



Finance and Capital Committee

Action Item III-A

October 11, 2018

Use Regulations Update

Washington Metropolitan Area Transit Authority
Board Action/Information Summary

<input checked="" type="radio"/> Action <input type="radio"/> Information	MEAD Number: 202028	Resolution: <input checked="" type="radio"/> Yes <input type="radio"/> No
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TITLE:

Use Regulations Update

PRESENTATION SUMMARY:

Staff seeks Board approval of the revised and restated 2018 Use Regulations which govern the permitted use of Metro Property by others, as well as seeks additional authority to better implement the use of Metro property by others.

PURPOSE:

Request Board approval to:

- Revise and restate the Use Regulations;
- Authorize the sale of food and drink on Metro property outside of Metrorail stations' paid areas; and
- Delegate to the General Manager/Chief Executive Officer the authority to approve commercial uses on Metro property.

DESCRIPTION:

Metro periodically updates its *Regulations Concerning the Use of WMATA Property* (the "Use Regulations"). The current Use Regulations were published in 2008 and have not been updated since. Several Board authorizations to increase opportunity for third-parties to use Metro property and generate revenue for Metro have been approved since 2008; the revised and restated 2018 Use Regulations capture those approvals. Additionally, in drafting the revised and restated Use Regulations, staff identified areas for added efficiency and opportunity in how Metro manages its property and as such is seeking: (1) authorization to sell food and drink on Metro property outside of Metrorail stations' paid areas, and (2) a delegation of authority to the General Manager/Chief Executive Officer (GM/CEO) to approve commercial uses on Metro property.

Key Highlights:

- The proposed revisions to the Use Regulations capture Board authorizations and approvals since 2008, when the Use Regulations were last published, and make clearer to third-parties who seek to do business with Metro what the rules and requirements governing the use of Metro property by others are.

- To streamline Metro's internal approval process and increase opportunities for commercial uses on Metro property and generate new revenue for Metro, staff recommends the Board to delegate to the GM/CEO the authority to approve commercial uses on Metro property.
- The Board has already approved the sale of food and drink on Metro parking facilities, but had limited such activity to weekends and holidays. Metro receives requests from third parties to set up farmers markets on weekdays and to organize pop-up retail in under-served submarkets. These activities include the sale of food and drink, sometimes during the weekday.

Background and History:

Metro first published *Regulations Concerning the Use of WMATA Property* in 1987. Metro's desire to activate its Metrorail stations and other properties, as well as the desire to generate additional revenue from property permits and leases, is long-standing. Increasingly, as private and community proposals to use Metro property and as revenue-generating opportunities have been presented, the Board has authorized certain third-party uses of Metro property. The following uses are currently permitted on Metro property:

- Communications antennas and equipment, as well as fiber optic cables (1995);
- Non-transit, public parking, civic and limited commercial uses on parking facilities (2002);
- Commercial uses (excluding the sale of food, beverage and tobacco), subject to final Board approval before installation (2004);
- Commercial ventures (i.e. retail sites and vending machines) and concession stands in both free and paid areas of Metrorail stations, subject to final Board approval before installation (2006); and,
- Sale of food and beverage on parking facilities on weekends and holidays (2017).

At this point, most community and commercial uses are permitted, except for the sale of tobacco, drugs, firearms, or any other illegal substances (which staff is not proposing to change). The opportunity going forward is to increase flexibility for staff to manage and implement the Board's intent to more fully utilize Metro property and to generate revenue.

Discussion:

The *Regulations Concerning the Use of WMATA Property* (the "Use Regulations") regulates the use of Metro property by others. The Use Regulations prioritize the use of Metro property for transit purposes and operations, as well as the safety of the riding public and Metro employees. Among other things, the revised and restated 2018 Use Regulations provide Metro's standard terms and conditions for obtaining a permit from Metro, which include:

- Description of authorized activity or use
- Standard of conduct
- Permit fee/cost
- Permit term
- Cleaning and maintenance requirements
- Indemnification and insurance requirements
- WMATA termination rights

The proposed 2018 Use Regulations also incorporate Board approvals since 2008, when the last Use Regulations were published. These authorizations include:

- Sale of food and drink on Metro's parking facilities during weekends and holidays
- Delegation to the GM/CEO to approve commercial uses on parking facilities

Among other things, the proposed Use Regulations revise defined terms, cross-reference both WMATA's advertising guidelines and the rules and regulations governing the Art in Transit program, and clarify WMATA's policy regarding Speech and Performing Activities. The proposed revised and restated Use Regulations eliminate "public telephones services" as an allowable activity, as Metro no longer installs public telephones on its property.

In drafting the revised and restated Use Regulations, staff identified areas for added efficiency and opportunity in how Metro manages its property and as such is seeking: (1) authorization to sell food and drink on Metro property outside of Metrorail stations' paid areas, and (2) a delegation of authority to the GM/CEO to approve commercial uses on Metro property.

In July 2017, the Board approved the sale of food and drink on Metro parking lots on weekends and holidays intended to support activities such as farmers markets, festivals and other events that would generate community amenities and activity. However, in emerging submarkets, farmers markets and other such retail may best be suited for weekdays, when employees and other patrons in the station area seek services and food options. Also, these activities may not be best accommodated on Metro parking facilities, as Metro has several large areas outside its Metrorail stations that are underutilized. Therefore, staff seeks greater flexibility as to when and where Metro permits the sale of food and drink. Staff recommends permitting the sale of food and drink to areas outside the Metrorail stations' paid area, thereby allowing the sale of food and drink in locations appropriate for retail and community activity, not only on Metro's parking facilities.

