



MEMO

TO: **Bert Lumberas, City Manager**
FROM: Kevin Burke, Economic Development Administrator
DATE: July 5, 2017, updated August 29, 2017
RE: Downtown Magazine Racks

SUMMARY

This memorandum provides information in response to a Council Member request regarding downtown magazine racks, and opportunities to consolidate existing private racks into multi-vendor, modular units. The City may establish reasonable restrictions on magazine and newspaper distribution by ordinance, including the option of a City-provided consolidated magazine rack. Staff recommends developing a draft ordinance for City Council consideration.

The attached Exhibit A contains an inventory of existing magazine racks in the Main Street District. Exhibit B contains an example consolidated magazine rack and quote provided by a local vendor.

BACKGROUND

In March 2017, staff conducted an inventory of existing magazine racks located in the public right-of-way within the Main Street District boundary. A total of 22 individual racks were found in 7 locations, representing 11 business/organizations. As shown in Exhibit A, the existing racks were found to be in varying states of disrepair. All 22 were considered dirty and had peeling or faded labels, 14 had been graffitied, and 7 were empty or contained print materials that did not match the company name displayed on the rack.

The distribution of newspapers and magazines is a form of speech protected by the First Amendment; however, cities may establish reasonable time, place and manner restrictions on this form of speech. The City does not have any such restrictions in place at this time.

By ordinance, the City may regulate the location, permitting, maintenance, abandonment and number of allowed magazine racks. Within that framework, there are several options to consider:

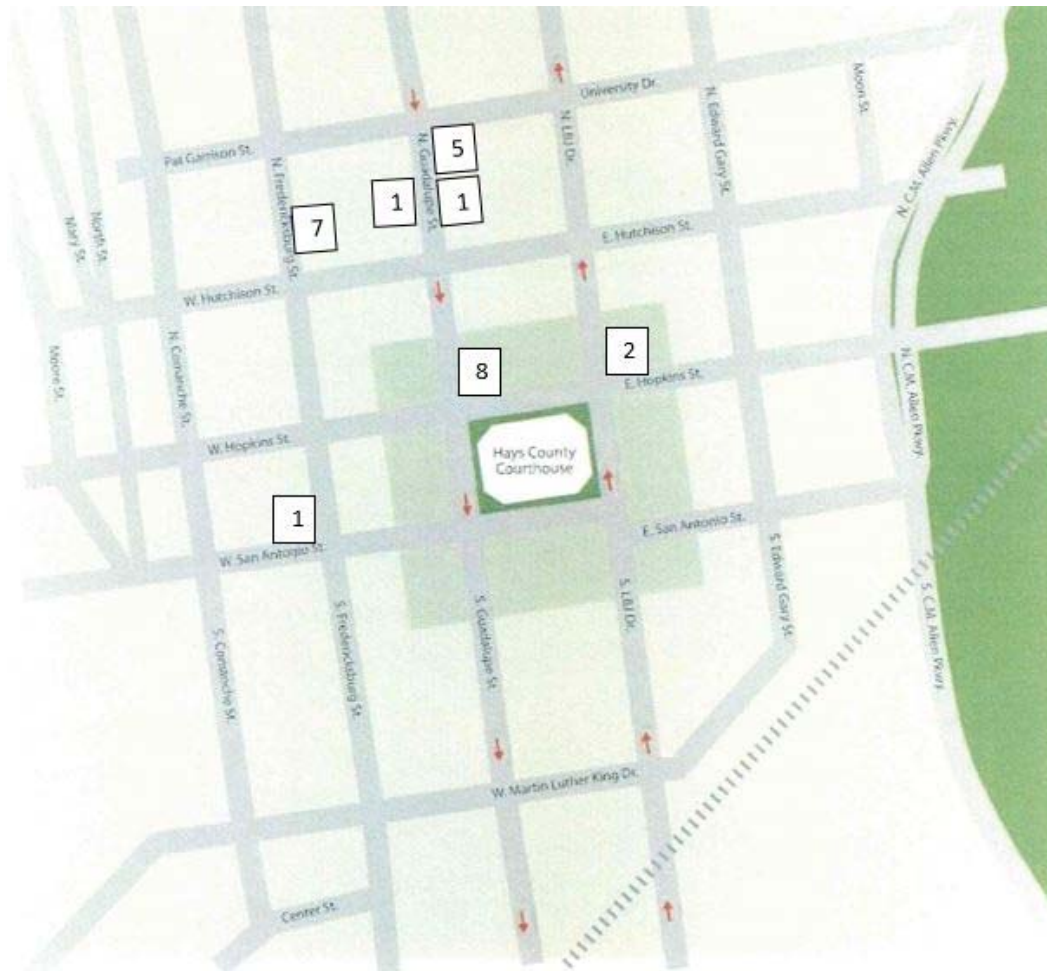
- Vendor supplies its own rack in its own style
- Vendor supplies its own rack that meets uniform specifications established by the City
- City supplies a display "corral" within which separate vendor racks are contained
- City supplies a consolidated rack from which all vendors must display their publications

The City may also charge fees for the right to display within the public right-of-way, provided that the fees are reasonable so as not to unreasonably infringe on the protected speech.

