

## Newspaper Racks

Any change in the current system will require an ordinance.

### Current locations in proposed pilot program area

1. Northwest 17<sup>th</sup> Street includes 16 publications (12 free publications, 4 paid publications).

2. The Plaza includes three different areas with publications:

<u>Southeast 1<sup>st</sup> Street (# 1)</u>	<u>County Courthouse (#2)</u>	<u>Chained to bus sign (#3)</u>
11 total	18 total	6 total
2 paid	6 paid	2 paid
9 free	12 free	4 free

### Purchase of racks from City Solutions

Racks are sold in sections so that they can fit the exact needs of the location, based on the number of free and paid papers. Based on a one-for-one replacement the initial cost for units would be:

\$12,000 for Northwest 17<sup>th</sup> Street in the College Park University Heights district  
 \$27,000 in the Downtown district (#1-- \$7,000, # 2 -- \$15,000 and #3 -- \$5,000)

### Estimated cost of ads on boxes

City Solutions estimated that ads on boxes in the City of Gainesville would run \$300 a month per location.

### Advantages of the direct purchase option

- Controls aesthetics
- Condenses the space required for racks
- Does not impact free papers
- No offsite advertising

### Disadvantages of the direct purchase option

- Requires development of a City/CRA program to award space in racks
- On-going administration
- On-going maintenance costs
- Heavy up front expenses



# MEMORANDUM

Office of the City Attorney

*Karen Steven*

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Box 46

**TO:** GAINESVILLE COMMUNITY  
REDEVELOPMENT AGENCY  
JOHN R. BARROW, CRA Chair  
CHUCK CHESTNUT, CRA Vice-Chair  
TOM BUSSING, CRA Member  
PEGEEN HANRAHAN, CRA Member  
WARREN NIELSEN, CRA Member

**FROM:** CHARLES L. HAUCK, Sr. Assistant City Attorney

**SUBJECT:** NEWSRACK REGULATION/CITY SOLUTIONS

**DATE:** February 25, 2002

Last year, some discussion was had concerning regulation of newsracks in community redevelopment districts, primarily through the utilization of a modular newsrack system promoted by a Florida company called "City Solutions." This office was asked to provide some advice to the CRA regarding the legal issues related to such a proposal.

Initially, I note that the regulation of newsracks in the public right-of-way would need to occur through an ordinance passed by the City Commission of the City of Gainesville, after two (2) public hearings. Based upon an appropriate record, a carefully crafted ordinance could be sustained.

In Gold Coast Publications, Inc. v. Corrigan, 42 F.3d 1336 (11<sup>th</sup> Cir. 1984), the court allowed the City of Coral Gables to regulate the location, design, lettering and color of newsracks placed on public rights-of-way, through the use of a permit system. The city had convened a task force to study how to improve the appearance of its business district. The task force developed a proposed ordinance regulating newsracks, and revised its proposal based on public hearings. The ordinance set up a permit system for placing newsracks on rights-of-way and provided that all newsracks be a certain design and color scheme, and contain no advertising except that the name of the paper and its logo be no more than 1 3/4 inches high. Location was restricted to within 18 and 24 inches of a curb or parallel to a building, and not more than 6 inches from the building's wall. Newsracks were prohibited within certain distances of crosswalks, bus stops, benches, fire hydrants, emergency call boxes, driveways and other street features.

The court found that the regulations were content-neutral because they applied to all newspapers. The regulations served the significant government interests of safety and aesthetics. It held that the standard for determining whether the regulations were "narrowly tailored" was that they were "not substantially broader than necessary," and found that the regulations met this standard. Finally, it found there were adequate alternative channels since there were numerous possible locations for the newsracks on public property, and the publishers could display the name and logo of their newspapers in the color of their choice.