Lastly, the Board previously delegated to the GM/CEO the authorization to approve commercial uses on Metro's parking facilities, but did not delegate the Board's authority to approve commercial uses on other Metro property. At this time, staff recommends delegating to the GM/CEO the authority to approve

commercial uses (as permitted in the Use Regulations) on Metro property, whether on a parking facility or elsewhere. This provides Metro with the flexibility to issue permits for uses that may be more appropriately located on Metro property other than parking facilities, without needing to seek Board approval for each use or permit. Uses on Metro property must also comply with local jurisdictional rules and regulations, so activities of concern (such large festivals, activities that may generate environmental and/or noise concerns, etc.) are regulated independently of Metro by the local jurisdiction in which the Metro property is located.

FUNDING IMPACT:

This Board action is a policy review and approval, not a project or budget approval.	
Project Manager:	Nina Albert
Project Department/Office:	CFO/LAND

TIMELINE:

Previous Actions	July 2017 - Board authorization to sell food and drink on Metro parking facilities on weekends and holidays; Board delegation of authority to the GM/CEO to approve commercial uses on Metro property
Anticipated actions after presentation	November 2018 - Publish the 2018 Amended and Restated Use Regulations

RECOMMENDATION:

Board approval to:

- Revise and restate the Use Regulations;
- Authorize the sale of food and drink on Metro property outside of Metrorail stations' paid areas; and
- Delegate to the General Manager/Chief Executive Officer the authority to approve commercial uses on Metro property.

Use Regulations Updates

Finance & Capital Committee

October 11, 2018



Purpose

- Request Board approval to:
 - Revise and restate the Use Regulations
 - Authorize the sale of food and drink on Metro property outside of Metrorail stations' paid areas
 - Delegate to the General Manager/Chief Executive Officer the authority to approve commercial uses on Metro property

Scope of Use Regulations

- Regulates the use of Metro property by others
- Prioritizes use of Metro property for transit operations
- Ensures safety of the riding public
- Ensures property is used safely
- Provides guidance on activities that generate revenue and issue permits for permitted uses
- Excludes transit-related uses, joint development and utility activities

Background

- 1987 First publication of Use Regulations
- 1995 Communications antennas and equipment, as well as fiber optic cables approved
- 2002 Non-transit, public parking, civic and limited commercial uses on parking facilities approved
- 2004 Commercial uses (excluding the sale of food, beverage and tobacco) approved, subject to final Board approval before installation
- 2006 Commercial ventures (retail sites) and concession stands in both free and paid areas of Metrorail stations approved, subject to final Board approval before installation
- 2017 Sale of food and beverage on parking facilities during weekends and holidays and delegation to GM/CEO to approve commercial uses on parking facilities approved

