



**Policy for Newsracks
on Property Owned or Controlled
by the
Regional Transportation District**

(Approved by the RTD Board of Directors September 20, 2005)

TABLE OF CONTENTS

	Page
1. Findings	1
2. Definitions	4
3. Permit Required	5
4. Application for Permit	6
5. Issuance, Term, Amendment and Renewal of Permit	6
6. General Criteria for Newsracks	7
7. Specific Criteria for Newsracks at Certain Locations	10
8. Number of Newsracks Allowed	12
9. Maintenance of Newsracks	13
10. ADA and Other Legal Requirements	15
11. Display of Certain Matter Prohibited	15
12. Violations and Associated Fees	15
13. Safety Exception	16
14. Abandonment of Permitted Newsrack	16
15. Appeals	16
16. Effective Date	17
17. Severability	17

Section 1. Findings

The Board of Directors of the Regional Transportation District (“RTD”) finds and declares:

1. RTD is a statutory political subdivision of the State of Colorado, operating a mass transportation system serving the Denver metro area.
2. RTD has numerous public transit facilities throughout the District, including such public use areas as park-n-Ride facilities, light rail stations, bus stations, bus shelters,

and other facilities. Many of these public use areas are historically associated with the sale and distribution of newspapers and other publications. It is in the public interest to encourage the wide distribution of such publications; therefore, access by newsracks to those areas for such purposes should not be denied but rather regulated and protected.

3. Newsracks (also called newspaper distribution machines, newspaper vending machines, newsboxes or displays) are a valuable method of distributing news and other information to the public, and have often been permitted on certain RTD property with public access. Certain printed material is constitutionally protected. In addition, RTD patrons enjoy the convenience of having newsracks close at hand. A wide range of publications are dependent on newsracks to distribute information to the public. Readers of newspapers and other periodicals come to rely on the availability of publications at certain places on the street and other public places. The public interest is served when the placement of publications matches reader expectations.

4. However, newsracks also constitute a fixed physical intrusion on public property, and their indiscriminate location on RTD property can unnecessarily obstruct primary functions of RTD, including safe and efficient mass transit. Uncontrolled newsracks may present an inconvenience and danger to the safety and welfare of persons using RTD property. Unsightly newsracks, such as newsracks that are poorly maintained or that have been defaced with graffiti, are uninviting to the public and impair RTD's mission to promote mass transit. Heightened security concerns in recent years include recommendations to discourage publicly accessible receptacles where they may present security risks to transit stations and public gathering areas. Also, in furtherance of its mission, RTD must protect its patrons, including children, against assaults upon individual privacy by public displays of offensive sexual material. In addition, no commercial activity can reasonably claim a right to physical occupation of any RTD property by proprietary structures in an unregulated manner.

5. In recent years, the placement of newsracks on RTD property, and in particular poorly maintained or abandoned freestanding newsracks by some publishers, has contributed to the congestion of pedestrian walkways, impeded the flow of pedestrian and vehicular traffic, interfered with public use of RTD facilities, presented hazards to persons and property, contributed to litter problems, and resulted in visual blight. Newsracks on RTD property have been abandoned, poorly maintained, and used as trash receptacles, causing unsightly and unsanitary clutter and litter. Individual newsracks have been toppled, blown over, or been broken and left in disrepair. Some newsracks have been removed by owners with bolts left behind to protrude from pavement. Some newsracks have been chained to RTD facilities such as bus shelters so that maintenance of the facility has been hampered. Newsracks have been placed in highly inappropriate locations on RTD property, such as in the middle of pedestrian travel lines, and even in plant beds. Newsracks have interfered with maintenance of RTD property, interfered with bus stops, obstructed views, and added to difficulties that persons with mobility impairments face in traveling on RTD property. Further, unregulated placement, design and appearance of newsracks detracts from the substantial efforts by RTD to design and maintain facilities that are attractive and inviting to the public, including Art at the Stations and coordinated design elements at numerous RTD light rail and bus stations.

6. Consistent with its mission, RTD has a substantial interest in providing for the reasonable and safe flow of pedestrian and vehicular traffic at RTD public use areas, discouraging littering, preventing impediments to passage for RTD customers including persons with disabilities, and encouraging the public to use mass transit by preserving and protecting the aesthetic qualities of RTD public facilities. To that end, RTD must take steps to reduce the hazards, inconvenience and visual blight associated with poorly maintained, unrestricted and unregulated newsracks on RTD property.