Some of the stated purposes of the ordinance were to (1) provide for pedestrian and driving safety and convenience; (2) restrict unreasonable interference with the flow of pedestrian or vehicular traffic; (3) provide reasonable access for the use and maintenance of poles, posts, traffic signs or signals, hydrants and mail boxes; (4) relocate and/or replace newsracks which result in a visual blight; and (5) maintain and protect the values of the surrounding properties.

Two years later, in Globe Newspaper Co. v. Beacon Hill Architectural Commission, 100 F.3d 175 (1<sup>st</sup> Cir. 1996), an outright ban on newsracks in the Beacon Hill Historic District was sustained. Again, this ban was put in place after years of discussion and hearings on the matter. These hearings involved, among other things, careful consideration of the burdens (on speech) and the benefits associated with the particular ban, and the alternative methods of communication available. In this case, the ban was justified entirely on aesthetics reasons and, as such, the court required that it be part of a comprehensive and coordinated effort to address aesthetic concerns within the affected community. .

Finally, last month, in Atlanta Journal and Constitution v. City of Atlanta, Department of Aviation, 277 F.3d 1322 (11<sup>th</sup> Cir. 2002), the Court struck down the Hartsfield Airport's regulatory scheme, which sought to lease space in government-owned newsracks to publishers desiring to sell their newspapers within the terminal. The airport-owned newsracks contained advertising by advertisers selected by the city (in this case, Coca-Cola, as part of the 1996 Olympic promotions). The airport-owned newsracks would replace private newsracks and a modest, but profit-making, "rental fee" would be charged. The decision as to whether to allow a particular publication into the newsracks would be based upon an analysis of the "diversity of publications otherwise available".

Unfortunately, the city conducted no study of issues relating to safety, security, aesthetics, traffic flow, etc., to justify the scheme. The particular locations of the newsracks were apparently also unrelated to such concerns. The scheme, however, was actually struck down on the basis that the plan allowed advertisements for Coca-Cola, but not for the newspapers themselves, imposed a fee in excess of the regulatory costs, and vested unbridled discretion in the administrators to determine which publications to allow and which to not allow, i.e., the "diversity" test.

Summarizing, it is apparent that a content-neutral regulation imposing restrictions on the size, location and design/color of newsracks will be upheld if imposed under a regulatory scheme with sufficient standards and safeguards to prevent the exercise of unbridled discretion. The safety and aesthetic justifications for such, and the balance between these interests and First Amendment concerns, should be carefully developed.

In the present situation, the reasons advanced by staff to support regulations of newsracks concern both safety and aesthetics. The city would not be required to address the issue citywide; it can attempt to deal with the perceived problem on a smaller scale at first, especially if the problems are greater in one or more distinct areas. To the extent that there are certain areas in the city where there are greater aesthetic issues, i.e., infrastructure has been upgraded to create a more pleasing appearance, and the nature of the location creates greater safety issues (heavier pedestrian, vehicular, transit traffic, narrower sidewalks, etc.), these areas would logically be the

first place to address the issue. These areas may or may not fit within the boundaries of one or more community redevelopment districts, but could arguably be describable in some sort of overlay district wherein the regulation will take effect. The exact regulations would need to be considered and developed by Community Development staff after a referral from the City Commission to the City Manager.

With one exception mentioned below, the City Solutions program can certainly be a part of this regulation, provided that it otherwise complies with the regulatory scheme, i.e., color, location, with perhaps an exemption being made as to size, while still allowing publishers to utilize individual newsracks that met the regulatory requirements. As a matter of economics, an offer of free space in a City Solutions modular newsrack should appeal to publishers who wish to avoid the initial and maintenance costs of their newly designed, colored, etc. newsracks.

One feature of the City Solutions program that is more problematic is the proposal to allow off-site advertising on the back of the modular newsrack. It may be difficult to sustain allowing such advertising on the modular rack while disallowing advertising on individual newsracks, or other off-site structures located in the right-of-way. Furthermore, allowing off-premises advertising on the modular rack would certainly require an exemption from the city's current ban on billboards. Such an exemption might undercut the city's ability to otherwise defend its ban. These latter issues would also need to be examined by Community Development staff, prior to negotiating any agreement with City Solutions, without regard as to whether there is otherwise an attempt to regulate all newsracks.

