

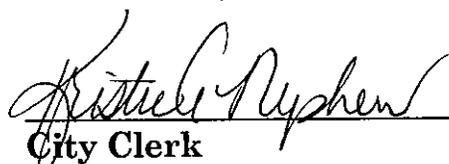
City of St. Charles, Illinois

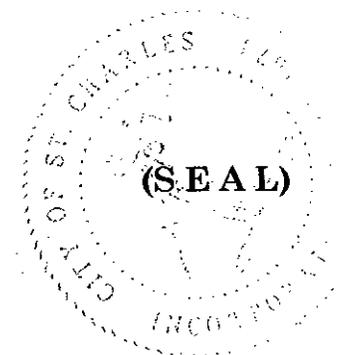
Ordinance No. 2002-M-24

An Ordinance Amending Title 5,  
"Business Licenses and Regulations," of the  
St. Charles Municipal Code

Adopted by the  
City Council  
of the  
City of St. Charles  
May 6, 2002

Published in pamphlet form by  
authority of the City Council  
of the City of St. Charles,  
Kane and Du Page Counties,  
Illinois, May 10, 2002

  
\_\_\_\_\_  
City Clerk



DATE OF PUBLICATION 5/16/02  
NEWSPAPER Pamphlet Form

REFER TO:  
MINUTES 5/16/02  
PAGE \_\_\_\_\_

ORDINANCE NO. 2002 M- 24

**0318**

**AN ORDINANCE AMENDING TITLE 5, "BUSINESS LICENSES AND REGULATIONS," OF THE ST. CHARLES MUNICIPAL CODE**

WHEREAS, print publication (newspaper) dispensing devices have caused clutter and impacted pedestrian and vehicular safety in the City of St. Charles (the "City"); and

WHEREAS, the placement of newspaper dispensing devices has an impact on public safety, especially at intersections and along sidewalks, and on the aesthetic appearance of the City; and

WHEREAS, the City Council has expended considerable time, energy and assets in improving the appearance of the City's central business district in order to insure continued viability of the downtown businesses and to provide an attractive place for its residents and visitors to shop and work; and

WHEREAS, the proliferation of newspaper dispensing devices in the central business district threatens to adversely impact the efforts made by the City to preserve and protect an attractive business area; and

WHEREAS, the City Council has heretofore established two Special Service Areas, a Business District, and two Tax Increment Finance Districts for the purpose of revitalizing and redeveloping the City's CBD; and

WHEREAS, the City Council has also enacted zoning and other regulations throughout the City to preserve and enhance the quality of life of its residents and the appearance of the community, and the unrestrained clutter of newspaper dispensing devices at certain locations adversely impacts such efforts; and

WHEREAS, the City Council has determined that it is necessary and advisable, in the interests of public safety and aesthetics, to regulate the placement of newspaper dispensing devices throughout the City, and in the central business district area in particular,

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ST. CHARLES, KANE AND DUPAGE COUNTIES, ILLINOIS, as follows:**

**SECTION ONE.** Title 5, "Business Licenses and Regulations," of the St. Charles Municipal Code is hereby amended by adding the following sections which include Chapter 5.50, entitled, "Newspaper Dispensing Devices":

**Chapter 5.50. Newspaper Dispensing Devices****Section 5.50.010 Definitions.**

The following words, terms and phrases, when used in this section shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

**Newspaper dispensing device:** a container constructed of metal or other material of substantially equivalent strength and durability which is used for the dispensing of newspapers, fliers, handbills, or other similar printed materials at a cost or free of charge.

For purposes of this ordinance, the geographic area referred to as the "Central Business District" or "CBD" shall have the same boundaries as the City's Special Service Area #1B.

**Section 5.50.020 Newspaper dispensing devices; application and permit.**

- (1) No newspaper dispensing device shall be placed or located within a public right-of-way, along the streets, thoroughfares, parkways or sidewalks within the City unless a permit has been issued therefor by the City in conformance with the provisions of this article. This ordinance does not prohibit newspaper dispensing devices located within a wholly enclosed structure.
- (2) Applications for a permit under this section shall be made on forms approved by the City Administrator (or his/her designate) for permits allowing for the installation and placement of newspaper dispensing devices within the public right-of-way, along the streets, thoroughfares, parkways, and sidewalks within the City. The applications shall be available and provided by the City Clerk (or his/her designate) upon request. The application must include a site plan and must expressly state the exact location where the applicant wishes to install a newspaper dispensing device. The application must also include a description of and the specifications for the intended newspaper dispensing device.
- (3) Within five business days of receipt of an application for a permit under this section, the City Administrator (or his/her designate) shall grant the application and instruct the City Clerk to issue the permit provided that the conditions contained in Section 5.50.030 are, where applicable, complied with. If the terms and conditions of Section 5.50.030, where applicable, are not complied with, the City Administrator (or his/her designate) shall, within five business days of receipt of the application for a permit, deny the application, and state the reasons in writing for such denial.