7. Since representatives of newspapers and other periodicals are required to visit their newsracks each time a new edition is issued, and to repair newsracks that are not operating correctly, to maintain newsracks, and to see that trash is cleared from inside and around newsracks, publishers who issue new editions more frequently are on the whole more likely to advance significant government interests in cleanliness and good maintenance than publishers who issue new editions less frequently.

8. RTD also has a substantial interest in conserving financial resources by charging a reasonable permitting fee to defray administrative expenses and to help finance condominium newsracks in designated areas.

9. In those locations where individual newsracks will remain, the concept of “first come, first served” and the related concept of respecting the permitted locations already in use by publishers, reflect the principle that the public forum for news information and advertising should be preserved and respected by any plan affecting distribution protected by the First Amendment. For these reasons, a newsrack already in place and properly permitted at a location will have priority rights to that location over any subsequent application, including when and if individual newsracks at a location are placed in a corral or individual newsracks are replaced by a condominium newsrack.

10. RTD has no interest in regulating the viewpoint or content of publications in newsracks. The procedures set forth in this policy are viewpoint and content neutral and are reasonable time, place and manner restrictions on the installation, placement, size, appearance, and maintenance of newsracks on RTD property, including constitutional restrictions to shield from public view materials that are obscene or that depict sexually explicit acts. In approving this policy the Board of Directors is not doing, supporting or promoting any acts which could be construed as censorship of viewpoint or content of constitutionally protected material placed in newsracks; and is not vesting standardless or unreviewable discretion in any public official which could be used to affect the contents of constitutionally protected material in newsracks on RTD property. Nothing in this policy is intended to discriminate against, or interfere with the publication, circulation, or distribution of any printed material that is constitutionally protected.

11. After inquiry and careful consideration, including staff evaluation of existing newsrack problems, review of current newsrack policies by certain cities and counties within the District (e.g., Denver and Boulder) and in other municipalities and transit agencies nationwide, consideration of the successful employment of fixed newsrack enclosures at certain locations in downtown Denver, Englewood and elsewhere; and after providing opportunities in 2001 and 2005 for public comment on draft RTD newsrack policies, which opportunities resulted in publishers providing helpful suggestions and

revisions to proposals drafted by RTD; RTD does not wish to deny altogether access to newsracks on RTD property but instead adopt a reasonable, system-wide newsrack policy with the following key elements: (1) To require permits and permitting fees for all newsracks on RTD property; (2) To specify designated locations for permitted newsracks; and (3) To restrict newsracks at designated areas to special, RTD-provided corrals and/or “condominium newsrack” enclosures (provided, however, that existing, permitted individual newsracks will remain on RTD property until replaced by such corrals or condominium newsracks in compliance with this policy).

12. In furtherance of RTD’s interests as set forth above, the RTD Board of Directors hereby establishes the following policy for newsracks on property owned or controlled by RTD.

Section 2. Definitions

The following words and phrases, when used in this policy, shall have these meanings unless the context otherwise clearly indicates:

1. “Bus stop” means any area designated as a bus stop for purposes of regulation of newsracks by a local municipality; or an area specifically requested by RTD as a bus stop and for which RTD has received an easement in writing by the local municipality to maintain a structure or pad, but shall be no wider than a ten (10) foot wide strip parallel to the roadway measured from the curb, or where there is no curb to the edge of the pavement, and shall run from the bus stop sign or structure for forty (40) feet in the opposite direction of the flow of traffic. It is not the intent of this policy for RTD to regulate or require permits for locations where RTD has no easements and no structures other than a bus stop sign (as long as no newsracks or other items are affixed to the bus stop sign itself); such locations are instead subject to local government regulation and control.

2. “Condominium newsrack” means an RTD-provided structure, typically made of metal and painted uniformly federal green (or such other color as RTD may specify at any specific location), having space for multiple publications, each of which must be separately permitted under the provisions of this policy.

3. “Corral” means an area on RTD property enclosed on one or more sides by an RTD-provided or authorized fence or railing for the purpose of controlling the placement of newsracks.

4. “Explicit sexual acts” means depictions of sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, sadism, masochism, or excretory functions in conjunction with sexual activity, masturbation, or lewd exhibition of genitals; whether any of the above conduct is depicted or described as being performed alone or between members of the same or opposite sex or between humans and animals, or other acts of sexual arousal involving any physical contact with a person’s genitals, pubic hair, perineum, anus or anal region.