CLH:sw

cc: Wayne Bowers, CRA Executive Director  
Karen Slevin, CRA Manager



Florida Republic  
RECORD  
The Orlando Sentinel  
Sunday's Miami Herald  
TAMPA BAY BUSINESS

RECORD  
The Orlando Sentinel  
Sunday's Miami Herald  
TAMPA BAY BUSINESS

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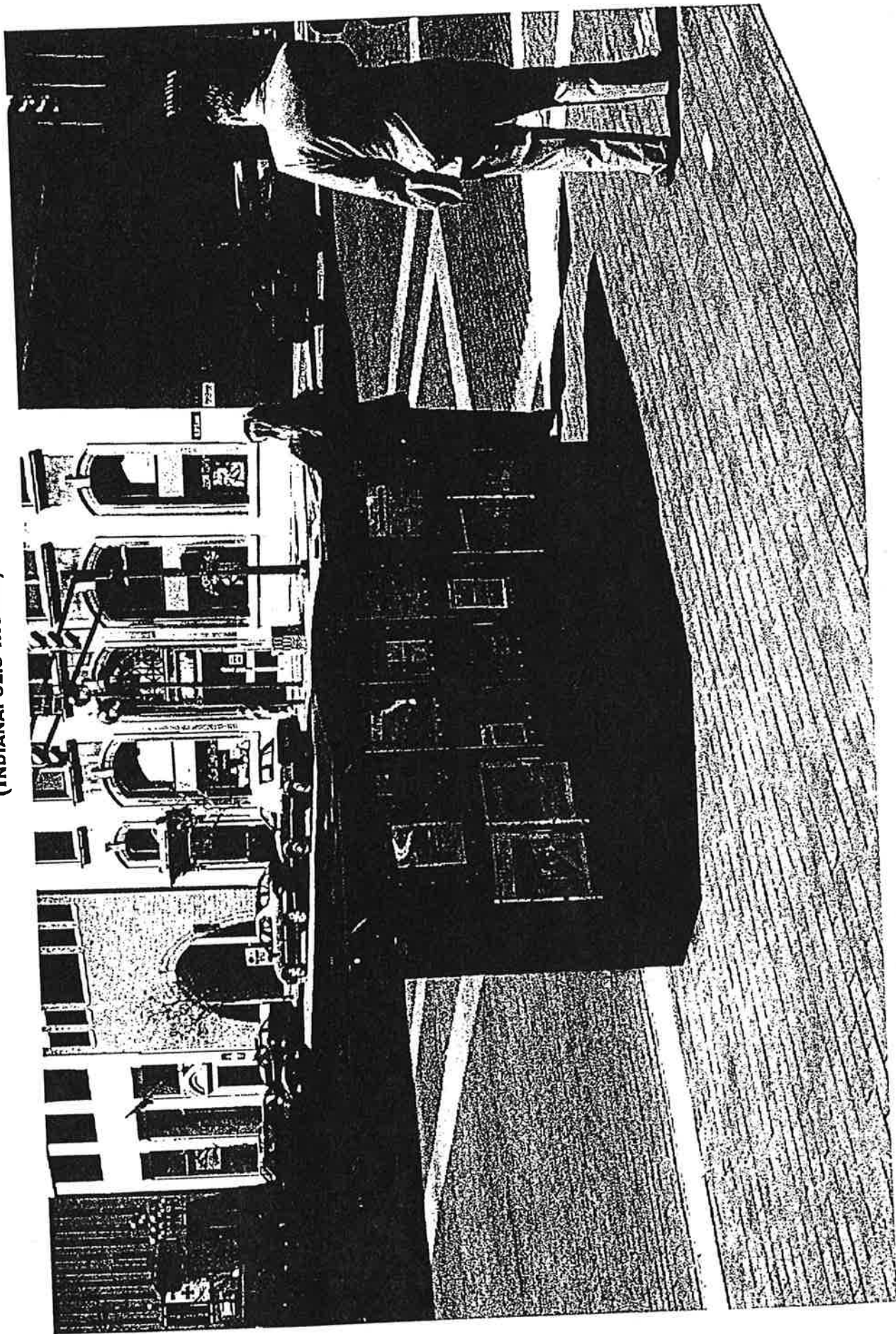
RECORD  
The Orlando Sentinel  
Sunday's Miami Herald  
TAMPA BAY BUSINESS