Permitted Uses and Activities



Filming and Photography



Advertising on Buses, Trains, and in Stations



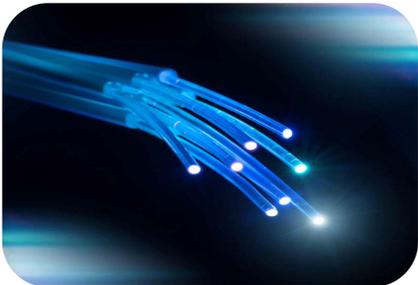
Vending of Newspapers



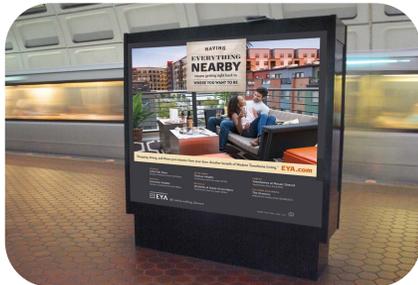
Temporary Uses



ATMs



Communications Equipment and Fiber Optics



Electronic Displays and Digital Advertising



Public Telephone Services



Public and Community Uses



Commercial Uses

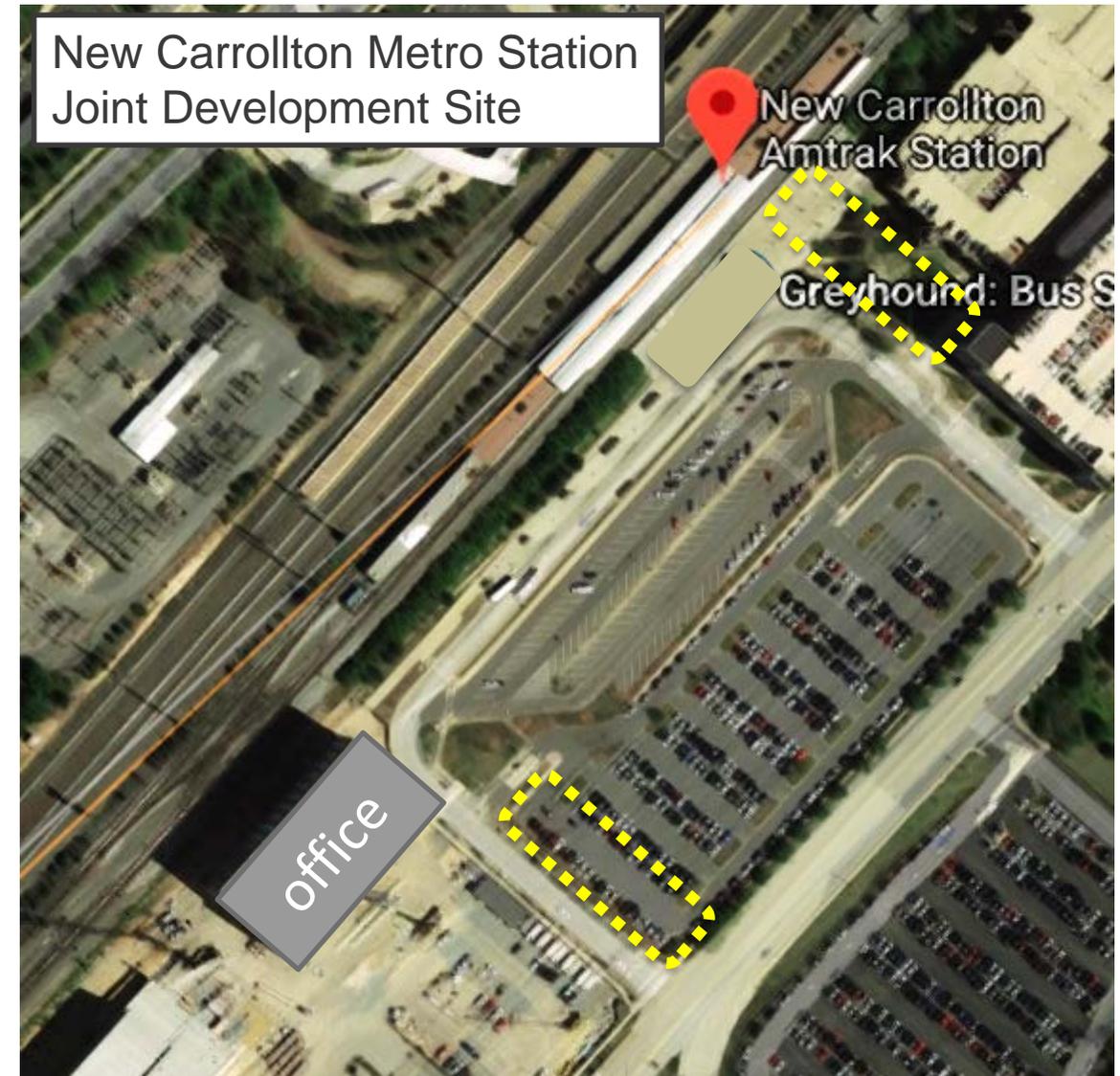
Proposed Revisions to Use Regulations

Revise and restate Use Regulations to: (i) update current practices, (ii) reference Metro programs offered, (iii) add Board approvals made since 2008, and (iv) add any new authorized uses.

Current Practices	Metro Programs	Prior Board Approvals	New Authorized Uses (if approved)
<ul style="list-style-type: none">• Standardized permit terms and conditions• Process for selecting and/or authorizing proposed uses• Public telephones no longer in use	<ul style="list-style-type: none">• Arts In Transit• Metro Performs	<ul style="list-style-type: none">• New types of and locations for advertising displays• Delegation to GM/CEO to authorize commercial uses on parking facilities• Sale of food and drinks on parking facilities during weekends and holidays	<ul style="list-style-type: none">• Sale of food and drinks on Metro property outside of Metrorail stations

Sale of Food and Drink Outside of Paid Areas

- Food and drink approved parking facilities, on weekends and holidays
- Farmers markets, festivals, other events not limited to weekends and holidays
- Emerging submarkets can benefit from food trucks or other food services on weekdays



Delegation to GM/CEO Approval of Commercial Uses

- Variety of commercial interests expressed
- Desire to respond to market opportunities in a timely manner
- Commercial uses on Metro property still subject to local jurisdictions' regulations and to a Metro real estate permit

Examples of Vending Opportunities

- Health and beauty
- Electronics
- Electronic charging stations
- Photo booths
- Entertainment: DVD rental, games, lottery
- Package/mail pick-up and delivery lockers

Recommendation

- Board approval to:
 - Revise and restate the Use Regulations
 - Authorize the sale of food and drink on Metro property outside of Metrorail stations' paid areas
 - Delegate to the General Manager/Chief Executive Officer the authority to approve commercial uses on Metro property

SUBJECT: APPROVAL TO AMEND AND RESTATE USE REGULATIONS

RESOLUTION
OF THE
BOARD OF DIRECTORS
OF THE
WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

WHEREAS, In Resolution 87-02, the Board of Directors approved the Regulation Concerning the Use of Washington Metropolitan Area Transit Authority Property ("Use Regulations"), as subsequently amended; and

WHEREAS, The Use Regulations have not been updated since October 2008; and

WHEREAS, Staff has drafted amended and restated Use Regulations (attached hereto as Attachment A) that: (1) update current practices, (2) add uses approved by the Board since 2008, (3) add new authorized uses, and (4) cross-reference other relevant Metro programs; and

WHEREAS, Currently the sale of food and drink is permitted only in parking lots only on weekends and holidays; and

WHEREAS, Staff recommends permitting the sale of food and drink in parking lots on any day of week, and permitting the sale of food and drink on WMATA property outside of Metrorail station paid areas on any day of week; and