5. "Light rail stop" means either the sidewalk area and any raised or delineated boarding area adjacent to any light rail stop as defined by: the curb line, a line parallel to the curb line and fifteen feet from the curb line, or the total depth of the raised boarding platform, whichever is greater, which area extends from 5 feet before the raised or delineated boarding platform, measuring along the curb line, or an area specifically designated by RTD as a light rail stop and so permitted in writing by a local municipality.

6. "Manager" means the RTD Senior Manager of Property Management or the Manager's authorized representative.

7. "Newsrack" means any self-service or coin-operated box, container, storage unit, display or dispenser installed, used or maintained for the display, distribution or sale of newspapers or other periodicals from said box, container, storage unit, display or dispenser directly to the public.

8. "Newsrack owner" or "permittee" means any person or organization responsible for the installation, use or maintenance of any newsrack on RTD property, or for permitted use of any RTD-provided condominium newsrack or display shelf/bin.

9. "Obscene" means material that includes all of the following: (a) The average person, applying contemporary community standards, would find appeals to prurient interest when the publication or materials are considered as a whole; (b) Depicts, describes or represents in a patently offensive manner, sexual behavior; and (c) Lacks serious literary, artistic, political or scientific value when the publication or material is considered as a whole.

10. "Person" means any person, persons or entity including but not limited to a corporation, public entity, partnership, unincorporated association or joint venture.

11. "Pictorial material" means any material suggesting or conveying a visual image, and includes but is not limited to a photograph, painting or drawing.

12. "Publication" means any newspapers, magazines, periodicals, leaflets, or any other document.

13. "RTD property" means any property owned or controlled by RTD, and includes the airspace above such property. RTD property does not include locations where RTD has no easements and no structures other than a bus stop sign; such locations are instead subject to local government regulation and control.

14. "RTD-provided" means purchased and/or constructed either by RTD itself or by a vendor or other entity contracting with RTD to provide, maintain and/or administer corrals, condominium newsracks or display shelves/bins.

Section 3. Permit Required

A current, valid permit from RTD identifying and specifying the location of the newsrack is required for any newsrack on or projecting onto or over RTD property, whether installed

inside or outside of a corral, and for any use of a condominium newsrack or display shelf/bin on RTD property.

Section 4. Application for Permit

Newsrack owners shall submit permit applications for installation, use and maintenance of newsracks on application forms approved by RTD. One application may cover multiple newsracks or condominium and display shelf/bin spaces. The application form must be completely filled out, signed by the permittee, and must include all of the following:

1. The name, contact person, mailing address, and telephone number of the person or organization requesting a permit, and the electronic mail address of the applicant if available;
2. The name of the publication(s) or document(s) to be sold or distributed from each newsrack (to be used solely for RTD confirmation of use by a permitted applicant and not for any content-based discrimination);
3. The proposed location (i.e., park-n-Ride facility, light rail station, or other RTD facility) of each newsrack or condominium or display shelf/bin space applied for;
4. The frequency of publication of the newspapers or periodicals to be distributed or sold from the newsrack or condominium or display shelf/bin spaces;
5. A statement by the newsrack owner affirming that the newsrack will be placed, installed, used and maintained in compliance with the rules and policies of RTD and that the newsrack will not interfere with the safe and efficient operation of RTD;
6. A statement in a form satisfactory to RTD whereby the newsrack owner agrees to indemnify and hold harmless RTD, its officers and employees from and against any loss, liability, or damage, including expenses and costs, for bodily or personal injury, and for property damage sustained by any person as a result of the installation, use, or maintenance of a permitted newsrack on RTD property;
7. Payment of required permit fees and proof satisfactory to RTD of required cash bond as indicated below in Section 5; and
8. Whether the applicant would prefer to receive notice and orders by registered mail, return receipt requested, or will accept posting on an electronic bulletin board as notice.

Section 5: Issuance, Term, Amendment and Renewal of Permit

1. Permits are valid for the period June 1 or when issued, whichever is later, through May 31 of the following year, shall not be transferable, and shall be renewable pursuant to the procedure for original applications and upon payment of the applicable nonrefundable permit fee.

2. It is the sole responsibility of the newsrack owner to file an amended permit application with RTD if any of the identifying information on the permit changes. RTD will submit any required notices under this policy to the newsrack owner at the name and address as set forth in the permit application as amended, and shall not be responsible for failure to submit notices to any other address or to any other person or entity.

3. Except for spaces in condominium newsracks or display bin/shelves, the applicant must file and constantly maintain a cash bond in the amount of seventy-five dollars (\$75.00) per permitted newsrack up to a maximum of five thousand dollars (\$5,000.00) to cover the cost of removal and/or disposal of newsracks, and unpaid fees concerning any violation of this policy.

