

## Chapter 171. Speech Activities on Travis County Premises<sup>1</sup>

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### **171.001 Preamble**

- (a) The purpose of this Chapter 171 is:
- (1) to codify the policy and associated procedures pursuant to which members of the public may engage in speech activities on County premises;
  - (2) to ensure the public has safe and unimpeded access to County buildings and parks for the purpose of conducting official business, obtaining County services, or engaging in recreational activities; and
  - (3) to maintain the health and safety of the public and County employees and the security and physical integrity of County buildings and parks.
- (b) This Chapter 171 shall also be known as the "Travis County Policy Regarding Speech Activities."

### **171.002 Definitions**

For purposes of this Chapter, the following terms are defined:

- (1) "County Building" means a building, facility or other structure owned or controlled by Travis County, or occupied by officials, departments, or employees of Travis County in the regular performance of their official duties.
- (2) "County Business Hours" means, for County Buildings, from 8:00 A.M. until 5:00 P.M., Monday through Friday, excepting official County holidays, and, for County Parks that are open to the public during designated days and hours, those designated days and hours.

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<sup>1</sup> Chapter 71A was adopted by the Travis County Commissioners Court on 11/1/2005, Item 32. Chapter 71A was renumbered as Chapter 171 on June 1, 2018 (approved May 15, 2018 Item 7).

- (3) "County Park" means any open spaces owned or controlled by Travis County, such as parks, preserves, playing fields or other areas of land designed or set aside for use by members of the public for recreational purposes. Adoption of this Policy does not affect the authority or right of Travis County Parks and Natural Resources staff, or their designees, to enforce in full any laws, rules, regulations or policies governing public conduct and activities in County Parks.
- (4) "Driveway" means an area surfaced with asphalt, gravel, concrete, or similar surface, providing vehicular access to, from or between a County Building or County Park.
- (5) "Parking Lot" means an area consisting of parking spaces surrounding or in the vicinity of a County Building or County Park, owned or controlled by Travis County, designated for use by County employees and/or members of the public for the purpose of conducting official County business and/or engaging in recreational activities.
- (6) "Parking Garage" means a covered, multistory Parking Lot.
- (7) "Pre-coordinated Speech Activities" means Speech Activities in which one or more persons engage by previous publicity or pre-arranged coordination.
- (8) "Public Area" means any area adjacent to or surrounding a County Building or County Park and ordinarily open to the public for use in conducting official business or in engaging in recreational activities.
- (9) "Speech Activities" means activities that have been recognized as protected speech under the Constitution and laws of the United States and the State of Texas, including without limitation distribution of literature, solicitation of signatures on petitions, gatherings for the purpose of observing or listening to speech or other communication, gatherings for the purpose of picketing or otherwise expressing in a nonviolent manner a position on social, economic, political or religious issues.
- (10) "Walkway" means a paved or otherwise prepared or "groomed" area designed to accommodate pedestrian access to and egress from a County Building or County Park that is located outside and adjacent to any of the foregoing and that is owned or controlled by County.

**171.003 Restricted Areas**

- (a) Entrance to County Buildings/Parks. In order to provide visitors with safe and unimpeded access to and egress from a County Building or County Park, no person may conduct Pre-coordinated Speech Activities within fifteen (15) feet of the main (front) public entrance to a County Building or County Park during County Business Hours.

- (b) County Building Curb Ramps. In order to provide disabled persons with unimpeded access to and egress from a County Building or County Park, no person may conduct Pre-coordinated Speech Activities on curb ramps attached to or constructed on a Public Area or Walkway during County Business Hours.
- (c) Public Areas and Walkways. In order to protect and ensure the public's right of way along, across and through Public Areas and Walkways, no person may obstruct or in any way interfere with another person's access to or movement along, across and through Public Areas, Walkways or curb ramps during County Business Hours.
- (d) Parking Lot; Parking Garage; Driveways. In order to protect and ensure a safe and normal flow of vehicular and pedestrian traffic in, around and through a Parking Lot, Parking Garage, and/or Driveway, no Pre-coordinated Speech Activities may be conducted in a Parking Lot, Parking Garage or Driveway during County Business Hours.
- (e) Right of Preemption. Travis County reserves the right at all times to preempt the scheduled use of a Public Area or Walkway for the conduct of Pre-coordinated Speech Activities in the event such Public Area or Walkway is needed to conduct official business.

**171.004 Other Restrictions**

- (a) No Signage Posting on/in County Buildings/Parks. Signs, placards, pamphlets, and other materials may not be affixed to any part of a County Building, County Park structure or to the windows, window recesses, fences, lampposts, trees, fixtures or improvements located in or on the foregoing. No part of a County Building or County Park, or the windows, window recesses, fixtures or improvements located in or on the foregoing may be used to physically support signs, placards, pamphlets, or other materials. Any materials displayed, held or carried incident to the conduct of Pre-coordinated Speech Activities must be removed by 5:00 p.m. each day.
- (b) Number and Size of Tables and Chairs. In order to protect and ensure the public's right of way along, across and through Public Areas, any portable tables or chairs used incident to the conduct of Pre-coordinated Speech Activities must not obstruct or otherwise interfere with access to or egress from the County Building, County Park, or movement along, across or through a Public Area. All tables and chairs used incident to the conduct of Pre-coordinated Speech Activities must be removed at the close of County Business Hours each day. No individual or group may place articles in a Public Area that give the impression of permanent or semipermanent occupancy or residency (such as a bed, cot, office furniture, sofa, heater, refrigerator, or portable bathroom). Any such excess articles may be removed by County staff.