**Section 5.50.030. Privately Owned Newspaper Dispensing Device Permit Conditions.**

A city permit allowing the placement of privately owned newspaper dispensing devices shall be subject to, and granted upon, the following conditions, restrictions, and requirements:

- (1) Newspaper dispensing devices shall not be placed in the central business district. The central business district is delineated on the map attached as Exhibit A. However, newspapers, fliers, handbills, or other printed materials may be placed in uniform newspaper dispensing devices in the central business district pursuant to Section 5.50.040. The location of the uniform newspaper dispensing devices is depicted on the maps attached as Exhibit B, collectively.
- (2) Newspaper dispensing devices shall be placed adjacent and parallel to building walls not more than six inches distant therefrom, or near and parallel to the curb not less than 18 inches and not more than 24 inches distant from the curb.
- (3) No newspaper dispensing device shall be placed, installed, located, used or maintained:
  - a. Within twenty feet of any electric utility pole, fire hydrant, Fire Department Station, Police Department Station, or Medical Building driveway.
  - b. Within twenty feet of any intersecting driveway, alley, or street.
  - c. Adjacent to parallel parking spaces or on the curb in front of angle parking spaces.
  - d. At any location where the width of paved (or other suitable hard surface) clear space in any direction for the passage of pedestrians is reduced to less than five feet.
  - e. So as to be chained or otherwise secured to any tree, utility pole, light pole, parking meter, traffic control post, street signpost, or other public property.
  - f. Within three feet of any bicycle tie-up racks, bus benches, area improved with landscaping, or window displays.
  - g. On or within any median within any public right-of-way.
  - h. So as to project into any part of the public right of way or along the streets, thoroughfares, parkways and sidewalks within the City, as authorized by a properly issued City permit.
- (4) The permittee shall pay an administrative processing fee of \$25.00 for each location where

a newspaper dispensing device is installed. The initial administrative processing permit fee shall be applicable to the initial license year, or any part thereof. The permittee shall pay a renewal administrative processing permit fee of \$25.00 per year for each location where a newspaper dispensing device is installed. The permittee will also pay for the cost of a template placed upon the box to identify the publication and the permittee will also pay any yearly maintenance costs associated with the box.

- (5) The permittee shall maintain the device in good working order, in a safe and clean condition, in such a manner that:
- a. It is reasonably free of dirt and grease;
  - b. It is reasonably free of chipped, faded, peeling and cracked paint in the visible painted areas thereof;
  - c. It is reasonably free of rust and corrosion in the visible unpainted metal areas thereon;
  - d. The clear plastic or glass parts thereof, if any, through which the publications therein are viewed are unbroken and reasonably free of cracks, dents, blemishes and discoloration;
  - e. The paper or cardboard parts or inserts thereof are reasonably free of tears, peeling or fading;
  - f. The structural parts thereof are not broken or unduly disfigured;
  - g. The device shall display a telephone number for refund in case of malfunctioning of the device.
- (6) The permittee shall not use a newspaper dispensing device for advertising signs or publicity purposes other than that dealing with the display, sale, or purchase of the materials sold or distributed therein.
- (7) Permits shall be for a term of one year and shall not be assignable. Permits for the City fiscal year 2002-03 will be filed with the City Administrator (or his/her designate) no later than June 3, 2002; these permits will be valid through April 30, 2003. For all years thereafter, permits shall expire on the 30<sup>th</sup> day of April of each year; applications for renewal of permits shall be filed with the City Administrator (or his/her designate) no later than the 1<sup>st</sup> day of April of each year.

- (8) A permit shall allow the installation of a newspaper dispensing device only at the exact location described in the application for the permit. The permit shall contain a description of the authorized location. Permits shall not be transferable from one location to another.
- (9) The permittee, upon removal of the newspaper dispensing device, shall restore the property of the City to the same condition as when the device was initially installed, ordinary wear and tear excepted.
- (10) As an express condition of the acceptance of a permit hereunder, the permittee thereby agrees to indemnify and hold harmless the City, its officials, both elected and appointed, its employees and agents against any loss or liability or damage, including expenses and costs for bodily or personal injury, and for property damage sustained by any person as the result of the installation, use or maintenance of a device within the City.