4. The applicant must pay a nonrefundable yearly permit fee of ten dollars (\$10.00) for each newsrack or space in a condominium newsrack or display bin/shelf that is granted.

5. A permit shall not be issued or renewed if the applicant is currently in arrears as to any fees or charges, or currently not in compliance with any existing notices, regarding newsracks or other matters regulated by this policy.

6. All permittees who obtain a newsrack permit shall receive an identification/permit marker.

Section 6: General Criteria for Newsracks

No newsrack or any other structure or item of any kind may be affixed to an RTD bus stop sign even if the sign is not on RTD property. Except as modified by Section 7 below for certain specific locations, all newsracks placed in whole or in part upon any RTD property, or which project onto or over any RTD property, whether placed individually or in corrals, shall be in accordance with the following provisions:

1. Newsracks may not be placed:
 - a. On landscaped areas or any location where there is no concrete pad. A permit is required from RTD to install any concrete pad.
 - b. In any enclosed RTD station or other building.
 - c. In any enclosed areas underground, including structures and tunnels.
 - d. In any parking structures.
 - e. On the curb or roadway side of any sidewalk or walkway adjacent to any handicapped parking space or any loading zone, nor within five (5) feet of either end of a handicapped parking space or loading zone.
 - f. Within three (3) feet of any marked pedestrian crosswalk or walkway.

- g. Within five (5) feet of any fire hydrant, fire call box, police call box, or any other emergency facility.
- h. On any portion of a pedestrian access ramp for disabled persons, including the area between any two ramps on a given corner, or within three (3) feet of such a ramp.
- i. Within five feet of any of the following: parking meter posts, traffic or transit vehicle control cabinets, bicycle parking racks or enclosures, the entrances to public transit shelters, public telephone enclosures or stands, kiosks, the entrance to any other structure for public use on RTD property (including but not limited to cafes), public works of art, any portion of a driveway, and trees.
- j. On or within two (2) feet of any portion of a tree grate, manhole cover, meter and/or valve box cover, vent cover for underground utilities, or on any granite or other decorative surface without special approval by the Manager.
- k. Such that the effective, clear width provided for the passage of pedestrians within the sidewalk portion of the public right-of-way is less than ten (10) feet in areas where the total sidewalk width is twenty (20) feet or greater, eight (8) feet where the total sidewalk width is between twenty (20) and sixteen (16) feet, or five (5) feet in areas where the total sidewalk width is sixteen (16) feet or less.
- l. Within any bus stop or light rail stop (including a light rail fare enforcement zone) as defined in Section 2 above.
- m. Outside, adjacent to, or anywhere other than within a newsrack corral or condominium newsrack pursuant to permit, and in compliance with all plans and guidelines, at any site where corrals or condominium newsracks have been installed and provided by RTD for the area; provided, however, that at sites where individual permitted newsracks are already in place but RTD desires to convert to corrals or condominium newsracks, such existing permitted newsracks may be maintained at the site until and unless RTD installs enough corrals or condominium newsracks at the site to accommodate existing individual newsracks. In such event determination of which newsracks are to remain and which are to be converted shall be done pursuant to Sections 8(3) and (4) of this policy. No new individual newsracks may be placed at such sites even if there are not enough corrals or condominium newsracks to meet demand. Additional corrals or condominium newsracks may be purchased and installed by private entities subject to the Manager's advance written approval and provided they match RTD-provided corrals and condominium newsracks in size, shape, color and appearance and remain within all

other restrictions enumerated in this policy for newsracks (including location and maintenance requirements).

2. All newsracks shall be so placed and oriented that:
 - a. If placed on the curb or roadway side of a sidewalk or permitted concrete pad, the door for access by the public to the newsrack shall be on the side opposite the curb or roadway and facing the pedestrian walkway, and the side of the newsrack closest to the curb or roadway shall be:
 - i. If there is no tree lawn, at least two (2) feet and no farther than two-and-one-half (2.5) feet from the curb or edge of pavement or;
 - ii. If there is a tree lawn, no more than six (6) inches from the edge of sidewalk but, notwithstanding the above, at least two (2) feet from the curb or edge of pavement.
 - b. If placed on the side of the sidewalk or permitted concrete pad opposite to the curb or roadway, the door for access by the public to the newsrack shall be on the side opposite the edge of the sidewalk and facing the pedestrian walkway, and the side of the newsrack closest to the edge of the sidewalk shall be no further than six (6) inches from the edge of the sidewalk.

