

**RULES OF CONDUCT
FOR TRANSIT VEHICLES, FACILITIES AND PROPERTIES**

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ARTICLE I.—INTRODUCTION

Des Moines Regional Transit Authority (“DART”) transit vehicles, facilities and properties are intended to provide public transportation services for the benefit of DART, the general public and DART employees. To maintain public transportation services that are orderly, safe, secure, comfortable and convenient, the following Rules of Conduct for DART Transit Vehicles, Facilities and Properties (the “Rules of Conduct”) have been adopted by the DART Board of Commissioners. The Rules of Conduct are intended to regulate conduct occurring on DART transit vehicles, within or upon DART facilities and properties, and in connection with DART’s provision of public transportation services.

The Rules of Conduct consist of four separate articles, which include the following: Article I -- Introduction; Article II -- Definitions; Article III -- Regulation of Conduct; Article IV -- Public Communication Activities: DART Transit Vehicles, Facilities and Properties; and Article V – Public Activities: The Central Station. Unless otherwise provided herein, reference to the phrase “Rules of Conduct” shall collectively include Articles I through V.

If any one or more of the provision(s) in the Rules of Conduct shall be declared by any court of competent jurisdiction to be contrary to law, then such provision(s) shall be null and void and shall be deemed separable from the remaining provisions in the Rules of Conduct and shall in no way affect the validity of the other provisions of the Rules of Conduct.

ARTICLE II.—DEFINITIONS

As used in these Rules of Conduct, the words herein shall have the meanings provided in this Article II. Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Words imparting the singular number shall include the plural numbers and vice-versa, unless the context shall otherwise dictate.

- A. “ADA” shall mean the Americans With Disabilities Act.
- B. “Bus shelters” shall mean those structures located in transit vehicle loading zones that provide cover for the general public to board and alight transit vehicles.
- C. “Commercial activity or activities” shall mean any enterprise or venture by groups or individuals for the purpose of promoting or selling products or services to DART employees or the general public, whether for profit or not.
- D. “General public” shall mean any person or group of persons, including DART employees not acting in an official capacity at the time.
- E. “Park-and-ride lots,” shall mean locations officially designated by DART at which persons may park their individual vehicles or bicycles and transfer to a DART transit vehicle or car/vanpool vehicles. The term shall include all physical improvements and landscaping connected with a Park-and-ride lot.

F. “Permit” shall mean a permit that gives a Permittee authority to conduct public communication activities in a manner consistent with applicable endorsements, rules and procedures in Articles IV.

G. “Permittee” shall mean the holder/signatory of a Permit issued in accordance with the rules and procedures in Articles IV.

H. “Person” shall mean any individual, firm, partnership, corporation, organization, association or entity of any kind.

I. “Public communication activity or activities” shall mean the posting or distributing of flyers, pamphlets, brochures, books or other written material, collecting petition signatures, political campaigning, demonstrating, displaying signs, picketing, unscheduled playing of musical instruments or other performances, public speaking, conducting surveys, soliciting or receiving of funds or contributions of any kind for any purpose, or otherwise communicating or attempting to communicate to the general public.

J. “Public transportation services” shall include the definition of transportation services in §28M.1(3) 2011 Code of Iowa, together with vanpools and fixed route and paratransit services, whether operated by DART or any governmental agency, private person, firm or corporation contracting with DART.

K. “Rules of Conduct” shall mean the rules of conduct adopted by the Board of Commissioners of DART on September 25, 2012 which regulate conduct occurring on DART transit vehicles, within or upon DART facilities and properties, and in connection with DART’s provision of public transportation services. Unless otherwise provided herein, such definition shall include, collectively, Articles I through V.

L. “Second Floor” shall mean the second floor of The Central Station.

M. “Harassment” and “Bullying” shall mean any electronic, written, verbal or physical act or conduct toward (i) a DART employee or (ii) a person utilizing DART’s public transportation services or DART’s properties and facilities (either referred to herein as an “individual”), which is based on any actual or perceived trait or characteristic of such individual and which creates an objectively hostile environment that meets one or more of the following conditions: (1) places the individual in reasonable fear of harm to such individual’s person or property; (2) has a substantially detrimental effect on physical or mental health of the individual; or (3) has the effect of substantially interfering with the individual’s ability to use the DART transportation services or other activities or privileges provided by DART.

N. “DART” shall mean the Des Moines Regional Transit Authority, a Iowa Regional Transit District organized and operating under and by virtue of the laws of the State of Iowa.

O. “DART employee” shall mean any part-time or full-time, temporary or regular, exempt or non-exempt, represented or non-represented person, including an intern or contracted party, who is compensated by DART for services by wages, salary, or other remuneration.

P. “DART facilities and properties” shall mean all facilities, structures, schedule and news racks, kiosks, fare vending machines, bulletin and information boards, bus stop signs, lands, interest in lands, air rights over lands, and rights of way of all kinds that are owned, leased, held, or used by DART for the purpose of providing public transportation services, including, but not limited to, park and ride lots, transit centers, bus shelters, public streets and sidewalks that are used by the general public to board and alight transit vehicles.

Q. “Street Level” shall mean the interior first floor of The Central Station and adjacent exterior zones where the general public boards and alights transit vehicles. The interior Street Level is open for general public access/egress only when The Central Station services are operating or for authorized post-service period events.

R. “The Central Station” shall mean the downtown transit center located at 620 Cherry Street, Des Moines, Iowa, 50309, consisting of the Street Level and Second Floor Level, as such levels are defined herein.

S. “Transit Centers” shall mean locations where bus routes have a common terminus and facilities are provided to facilitate general public boarding and alighting of transit vehicles, including all physical improvements and landscaping, except that such definition shall not include The Central Station.