WHEREAS, Staff recommends delegating to the General Manager/Chief Executive Officer authority to approve commercial uses on WMATA property that will improve the efficiency of implementing leases and licenses for commercial use of WMATA property; NOW, THEREFORE, be it

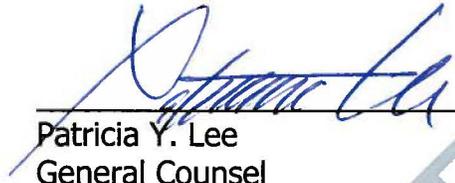
RESOLVED, That the Board of Directors hereby approves the sale of food and drink in parking lots on any day of week, and the sale of food and drink on WMATA property outside of Metrorail station paid areas on any day of the week; and be it further

RESOLVED, That the Board of Directors hereby delegates to the General Manager/Chief Executive Officer the authority to approve commercial uses on WMATA property; and be it further

RESOLVED, That the Board of Directors hereby approves the amended and restated Use Regulations as set forth in Attachment A; and be it finally

RESOLVED, That this Resolution shall be effective 30 days after adoption in accordance with § 8(b) of the WMATA Compact.

Reviewed as to form and legal sufficiency,



Patricia Y. Lee
General Counsel

WMATA File Structure No.:
21.8.1 Use Regulation

PROPOSED



**REGULATIONS
CONCERNING THE USE OF
WMATA PROPERTY
("USE REGULATIONS")**

APPROVED BY BOARD RESOLUTION 2018-XX

[DATE]

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REGULATIONS CONCERNING THE USE OF WMATA PROPERTY ("USE REGULATIONS")

Subject to the exceptions noted below in **Section 2**, these *Regulations Concerning the Use of WMATA Property* (the "Use Regulations") govern commercial and non-commercial uses of Washington Metropolitan Area Transit Authority's ("WMATA" or "Metro") property.

WMATA receives many requests from commercial, Not-for-Profit, community and other groups, and persons seeking access to WMATA property and facilities. The purpose of these Use Regulations is to ensure that WMATA property is used safely, that all WMATA property shall be preserved for the transit use to which it was lawfully dedicated, and that the use and activities by any person and/or entity (other than WMATA Employees or contractors) of WMATA property be consistent with and not interfere with transit operations.

Subject to the exceptions set forth below, any person or entity authorized by WMATA to use property must sign a Permit for that purpose.

Modifications to these Use Regulations must be made by an affirmative vote of WMATA's Board of Directors.

SECTION 1 – DEFINITIONS

Advertising – a printed, digital or electronic media display for the purpose of conveying a message. A Commercial Publication is a subset of Advertising. Advertising is not permitted by these Use Regulations except as set forth below.

Art in Transit (or AIT) – a program under WMATA's Office of Architecture that manages the placement of visual art work and performances in the Metro system.

Automated Teller Machine (or ATM) – electronic banking equipment that permits public access to authorized banking functions.

Civic Use - activities/events held for the general public and/or the surrounding neighborhoods and communities, organized by a WMATA Compact Jurisdiction, such as (but not limited to) local parades, bike tours, festivals, or farmers' markets.

Commercial Publication – circulars, for sale/rent publications, signs or other marketing publications and information intended to promote commercial product(s), services, or enterprise(s). Commercial Publications are not permitted by these Use Regulations. (Newspapers are not Commercial Publications.)

Commercial Use – the use of WMATA property for the primary or incidental purpose of promoting or selling products or services, fundraising, and/or generating revenue. (Commercial Use does not include Performance Activity.)

Computerized Electronic Passenger Information Displays – visual displays primarily intended to provide transit information to Metro riders but that can also provide Advertising, including, but not limited to, light-emitting diode (LED) displays, video monitors, computer monitors, and plasma screens.

FTA – the Federal Transit Administration.

Joint Development – the development of WMATA’s real property interests at or near mass transit facilities that have significant commercial development potential to achieve close physical integration of transit facilities with commercial/retail, recreational/entertainment, and residential development.

Leaflet – small printed material unfolded or folded providing information that is Speech Activity.

Newspaper – any publication intended for general circulation, published regularly or in short intervals, and containing information and editorials on current events and news of general interest.

Not-for-Profit – any activity by a religious, educational, scientific, artistic, philanthropic, agricultural, labor, veteran, or fraternal organization or association that is not organized for profit as defined in the U.S. Internal Revenue Code or its successors, as amended from time to time, and none of the net income of which inures to the benefit of any private stockholder or individual.

Parking Facilities - WMATA’s Kiss & Rides, Park & Ride surface lots, Park & Ride garages, and on-street parking spaces.

Performance Activity – a musical, dance, spoken word, theatrical, or other presentation of an artistic nature, including presentations that invite patrons to make individual donations to the performer(s).

Permit – a legal contract executed by WMATA and the person/entity (Permittee) conducting the activity. A Permit may be a lease, license, some other type of permit, or some other type of legal contract allowing for the use of WMATA’s property.

Permit Applicant – a person or entity who applies for a Permit.

Permit Application – a form that must be completed and submitted to WMATA for any proposed use of WMATA property.

Permitted Activity – an activity approved by WMATA or not prohibited by law or by WMATA rule or regulation that does not interfere with patrons’ use of transit facilities or Metro operations generally.