3. Newsracks shall be constructed and finished in such a way as to provide easy and safe access by pedestrians and transit users. The base of any pedestal shall be manufactured to accommodate sidewalk bolts unless an exception is granted pursuant to this policy by the Manager. Newsracks shall conform to industry standards regardless of the material of their construction.

4. Newsracks shall be constructed or painted in a manner that allows them to be maintained free of rust, graffiti, glue, and other signs of outdoor wear and tear and abuse.

5. Newsracks shall not exceed forty-two (42) inches in height within twenty (20) feet of an intersection or alley, which shall be calculated as twenty (20) feet from the curb line, and fifty-seven (57) inches in height at any other location, twenty-four (24) inches in depth, and thirty (30) inches in width. Multi-publication units shall meet the size criteria above except they may not exceed fifty (50) inches in width. Corrals or condominium newsracks provided by private entities pursuant to section 6(1)(m) of this policy shall match RTD-provided corrals and condominium newsracks in size, shape, color and appearance. The Manager may grant an exception to the height requirements on a case by case basis if the permittee demonstrates that there will be no adverse effects to public safety.

6. In jurisdictions with their own newsrack policies, placement of newsracks shall comply with all the requirements of this policy and shall also be subject to all rules and regulations promulgated by such jurisdiction to the extent that such rules and regulations are more restrictive than this policy.

7. Newsracks shall not be chained, bolted or otherwise attached to anything except RTD-provided newsrack corrals in the manner provided in this policy.

8. Notwithstanding any other provision in this policy, newsracks shall not be installed, used or maintained at any location when such installation, use or maintenance endangers the safety of persons or property; or when such installation, use or maintenance unreasonably interferes with or impedes:

- a. The flow of pedestrian or vehicular traffic, including parked or stopped vehicles;
- b. The ingress into or egress from any RTD facility or transit vehicle, residence or place of business, or;
- c. The use or maintenance of poles, posts, transit and traffic signs or signals, hydrants, mailboxes, or other objects permitted at or near the location.

9. All newsracks (and corrals and condominium newsracks supplied pursuant to section 6(1)(m) of this policy) shall be secured to the surface upon which they stand by bolts, except those placed in corrals which shall be securely attached to the corral, unless an exception is granted by the Manager based upon reasonable proof and written assurance by the owner that the newsrack, corral or condominium newsrack is heavy and stable enough to resist tipping and blowing over without bolting. The Manager may prescribe appropriate methods, specifications and materials for bolts and attachments to sidewalks. All bolts and protrusions shall be immediately removed by the owner when the newsrack, corral or condominium newsrack is moved or removed.

10. Any person other than an employee or contractor of RTD taking action pursuant to this policy is prohibited from moving a newsrack without the authorization of the permittee of the newsrack.

Section 7: Specific Criteria for Newsracks at Certain Locations

1. At certain locations, for safety, operational and/or aesthetic reasons RTD may determine that instead of or in addition to the general criteria for newsracks set forth in Section 6 above, newsracks shall be prohibited in specified areas; no newsracks shall be permitted other than in specified areas; all newsracks shall be in RTD-provided corrals; or all publications shall be displayed solely in RTD-provided condominium newsracks or display shelves/bins. However, in such event existing, permitted individual newsracks installed at such locations in compliance with Section 6 may remain until RTD-provided corrals or condominiums have been installed and made available for such publications pursuant to Section 7(2) below. In such event the Property Management Division of the

Planning and Development Department shall have authority to adopt content-neutral uniform permit forms, rules and guidelines as are deemed necessary by the Division to avoid injury to persons or damage to property, to maintain and enhance the aesthetic nature of property owned or controlled by RTD, to assure the safe and orderly use of RTD transit facilities, and to maintain the safe and orderly flow of pedestrians and traffic on RTD property. Such rules and guidelines shall be subject to threat and vulnerability analysis and approval by the RTD Public Safety Division. Such forms, rules and guidelines must be available for public inspection and comment, with notice of same provided to permitted newsrack owners prior to final acceptance, and be viewpoint and content neutral as written and applied. (Mailing to permitted newsrack owners with a web link or other information as to how the materials may be inspected shall constitute proper notice.) They may include, but are not limited to:

- a. Designation of specific locations within an RTD facility, station, parking lot or other RTD property where newsracks may or may not be installed. Any such designation shall be memorialized in a memorandum, drawing or aerial photograph (available for public inspection at RTD and public comment with notice of same provided to newsrack owners prior to final acceptance) prepared by the Property Management Division and reviewed and approved by the Department director and the Public Security Division, depicting and explaining the basis and reasons for the newsrack location boundary.
- b. Limitations on the number of newsracks to be installed in a specific location within an RTD facility, station, parking lot or other RTD property. Any such designation shall be memorialized in a memorandum, drawing or aerial photograph (available for public inspection at RTD and public comment with notice of same provided to newsrack owners prior to final acceptance) prepared by the Property Management Division and reviewed and approved by the Department director and the Public Security Division, depicting and explaining the basis and reasons for such limitation.
- c. Determination whether, in the interest of aesthetics, safety and other factors set forth in this policy, display of publications at any specific RTD facility, station, parking lot or other RTD property should be limited solely to newsracks within corrals and/or to RTD-provided condominium newsracks or display shelves/bins. Any such determination shall be memorialized in a memorandum, drawing and/or aerial photograph (available for public inspection at RTD and public comment with notice of same provided to newsrack owners prior to final acceptance) prepared by the Property Management Division and reviewed and approved by the Department director and the Public Security Division, depicting and explaining the basis and reasons for such determination.

2. If RTD takes action under this Section at a location where newsracks are already in place whether individually or in RTD-provided corrals, RTD shall move existing

newsracks or, in the case of conversion from private newsracks to RTD-provided condominium newsracks, shall give written notice to any newsrack owner who holds a permit for a newsrack at such location advising of the effectiveness of this requirement and providing each newsrack owner sixty (60) days in which to remove nonconforming newsracks and apply for a permit to display publications within an RTD-provided condominium newsrack. Spaces shall be allocated in accordance with Sections 8(3) and (4) below.

Section 8: Number of Newsracks Allowed

The number of newsracks placed on RTD property shall be in accordance with the following provisions:

1. No newsrack shall be placed in an area that would cause a violation of the criteria set forth in Section 6 above or where the available space for newsracks has been exhausted.
2. Where RTD-provided corrals, condominium newsracks or display shelves/bins are installed at a particular location, the number of corral, condominium or display shelf/bin spaces available shall dictate how many newsracks or publication shall be allowed at such location. In determining how many corrals, condominium newsracks or display shelves/bins to install, RTD will seek to meet reasonable demand consistent with budgetary and space requirements, and will make all decisions on content-neutral bases and means. Where provided, corrals, condominium newsracks and display shelves/bins shall be installed consistently with the location requirements of Sections 6 and 7 above.
3. Subject to Section 8(4) below, newsrack applications shall be processed in the order received with the first received application receiving the first priority.
4. Where newsracks are in place at the time this policy is enacted or where new areas are opened to newsrack placement, the Manager will use the following content-neutral procedures to determine which newsrack will be permitted at any location:
 - a. A newsrack that is in place and properly permitted will have priority to its location if the location meets the criteria established in this policy. If a newsrack in place and properly permitted at the time this policy is enacted must be moved, it shall be allowed to relocate to the nearest location which complies with all of the provisions of this policy and is acceptable to the permittee. The permittee of a newsrack in place at the time this policy is enacted must pay the standard permit fee, but no additional permit fee shall be charged for such relocation.
 - b. Upon determination by RTD that a new area on RTD property has become available for placement of newsracks, after notice to permitted newsrack owners all applicants shall have seven (7) calendar days to submit applications for any such newly available locations. If more applications are received in that period than can be

accommodated at the location, all such applications shall be put on an equal priority and the permittees shall be randomly selected by a method determined by the Manager to be random and fair to all potential permittees. Any applications submitted after the seven (7) days have run shall be permitted on a space available, first come first served basis under the usual procedures of this policy.

- c. If a publication has one newsrack permitted at a location, it may only be permitted a second newsrack after any other publications requesting permits have been permitted. For purposes of this subparagraph (c), "location" means all newsracks located within 100 feet in the same RTD facility or area.
- d. If a publication requests a permit at a location where it has no permitted newsracks but there are two or more permitted newsracks of another publication, the publication with multiple newsracks must remove as many newsracks as necessary to allow for the placement of the new newsrack, provided that no publication shall be required to remove all of its permitted newsracks from a location.
- e. If the number of newsracks at a location must be reduced for any content neutral reason, the last permitted newsrack shall be the first to be removed, and so on, with the first permitted the last to be removed. Any newsrack so removed shall be re-permitted at the nearest available location acceptable to the permittee, without the imposition of an additional permit fee.