T. “Transit-related activities” shall mean activities associated with the provision or support of DART public transportation services, the use of those services by the general public, or DART sales, promotion and maintenance activities in support of DART public transportation services.

U. The term “Transit Vehicle” shall include every motor vehicle, streetcar, train, trolley vehicle, and any other device, which (1) is capable of being moved within, upon, above, or below a public highway, (2) is owned or operated by a city, county, county transportation authority, public transportation benefit area, regional transit authority, or metropolitan municipal corporation within the state, and (3) is used for the purpose of carrying passengers together on a regular schedule.

V. “Loitering” shall mean remaining in or in the immediate vicinity of or circulating around or around the immediate vicinity of DART facilities and properties, including but not limited to The Central Station, under such circumstances that a reasonable person would conclude that the person who is remaining on or circulating around DART facilities and properties, including but not limited to The Central Station, does not have an intent to use or to accompany or meet a person using the public transportation services there offered or to use one or some of the accessory convenience facilities operated for the use of the general public at DART facilities and properties, including but not limited to The Central Station.

ARTICLE III.-- REGULATION OF CONDUCT

A. PROHIBITED CONDUCT

The following conduct is prohibited on DART Transit Vehicles, within or upon DART Central Station, DART facilities and properties, and in connection with DART's provision of public transportation services:

1. Engaging in any conduct prohibited by §142D.3(1)(a), §142D.3(1)(b), §142D.3(1)(c), §142D.3(1)(d), §142D.3(1)(e) and §142D.5;
2. Use of chewing tobacco except at a designated place; use of any nicotine or smoking device, which causes any smoke, mist, vapor or the like to be emitted through its use, on any DART transit vehicle, shelter, or other public transportation facility, or at the entrance, window, or air intake opening of DART buildings; smoking or carrying a lighted or smoldering pipe, cigar, or cigarette within twenty-five (25) feet of any entrance, window, or air intake opening of DART buildings;
3. Discarding litter other than in designated receptacles;
4. Dumping or discarding, or both, any materials on transit property, including but not limited to hazardous substances and automotive fluids;
5. Playing any radio, recorder, or other sound-producing equipment, except that nothing herein shall prohibit the use of such equipment when connected to earphones or an ear receiver that limits the sound to individual listeners or the use of communication devices by DART employees, DART contractors or public safety officers in the line of duty, or the use of private communication devices used to summon, notify, or communicate with other individuals (e.g., "pagers beepers" or cellular telephones);
6. Spitting, expectorating, urinating, or defecating; except in the appropriate plumbing fixtures in restroom facilities;
7. Carrying any flammable liquid, explosive, acid, or other article or material likely to cause harm to others except that nothing herein shall prevent a person from carrying a cigarette, cigar, or pipe lighter or carrying a firearm or ammunition in a way that is not otherwise prohibited by law;
8. Obstructing or impeding the flow of DART transit vehicles or passenger movement, hindering or preventing access to DART transit vehicles or property, including causing unreasonable delays in boarding or alighting, blocking or partially blocking an aisle or stairway with a package or object, reclining in more than one seat, or in any way interfering with or seriously disrupting the provision or use of transit services;
9. Disturbing others by engaging in loud, raucous, unruly, aggressive, violent, harmful, or harassing behavior;

- 10.** Destroying, defacing, or otherwise damaging DART property or any signs, notices, or advertisements on transit property;
- 11.** Consuming an alcoholic beverage, or is in possession of an open beverage container holding alcohol in any Transit Vehicle. Carrying any alcoholic beverage or controlled substance in any Transit Vehicle, unless otherwise authorized by law;
- 12.** Consuming an alcoholic beverage, or is in possession of an open container of alcohol on transit property or facilities, except where permitted to do so by virtue of possession of a valid state and/or local liquor license and authorized by DART;
- 13.** Exhibiting, displaying, or drawing any firearm, dagger, sword, knife or other cutting or stabbing instrument, club, or any other weapon apparently capable of producing bodily harm, in a manner, under circumstances, and at a time and place that either manifests an intent to intimidate another or that warrants alarm for the safety of other persons, unless otherwise authorized by law;
- 14.** Throwing an object at DART vehicles, facilities, or property, or at any person on DART property;
- 15.** Bringing any animal on to a transit vehicle other than a service animal and allowing any animal to occupy a seat on transit property, to run at large, to unreasonably disturb others, leave waste matter on DART property, or interfere with transit-related activities;
- 16.** Roller-skating, roller-shoes, rollerblading or skateboarding;
- 17.** Riding bicycles, unicycles, mopeds and motorcycles, except where vehicle travel and access is permitted;
- 18.** Using DART property for residential or commercial parking purposes except as authorized by DART or its designee;
- 19.** Operating, stopping, standing or parking a vehicle in any roadway or location restricted for use only by DART transit vehicle or otherwise restricted;
- 20.** Eating on DART transit vehicles or in prohibited areas of DART facilities and properties; DART permits transportation and consumption of beverages on transit vehicles when the beverage is in a reusable, leak-proof container with a resealing lid;
- 21.** Using a public address system, loudspeaker or other sound amplifying device, except as authorized by DART or its designee;
- 22.** Sitting or lying on floors of DART transit vehicles; and floors, sidewalks, asphalt, or other ground covering in or on DART facilities and properties;