RECORD  
The Orlando Sentinel  
Sunday's Miami Herald  
TAMPA BAY BUSINESS

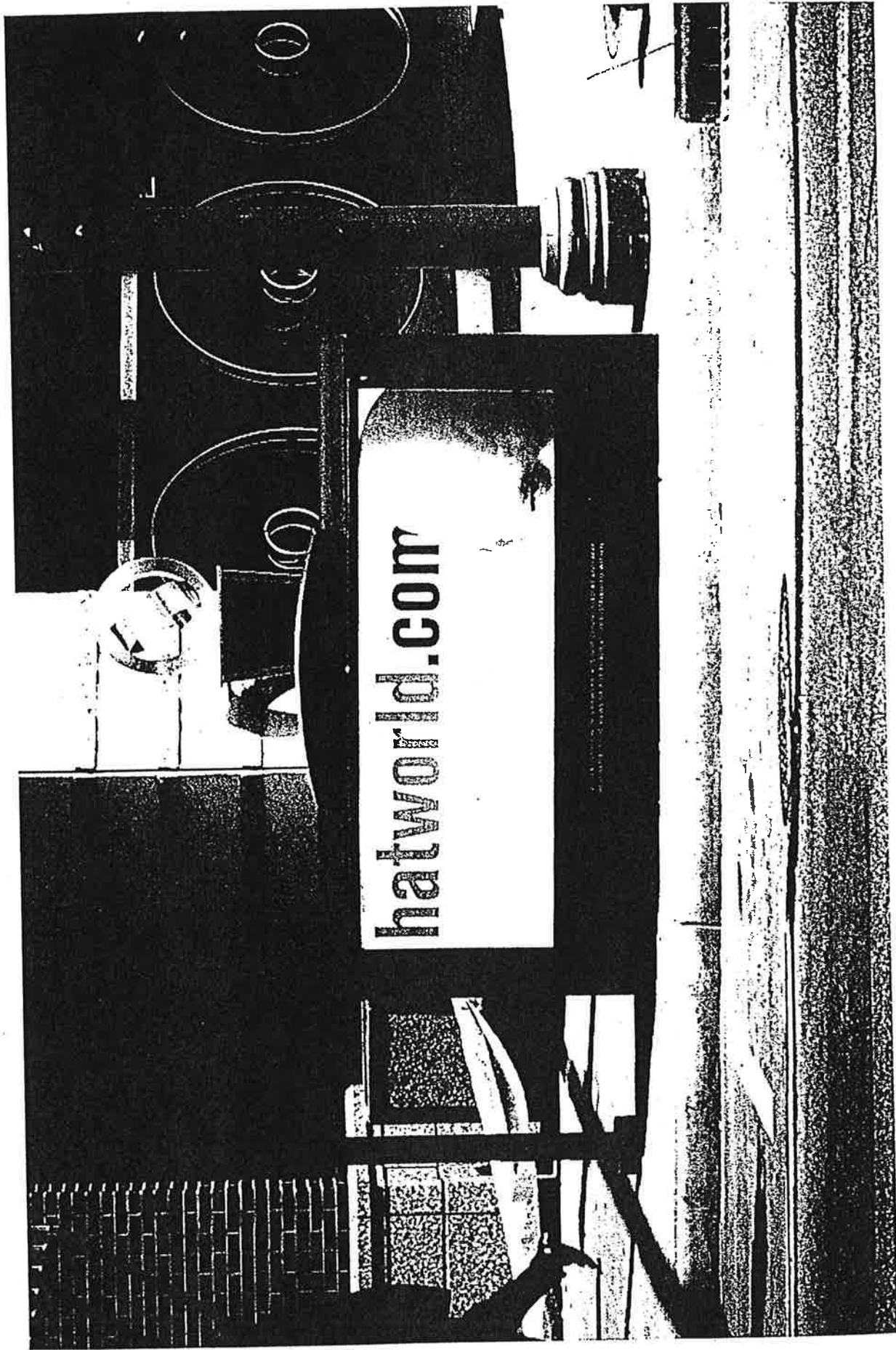
RECORD  
The Orlando Sentinel  
Sunday's Miami Herald  
TAMPA BAY BUSINESS