- (c) **Prohibited Conduct.** Individuals and groups conducting Pre-coordinated Speech Activities on County premises are prohibited from:
  - (1) disposing of trash in any manner other than by depositing the same in trash receptacles;
  - (2) the willful destruction of or damage to, or theft of, County property;
  - (3) throwing articles of any kind from or at a County Building, County Park or Public Area;
  - (4) climbing on landscaped areas, statues or any part of a County Building; and (v) using flammable, hazardous or odorous chemicals or materials.
- (d) **Solicitation.** Individuals and groups conducting Pre-coordinated Speech Activities on County premises are prohibited from soliciting or selling goods or services unless the individual or group has obtained the prior written approval of the Travis County Commissioners Court.
- (e) **Payment of Costs Incurred by County; Security.** Any costs incurred by County as a result of the conduct of Pre-coordinated Speech Activities shall be paid by the individual or group conducting the same, including clean-up costs, if the County premises are not left in a neat and clean condition. Security requirements above and beyond those routinely provided by County shall be the responsibility of the individual or group conducting the Pre-coordinated Speech Activities.
- (f) **Compliance with Laws.** An individual or group engaging in Pre-coordinated Speech Activities on County premises shall at all times comply with all applicable federal, state, county, city or other local laws, statutes, ordinances, regulations or rules.

**171.005 Prior Notice; Denial of Request<sup>2</sup>**

- (a) **Prior Notice and Request to Conduct Pre-coordinated Speech Activities**
  - (1) In order to protect and ensure public safety, an individual or group wishing to conduct Pre-coordinated Speech Activities in a Public Area located on County premises shall submit written notice during County Business Hours to the Director of the Travis County Facilities Management Department (the "Director"), located 700 Lavaca Street, Suite 1300, Austin, Texas 78701.
  - (2) Notice must be delivered at least five (5) days prior to commencement of the Pre-coordinated Speech Activities. Notice shall be valid for ninety (90) days.

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<sup>2</sup> Department address corrected 5/29/2018, Item 8.

- (3) Submissions shall be made on a pre-printed "Notice and Request" form (see Exhibit A).
  - (4) The Director shall notify the individual or group within 72 hours of receipt of the Notice and Request form that the request has been granted or denied.
- (b) Denial of Requests to Use County Premises for Pre-coordinated Speech Activities. Individuals and groups submitting a Notice and Request form acknowledge that the right to use County premises for Pre-coordinated Speech Activities will be granted on a first-come, first-served basis and subject to the availability of the requested area. The Director may deny permission to use the requested area only for the following reasons:
- (1) County has granted prior approval to other individuals or groups to conduct Pre-coordinated Speech Activities at the same location, and on the same date and time, requested, and the County has reason to believe that the expected cumulative turnout of participants in all such Pre-coordinated Speech Activities is so large as to result in violation of Section 171.003 of this Policy or in a threat to public safety.
  - (2) County is unable to provide a sufficient number of security officers necessary to safely accommodate requested Pre-coordinated Speech Activities because of staffing availability and/or because County has granted approval to other individuals or groups to conduct Pre-coordinated Speech Activities on the same date and time.
  - (3) The Pre-coordinated Speech Activities, as described in the Notice and Request form, would violate one or more restrictions set forth in Section 171.003 or Section 171.004 of this Policy.
  - (4) County has reason to believe that the Pre-coordinated Speech Activities are likely to provoke or add to a public riot or a breach of the peace, or create a clear and present danger to the peace and welfare of the public or County employees.
- (c) Appeals from a denial of a Notice and Request to conduct Pre-coordinated Speech Activities shall be made directly to the Travis County Commissioners Court. The appeal process will consist of filing a formal appeal letter with the Director requesting to be heard at the next regularly scheduled public meeting of the Travis County Commissioners Court.

**171.006 Liability**

- (a) A properly completed, signed and submitted Notice and Request form shall constitute tacit acceptance by the individual or group of all legal and financial liability for damage to County property or any personal injury caused by or occurring as the result of the Pre-coordinated Speech Activities.
- (b) An individual or group shall indemnify, save and hold harmless and defend County and its officials, agents and employees from and against all liability for

personal injury or property damage arising out of or in connection with the Pre-coordinated Speech Activities for which a claim, demand or suit is made or brought by any person, corporation or other entity against County.