5. The spaces in a condominium newsrack or display shelves/bins shall be allocated in accordance with the priority system specified in Section 8(3) and 8(4) above.

Section 9: Maintenance of Newsracks

Newsracks that in whole or in part rest upon, in or over any RTD property, whether installed in corrals or not, shall comply with the following standards:

1. With the sole exception of any RTD-provided condominium newsracks provided by a Board-approved contractor providing, administering and maintaining such condominium newsrack as may be permitted by such Board-approved contract, no newsracks shall be used for advertising signs or publicity purposes other than that dealing with the display, distribution, sale, or purchase of the newspaper or periodical sold or distributed therein. Any advertising on an RTD-provided condominium newsrack must be subject to a Board-approved contract and must comply with RTD policies applicable to bus advertising.

2. Each newsrack shall have affixed to it the identification marker provided by RTD. The permittee must display the marker on the front of the newsrack near the lower left face of the dispenser door. Permittees are responsible for keeping the markers visible and free from graffiti or other defacement, and for promptly contacting RTD for issuance

of a replacement permit if necessary. Condominium newsracks shall have affixed to them only the name and telephone number of the person responsible for the maintenance of the condominium newsrack (if such person is an RTD contractor), regardless of the number of permittees actually utilizing such condominium newsrack.

3. Each newsrack shall be maintained in neat and clean condition and in good repair at all times. Specifically, but without limiting the generality of the foregoing, each newsrack shall be serviced and maintained so that:

- a. It is reasonably free of dirt and grease;
- b. It is reasonably free of chipped, faded, peeling or cracked paint in the visible painted areas;
- c. It is reasonably free of rust and corrosion;
- d. The clear plastic or glass parts, if any, through which the publications in it are viewed are unbroken and reasonably free of cracks, dents, blemishes and discoloration;
- e. Any paper or cardboard parts or inserts are reasonably free of tears, peeling or fading;
- f. It is reasonably free from graffiti, unwanted paint or other unwanted markings. To that end, newsracks shall be inspected by the permittee no less often than once per week and all graffiti, unwanted paint, stickers or other unwanted markings removed therefrom. If RTD inspects a newsrack and finds graffiti or other unwanted markings that have been there for more than a week, RTD may paint over said markings with such paint color as RTD chooses and charge the permittee six dollars (\$6.00). Further, if RTD finds markings that are obscene or threatening RTD shall call the notification number provided on the newsrack in question and the permittee shall remove or cover the obscene markings within four hours of said call or RTD may then paint over said markings. No order to correct ("Order to Correct") shall be sent to a permittee for violation of this subsection (f) except in conjunction with an Order to Correct another violation of this policy. If the graffiti, unwanted paint or other unwanted markings cannot reasonably be removed or painted over without continued compliance with all other provisions of this policy, the newsrack shall be replaced by the newsrack owner;
- g. It is free from trash. To that end, newsracks shall be inspected by the permittee no less often than once per week and all trash removed therefrom and from within five (5) feet therefrom. An Order to Correct shall be sent to a permittee for violation of this subsection (g) only when trash is found in a newsrack. Permittees shall dispose of old or replaced publications off of RTD property. Permittees shall not

dispose of old or replaced publications in any trash receptacle on RTD property;

- h. Any structural parts, coin mechanisms, slots and returns are not broken, inoperable or unduly misshapen; and
- i. It is stocked with current editions of the permitted publications. Newsracks habitually left unstocked, or newsracks with other than permitted publications, are in violation of this policy.

4. No person may deface or damage a newsrack, corral, condominium newsrack or display shelf/bin on RTD property.

Section 10: ADA and Other Legal Requirements

All newsracks, corrals, condominium newsracks and display shelf/bin spaces shall comply with all applicable federal, state and local laws and regulations, including but not limited to the Americans with Disabilities Act of 1990 (“ADA”), as amended, and all regulations adopted thereunder.

Section 11: Display of Certain Matter Prohibited

No publication in any newsrack, condominium newsrack or display shelf/bin space on or projecting over RTD property shall be displayed or exhibited in a manner that exposes to public view from RTD property any of the following: (1) Any pictorial material that is obscene; (2) Any statements or words describing explicit sexual acts, sexual organs, or excrement where such statements or words have as their purpose or effect sexual arousal or gratification; (3) Any pictorial material depicting explicit sexual acts; or (4) Any pictorial material depicting a person’s genitals, pubic hair, perineum, anus, or anal region.