- 23.** Sleeping, camping or storing personal property on benches and floors on or within DART transit vehicles or DART facilities and properties, unless otherwise authorized by law;
- 24.** Entering or remaining upon any nonpublic areas of DART facilities and properties, including, but not limited to, staging areas, work areas and equipment rooms, except when authorized by DART or its designee;
- 25.** Storing of materials in front of the doors of any DART facility;
- 26.** Entering DART transit vehicles or DART property without wearing a shirt and shoes;
- 27.** Engaging in commercial activities, except as such activities are authorized by DART or its designee in a written permit, license, concession contract, lease or other written authorization;
- 28.** Engaging in public communication activities, except as such activities are authorized by Articles IV herein;
- 29.** Engaging in any civic, cultural and other special event, not included in the definitions of commercial or public communication activities in Article II herein, except as such activities are authorized by DART or its designee in a written permit, license, concession contract, lease or other written authorization;
- 30.** Committing any act which tends to create or incite, or creates or incites, an immediate breach of peace, including, but not limited to (a) fighting, (b) racing, (c) obscene language and noisy or boisterous conduct tending to cause a breach of the peace, and (d) personally abusive epithets, or words or language of an offensive, disgusting or insulting nature, which epithets, words or language when addressed to the ordinary citizen are, as a matter of common knowledge, inherently likely to provoke a violent reaction of fear, anger or apprehension;
- 31.** Engaging in sexual activity with self or others while accessing or riding a DART transit vehicle; in a transit facility, or on DART property;
- 32.** Engaging in gambling or any game of chance for the winning of money or anything of value;
- 33.** Use of DART transit vehicles, facilities and properties for nontransit-related activities, except as authorized by DART;
- 34.** Entering DART transit vehicles, facilities and properties when lacking the ability, because of illness, intoxication, or medication(s), to care for one's self;
- 35.** Extending an object or a portion of one's body through the door or window of a DART vehicle;

- 36.** Hanging or swinging on bars or stanchions, with feet off the floor, inside a transit vehicle or other transit property; hanging onto or otherwise attaching oneself at any time to the exterior of a transit vehicle DART Central Station, DART shelter or other transit property;
- 37.** Engaging in any physical sport activity on transit property;
- 38.** Failing to pay the appropriate fare as required by DART;
- 39.** Falsely representing oneself as eligible for a special or reduced fare or obtaining any permit or pass related to the DART transit system by making a false representation;
- 40.** Falsely claiming to be a transit operator, other transit employee, or volunteer; or through words, actions and/or the use of clothes, insignia or equipment resembling department issued uniforms and equipment, creating a false impression that he or she is a transit operator, other transit employee, or volunteer;
- 41.** Refusing to allow proper securement of a wheelchair on DART transit vehicles;
- 42.** Refusing to use appropriate personal restraints/seatbelts on a DART transit vehicle providing paratransit services;
- 43.** Interfering or tampering with mobile data computers, fare boxes, Public Address Systems, surveillance equipment or any other equipment on DART transit vehicles DART Central Station or other DART facility;
- 44.** Impeding paratransit service through non-compliance with the procedures set forth in the Bus Plus Rider's Guide;
- 45.** Violating an exclusion order issued pursuant to B.2 of Article III herein;
- 46.** Violating any federal, state, or municipal civil and criminal laws;
- 47.** Throwing any object at a DART building or bus shelter and throwing any object of any kind within a DART transit vehicle or out of any door or window of any DART transit vehicle; and
- 48.** Standing or remaining in front of the white (or yellow) line marked on the forward end of the floor of any bus while the bus is in motion or after being asked to step back behind the line by the driver.
- 49.** Congregating, standing, loafing, loitering, or remaining in or in the immediate vicinity of or frequenting DART facilities and properties, including but not limited to The Central Station, unless there present with intent to use or to accompany or meet a person using the public transportation services there offered or to use one or some of the accessory convenience facilities operated for the use of the general public at DART facilities and

properties, including but not limited The Central Station; or unless there present with a bona fide intent to exercise a constitutional right.

50. Engaging in any harassment or bullying as defined in Article II Section M.

B. ENFORCEMENT

1. Removal from DART Transit Vehicles, Facilities and Properties.

Any person engaging in prohibited conduct under the provisions of Article III may be refused entrance upon or ordered to leave DART transit vehicles, facilities and properties by a commissioned law enforcement official, DART personnel as authorized by the General Manager of DART, or authorized personnel of a contracted service provider in accordance with the terms of the applicable service contract. Failure to immediately comply with such a removal order may be grounds for prosecution for criminal trespass and/or unlawful transit conduct.

2. Exclusion from Service.

Except as provided in DART's Code of Conduct (Article III, Section B(2)(d) – *Immediate Refusal or Removal*), DART employees shall not refuse service to anyone who has not been formally excluded from DART service pursuant to the application of DART's Rules of Conduct or a court order.

(a) Basis for Exclusion. Engaging in prohibited conduct under Article III shall be cause for excluding a person from the privilege of entering and using all or any part of DART transit vehicles, facilities and properties for a period of time as determined by DART based on the conduct and circumstances leading to an exclusion.

(b) Notice Procedure. The DART Chief Operating Officer, or his/her designee, shall give written notice, by personal delivery or by mailing a copy by regular U.S. Mail, addressed to the person's last known address to any person to be excluded from DART transit vehicles, facilities and properties. The notice shall specify the reason for exclusion, places and duration of the exclusion, the effective date of the exclusion, the appeal process, and provide the person an opportunity to respond in person, by telephone or in writing, to the proposed action within five (5) calendar days of actual or constructive receipt of the notice by the person being excluded.

An exclusion shall commence on the sixth calendar day after actual or constructive receipt of the notice by the person being excluded, unless the person has timely requested an administrative review of the notice, in which case the DART Chief Operating Officer, or his/her designee, shall review the exclusion and shall render a written decision determining whether exclusion is warranted, within five (5) calendar days from the date of the person's request for review. Such written decision shall be delivered personally to the requesting person or delivered by mailing a copy by regular U.S. Mail, addressed to the person's last known address.