**FIG. 5 - SINGLE TIER PROGRAM**  
**(INDIANAPOLIS MODEL)**



**FIG. 5 - SINGLE TIER PROGRAM**  
(INDIANAPOLIS MODEL)





# CITY SOLUTIONS

85 square feet

17 feet



5 feet

## EXISTING ADVERTISING PANELS ON 12 NEWSRACKS

18 square feet

7.25 feet



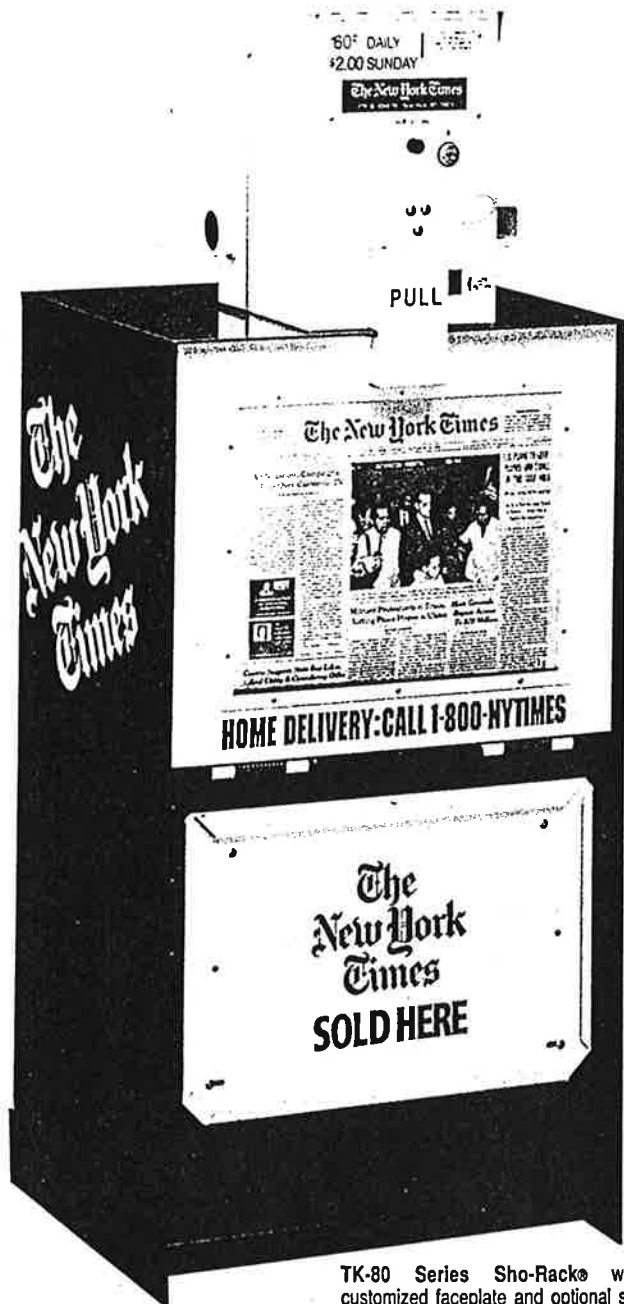
2.5 feet

## ADVERTISING PANEL ON CITY SOLUTIONS INFORMATION CENTER

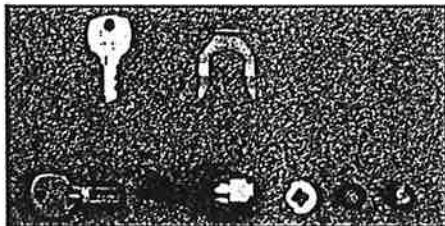
THAT HOLDS THE SAME 12 PUBLICATIONS



# 80 SERIES SHO-RACK.

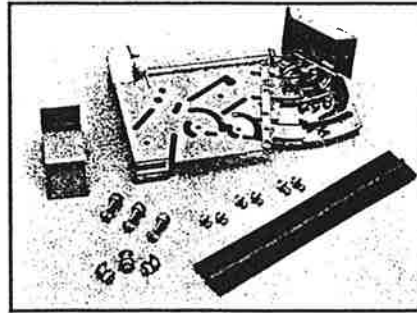


TK-80 Series Sho-Rack® with customized faceplate and optional silk screen impressions.

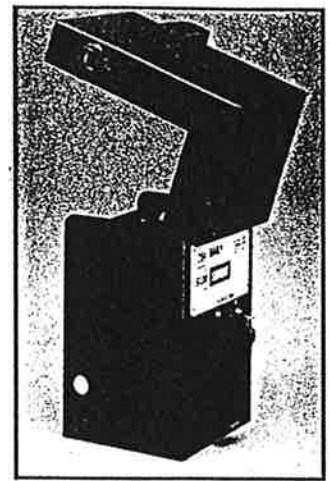


