and  
10 shall be repainted on a regular basis;

11 (D) Fixed pedestal units or newsrack boxes that are damaged or defaced shall be replaced,  
12 repaired or removed within ten (10) business days from the date of written notice from the Director;

13 (E) Except as authorized pursuant to a vendor contract with respect to advertising panels  
14 and names and logos of the vendor and/or any entities with whom it has contracted for services in  
15 performance of said contract, no fixed pedestal unit or newsrack box shall be used for advertising signs  
16 or publicity purposes other than for the advertising, identification, promotion, display, sale or  
17 distribution of the newspaper(s) or other publication(s) distributed from it;

18 (F) Where a vendor is authorized to place advertising on fixed pedestal units, the vendor  
19 shall comply with the following requirements:

20 (i) Advertising shall be placed only on the back side of fixed pedestal units, and only  
21 on such units dispensing six or more publications;

22 (ii) Advertising on any individual fixed pedestal unit shall be less than eighteen (18)  
23 square feet in area;

24 (iii) No portion of the advertising shall extend above the top edge of the fixed  
25 pedestal unit;

1           (iv) Each fixed pedestal unit containing advertising shall have a sign adjacent to  
2 such advertising that states, in typeface at least one inch high, the following disclaimer:

3                   **ADVERTISING ON THIS NEWSRACK IS NOT CONTROLLED BY, AND MAY NOT**  
4 **REFLECT THE VIEWS OF, ANY OF THE PUBLICATIONS DISTRIBUTED WITHIN.**

5           (v) The letters comprising the above disclaimer shall be printed in white reflective  
6 lettering against a black disclaimer background. The disclaimer shall be centered above or below any  
7 panel containing such advertising.

8           (2) The permit holder shall comply with the following requirements:

9           (A) In any circumstances where the permit holder decides to vacate a location, the permit  
10 holder shall promptly notify the Director and the vendor of the intention to vacate the location;

11           (B) All coin-operated newsrack boxes shall be equipped with a coin-return device that is  
12 maintained in good repair and working order to enable persons to secure full refunds if they are unable  
13 to receive the publication paid for. In the case of coin-operated newsrack boxes, the permittee shall be  
14 responsible, at its own cost, for the following, unless it timely elects to have the vendor assume such  
15 responsibility pursuant to the vendor contract:

16           (i) For maintenance, repair, and replacement of all hardware related to the  
17 charging or coin mechanism or to the security of coins, including all locks and keys;

18           (ii) For remedying any problem with the functionality of the door of its newsrack box  
19 where such remedy requires access to any coin mechanism panel, or access to or repair of any  
20 hardware relating to the charging or coin mechanism; and

21           (iii) For any changes to, or replacement or resetting of, any mechanism necessary to  
22 effect a change in the price of a publication distributed from the newsrack box.

23           (C) Where a vendor contract authorizes any publication to perform or to receive  
24 reimbursement from the vendor for any repair, maintenance, or replacement of any part of a fixed  
25 pedestal unit, each publication exercising such authority shall comply with all conditions or

1 restrictions on such authority as may be stated in this section, the guidelines, and the vendor contract.  
2 Except as otherwise provided in the vendor contract, each publication shall use only vendor-approved  
3 parts, cleaning products, and methods to perform any repair, maintenance, or replacement of any part  
4 of a fixed pedestal unit authorized by that vendor contract.

5 (D) Except as otherwise authorized by this subsection or the guidelines, and except as  
6 authorized pursuant to a vendor contract with respect to advertising panels and names and logos of the  
7 vendor and/or any entities with whom it has contracted for services in performance of said contract, no  
8 newsrack box shall be used for advertising signs or publicity purposes other than for the advertising,  
9 display, sale or distribution of the newspaper(s) or other publication(s) distributed from it. Consistent  
10 with the guidelines, each publication may display its name on a specified area on the front of its  
11 newsrack boxes, on the side of any fixed pedestal unit in which it has received space in a newsrack box,  
12 and on the back of such units, where the backs of such units are not used to display advertising.

13 (E) Each newsrack box shall display the permit holder's name, street address (Post Office  
14 Box numbers will not be allowed), and phone number.

15 (F) Any permit holder distributing publications containing on the first or cover page,  
16 material harmful to minors as defined in Section 313 of the California Penal Code, such that the  
17 harmful material is visible in the newsrack box, shall equip each newsrack box containing such  
18 publications with blinder racks so that the lower two-thirds (2/3) of the first or cover page is not  
19 exposed to view. The permit holder shall be responsible for the installation and maintenance of the  
20 blinder racks.