If the DART Chief Operating Officer, or his/her designee, determines that exclusion is warranted, such exclusion shall commence and be effective upon actual or constructive receipt of the written decision by the person to be excluded.

(c) **Constructive Notice.** Receipt of a notice is construed to have been accomplished if the person knew or reasonably should have known from the circumstances that he/she is excluded from DART transit vehicles, facilities and properties. Receipt of a notice is also presumed to have been accomplished three (3) calendar days after the notice has been placed in the U.S. mail.

(d) **Immediate Refusal or Removal.** The notice procedure described in Article III, Section B 2(b), (c) above may be waived, if, in DART's discretion, immediate conditions exist that pose safety or security risks, interfere with or impinge on the rights of others, impede the free flow of the general public, impede the orderly and efficient use of DART transit vehicles, facilities and properties, or otherwise interfere with or seriously disrupt DART's transit related activities. In such immediate conditions, persons engaging in prohibited conduct under the provisions of Article III may be immediately reseated, refused transportation, or removed from DART transit vehicles, facilities and properties. The notice and administrative review provisions of Article III, Section B 2(b) shall not be available to a person immediately refused transportation or removed from DART transit vehicles, facilities or properties for any period less than thirty (30) calendar days.

(e) **Refusal to Comply.** The refusal to immediately comply with an order excluding a person from DART transit vehicles, facilities and properties shall be grounds for prosecution for criminal trespass.

(f) **Length of Exclusion.** The following suggested exclusion lengths are guidelines to be used by DART in determining the duration of a particular exclusion under the provisions of Article III. The actual exclusion period imposed may be shorter or longer depending on the circumstances of each case, and the circumstances that form the basis for determining the length of exclusion shall be stated in DART's written report(s) of the incident(s) leading to exclusion. Circumstances considered by DART in determining the length of exclusion may include, without limitation, the immediate incident, DART's documented history of prior incidents involving the excluded person, DART security records, supervisor records and any other public records available to DART regarding the individual's conduct while using or accessing DART's public transportation facilities.

First Offense: 1-90 days
Second Offense: 91-180 days
Third Offense: 181-365 days
Each Subsequent Offense: 365 or more days

(g) **Appeal Procedure.** The following appeal process shall be provided to any person excluded from DART transit vehicles, facilities or properties for a period of thirty (30) days or more. Not later than ten (10) calendar days after commencement of the exclusion, an excluded person may appeal in writing to the DART General Manager, or his/her designee, for

de novo review of the exclusion. Commencement of the exclusion shall be defined as the date upon which the exclusion became effective and shall be determined by DART's official records. The appellant may request a hearing or may request review without a hearing based on a written statement setting forth the reasons why the exclusion is invalid or improper. If the excluded person is unable to respond in written format, DART will make reasonable accommodation to allow due process. The General Manager shall convene a Hearing Panel comprised of three (3) persons selected as follows:

1. The General Manager
2. A member of the Transit Riders Advisory Committee to be selected by the General Manager and
3. A person selected from the DART staff by the General Manager.

The said DART staff person shall be a person other than the Chief Operating Officer. The decision of the majority of the members of the Hearing Panel shall be the decision of the Hearing Panel. The Hearing Panel shall hear the appeal or if no hearing is requested, review the matter based upon the record and render a written decision within twenty (20) calendar days after the receipt of the appeal, and the decision of the Hearing Panel shall be final.

(h) Hearing. If a hearing is requested, the hearing shall be held within twenty (20) calendar days after receipt of the appeal, and a written decision shall be rendered within twenty (20) calendar days after the hearing. Exclusions shall not be stayed during the appeal process. If an appellant requires public transportation services to attend the hearing, the appellant shall contact the DART General Manager, or his/her designee, five (5) business days prior to the hearing date, and DART shall make arrangements to provide the necessary public transportation services for the appellant.

3. Other Laws not Limited.

The enforcement of Article III herein is not intended to limit, in any manner, the enforcement of any applicable federal, state or municipal laws, provided DART is not authorized to assist a patron or employee in enforcing a court order prohibiting or restricting contact with any other person other than to notify appropriate law enforcement personnel via DART's dispatcher or DART Security.

C. LIABILITY

Nothing in Article III herein shall create a duty to any person on the part of DART or form any basis for liability on the part of DART, its officers, agents or employees. The obligation to comply with Article III is solely that of any person entering and using DART transit vehicles, facilities and properties and DART's enforcement of Article III is discretionary not mandatory.

ARTICLE IV.-- PUBLIC COMMUNICATION ACTIVITIES AT DART TRANSIT VEHICLES, FACILITIES AND PROPERTIES

A. PURPOSE AND SCOPE

1. Non-Open Public Forums.

As a provider of public transportation services, DART makes a variety of transit vehicles, facilities and properties available to persons who use such public transportation services. Although these transit vehicles, facilities and properties may be accessed by the general public, they are not open public forums either by nature or by designation. They are intended to be used solely for transit-related activities and provide little, if any, space for other nontransit-related activities.

2. DART's Legitimate Interests.

Most public communication activities are prohibited on DART transit vehicles and within or upon DART facilities and properties, regardless of viewpoint expressed, because they are incompatible with DART's legitimate interests, including but not limited to:

(a) securing the use of scarce parking spaces and shelter space for persons who are using public transportation services;

(b) maintaining safe, clean and secure transit vehicles, facilities and properties to retain existing, and attract new, users of public transportation services;

(c) reducing litter pick-up and other maintenance or administrative expenses so as to maximize the provision of public transportation services; and

(d) preventing delays and inconvenience to the general public by minimizing congestion, and expediting their boarding, transferring, and alighting of DART transit vehicles.