Remov-A-Core™ Lock Components – Allows for easy re-keying of your racks with control key.

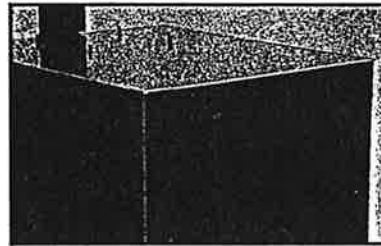
## STANDARD FEATURES



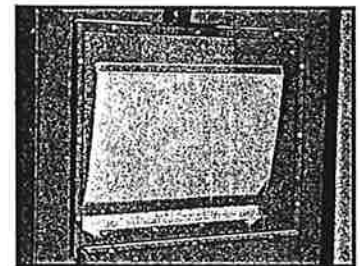
Stainless Steel Hardware – Standard on all racks for durability and extended rack life.



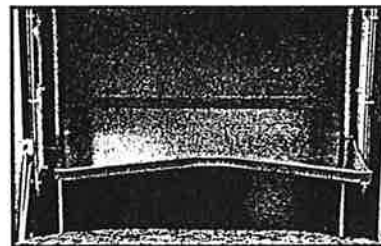
Extra Strong Hinged 12 Gauge Armored Housing – Galvanized steel. Stainless steel hinge opens fully. Standard on all Sho-Rack® housing models.



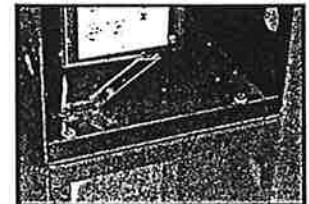
One Piece Wrap Around Cabinet and Chain Holes – Galvanized steel in one piece replaces seams where rust can occur.