Permittee – a party allowed to use WMATA property through a Permit.

S&I Yard – a WMATA Metrorail storage and inspection yard.

Speech Activity – the exercise of rights to free speech, free assembly, and other conduct protected by the First Amendment of the United States Constitution that is not a Commercial Use.

Vending Machine – an electronic or mechanical machine that sells commercial products or provides package pick-up and/or delivery service through lockers or other devices connected to electrical power.

WMATA Compact – the federal and state legislation creating WMATA by the United States, the District of Columbia, the State of Maryland and the Commonwealth of Virginia.

WMATA Compact Jurisdiction – any organization created by municipal, county or state agencies that are party to the WMATA Compact.

WMATA Employee – any part-time or full-time, temporary or permanent, exempt or non-exempt, represented or non-represented individual, including interns, who is compensated by WMATA for his/her services by wages, salary, or other remuneration.

SECTION 2 – GENERAL

2.1 APPLICABILITY

These Use Regulations describe the types of activities subject to a valid Permit issued by WMATA that may be conducted on WMATA property by any person or entity that is not a WMATA Employee, officer or board member authorized to act on WMATA's behalf. These Use Regulations also establish criteria under which a Permit may be obtained to enable the Permit Applicant to use WMATA property for one of the Permitted Activities.

2.2 EXCEPTIONS TO PERMIT REQUIREMENT

No person or entity shall be allowed to use WMATA property without a Permit except:

- WMATA Employees, officers, and members of the Board of Directors acting within their official capacity. When not acting within their official capacity, WMATA Employees, officers, and members of the Board of Directors of WMATA shall need a Permit for any use of WMATA property that normally requires a Permit.
- While acting on official business as it relates to WMATA facilities, officials, employees and agents of the United States Government and/or of the WMATA Compact Jurisdictions and the political subdivisions within them.
- Contractors, agents, subcontractors and suppliers under contract to WMATA and only with respect to designated physical areas and purposes covered by that contract.

- Passengers riding on the WMATA rail and bus system and other transit-related users.
- Photography by an individual with a hand-held camera for an individual's own non-commercial use. A fee shall not be required for such photography, but such individuals shall be required to pay the fare to enter the Metro system.

2.3 USES EXCLUDED FROM THE SCOPE OF THESE USE REGULATIONS BUT REQUIRING A PERMIT

These Use Regulations exclude Joint Development, adjacent construction, environmental and geotechnical testing, and activities conducted by other transit agencies and utility companies on WMATA property for their own purposes. Although excluded from these Use Regulations, the users outlined in this Section must obtain a rights of entry agreement, easement, Permit, or other relevant document/permissions to work on or near WMATA property for the uses stated herein. WMATA shall, at its sole discretion, determine which properties it will offer for use by a third party, either under a Permit or other type of contract. Those uses are governed by the following policies, manuals, and websites:

- For Joint Development and adjacent construction: WMATA's Joint Development and Adjacent Construction Manual: www.wmata.com/business/adjacent-construction.
- For rights of entry agreements, easements, or other Real Estate Permits: www.wmata.com/business/real-estate/policies-forms.cfm.

SECTION 3 – USE PERMITS

3.1 APPLICATION PROCESS

To apply for a Permit, visit www.wmata.com/business/real-estate/policies-forms.cfm. Application fees are listed in **Appendix B**. Permit Application forms are processed by WMATA's Office of Real Estate and Parking (or such other Office as is designated as the issuer in these Use Regulations). The actual proposed user must be the submitter of the Permit Application because Permits are not transferable. WMATA shall determine whether or not the Permit Application is for a Permitted Activity. Should WMATA determine that the number of applications for Permits exceeds the space available at any location, WMATA shall allocate the space according to compatibility with WMATA's mission and purpose and best value to WMATA.

Permits will be granted according to the following principles, in order of priority:

- The activity does not have a negative financial or operational impact on WMATA;
- The activity does not distract from or interfere with WMATA Employees, contractors and/or transit users adhering to WMATA's core mission of providing safe and accessible transit services;
- The activity enhances service to Metrorail, MetroAccess, and Metrobus riders;

- The activity generates additional revenue for WMATA; and
- The activity improves local place-making and community building.

Permits shall not be issued for the sale of tobacco, drugs, and firearms, for uses that are illegal, for uses that undermine, show unfavorably or compete with WMATA's brand and/or Metro transit services, and/or for uses that show the Metro system in general or WMATA Employees or agents in a disparaging manner.

3.2 STANDARD TERMS AND CONDITIONS

3.2.1. Contents. The Permit shall contain the name of the person or entity, type of Permitted Activity, duration of activity, maximum number of individuals permitted on WMATA property, insurance and indemnification, and other terms specific to the use allowed for the location of the Permitted Activity.

3.2.2. Standards of Conduct. Use of WMATA property shall not interfere with transit operations, riders, the public and other transit activities (even when an activity has been approved) or the safety of transit riders and the efficient operation of the transit system, or other activities being conducted on WMATA property.

3.2.3. Time Period. The term or duration of time that Permittee is allowed to occupy WMATA property will be stated in the Permit.

3.2.4. Extensions. The term/duration of the Permit will not be extended, unless WMATA, in its sole and absolute discretion, grants an extension. Permittee may file an application for a new Permit at any time, which shall be issued using the evaluative criteria and processes that are in place at the time the new or extended Permit is applied for; the granting of one Permit does not create an expectancy of renewal or extension or "grandfather" a use. When applying for an extension of a Permit, the Permittee may incorporate by reference any information filed with the previous Permit Application for that Permit.