3. Purpose of Article IV.

DART's intent and desire is to allow members of the general public to engage in public activities on DART transit vehicles and within or upon DART facilities and properties to the extent such activities are compatible with DART's legitimate proprietary functions and interests, but expressly does not hereby designate its transit vehicles, facilities and properties as public forums. It is the purpose of Article IV to describe the limited extent to which the general public is allowed to engage in public activities on DART transit vehicles and within or upon DART facilities and properties. Article IV does not apply to DART employees engaged in authorized activities in the course of their employment or to events or commercial activities previously authorized by DART.

4. Facilities Governed by Article IV.

DART transit vehicles, facilities and properties, as defined herein are governed by Article IV.

B. REGULATION OF PUBLIC ACTIVITIES

Persons engaging in public activities involving signs, boxes, receptacles, easels or other similar apparatus of any kind, must first obtain a DART Permit in accordance with the rules and procedures set forth in Article IV herein.

DART personnel may require that any public activity not be conducted within ten feet of persons in transit vehicle queue lines, bus entrances or exits or permanent waiting fixtures unless invited closer by a transit patron.

1. Limitations.

Public activities which are otherwise lawful are permitted on DART transit vehicles and within or upon DART facilities and properties, subject to the following exceptions and limitations:

(a) Posting or affixing flyers, pamphlets, brochures, leaflets, written or graphic material of any kind is prohibited.

(b) Selling or offering for sale or donation books, pamphlets, or any other written or printed material is prohibited.

(c) Soliciting funds is prohibited; provided that solicitation for donations for non-profit causes may be conducted within designated areas of The Central Station, and are otherwise subject to DART's Rules and Regulations, the Rules of Conduct and laws applicable to such fundraising.

(d) Signs, banners, structures or other paraphernalia may not be affixed to or erected on DART transit vehicles and within or upon DART facilities and properties, except as authorized by DART or law.

(e) Signs carried by or on a person are permitted provided the signs are not constructed of a size or material which could inadvertently or intentionally cause injury to a person or property, except signs are not permitted on DART transit vehicles. Signs may not be of a size that obstructs the free flow of the general public and may not exceed 32 inches by 32 inches. A "Sandwich board" sign may not extend beyond the carrier's shoulders or, if used by a Permittee, beyond the permitted area.

(f) Public activities will not be permitted in parking areas or roadways. Public activities may not block any loading zone, signage, stairway, escalator, elevator, customer service counter, ticket or automatic teller machine, authorized commercial activity, any fire safety system component, telephone, information board or the normal general public paths to and from such areas.

(g) Public activities otherwise permitted under Article IV are prohibited if the number of persons engaged in the activities, their location or their manner of conducting the activities is found to create safety or security problems; interfere with the free flow of persons onto DART transit vehicles, or into, within or from DART facilities and properties; or interfere with the operation of such transit vehicles, facilities and properties, or DART's provision of public transportation services.

(h) Persons engaged in public activities within or upon DART facilities and properties shall not use any parking spaces provided at such facilities and properties unless they are also using DART's public transportation services.

C. GENERAL

1. Liability for Clean-up.

Any person engaged in public activities and found responsible for litter, damages or destruction of property, whether by accident or intent, shall be responsible for the clean-up and/or liable for the cost of repairing or replacing the property.

2. Liability of DART.

Nothing in Article IV or in the permission of public activities on DART transit vehicles and within or upon DART facilities and properties shall create a duty to any person on the part of DART or form any basis for liability on the part of DART, the members of the Board of Commissioners, its agents or employees. The obligation to comply with the requirements of Article IV is solely that of any persons engaging in public activities and DART's enforcement of Article IV is discretionary, not mandatory.

3. Non-DART Uses.

Notwithstanding the limitations and prohibitions contained in Article IV, DART reserves the right to enter into leases or other use agreements permitting non-DART uses of DART transit vehicles, facilities and properties that are found to be compatible with DART's proprietary functions and interests.

4. Rules and Regulations.

DART shall adopt Rules and Regulations that further its legitimate interests.

ARTICLE V.-- PUBLIC ACTIVITIES: THE CENTRAL STATION

A. INTRODUCTION

1. Purpose of The Central Station.

The Central Station, including, but not limited to, the Street Level and Second Floor, is first and foremost intended for DART public transportation services and the use of those services by the general public. Safe and efficient movement of DART transit vehicles and customers within and upon The Central Station is paramount to achieving safety, security, maintenance and operation objectives and meeting general public expectations concerning The Central Station and DART's provision of public transportation services. Selected areas of The Central Station may accommodate activities unrelated to the provision of public transportation services at the discretion of DART. To the extent public service activities can be accommodated at The Central Station, the rules and procedures stated in this Article V and the Rules adopted by DART shall apply.

2. Purpose of Article V.

The Central Station is primarily intended for persons making use of public transportation services, although many of the areas of The Central Station are also open to the general public and patrons of the commercial establishment located in The Central Station.

The public areas of The Central Station include the Street Level and Second Floor. With respect to these public areas, DART is (within reasonable limits) authorized to regulate the time, place, and manner in which persons conduct themselves.

Without regard to content, individuals or groups involved, some activities might be denied altogether or made subject to the Rules of Conduct. Such activities would include, but are not necessarily limited to, those that are inconsistent with the intended purpose of a given area, pose safety or security risks, interfere with or impinge on the rights of others, impede the free flow of the general public, affect the orderly and efficient use of The Central Station, or otherwise interfere with DART's public transportation services, operations and maintenance activities.