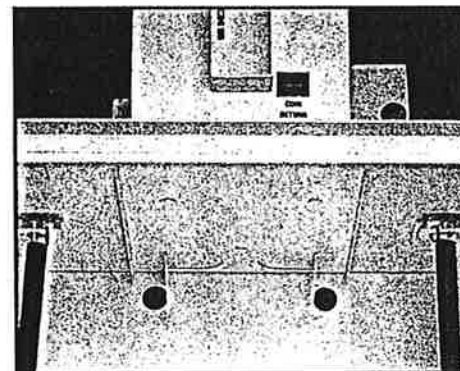
Vandal Guard Door Plastic – Standard .080 or optional .093 polycarbonate window specially treated with ultraviolet protectors to help prevent yellowing.



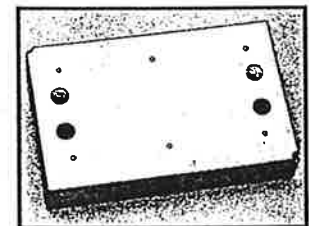
Elevator Shelf – Puts paper stack at the right height for customers. Stack rises as papers are sold.



Reinforced Housing Bottom – Extra strength and vandalism protection. Drain holes in back.



Reinforced Top – Additional strength to support 12 gauge armored housing.



Coin tray – Durable galvanized material with drain holes and dimples underneath to protect against corrosion.

## Standard Features

TK-80 - Safety Base, Quick Change Keyed Daily/Sunday Lockout, Hinged 12 Gauge Armored Housing, Galvanized Material, Elevator Shelf, .080 Vandal Guard Door Plastic, 11" X 17" 4-Lip Cardholder, Plastic Paper Holder, Cement Base Tray (removable) or 5 Ft. Security Cable or 5 Ft. Chain or Wedge Anchor Bolt, Chain Holes in Back, Stainless Steel Hardware.

## Optional Features

Front Door Lock, Impressions (Silk Screen Copy), Recovery Windows (2 1/8" X 9"), Two-Piece Super Heavy-Duty Armored Housing, Triple Quick Change Keyed Daily/Sunday/Third Day Pricing, Peso and Slug Rejector, .093 Vandal Guard Door Plastic, Sheet Metal Insert, Side Windows (10 1/2" X 13 1/4"), Back Window (13 1/2" X 16 1/4"), Leveling Brackets and Screws, Armored Lock Bolt (Key Extra), Honor Rack (Cardholder Standard), Pole Mount Available, Front Display Window, Full Display Door, (with Elevator Shelf Only), .080 Vandal Guard Door Plastic, Plastic Paper Holder, No Cardholder), Regular Wire Shelf, Sho-Guards, Slow Down Cylinder.

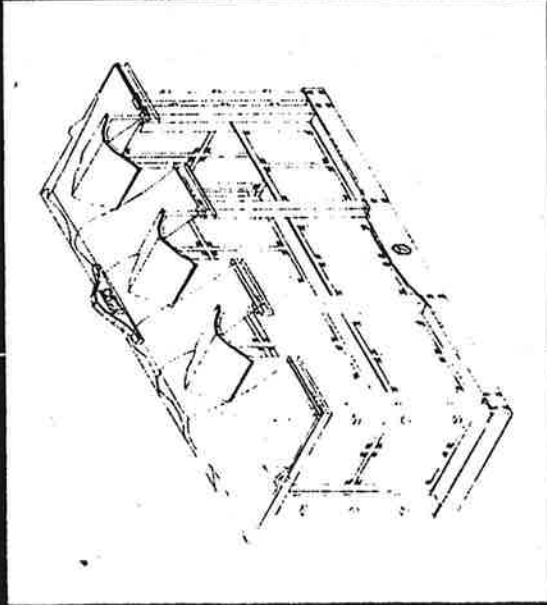
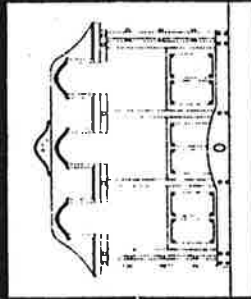
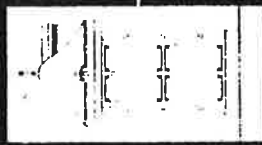
80 Series Specifications: Height - 48 1/2", Width - 19 1/4", Front to Back - 16 1/4", Paper Capacity W/Elevator Shelf - 29" Stack, W/Regular Shelf - 26" Stack.