Section 12: Violations and Associated Fees

1. Upon determination by the Manager that a newsrack has not been permitted under the provisions of this policy, the newsrack and its contents shall be immediately removed from the RTD property. The Manager shall make a reasonable effort to contact the owner of the newsrack based upon any identifying marks or publications on or in the newsrack, so that the owner may promptly retrieve the newsrack subject to payment of the impound fee set forth in Section 12(2) below. RTD may dispose of the contents immediately and the newsrack after ten (10) working days and may assess a disposal fee as set forth in Section 12(2) below. Permittees with other, permitted, newsracks on RTD property who place any non-permitted newsracks on RTD property shall be subject to Orders to Correct and associated fees pursuant to Section 12(2) below, and may be assessed the impound and disposal fees set forth in Sections 12(2) and (3) below, and failure to pay any such fees shall be grounds for non-renewal of all permits subject to Section 5(5) above.

2. Upon determination by the Manager that a newsrack, although permitted, has been installed, used or maintained in violation of the provisions of this policy, an Order to Correct the offending condition will be issued to the permittee by registered mail, return receipt requested, or by posting on an electronic bulletin board. The permittee shall be charged thirty-five dollars (\$35.00) per order to receive the order by registered mail, or twenty-five dollars (\$25.00) per order to receive the order by electronic posting. The order shall describe the offending condition, may suggest actions necessary to correct the condition, and shall establish a date for compliance that shall not be less than ten (10) days from the date the order is sent by registered mail, return receipt requested, or electronically posted. The order shall inform the permittee of the right to appeal. If the permittee appeals and wins such appeal, the cost of sending or posting the order shall be refunded. The offending newsrack may be removed by the Manager if the offending condition is not cured by the date set for compliance in the order. An impound fee of one hundred twenty dollars (\$120.00) shall be assessed against each removed newsrack. The Manager shall cause an inspection to be made of the corrected condition of a newsrack or of a newsrack that is reinstalled after removal under this section.

3. Any permitted newsrack impounded shall be treated as unclaimed property and disposed of by RTD if not claimed within ten (10) working days. A disposal fee of twenty-six dollars (\$26.00) shall be charged for each newsrack disposed of under this policy.

4. Notwithstanding the foregoing, the Manager may immediately and without prior notice remove or relocate any newsrack that in the Manager's opinion poses a danger to the public safety or to RTD operations.

Section 13: Safety Exception

RTD may delay, cancel or modify any permit issued pursuant to this policy, or may temporarily move or impound any newsrack, without prior notice when in RTD's opinion the public safety or the safe operation of the transit system so requires. However, RTD will use its best efforts to provide prior notice and will provide timely notice to the permittee subsequent to impounding the newsrack. In such event, if the permittee is not responsible for such action the newsrack shall be returned to the permittee and any otherwise applicable fees shall be waived. Any temporary action under this Section shall be of as short duration as reasonably possible consistent with safety.

Section 14: Abandonment of Permitted Newsrack

Any permitted newsrack located on RTD property which remains empty for a period of thirty (30) consecutive days after service of notice to the permittee shall be deemed abandoned. The Manager may remove any abandoned newsrack from RTD property and, unless claimed within ten (10) days, and an impound fee of one hundred twenty dollars (\$120.00) paid, may dispose of the newsrack and charge the disposal fee of twenty-six dollars (\$26.00).

Section 15: Appeals

1. Any person or entity aggrieved by a determination, notice, order or action taken under the provisions of this policy may petition the Manager for a hearing no later than thirty (30) days after having been notified of any such determination, notice, order or action. Such petition shall be in writing, and shall be signed under oath or affirmation before a notary public. Compliance with the provisions of this subsection (1) shall be a jurisdictional prerequisite to any action brought under the provisions of this section, and failure of compliance shall forever bar any such action.

2. The Manager may hold such hearing himself or herself, or in his/her sole discretion may designate an officer or employee of RTD as a hearing officer with the authority to hold such hearing. The petitioner bears the burden of proof.

Section 16: Effective Date

This policy replaces all existing and/or interim RTD policies on the same subject, and shall be effective thirty (30) days after it is adopted.

Section 17: Severability

If any provision of this policy or application thereof to any person or circumstance is invalid, such invalidity shall not affect other provisions or applications of the policy which can be given effect without the invalid provision or application. To this end the provisions of this policy are severable unless and to the extent that the Board of Directors determines to revise or rescind this policy.

Adopted this 20th day of September, 2005, by the Board of Directors of the Regional Transportation District.

William W. Eifenbein

Chairman

ATTEST:

Sandy Waters,
Executive Manager of the Board of Directors
