



## **Distribution of Periodical Publications on County Property Policy**

**Commissioners Court Order November 15, 2010**

**Responsible Department:** Facilities Management

**Source Document:** Policies Applying to El Paso County Courthouse Facility Management

### **I. Purpose**

This Policy describes reasonable time, place, and manner restrictions governing the bulk distribution of periodical publications from newspaper racks or other approved containers at designated locations on El Paso County Courthouse property. The policy is based on a thorough review of the laws and policies, facts, and circumstances related to the issues of bulk distribution of periodical publications on El Paso County property.

### **II. DEFINITIONS**

“Publication” as used in this policy means anything publicly circulated in print which is issued at regular intervals, usually monthly or weekly, and intended to be informational, such as a newspaper or magazine.

“Person or Organization” as used in this policy means any individual or group of individuals, non-profit entity, corporation, or government entity.

“Political campaign materials” as used in this policy means materials which advocate, promote, or endorse a particular candidate, platform or party. A newspaper or periodical of general circulation is excepted from this definition.

### **III. POLICY**

A. The El Paso County Commissioners seek to promote freedom of expression and encourages the dissemination of information to the El Paso County community, in support of and consistent with its main purposes of the provision of county functions, including public service.

B. El Paso County Commissioner’s interest in regulating county property while promoting freedom of expression requires that reasonable and content-neutral regulations regarding time, place, and manner be placed upon the use of newspaper racks and other containers for the bulk distribution of periodicals. Available appropriate space for bulk periodical distribution is a scarce resource, limited to a small number of discrete locations within the El Paso County Courthouse, for the following reasons:

1. The unregulated bulk distribution of periodicals and/or placement of racks can potentially create disruption of El Paso County functions, and services; interfere with pedestrian traffic; pose a hazard for safety; contribute to clutter, litter, and cause visual blight; and result in expenses for clean-up and handling, as well as environmental costs.

2. El Paso County Courthouse, including sidewalks, lobbies, a courtyard, hallways, and other open areas must be maintained to permit orderly and safe access for the public
  3. El Paso County Courthouse accommodates the distribution of periodical publications via racks and containers located on or near the public's ingress and egress, including immediate area outside the Lower Level Courthouse Cafeteria which is the only site currently authorized, to the fullest extent possible consistent with the concerns described.
- C. A request for authorization to distribute periodical publications (see IV, below) will be denied if the request is not in accordance with El Paso County Courthouse policy reflecting time, place, and manner considerations. No denial of an authorization may be based on the content or viewpoint expressed by the publication or that of its sponsor, distributor, or publisher. However, no political campaign materials may be distributed at anytime on El Paso County Courthouse premises.
- D. Taking, stealing, or disposing of periodical publications at the El Paso County Courthouse for the purpose of censoring the message expressed by the publication is prohibited. Those who engage in such acts may be subject to prosecution under law.

#### **IV. PROCEDURES**

Bulk distribution of periodical publications requires the completion of an authorization agreement. A publication distributed without a valid authorization or in violation of the authorization, will be removed and discarded. The sponsoring organization or company will be responsible for cleanup and removal costs and any injury or damages associated with unauthorized distribution.

1. The bulk distribution of periodical publications, whether free or for sale, requires completion of an authorization agreement with the County Commissioners.
2. The authorization agreement shall include the following information:
  - a. Number of racks.
  - b. Location of racks.
  - c. Dimensions and other specifications of racks (e.g., secure, enclosed).
  - d. Maximum capacity of racks.
  - e. Length of time publication may remain on racks.
3. If an authorization is denied, the applicant can request and be accorded prompt review of the denial by requesting a review before the commissioners court in open meeting.

#### **V. SPECIFICATIONS FOR RACKS AND CONTAINERS**

- A. Racks can be placed only at the approved location that allows for normal pedestrian traffic, and makes reasonable accommodation for physically-challenged individuals. Placement of containers will be approved only if space permits. In the event that demand

for locations for placement of or use of racks exceeds the space available at the designated El Paso County Courthouse area, use will be determined by lottery.

- B. Racks for publications must be supplied by the publisher, distributor, or sponsoring person or organization and must conform to the specifications identified in the authorization agreement.
- C. Old editions of publications must be removed by the distributor prior to or concurrent with the distribution of the latest edition. All editions of publications, whether or not they are current, must be removed and properly discarded by the time specified in the authorization agreement.
- D. Racks shall be maintained in working condition and kept free of graffiti or other types of material that would detract from the county standards for aesthetics, orderliness, and cleanliness. Any containers found to be defective or in disrepair shall be repaired or replaced within 3 business days of notice. Failure to do so will result in county removal action at the expense of the sponsoring agency or publisher.

## **VI. Further Information**

Questions regarding this policy may be directed to the El Paso County Courthouse Facility Services Manager, Viviana Alvidrez 915-546-2009.

## EXHIBIT A

### Agreement Regarding the Distribution of Periodical Publications on El Paso County Courthouse Property

This Agreement is to formalize the arrangements whereby an external vendor publication can be distributed on El Paso County Courthouse property. El Paso County Courthouse policy outlines the following requirements to distribute periodicals on El Paso County Courthouse property. These terms and condition must be agreed upon prior to distribution of publications.

1. Newspaper shall be distributed through the use of a newspaper rack that is of a size, color, style and condition approved by El Paso County.
2. The vendor will place the rack(s) in the immediate area outside the Lower Level Courthouse Cafeteria, the only site currently authorized.
3. The vendor will maintain the rack(s) in good working order and will keep it/them properly supplied with newspapers.
4. The vendor will pay any and all license fees, possessory taxes, or other charges imposed by law in connection with its business operation on El Paso County Courthouse property.
5. The County shall have no liability for loss or damage to the rack or for loss of money or newspapers from the rack, unless such loss or damage is the direct result of negligence on the part of County employees acting within the scope of their employment.
6. The vendor will hold El Paso County harmless and indemnify it from and against any and all liability, costs, claims, or demands resulting from loss or damage to property to injury to persons, including death, that may be caused by the vendor's newspaper rack, its presence on County Courthouse property, or the actions of the vendor, its officers, agents, employees, or subcontractors.
7. The County reserves the right to remove the newspaper or magazine rack without notice.