3.2.5. Fees/Payment to WMATA. Fees for use of WMATA property are listed in **Appendix B**. Fees for uses not listed in the **Appendix B** are to be determined by the Director of Real Estate and Parking (or such other Office as issues the particular Permit). The fees and charges assessed for commercial filming that exceed one day in a Metrorail station or that require use of train cars to be filmed in S&I Yards will include administrative and operational staff hourly costs plus a thirty-five percent (35%) margin of overhead.

3.2.6. Cleaning and Maintenance. Permittee will be responsible for depositing any trash resulting from its activities in appropriate trash containers or may be required to remove the trash from the location.

3.2.7. Denial of Permit. A Permit Application for a Permitted Use may be denied if WMATA determines that the requested space is unavailable, the proposed activity would cause a safety problem, or the planned activity involves a use prohibited by law or by WMATA rule or regulation, that the proposed activity interferes with patrons' use of transit

facilities or Metro operations generally, or that the proposed activity is otherwise prohibited. WMATA also may deny a Permit if a previously issued Permit to the Permit Applicant or any of its affiliated persons or entities was revoked or if the activities of the Permit Applicant or any of its affiliated persons or entities under a previously issued Permit violated the terms of the Permit, law or WMATA rule or regulation or interfered with patrons' use of transit facilities or Metro operations.

3.2.8. Revocation. A Permit may be terminated if the Permittee violates the terms and conditions of the Permit.

3.2.9. Indemnification. Each Permittee shall agree to fully indemnify and save harmless WMATA against any and all liability arising out of Permittee's activities. This indemnification is not limited to the extent of the Permittee's insurance coverage.

3.2.10. Insurance. Before commencing activities on WMATA property, each Permittee shall provide an acceptable policy of insurance coverage appropriate to the activity in accordance with the insurance schedule included in the Permit.

3.2.11. No Cost to WMATA. In addition to any Permit fee, the Permittee must reimburse WMATA for staff time to include administrative, safety, escorts, plan review, project review, security and trash removal services. Base hourly charges, may vary depending on the level of staff required for the activity and required equipment for the staff activity, if applicable. Costs shall not include expenses or costs incurred to protect the Permittee or WMATA Employees or property from the actions of opponents of the Permittee or persons other than the individuals permitted on WMATA property under the Permit.

3.2.12. Unauthorized Activity. If WMATA determines that any entity or person is conducting an unauthorized activity on WMATA property, WMATA shall notify the violator, the activity shall be stopped and the violators shall immediately leave WMATA property. Any Permit issued to a person or entity engaged in unauthorized activity may also be revoked. Failure to stop the unauthorized activity or to leave WMATA property when so requested shall constitute a trespass and the violators are subject to arrest, fines or imprisonment in accordance with local criminal laws and ordinances.

3.2.13. Unauthorized Performance of an Authorized Activity. If WMATA determines that any entity or person is conducting an authorized activity in an unauthorized manner in violation of these Use Regulations or the Permit, WMATA shall so notify the violator and the authorized activity shall either be conducted in the authorized manner, or shall be stopped, and the violators shall immediately leave WMATA property. The Permit related to the authorized activity may also be revoked. Failure to stop the unauthorized performance of the activity when so requested shall constitute a trespass and the violators shall be subject to arrest, fines, or imprisonment in accordance with local criminal laws and ordinances.

3.2.14. Right to Terminate. WMATA expressly reserves the right to cancel any Permit for operational or safety reasons.

3.2.15. **Not Transferable.** Permits are not transferable.

SECTION 4 – PERMITTED ACTIVITIES

4.1 SPEECH OR PERFORMANCE ACTIVITIES

4.1.1. Speech and Performance Areas. Speech or Performance Activities are permitted in areas which are above-ground, outside of Metrorail stations, and fifteen (15) feet outside of and away from any escalator, stairwell, fare gate, mezzanine gate, kiosk, or fare card machine. In no event are any Speech or Performance Activities to take place in the paid areas of a station or in the underground portions of stations. No Speech or Performance Activities may interfere with or impede pedestrian traffic in the egress and ingress to stations or fare gates. WMATA does not control public streets, sidewalks or other areas adjacent to Metrorail stations.

4.1.2. Leafleting. The distribution of Leaflets by hand in connection with Speech or Performance Activities is permitted in the areas described above under **subsection 4.1.1.**

4.1.3. Prohibitions. Individuals carrying out Speech or Performance Activities shall not engage in any Commercial Use and shall not do any of the following:

- Distribute food, drink, tobacco, or any retail products.
- Post any commercial signs, advertisements, circulars, or printed material.
- Set up any tables, literature racks or other portable equipment. This prohibition does not apply to official use by WMATA Compact Jurisdictions or to nonpartisan voter registration activities at those stations where WMATA has determined, in advance, that space is available. For the purposes of this exception, the term “nonpartisan” shall include a voter registration effort which contains no visible affiliation with any candidate or political party, including flyers, posters, buttons, signs or any other indication of support for any such candidate or party.
- Carry any signs or placards that are more than 18" x 18" or are affixed to a pole.
- Affix any material to any part of the WMATA structure.
- Permit Leaflets or other printed material to be left unattended.