Accordingly, the express purpose of Article V is to accommodate and maintain the operational function of The Central Station as a Transit Center. Article V should be construed and interpreted to achieve that end.

B. RULES AND PROCEDURES

1. DART Intent.

It is the intent of DART to accommodate, to the extent practicable, public activities that are not associated with the purposes for which The Central Station was intended. While attempting to accommodate such activities, DART must extend some control over them to achieve the goals and objectives described above. Accordingly, persons may be allowed to engage in public activities within The Central Station, provided such activities are conducted in accordance with the rules and procedures adopted by the Commission the Rules of Conduct and existing laws.

2. Public Activities.

(a) **Permit.** Persons engaging in public activities at The Central Station must first obtain a Permit from DART. Provided, that persons engaging in public activities not involving signs, boxes, receptacles, easels or other similar apparatus of any kind, on the sidewalks surrounding The Central Station may do so without obtaining a Permit in accordance with the rules and procedures set forth in this Article V. DART personnel may require that such activity not be conducted within ten feet of persons in sidewalk queue lines, bus exits or permanent waiting fixtures unless invited closer by a transit patron.

(b) **Application for Permit.** Any person that desires to obtain a Permit shall submit an application (“Application”) to DART’s Chief Operating Officer or his/her designee. A copy of the form of the Application is attached hereto as “Appendix 1” and by this reference is incorporated herein. The Application shall be accompanied by a Certificate of Insurance that will maintain in continuous effect during the term of the Application and while any obligation remains unsatisfied. The Commission shall adopt a Standard Insurance and Indemnification form to be utilized by DART. Applications may be obtained in-person, Monday - Friday (except holidays), 8:00 a.m. to 5:00 p.m., from DART’s Business Office, 620 Cherry Street, Des Moines, IA 50309 or the DART Operations and Maintenance Facility, 1100 DART Way, Des Moines, IA 50309.

(c) **Issuance of Permit.** Within a period of no more than ten (10) business days of receipt of a completed Application, a Permit shall be issued by DART’s Chief Operating Officer or his/her designee, or the applicant shall be furnished a written statement setting forth the reason why the Application for a Permit has been denied. A Permit will be valid only for the specific dates, times and designated areas identified on the Permit. A Permit shall be effective for a period of no longer than three (3) calendar days and will be limited to the normal hours and days that the designated area(s) identified on the Permit is open for public access. No Permit shall be issued for more than forty (40) hours in each one-hundred twenty (120) calendar days for any individual or group. Applications shall be processed in the order of their receipt.

(1) A Permit may be renewed prior to its expiration for up to two (2) additional calendar days by filing with DART’s Chief Operating Officer or his/her designee, a notice that the Permittee intends to continue his/her activity, together with any amendments necessary to keep the information required by the Application current and accurate. A Permit shall not be renewed if the notice and information herein required are not timely filed or if the continued presence of the Permittee cannot be accommodated under the rules and procedures in this Article V.

(2) Permittees will be required to have the Permit on their person (or with group) when engaged in their activity. A copy of the form of the Permit is attached hereto as “Appendix 2” and by this reference is incorporated herein.

(d) **Areas of Permit Exercise.** Permitted public activities, as defined in Article II herein, are permitted in certain designated places in the Street Level and Second Floor of The Central Station.

(e) **Denial of Permit.** If a Permit is denied, DART's Chief Operating Officer or his/her designee, shall serve on the applicant personally or by regular U.S. Mail, return receipt requested, a written statement of reasons for denial. A Permit shall not be denied unless:

(1) The applicant has not furnished the information or insurance certificate required by the Application, or has failed to agree to the conditions of the Permit;

(2) The applicant is subject to: (i) an exclusion order issued to the applicant or participant pursuant to Article III herein; (ii) a revocation of a previous permit issued to the applicant; or (iii) a failure to comply with the terms and conditions of a permit previously issued to the applicant;

(3) The nature of the activity that the applicant wishes to conduct constitutes a commercial activity as defined in Article III herein and is subject to other requirements of DART;

(4) Emergency conditions exist that make the applicant's proposed activity at the date, time and location proposed by the applicant incompatible with the operational function of The Central Station; or

(5) More applicants than herein provided for have requested permitted activities for the same date, time and location and the applicant is not entitled to priority in accordance with the rules and procedures in this Article V.

(6) Where feasible, the Director or his/her designee may propose measures for curing any defect in the application for a permit.

(f) **Revocation of Permit.** A Permit shall be revoked immediately by DART's Chief Operating Officer or his/her designee, when evidence exists that:

(1) A Permittee has violated the provisions of DART's Rules and Regulations and the Rules of Conduct, has been duly warned of the violation at least once, but has not complied; or

(2) The activity has attracted a crowd of sufficient size so as to begin to adversely impact the safety, security or rights of others, the free flow of the general public, or the normal operation requirements of The Central Station. Under this circumstance, the Permit may be returned for use if the crowd disperses and the adverse conditions that existed at the time of revocation are no longer present.

(g) **Notice of Revocation.**

(1) Notice of revocation shall be in writing supported by a statement of facts and a list of witnesses to the facts stated, and the notice shall be personally served upon the Permittee or mailed to the Permittee by certified mail, return receipt requested. A notice of revocation need not be in writing, if immediate conditions exist that pose safety or security risks,

interfere with or impinge on the rights of others, impede the free flow of the general public, affect the orderly and efficient use of The Central Station, or otherwise interfere with DART's public transportation services, operations and maintenance activities. If written notice of revocation is not given because of such immediate conditions, the DART Chief Operating Officer or his/her designee, shall within one (1) calendar day from the date of revocation, prepare a written notice of revocation as required above.