21 (3) The requirements of this subsection are not intended to alter the obligation of any  
22 vendor(s) or permit holders to comply with all other applicable laws. Except as expressly stated  
23 otherwise, no provision of this section, the guidelines, or any vendor contract, including those  
24 provisions concerning the repair, maintenance, or replacement of any portion of any fixed pedestal unit  
25



1 or newsrack box, is intended to diminish any right or remedy that any party may have relating to  
2 damage to its property.

3 (4) To the extent any provision in a vendor contract requires any vendor to reimburse any  
4 publication for the publication's repair, maintenance, or replacement of any portion of a fixed pedestal  
5 unit or newsrack box, any publication denied reimbursement required under such provision may only  
6 bring suit against the vendor under this section, and only to obtain reimbursement for such repair,  
7 maintenance or replacement, but not attorneys' fees in such suit. . . Nothing contained herein or in the  
8 guidelines shall be construed to grant any publication contractual rights under a vendor contract.

9 (5) To the extent any provision in a vendor contract authorizes or requires the Director to  
10 decide any matter concerning a publication's authority to repair, maintain, or replace any portion of a  
11 fixed pedestal unit or newsrack box, or to obtain reimbursement from the vendor for such repair,  
12 maintenance, or replacement,

13 (i) the Director's decision concerning such matter shall be the City's final  
14 administrative decision, and

15 (ii) any delay by the Director in making such decision, or in otherwise complying  
16 with his obligations under such provision, shall not prejudice any publication's right to the potential  
17 reimbursement provided by such provision.

18 **184.12(j). ENFORCEMENT; VIOLATIONS; HEARINGS**

19 (1) Newsracks posing an immediate danger to persons, vehicles or property. The Director  
20 is authorized to remove and impound without prior notice any newsrack that poses an immediate  
21 danger to persons vehicles or property. Such removal and impoundment shall be in accordance with  
22 the notice and hearing procedures set forth below.

23 (A) Notice of Violation. Within twenty-four (24) hours after such removal, the Director  
24 shall by telephone notify the permit holder or owner of the removal. Within forty-eight (48) hours after  
25 removal, the Director shall notify the owner in writing of the removal and the reasons for removal. The

1 notice shall also inform the owner of the right to request, either in writing or in person, within ten (10)  
2 business days of the date of the postmark of such written notice, a meeting with the Director to  
3 determine whether such removal was proper.

4 (B) Meeting and Decision. Upon timely request, the Director shall provide such a meeting  
5 by the close of the next business day following receipt of the request, unless the owner agrees to a later  
6 date. The proceeding shall be informal, but oral and written evidence may be offered. The Director  
7 shall give his or her decision in writing to the owner within three (3) business days after such meeting.  
8 If the Director finds that such impoundment was proper, the Director shall notify the owner that the  
9 impounded newsrack may be recovered following payment of a \$200.00 administrative penalty  
10 pursuant to subsection 184.12(k). The owner of an unauthorized fixed pedestal unit shall also be  
11 responsible for restoring the sidewalk to its original condition pursuant to subsection 184.12(f)(1). If  
12 the Director finds that the impoundment was improper and/or that placement of the fixed pedestal unit  
13 or freestanding newsrack was lawful, the Director shall order the immediate release to the owner and  
14 reinstallation by the City at its expense of the fixed pedestal unit or freestanding newsrack without  
15 charge.

16 (C) Disposal of Impounded Newsracks. Unauthorized fixed pedestal units or freestanding  
17 newsracks that are not claimed within thirty (30) calendar days of impoundment shall be disposed of in  
18 a manner determined by the Director in accordance with state law.

19 (2) Unauthorized fixed pedestal units and any freestanding newsracks. The Director is  
20 authorized to remove and impound any unauthorized fixed pedestal units and any freestanding  
21 newsrack located in a Fixed Pedestal Zone in accordance with the following procedures.