The most recent court challenge to a newsrack ordinance in Texas was in a suit against the City of Houston, where the Fifth Circuit Court of Appeals upheld the validity of Houston's 2007 ordinance. Should the City choose to pursue reasonable time, place and manner regulation of magazine racks in the public right-of-way, staff recommends using the Houston ordinance as a starting point, while tailoring the ordinance to meet local needs and Council preferences.

Exhibit A

Existing Conditions



Number of magazine racks by location.

Big Red Box

of racks: 1

Contact Info N/A

Bobcat Fans

of racks: 4

Contact Info N/A

Cars Magazine

of racks: 1

(866) 899-2577

College Rentals in San Marcos

of racks: 2

www.collegerentals.com

El Mundo

of racks: 5

(512) 476-8636

Free Car Smarts

of racks: 1

Contact info N/A

Home and Land

of racks: 1

Contact info N/A

Premier autos

of racks: 1

www.premierautosmagazine.com

Signs of the Times

of racks: 1

Contact info N/A

Solo Autos

of racks: 3

(877) 265-0717

Study Breaks Magazine

of racks: 2

(210) 804-0390

Location: 103 Hopkins



Location: 330 N. LBJ



Location: 350 N. Guadalupe



Location: 202 Hopkins



Location: 206 W. San Antonio



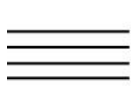
Location: 317 N. LBJ



Location: 326 N. LBJ



Exhibit B
Example Consolidated Magazine Rack



M.E.R. INC.

Mechanism Exchange & Repair, Inc.

P.O. BOX 311 • 210 E. HOCHHEIM ST., YOAKUM, TEXAS 77995
(361)293-6452 FAX(361)293-9175 EMAIL: mechx@sbcglobal.net

Customer

City of San Marcos Texas
630 E. Hopkins St.
San Marcos, TX 78666

6/29/2017

SALES QUOTE

QUOTE NO. 62917

| Product | Quantity | Price Each | Total |
|---|----------|------------|------------|
| 49 Model Rack K or TK, without mech. (\$366.06 ea) Broadsheet or tabloid Add dome top (\$64.49 ea.) Add dome top armored attachment (6.79 ea.) With 3/4" or 1 1/2" paper holder With .080 door plastic | 3 | 437.34 | \$1,312.02 |
| 49-H Free Distribution Box (\$299.87 ea) Broadsheet or tabloid | 2 | 299.87 | \$599.74 |
| 49-DW Free Distribution Box (\$272.81 ea) With plastic door and divider | 1 | 272.81 | \$272.81 |
| MB3 Tray 72 3/4" Long | 1 | 181.02 | \$181.02 |
| MP1 Pedestal 15 1/4" high | 2 | 103.21 | \$206.42 |

Notes

All racks powder coated. Color to be decided.
Price for stacker quarters only mechanism \$52.96 ea
Price for standard totalizer mechanism \$128.87 ea.

Shipping via R & L carriers. One pallet 495 lb.

DC

Sub Total

\$2,572.01

Estimated Freight

\$117.78

Tax

\$221.91

Total US Dollars

\$2,911.70

Thank you



49B
100B



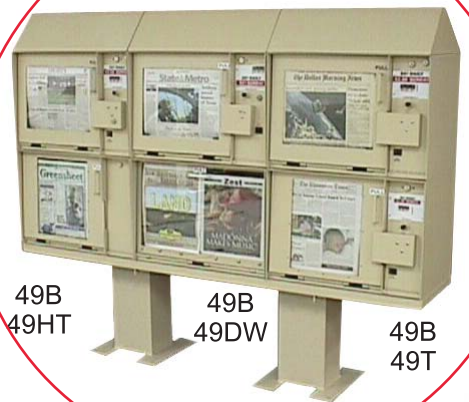
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100B



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49DW

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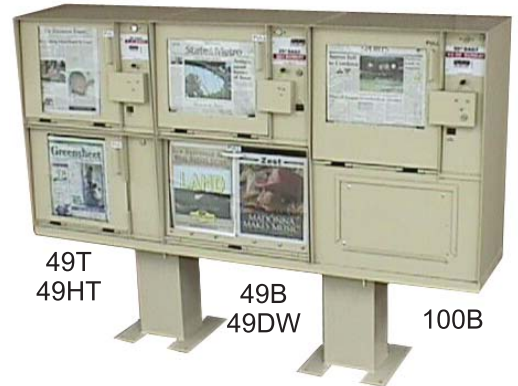
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MECH PANEL LOCK OPTIONS



DOMESTOP ARMORED
ATTACHMENT



STANDARD ARMORED
ATTACHMENT



HIGH SECURITY LOCK