(2) Once a Permit has been revoked, a person shall not continue their activity until another Permit has been obtained or the revoked Permit returned by the DART Chief Operating Officer or his/her designee. If the Permit has been revoked on a permanent basis, all materials involved in the terminated activity must be removed immediately, by the individual(s) involved.

(h) *Appeal from Denial or Revocation.*

(1) Upon notification of the denial of a Permit, or revocation thereof, an applicant or Permittee may file with DART's General Manager a notice of appeal.

(2) Upon receipt of the notice of appeal, the matter shall be set for a hearing before DART's General Manager within ten (10) calendar days thereof and DART shall issue a notice of hearing which shall be sent by certified mail, return receipt requested, to the applicant or Permittee, and which shall contain the date, time and place of the hearing.

(3) At the hearing, the applicant or Permittee may be represented by legal counsel. Testimony shall be taken upon oath or affirmation first of witnesses in support of the denial or revocation of the Permit. The applicant or Permittee may testify and present witnesses on his/her behalf. A record shall be made of the proceeding and kept on file with DART.

(4) The findings and order of DART's General Manager shall, within seven (7) calendar days of the conclusion of the hearing, be forthwith sent to the applicant or Permittee by certified mail, return receipt requested. The decision of the General Manager shall be final.

(i) *Availability of and Limit Upon Permits.* Permits will be issued on a first-come, first-served basis, subject to availability and DART's need to utilize the space. If more persons are requesting issuance of Permits than can be accommodated for the area, date and time requested, DART's Chief Operating Officer shall give preference to the applicant or applicants who have had the least opportunity during the preceding three hundred sixty five (365) calendar days to conduct public activities. DART may assess a reasonable charge for the use of the area in question.

(j) *Reproduction.* Permits may not be reproduced or altered in any manner. Reproduced or altered Permits will be considered invalid and confiscated. The holder of the invalid Permit will be required to cease their activity until a valid Permit is obtained.

(k) **Signs, Banners, Literature, Etc.** Signs, banners, literature, leaflets, posters, structures or other paraphernalia may not be affixed to The Central Station or any property in The Central Station or erected in conjunction with an activity, unless space has otherwise been provided for such purpose at The Central Station or under provisions stated elsewhere in Article V. Signs carried by or on a person are permitted provided the signs are not constructed of materials which could inadvertently or intentionally cause injury to another individual. Signs must not be of a size that obstructs the free flow of the general public (e.g., a maximum of 32 inches by 32 inches or a “sandwich board” worn by an individual which does not extend beyond the carrier’s shoulders is acceptable). Permittees may offer literature to the general public, but shall refrain from attempting to distribute literature to any member of the general public who indicates he or she does not desire to receive said literature.

(l) **Responsibility for Clean-up.** The Permittee shall be responsible for cleaning up litter that they personally (or as a group) generate in the course of their activity. If, at the end of the Permittee’s activity, the Permittee fails to clean up such litter, DART shall cause the cleanup of the Permittee’s litter and the Permittee shall reimburse DART for all costs incurred therefore.

(m) **Unattended Distribution and Storage of Materials.** No Permittee shall leave unattended distribution or storage of materials, placards, boxes, or other supplies used in support of public activities.

(n) **Liability for Damaging Property.** Any person or organization engaged in public communication activities and found responsible for damaging, injuring, or destroying DART property within or upon The Central Station, whether by accident or intent, shall be liable for the cost of replacing and/or repairing such property.

(o) **Hold Harmless.** Any Permittee, including Permittee’s personal representatives, successors in interest, and assigns, shall, as a precondition to the issuance of the Permit, agree to indemnify, defend and hold harmless DART, and its officers, agents and employees from all suits, claims, actions and damages of whatsoever kind or nature arising out of or resulting from the Permittee’s use of the premises, except to the extent caused by the negligence of DART and its Board of Commissioners, officers, agents and employees. Permittee shall further covenant and agree to specifically assume potential liability for actions brought by Permittee’s own employees against DART and its Board of Commissioners, officers, agents and employees and, for that purpose only, Permittee specifically waives any immunity under workers’ compensation act; provided, however, that said waiver shall not apply to such actions in which Permittee’s employee alleges that the claim arises through the fault of DART and its officers, agents and employees and through no fault of Permittee, unless the fault of Permittee is established through discovery or at trial.

(p) **Interaction with the General Public.** DART and its officers, agents and employees, shall not unnecessarily interfere with any consensual conversation between Permittees and members of the general public. Permittees shall forthwith terminate any conversation with any member of the general public when requested to do so by DART. No person, while engaged in public activities, shall physically touch or contact a member of the

general public, unless the person has previously consented to the contact or unless the person has previously agreed to contribute to the Permittee or the organization which he represents.

(q) **Misrepresentations.** No person, while engaging in solicitation of funds, shall misrepresent the true purposes for which the resources thus obtained will be utilized by the person. In the solicitation of funds, the person shall inform the person being solicited of the true intent of the organization for which said funds are solicited. No false, fraudulent, or misleading statements or representations shall be made.

(r) **Permits and Licenses.** The Permittee shall be responsible for obtaining all necessary permits, insurance certificates and licenses from any other regulatory agencies required for the Permittee's use of The Central Station. Permittee shall provide copies of said permits to DART upon its request.

(u) **Compliance with the Rules of Conduct and Laws.** Permittees shall abide by DART's Rules and Regulations, the Rules of Conduct and all state, federal and municipal criminal and civil laws applicable to them.