22 (A) Notice of Violation and Impoundment. The Director shall post a notice of violation on  
23 the unauthorized fixed pedestal newsrack or freestanding newsrack, and shall use all reasonable efforts  
24 to immediately contact the owner of the newsrack or other responsible party by facsimile and telephone  
25 where this information is contained on the newsrack or is available from the Director's records. The

1 notice attached to the newsrack, and any written notice transmitted to the owner shall also inform the  
2 owner of the right to request, by facsimile, telephone or in person, by the close of business on the first  
3 business day following the date of the notice of violation, a meeting with the Director to determine  
4 whether the newsrack is in violation of this section. If the newsrack has not been removed, and the  
5 owner has not requested a meeting with the Director by the close of the next business day following the  
6 day that the notice of violation has been affixed, the Director may remove and impound the offending  
7 newsrack. Within forty-eight (48) hours after removal, the Director shall notify the owner in writing of  
8 the removal and the reasons for removal. If the owner did not request a meeting with the Director  
9 prior to removal of the newsrack, the notice shall also inform the owner of the right to request, either in  
10 writing or in person, within ten (10) business days of the date of the postmark of such written notice, a  
11 meeting with the Director to determine whether such removal was proper.

12 (B) Meeting and Decision. Upon timely request, the Director shall provide such a meeting  
13 by the close of the next business day following receipt of the request, unless the owner agrees to a later  
14 date. The proceeding shall be informal, but oral and written evidence may be offered. The Director  
15 shall give his or her decision in writing to the owner within three (3) business days after such meeting.  
16 If no meeting has been requested, and/or the Director finds that the impoundment was proper, the  
17 Director shall notify the owner that the impounded newsrack may be recovered following payment of a  
18 \$200.00 administrative penalty pursuant to subsection 184.12(k). The owner of an unauthorized fixed  
19 pedestal unit shall also be responsible for restoring the sidewalk to its original condition pursuant to  
20 subsection 184.12(f)(1). If the Director finds that the impoundment was improper and/or that  
21 placement of the fixed pedestal unit or freestanding newsrack was lawful, the Director shall order the  
22 immediate release to the owner and reinstallation by the City at its expense of the fixed pedestal unit or  
23 freestanding newsrack without charge.

1           (C) Disposal of Impounded Newsracks. Unauthorized fixed pedestal units or freestanding  
2 newsracks that are not claimed within thirty (30) calendar days of impoundment shall be disposed of in  
3 a manner determined by the Director in accordance with state law.

4           (3) Other Violations. Any other violation of this section, or the guidelines promulgated  
5 under this section, by a permit holder or owner may be cause for disablement of the offending newsrack  
6 box(es), subject to the notice and hearing procedures set forth below.

7           (A) Notice of Violation. Before a newsrack box may be disabled under this subsection, the  
8 Director shall notify the permit holder or owner of the violation. The notice shall be in writing and  
9 shall state the nature of the violation. The notice shall give the permit holder or owner ten (10) business  
10 days from the date of the postmark of such written notice to either remedy the violation or request a  
11 meeting before the Director. An additional notice tag shall be affixed to the offending newsrack box.

12           (B) Meeting and Decision. Upon timely request, the Director shall conduct the meeting  
13 within three (3) business days of receiving the request. The meeting shall be informal, but oral and  
14 written evidence may be offered. Thereafter, the Director shall give his or her decision in writing to  
15 the owner, permit holder or designated agent for notice, within three (3) business days after the  
16 meeting. Any action by the City with respect to the alleged violation shall be stayed pending the written  
17 decision of the Director following the meeting and resolution of any other appellate or review process  
18 initiated by the permit holder.

19           (C) Disablement of Newsracks. The Director may disable a newsrack box in accordance  
20 with this subsection, subject to the resolution of any appellate or review process initiated by the permit  
21 holder, following either (1) the written decision of the Director upholding the determination of a  
22 violation; or (2) where the permit holder or owner has neither requested a meeting nor remedied the  
23 violation within the time periods set forth above. A newsrack box that has been disabled may be  
24 recovered by the permit holder upon payment of a \$200.00 administrative penalty imposed pursuant to  
25 subsection 184.12(k).

1           (D) Failure to Pay Penalties. Where the permit holder of, or other publication authorized to  
2 occupy, a newsrack box that has been disabled fails to pay the administrative penalty specified in  
3 subparagraph (C) within thirty (30) calendar days, the newsrack box shall be considered as having  
4 been vacated, subject to the resolution of any appellate or review process initiated by the permit  
5 holder.

