



## **Community Service Programs in Municipal Court**

### **I. INTRODUCTION**

Article 45.049 of the Texas Code of Criminal Procedure (CCP) allows a judge to require that a defendant complete community service in lieu of paying fines and/or court costs. Judges have a great deal of flexibility in what type of community service they assign, but there are some general guidelines that must be followed and others that are suggested.

### **II. REQUIREMENTS:**

- Judge must specify the number of hours of community service required of the defendant.
- The community service must be for either a federal, state, county, or local governmental entity (i.e., Parks and Recreation Department, Sanitation, Police, School District) or a nonprofit organization with 501(c)(3) status from IRS, that provides services to the general public (i.e., Habitat For Humanity, Red Cross, Salvation Army).
- The defendant's work must be supervised and reported back to the court.
- Judge can not order defendant to work more than 16 hours per week, unless the judge determines that requiring additional community service will not work a hardship on the defendant or the defendant's dependants.
- A defendant is considered to have discharged no less than \$50 of fines or costs for every 8 hours of community service performed.
- Officers and/or employees of a political subdivision other than a county are not liable for damages arising from an act or failure to act in connection with manual labor performed by a defendant so long as the act or failure to act was performed pursuant to a court order and was not intentional or consciously indifferent.

### **III. SUGGESTIONS:**

#### **A. Formal Written Policy**

- A formal written policy should be drafted and approved by the Municipal Court Judge, the Court Clerk, and the Prosecutor.
- The policy should be reviewed annually and updated as necessary.
- At minimum, the policy should contain the following:
  - **List of Eligible Community Service Agencies:**
    - The Court Clerk should maintain a list of Eligible Community Service Agencies.
    - The list of Eligible Community Service Agencies should contain the following information:
      - Name of the agency;
      - Address of the agency;
      - The age requirement for the agency (e.g., 16 & older)
      - The name of the designated contact person at the agency;

- Telephone and Email for the contract person;
- A short description of the duties that community service workers will be performing.
- The typical hours of operation.

## **B. Application**

- To be considered for designation by the Court as eligible, an agency must complete an application, which is kept on file in the Court Clerk's Office.
- The application should contain the following information:
  - The name of the Chief Manager at the location where community service workers will be assigned;
  - Tax ID# if a 501(c)(3);
  - Verification of insurance;
  - Address of location;
  - Telephone, fax, email, and website;
  - The name of a designated contact person;
  - A short description of the duties that the community service workers are likely to perform;
  - Hours of operation;
  - Agreement to hold the city harmless in the event property and/or personnel is damaged by a community service worker; and
  - Acknowledgement of the responsibilities and liabilities involved with receiving community service workers (i.e., acknowledgement as to the reading and receipt of a policy manual).

## **C. Orientation/Training Session**

- A representative and/or the designated contact person of the agency should attend an orientation session held by the Court at least every other year.
- During this orientation session, the Court's community service policy should be clearly communicated to all participating agencies.

## **D. Rules/Guidelines**

- Examples of what rules/guidelines to include in the policy (manual and orientation session) are as follows:
  - Community service workers should not be:
    - Proselytized or required to promulgate religious doctrine;
    - Subject to adverse treatment or harassed due to gender, race, ethnicity, religious values, or sexual orientation;
    - Required to work outdoors when temperatures are above 95 or below 30.
  - Community service workers should be provided with:
    - Supervision by an adult over 21 years of age with experience and/or training in managing human resources;
    - Adequate instruction on the tasks to be assigned and any necessary safety precautions;
    - A copy of the court's policy on community service that includes all necessary contact information and rules;
    - At least a 10 minute break for every 2 hours of work;

- Safety gear (i.e. vests, hats, gloves, eye protection);
- Drinking water.
- Any reports of abuse or neglect of a community service worker should be reported to Court Clerk within 48 hours of the incident.
- Any reports of disruptive or violent behavior by the community service worker should likewise be reported to the Court Clerk within 48 hours of the incident.
- No drugs or alcohol are to be taken while the community service worker is on duty. If a community service worker is found to be under the influence, the worker will be required to submit to chemical testing or face immediate dismissal. If results of testing are positive, no credit for participation will be given.
- Community service workers are responsible for their own meals.
- Failure to attend scheduled community service will result in being automatically found in non-compliance, unless there is a compelling reason for the absence.
- Agency representative should complete and return to the Court Clerk a community service timesheet upon completion of the community service worker's service.

#### **E. Timesheet**

- A form time sheet shall be prescribed by the Court Clerk, and shall include the following:
  - Agency name;
  - Agency Telephone;
  - The name of the community service worker;
  - The community service worker's date of birth;
  - The date that the community service hours must be completed by;
  - The total number of community service hours assigned;
  - The cause number for the matter(s) for which community service ordered;
  - Dates of service;
  - Time in for each day worked;
  - Time out for each day worked;
  - Subtotal of Hours for each day worked;
  - Total Hours for each day worked;
  - Agency supervisor's initials for each day worked;
  - Defendant's initials for each day worked;
  - Grand total of hours worked;
  - Signature of agency representative;
  - Signature of community service worker.
- A Community Service Coordinator or other employee of the court can be designated by the Municipal Court to help streamline the coordination of community service workers and eligible agencies.
- Court costs and probation fees can NOT be worked off. If such costs/fess would impose undue hardship on the defendant, then the Judge can waive them.

- Closed-toe shoes are required of defendant. No sandals or flip-flops allowed.
- Proper clothing must be worn by defendants. Short sleeve shirts are permitted as long as they are in good taste. Halter tops, tube tops and short cut-off pants are not permitted. During the summer months, shorts can be worn.
- The Community Service Program is not responsible for lost or stolen items.
- Do not bring weapons to the job site (this includes pocket knives, mace, or guns). Failure to adhere to this will lead to automatic dismissal from the program.
- Leaving the job site prior to the end of the day without permission from the work crew supervisor is not acceptable. The hours completed for that day will not count if the community service worker leaves without permission.
- Proper conduct and language are expected while working with the crew. Offensive or vulgar language and/or conduct will not be tolerated.

#### IV. CONCLUSION

Though our community service program recommendations are numerous, they are by no means exhaustive. Populations and resources vary from city to city, and county to county. There is no one-size-fits-all when it comes to constructing a viable community service program, so it is up to each city to develop a program consistent with its goals and resources. In addition to these recommendations, one of the best ways of going about implementing a community service program is figuring out what other cities have done. Some cities have posted their community service information on the internet. Helpful links include:

**Austin** - <http://www.ci.austin.tx.us/court/communityservice.htm>

**El Paso** - [http://www.elpasotexas.gov/muni\\_clerk/community\\_service.asp](http://www.elpasotexas.gov/muni_clerk/community_service.asp)

**Georgetown** - <http://georgetown.org/departments/municipalcourt/csinfo.php>

**Irving** - <http://www.cityofirving.org/inspections/pdfs/consent-for-community-service-and-hold-harmless.pdf>

**San Antonio** - <http://www.sanantonio.gov/court/commserv.asp?res=1024&ver=true>

**Waco** - <http://www.waco-texas.com/employees/PolicyManual/ADM-5%20Community%20Srv%20Prog.pdf>

If you have any questions or concerns about implementing a community service program in your city, please contact the Bojorquez Law Firm, PLLC at (512) 250-0411, or on the web at [www.TexasMunicipalLawyers.com](http://www.TexasMunicipalLawyers.com).