**Section 5.50.040. Uniform Newspaper Dispensing Devices.**

Uniform newspaper dispensing devices shall be located within the central business district (See Exhibit A) at the locations shown in Exhibit B. A prototype illustration of the uniform newspaper dispensing devices is attached at Exhibit C. Permits for spaces within the uniform newspaper dispensing devices shall be issued, subject to the following conditions:

- (1) Persons or entities wishing to place newspapers, fliers, handbills, or other printed materials in the uniform newspaper dispensing devices must file an application for a permit on the forms approved by the City Administrator (or his/her designate). Said applications shall be available and provided by the City Clerk upon request.
- (2) Permits shall be issued on a first come - first served basis. In the event that the City has issued permits equal to the number of available spaces in the newspaper dispensing devices, additional applicants will be placed on a waiting list. As spaces become available, additional permits shall be issued and retained according to the provisions of this Section. No publication shall be issued more than one space at each location.
- (3) The permittee shall pay an administrative processing fee of \$25.00 for each space in the uniform newspaper dispensing device. The initial administrative processing permit fee shall be applicable to the initial license year, or any part thereof. The permittee shall pay a renewal administrative processing permit fee of \$25.00 per year for each space. Permits shall be for a term of one year and shall not be assignable. Permits shall expire on the 30<sup>th</sup> day of April of each year; applications for renewal of permits shall be filed with the Mayor's Office no later than the 1<sup>st</sup> day of April of each year. In the event that the renewal fee is not paid by April 1<sup>st</sup>, the space shall be forfeited.

- (4) The permittee, upon removal of materials from the newspaper dispensing device, shall restore the newspaper dispensing device to the same condition as when the device was initially installed, ordinary wear and tear excepted. The permittee shall be responsible for reimbursing the City for the cost of any repairs to the newspaper dispensing device resulting from damage caused by the permittee.

**Section 5.50.050 Appeal of denial of permits.**

The decision of the City Administrator (or his/her designate) in refusing to grant a permit under this Article shall be appealable. The applicant shall have the right to appeal the decision to the Chair of the Government Operations Committee, provided that the applicant files a written notice of appeal, including a statement of the grounds of appeal, with the City Clerk within 15 calendar days after notice of the decision of the City Administrator (or his/her designate). The Government Operations Committee shall set a hearing on the appeal at its next regularly scheduled Government Operations Committee meeting, and notice of such time and place shall be given in the same manner as specified in this Article. The Government Operations Committee shall have the power to reverse, affirm, or modify the decision of the City Administrator (or his/her designate). In making its determination, the Government Operations Committee shall only consider the standards set forth in this Article. Its decision shall be rendered the same day as the hearing. The decision of the Government Operations Committee shall be final.

**Section 5.50.060 Emergency**

Notwithstanding any other provision of this Article, however, the City may remove any device from public property which, because of its location or condition, poses an immediate threat to the health, safety and welfare of the public or a member thereof. The City Administrator (or his/her designate) or his/her designate shall send, by certified mail, with return receipt requested, a written notice to the address of the owner or user of the newspaper dispensing device. The notice shall state the address and telephone number of the City Administrator (or his/her designate) and a description of why the newspaper dispensing device was removed. The owner may request a hearing before the Government Operations Committee by filing a written appeal with the City Administrator (or his/her designate). In this event, a hearing shall be held, according to Section 5.50.080, for the purpose of determining whether there is a continued need for the removal.

**Section 5.50.070 Revocation of permits.**

The City Administrator or his/her designate shall revoke any permit issued under the terms of this Article after a finding of guilty, by any state court, for any of the following causes, which shall constitute violations of this Article:

- (1) Fraud, misrepresentation, or any false statement contained in the application for a permit;

- (2) Violation of any term of the permit granted to the permittee;
- (3) Violation of any term of this Article.