6           **184.12(k). ADMINISTRATIVE PENALTIES; OTHER REMEDIES.**

7           (1) Administrative Penalties. (A) Any fixed pedestal permit holder, or the owner of a  
8 freestanding newsrack or unauthorized fixed pedestal unit found to have violated any of the provisions  
9 of this section pursuant to subsection 184.12(j) shall receive a notice of violation in accordance with  
10 subsection 184.12(j)(1), 184.12(j)(2) or 184.12(j)(3). If a newsrack is impounded pursuant to section  
11 184.12(j)(1) or is found to be in violation of this section following expiration of the time periods set  
12 forth in section 184.12(j)(2) or (j)(3), the permit holder or owner shall be subject to an administrative  
13 penalty of \$200.00 per violation. A permit holder shall not be issued any additional permits until all  
14 outstanding administrative penalties levied against that permit holder under this subsection, after the  
15 expiration of all applicable notice, grace, and cure periods, and subject to resolution of any appellate  
16 or review process initiated by the permit holder, have been paid.

17           (B) The Director is responsible for charging and collecting any penalty or fee assessed  
18 pursuant to this subsection. The Director shall notify in writing the person or publication responsible  
19 for the violation of the cost of the penalty and declare that such costs are due and payable to the  
20 Treasurer of the City and County of San Francisco.

21           (C) Any person or publication who has been assessed administrative penalties may seek  
22 administrative review of such penalties and fees by filing an appeal with the Director that specifies in  
23 detail the basis for appeal. Within ten (10) days of the receipt of the appeal, unless extended by mutual  
24 agreement of the affected parties, the Director shall cause a hearing to be held before an impartial  
25 hearing officer. The decision of the hearing officer shall be final.

1           (2) Deposit of Penalties. Any administrative penalty received by the Treasurer of the City  
2 and County of San Francisco in accordance with the requirements of this subsection shall be paid into  
3 the Department of Public Works' Engineering and Inspection Fund, and shall be used only for the costs  
4 of administering and enforcing the requirements of this section and the guidelines promulgated under  
5 this section.

6           (3) Permit Suspension. Failure to pay any administrative penalties imposed pursuant to this  
7 subsection, or repeated refusal, following a minimum of three (3) written notices within thirty (30) days  
8 from the Director, to maintain newsrack boxes in compliance with this subsection and the Director's  
9 guidelines shall, after notice of the violation, and the expiration of all applicable notice, grace, and  
10 cure periods, and subject to resolution of any appellate or review process initiated by the permit holder,  
11 be cause for suspension of all of the permit holder's fixed pedestal permits in the Fixed Pedestal Zone  
12 containing the subject newsrack box(es) for a period not to exceed one hundred eighty (180) days.

13           (4) Other Remedies. The provisions of this section shall not limit any other remedies  
14 authorized by law.

15           **184.12(l). IMPLEMENTATION AND APPLICATION TO EXISTING NEWSRACKS.**

16           The Director is instructed to promptly phase in the implementation of this section in  
17 consultation with the Newsrack Advisory Committee. In order to accomplish this purpose, the Director  
18 is authorized to establish implementation areas within fixed pedestal zones and to establish dates by  
19 which all fixed pedestal units in the implementation areas shall be in compliance with the requirements  
20 of this subsection, and by which all freestanding newsracks and unauthorized fixed pedestal units shall  
21 be removed. The deadlines for compliance with this section and the Director's guidelines shall be  
22 prominently posted in the implementation areas not less than thirty (30) days prior to the date for  
23 initial implementation specified in the guidelines. Publications shall have ninety (90) days from the  
24 initial date specified in the guidelines to come into compliance with the provisions of this section and  
25

1 the guidelines promulgated under this section. Deadlines for compliance with these requirements shall  
2 be published in the City's official newspaper.

3 **184.12(m). APPEALS.**

4 (1) (A) Unless otherwise provided herein or in the guidelines, any person other than a  
5 vendor who is aggrieved by and seeks review of a determination made by the Director pursuant to  
6 subsections 184.12(e)-(k), inclusive, of this section must file with the Director a written request for  
7 review of the Director's decision by the Newsrack Advisory Committee. Such a request must be  
8 delivered to the Director not more than ten (10) business days following the issuance of the Director's  
9 decision. The Newsrack Advisory Committee shall consider the request at its next regularly-scheduled  
10 meeting, or at a special meeting held for this purpose before the next regularly-scheduled meeting, if  
11 the next regularly-scheduled meeting is not going to be held within ten (10) business days of the  
12 Director's receipt of the request, consistent with public meeting law requirements. At the meeting, the  
13 Newsrack Advisory Committee shall vote either to affirm or dissent from the Director's decision. The  
14 Newsrack Advisory Committee's vote shall be provided to the Director within two (2) business days.  
15 The Director shall have three (3) additional business days to render a final decision affirming or  
16 reversing his or her original determination. Such decision shall explain the Director's determination,  
17 including the facts relied on in the determination, with citations to any provisions of this Section and  
18 the guidelines upon which the Director relies.