APPENDIX 1

APPLICATION FOR A PERMIT TO ENGAGE IN PUBLIC ACTIVITIES

1. Please state the applicant's name, address and telephone number:

2. Please state the name, address and telephone number of the person that is sponsoring, promoting or organizing the activity, if any: _____

3. Does the applicant desire to use tables and chairs? _____.

4. Please state the location (i.e., the designated areas of Street or Second Floor of The Central Station), date, time and duration of the activity that the applicant wishes to conduct:

5. Please describe any props (without reference to content that the applicant intends to display (e.g., size or dimensions, etc.)) _____

6. The applicant has read and agrees to abide by the Rules of Conduct and all state, federal and municipal criminal and civil laws applicable to them.

DATED this _____ day of _____, 20__.

as applicant

By: _____
Title: _____

APPENDIX 2

PERMIT TO ENGAGE IN PUBLIC COMMUNICATION ACTIVITIES

The Des Moines Regional Transit Authority (“DART”), 620 Cherry Street, Des Moines, IA 503--, hereby authorizes _____ (the “Permittee”), to engage in public activities on DART property or facilities under the terms and conditions set forth herein. The Permittee recognizes and agrees that this Permit is issued for the Permittee’s sole benefit and convenience. DART assumes no responsibility for the care or custody of equipment, materials, supplies or any other furniture to be used on DART property nor does DART agree to provide an alternative facility if for any reason the premises should cease to continue to be available. This Permit is subject to the following conditions, and by accepting this Permit the Permittee thereby has accepted each such conditions:

1. **Authorized Areas.** [insert description of the designated areas of permitted activity, and include a map of said area] With the exception of certain exempt activities described in the Rules of Conduct, Article IV and Article V, public communication activities on DART transit facilities are prohibited.

2. **Participants.** [insert identity of the person who is sponsoring, promoting, or organizing the activity]

3. **Term.** The days and hours of use are limited to [insert date and time and duration of activity]. This Permit shall be effective for a period of [insert period of time].

4. **Retention of Permit.** The Permittee is required to have this Permit on their person (or with group) when engaged in their activity.

5. **Reproduction or Alteration.** This Permit may not be reproduced or altered in any manner. Reproduced or altered permits will be considered invalid and confiscated. The holder of the invalid permit will be required to cease their activity until a valid permit is obtained.

6. **Responsibility for Clean-up.** All persons or groups issued this Permit shall be responsible for cleaning up litter that they personally (or as a group) generate in the course of their activity. If, at the end of the Permittee’s activity, the Permittee fails to clean up such litter, DART shall cause the cleanup of the Permittee’s litter and the Permittee shall reimburse DART for all costs incurred therefor.

7. **Liability for Damaging Property.** Any person or organization engaged in public activities and found responsible for damaging, injuring, or destroying DART property within or upon The Central Station, whether by accident or intent, shall be liable for the cost of replacing and/or repairing such property.

8. **Signs, Banners, Literature, Etc.** Signs, banners, literature, leaflets, posters, structures or other paraphernalia may not be affixed to The Central Station or any property in The Central Station or erected in conjunction with an activity, unless space has otherwise been

provided for such purpose at The Central Station or under provisions stated elsewhere in the Rules of Conduct. Signs carried by or on a person are permitted provided the signs are not constructed of materials which could inadvertently or intentionally cause injury to another individual. Signs must not be of a size that obstructs the free flow of the general public (e.g., a maximum of 32 inches by 32 inches or a “sandwich board” worn by an individual which does not extend beyond the carrier’s shoulders is acceptable). Permittees may offer literature to the general public, but shall refrain from attempting to distribute literature to any member of the general public who indicates he or she does not desire to receive said literature; such activity may not be conducted within ten (10) feet of persons in queue lines, bus exits or entrances, or permanent waiting fixtures unless invited closer by a transit patron.

9. *Hold Harmless.* The Permittee, including Permittee’s personal representatives, successors in interest, and assigns, hereby agrees to indemnify, defend and hold harmless DART, and its Board of Commissioners, officers, agents and employees from all suits, claims, actions and damages of whatsoever kind or nature arising out of or resulting from the Permittee’s use of the premises. Permittee further agrees to specifically assume potential liability for actions brought by Permittee’s own employees against DART and its officers, agents and employees and, for that purpose only, Permittee specifically waives any immunity under workers’ compensation act; provided, however, that said waiver shall not apply to such actions in which Permittee’s employee alleges that the claim arises through the fault of DART and its Board of Commissioners, officers, agents and employees and through no fault of Permittee, unless the fault of Permittee is established through discovery or at trial.

10. *Interaction with the General Public.* DART and its officers, agents and employees, shall not unnecessarily interfere with any consensual conversation between Permittees and members of the general public. Permittees shall forthwith terminate any conversation with any member of the general public when requested to do so by DART. No person, while engaged in public communication activities, shall physically touch or contact a member of the general public, unless the person has previously consented to the contact or unless the person has previously agreed to contribute to the Permittee or the organization which he represents.

11. *Misrepresentations.* No person, while engaging in solicitation of funds, shall misrepresent the true purposes for which the resources thus obtained will be utilized by the person. In the solicitation of funds, the person shall inform the person being solicited of the true intent of the organization for which said funds are solicited. No false, fraudulent, or misleading statements or representations shall be made.

12. *Permits and Licenses.* The Permittee shall be responsible for obtaining all necessary permits and licenses from any other regulatory agencies required for the Permittee’s use of DART public transportation facilities. Permittee shall provide copies of said permits to DART upon its request.

13. Compliance with the Rules of Conduct and Laws. Permittees shall abide by the Rules of Conduct and all state, federal and municipal criminal and civil laws applicable to them.

DATED this _____ day of _____, 20_____.

DES MOINES REGIONAL TRANSIT AUTHORITY

By: _____

Title: _____

as Permittee

By: _____

Title: _____