**Section 5.50.080      Removal of newspaper dispensing devices.**

- (1) If any newspaper dispensing device is placed or remains within the central business district as delineated in the map at Exhibit A or within any public right-of-way, street, thoroughfare, parkway, or sidewalk without a permit therefor being issued, or after the expiration or revocation of a previously issued permit, or is deemed abandoned or unclaimed, or in violation of any other provision of this Article, the City Administrator (or his/her designate) shall send, by certified mail, with return receipt requested, a written notice to the address of the owner or user of the newspaper dispensing device. The notice shall state the address and telephone number of the City Administrator (or his/her designate), a description of why the newspaper dispensing device is in violation of the requirements of this Article; that the owner or user is ordered to cause immediate removal of the newspaper dispensing device from the public property; and that the newspaper dispensing device shall be removed by the City after a date designated in the notice. The date shall be no less than ten calendar days after the date the notice is mailed or first posted, as the case may be, unless the owner or user requests a hearing before the Government Operations Committee by filing a written appeal with the City Administrator (or his/her designate) on or before the designated removal date.
- (2) If any materials are placed in a uniform newspaper dispensing device without a permit therefor being issued, or after the expiration or revocation of a previously issued permit, or the materials are deemed abandoned or unclaimed, or in violation of any other provision of this Article, the City Administrator (or his/her designate) shall send, by certified mail, with return receipt requested, a written notice to the address of the permitted user. The notice shall state the address and telephone number of the City Administrator (or his/her designate), a description of why the materials are in violation of the requirements of this Article; that the user is ordered to cause immediate removal of the materials; and that the materials shall be removed by the City after a date designated in the notice. The date shall be no less than ten calendar days after the date the notice is mailed or first posted, as the case may be, unless the user requests a hearing before the Government Operations Committee by filing a written appeal with the City Administrator (or his/her designate) on or before the designated removal date.
- (3) When any appeal is filed pursuant to this section, the City Council shall set a hearing on the appeal at its next regularly scheduled Council meeting and notice of such time and place shall be given in the manner as specified in this section. Any newspaper dispensing

device or materials located in a City owned newspaper dispensing device may remain in place during the appeal period. In making its determination, the Government Operations Committee shall only consider the standards set forth in this Article. Its decision shall be rendered on the same day as the hearing. The decision of the Government Operations Committee shall be final.

- (4) If any newspaper dispensing device is still on public property after the ten-day period described in subsection (1) of this section, or if an appeal is made and denied after hearing before the Government Operations Committee, the City Administrator (or his/her designate) shall cause removal of the newspaper dispensing device. Similarly, if any materials located in a City owned newspaper dispensing device remain in the City owned newspaper dispensing device after the ten-day period described in subsection (2) of this section, or if an appeal is made and denied after hearing before the Government Operations Committee, the City Administrator (or his/her designate) shall cause the removal of the materials.
- (5) The owner of any newspaper dispensing device removed in accordance with the terms of this Article shall be responsible for all the expenses of the removal, storage and disposal of such newspaper dispensing device. Likewise, the owner of any materials placed in a City owned newspaper dispensing device removed in accordance with the terms of this Article shall be responsible for all the expenses of the removal, storage and disposal of such materials. Should the newspaper dispensing device or materials fail to be claimed or should the owner fail to pay any money due the City, such newspaper dispensing device or materials shall be unclaimed property and may be disposed of pursuant to law.

**Section 5.50.090 Penalties.**

Any person or entity who shall be guilty of a violation of any of the provisions of this Article, shall be subject to a fine of not less than fifty (\$50.00) dollars and not more than seven hundred and fifty (\$750.00) dollars. A separate offense shall be deemed committed for every day a violation continues.

**Section 5.50.100 Severability.**

If any section, subsection, sentence, clause, or phrase of this Article is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Article.

**SECTION TWO:** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**SECTION THREE:** This Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

**PASSED** by the City Council of the City of St. Charles, Kane and DuPage Counties, Illinois, this 6th day of May, 2002.

**APPROVED** by me as Mayor of the City of St. Charles, Kane and DuPage Counties, Illinois, this 6th day of May, 2002

Susan Klinkhamer  
Susan L. Klinkhamer, Mayor

ATTEST?