19 (B) Review by the Newsrack Advisory Committee pursuant to subparagraph (A) shall be  
20 optional, at the election of the person aggrieved by the Director's determination. The election of such  
21 review shall not detract from any right of judicial review that may be available under applicable law,  
22 provided that if the person aggrieved by the Director's determination elects review by the Newsrack  
23 Advisory Committee, then that person waives any claim that the City did not provide him, her or it with  
24 a prompt administrative appeal or prompt judicial review during the period the matter is under review  
25 pursuant to subparagraph (A). If the person aggrieved by the Director's determination does not elect

1 review by the Newsrack Advisory Committee, the Director's original determination shall constitute the  
2 Director's final decision.

3 (2) Following a final decision of the Director pursuant to subparagraph (1), any person  
4 other than a vendor who is aggrieved by a determination made by the Director granting, denying or  
5 revoking a permit pursuant to subsection 184.12(e) may file an appeal with the Board of Appeals in  
6 accordance with Part III, Section 8 et seq. of the San Francisco Municipal Code. The Board of  
7 Appeals shall set the hearing on the appeal not less than fifteen (15) days after the filing of the appeal,  
8 shall act on the appeal not more than thirty (30) days after such filing, and shall not entertain a motion  
9 for rehearing. These time limits may be extended by stipulation of the parties or order of the Board on  
10 good cause shown.

11 (3) The Board of Appeals shall determine whether the action taken by the Director was  
12 proper solely based on the provisions of this section and the Director's guidelines. If the determination  
13 of the Board differs from that of the Director, the Board shall, in a written decision, specify wherein  
14 there was error in interpretation of this section or the guidelines promulgated under this section, or  
15 abuse of discretion on the part of the Director, and shall specify in its findings, as part of such written  
16 decision, the facts relied upon in arriving at its determination. The determination of the Board shall be  
17 final and conclusive.

18 (4) Any party to the appeal to the Board of Appeals who is aggrieved by the determination  
19 of the Board may seek judicial review of the Board's final decision in the Superior Court of California,  
20 County of San Francisco, by filing a petition for a writ of mandamus under Sections 1085 and/or  
21 1094.5 of the California Code of Civil Procedure, as appropriate. The petition shall be heard and  
22 decided in accordance with all applicable statutes and rules, including Section 1094.8 of the Code of  
23 Civil Procedure and San Francisco Superior Court Uniform Local Rules of Court, Rule 8.16, revised  
24 July 1, 1999, both of which provide for expedited judicial review of the denial of a permit for an activity  
25 protected by the First Amendment. Pursuant to Section 1094.8(c) of the Code of Civil Procedure, the



1 City hereby designates fixed pedestal permits as eligible for expedited judicial review pursuant to  
2 Section 1094.8.

3 **184.12(n). NOTICE PROCEDURES.**

4 (1) All notices, consents, demands and other communications required or permitted to be  
5 given under this section shall be effective only if rendered or given in writing unless otherwise specified  
6 in this section, and shall be delivered either by (i) registered or certified mail; (ii) expedited messenger  
7 service; (iii) personal delivery to an authorized representative; (iv) facsimile; or (v) air courier  
8 addressed to the party or parties for whom intended at the addresses set forth in the party's  
9 applications or such other address as the intended recipient shall have designated in writing to the  
10 Director from time to time (provided, however, notice of change of address or facsimile number shall  
11 be effective only upon receipt).

12 (2) Notice to the City or the Director shall be addressed to the address specified for this  
13 purpose in the guidelines.

14 (3) All notices and other communications shall be deemed to have been rendered or given  
15 (i) if sent by registered or certified mail, on the date it is officially recorded as delivered to the intended  
16 recipient by return receipt or equivalent, and in the absence of such record of delivery, the effective  
17 date shall be presumed to have been on the fifth business day after the date when it shall have been  
18 deposited in the mail; (ii) if sent by expedited messenger service, on the date it is officially recorded by  
19 the messenger service carrier as delivered to the intended recipient; (iii) if personally delivered, upon  
20 receipt by an authorized representative; (iv) if by facsimile, one (1) hour after its transmission, if such  
21 time is during the hours of 9:00 a.m. and 5:00 p.m. in the place of its receipt or, if it is not, on the  
22 opening of business on the succeeding business day in place of the receipt, subject to having in fact  
23 been received in legible form; and (v) if sent by air courier, one (1) business day after delivery to an air  
24 courier for overnight expedited delivery.