4.1.4. Speech or Performance Activities Prohibited in All Other Areas. No Speech or Performance Activities may take place in any other areas. This subsection does not apply: (1) to activities conducted in connection with Art in Transit as set forth in **subsection 4.11**; (2) to conversations by passengers riding on the WMATA rail and bus system and other transit-related users; (3) to Advertising placed under contract with WMATA; or (4) to Speech or Performance Activities ancillary to a Permitted Use subject to **Sections 2 and 3.**

4.2 FILMING AND PHOTOGRAPHY

4.2.1. Filming Requiring a Permit. Filming, including motion pictures, television commercials, promotional, documentary and educational films, requires a Permit and assistance and supervision from WMATA staff. This applies to still and video photography. Requests for filming and photography will be assessed on a case-by-case basis. The times authorized will be granted when the safety of employees and patrons can be assured, ingress and egress of patrons accommodated, and normal services operated without interruption.

The entire fee to be charged for Commercial Activity and Not-for-Profit filming must be paid before the scheduled start of filming. The foregoing fee is in addition to the fare to access the Metro system if a revenue-producing facility is entered.

Permit Applications must be accompanied by concepts, synopses, scripts and story boards at least thirty (30) working days before the requested filming date. If that is not possible, WMATA will endeavor to process requests in less time. WMATA must approve scripts involving Metro stations and/or vehicles. Permit Applications will not be authorized that would suggest to viewers activities that would be in violation of the applicable laws of the WMATA Compact Jurisdictions or the rules and regulations of WMATA, or if they show the Metro system or WMATA Employees or agents in a disparaging manner.

4.2.2. Filming Not Requiring a Permit. Television and newspaper press crews of five (5) or fewer individuals and without any need for the use of outlets, cables, generators or other similar requirements are not subject to these Use Regulations but must comply with all fare and safety policies. Members and crews of the media should contact WMATA's Office of Media Relations at (202) 962-1051 for further information.

4.3 NEWSPAPERS AND COMMERCIAL PUBLICATIONS

Any person or entity may place, maintain, and operate a distribution box for Newspapers and/or Leaflets at a Metrorail station after obtaining a Newspaper/Periodical Distribution Permit from WMATA's Office of Marketing (not the Office of Real Estate and Parking). To maintain safe access and an orderly environment at Metrorail stations, each publisher/distributor must comply with WMATA's *Newspaper/Periodical Distribution Management Policy*. The distribution of any Commercial Publications or Advertising (except for Advertising placed under contract with WMATA) is prohibited.

Human vendors and the chaining of any Newspaper or Leaflet vending machines to WMATA property are prohibited, unless authorized through a Permit from WMATA.

4.4 AUTOMATED TELLER MACHINES

The opportunity to place Automated Teller Machines (ATMs) at Metrorail stations is obtained through a competitive process separate from the Permit Application process. The use of Automated Teller Machines is subject to these Use Regulations. The location of the Automated Teller Machine at each station is determined by WMATA.

4.5 VENDING MACHINES

These Use Regulations apply to Vending Machines although WMATA may, in its sole and absolute discretion, decide to offer the opportunity to place Vending Machines on WMATA Property through a competitive process separate from the Permit Application process.

4.6 USE OF PARKING FACILITIES

Parking Facilities may be available when: (i) WMATA deems that the use does not present a safety concern; (ii) there are sufficient parking spaces for transit system patrons and other transit-related users; and (iii) WMATA determines that the planned activity serves/supports the surrounding community.

WMATA allows the use of blocks of parking spaces in underutilized Parking Facilities during normal operating hours to nearby businesses, governmental agencies, or other entities, for a fee. WMATA may offer individual parking spaces, at its sole and absolute discretion, on a first-come, first-serve basis, or decide through a competitive process separate from the Permit Application process, to other transportation and transit providers, such as: car-sharing companies, transportation network companies, taxicab companies, shuttlebus services, commercial bus carriers and other commercial transportation companies, electric car charging services.

In each case a Permit will be required.

All uses of Parking Facilities contemplated above must be consistent with FTA requirements, WMATA bonds and other indebtedness, including, but not limited to, the WMATA 1993 Gross Revenue Transit Bond Resolution, the WMATA 2003 Gross Revenue Bond Resolution, any supplemental bond resolutions and applicable agreements concerning funding facilities.

Permittees hosting the activity must provide their own restroom facilities, if necessary. The Permit will also require Permittee to clean up and remove all trash that results from the activity.

The appropriate compensation for the use of WMATA's Parking Facilities shall be established by WMATA, and shall be the market rental rate for that use and at an amount sufficient to cover all administrative, operating, and maintenance costs, including the cost of additional electricity and any additional clean up and removal of trash, and, if applicable, a surcharge for the time of any WMATA Employees whose time is involved.

4.7 COMMERCIAL BICYCLE AND SCOOTER COMPANIES

Bike Shares

Several of the WMATA Compact Jurisdictions have partnered with bike sharing companies (such as Capital BikeShare, mBike, others) to place bicycle racks/stations throughout the Washington metropolitan area. WMATA has entered into license agreements with those

WMATA Compact Jurisdictions to allow placement of those stationary bicycle racks/bicycle stations at various Metrorail stations and may also contract directly with a private bike sharing company.