Impression Area: TK Series - Sides - 15" wide X 30" high, Back - 16" wide X 30" high, Front - 14" wide X 10" high, Below Recovery Window - 15" wide X 14" high.

Shipping Weight: TK-80 W/Elevator Shelf - 106 1/2 lbs.

# News Enclosures

Site Furnishing



A Genuine

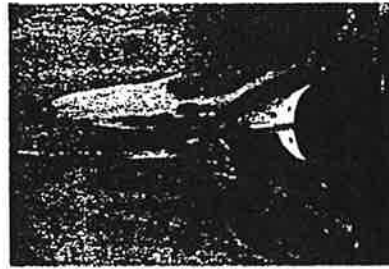
Alternative

Urban

Quality

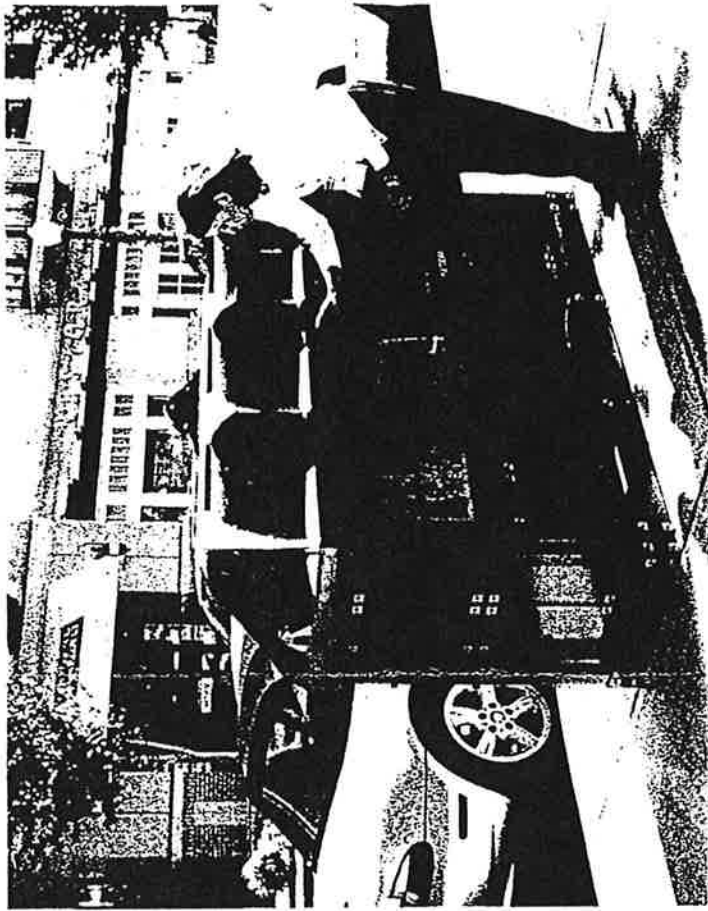


- ☑ Unique Design
- ☑ Timeless Materials
- ☑ Elegant Urban Presence
- ☑ Functional Flexibility
- ☑ Design Style Adaptability



## News Enclosure

Copper Roof and Powder coated aluminum structure with Brass acorn bolt and satin finish stainless steel spacers. Fully operable roof for easy insertion and removal of TK-80 news racks. Enclosures can be custom designed to house other types of news racks.



Dimensions: 6'-3" Long by 2'-0" Wide and 4'-8" Tall

Location: Park Avenue, Winter Park Florida

Designer: Alberto A. Vargas

Information: For a price list and special orders call:

Tel: (407) 599-3665

Fax: (407) 691-6402