Kristie Nephew  
Kristie Nephew, City Clerk

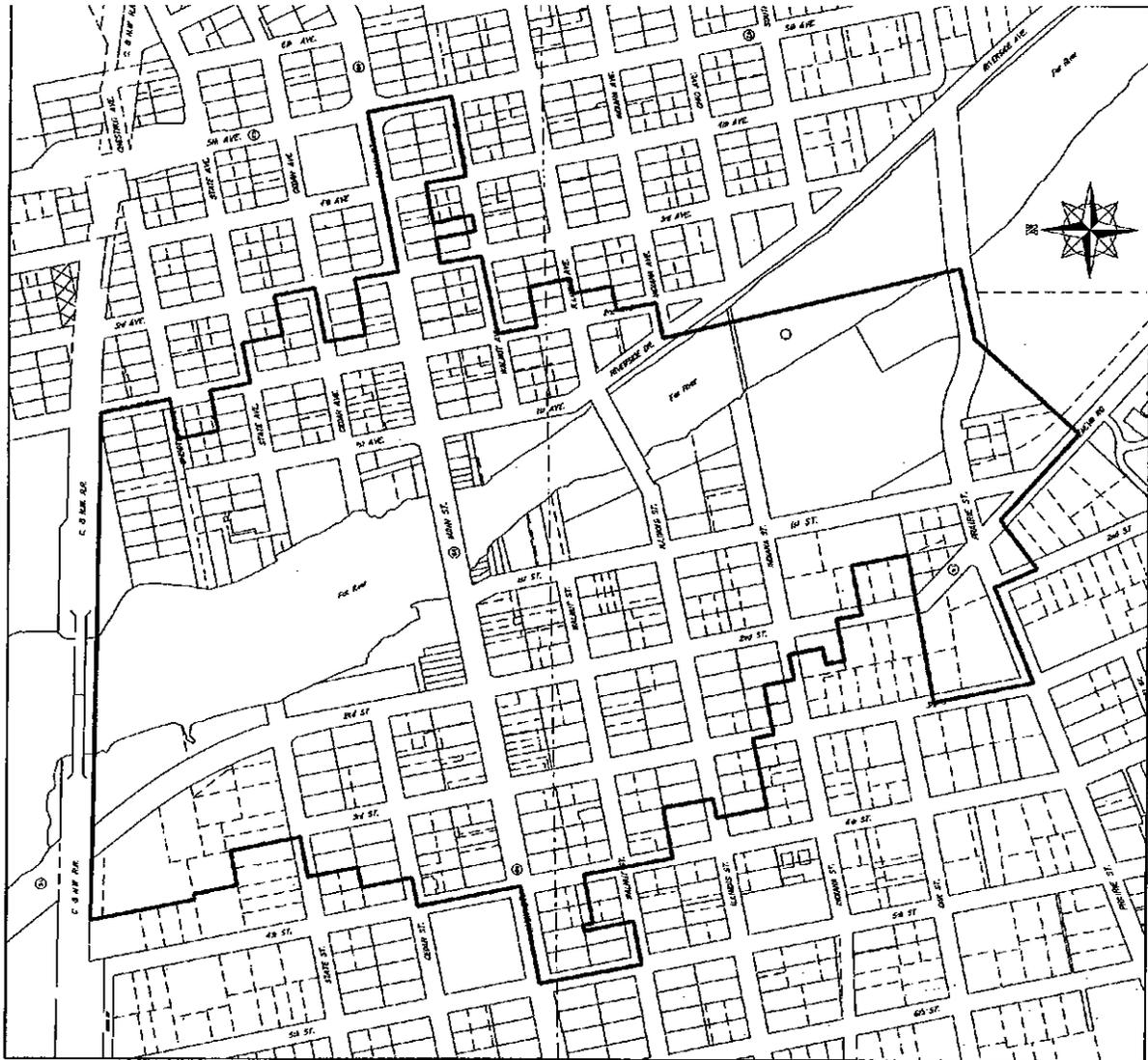
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NAYS: 0  
ABSENT: 0  
ABSTAIN: 0

Approved as to form by:

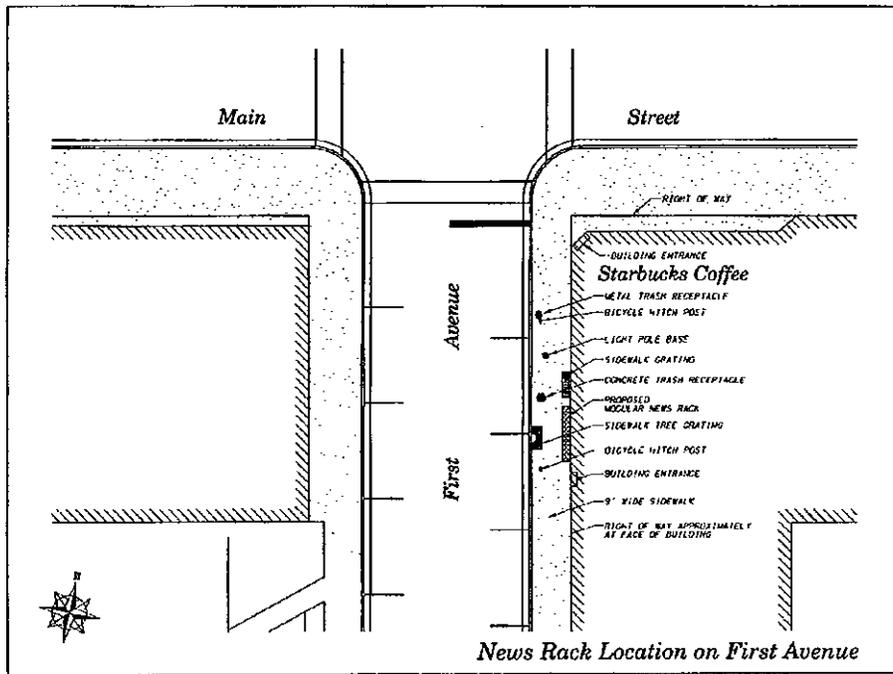
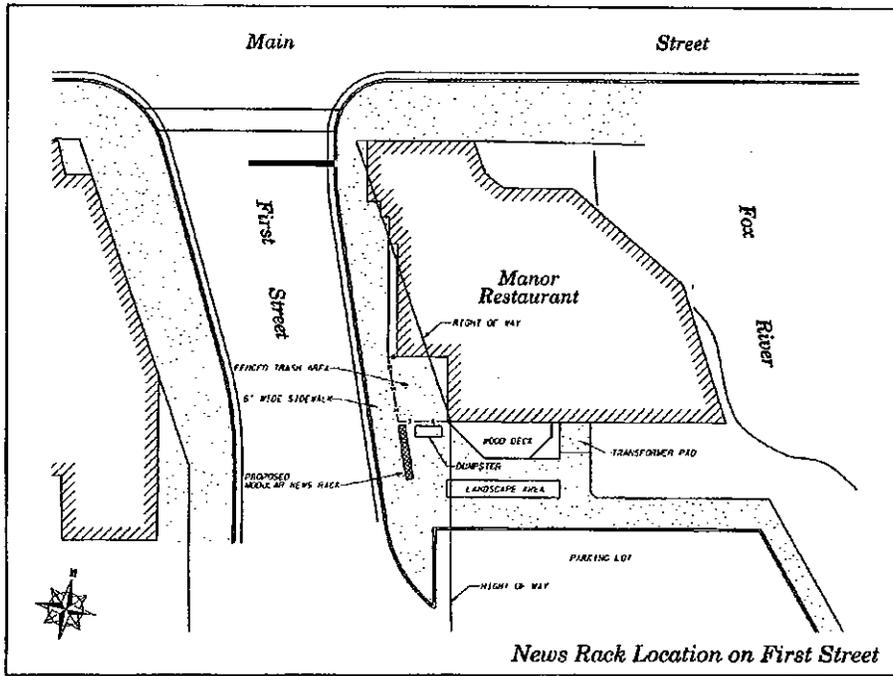
Timothy O'Neil  
Timothy O'Neil, City Attorney

Date: 5/6/02

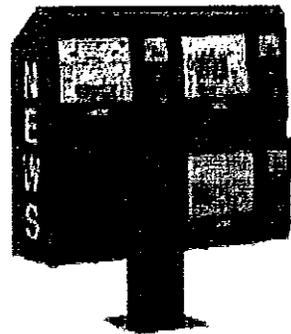
EXHIBIT A  
MAP OF CENTRAL BUSINESS DISTRICT



GROUP EXHIBIT B  
MAP LOCATION OF SITES WITHIN CENTRAL BUSINESS DISTRICT



**Group Exhibit C**  
**Prototype Illustration of Uniform Newspaper Dispensing Devices**



State of Illinois )  
 )  
 Counties of Kane and DuPage ) ss.

## Certificate

I, KRISTIE A. NEPHEW, certify that I am the duly elected and acting municipal clerk of the City of St. Charles, Kane and DuPage Counties, Illinois.

I further certify that on May 6, 2002, the Corporate Authorities of such municipality passed and approved Ordinance No. 2002-M-24, entitled

"An Ordinance Amending Title 5,  
 "Business Licenses and Regulations," of the  
 St. Charles Municipal Code,"

which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. 2002-M-24, including the Ordinance and a cover sheet thereof was prepared, and a copy of such Ordinance was posted in the municipal building, commencing on May 10, 2002, and continuing for at least ten days thereafter. Copies of such Ordinance were also available for public inspection upon request in the office of the municipal clerk.

DATED at St. Charles, Illinois, this 6th day of May, 2002.

*Kristie Nephew*  
 \_\_\_\_\_  
 Municipal Clerk