Dockless Bicycles and Scooters

New technology has emerged that allows commercial companies to deploy/operate dockless bicycles and scooters throughout the Washington metropolitan area. Local jurisdictions are conducting pilot programs to test the viability of these bicycles and scooters. WMATA will require dockless bicycle and scooter operators to enter into a Permit with WMATA to govern entry of bicycles and scooters onto WMATA property. WMATA's policy for bicycles and scooters requires that individual bicycles and scooters may only be parked/left on WMATA property at or next to bicycle racks.

4.8 TELECOMMUNICATIONS EQUIPMENT

WMATA has allowed the installation of fiber optic cables along WMATA's right-of-way service corridors including Metrorail stations and other operating facilities. Any fiber optic cable capacity not required by WMATA may be leased for commercial purposes.

WMATA may offer its properties as a group for a master license or lease through a competitive process for installation and operation of telecommunications equipment, including without limitation, antennas and cellular cells, for commercial purposes.

4.9 SOLAR PANELS

WMATA may choose to issue Permits for placement of solar panels on its property or facilities as a revenue generator for WMATA.

4.10 INTERCITY BUS BAY(S)

WMATA may rent bus bays to commercial bus companies operating service from Metrorail stations to cities outside the WMATA transit zone. The licenses are issued on a first-come, first-served basis, based on space availability. The license agreement requires an annual fee shown in **Appendix B**.

4.11 ART IN TRANSIT

Metro works with artists, community groups, government agencies, and businesses to install artwork and provide performances that capture the spirit and vitality of the region, making travel by Metro more attractive and inviting.

Approval and installation of all visual arts and performances on WMATA property is coordinated by WMATA's Office of Architecture, in accordance with the rules and regulations governing the Art in Transit program. The link to the Art in Transit manual is: http://cms-www.wmata.com/PIManual/documents/pi_1_13_0_M.pdf

Metro also recognizes the valuable contributions performances make to enhance the life and vitality of the transit system. AIT-approved performances must be conducted in WMATA-approved areas that do not impede pedestrian flow or negatively impact WMATA operations.

SECTION 5 – ADVERTISING

5.1 ADVERTISING GENERALLY

Advertising is a source of significant revenue to WMATA and is allowed in and on the inventory of assets listed in **Appendix A**. Contracts for Advertising between a prospective advertiser and WMATA are administered by WMATA's Office of Marketing and its selected advertising management company and are not handled via Permit. For information on how to purchase advertising space, go to WMATA's website at: www.wmata.com/business/advertising.

5.2 ADVERTISING GUIDELINES

All Advertising on WMATA property must be placed via a WMATA-approved program or contractor. All Advertising must conform to *WMATA's Guidelines Governing Commercial Advertising*. WMATA may prohibit or remove non-compliant Advertising.

5.3 COMPUTERIZED ELECTRONIC PASSENGER INFORMATION DISPLAYS

This Section applies to the implementation of Computerized Electronic Passenger Information Displays on platforms and in mezzanines of Metrorail stations as well as in Metrorail cars and on and in Metro buses. The principal function of the Computerized Electronic Passenger Information Displays is to show useful, timely, and accurate Metro service updates and/or news updates to rail and bus patrons. A secondary function is to allow commercial advertisements, subject to *WMATA's Guidelines Governing Commercial Advertising*, to be displayed in a manner that does not interfere with the principal transit function of the Metro system.

SECTION 6 – USE OF WMATA GRAPHICS AND/OR LOGO

The use of WMATA's graphics and/or logo is not permitted except as authorized by WMATA.

APPENDIX A: LIST OF BOARD OF DIRECTORS APPROVED ADVERTISING INVENTORY

A. Buses

- (1) Exterior head-liners
- (2) Video monitors
- (3) Partial exterior wraps (excluding windows on curb side)
- (4) Interior bus cards

B. Railcars

- (1) Interior car cards (21" x 22")
- (2) Interior head-liners
- (3) Video monitors
- (4) Partial exterior wraps (excluding windows)
- (5) Exterior railcar king-size displays
- (6) Interior railcar doors (excluding bulkhead doors)
- (7) Railcar ceilings

C. Metrorail Stations

- (1) Dioramas (back-lighted advertising and digital display)
- (2) Two-sheet posters (non-backlighted advertising display)
- (3) Station banners
- (4) Larger dioramas
- (5) Pylons and pillars
- (6) Floor graphics
- (7) Trash receptacles
- (8) Wall projections

D. Tunnels

E. Bus Shelters

F. Wallsapes (e.g., large format banners on WMATA-owned buildings and structures)

G. Website Advertising

APPENDIX B: APPLICATION & USE PERMIT FEE SCHEDULE

Use Permit Activity	Fee
Application Fee – Civic Use or Not-for-Profit Use	\$ 100.00
Application Fee – Commercial Use	\$ 200.00
Commercial Use/Dockless Bike or Scooter Permit Fee	\$3,500 base permit fee
Filming and Photography Fees	\$1,500 per one day in a Metrorail Station, plus 135% of any actual costs incurred by Metro for the use of Metrorail train cars
Application Fee – Adjacent Construction Permit	<p>\$3,500 one-time fee</p> <p>WMATA review and escort fees as determined by the Office of Joint Development and Adjacent Construction on a project by project basis</p> <p>Railroad Protective Liability Insurance, if applicable</p>
Intercity Bus Bay License Fee	\$5,000 per year per bus bay