1                   184.12(o). NATURE OF DIRECTOR'S DUTIES.

2                   It is the intent of the Board of Supervisors that the duties imposed upon the Director of Public  
3 Works by this section be directory in nature, and that as a result, the Director's failure to comply with a  
4 particular procedural step shall not invalidate any subsequent action by the Director to which the  
5 procedural requirement relates.

6                   184.12(p). LIMITATION OF LIABILITY.

7                   By adopting this section, the City and County of San Francisco is assuming an undertaking only  
8 to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an  
9 obligation for breach of which it is liable in money damages to any person who claims that such breach  
10 proximately caused injury. This subsection shall not affect any rights that may be available under a  
11 vendor contract and shall not create any such rights.

12                   184.12(q). SEVERABILITY.

13                   If any provision, subdivision, paragraph, phrase or clause of this section or the application of  
14 this section is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction,  
15 such decision shall not affect the validity or effectiveness of the remaining portions of this section. The  
16 Board of Supervisors declares that it would have passed each section, paragraph, sentence, clause or  
17 phrase of this section irrespective of the fact that any portion of this section could be declared  
18 unconstitutional, invalid or ineffective. This subsection shall not affect the terms of any vendor contract  
19 or the rights or obligations of any party to such a contract under such a contract.

20  
21  
22 APPROVED AS TO FORM:  
23 DENNIS J. HERRERA, City Attorney

24 By:   
25       WAYNE K. SNODGRASS  
      Deputy City Attorney



# City and County of San Francisco

City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

## Tails Ordinance

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**File Number:** 020465

**Date Passed:**

Ordinance amending the San Francisco Public Works Code, Article 5.4, by repealing the existing Section 184.12 and enacting a new Section 184.12 regulating the placement and maintenance of newsracks on public streets, sidewalks and rights-of-way to prohibit freestanding newsracks in specified areas of the City, authorizing the creation of fixed pedestal zones in specified areas of the City, and authorizing the Director of Public Works to select and enter into agreements with vendors to provide and maintain fixed pedestal newsracks.

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April 22, 2002 Board of Supervisors — CONTINUED

Ayes: 9 - Ammiano, Daly, Gonzalez, Hall, Leno, Maxwell, McGoldrick, Peskin, Sandoval

Absent: 2 - Newsom, Yee

April 29, 2002 Board of Supervisors — CONTINUED ON FIRST READING

Ayes: 10 - Ammiano, Daly, Gonzalez, Hall, Leno, Maxwell, McGoldrick, Newsom, Peskin, Sandoval

Noes: 1 - Yee

May 6, 2002 Board of Supervisors — PASSED ON FIRST READING

Ayes: 8 - Ammiano, Hall, Leno, Maxwell, McGoldrick, Newsom, Peskin, Yee

Noes: 3 - Daly, Gonzalez, Sandoval

May 13, 2002 Board of Supervisors — FINALLY PASSED

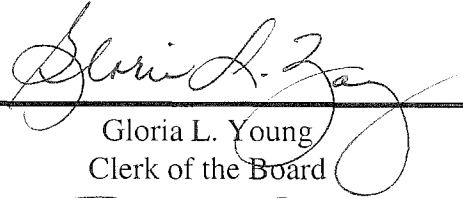
Ayes: 7 - Ammiano, Hall, Leno, Maxwell, McGoldrick, Peskin, Yee

Noes: 3 - Daly, Gonzalez, Sandoval

Absent: 1 - Newsom

File No. 020465

I hereby certify that the foregoing Ordinance  
was FINALLY PASSED on May 13, 2002 by  
the Board of Supervisors of the City and  
County of San Francisco.



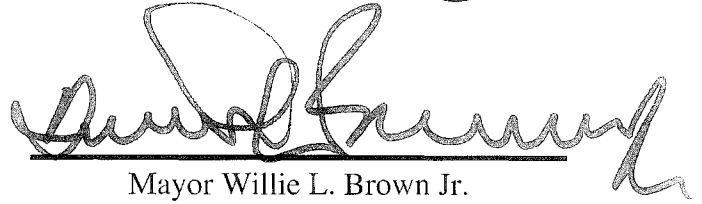
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Gloria L. Young  
Clerk of the Board

MAY 17 2002

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Date Approved



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Mayor Willie L. Brown Jr.