- (c) An individual or group conducting Pre-coordinated Speech Activities on County premises shall sign and submit a "Release of Liability for Use of County Premises to Conduct Speech Activities," in the form attached hereto as Exhibit B, together with the Notice and Request form.

**171.007 Violation of Policy**

- (a) Any person who fails to comply with this Travis County Policy Regarding Speech Activities shall receive a verbal warning from a designated County official, peace officer, or other person with authority to control use of the County premises. The warning will identify the specific policy provision that was violated, and, if possible, the manner in which the person may cure the violation. If the person fails to cure the violation within a reasonable time, which determination will be made based on the nature of the violation, they shall be considered a trespasser, and may be subject to civil and/or criminal liability under Texas law.
- (b) Violation of this Policy by an individual or group may result in future denial of a request to conduct Pre-coordinated Speech Activities on County premises submitted by the individual or group found to have committed the violation.

**171.008 No Effect on Other Law.**

This Travis County Policy Regarding Speech Activities does not affect the applicability or scope of any federal, state or local law regulating Speech Activities or other conduct, including without limitation provisions of the Texas Election Code permitting the establishment and enforcement of buffer zones or other restrictions during specified election periods.

No new privileges under or exceptions to the application and enforcement of any such law is created by adoption of this Travis County Policy Regarding Speech Activities.

**171.009 Exhibit A. Notice and Request to Conduct Pre-Coordinated Speech Activities on County Premises**

1. Event Name \_\_\_\_\_
2. County Building/Park Area Requested \_\_\_\_\_
3. Date and Time Requested \_\_\_\_\_
4. Sponsoring Organization (if any) \_\_\_\_\_
5. Contact Name \_\_\_\_\_
6. Address \_\_\_\_\_
7. Phone Number \_\_\_\_\_ Fax Number \_\_\_\_\_
8. Purpose of Event \_\_\_\_\_
9. Description of Event \_\_\_\_\_
10. Time Schedule for Program: \_\_\_\_\_  
Set-Up Time: \_\_\_\_\_ Start Time: \_\_\_\_\_ End Time: \_\_\_\_\_
11. Equipment Requests (if any) \_\_\_\_\_
12. All additional equipment provided by event holder: \_\_\_\_\_
13. Number of persons expected to attend \_\_\_\_\_ (participants)  
\_\_\_\_\_ (other)

I have read the Travis County Policy Regarding Speech Activities on County Premises and agree to comply with this policy.

I understand that all events are subject to cancellation.

I also understand that, in the event of rain, Travis County cannot provide electricity.

I understand that I am responsible for any damages to the County Building or County Park as result of my event.

\_\_\_\_\_  
Authorized signature of representative for event                      Date

**171.010 Exhibit B**

STATE OF TEXAS §  
COUNTY OF TRAVIS §

Release of Liability For Use Of County Premises To Conduct Speech Activities

In consideration of Travis County, Texas, allowing use of certain Public Areas located on County premises, as specified below (the "Premises"), for the purpose of conducting speech activities between the hours of approximately \_\_\_\_ a.m./p.m. and \_\_\_\_ a.m./p.m. on \_\_\_\_\_ [day], \_\_\_\_\_ [date], \_\_\_\_\_ 20\_\_, the undersigned agrees to release, waive, discharge and covenant not to sue Travis County, Texas, and its officers, agents, employees or servants for all personal injury, death or property damage that may occur while the undersigned is for any purpose utilizing the Premises.

The term Premises means, for this Release: (i) \_\_\_\_\_

The undersigned agrees that this release shall bind the undersigned, their agents, employees, assigns, heirs, and next of kin.

The undersigned agrees to make no structural changes to the Premises, and to leave the Premises in as good a condition as when they were received, normal wear and tear excepted as determined by existing County policy.

This release extends to any personal injury, death or property damage sustained by the undersigned arising in whole or in part out of any acts of commission or omission of the undersigned arising out of or in connection with this granting of permission to use the Premises, and whether or not due in whole or in part to the negligence of Travis County or its officers, agents or employees, for which a claim, demand, suit or other action is made or brought by any person, firm, corporation or other entity against Travis County.

This release further applies to any premises or special defects arising from County property, real or personal, and also includes any injuries related to or caused by the operation of any motor driven vehicles.

The undersigned agrees that this release, waiver and covenant not to sue is intended to be as broad and inclusive as permitted by the laws of the State of Texas and that if any

portion of this agreement is held invalid, it is agreed that the balance shall, notwithstanding, continue in full legal force and effect.

The undersigned also agrees to release Travis County, its officers, agents, employees or servants from any claim whatsoever on account of first aid or medical treatment rendered for injuries sustained when the undersigned is treated for any purpose.

The undersigned further states that they understand the contents of this document and signs this release of their own free act.

Signed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Company Name (if applicable): \_\_\_\_\_

Date: \_\_\_\_\_

Address of Organization/Individual Submitting Form:

**NOTARIZATION**

SUBSCRIBED AND SWORN TO before me by \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public, State of Texas

\_\_\_\_\_  
Typed or printed name of notary

My commission expires: \_\_\_\_\_